

1 HB16
2 145410-1
3 By Representative Todd
4 RFD: Economic Development and Tourism
5 First Read: 05-FEB-13
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8 SYNOPSIS: This bill would require the Department of
9 Revenue to submit annual reports to the Legislature
10 outlining yearly expenditures for economic
11 development. This bill would also require each
12 property-taxing entity to report annually to the
13 Department of Revenue any real property in the
14 entity that received a property tax abatement or
15 reduction provided by the state, including the
16 amount of state property tax revenue not paid to
17 the taxing entity as a result of the reduction or
18 abatement.

19 This bill would allow an entity to apply for
20 economic development subsidies through the
21 Department of Economic and Community Affairs and
22 would require entities that receive grants to file
23 progress reports with the Department of Economic
24 and Community Affairs. This bill would provide
25 punishment for entities that default on a
26 development subsidy and would allow citizens to
27 bring civil actions.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT
5

6 To establish the Alabama Economic Development and
7 Fiscal Accountability Act, relating to expenditures for
8 economic development; providing for public access to reports
9 and recordings relating to economic development subsidies;
10 providing punishment for default on a development subsidy; and
11 allowing citizens to bring civil acts concerning the same.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. This act shall be known and cited as the
14 "Alabama Economic Development and Fiscal Accountability Act."

15 Section 2. The Legislature of Alabama finds and
16 declares the following:

17 (1) That, although the state and its local
18 governmental units have granted numerous economic development
19 subsidies in the last 25 years, the real wage levels and
20 health care coverage of working families have declined.

21 (2) That when workers receive low wages and poor
22 benefits, such jobs often impose hidden taxpayer costs upon
23 its citizens in the form of Medicaid, food stamps, earned
24 income credits, and other forms of public assistance to the
25 working poor and their families.

1 (3) That citizen participation in economic
2 development has been impeded by a lack of readily accessible
3 information regarding expenditures and outcomes.

4 Section 3. As used in this act, the following terms
5 shall have the following meanings:

6 (1) CORPORATE PARENT. Any person, association,
7 corporation, joint venture, partnership, or other entity that
8 owns or controls 50 percent or more of a recipient
9 corporation.

10 (2) DATE OF SUBSIDY. The date that a granting body
11 provides the initial monetary value of a development subsidy
12 to a recipient corporation. When the subsidy is for the
13 installation of new equipment, the date shall be the date the
14 corporation puts the equipment into service. When the subsidy
15 is for improvements to property, the date shall be the date
16 the improvements are finished or the date the corporation
17 occupies the property, whichever is earlier.

18 (3) DEVELOPMENT SUBSIDY. Any expenditure of public
19 funds of at least twenty-five thousand dollars (\$25,000) for
20 the purpose of stimulating economic development within the
21 state, including, but not limited to, bonds, grants, loans,
22 loan guarantees, tax-increment financing, grants, fee waivers,
23 land price subsidies, matching funds, tax abatements, tax
24 exemptions, and tax credits.

25 (4) FULL-TIME JOB. A job in which an individual is
26 employed by a recipient corporation for at least 35 hours per
27 week.

1 (5) GRANTING BODY. Any agency, board, office, public
2 benefit corporation, or public benefit authority of the state
3 that provides a development subsidy.

4 (6) NEW EMPLOYEE. A full-time employee who
5 represents a net increase in the number of individuals
6 employed by the recipient corporation in the state. New
7 employee does not include an employee who performs a job that
8 was previously performed by another employee of the recipient
9 corporation if that job existed for at least 6 months before
10 hiring the employee.

11 (7) PART-TIME JOB. A job in which an individual is
12 employed by a recipient corporation for less than 35 hours per
13 week.

14 (8) PROJECT SITE. The site of a project for which
15 any development subsidy is provided.

16 (9) PROPERTY-TAXING ENTITY. Any state entity which
17 levies taxes upon real or personal property.

18 (10) RECIPIENT CORPORATION. Any person, association,
19 corporation, joint venture, partnership, or other entity that
20 receives a development subsidy.

21 (11) SMALL BUSINESS. A corporation whose corporate
22 parent, and all subsidiaries thereof, employed fewer than 20
23 full-time employees or had a total gross receipts of less than
24 one million dollars (\$1,000,000) during the calendar year.

25 (12) STATE. An agency, board, commission, office,
26 public benefit corporation, or public benefit authority of the
27 state.

1 (13) SUBSIDY VALUE. The face value of any and all
2 development subsidies provided to a recipient corporation.

3 (14) TEMPORARY JOB. A job in which an individual is
4 hired for a season or for a limited period of time.

5 Section 4. (a) The Department of Revenue shall
6 submit an annual Unified Economic Development Report to the
7 Legislature no later than three months after the end of the
8 state's fiscal year. The report shall present expenditures for
9 economic development during the prior fiscal year, including,
10 but not limited to, the following:

11 (1) The amount of uncollected state tax revenues
12 resulting from every corporate tax credit, abatement,
13 exemption, and reduction provided by the state, including, but
14 not limited to, gross receipts, income, sales, use, raw
15 materials, excise, property, utility, and inventory taxes.

16 (2) The name of each corporate taxpayer that claimed
17 any tax credit, abatement, exemption, or reduction under
18 subdivision (1) of Section 3 of any value equal to or greater
19 than five thousand dollars (\$5,000) together with the dollar
20 amount received by each such corporation.

21 (3) Any tax credit, abatement, exemption, or
22 reduction received by a corporation of less than five thousand
23 dollars (\$5,000) each shall not be itemized. The Department of
24 Revenue shall report an aggregate dollar amount of such
25 expenditures and the number of companies so aggregated for
26 each tax expenditure.

1 (4) All state appropriated expenditures for economic
2 development, including line-item budgets for every
3 state-funded entity concerned with economic development,
4 including, but not limited to, the Department of Revenue, the
5 Department of Economic and Community Affairs, vocational
6 education programs, state university research programs,
7 manufacturing extension service, and finance authorities.

8 Section 5. (a) Each state property-taxing entity
9 shall annually submit a report to the Department of Revenue
10 regarding any real property that has received a property tax
11 abatement or reduction during the fiscal year. The report
12 shall contain information, including, but not limited to, the
13 name of the property owner; the address of the property; the
14 start and end dates of the property tax reduction or
15 abatement; the schedule of the tax reduction; each tax
16 abatement, reduction, and exemption for the property; and the
17 amount of property tax revenue not paid to the taxing entity
18 as a result of the reduction or abatement.

19 (b) Each state property-taxing entity shall submit a
20 report to the Department of Revenue setting forth the total
21 property tax revenue not paid to such entity during the fiscal
22 year as a result of all property tax reductions and
23 abatements.

24 (c) The Department of Revenue shall annually compile
25 and publish all of the data contained in the reports required
26 under subsections (a) and (b) in both written and electronic
27 form, including on the department's web site.

1 (d) If a state property-taxing entity fails to
2 submit its reports to the Department of Revenue within the
3 prescribed time, the department shall notify the state
4 Comptroller, whereupon the state Comptroller shall withhold
5 further payments of any development subsidy to the delinquent
6 entity until the entity files its reports with the department.

7 Section 6. (a) Each granting body, together with the
8 applicant for a development subsidy, shall complete an
9 application for the subsidy on a form prepared by the
10 Department of Economic and Community Affairs. The information
11 required on the application shall include the following:

12 (1) An application tracking number for the granting
13 agency and the project.

14 (2) The name, street and mailing address, and phone
15 number of the chief officer of the granting body.

16 (3) The name, street and mailing address, and phone
17 number of the chief officer of the applicant's corporate
18 parent.

19 (4) The name, street and mailing address, and phone
20 number of the chief officer of the applicant.

21 (5) The street address of the project site.

22 (6) The three-digit North American Industry
23 Classification System number of the project site.

24 (7) The total number of individuals employed by the
25 applicant at the project site on the date of the application,
26 broken down by full-time, part-time, and temporary positions.

1 (8) The total number of individuals employed in the
2 state by the applicant's corporate parent and all subsidiaries
3 thereof, as of December 31 of the prior fiscal year, broken
4 down by full-time, part-time, and temporary positions.

5 (9) The development subsidy or subsidies being
6 applied for with the granting body and the value of such
7 subsidy or subsidies.

8 (10) The number of new jobs to be created by the
9 applicant at the project site, broken down by full-time,
10 part-time, and temporary positions.

11 (11) The average hourly wage to be paid to all
12 current and new employees at the project site, broken down by
13 full-time, part-time, and temporary positions, and further
14 broken down by wage groups as follows:

15 a. \$7.01 to \$8.00 an hour or less.

16 b. \$8.01 to \$9.00 an hour.

17 c. \$9.01 to \$10.00 an hour.

18 d. \$10.01 to \$11.00 an hour.

19 e. \$11.01 to \$12.00 an hour.

20 f. \$12.01 to \$13.00 an hour.

21 g. \$13.01 to \$14.00 an hour.

22 h. \$14.01 or more per hour.

23 (12) For project sites located in a Metropolitan
24 Statistical Area, as defined by the federal Office of
25 Management and Budget, the average hourly wage paid to
26 non-managerial employees in the state for the industries

1 involved at the project site, as established by the United
2 States Bureau of Labor Statistics.

3 (13) For project sites located outside of a
4 Metropolitan Statistical Area, the average weekly wage paid to
5 non-managerial employees in the county for industries involved
6 at the project, as established by the United States Department
7 of Revenue.

8 (14) The type and amount of health care coverage to
9 be provided by the applicant within 90 days of commencement of
10 employment at the project site, including any costs to be
11 borne by the employees.

12 (15) A statement as to whether the development
13 subsidy may reduce employment at any other site controlled by
14 the applicant or its corporate parent, within or without the
15 state, resulting from automation, merger, acquisition,
16 corporate restructuring, or other business activity.

17 (16) A certification by the chief officer of the
18 applicant as to the accuracy of the application.

19 (b) If the granting body approves the application,
20 it shall send a copy to the Department of Economic and
21 Community Affairs within 15 days of such approval. If the
22 application is not approved, the granting body shall retain
23 the application in its records.

24 Section 7. (a) (1) Each granting body shall file a
25 progress report with the Department of Economic and Community
26 Affairs for each project for which a development subsidy has

1 been granted, no later than February 1 each year. The report
2 shall include the following information:

3 a. The application tracking number.

4 b. The name, street and mailing address, and phone
5 number of the chief officer of the granting body.

6 c. The name, street and mailing address, and phone
7 number of the chief officer of the recipient corporation.

8 d. A summary of the number of jobs required,
9 created, and lost, broken down by full-time, part-time, and
10 temporary positions, and by wage groups.

11 e. The type and amount of health care coverage
12 provided to the employees at the project site, including any
13 costs borne by the employees.

14 f. The comparison of the total employment in the
15 state by the recipient's corporate parent on the date of the
16 application and the date of the report, broken down by
17 full-time, part-time, and temporary positions.

18 g. A statement as to whether the use of the
19 development subsidy during the previous fiscal year has
20 reduced employment at any other site controlled by the
21 recipient corporation or its corporate parent, within or
22 without the state, as a result of automation, merger,
23 acquisition, corporate restructuring, or other business
24 activity.

25 h. A signed certification by the chief officer of
26 the recipient corporation to the accuracy of the progress
27 report.

1 (2) On all subsequent annual progress reports, the
2 granting body shall indicate whether the recipient corporation
3 is still in compliance with its job creation, wage, and
4 benefit goals, and whether the corporate parent is still in
5 compliance with its state employment requirement.

6 (3) Granting bodies and recipient corporations shall
7 file annual progress reports for the duration of the subsidy,
8 or not less than five years, whichever period is greater.

9 (b) (1) No later than 15 days after the second
10 anniversary of the date of subsidy, the granting body shall
11 file with the Department of Economic and Community Affairs a
12 two-year progress report including the same information as
13 required under subsection (a). The recipient corporation shall
14 certify as to the accuracy of such report.

15 (2) The granting body shall state in the two-year
16 report whether the recipient corporation has achieved its job
17 creation, wage, and benefit goals, and whether the corporate
18 parent has maintained 90 percent of its employment in the
19 state.

20 (c) The Department of Economic and Community Affairs
21 shall compile and publish all data from the progress reports
22 in both written and electronic form, including the
23 department's world wide web site.

24 (d) The granting body and the Department of Economic
25 and Community Affairs shall have access at all reasonable
26 times to the project site and the records of the recipient

1 corporation in order to monitor the project and to prepare
2 progress reports.

3 (e) A recipient corporation that fails to provide
4 the granting body with the information or access required
5 under subdivisions (1) and (2) of subsections (a) and (b)
6 shall be subject to a fine of not less than five hundred
7 dollars (\$500) per day to commence within 10 working days
8 after the February 1 deadline, and of not less than one
9 thousand dollars (\$1,000) per day to commence 20 days after
10 such deadline.

11 Section 8. (a) A granting body may not grant a
12 development subsidy if the cost per job is greater than
13 thirty-five thousand dollars (\$35,000). The cost shall be
14 determined by dividing the amount of the subsidy by the number
15 of full-time jobs required under the application approved by
16 the granting body.

17 (b) A granting body may not grant a subsidy to an
18 applicant other than a small business unless the wages paid to
19 employees at the project site are equal to or exceed 85
20 percent of the average wage as established under Section
21 6(a)(12) and (13); provided, however, that for small
22 businesses, the average wage must equal or exceed 75 percent
23 of the wages established under Section 6(a)(12) and (13). The
24 computation of wages under this section shall only apply to a
25 recipient corporation that provides the health care coverage
26 as approved in its application by the granting body.

1 Section 9. (a) A recipient corporation shall fulfill
2 its job creation, wage, health care, and other benefit
3 requirements for the project site within two years of the date
4 of subsidy. The recipient shall maintain its wage and benefit
5 goals as long as the subsidy is in effect or five years,
6 whichever is longer.

7 (b) The corporate parent of a recipient corporation
8 shall maintain at least 90 percent of its employment in the
9 state as long as the development subsidy is in effect or not
10 less than five years, whichever is longer.

11 (c) If the requirements under subsections (a) and
12 (b) are not fulfilled, the granting body shall recapture the
13 development subsidy from the recipient corporation as follows:

14 (1) Upon a failure by the recipient corporation to
15 create the required number of jobs or to pay the required
16 wages or benefits, the amount recaptured shall be based on the
17 pro rata amount by which the unfulfilled jobs, wages, or
18 benefits bear to the total amount of the development subsidy.

19 (2) Upon a failure of the corporate parent to
20 maintain 90 percent of its employment in the state, the rate
21 of recapture shall equal twice the percentage by which such
22 employment is less than 90 percent.

23 (d) The granting body shall provide notice to the
24 recipient corporation of its intent to recapture the
25 development subsidy and state the reasons and amount to be
26 recaptured. The recipient corporation shall remit to the

1 governing body the amount within 60 calendar days of the date
2 of the notice.

3 (e) If a recipient corporation defaults on a
4 development subsidy in three consecutive calendar years, the
5 granting body shall declare the subsidy null and void and
6 shall so notify the Department of Economic and Community
7 Affairs and the recipient corporation. The recipient
8 corporation shall pay back to the granting body all remaining
9 value of the development subsidy it has not previously repaid
10 within 180 calendar days of the date of the notice of the
11 default.

12 Section 10. If a granting body fails to enforce any
13 provisions of this act, any individual who paid personal
14 income taxes to the state in the calendar year prior to the
15 year in dispute, or any organization representing such
16 taxpayers, may bring a civil action in state court to compel
17 enforcement under this act. The court shall award reasonable
18 attorney's fees and costs to such prevailing taxpayer or
19 organization.

20 Section 11. All records required to be prepared or
21 maintained under this act, including, but not limited to,
22 applications, progress reports, recapture notices, and any
23 other records or proceedings relating thereto, shall be
24 subject to disclosure under the Alabama open records law.

25 Section 12. Nothing in this act shall be read to
26 require or authorize any recipient corporation to reduce wages

1 or benefits established under any collective bargaining
2 agreement or state or federal prevailing wage law.

3 Section 13. If any provision of this act is
4 determined to be unenforceable in a court of law, the
5 determination shall not affect the validity or enforceability
6 of any other provision of this act.

7 Section 14. This act shall become effective
8 immediately following its passage and approval by the
9 Governor, or its otherwise becoming law.