

WAYS & MEANS

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SENATE FILE

544

BY HOLVECK, DEARDEN, HAMMOND,
and BOLKCOM

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act requiring disclosure of information on the use of tax
2 revenues for economic development purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 16B.1 DEFINITIONS.

2 1. "Corporate parent" means any person or legal entity,
3 organization, business, partnership, group, or corporation
4 entity recognized by law, or combination thereof, that
5 possesses, owns, or controls an interest greater than fifty
6 percent of a recipient corporation.

7 2. "Date of assistance" means the date upon which a
8 granting body transmits the first dollar value of development
9 assistance to a recipient corporation.

10 3. "Development assistance" means any form of public
11 assistance, including tax expenditures, made for the purpose
12 of stimulating the economic development of a given
13 corporation, industry, geographic jurisdiction, or other
14 subset of the state's economy, including but not limited to
15 assistance in the form of industrial development bonds, loans,
16 loan guarantees, revolving loan funds, bond bank programs,
17 enterprise zones, tax increment financing, property tax
18 exemptions or abatements, grants, fee waivers, infrastructure
19 whose principal beneficiary is a single business or defined
20 group of businesses at the time it is built or improved,
21 matching funds, tax abatements, tax credits and tax discounts
22 of every kind, including corporate income tax, personal income
23 tax, insurance premium tax, sales and use taxes, job creation
24 credits and deductions, industrial investment credits and
25 deductions, and research and development tax credits and
26 deductions.

27 4. "Full-time job" means a job at which a new employee
28 works for a recipient corporation for at least thirty-five
29 hours per week on average.

30 5. "Granting body" means any public entity within the
31 state, including local governments, regional development
32 organizations, state and local public corporations, the state
33 government, and any state government department or agency,
34 which provides development assistance, including but not
35 limited to the department of economic development and the Iowa

1 finance authority.

2 6. "In effect" refers to any calendar year within which
3 development assistance is being provided. For one-time forms
4 of development assistance such as grants, "in effect" refers
5 to a period of not less than five years from the date of
6 assistance.

7 7. "Part-time job" means a job at which a new employee
8 works for a recipient corporation for less than thirty-five
9 hours per week on average.

10 8. "Property-taxing entity" means an entity in this state
11 that levies taxes upon real property, including a city,
12 county, school district, township, and benefited district.

13 9. "Small business" means a corporation whose corporate
14 parents, and all subsidiaries thereof, employed fewer than an
15 average of twenty full-time equivalent employees or which had
16 gross receipts of less than one million dollars in all United
17 States jurisdictions during the calendar year for which
18 disclosure is required.

19 10. "Specific project site" means a distinct operational
20 unit to which any development assistance is applied.

21 11. "Temporary job" means a job at which a new employee is
22 hired for a specific duration of time or season.

23 12. "Value of assistance" means the face value of any and
24 all forms of development assistance.

25 Sec. 2. NEW SECTION. 16B.2 DISCLOSURE OF STATE TAX
26 EXPENDITURES.

27 1. Effective July 1, 2002, and each succeeding year, the
28 department of revenue and finance shall provide a detailed tax
29 expenditure budget disclosure report to the general assembly,
30 derived from state income tax filings or other relevant state
31 filings for the previous calendar year. The disclosure report
32 shall include, but not be limited to, the following data:

33 a. The dollar amount of tax expenditures made by the
34 state, in the form of uncollected revenues, for each
35 individual tax credit provided by the state, including credits

1 for wages of certain qualified employees, enterprise zones,
2 tax increment financing, grants, matching funds, tax
3 abatements, and tax credits and tax discounts of every kind,
4 including corporate income, personal income, excise, insurance
5 premium, sales and use, job creation, industrial investment,
6 and research and development tax credits and tax discounts.

7 b. For each of the tax expenditures in paragraph "a",
8 except as specified in paragraph "c", an itemization of the
9 name of each individual corporate taxpayer which claimed the
10 credit of any value equal to or greater than five thousand
11 dollars, and the specific dollar amount credited to the
12 corporation's tax liability under that credit for that year.

13 c. Credits claimed by individual corporations of less than
14 five thousand dollars shall not be itemized as required in
15 paragraph "b". Instead, in reporting credits for each tax
16 expenditure, the department of revenue and finance shall
17 aggregate all claims of less than five thousand dollars and
18 report them as a single nonspecified group, with the number of
19 claimants stated.

20 2. All data produced by the department of revenue and
21 finance and received by the general assembly in compliance
22 with this chapter shall be a public record subject to
23 examination and copying under chapter 22, notwithstanding
24 sections 422.20, 422.72, and 423.23, or any other provision of
25 state law to the contrary pertaining to confidentiality of
26 information.

27 Sec. 3. NEW SECTION. 16B.3 DISCLOSURE OF PROPERTY TAX
28 REDUCTIONS AND ABATEMENTS.

29 1. On or before April 1, 2002, the department of revenue
30 and finance shall prescribe a standardized disclosure form for
31 use by all property-taxing entities. The form shall require,
32 but not be limited to, the following data:

- 33 a. The name of the property owner.
- 34 b. The address and description of the property.
- 35 c. The date upon which any individual property tax

1 reduction or abatement first took effect.

2 d. The date upon which any individual property tax
3 reduction or abatement is scheduled to expire.

4 e. The rate or schedule of each individual property tax
5 reduction or abatement for the period between the date it took
6 effect and the date it is scheduled to expire.

7 f. The entity's aggregate foregone revenue for the
8 calendar year as a result of each property tax reduction or
9 abatement.

10 g. A compilation and summary of the entity's total
11 foregone revenue as a result of all property tax reductions or
12 abatements, including a summary of foregone revenue for each
13 kind of reduction or abatement.

14 h. The respective shares of the entity's property tax
15 revenues for the reported year which were disbursed to each
16 property-taxing entity.

17 2. Effective April 1, 2003, and each subsequent year,
18 every property-taxing entity in this state shall use this
19 standardized form to report to the department of revenue and
20 finance all property tax reductions or abatements which were
21 in effect during the previous fiscal year.

22 3. The department of revenue and finance shall, by June 1,
23 2003, and for each subsequent year, compile and publish all
24 data on all of the disclosure forms in both written and
25 electronic form.

26 4. If a property-taxing entity fails to comply with
27 subsection 2, the department of revenue and finance shall
28 within ten working days of the April 1 filing deadline notify
29 the department of economic development of such failure. Upon
30 receipt of such notice, the department of economic development
31 shall suspend within three working days any current
32 development assistance activities under its control in the
33 property-taxing entity's jurisdiction, and shall be prohibited
34 from proceeding with any current or future development
35 assistance in the noncompliant jurisdiction unless and until

1 the department of economic development receives proof from the
2 department of revenue and finance that the property-taxing
3 entity has complied with subsection 2.

4 5. If any of the state's various agencies fail to enforce
5 subsection 3 or 4, any person who paid personal income taxes
6 or sales and use taxes to the state in the calendar year prior
7 to the year in dispute shall have standing to sue to compel
8 the state to enforce the provisions of this chapter. The
9 court shall award such taxpayer plaintiff who prevails
10 reasonable attorney fees and costs in any such enforcement
11 action.

12 6. All data generated in compliance with subsections 1 and
13 2 shall be fully subject to examination and copying under
14 chapter 22.

15 Sec. 4. NEW SECTION. 16B.4 STANDARDIZED APPLICATIONS FOR
16 DEVELOPMENT ASSISTANCE.

17 1. On or before April 1, 2002, the department of economic
18 development shall prescribe a standardized application form
19 for development assistance for use by all granting bodies.
20 The form shall include, but not be limited to, the following
21 data:

22 a. An application tracking number which is specific to
23 both the granting agency and to each application.

24 b. The name, street and mailing addresses, telephone
25 number, and chief officer of the granting body.

26 c. The name, street and mailing addresses, telephone
27 number, and chief officer of the corporate parent of the
28 applicant corporation.

29 d. The name, street and mailing addresses, telephone
30 number, six-digit North American industry classification
31 system number, and chief officer of the applicant corporation
32 at the specific project site for which development assistance
33 is sought.

34 e. The applicant corporation's total number of employees
35 at the specific project site on the date of the application,

1 broken down by full-time, part-time, and temporary employees.

2 f. The total number of employees in this state of the
3 applicant corporation's corporate parent, and all subsidiaries
4 thereof, as of December 31 of the year preceding the date of
5 application, broken down by full-time, part-time, and
6 temporary employees.

7 g. The kind or kinds of development assistance and value
8 or values of development assistance being applied for.

9 h. The number of new jobs to be created by the development
10 assistance, broken down by full-time, part-time, and temporary
11 employees.

12 i. The average hourly wage to be paid to the new employees
13 within one year of hiring, broken down by number of full-time,
14 part-time, and temporary employees, and specified by wage
15 groupings as follows: six dollars or less an hour, six
16 dollars and one cent to seven dollars an hour, seven dollars
17 and one cent to eight dollars an hour, eight dollars and one
18 cent to nine dollars an hour, nine dollars and one cent to ten
19 dollars an hour, ten dollars and one cent to eleven dollars an
20 hour, eleven dollars and one cent to twelve dollars an hour,
21 twelve dollars and one cent to thirteen dollars an hour,
22 thirteen dollars and one cent to fourteen dollars an hour, and
23 fourteen dollars and one cent or more per hour.

24 j. For applicant project sites located in a metropolitan
25 statistical area, as defined by the United States census
26 bureau, the average hourly wage paid nonmanagerial employees
27 in the applicant's industry in this state, as most recently
28 provided by the United States bureau of labor statistics to
29 the most specific North American industry classification
30 system number specification, as available.

31 k. For applicant project sites located outside of
32 metropolitan statistical areas, the average weekly wage paid
33 in the county, as most recently reported by the United States
34 department of commerce in its county business patterns
35 reports.

1 1. The nature of employer-paid health care coverage to be
2 provided within ninety days of hiring to the employees filling
3 the new jobs, including any costs to be borne by the new
4 employees.

5 m. A list of all other forms of development assistance the
6 applicant corporation is seeking for the specific project
7 site, and the name or names of the granting body or bodies
8 from which that development assistance is being sought.

9 n. A narrative, if necessary, describing how the applicant
10 corporation's use of the development assistance may reduce
11 employment at any site in any United States jurisdiction
12 controlled by the applicant corporation or its corporate
13 parent, including but not limited to events such as
14 automation, consolidation, merger, acquisition, product line
15 movement, business activity movement, or restructuring by
16 either the applicant corporation or its corporate parent.

17 o. Individual certifications by the chief officers of both
18 the applicant corporation and the granting body as to the
19 accuracy of the application, under penalty of perjury.

20 2. Beginning April 1, 2003, every granting body in this
21 state, jointly with applicant corporations, shall complete the
22 standardized application form as prescribed in subsection 1
23 each time a corporation applies for development assistance.

24 Sec. 5. NEW SECTION. 16B.5 DEVELOPMENT ASSISTANCE
25 DISCLOSURE.

26 1. Beginning February 1, 2004, and for each subsequent
27 year, every granting body in the state shall submit to the
28 department of economic development copies of all the
29 standardized application forms for development assistance, as
30 specified in section 16B.4, that the granting body has
31 received in the previous calendar year. The granting body
32 shall designate on each form whether the development
33 assistance is pending, was approved, or was not approved, and
34 for those applications that were approved, the date of
35 assistance if the date of assistance occurred in the previous

1 calendar year.

2 2. For those applications that were approved but for which
3 the date of assistance did not occur in the same calendar
4 year, each granting body shall report in its next subsequent
5 February 1 annual report to the department of economic
6 development the relevant dates of assistance.

7 3. For each development assistance application that was
8 approved, and for which the date of assistance has occurred in
9 a reporting year, each granting agency shall submit to the
10 department of economic development a progress report, which
11 shall include, but not be limited to, the following data:

12 a. The recipient corporation's tracking number.

13 b. The name, street and mailing addresses, telephone
14 number, and chief officer of the granting body.

15 c. The name, street and mailing addresses, telephone
16 number, six-digit North American industry classification
17 system number, and chief officer of the recipient corporation
18 at the specific project site for which the development
19 assistance was approved.

20 d. The kind of development assistance and value of
21 assistance that was approved.

22 e. The recipient corporation's total level of employment
23 at the specific project site on the date of the application
24 and the recipient corporation's total level of employment at
25 the specific project site on the date of the report, broken
26 down by full-time, part-time, and temporary employees, and a
27 computation of the gain or loss in each category.

28 f. The number of new jobs the recipient corporation stated
29 in its application would be created by the development
30 assistance, broken down by full-time, part-time, and
31 temporary.

32 g. The total level of employment in this state of the
33 recipient corporation's corporate parent, and all subsidiaries
34 thereof, as of December 31 of the year preceding the date of
35 application and the total level of employment in the state of

1 the recipient corporation's corporate parent, and all
2 subsidiaries thereof, as of each December 31 up through the
3 reporting year, broken down by full-time, part-time, and
4 temporary, and a statement of the gain or loss in each
5 category from the earliest reported year to the most recent.

6 h. The average hourly wage paid as of December 31 of the
7 reporting year to employees filling the new jobs at the
8 specific project site, broken down by full-time, part-time,
9 and temporary employees and specified by the wage groupings in
10 section 16B.4, subsection 1, paragraph "i".

11 i. The nature of employer-paid health care coverage being
12 provided within ninety days of hiring to the employees filling
13 the new jobs, including any costs being borne by the new
14 employees.

15 j. A statement describing how the recipient corporation's
16 use of the development assistance during the reporting year
17 has reduced employment at any site in any United States
18 jurisdiction controlled by the recipient corporation or its
19 corporate parent, including but not limited to events such as
20 automation, consolidation, merger, acquisition, product line
21 movement, business activity movement, or restructuring by
22 either the recipient corporation or its corporate parent.

23 k. Notarized individual certifications signed by the chief
24 officers of both the recipient corporation and the granting
25 body as to the accuracy of the progress report.

26 4. The granting body and the department of economic
27 development shall have full investigative authority to verify
28 the recipient corporation's progress report data, including
29 but not limited to inspection of the specific project site and
30 analysis of tax and payroll records.

31 5. By June 1, 2004, and by June 1 of each subsequent year,
32 the department of economic development shall compile and
33 publish all data in all of the development assistance progress
34 reports in both written and electronic form.

35 6. Every aspect of all development assistance

1 applications, progress reports, and the department of economic
2 development's compilation of applications and progress reports
3 shall be fully subject to examination and copying under
4 chapter 22.

5 7. If a granting body fails to comply with subsections 1
6 through 3, or if a granting body or corporation fails to
7 comply with subsection 3, paragraph "k", the department of
8 economic development shall, within ten business days of the
9 February 1 filing deadline, suspend any current development
10 assistance activities under its control in the granting body's
11 jurisdiction, and shall be prohibited from proceeding with any
12 current or future development assistance activities under its
13 control in the granting body's jurisdiction, unless and until
14 the department of economic development receives proof that the
15 negligent granting body or corporation has complied with
16 subsections 1 through 3.

17 Sec. 6. NEW SECTION. 16B.6 JOB CREATION AND JOB QUALITY
18 STANDARDS.

19 1. In considering development assistance applications, all
20 granting bodies shall perform the following analyses
21 concerning the projected wages and benefits:

22 a. A comparison of the aggregate projected wage, as
23 specified in section 16B.4, subsection 1, paragraph "i", with
24 existing wages, as specified and defined under section 16B.4,
25 subsection 1, paragraphs "j" and "k". To derive the aggregate
26 projected wage, the granting body shall compute the weighted
27 hourly average wage for all new employees, including full-
28 time, part-time, and temporary employees. If the aggregate
29 projected wage is less than eighty-five percent of existing
30 wages, the application shall be denied. For small businesses,
31 if the aggregate projected wage is less than seventy-five
32 percent of existing wages, the application shall be denied.

33 b. A wage computation to consider the value of health care
34 coverage provided to full-time employees, as specified in
35 section 16B.4, subsection 1, paragraph "l". If the applicant

1 corporation is not providing health care coverage to full-time
2 employees, the granting body shall subtract one dollar and
3 fifty cents an hour from the projected wage. If the recipient
4 corporation projects some health care costs to be borne by the
5 new full-time employees, the granting body shall, based on
6 data from the applicant corporation, estimate the hourly cost
7 to the new full-time employee of such costs and subtract that
8 amount from the projected wage. If the amount of the wage
9 after subtracting such cost is less than eighty percent of
10 existing wages as specified and defined under section 16B.4,
11 subsection 1, paragraphs "j" and "k", the application shall be
12 denied. For small businesses, if the amount of the wage after
13 subtracting such cost is less than seventy percent of existing
14 wages, the application shall be denied.

15 c. The granting bodies shall divide the value of
16 development assistance by the number of projected full-time
17 jobs as reported in section 16B.4, subsection 1. If the
18 resulting sum exceeds thirty-five thousand dollars, the
19 application shall be denied.

20 2. A granting body's requirement under subsection 1 may be
21 waived by a bona fide collective bargaining agreement that
22 covers employees at the specific project site of the applicant
23 corporation, but only if the waiver is explicitly set forth in
24 the collective bargaining agreement in clear and unambiguous
25 terms. Unilateral implementation of terms and conditions of
26 employment by either party to a collective bargaining
27 agreement shall not constitute a waiver of subsection 1.

28 Sec. 7. NEW SECTION. 16B.7 RECAPTURE OF ASSISTANCE.

29 1. Recipient corporations are required to achieve their
30 job creation and wage and benefit goals within two years of
31 the date of development assistance. Recipient corporations
32 are also required to maintain their wage and benefit goals as
33 long as the assistance is in effect. Corporate parents of
34 recipient corporations are required to maintain at least
35 ninety percent of their original employment number in this

1 state, as specified in section 16B.4, subsection 1, paragraph
2 "f", and section 16B.5, subsection 3, paragraph "g".

3 2. Granting bodies shall, within ten working days after
4 the second anniversary of the date of assistance, and each
5 year thereafter, fill out a standardized progress report, as
6 prescribed in section 16B.5, subsection 3, and the recipient
7 corporation shall sign the progress report and certify its
8 accuracy under penalty of perjury. This second anniversary
9 progress report shall be filed by the granting body with the
10 department of economic development along with the granting
11 body's next annual filing of progress reports.

12 3. The granting body shall indicate on this second
13 anniversary progress report whether the recipient corporation
14 has achieved its job creation and wage and benefit goals, and
15 whether the corporate parent has maintained ninety percent of
16 its employment number in this state.

17 4. On all subsequent annual progress reports, the granting
18 body shall indicate whether or not the recipient corporation
19 is still in compliance with its job creation and wage and
20 benefit goals, and whether the corporate parent is still in
21 compliance with its employment maintenance requirement.

22 5. If for any progress report, beginning with the second
23 anniversary progress report, a granting body finds that a
24 recipient corporation has not achieved or maintained its job
25 creation or wage or benefit goals, or the corporate parent has
26 not maintained ninety percent of its employment number in the
27 state, the granting body must, within ten business days, file
28 a finding of development assistance default with the
29 department of economic development and with the recipient
30 corporation.

31 6. If a recipient corporation defaults on development
32 assistance, the recipient corporation must pay back to the
33 granting body that portion of the development assistance that
34 accrued to its benefit for the calendar year in which the
35 default occurred. For one-time forms of development

1 assistance, such as grants, a defaulting recipient corporation
2 must pay back to the granting body one-fifth of the value of
3 assistance for each year of default. If the recipient
4 corporation defaults for a third straight year, the recipient
5 corporation must pay back the entire remaining amount of
6 assistance. Remittance of the payback by the recipient
7 corporation to the granting body shall take place within sixty
8 calendar days of the delivery of the default notice to the
9 recipient corporation.

10 7. If a recipient corporation defaults on development
11 assistance in three consecutive calendar years, the granting
12 body shall declare the development assistance null and void,
13 and shall so notify the department of economic development and
14 the recipient corporation. Upon such declaration, the
15 recipient corporation must pay back to the granting body all
16 the remaining value of the development assistance it has not
17 already paid back. Remittance of the development assistance
18 payback by the recipient corporation to the granting body
19 shall take place within one hundred eighty calendar days of
20 the delivery of such notice to the recipient corporation.

21 8. Every aspect of all development assistance default
22 notices, recapture remittances, associated correspondence, and
23 related proceedings shall be subject to examination and
24 copying under chapter 22.

25 9. If a granting body fails to enforce this chapter, any
26 person who paid personal income taxes or sales or use taxes to
27 the state in the calendar year prior to the year in dispute,
28 or any organization representing such taxpayers, shall be
29 entitled to bring a civil action in state court to compel
30 enforcement of the provisions of this chapter. The court
31 shall award to any prevailing taxpayer plaintiff or
32 organizational plaintiff reasonable attorney fees and actual
33 incurred costs in pursuing such enforcement action.

34 EXPLANATION

35 This bill requires the department of revenue and finance

1 to, each year, provide to the general assembly a report
2 disclosing tax expenditures by the state in the form of
3 uncollected revenues by virtue of all types of tax credits
4 allowed to businesses.

5 Beginning April 1, 2002, the department of revenue and
6 finance is also required to create a standardized disclosure
7 form for use by local governments, beginning in 2003, to
8 report to the department of revenue and finance on the amount
9 of property tax reductions or abatements allowed in the
10 previous fiscal year. If the local government does not
11 comply, current development assistance activities under the
12 control of the department of economic development will be
13 suspended and future assistance prohibited in the local
14 government's jurisdiction until the local government complies.

15 The bill provides that, by April 1, 2002, the department of
16 economic development is required to create a standardized
17 application form for use by entities granting economic
18 development assistance. The bill further provides that,
19 beginning February 1, 2004, entities granting economic
20 development assistance are required to submit to the
21 department of economic development each application for
22 assistance received and the disposition of the application.

23 The bill requires that entities granting economic
24 development assistance perform specified analyses relating to
25 projected wages and benefits of the employees whose employers
26 will be receiving economic development assistance.

27 The bill provides for recapture of economic development
28 assistance if the recipient businesses do not achieve their
29 job creation and wage and benefit goals within two years of
30 the date of assistance. A recipient business is also required
31 to maintain its wage and benefit goals as long as the business
32 is receiving economic development assistance.

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