

JAN 29 2003
WAYS AND MEANS

HOUSE FILE 81
BY JOCHUM

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to disclosure of information on 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 SHORT TITLE.

2 This Act shall be referred to as the "Fiscal Disclosure and
3 Taxpayer Protection Act".

4 Sec. 2. NEW SECTION. 16B.2 FINDINGS AND INTENT.

5 The state finds that, despite an increase in spending for
6 the purpose of economic development, the real wage levels of
7 the state's average working families have suffered years of
8 decline and stagnation.

9 The state also finds that when workers receive low wages,
10 such jobs often impose hidden taxpayer costs upon the state's
11 citizens, in the form of medical assistance, food stamps,
12 earned income tax credits, utility and rent assistance, child
13 care assistance, and other forms of assistance provided to the
14 working poor and their families.

15 Therefore, in order to ensure that the state's economic
16 development resources are achieving their desired effect of
17 raising living standards for the state's working families, the
18 state finds that it is necessary to collect and analyze
19 additional information and to enact certain safeguards in its
20 development assistance.

21 Sec. 3. NEW SECTION. 16B.3 DEFINITIONS.

22 1. "Corporate parent" means any person or legal entity,
23 organization, business, partnership, group, or corporation
24 entity recognized by law, or combination thereof, that
25 possesses, owns, or controls an interest greater than fifty
26 percent of a recipient corporation.

27 2. "Date of assistance" means the date upon which a
28 granting body transmits the first dollar value of development
29 assistance to a recipient corporation.

30 3. "Development assistance" means any form of public
31 assistance, including tax expenditures, made for the purpose
32 of stimulating the economic development of a given
33 corporation, industry, geographic jurisdiction, or other
34 subset of the state's economy, including but not limited to
35 assistance in the form of industrial development bonds, loans,

1 loan guarantees, revolving loan funds, bond bank programs,
2 enterprise zones, tax increment financing, property tax
3 exemptions or abatements, grants, fee waivers, infrastructure
4 whose principal beneficiary is a single business or defined
5 group of businesses at the time it is built or improved,
6 matching funds, tax abatements, tax credits and tax discounts
7 of every kind, including corporate income tax, personal income
8 tax, insurance premium tax, sales and use taxes, job creation
9 credits and deductions, industrial investment credits and
10 deductions, and research and development tax credits and
11 deductions.

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

15 5. "Granting body" means any public entity within the
16 state, including local governments, regional development
17 organizations, state and local public corporations, the state
18 government, and any state government department or agency,
19 which provides development assistance, including but not
20 limited to the department of economic development and the Iowa
21 finance authority.

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

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

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

33 9. "Small business" means a corporation whose corporate
34 parents, and all subsidiaries thereof, employed fewer than an
35 average of twenty full-time equivalent employees or which had

1 gross receipts of less than one million dollars in all United
2 States jurisdictions during the calendar year for which
3 disclosure is required.

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

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

8 12. "Value of assistance" means the face value of any and
9 all forms of development assistance.

10 Sec. 4. NEW SECTION. 16B.4 DISCLOSURE OF STATE TAX
11 EXPENDITURES.

12 1. Effective July 1, 2003, and each succeeding year, the
13 department of revenue and finance shall provide a detailed tax
14 expenditure budget disclosure report to the general assembly,
15 derived from state income tax filings or other relevant state
16 filings for the previous calendar year. The disclosure report
17 shall include, but not be limited to, the following data:

18 a. The dollar amount of tax expenditures made by the
19 state, in the form of uncollected revenues, for each
20 individual tax credit provided by the state, including credits
21 for wages of certain qualified employees, enterprise zones,
22 tax increment financing, grants, matching funds, tax
23 abatements, and tax credits and tax discounts of every kind,
24 including corporate income, personal income, excise, insurance
25 premium, sales and use, job creation, industrial investment,
26 and research and development tax credits and tax discounts.

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

33 c. Credits claimed by individual corporations of less than
34 five thousand dollars shall not be itemized as required in
35 paragraph "b". Instead, in reporting credits for each tax

1 expenditure, the department of revenue and finance shall
2 aggregate all claims of less than five thousand dollars and
3 report them as a single nonspecified group, with the number of
4 claimants stated.

5 2. All data produced by the department of revenue and
6 finance and received by the general assembly in compliance
7 with this chapter shall be a public record subject to
8 examination and copying under chapter 22, notwithstanding
9 sections 422.20, 422.72, and 423.23, or any other provision of
10 state law to the contrary pertaining to confidentiality of
11 information.

12 Sec. 5. NEW SECTION. 16B.5 DISCLOSURE OF PROPERTY TAX
13 REDUCTIONS AND ABATEMENTS.

14 1. On or before April 1, 2003, the department of revenue
15 and finance shall prescribe a standardized disclosure form for
16 use by all property-taxing entities. The form shall require,
17 but not be limited to, the following data:

- 18 a. The name of the property owner.
- 19 b. The address and description of the property.
- 20 c. The date upon which any individual property tax
21 reduction or abatement first took effect.
- 22 d. The date upon which any individual property tax
23 reduction or abatement is scheduled to expire.
- 24 e. The rate or schedule of each individual property tax
25 reduction or abatement for the period between the date it took
26 effect and the date it is scheduled to expire.
- 27 f. The entity's aggregate foregone revenue for the
28 calendar year as a result of each property tax reduction or
29 abatement.
- 30 g. A compilation and summary of the entity's total
31 foregone revenue as a result of all property tax reductions or
32 abatements, including a summary of foregone revenue for each
33 kind of reduction or abatement.
- 34 h. The respective shares of the entity's property tax
35 revenues for the reported year which were disbursed to each

1 property-taxing entity.

2 2. Effective April 1, 2004, and each subsequent year,
3 every property-taxing entity in this state shall use this
4 standardized form to report to the department of revenue and
5 finance all property tax reductions or abatelements which were
6 in effect during the previous fiscal year.

7 3. The department of revenue and finance shall, by June 1,
8 2004, and for each subsequent year, compile and publish all
9 data on all of the disclosure forms in both written and
10 electronic form.

11 4. If a property-taxing entity fails to comply with
12 subsection 2, the department of revenue and finance shall
13 within ten working days of the April 1 filing deadline notify
14 the department of economic development of such failure. Upon
15 receipt of such notice, the department of economic development
16 shall suspend within three working days any current
17 development assistance activities under its control in the
18 property-taxing entity's jurisdiction, and shall be prohibited
19 from proceeding with any current or future development
20 assistance in the noncompliant jurisdiction unless and until
21 the department of economic development receives proof from the
22 department of revenue and finance that the property-taxing
23 entity has complied with subsection 2.

24 5. If any of the state's various agencies fail to enforce
25 subsection 3 or 4, any person who paid personal income taxes
26 or sales and use taxes to the state in the calendar year prior
27 to the year in dispute shall have standing to sue to compel
28 the state to enforce the provisions of this chapter. The
29 court shall award such taxpayer plaintiff who prevails
30 reasonable attorney fees and costs in any such enforcement
31 action.

32 6. All data generated in compliance with subsections 1 and
33 2 shall be fully subject to examination and copying under
34 chapter 22.

35 Sec. 6. NEW SECTION. 16B.6 STANDARDIZED APPLICATIONS FOR

1 DEVELOPMENT ASSISTANCE.

- 2 1. On or before April 1, 2003, the department of economic
3 development shall prescribe a standardized application form
4 for development assistance for use by all granting bodies.
5 The form shall include, but not be limited to, the following
6 data:
- 7 a. An application tracking number which is specific to
8 both the granting agency and to each application.
- 9 b. The name, street and mailing addresses, telephone
10 number, and chief officer of the granting body.
- 11 c. The name, street and mailing addresses, telephone
12 number, and chief officer of the corporate parent of the
13 applicant corporation.
- 14 d. The name, street and mailing addresses, telephone
15 number, standard industrial classification number, and chief
16 officer of the applicant corporation at the specific project
17 site for which development assistance is sought.
- 18 e. The applicant corporation's total number of employees
19 at the specific project site on the date of the application,
20 broken down by full-time, part-time, and temporary employees.
- 21 f. The total number of employees in this state of the
22 applicant corporation's corporate parent, and all subsidiaries
23 thereof, as of December 31 of the year preceding the date of
24 application, broken down by full-time, part-time, and
25 temporary employees.
- 26 g. The kind or kinds of development assistance and value
27 or values of development assistance being applied for.
- 28 h. The number of new jobs to be created by the development
29 assistance, broken down by full-time, part-time, and temporary
30 employees.
- 31 i. The average hourly wage to be paid to the new employees
32 within one year of hiring, broken down by number of full-time,
33 part-time, and temporary employees, and specified by wage
34 groupings as follows: six dollars or less an hour, six
35 dollars and one cent to seven dollars an hour, seven dollars

1 and one cent to eight dollars an hour, eight dollars and one
2 cent to nine dollars an hour, nine dollars and one cent to ten
3 dollars an hour, ten dollars and one cent to eleven dollars an
4 hour, eleven dollars and one cent to twelve dollars an hour,
5 twelve dollars and one cent to thirteen dollars an hour,
6 thirteen dollars and one cent to fourteen dollars an hour, and
7 fourteen dollars and one cent or more per hour.

8 j. For applicant project sites located in a metropolitan
9 statistical area county, as defined by the United States
10 census bureau, the average hourly wage paid nonmanagerial
11 employees in the applicant's industry in this state, as most
12 recently provided by the United States bureau of labor
13 statistics to the standard industrial classification number
14 specification, as available.

15 k. For applicant project sites located outside of
16 metropolitan statistical area counties, the average weekly
17 wage paid in the county, as most recently reported by the
18 United States department of commerce in its county business
19 patterns reports.

20 l. The nature of employer-paid health care coverage to be
21 provided within ninety days of hiring to the employees filling
22 the new jobs, including any costs to be borne by the new
23 employees.

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

28 n. A narrative, if necessary, describing how the applicant
29 corporation's use of the development assistance may reduce
30 employment at any site in any United States jurisdiction
31 controlled by the applicant corporation or its corporate
32 parent, including but not limited to events such as
33 automation, consolidation, merger, acquisition, product line
34 movement, business activity movement, or restructuring by
35 either the applicant corporation or its corporate parent.

1 o. Individual certifications by the chief officers of both
2 the applicant corporation and the granting body as to the
3 accuracy of the application, under penalty of perjury.

4 2. Beginning April 1, 2004, every granting body in this
5 state, jointly with applicant corporations, shall complete the
6 standardized application form as prescribed in subsection 1
7 each time a corporation applies for development assistance.

8 Sec. 7. NEW SECTION. 16B.7 DEVELOPMENT ASSISTANCE
9 DISCLOSURE.

10 1. Beginning February 1, 2005, and for each subsequent
11 year, every granting body in the state shall submit to the
12 department of economic development copies of all the
13 standardized application forms for development assistance, as
14 specified in section 16B.4, that the granting body has
15 received in the previous calendar year. The granting body
16 shall designate on each form whether the development
17 assistance is pending, was approved, or was not approved, and
18 for those applications that were approved, the date of
19 assistance if the date of assistance occurred in the previous
20 calendar year.

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

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

31 a. The recipient corporation's tracking number.

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

34 c. The name, street and mailing addresses, telephone
35 number, standard industrial classification number, and chief

1 officer of the recipient corporation at the specific project
2 site for which the development assistance was approved.

3 d. The kind of development assistance and value of
4 assistance that was approved.

5 e. The recipient corporation's total level of employment
6 at the specific project site on the date of the application
7 and the recipient corporation's total level of employment at
8 the specific project site on the date of the report, broken
9 down by full-time, part-time, and temporary employees, and a
10 computation of the gain or loss in each category.

11 f. The number of new jobs the recipient corporation stated
12 in its application would be created by the development
13 assistance, broken down by full-time, part-time, and
14 temporary.

15 g. The total level of employment in this state of the
16 recipient corporation's corporate parent, and all subsidiaries
17 thereof, as of December 31 of the year preceding the date of
18 application and the total level of employment in the state of
19 the recipient corporation's corporate parent, and all
20 subsidiaries thereof, as of each December 31 up through the
21 reporting year, broken down by full-time, part-time, and
22 temporary, and a statement of the gain or loss in each
23 category from the earliest reported year to the most recent.

24 h. The average hourly wage paid as of December 31 of the
25 reporting year to employees filling the new jobs at the
26 specific project site, broken down by full-time, part-time,
27 and temporary employees.

28 i. The nature of employer-paid health care coverage being
29 provided within ninety days of hiring to the employees filling
30 the new jobs, including any costs being borne by the new
31 employees.

32 j. A statement describing how the recipient corporation's
33 use of the development assistance during the reporting year
34 has reduced employment at any site in any United States
35 jurisdiction controlled by the recipient corporation or its

1 corporate parent, including but not limited to events such as
2 automation, consolidation, merger, acquisition, product line
3 movement, business activity movement, or restructuring by
4 either the recipient corporation or its corporate parent.

5 k. Notarized individual certifications signed by the chief
6 officers of both the recipient corporation and the granting
7 body as to the accuracy of the progress report.

8 4. The granting body and the department of economic
9 development shall have full investigative authority to verify
10 the recipient corporation's progress report data, including
11 but not limited to inspection of the specific project site and
12 analysis of tax and payroll records.

13 5. By June 1, 2005, and by June 1 of each subsequent year,
14 the department of economic development shall compile and
15 publish all data in all of the development assistance progress
16 reports in both written and electronic form.

17 6. Every aspect of all development assistance
18 applications, progress reports, and the department of economic
19 development's compilation of applications and progress reports
20 shall be fully subject to examination and copying under
21 chapter 22.

22 7. If a granting body fails to comply with subsections 1
23 through 3, or if a granting body or corporation fails to
24 comply with subsection 3, paragraph "k", the department of
25 economic development shall, within ten business days of the
26 February 1 filing deadline, suspend any current development
27 assistance activities under its control in the granting body's
28 jurisdiction, and shall be prohibited from proceeding with any
29 current or future development assistance activities under its
30 control in the granting body's jurisdiction, unless and until
31 the department of economic development receives proof that the
32 negligent granting body or corporation has complied with
33 subsections 1 through 3.

34 Sec. 8. NEW SECTION. 16B.8 JOB CREATION AND JOB QUALITY
35 STANDARDS.

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

4 a. A comparison of the aggregate projected wage, as
5 specified in section 16B.6, subsection 1, paragraph "i", with
6 existing wages, as specified and defined under section 16B.4,
7 subsection 1, paragraphs "j" and "k". To derive the aggregate
8 projected wage, the granting body shall compute the weighted
9 hourly average wage for all new employees, including full-
10 time, part-time, and temporary employees. If the aggregate
11 projected wage is less than eighty-five percent of existing
12 wages, the application shall be denied. For small businesses,
13 if the aggregate projected wage is less than seventy-five
14 percent of existing wages, the application shall be denied.

15 b. A wage computation to consider the value of health care
16 coverage provided to full-time employees, as specified in
17 section 16B.6, subsection 1, paragraph "l". If the applicant
18 corporation is not providing health care coverage to full-time
19 employees, the granting body shall subtract one dollar and
20 fifty cents an hour from the projected wage. If the recipient
21 corporation projects some health care costs to be borne by the
22 new full-time employees, the granting body shall, based on
23 data from the applicant corporation, estimate the hourly cost
24 to the new full-time employee of such costs and subtract that
25 amount from the projected wage. If the amount of the wage
26 after subtracting such cost is less than eighty percent of
27 existing wages as specified and defined under section 16B.6,
28 subsection 1, paragraphs "j" and "k", the application shall be
29 denied. For small businesses, if the amount of the wage after
30 subtracting such cost is less than seventy percent of existing
31 wages, the application shall be denied.

32 c. The granting bodies shall divide the value of
33 development assistance by the number of projected full-time
34 jobs, as reported in section 16B.6, subsection 1. If the
35 resulting sum exceeds thirty-five thousand dollars, the

1 application shall be denied.

2 2. A granting body's requirement under subsection 1 may be
3 waived by a bona fide collective bargaining agreement that
4 covers employees at the specific project site of the applicant
5 corporation, but only if the waiver is explicitly set forth in
6 the collective bargaining agreement in clear and unambiguous
7 terms. Unilateral implementation of terms and conditions of
8 employment by either party to a collective bargaining
9 agreement shall not constitute a waiver of subsection 1.

10 Sec. 9. NEW SECTION. 16B.9 RECAPTURE OF ASSISTANCE.

11 1. Recipient corporations are required to achieve their
12 job creation and wage and benefit goals within two years of
13 the date of development assistance. Recipient corporations
14 are also required to maintain their wage and benefit goals as
15 long as the assistance is in effect. Corporate parents of
16 recipient corporations are required to maintain at least
17 ninety percent of their original employment number in this
18 state, as specified in section 16B.6, subsection 1, paragraph
19 "f", and section 16B.7, subsection 3, paragraph "g".

20 2. Granting bodies shall, within ten working days after
21 the second anniversary of the date of assistance, fill out a
22 standardized progress report, as prescribed in section 16B.7,
23 subsection 3, and the recipient corporation shall sign the
24 progress report and certify its accuracy under penalty of
25 perjury. This second anniversary progress report shall be
26 filed by the granting body with the department of economic
27 development along with the granting body's next annual filing
28 of progress reports.

29 3. The granting body shall indicate on this second
30 anniversary progress report whether the recipient corporation
31 has achieved its job creation and wage and benefit goals, and
32 whether the corporate parent has maintained ninety percent of
33 its employment number in this state.

34 4. On all subsequent annual progress reports, the granting
35 body shall indicate whether or not the recipient corporation

1 is still in compliance with its job creation and wage and
2 benefit goals, and whether the corporate parent is still in
3 compliance with its employment maintenance requirement.

4 5. If for any progress report, beginning with the second
5 anniversary progress report, a granting body finds that a
6 recipient corporation has not achieved its job creation or
7 wage or benefit goals, or the corporate parent has not
8 maintained ninety percent of its employment number in the
9 state, the granting body must, within ten business days, file
10 a finding of development assistance default with the
11 department of economic development and with the recipient
12 corporation.

13 6. If a recipient corporation defaults on development
14 assistance, the recipient corporation must pay back to the
15 granting body that portion of the development assistance that
16 accrued to its benefit for the calendar year in which the
17 default occurred. For one-time forms of development
18 assistance, such as grants, a defaulting recipient corporation
19 must pay back to the granting body one-fifth of the value of
20 assistance. Remittance of the payback by the recipient
21 corporation to the granting body shall take place within sixty
22 calendar days of the delivery of the default notice to the
23 recipient corporation.

24 7. If a recipient corporation defaults on development
25 assistance in three consecutive calendar years, the granting
26 body shall declare the development assistance null and void,
27 and shall so notify the department of economic development and
28 the recipient corporation. Upon such declaration, the
29 recipient corporation must pay back to the granting body all
30 the remaining value of the development assistance it has not
31 already paid back. Remittance of the development assistance
32 payback by the recipient corporation to the granting body
33 shall take place within one hundred eighty calendar days of
34 the delivery of such notice to the recipient corporation.

35 8. Every aspect of all development assistance default

1 notices, recapture remittances, associated correspondence, and
2 related proceedings shall be subject to examination and
3 copying under chapter 22.

4 9. If a granting body fails to enforce this chapter, any
5 person who paid personal income taxes or sales or use taxes to
6 the state in the calendar year prior to the year in dispute,
7 or any organization representing such taxpayers, shall be
8 entitled to bring a civil action in state court to compel
9 enforcement of the provisions of this chapter. The court
10 shall award to any prevailing taxpayer plaintiff or
11 organizational plaintiff reasonable attorney fees and actual
12 incurred costs in pursuing such enforcement action.

13 EXPLANATION

14 This bill requires the department of revenue and finance
15 to, each year, provide to the general assembly a report
16 disclosing tax expenditures by the state in the form of
17 uncollected revenues by virtue of all types of tax credits
18 allowed to businesses.

19 Beginning April 1, 2003, the department of revenue and
20 finance is also required to create a standardized disclosure
21 form for use by local governments, beginning in 2004, to
22 report to the department of revenue and finance on the amount
23 of property tax reductions or abatements allowed in the
24 previous fiscal year. If the local government does not
25 comply, current development assistance activities under the
26 control of the department of economic development will be
27 suspended and future assistance prohibited in the local
28 government's jurisdiction until the local government complies.

29 The bill provides that, by April 1, 2003, the department of
30 economic development is required to create a standardized
31 application form for use by entities granting economic
32 development assistance. The bill further provides that,
33 beginning February 1, 2005, entities granting economic
34 development assistance are required to submit to the
35 department of economic development each application for

1 assistance received and the disposition of the application.

2 The bill requires that entities granting economic
3 development assistance perform specified analyses relating to
4 projected wages and benefits of the employees whose employers
5 will be receiving economic development assistance.

6 The bill provides for recapture of economic development
7 assistance if the recipient businesses do not achieve their
8 job creation and wage and benefit goals within two years of
9 the date of assistance. A recipient business is also required
10 to maintain its wage and benefit goals as long as the business
11 is receiving economic development assistance.

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