

FEB 16 2005
ECONOMIC GROWTH

HOUSE FILE 322
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, providing certain
3 remedies, and providing for the Act's implementation.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 322

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

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

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

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

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

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

34 9. "Small business" means a corporation whose corporate
35 parents, and all subsidiaries thereof, employed fewer than an

1 average of twenty full-time equivalent employees or which had
2 gross receipts of less than one million dollars in all United
3 States jurisdictions during the calendar year for which
4 disclosure is required.

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

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

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

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

13 1. Effective July 1, 2006, and each succeeding year, the
14 department of revenue shall provide a detailed tax expenditure
15 budget disclosure report to the general assembly, derived from
16 state income tax filings or other relevant state filings for
17 the previous calendar year. The disclosure report shall
18 include, but not be limited to, the following data:

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

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

35 c. Credits claimed by individual corporations of less than

1 five thousand dollars shall not be itemized as required in
2 paragraph "b". Instead, in reporting credits for each tax
3 expenditure, the department of revenue shall aggregate all
4 claims of less than five thousand dollars and report them as a
5 single nonspecified group, with the number of claimants
6 stated.

7 2. All data produced by the department of revenue and
8 received by the general assembly in compliance with this
9 chapter shall be a public record subject to examination and
10 copying under chapter 22, notwithstanding sections 422.20,
11 422.72, and 423.42, or any other provision of state law to the
12 contrary pertaining to confidentiality of information.

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

15 1. On or before April 1, 2006, the department of revenue
16 shall prescribe a standardized disclosure form for use by all
17 property-taxing entities. The form shall require, but not be
18 limited to, the following data:

19 a. The name of the property owner.

20 b. The address and description of the property.

21 c. The date upon which any individual property tax
22 reduction or abatement first took effect.

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

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

28 f. The entity's aggregate foregone revenue for the
29 calendar year as a result of each property tax reduction or
30 abatement.

31 g. A compilation and summary of the entity's total
32 foregone revenue as a result of all property tax reductions or
33 abatements, including a summary of foregone revenue for each
34 kind of reduction or abatement.

35 h. The respective shares of the entity's property tax

1 revenues for the reported year which were disbursed to each
2 property-taxing entity.

3 2. Effective April 1, 2007, and each subsequent year,
4 every property-taxing entity in this state shall use this
5 standardized form to report to the department of revenue all
6 property tax reductions or abatements which were in effect
7 during the previous fiscal year.

8 3. The department of revenue shall, by June 1, 2007, and
9 for each subsequent year, compile and publish all data on all
10 of the disclosure forms in both written and electronic form.

11 4. If a property-taxing entity fails to comply with
12 subsection 2, the department of revenue shall within ten
13 working days of the April 1 filing deadline notify the
14 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 that the property-taxing entity has
23 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, 2006, 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, six-digit North American industry classification
16 system number, and chief officer of the applicant corporation
17 at the specific project site for which development assistance
18 is sought.

19 e. The applicant corporation's total number of employees
20 at the specific project site on the date of the application,
21 broken down by full-time, part-time, and temporary employees.

22 f. The total number of employees in this state of the
23 applicant corporation's corporate parent, and all subsidiaries
24 thereof, as of December 31 of the year preceding the date of
25 application, broken down by full-time, part-time, and
26 temporary employees.

27 g. The kind or kinds of development assistance and value
28 or values of development assistance being applied for.

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

32 i. The average hourly wage to be paid to the new employees
33 within one year of hiring, broken down by number of full-time,
34 part-time, and temporary employees, and specified by wage
35 groupings as follows: six dollars or less an hour, six

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

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

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

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

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

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

1 either the applicant corporation or its corporate parent.

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

5 2. Beginning April 1, 2007, every granting body in this
6 state, jointly with applicant corporations, shall complete the
7 standardized application form as prescribed in subsection 1
8 each time a corporation applies for development assistance.

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

11 1. Beginning February 1, 2008, and for each subsequent
12 year, every granting body in the state shall submit to the
13 department of economic development copies of all the
14 standardized application forms for development assistance, as
15 specified in section 16B.6, that the granting body has
16 received in the previous calendar year. The granting body
17 shall designate on each form whether the development
18 assistance is pending, was approved, or was not approved, and
19 for those applications that were approved, the date of
20 assistance if the date of assistance occurred in the previous
21 calendar year.

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

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

32 a. The recipient corporation's tracking number.

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

35 c. The name, street and mailing addresses, telephone

1 number, six-digit North American industry classification
2 system number, and chief officer of the recipient corporation
3 at the specific project site for which the development
4 assistance was approved.

5 d. The kind of development assistance and value of
6 assistance that was approved.

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

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

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

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

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

35 j. A statement describing how the recipient corporation's

1 use of the development assistance during the reporting year
2 has reduced employment at any site in any United States
3 jurisdiction controlled by the recipient corporation or its
4 corporate parent, including but not limited to events such as
5 automation, consolidation, merger, acquisition, product line
6 movement, business activity movement, or restructuring by
7 either the recipient corporation or its corporate parent.

8 k. Notarized individual certifications signed by the chief
9 officers of both the recipient corporation and the granting
10 body as to the accuracy of the progress report.

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

16 5. By June 1, 2008, and by June 1 of each subsequent year,
17 the department of economic development shall compile and
18 publish all data in all of the development assistance progress
19 reports in both written and electronic form.

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

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

1 subsections 1 through 3.

2 Sec. 8. NEW SECTION. 16B.8 JOB CREATION AND JOB QUALITY
3 STANDARDS.

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

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

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

35 c. The granting bodies shall divide the value of

1 development assistance by the number of projected full-time
2 jobs, as reported in section 16B.6, subsection 1. If the
3 resulting sum exceeds thirty-five thousand dollars, the
4 application shall be denied.

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

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

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

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

32 3. The granting body shall indicate on this second
33 anniversary progress report whether the recipient corporation
34 has achieved its job creation and wage and benefit goals, and
35 whether the corporate parent has maintained ninety percent of

1 its employment number in this state.

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

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

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

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

1 shall take place within one hundred eighty calendar days of
2 the delivery of such notice to the recipient corporation.

3 8. Subsections 6 and 7 are applicable if the state
4 statute, ordinance, or development assistance agreement
5 authorizing the development assistance provides for a lesser
6 penalty upon default of the recipient corporation.

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

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

20 Sec. 10. IMPLEMENTATION OF ACT. Section 25B.2, subsection
21 3, shall not apply to this Act.

22 EXPLANATION

23 This bill requires the department of revenue to provide to
24 the general assembly a report disclosing tax expenditures by
25 the state in the form of uncollected revenues by virtue of all
26 types of tax credits allowed to businesses. The report is to
27 be provided July 1, 2006, and each succeeding year.

28 Beginning April 1, 2006, the department of revenue is also
29 required to create a standardized disclosure form for use by
30 local governments, beginning in 2007, to report to the
31 department of revenue on the amount of property tax reductions
32 or abatements allowed in the previous fiscal year. If the
33 local government does not comply, current development
34 assistance activities under the control of the department of
35 economic development will be suspended and future assistance

1 prohibited in the local government's jurisdiction until the
2 local government complies.

3 The bill provides that, by April 1, 2006, the department of
4 economic development is required to create a standardized
5 application form for use by entities granting economic
6 development assistance. The bill further provides that,
7 beginning February 1, 2008, entities granting economic
8 development assistance are required to submit to the
9 department of economic development each application for
10 assistance received and the disposition of the application.

11 The bill requires that entities granting economic
12 development assistance perform specified analyses relating to
13 projected wages and benefits of the employees whose employers
14 will be receiving economic development assistance.

15 The bill provides for recapture of economic development
16 assistance if the recipient businesses do not achieve their
17 job creation and wage and benefit goals within two years of
18 the date of assistance. A recipient business is also required
19 to maintain its wage and benefit goals as long as the business
20 is receiving economic development assistance.

21 The bill may include a state mandate as defined in Code
22 section 25B.3. The bill makes inapplicable Code section
23 25B.2, subsection 3, which would relieve a political
24 subdivision from complying with a state mandate if funding for
25 the cost of the state mandate is not provided or specified.
26 Therefore, political subdivisions are required to comply with
27 any state mandate included in the bill.

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