

By Senator Braynon

33-01413-12

20121592

1 A bill to be entitled
2 An act relating to economic development subsidies;
3 providing definitions; providing a process for an
4 applicant corporation to apply for an economic
5 development subsidy using an application developed by
6 the Department of Economic Opportunity; prohibiting a
7 recipient corporation from receiving an economic
8 development subsidy if the cost per job created
9 exceeds a specified amount; providing a method for
10 determining the cost; providing criteria for granting
11 economic development subsidies; requiring that the
12 recipient corporation provide certain information to
13 the governing body; requiring that the governing body
14 provide the information to the department; requiring
15 each granting body that approves an economic
16 development project to file an annual progress report
17 with the department; providing for the information
18 required in each biennial progress report; requiring
19 the department to compile and publish information
20 received in the annual and biennial progress reports;
21 requiring a recipient corporation to allow the
22 department access to the project site and to the
23 records; providing for a penalty if the recipient
24 corporation fails to allow access; requiring that the
25 department report on expenditures for economic
26 development subsidies; requiring that property-taxing
27 entities report property tax reductions and abatements
28 to the department; providing criteria for the
29 information that must be included in the report;

33-01413-12

20121592

30 requiring that the department compile and publish
31 information received in the annual reports; requiring
32 the Department of Revenue to submit annually to the
33 Legislature a unified economic development budget;
34 providing that a recipient corporation that fails to
35 meet certain standards is in default and must return
36 the economic development subsidy to the granting body;
37 providing requirements for determining default;
38 providing procedures for the return of the economic
39 development subsidy; authorizing certain individuals
40 and organizations to bring a civil action if a
41 granting body fails to enforce the requirements of the
42 act; providing that certain information is a public
43 record; clarifying that the act does not require or
44 authorize a recipient corporation to reduce wages or
45 benefits established under a collective bargaining
46 agreement or state or federal wage law; providing an
47 effective date.

48
49 WHEREAS, while the state and local governments have granted
50 numerous economic development subsidies in the last 25 years,
51 the real wage levels and health care benefits of working
52 families have declined, and

53 WHEREAS, if employees receive low wages and reduced
54 benefits, the jobs often impose hidden costs to taxpayers in the
55 form of Medicaid costs, food stamps, earned income tax credits,
56 and other forms of public assistance to the working poor and
57 their families, and

58 WHEREAS, citizen participation in economic development has

33-01413-12

20121592

59 been impeded by a lack of readily accessible information
60 regarding expenditures and outcomes for economic development
61 programs, and

62 WHEREAS, in order to improve the effectiveness of
63 expenditures for economic development programs and ensure that
64 the programs achieve the goal of raising living standards for
65 working families, it is necessary to centralize the collection
66 and analysis of data, make information regarding those
67 expenditures publicly available, and enact certain safeguards
68 for the use of funds for economic development, NOW, THEREFORE,

69
70 Be It Enacted by the Legislature of the State of Florida:

71
72 Section 1. Subsidies for economic development.-

73 (1) DEFINITIONS.-As used in this section, the term:

74 (a) "Applicant corporation" means any person, association,
75 corporation, joint venture, partnership, or other entity that
76 applies for an economic development subsidy.

77 (b) "Corporate parent" means any person, association,
78 corporation, joint venture, partnership, or other entity that
79 owns or controls 50 percent or more of a recipient corporation.

80 (c) "Date of subsidy" means the date that a granting body
81 provides the initial monetary value of an economic development
82 subsidy to a recipient corporation. However, if the subsidy is
83 for the installation of new equipment, the date of subsidy is
84 the date that the corporation puts the equipment into service,
85 or, if the subsidy is for improvements to property, the date of
86 subsidy is the date that the improvements are completed or the
87 date that the corporation occupies the property, whichever is

33-01413-12

20121592

88 earlier.

89 (d) "Department" means the Department of Economic
90 Opportunity.

91 (e) "Economic development subsidy" means any expenditure of
92 public funds having a value of at least \$25,000 for the purpose
93 of stimulating economic development within the state, including,
94 but not limited to, bonds, grants, loans, loan guarantees, tax
95 increment financing, fee waivers, land price subsidies, matching
96 funds, tax abatements, tax exemptions, and tax credits. The term
97 also includes benefits resulting by virtue of a project being
98 located in an enterprise zone or empowerment zone.

99 (f) "Full-time job" means an ongoing job in which an
100 individual is employed by a recipient corporation for at least
101 35 hours per week.

102 (g) "Granting body" means any agency, board, office, public
103 benefit corporation or authority of the state, or local
104 governmental unit that provides an economic development subsidy.

105 (h) "Local governmental unit" means an agency, board,
106 commission, office, public benefit corporation, or public
107 authority of a political subdivision of the state.

108 (i) "New employee" means a full-time employee who
109 represents a net increase in the number of individuals employed
110 within this state by the recipient corporation. The term does
111 not include an employee who performs a job that was previously
112 performed by another employee of the recipient corporation if
113 that job existed for at least 6 months before the new employee
114 is hired.

115 (j) "Part-time job" means an ongoing job in which an
116 individual is employed by a recipient corporation for less than

33-01413-12

20121592

117 35 hours per week.

118 (k) "Project" means a facility site or a business,
119 commercial, or industrial operation for which an economic
120 development subsidy is granted.

121 (l) "Property-taxing entity" means a governmental entity
122 that levies a tax, fee, or surcharge upon real or personal
123 property.

124 (m) "Recipient corporation" means any person, association,
125 corporation, joint venture, partnership, or other entity that
126 receives an economic development subsidy.

127 (n) "Small business" means a corporation whose corporate
128 parent, and any subsidiaries thereof, employed fewer than 20
129 full-time employees or had total gross receipts of less than \$1
130 million during the most recent calendar year.

131 (o) "State" means an agency, board, commission, office,
132 public benefit corporation, or public benefit authority of the
133 state.

134 (p) "Subsidy value" means the face value of an economic
135 development subsidy provided to a recipient corporation.

136 (q) "Temporary job" means a job in which an individual is
137 hired for a season or for a limited period of time.

138 (2) APPLICATION FOR ECONOMIC DEVELOPMENT SUBSIDIES.—

139 (a) An applicant corporation may apply for an economic
140 development subsidy by completing an application on a form
141 prepared by the Department of Economic Opportunity and
142 submitting the form to the granting body. The application must
143 include:

144 1. An application tracking number for the granting body and
145 the project;

33-01413-12

20121592

146 2. The name, street and mailing address, and phone number
147 of the chief officer of the granting body;

148 3. The name, street and mailing address, and phone number
149 of the chief officer of the applicant corporation's corporate
150 parent;

151 4. The name, street and mailing address, and phone number
152 of the chief officer of the applicant corporation;

153 5. The street address of the project site, if applicable;

154 6. The three-digit North American Industry Classification
155 System number for each type of industry involved in the project;

156 7. The total number of individuals employed by the
157 applicant corporation for the project on the date of the
158 application, and the number of individuals employed, categorized
159 by full-time, part-time, and temporary jobs;

160 8. The total number of individuals employed in the state by
161 the applicant corporation's corporate parent, and its
162 subsidiaries, as of December 31 of the prior fiscal year,
163 categorized by full-time, part-time, and temporary jobs;

164 9. The economic development subsidy for which the applicant
165 corporation is applying and the subsidy value;

166 10. The number of new jobs expected to be created by the
167 applicant corporation for the project, categorized by full-time,
168 part-time, and temporary jobs;

169 11. The average hourly wage to be paid to all current and
170 new employees of the project, categorized by full-time, part-
171 time, and temporary jobs, and also categorized by wage groups as
172 follows:

173 a. A wage of \$6 or less an hour;

174 b. A wage of \$6.01 to \$7 an hour;

33-01413-12

20121592

- 175 c. A wage of \$7.01 to \$8 an hour;
176 d. A wage of \$8.01 to \$9 an hour;
177 e. A wage of \$9.01 to \$10 an hour;
178 f. A wage of \$10.01 to \$11 an hour;
179 g. A wage of \$11.01 to \$12 an hour;
180 h. A wage of \$12.01 to \$13 an hour
181 i. A wage of \$13.01 to \$14 an hour; and
182 j. A wage of \$14.01 or more per hour;
- 183 12. The average hourly wage paid to nonmanagerial employees
184 for the industries involved in the project, as established by
185 the United States Bureau of Labor Statistics for projects
186 located in a metropolitan statistical area, as defined by the
187 federal Office of Management and Budget;
- 188 13. The average weekly wage paid to nonmanagerial employees
189 in the county for industries involved in the project, as
190 established by the United States Bureau of Labor Statistics for
191 projects located outside metropolitan statistical areas, as
192 defined by the federal Office of Management and Budget;
- 193 14. The type and amount of health care coverage that the
194 applicant corporation will provide employees within 90 days
195 after commencement of employment at the project, including any
196 costs to be borne by the employees;
- 197 15. A list of the economic development subsidies that the
198 applicant corporation is requesting and the name of any other
199 granting body from which a subsidy is sought;
- 200 16. A statement as to whether the economic development
201 subsidy may reduce employment at any other business controlled
202 by the applicant corporation or its corporate parent, within or
203 outside the state, resulting from automation, merger,

33-01413-12

20121592

204 acquisition, corporate restructuring, or other business
205 activity; and

206 17. A certification by the chief officer of the applicant
207 corporation as to the accuracy of the information provided on
208 the application.

209 (b) If the granting body approves the application, it must
210 send a copy of the approved application to the department within
211 15 days after the approval. If the application is not approved,
212 the granting body shall retain the application in its records.

213 (3) SUBSIDY LIMIT AND JOB QUALITY STANDARDS.—

214 (a) A granting body may not grant an economic development
215 subsidy if the cost per job is greater than \$35,000. The cost
216 shall be determined by dividing the amount of the subsidy by the
217 number of full-time jobs expected to be created by the applicant
218 corporation as approved by the granting body.

219 (b) A granting body may grant a subsidy to a recipient
220 corporation if the wages paid to employees at the project site
221 are equal to or exceed 85 percent of the average wage as
222 established pursuant to subparagraphs (2) (a)12. and 13. However,
223 for small businesses, the average wage must equal or exceed 75
224 percent of the wages established in subparagraphs (2) (a)12. and
225 13. The computation of wages under this paragraph applies only
226 to a recipient corporation that provides the health care
227 coverage as approved in its application.

228 (4) PROGRESS REPORTS.—

229 (a)1. Each recipient corporation shall file a progress
230 report with the granting body for each project by not later than
231 January 1 of each year. The report must include:

232 a. The application tracking numbers for the project and

33-01413-12

20121592

233 granting body;

234 b. The name, street and mailing addresses, phone number,
235 and chief officer of the granting body;

236 c. The name, street and mailing addresses, phone number,
237 and chief officer of the recipient corporation;

238 d. A summary of the number of jobs required, created, and
239 lost, categorized by full-time, part-time, and temporary jobs
240 and by wage groups;

241 e. The type and amount of health care coverage provided to
242 each employee of the project and any costs of the health care
243 coverage which are borne by the employees;

244 f. A comparison of the total employment in the state by the
245 recipient's corporate parent on the date of the application and
246 on the date of the report, categorized by full-time, part-time,
247 and temporary jobs;

248 g. A statement as to whether the use of the economic
249 development subsidy during the previous fiscal year has reduced
250 employment at any other business controlled by the recipient
251 corporation or its corporate parent, within or outside the state
252 as a result of automation, merger, acquisition, corporate
253 restructuring, or other business activity; and

254 h. A signed certification by the chief officer of the
255 recipient corporation as to the accuracy of the information
256 provided in the progress report.

257 2. Each recipient corporation must file an annual progress
258 report for the duration of the subsidy, or not less than 5
259 years, whichever period is greater.

260 3. The granting body shall provide a copy of each progress
261 report from the recipient corporations to the department by

33-01413-12

20121592

262 February 1. After the first year, the granting body shall file
263 an annual progress report that states whether each recipient
264 corporation is in compliance with its job creation and wage and
265 benefit goals and whether the corporate parent is in compliance
266 with its employment requirement.

267 (b)1. Not later than 15 days after the second anniversary
268 of the date of subsidy, the granting body must file with the
269 department a biennial progress report that includes the
270 information provided by the recipient corporation pursuant to
271 paragraph (a).

272 2. The granting body shall state in the biennial progress
273 report to the department whether the recipient corporation has
274 achieved its job creation and wage and benefit goals and whether
275 the corporate parent has maintained 90 percent of its employment
276 in the state.

277 (c) The department shall compile a summary of the
278 information received in the progress reports and publish the
279 information in both written and electronic form and post the
280 information on the department's website.

281 (d) The recipient corporation shall allow the granting body
282 and the department access at all reasonable times to the project
283 site and the records of the recipient corporation in order to
284 monitor the project and to prepare progress reports.

285 (e) A recipient corporation that fails to provide the
286 granting body with the information or access required pursuant
287 to paragraphs (c) and (d) is subject to a fine of not less than
288 \$500 per day commencing 10 working days after the February 1
289 deadline, and of not less than \$1,000 per day commencing 20 days
290 after the deadline.

33-01413-12

20121592

291 (5) UNIFIED REPORTING OF PROPERTY TAX REDUCTIONS AND
292 ABATEMENTS.—

293 (a) Each property-taxing entity shall annually report to
294 the department by October 1 of each year, on a form prepared by
295 the department:

296 1. Information regarding real property located in the
297 property-taxing entity's jurisdiction which received a property
298 tax abatement or reduction for the purpose of stimulating
299 economic development during the fiscal year. Information shall
300 include, but need not be limited to: the name of the property
301 owner; the address of the property; the start and end dates of
302 the property tax reduction or abatement; the schedule of the tax
303 reduction; each tax abatement, reduction, and exemption for the
304 property; and the amount of property tax revenue not paid to the
305 property-taxing entity as a result of the reduction or
306 abatement.

307 2. The total property tax revenue not paid during the
308 fiscal year as a result of all property tax reductions and
309 abatements in each jurisdiction of the property-taxing entity.

310 (b) The department shall provide a copy of each report to
311 the Department of Revenue and shall annually compile the
312 information contained in the reports required under
313 subparagraphs (a)1. and 2. and publish summaries of the
314 information in both written and electronic form and post the
315 information on the department's website.

316 (6) REPORTING OF ECONOMIC DEVELOPMENT COSTS AND
317 EXPENDITURES.—

318 (a) The Department of Revenue shall annually report to the
319 Legislature all direct and indirect costs and expenditures for

33-01413-12

20121592

320 economic development during the prior fiscal year, including,
321 but not limited to:

322 1. The amount of uncollected state tax revenues resulting
323 from every corporate tax credit, abatement, exemption, and
324 reduction provided by the state or a local governmental unit,
325 including, but not limited to, gross receipts, income, sales,
326 use, raw materials, excise, property, utility, and inventory
327 taxes.

328 2. The name of each recipient corporation that claimed any
329 tax credit, abatement, exemption, or reduction reported under
330 subparagraph 1. of a value equal to or greater than \$5,000,
331 together with the dollar amount received by each recipient
332 corporation. A tax credit, abatement, exemption, or reduction
333 received by a corporation of less than \$5,000 need not be
334 itemized, but the Department of Revenue shall report an
335 aggregate dollar amount for each type of tax credit, abatement,
336 exemption, or reduction and the number of recipient corporations
337 aggregated for each.

338 3. The funds appropriated by the Legislature for economic
339 development, including budget line items for each state-funded
340 entity concerned with economic development, including, but not
341 limited to, state programs, vocational education programs, state
342 university research programs, manufacturing extension services,
343 workforce investment boards, economic development commissions,
344 industrial development authorities, regional development
345 authorities, and finance authorities.

346 (b) The Department of Revenue shall annually compile the
347 information provided under paragraph (a) and submit a unified
348 economic development budget to the Legislature by October 1.

33-01413-12

20121592

349 (7) DEFAULT.—

350 (a) A recipient corporation must fulfill the requirements
351 for job creation, wages, health care coverage, and other
352 benefits within 2 years after the date of subsidy. The recipient
353 corporation must maintain the requirements for job creation,
354 wages, health care coverage, and other benefits while the
355 subsidy is in effect, or for 5 years, whichever period is
356 longer.

357 (b) The corporate parent of a recipient corporation must
358 maintain at least 90 percent of its employment in the state
359 while the economic development subsidy is in effect, or for 5
360 years, whichever period is longer.

361 (c) The recipient corporation shall return to the granting
362 body the economic development subsidy if the recipient
363 corporation fails to meet the requirements pursuant to paragraph
364 (a) or paragraph (b), as follows:

365 1. If the recipient corporation fails to create the
366 required number of jobs or to pay the required wages or
367 benefits, the amount repaid shall be based on the pro rata
368 amount by which the unfulfilled jobs, wages, or benefits compare
369 to the total amount of the economic development subsidy.

370 2. If the corporate parent fails to maintain 90 percent of
371 its employment in the state, the rate of repayment shall be two
372 times the percentage by which the employment is less than 90
373 percent.

374 (d) The granting body shall notify the recipient
375 corporation of the required repayment of the economic
376 development subsidy and state the reasons and amount to be
377 repaid. The recipient corporation shall remit to the granting

33-01413-12

20121592

378 body the payment within 60 calendar days after the date of the
379 notice.

380 (e) If a recipient corporation defaults on the requirements
381 for receiving an economic development subsidy for 3 consecutive
382 calendar years, the granting body shall declare the recipient
383 corporation unqualified, and notify the department and the
384 recipient corporation of the declaration of default. The
385 recipient corporation must pay to the granting body all
386 remaining value of the economic development subsidy it has not
387 previously repaid within 180 calendar days after the date of the
388 notice of the default.

389 (8) PRIVATE ENFORCEMENT ACTION.—If a granting body fails to
390 enforce any provision of this section, any individual who paid
391 personal income taxes to the state in the calendar year before
392 the year in dispute, or any organization representing such
393 taxpayers, may bring a civil action in a court of competent
394 jurisdiction to compel enforcement under this section. The court
395 may award reasonable attorney fees and costs to a prevailing
396 taxpayer or organization.

397 (9) PUBLIC RECORD DISCLOSURE.—Any record required to be
398 prepared or maintained under this section, including, but not
399 limited to, an application, progress report, default notice, or
400 any other related record or proceeding, is subject to chapter
401 119, Florida Statutes.

402 (10) PREEMPTION.—This section does not require or authorize
403 any recipient corporation to reduce wages or benefits
404 established under a collective bargaining agreement or state or
405 federal prevailing wage law.

406 Section 2. This act shall take effect July 1, 2012.