

1 AN ACT concerning corporations.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Corporate Accountability for Tax Expenditures Act.

6 Section 5. Definitions. As used in this Act:

7 "Base years" means the first 2 complete calendar years
8 following the effective date of a recipient receiving
9 development assistance.

10 "Date of assistance" means the commencement date of the
11 assistance agreement, which date triggers the period during
12 which the recipient is obligated to create or retain jobs and
13 continue operations at the specific project site.

14 "Default" means that a recipient has not achieved its job
15 creation, job retention, or wage or benefit goals, as
16 applicable, during the prescribed period therefor.

17 "Department" means, unless otherwise noted, the
18 Department of Commerce and Community Affairs or any successor
19 agency.

20 "Development assistance" means (1) tax credits and tax
21 exemptions (other than given under tax increment financing)
22 given as an incentive to a recipient business organization
23 pursuant to a certification or designation made by the
24 Department under the Economic Development for a Growing
25 Economy Tax Credit Act and the Illinois Enterprise Zone Act,
26 including the High Impact Business program, (2) grants or
27 loans given to a recipient as an incentive to a business
28 organization pursuant to the Large Business Development
29 Program, the Business Development Public Infrastructure
30 Program, or the Industrial Training Program, (3) the State
31 Treasurer's Economic Program Loans, (4) the Illinois

1 Department of Transportation Economic Development Program,
2 and (5) all successor and subsequent programs and tax credits
3 designed to promote large business relocations and
4 expansions. "Development assistance" does not include tax
5 increment financing, participation loans, or financial
6 transactions through statutorily authorized financial
7 intermediaries in support of small business loans and
8 investments or given in connection with the development of
9 affordable housing.

10 "Full-time, permanent job" means either: (1) the
11 definition therefor in the legislation authorizing the
12 programs described in the definition of development
13 assistance in the Act or (2) if there is no such definition,
14 then as defined in administrative rules implementing such
15 legislation, provided the administrative rules were in place
16 prior to the effective date of this Act. On and after the
17 effective date of this Act, if there is no definition of
18 "full-time, permanent job" in either the legislation
19 authorizing a program that constitutes economic development
20 assistance under this Act or in any administrative rule
21 implementing such legislation that was in place prior to the
22 effective date of this Act, then "full-time, permanent job"
23 means a job in which the new employee works for the recipient
24 at a rate of at least 35 hours per week.

25 "Granting body" means the Department, any State
26 department or agency that provides development assistance
27 that has reporting requirements under this Act, and any
28 successor agencies to any of the preceding.

29 "New employee" means either: (1) the definition therefor
30 in the legislation authorizing the programs described in the
31 definition of development assistance in the Act or (2) if
32 there is no such definition, then as defined in
33 administrative rules implementing such legislation, provided
34 the administrative rules were in place prior to the effective

1 date of this Act. On and after the effective date of this
2 Act, if there is no definition of "new employee" in either
3 the legislation authorizing a program that constitutes
4 economic development assistance under this Act nor in any
5 administrative rule implementing such legislation that was in
6 place prior to the effective date of this Act, then "new
7 employee" means a full-time, permanent employee who
8 represents a net increase in the number of the recipient's
9 employees statewide. "New employee" includes an employee who
10 previously filled a new employee position with the recipient
11 who was rehired or called back from a layoff that occurs
12 during or following the base years.

13 The term "New Employee" does not include any of the
14 following:

15 (1) An employee of the recipient who performs a job
16 that was previously performed by another employee, if
17 that job existed for at least 6 months before hiring the
18 employee.

19 (2) A child, grandchild, parent, or spouse, other
20 than a spouse who is legally separated from the
21 individual, of any individual who has a direct or
22 indirect ownership interest of at least 5% in the
23 profits, capital, or value of any member of the
24 recipient.

25 "Part-time job" means either: (1) the definition therefor
26 in the legislation authorizing the programs described in the
27 definition of development assistance in the Act or (2) if
28 there is no such definition, then as defined in
29 administrative rules implementing such legislation, provided
30 the administrative rules were in place prior to the effective
31 date of this Act. On and after the effective date of this
32 Act, if there is no definition of "part-time job" in either
33 the legislation authorizing a program that constitutes
34 economic development assistance under this Act or in any

1 administrative rule implementing such legislation that was in
2 place prior to the effective date of this Act, then
3 "part-time job" means a job in which the new employee works
4 for the recipient at a rate of less than 35 hours per week.

5 "Permanent job" means either: (1) the definition therefor
6 in the legislation authorizing the programs described in the
7 definition of development assistance in the Act or (2) if
8 there is no such definition, then as defined in
9 administrative rules implementing such legislation, provided
10 the administrative rules were in place prior to the effective
11 date of this Act. On and after the effective date of this
12 Act, if there is no definition of "permanent job" in either
13 the legislation authorizing a program that constitutes
14 economic development assistance under this Act or in any
15 administrative rule implementing such legislation that was in
16 place prior to the effective date of this Act, then
17 "permanent job" means a job in which a new employee works for
18 the recipient, not as an independent contractor or on a
19 consulting basis, at a rate of at least 35 hours per week
20 with the intention that such employment shall continue and
21 that the employee will receive all health insurance, pension,
22 profit sharing, and other benefits offered to other
23 full-time, permanent employees.

24 "Recipient" means any business that receives economic
25 development assistance. A business is any corporation,
26 limited liability company, partnership, joint venture,
27 association, sole proprietorship, or other legally recognized
28 entity.

29 "Retained employee" means either: (1) the definition
30 therefor in the legislation authorizing the programs
31 described in the definition of development assistance in the
32 Act or (2) if there is no such definition, then as defined in
33 administrative rules implementing such legislation, provided
34 the administrative rules were in place prior to the effective

1 date of this Act. On and after the effective date of this
2 Act, if there is no definition of "retained employee" in
3 either the legislation authorizing a program that constitutes
4 economic development assistance under this Act or in any
5 administrative rule implementing such legislation that was in
6 place prior to the effective date of this Act, then "retained
7 employee" means any employee defined as having a full-time or
8 full-time equivalent job preserved at a specific facility or
9 site, the continuance of which is threatened by a specific
10 and demonstrable threat, which shall be specified in the
11 application for development assistance.

12 "Specific project site" means that distinct operational
13 unit to which any development assistance is applied.

14 "Temporary job" means either: (1) the definition therefor
15 in the legislation authorizing the programs described in the
16 definition of development assistance in the Act or (2) if
17 there is no such definition, then as defined in
18 administrative rules implementing such legislation, provided
19 the administrative rules were in place prior to the effective
20 date of this Act. On and after the effective date of this
21 Act, if there is no definition of "temporary job" in either
22 the legislation authorizing a program that constitutes
23 economic development assistance under this Act or in any
24 administrative rule implementing such legislation that was in
25 place prior to the effective date of this Act, then
26 "temporary job" means a job in which the new employee is
27 hired for a specific duration of time or season.

28 "Value of assistance" means the face value of any form of
29 development assistance.

30 Section 10. Unified Economic Development Budget.

31 (a) For each State fiscal year ending on or after June
32 30, 2005, the Department shall submit an annual Unified
33 Economic Development Budget to the General Assembly. The

1 Unified Economic Development Budget shall be due within 3
2 months after the end of the fiscal year, and shall present
3 all types of development assistance granted during the fiscal
4 year, including:

5 (1) The aggregate amount of uncollected or diverted
6 State tax revenues resulting from each type of
7 development assistance provided in the tax statutes, as
8 reported to the Department of Revenue on tax returns
9 filed during the fiscal year.

10 (2) All State on-budget development assistance.

11 (b) All data contained in the Unified Economic
12 Development Budget presented to the General Assembly shall be
13 fully subject to the Freedom of Information Act.

14 (c) The Department of Revenue shall submit a report of
15 the amounts in subdivision (a)(1) of this Section to the
16 Department, which may append such report to the Unified
17 Economic Development Budget rather than separately reporting
18 such amounts.

19 Section 15. Standardized applications for State on-budget
20 development assistance.

21 (a) All applications utilized by the Department or any
22 other State granting body regarding requests for development
23 assistance shall contain, at a minimum:

24 (1) An application tracking number that is specific
25 to both the State granting agency and to each
26 application.

27 (2) The name, street and mailing addresses, phone
28 number, and chief officer of the granting body.

29 (3) The name, street and mailing addresses, phone
30 number, 4-digit SIC number, and chief officer of the
31 applicant at the specific project site for which
32 development assistance is sought.

33 (4) The applicant's total number of employees at the

1 specific project site on the date of the application,
2 broken down by full-time, permanent, part-time, and
3 temporary.

4 (5) The kind of development assistance and value of
5 assistance being applied for.

6 (6) The number of jobs to be created and retained or
7 both created and retained by the development assistance,
8 broken down by full-time, permanent, part-time, and
9 temporary.

10 (7) A detailed list of the occupation or job
11 classifications and number of new or retained employees
12 to be hired in full-time job positions, a schedule of
13 anticipated starting dates of the new hires and the
14 average wage by occupation or job classification and
15 total payroll to be created as a result of the
16 development assistance.

17 (8) A list of all other forms of development
18 assistance the applicant is seeking for the specific
19 project site and the name of each State granting body
20 from which that development assistance is being sought.

21 (9) A narrative, if necessary, describing why the
22 development assistance is needed and how the applicant's
23 use of the development assistance may reduce unemployment
24 at any site in Illinois.

25 (10) Individual certifications by the chief officers
26 of the applicant and the State granting body as to the
27 accuracy of the information contained in the application,
28 under penalty of perjury.

29 (b) Every State granting body either shall complete, or
30 shall require the applicant to complete, an application form
31 that meets the minimum requirements as prescribed in this
32 Section each time an applicant applies for development
33 assistance covered by this Act.

1 Section 20. State on-budget development assistance
2 disclosure.

3 (a) Beginning February 1, 2005 and each year thereafter,
4 every State granting body in the State shall submit to the
5 Department copies of all application forms that meet the
6 requirements referenced in Section 15 of this Act for
7 development assistance that it approved in the previous
8 calendar year. Upon each form, the granting body shall
9 designate the date on which assistance will commence.

10 (b) For each development assistance application that was
11 approved, and for which the date of assistance has occurred
12 in a reporting year, each recipient shall submit to the
13 Department a progress report that shall include, but not
14 limited to, the following:

15 (1) The application tracking number.

16 (2) The name, street and mailing addresses, phone
17 number, and chief officer of the granting body.

18 (3) The name, street and mailing addresses, phone
19 number, 4-digit SIC number, and chief officer of the
20 applicant at the specific project site for which the
21 development assistance was approved.

22 (4) The kind of development assistance program and
23 value of assistance that was approved.

24 (5) The applicant's total level of employment at the
25 specific project site on the date of the application and
26 the applicant's total level of employment at the specific
27 project site on the date of the report, broken down by
28 full-time, permanent, part-time, and temporary, and a
29 computation of the gain or loss in each category.

30 (6) The number of new and retained jobs the
31 applicant stated in its development assistance agreement,
32 if any, if not, then in its application, would be created
33 by the development assistance broken down by full-time,
34 permanent, part-time, and temporary.

1 (7) A declaration of whether the recipient is
2 satisfying all job creation and retention or other
3 economic development requirements the recipient committed
4 to when receiving development assistance covered by this
5 Act.

6 (8) A detailed list of the occupation or job
7 classifications and number of new or retained employees
8 to be hired in full-time job positions, a schedule of
9 anticipated starting dates of the new hires and the
10 average wage by occupation or job classification and
11 total payroll to be created as a result of the
12 development assistance.

13 (9) A narrative, if necessary, describing how the
14 recipient's use of the development assistance during the
15 reporting year has reduced unemployment at any site in
16 Illinois.

17 (10) Signed individual certifications by the chief
18 officer of the applicant as to the accuracy of the
19 progress report, under penalty of perjury.

20 (c) The State granting body and the Department, or a
21 successor agency, shall have full investigative authority to
22 verify the applicant's progress report data, including but
23 not limited to inspection of the specific project site and
24 analysis of tax and payroll records.

25 (d) By June 1, 2005 and by June 1 of each year
26 thereafter, the Department shall compile and publish all data
27 in all of the development assistance progress reports in both
28 written and electronic form.

29 (e) Every aspect of all approved development assistance
30 applications, progress reports, and compilations of
31 applications and progress reports shall be fully subject to
32 the Freedom of Information Act.

33 (f) If a recipient of development assistance fails to
34 comply with subsections (a) and (b) of this Section, the

1 Department shall, within 20 working days after the reporting
2 submittal deadlines set forth in (i) the legislation
3 authorizing, (ii) the administrative rules implementing, or
4 (iii) specific provisions in development assistance
5 agreements pertaining to the development assistance programs,
6 suspend within 33 working days any current development
7 assistance to the recipient under its control, and shall be
8 prohibited from completing any current or providing any
9 future development assistance until it receives proof that
10 the recipient has come into compliance with the requirements
11 of subsections (a) and (b) of this Section.

12 Section 25. Recapture.

13 (a) All recipients of development assistance must execute
14 agreements that contain, at a minimum, the following
15 recapture provisions:

16 (1) The recipient must (i) make the level of capital
17 investment in the economic development project specified
18 in the development assistance agreement; (ii) create or
19 retain, or both, the requisite number of jobs, paying not
20 less than specified wages for the created and retained
21 jobs, within and for the duration of the time period
22 specified in the legislation authorizing, or the
23 administrative rules implementing, the development
24 assistance programs and the development assistance
25 agreement.

26 (2) If the recipient fails to create or retain the
27 requisite number of jobs within and for the time period
28 specified, in the legislation authorizing, or the
29 administrative rules implementing, the development
30 assistance programs and the development assistance
31 agreement, the recipient shall be deemed to no longer
32 qualify for the State economic assistance and the
33 applicable recapture provisions shall take effect.

1 (3) If the recipient receives State economic
2 assistance in the form of a High Impact Business
3 designation pursuant to Section 5.5 of the Illinois
4 Enterprise Zone Act and the business receives the benefit
5 of the exemption authorized under Section 51 of the
6 Retailers' Occupation Tax Act (for the sale of building
7 materials incorporated into a High Impact Business
8 location) and the recipient fails to create or retain the
9 requisite number of jobs, as determined by the
10 legislation authorizing the development assistance
11 programs or the administrative rules implementing such
12 legislation, or both, within the requisite period of
13 time, the recipient shall be required to pay to the State
14 the full amount of the State tax exemption that it
15 received as a result of the High Impact Business
16 designation.

17 (4) If the recipient receives a grant or loan
18 pursuant to the Large Business Development Program, the
19 Business Development Public Infrastructure Program, or
20 the Industrial Training Program and the recipient fails
21 to create or retain the requisite number of jobs for the
22 requisite time period, as provided in the legislation
23 authorizing the development assistance programs or the
24 administrative rules implementing such legislation, or
25 both, or in the development assistance agreement, the
26 recipient shall be required to repay to the State a pro
27 rata amount of the grant; that amount shall reflect the
28 percentage of the deficiency between the requisite number
29 of jobs to be created or retained by the recipient and
30 the actual number of such jobs in existence as of the
31 date the Department determines the recipient is in breach
32 of the job creation or retention covenants contained in
33 the development assistance agreement. If the recipient of
34 development assistance under the Large Business

1 Development Program, the Business Development Public
2 Infrastructure Program, or the Industrial Training
3 Program ceases operations at the specific project site,
4 during the 5-year period commencing on the date of
5 assistance, the recipient shall be required to repay the
6 entire amount of the grant or to accelerate repayment of
7 the loan back to the State.

8 (5) If the recipient receives a tax credit under the
9 Economic Development for a Growing Economy tax credit
10 program, the development assistance agreement must
11 provide that (i) if the number of new or retained
12 employees falls below the requisite number set forth in
13 the development assistance agreement, the allowance of
14 the credit shall be automatically suspended until the
15 number of new and retained employees equals or exceeds
16 the requisite number in the development assistance
17 agreement; (ii) if the recipient discontinues operations
18 at the specific project site during the first 5 years of
19 the 10-year term of the development assistance agreement,
20 the recipient shall forfeit all credits taken by the
21 recipient during such 5-year period; and (iii) in the
22 event of a revocation or suspension of the credit, the
23 Department shall contact the Director of Revenue to
24 initiate proceedings against the recipient to recover
25 wrongfully exempted Illinois State income taxes and the
26 recipient shall promptly repay to the Department of
27 Revenue any wrongfully exempted Illinois State income
28 taxes. The forfeited amount of credits shall be deemed
29 assessed on the date the Department contacts the
30 Department of Revenue and the recipient shall promptly
31 repay to the Department of Revenue any wrongfully
32 exempted Illinois State income taxes.

33 (b) The Director may elect to waive enforcement of any
34 contractual right arising out of the development assistance

1 agreement required by this Act based on a finding that the
2 waiver is necessary to avert an imminent, demonstrable, and
3 material hardship to the recipient that may result in such
4 recipient's insolvency or discharge of workers. The
5 recipient's request for waiver and the justification therefor
6 must be published in electronic form by the Department for a
7 period of 30 days before the Director may take action on the
8 waiver request. If a waiver is granted, the recipient must
9 agree to a contractual modification, including recapture
10 provisions, to the development assistance agreement. The
11 existence of any waiver granted pursuant to this subsection
12 (c), the date of the granting of such waiver, and a brief
13 summary of the reasons supporting the granting of such waiver
14 shall be disclosed consistent with the provisions of Section
15 25 of this Act.

16 (c) Beginning June 1, 2004, the Department shall
17 annually compile a report on the outcomes and effectiveness
18 of recapture provisions by program, including but not limited
19 to: (i) the total number of companies that receive
20 development assistance as defined in this Act; (ii) the total
21 number of recipients in violation of development agreements
22 with the Department; (iii) the total number of completed
23 recapture efforts; (iv) the total number of recapture efforts
24 initiated; and (v) the number of waivers granted. This report
25 shall be disclosed consistent with the provisions of Section
26 20 of this Act.

27 (d) For the purposes of this Act, recapture provisions do
28 not include the Illinois Department of Transportation
29 Economic Development Program or any successor programs as
30 described in the term "development assistance" in Section 5
31 of this Act.

32 Section 99. Effective date. This Act takes effect upon
33 becoming law.