



Sen. John J. Cullerton

Filed: 5/25/2012

09700HB2083sam002

LRB097 10539 JWD 69891 a

1 AMENDMENT TO HOUSE BILL 2083

2 AMENDMENT NO. _____. Amend House Bill 2083 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Illinois Business and Economic Advocacy and Development Act of
6 2012.

7 Section 5. Findings. The General Assembly determines and
8 declares the following:

9 (a) The General Assembly finds that economic development is
10 an important public purpose and that both the public and
11 private sectors have a shared interest in fostering the
12 economic vitality of the State. Therefore, it is the purpose of
13 this Act to implement economic development policy in the State
14 by means of a collaboration between government and the private
15 sector.

16 (b) The collaboration shall involve the Illinois Economic

1 Development Authority and the Illinois Business and Economic
2 Development Corporation, both of which shall work together to
3 further economic development policy according to the
4 provisions of this Act.

5 Section 10. Definitions. In this Act:

6 "Authority" means the Illinois Economic Development
7 Authority.

8 "Board" means the Board of Directors of the Illinois
9 Economic Development Authority.

10 "Board of Directors of the Corporation" means the Board of
11 Directors of the Illinois Business and Economic Development
12 Corporation.

13 "Business enterprise" means a work or improvement located
14 within the State, including but not limited to real property,
15 buildings, equipment, furnishings, and any other real and
16 personal property or any interest therein, financed,
17 refinanced, acquired, owned, constructed, reconstructed,
18 extended, rehabilitated, improved, or equipped, directly or
19 indirectly, in whole or in part, by the Authority or through
20 loans made by it and which is designed and intended for the
21 purpose of providing facilities for manufacturing, industrial,
22 processing, warehousing, wholesale or retail commercial,
23 recreational, hotel, office, research, business, or other
24 related purposes, including but not limited to machinery and
25 equipment deemed necessary or desirable for the operation

1 thereof.

2 "Chief Executive Officer" means the Chief Executive
3 Officer of the Corporation.

4 "Corporation" means the Illinois Business and Economic
5 Development Corporation.

6 "Executive Director" means the Executive Director of the
7 Authority.

8 "Financial assistance" means assistance provided only from
9 the funds, rights, and assets legally available to the
10 Authority, including but not limited to assistance in the form
11 of grants, loans, forgivable loans, and royalty payments.

12 Section 15. Creation.

13 (a) There is created the Illinois Economic Development
14 Authority, which shall constitute a public instrumentality and
15 agency of the State exercising public and essential
16 governmental functions, to undertake programs which implement
17 economic development policy in the State, and to undertake
18 certain finance programs.

19 (b) The powers of the Authority are vested in and shall be
20 exercised by a Board of Directors composed of 9 voting members
21 appointed by the Governor, with the advice and consent of the
22 Senate, as follows: one person who has experience in the
23 management of a not-for-profit or educational entity; one
24 person who has professional experience in finance, insurance,
25 or investment banking; one person who has professional

1 experience in advanced manufacturing; one person with
2 professional experience in small business development; one
3 person with professional experience representing the interests
4 of organized labor; and 4 persons who are actively employed in
5 the private, for profit sector of the economy or who otherwise
6 have substantial expertise in economic development.

7 (1) Except as otherwise provided, the individuals must
8 be employed in, or retired from, the private or non-profit
9 sector, or academia.

10 (2) No more than 5 members shall be appointed from the
11 same political party.

12 (3) Upon appointment, members shall file with the
13 Secretary of State the disclosures required under Section
14 3A-30 of the Illinois Governmental Ethics Act.

15 (4) The Governor shall not appoint a person who is the
16 spouse of, partner in a civil union with, or immediate
17 family member of a current member of the Board, or a
18 current member of the Board of Directors of the
19 Corporation.

20 (5) Members are not entitled to compensation for their
21 services, but are entitled to reimbursement for all
22 necessary expenses incurred in connection with the
23 performance of their duties as members.

24 (6) Members should reflect the ethnic, cultural, and
25 geographic diversity of the State.

26 (c) Members of the Board shall be appointed for terms of 4

1 years, and until their successor is appointed and qualified. Of
2 the initial terms of the 9 members appointed by the Governor, 3
3 shall serve until the third Monday in January 2014, 3 shall
4 serve until the third Monday in January 2015, and 3 shall serve
5 until the third Monday in January 2016. All successors to the
6 original appointments shall hold office for a term of 4 years
7 commencing the third Monday in January of the year in which
8 their term commences, except in the case of an appointment to
9 fill a vacancy. Vacancies occurring among the members shall be
10 filled for the remainder of the term. In case of vacancy when
11 the Senate is not in session, the Governor may make a temporary
12 appointment until the next meeting of the Senate when a person
13 shall be nominated to fill the office, and, upon confirmation
14 by the Senate, he or she shall hold office during the remainder
15 of the term. A member is eligible for reappointment.

16 Should the Governor fail to make an initial appointment to
17 the Board within 60 days after the effective date of this Act,
18 or to make an appointment to fill a vacancy on the Board within
19 60 days after the date that the vacancy first occurred, then
20 the appointment shall be made by the State Treasurer, with the
21 advice and consent of the Senate.

22 (d) A member of the Board may be removed from office by the
23 Governor for incompetence, neglect of duty, or malfeasance in
24 office.

25 (e) Five voting members of the Board constitute a quorum.

26 (1) The affirmative vote of 5 members is necessary for

1 any action taken by the Board. The majority shall not
2 include any member who has a conflict of interest, and a
3 statement by a member of a conflict of interest shall be
4 conclusive for this purpose.

5 (2) A vacancy in the membership does not impair the
6 right of a quorum to exercise all rights and perform all
7 duties of the Authority.

8 (f) Members of the Board shall give bond as required under
9 the Official Bond Act.

10 (g) Meetings of the Board shall be held at the call of the
11 chairperson or when 2 members so request in writing.

12 (h) Members shall elect from their number a chairperson and
13 vice chairperson annually, and other officers as they
14 determine, but the Executive Director shall serve as secretary
15 to the Board.

16 (i) Members of the Board shall provide input, and such
17 assistance as may be requested, to the Board of Directors of
18 the Corporation to enable them to develop a strategic plan for
19 economic development in the State.

20 (j) Within 30 days after the occurrence of a vacancy in the
21 office of the Executive Director of the Authority, the members
22 of the Board shall designate to the Governor 3 nominees to
23 serve as the Executive Director of the Authority, each of whom
24 shall meet the qualifications for Executive Director required
25 under Section 40 of this Act.

26 (k) The net earnings of the Authority, beyond that

1 necessary to implement the public purposes and programs herein
2 authorized, shall not inure to the benefit of any person other
3 than the State. Upon termination of the existence of the
4 Authority, title to all property owned by the Authority,
5 including any such net earnings of the Authority, shall vest in
6 the State. The State reserves the right at any time to alter,
7 amend, repeal, or otherwise change the structure,
8 organization, programs, or activities of the Authority,
9 including the power to terminate the Authority, except that no
10 law shall impair the obligation of any contract or contracts
11 entered into by the Authority to the extent that any such law
12 would contravene Article I, Section 16, of the Constitution of
13 the State of Illinois, or Article I, Section 10, of the
14 Constitution of the United States.

15 (1) The Authority shall receive the protections from
16 liability provided to a "local public entity", and the members
17 of the Board, employees or agents of the Authority, while
18 acting within the scope of their office or employment by the
19 Authority, shall receive the protections from liability
20 provided to a "public employee entity" under the Local
21 Governmental and Governmental Employees Tort Immunity Act.

22 Section 20. Successor to the Department of Commerce and
23 Economic Opportunity.

24 (a) The Department of Commerce and Economic Opportunity is
25 hereby abolished. On the effective date of this Act, all

1 powers, duties, rights, and responsibilities of the Department
2 of Commerce and Economic Opportunity shall be transferred to
3 the Illinois Economic Development Authority, as the successor
4 agency to the Department.

5 (b) Notwithstanding any provision of law to the contrary,
6 references to the Department of Commerce and Economic
7 Opportunity or the Department of Commerce and Community Affairs
8 shall be construed as references to the Illinois Economic
9 Development Authority. All references to the Director of the
10 Department of Commerce and Economic Opportunity or the
11 Department of Commerce and Community Affairs shall be construed
12 as references to the Executive Director of the Illinois
13 Economic Development Authority.

14 (c) Unless otherwise provided for by law, the personnel of
15 the Department of Commerce and Economic Opportunity shall be
16 transferred to the Illinois Economic Development Authority.
17 The status and rights of such employees under the Personnel
18 Code shall not be affected by the transfer. The rights of the
19 employees and the State of Illinois and its agencies under the
20 Personnel Code and applicable collective bargaining agreements
21 or under any pension, retirement, or annuity plan shall not be
22 affected by this Act.

23 (d) All books, records, papers, documents, property (real
24 and personal), contracts, causes of action, and pending
25 business pertaining to the powers, duties, rights, and
26 responsibilities transferred by this Act from the Department of

1 Commerce and Economic Opportunity, including, but not limited
2 to, material in electronic or magnetic format and necessary
3 computer hardware and software, shall be transferred to the
4 Illinois Economic Development Authority.

5 (e) All unexpended appropriations and balances and other
6 funds available for use by the Department of Commerce and
7 Economic Opportunity shall be transferred to the Illinois
8 Economic Development Authority to be expended only for the
9 purpose for which the appropriations were originally made.

10 (f) The powers, duties, rights, and responsibilities
11 transferred from the Department of Commerce and Economic
12 Opportunity by this Act shall be vested in and shall be
13 exercised by the Illinois Economic Development Authority.

14 (g) Whenever reports or notices are now required to be made
15 or given or papers or documents furnished or served by any
16 person to or upon Department of Commerce and Economic
17 Opportunity in connection with any of the powers, duties,
18 rights, and responsibilities transferred by this Act, the same
19 shall be made, given, furnished, or served in the same manner
20 to or upon the Illinois Economic Development Authority.

21 (h) This Act does not affect any act done, ratified, or
22 canceled or any right occurring or established or any action or
23 proceeding had or commenced in an administrative, civil, or
24 criminal cause by the Department of Commerce and Economic
25 Opportunity before this Act takes effect; such actions or
26 proceedings may be prosecuted and continued by the Illinois

1 Economic Development Authority.

2 (i) Any rules of the Department of Commerce and Economic
3 Opportunity that relate to its powers, duties, rights, and
4 responsibilities and are in full force on the effective date of
5 this Act shall become the rules of the Illinois Economic
6 Development Authority. This Act does not affect the legality of
7 any such rules in the Illinois Administrative Code.

8 Any proposed rules filed with the Secretary of State by the
9 Department of Commerce and Economic Opportunity that are
10 pending in the rulemaking process on the effective date of this
11 Act and pertain to the powers, duties, rights, and
12 responsibilities transferred, shall be deemed to have been
13 filed by the Illinois Economic Development Authority. As soon
14 as practicable hereafter, the Illinois Economic Development
15 Authority shall revise and clarify the rules transferred to it
16 under this Act to reflect the reorganization of powers, duties,
17 rights, and responsibilities affected by this Act, using the
18 procedures for recodification of rules available under the
19 Illinois Administrative Procedure Act, except that existing
20 title, part, and section numbering for the affected rules may
21 be retained. The Illinois Economic Development Authority may
22 propose and adopt under the Illinois Administrative Procedure
23 Act such other rules as may be needed for the activities and
24 programs of the Department of Commerce and Economic Opportunity
25 that will now be administered by the Illinois Economic
26 Development Authority.

1 To the extent that, prior to the effective date of this
2 Act, the Director of the Department of Commerce and Economic
3 Opportunity had been empowered to prescribe rules or had other
4 rulemaking authority jointly with the Secretary or Director of
5 another State agency, such duties shall be exercised from and
6 after the effective date of this Act solely by the Executive
7 Director of the Illinois Economic Development Authority.

8 Section 25. Conflicts of interest.

9 (a) If a member of the Board or employee of the Authority
10 has an interest, either direct or indirect, in a contract to
11 which the Authority is, or is to be, a party, the interest
12 shall be disclosed to the Authority in writing and shall be set
13 forth in the minutes of the Board.

14 (1) The member or employee having the interest shall
15 not participate in any action of the Authority with respect
16 to that contract. However, a resolution of the Authority is
17 not invalid because of a vote cast by a member in violation
18 of this subsection or of Section 15 of this Act, unless the
19 vote was decisive in the passage of the resolution.

20 (2) For the purposes of this subsection, "action of the
21 Authority with respect to that contract" means only an
22 action directly affecting a separate contract, and does not
23 include an action which benefits the general public or
24 which affects all or a substantial portion of the contracts
25 included in a program of the Authority.

1 (b) The Executive Director shall not have an interest in a
2 bank or other financial institution in which the funds of the
3 Authority are, or are to be, deposited or which is, or is to
4 be, acting as trustee or paying agent under a trust indenture
5 to which the Authority is a party. The Executive Director shall
6 not receive, in addition to fixed salary or compensation, any
7 money or valuable thing, either directly or indirectly, or
8 through any substantial interest in any other corporation or
9 business unit, for negotiating, procuring, recommending, or
10 aiding in any purchase or sale of property, or loan, made by
11 the Authority, nor shall the Executive Director be pecuniarily
12 interested, either as principal, co-principal, agent, or
13 beneficiary, either directly or indirectly, or through any
14 substantial interest in any other corporation or business unit,
15 in any such purchase, sale, or loan.

16 (c) A person shall not be employed concurrently by both the
17 Authority and the Corporation.

18 (d) A person leaving employment with the Authority shall
19 not be employed by the Corporation until a period of 2 years
20 has passed. A person leaving employment with the Corporation
21 shall not be employed by the Authority until a period of 2
22 years has passed.

23 (e) Not more than one principal executive, employee, or
24 other representative from a business or its affiliates may
25 serve concurrently on the Board, the Board of Directors of the
26 Corporation, or any combination thereof.

1 (f) Conflict of interest.

2 (1) In addition to the provisions of subsection (a) of
3 Section 50-13 of the Illinois Procurement Code, it is
4 unlawful for a member, the spouse of, or partner in a civil
5 union with, the member, or an immediate family member of
6 the member living in the member's residence to have or
7 acquire a contract, or have or acquire a direct pecuniary
8 interest in a contract with the State, that relates to the
9 Authority or the Corporation, during and for one year after
10 the conclusion of the member's term.

11 (2) If (i) a person subject to paragraph (1) of this
12 subsection is entitled to receive more than 7 1/2% of the
13 total distributable income of a partnership, association,
14 corporation, or other business entity or (ii) a person
15 subject to paragraph (1) of this subsection together with
16 his or her spouse, partner in a civil union, and immediate
17 family members living in that person's residence are
18 entitled to receive more than 15%, in the aggregate, of the
19 total distributable income of a partnership, association,
20 corporation, or other business entity, then it is unlawful
21 for that partnership, association, corporation, or other
22 business entity to have or acquire a contract or a direct
23 pecuniary interest in a contract prohibited by paragraph
24 (1) of this subsection during and for one year after the
25 conclusion of the member's term of office.

1 Section 30. General powers.

2 (a) The Authority possesses all the powers of a body
3 corporate necessary and convenient to accomplish the purposes
4 of this Act, including, without limitation upon the general
5 powers hereby conferred, the following powers:

6 (1) Sue and be sued in its own name.

7 (2) Have and alter a corporate seal.

8 (3) To adopt all needful ordinances, resolutions,
9 bylaws, rules, and regulations for the conduct of its
10 business and affairs.

11 (4) Make and execute agreements, contracts, and other
12 instruments of any and all types on such terms and
13 conditions as the Authority may find necessary or
14 convenient to the purposes of the Authority with any public
15 or private entity, including but not limited to contracts
16 for goods and services. All political subdivisions, other
17 public agencies, and State departments and agencies may
18 enter into contracts and otherwise cooperate with the
19 Authority.

20 (5) To designate a fiscal year for the Authority.

21 (6) Adopt by rule pursuant to the Illinois Procurement
22 Code procedures relating to competitive bidding, including
23 the identification of those circumstances under which
24 competitive bidding by the Authority, either formally or
25 informally, shall be required. In any bidding process, the
26 Authority may administer its own bidding and procurement or

1 may utilize the services of the Department of Central
2 Management Services or any other agency. Except when such
3 rules apply, the Authority and all contracts made by it in
4 carrying out its public and essential governmental
5 functions with respect to any of its programs shall be
6 exempt from the provisions and requirements of all laws or
7 rules of the State which require competitive bids in
8 connection with the letting of such contracts.

9 (7) Acquire, hold, improve, mortgage, lease, and
10 dispose of real and personal property, including but not
11 limited to the power to sell at public or private sale,
12 with or without public bidding, any such property, or other
13 obligation held by it.

14 (8) Procure insurance against any loss in connection
15 with its operations and property interests.

16 (9) Request, receive and expend appropriations, gifts,
17 grants, loans, or other aid from public or private
18 entities. A record of all gifts or grants, stating the
19 type, amount, and donor, shall be clearly set out in the
20 Authority's annual report along with the record of other
21 receipts.

22 (10) Provide to public and private entities technical
23 assistance and counseling related to the Authority's
24 purposes.

25 (11) In cooperation with other local, State, or federal
26 governmental agencies, conduct research studies, develop

1 estimates of unmet economic development needs, gather and
2 compile data useful to facilitating decision making, and
3 enter into agreements to carry out programs within or
4 without the State which the Authority finds to be
5 consistent with the goals of the Authority.

6 (12) Enter into agreements with the federal government
7 and other states to undertake economic development
8 activities in the State of Illinois.

9 (13) Own or acquire intellectual property rights
10 including but not limited to copyrights, trademarks,
11 service marks, and patents, and enforce the rights of the
12 Authority with respect to such intellectual property
13 rights.

14 (14) Make, alter, interpret, and repeal rules
15 consistent with the provisions of this Act, and subject to
16 the requirements of the Illinois Administrative Procedure
17 Act.

18 (15) Establish a fund, which shall be called the
19 Illinois Economic Development Authority Fund, within the
20 State treasury under the control of the Authority.
21 Notwithstanding any provisions to the contrary, moneys
22 invested by the State Treasurer pursuant to this Section
23 shall not revert to the general revenue of the State, and
24 interest accrued on the moneys shall be moneys of the
25 Authority and shall not be credited to general revenue. The
26 non-reversion of moneys allowed under this paragraph does

1 not apply to moneys appropriated to the Authority by the
2 General Assembly.

3 (16) Select projects to receive assistance by the
4 exercise of diligence and care.

5 (17) Exercise generally all powers typically exercised
6 by private enterprises engaged in business pursuits unless
7 the exercise of such a power would violate the terms of
8 this Section or the Constitution of the State of Illinois.

9 (18) To engage in any activity or operation which is
10 incidental to and in furtherance of efficient operation to
11 accomplish the Authority's primary purpose.

12 (b) The powers enumerated in this Section are cumulative of
13 and in addition to those powers enumerated elsewhere in this
14 Act, or otherwise provided for by law, including but not
15 limited to any powers formerly exercised by the Department of
16 Commerce and Economic Opportunity, and such powers shall not be
17 construed to limit or otherwise restrict any other powers of
18 the Authority.

19 Section 35. Specific program powers.

20 (a) In addition to the general powers described in Section
21 30, the Authority shall have all powers convenient and
22 necessary to carry out its programs.

23 (b) For purposes of this Section, "powers convenient and
24 necessary" includes, but is not limited to, the power to:

25 (1) Provide input and, upon request, assistance to the

1 Board of Directors of the Corporation to facilitate the
2 creation of the strategic plan required under subsection
3 (g) of Section 50.

4 (2) Cooperate with the Corporation in carrying out its
5 stated purposes in order to further the overall development
6 and economic well-being of the State.

7 (3) Pursuant to a contract executed between the
8 Authority and the Corporation, the Authority may delegate
9 to the Corporation the performance of the following
10 functions on behalf of the Authority:

11 (A) Marketing and promotional activities.

12 (B) Policy research.

13 (C) Economic analysis.

14 (D) Expansion of international markets for
15 Illinois-produced or Illinois-based products.

16 (E) Consulting services.

17 (F) Services related to statewide
18 commercialization development.

19 A contract executed pursuant to this paragraph (3)
20 shall not delegate an essential government function,
21 including the budgetary or personnel management
22 responsibilities of the Authority, and shall not be
23 construed to delegate any sovereign power of the State.

24 The terms of a contract executed pursuant to this
25 paragraph (3) may provide for compensation at the fair
26 market value of the services to be provided under the

1 contract.

2 (4) Notwithstanding any provisions of law to the
3 contrary, the Authority may enter into contracts with the
4 Corporation for the sole source procurement of services. In
5 entering into such sole source contracts, the Authority
6 shall negotiate a fair and reasonable price for the
7 services and shall thoroughly document the circumstances
8 of such sole source procurements.

9 (5) A contract executed pursuant to paragraph (3) of
10 this Section shall be drafted and executed with the
11 assistance and advice of the Attorney General.

12 (6) The Authority may enter into contracts on behalf of
13 the Corporation. Such contracts may delegate the
14 performance of functions to the Corporation only if the
15 contracts meet the requirements of paragraph (3) of this
16 Section.

17 (c) If the Authority enters into a contract, including but
18 not limited to a contract executed pursuant to paragraph (3) of
19 subsection (b) of this Section, with a nonprofit corporation
20 organized under the General Not For Profit Corporation Act of
21 1986, or under the similar laws of another state, the Authority
22 shall ensure that the terms of the contract shall provide for
23 the disclosure of all gifts, grants, bequests, donations, or
24 other conveyances of financial assistance to the Corporation
25 from all private and public sources. Such disclosure shall
26 include information from the Corporation's current fiscal year

1 and its most recent 3 fiscal years and shall include the name
2 and address of the person or entity making the conveyance and
3 the amount.

4 (1) If the Authority enters into a contract for the
5 provision of financial assistance to a business, the
6 Authority shall ensure that the terms of the contract
7 provide for the disclosure of all donations the business
8 has ever made to the Corporation. The Authority shall not
9 consider the amount or frequency of such donations when
10 evaluating the merits of the business's application or when
11 determining the amount of financial assistance to be
12 awarded to the business.

13 (2) The Authority shall not enter into a contract for
14 services that exceeds 2 years in duration.

15 Section 40. Executive Director; responsibilities.

16 (a) The day to day operations of the Authority shall be
17 administered by the Executive Director of the Illinois Economic
18 Development Authority, who shall be appointed by the Governor,
19 with the advice and consent of the Senate, and who shall serve
20 for a 4-year term beginning on the third Monday in January,
21 2013. An appointment by the Governor to fill a vacancy in the
22 office of the Executive Director shall be for the balance of
23 the unexpired 4-year term. The Governor shall select the
24 individual to appoint as the Executive Director from the 3
25 nominees designated by the Board under subsection (j) of

1 Section 15 of this Act.

2 The individual serving on the effective date of this Act as
3 Director of the Department of Commerce and Economic
4 Opportunity, or his or her successor, shall serve as the
5 Executive Director of the Authority until the third Monday in
6 January 2013.

7 Except as otherwise provided in this subsection (a), the
8 Executive Director shall possess the following qualifications:

9 (1) private sector or public sector economic
10 development experience, or a combination thereof, totaling
11 5 years;

12 (2) ten years of experience working in or with the for
13 profit sector of the economy;

14 (3) five years of management experience;

15 (4) an advanced degree in economics, risk management,
16 law, business, or a related field; and

17 (5) shall not hold outside employment.

18 (b) The Executive Director shall not, directly or
19 indirectly, exert influence to induce any other officers or
20 employees of the State to adopt a political view or to favor a
21 political candidate for office. The Executive Director shall
22 ensure that the Authority is operated free from political
23 influence. The Executive Director shall give bond as required
24 under the Official Bond Act.

25 (c) The Executive Director shall advise the Authority on
26 matters relating to economic development and act on the

1 Authority's behalf to carry out all directives from the Board
2 in regard to the operation of the Authority.

3 (d) The Executive Director shall employ personnel as
4 necessary to carry out the duties and responsibilities of the
5 Authority.

6 (e) The Executive Director shall not be employed
7 concurrently by both the Authority and the Corporation.

8 (f) Conflict of interest.

9 (1) In addition to the provisions of subsection (a) of
10 Section 50-13 of the Illinois Procurement Code, it is
11 unlawful for the Executive Director, the spouse of, or
12 partner in a civil union with, the Executive Director, or
13 an immediate family member of the Executive Director living
14 in the Executive Director's residence to have or acquire a
15 contract, or have or acquire a direct pecuniary interest in
16 a contract with the State, that relates to the Authority or
17 the Corporation, during and for one year after the
18 conclusion of the Executive Director's term.

19 (2) If (i) a person subject to paragraph (1) of this
20 subsection is entitled to receive more than 7 1/2% of the
21 total distributable income of a partnership, association,
22 corporation, or other business entity or (ii) a person
23 subject to paragraph (1) of this subsection together with
24 his or her spouse, partner in a civil union, and immediate
25 family members living in that person's residence are
26 entitled to receive more than 15%, in the aggregate, of the

1 total distributable income of a partnership, association,
2 corporation, or other business entity, then it is unlawful
3 for that partnership, association, corporation, or other
4 business entity to have or acquire a contract or a direct
5 pecuniary interest in a contract prohibited by paragraph
6 (1) of this subsection during and for one year after the
7 conclusion of the Executive Director's term of office.

8 (g) The Executive Director may create organizational
9 divisions within the Authority in the manner the Executive
10 Director deems most efficient to carry out the duties and
11 responsibilities of the Authority.

12 (h) In structuring the Authority, the Executive Director
13 shall create a small business development division and ensure
14 that the division focuses administrative efforts, program
15 resources, and financial assistance awards on small
16 businesses.

17 Section 45. Review of Authority operations.

18 (a) Commencing January 1, 2014, the Commission on
19 Government Forecasting and Accountability shall conduct a
20 review of the Authority and its activities and shall issue a
21 report with findings and recommendations to the General
22 Assembly on or before January 1, 2015.

23 (b) On or before January 1, 2014, and every January 1
24 thereafter, the Authority shall submit a report to the Governor
25 and the General Assembly assessing the extent to which each of

1 the Authority's programs can be used to provide assistance to
2 small businesses and making recommendations for legislative
3 changes to such programs in order to better and more
4 intensively focus economic development efforts on such small
5 businesses. The report shall also address the extent to which
6 the Authority's programs address local economic development
7 needs and efforts.

8 Section 50. Illinois Business and Economic Development
9 Corporation.

10 (a) There is created the Illinois Business and Economic
11 Development Corporation as a non-profit corporation organized
12 under the General Not For Profit Corporation Act of 1986 and
13 qualifying under Section 501(c)(3) of the Internal Revenue Code
14 as an organization exempt from taxation. Unless otherwise
15 provided in this Section, the Corporation is subject to the
16 provisions of the General Not For Profit Corporation Act of
17 1986. The Corporation shall be established for the purpose of
18 receiving and disbursing funds from public or private sources
19 to be used to further the overall development and economic
20 well-being of the State.

21 (b) The Corporation shall collaborate with the Authority as
22 described in this Act, but the Corporation shall not be
23 considered, in whole or in part, an agency, political
24 subdivision, or instrumentality of the State.

25 (1) The Corporation shall not receive appropriations

1 from the General Assembly.

2 (2) The Corporation shall not be required to comply
3 with any requirements that apply to a State agency or
4 political subdivision and shall not exercise any sovereign
5 power of the State.

6 (3) The Corporation does not have authority to pledge
7 the credit of the State, and the State shall not be liable
8 for the debts or obligations of the Corporation. All debts
9 and obligations of the Corporation shall be payable solely
10 from the Corporation's funds.

11 (c) The Corporation shall be established, maintained and
12 operated so that donations and bequests to it qualify as tax
13 deductible under State income tax laws and under Section
14 501(c)(3) of the Internal Revenue Code.

15 The Corporation shall be established for the purpose of
16 expanding economic development opportunities in the State of
17 Illinois and for Illinois businesses operating in foreign
18 markets in connection with the public purpose of economic
19 development in Illinois. The Corporation shall also assist the
20 Authority in creating and maintaining a strategic economic
21 development plan including marketing, benchmarks, and
22 performance measures. The Corporation may effectuate this
23 purpose by performing certain functions delegated to it by the
24 Authority pursuant to Section 35.

25 (d) The bylaws of the Corporation shall provide for its
26 governance and its efficient management. In providing for its

1 governance, the bylaws of the Corporation shall provide for or
2 address the following:

3 (1) A Board of Directors to govern the Corporation. The
4 Board of Directors of the Corporation shall be composed of
5 the following 7 members:

6 (A) three members appointed by the Governor,
7 with the advice and consent of the Senate;

8 (B) one member appointed by the President of
9 the Senate;

10 (C) one member appointed by the Speaker of the
11 House of Representatives;

12 (D) one member appointed by the Minority
13 Leader of the Senate; and

14 (E) one member appointed by the Minority
15 Leader of the House of Representatives.

16 The initial members appointed to the Board of Directors
17 shall continue in office until the first Wednesday in
18 February 2014. All successors to the original appointments
19 shall hold office for a term of 2 years commencing the
20 first Wednesday in February of the year in which their term
21 commences, except in the case of an appointment to fill a
22 vacancy. Vacancies occurring among the members shall be
23 filled by the appointing authority for the remainder of the
24 unexpired term. In case of vacancy in the appointments of
25 the Governor when the Senate is not in session, the
26 Governor may make a temporary appointment until the next

1 meeting of the Senate when a person shall be nominated to
2 fill the office, and, upon confirmation by the Senate, he
3 or she shall hold office during the remainder of the term.
4 A member is eligible for reappointment.

5 The members of the Board of Directors of the
6 Corporation shall possess the following qualifications:
7 private sector or public sector economic development
8 experience, or a combination thereof, totaling 5 years; and
9 10 years of experience working in or with the for profit
10 sector of the economy.

11 Should the Governor fail to make an initial appointment
12 to the Board of Directors of the Corporation within 60 days
13 after the effective date of this Act, or to make an
14 appointment to fill a vacancy on the Board of Directors of
15 the Corporation within 60 days after the date that the
16 vacancy first occurred, then the appointment shall be made
17 by the State Treasurer, with the advice and consent of the
18 Senate.

19 (2) No appointing authority shall appoint or select any
20 person who is either the spouse of, a partner in a civil
21 union with, or a relative within the first degree of
22 consanguinity of a serving member of the Board of Directors
23 of the Corporation or of the Authority Board.

24 (3) The appointment of a Chief Executive Officer by the
25 Board to manage the Corporation's daily operations.

26 (4) The delegation of such powers and responsibilities

1 to the Chief Executive Officer as may be necessary for the
2 Corporation's efficient operation.

3 (e) The Corporation may employ such personnel as may be
4 necessary for the efficient performance of the duties assigned
5 to the Corporation. All such personnel shall be considered
6 employees of a private, nonprofit corporation and shall be
7 exempt from the personnel requirements imposed on State
8 agencies and political subdivisions.

9 (f) The bylaws of the Corporation shall provide for the
10 financial operations of the Corporation, including the
11 authority to receive and expend funds from public and private
12 sources and to use its property, money, or other resources for
13 the purpose of the Corporation.

14 (g) The members of the Board of Directors of the
15 Corporation, with input from the Board of the Authority, shall
16 develop a strategic plan for economic development in the State.

17 (1) The strategic plan shall identify the
18 Corporation's goals for the next calendar year and shall
19 include a set of metrics that will be used to gauge and
20 assess the extent to which the Corporation achieves those
21 goals. Such metrics shall include, but are not limited to:

22 (A) The number of net new jobs created in the
23 State.

24 (B) The average wage and benefit levels for such
25 jobs.

26 (C) The impact to average household income for

1 Illinois families as a result of the jobs created.

2 (D) Such other information as the Board of
3 Directors of the Corporation deems relevant.

4 (2) The strategic plan shall be submitted to the
5 General Assembly and the Governor's office on or before
6 January 31 of each year.

7 (h) The Board of Directors of the Corporation and the Chief
8 Executive Officer shall act to ensure all of the following:

9 (1) That the Board of Directors of the Corporation
10 implement the strategic plan developed by the Corporation
11 pursuant to subsection (g) of this Section.

12 (2) That the Corporation prepares an annual budget that
13 includes funding levels for the Corporation's activities
14 and that shows sufficient moneys are available to support
15 those activities.

16 (i) The Corporation shall complete and file all reports and
17 returns required under the General Not For Profit Corporation
18 Act of 1986.

19 Section 55. Duties and responsibilities of the
20 Corporation.

21 (a) The Board of Directors of the Corporation and the Chief
22 Executive Officer shall determine the activities and
23 priorities of the Corporation within the general parameters of
24 the duties and responsibilities described in this Act.

25 (b) The Corporation shall, to the extent that its bylaws

1 provide and within its public purpose, do all of the following
2 with the purpose of increasing innovation in Illinois's economy
3 and bringing more innovative businesses to the State:

4 (1) Consult with the Illinois Economic Development
5 Authority in the creation of a comprehensive strategic
6 plan.

7 (2) Act as an innovation intermediary by aligning local
8 technologies, assets, and resources to work together on
9 advancing innovation.

10 (3) Perform any functions delegated by the Authority
11 pursuant to Section 35.

12 (A) In performing such functions, the Corporation
13 shall not subcontract the performance of a delegated
14 function except as provided in subparagraph (B).

15 (B) The Corporation may subcontract services under
16 the following conditions:

17 (i) The services are necessary to accomplish
18 the functions delegated to the Corporation.

19 (ii) The contract delegating the function
20 contains a list of the services that may be
21 subcontracted pursuant to this subparagraph.

22 (iii) The contract delegating the function
23 requires that any agreement to subcontract a
24 service must be approved by the Authority prior to
25 the execution of such an agreement by the
26 Corporation.

1 (4) Encourage, stimulate, and support the development
2 and expansion of the State's economy.

3 (5) Develop and implement effective marketing and
4 promotional programs.

5 (6) Provide pertinent information to prospective new
6 businesses.

7 (7) Formulate and pursue programs for encouraging the
8 location of new businesses in the State and for retaining
9 and fostering the growth of existing businesses.

10 (8) Solicit the involvement of the private sector,
11 including support and funding, for economic development
12 initiatives in the State.

13 (9) Coordinate the economic development efforts of
14 other State and local entities in an effort to achieve
15 policy consistency.

16 (10) Collect and maintain any economic data and
17 research that is relevant to the formulation and
18 implementation of effective policies.

19 (11) Cooperate with and provide information to State
20 agencies, local governments, community colleges, and State
21 universities on economic development matters, including
22 the areas of workforce development and job training.

23 Section 60. Oversight of Corporation.

24 (a) In performing delegated functions pursuant to Section
25 35 or when engaged in activities that utilize public funding,

1 the Corporation shall comply with the provisions of this
2 Section.

3 (b) The Corporation shall submit an annual report to the
4 Governor, General Assembly, and the Auditor General on January
5 15 of each year. The report shall include the Corporation's
6 operations and activities during the prior fiscal year to the
7 extent that such operations and activities pertain to the
8 functions delegated to the Corporation by the Authority, as
9 provided in Sections 35 and 55 of this Act.

10 (1) The report shall describe how the operations and
11 activities serve the interests of the State and further
12 economic development.

13 (2) An annual audit of the Corporation performed by a
14 certified public accountant in accordance with generally
15 accepted accounting principles shall be filed with the
16 office of the Auditor General and made available to the
17 public.

18 (c) The deliberations or meetings of the Board of Directors
19 of the Corporation that pertain to the performance of delegated
20 functions or activities that utilize public funding shall be
21 conducted in accordance with the Open Meetings Act.

22 (d) All of the following shall be subject to Freedom of
23 Information Act:

24 (1) Minutes of the meetings conducted in accordance
25 with subsection (c).

26 (2) All records pertaining to the performance by the

1 Corporation of delegated functions or activities that
2 utilize public funding.

3 Section 75. The Statute on Statutes is amended by adding
4 Section 1.39 as follows:

5 (5 ILCS 70/1.39 new)

6 Sec. 1.39. Department of Commerce and Economic
7 Opportunity. References to the Department of Commerce and
8 Economic Opportunity or the Department of Commerce and
9 Community Affairs shall be construed as references to the
10 Illinois Economic Development Authority created by the
11 Illinois Business and Economic Advocacy and Development Act.
12 All references to the Director of the Department of Commerce
13 and Economic Opportunity or the Department of Commerce and
14 Community Affairs shall be construed as references to the
15 Executive Director of the Illinois Economic Development
16 Authority created by the Illinois Business and Economic
17 Advocacy and Development Act.

18 Section 80. The Executive Reorganization Implementation
19 Act is amended by changing Section 3.1 as follows:

20 (15 ILCS 15/3.1) (from Ch. 127, par. 1803.1)

21 Sec. 3.1. "Agency directly responsible to the Governor" or
22 "agency" means any office, officer, division, or part thereof,

1 and any other office, nonelective officer, department,
2 division, bureau, board, or commission in the executive branch
3 of State government, except that it does not apply to any
4 agency whose primary function is service to the General
5 Assembly or the Judicial Branch of State government, or to any
6 agency administered by the Attorney General, Secretary of
7 State, State Comptroller or State Treasurer. In addition the
8 term does not apply to the following agencies created by law
9 with the primary responsibility of exercising regulatory or
10 adjudicatory functions independently of the Governor:

- 11 (1) the State Board of Elections;
- 12 (2) the State Board of Education;
- 13 (3) the Illinois Commerce Commission;
- 14 (4) the Illinois Workers' Compensation Commission;
- 15 (5) the Civil Service Commission;
- 16 (6) the Fair Employment Practices Commission;
- 17 (7) the Pollution Control Board;
- 18 (8) the Department of State Police Merit Board;
- 19 (9) the Illinois Racing Board;
- 20 (10) the Illinois Power Agency~~;~~;
- 21 (11) the Illinois Economic Development Authority.

22 (Source: P.A. 96-796, eff. 10-29-09; 97-618, eff. 10-26-11.)

23 Section 85. The Civil Administrative Code of Illinois is
24 amended by changing Sections 5-15 and 5-20 as follows:

1 (20 ILCS 5/5-15) (was 20 ILCS 5/3)
2 Sec. 5-15. Departments of State government. The
3 Departments of State government are created as follows:
4 The Department on Aging.
5 The Department of Agriculture.
6 The Department of Central Management Services.
7 The Department of Children and Family Services.
8 ~~The Department of Commerce and Economic Opportunity.~~
9 The Department of Corrections.
10 The Department of Employment Security.
11 The Illinois Emergency Management Agency.
12 The Department of Financial and Professional Regulation.
13 The Department of Healthcare and Family Services.
14 The Department of Human Rights.
15 The Department of Human Services.
16 The Department of Juvenile Justice.
17 The Department of Labor.
18 The Department of the Lottery.
19 The Department of Natural Resources.
20 The Department of Public Health.
21 The Department of Revenue.
22 The Department of State Police.
23 The Department of Transportation.
24 The Department of Veterans' Affairs.
25 (Source: P.A. 96-328, eff. 8-11-09; 97-618, eff. 10-26-11.)

1 (20 ILCS 5/5-20) (was 20 ILCS 5/4)

2 Sec. 5-20. Heads of departments. Each department shall have
3 an officer as its head who shall be known as director or
4 secretary and who shall, subject to the provisions of the Civil
5 Administrative Code of Illinois, execute the powers and
6 discharge the duties vested by law in his or her respective
7 department.

8 The following officers are hereby created:

9 Director of Aging, for the Department on Aging.

10 Director of Agriculture, for the Department of
11 Agriculture.

12 Director of Central Management Services, for the
13 Department of Central Management Services.

14 Director of Children and Family Services, for the
15 Department of Children and Family Services.

16 ~~Director of Commerce and Economic Opportunity, for the~~
17 ~~Department of Commerce and Economic Opportunity.~~

18 Director of Corrections, for the Department of
19 Corrections.

20 Director of the Illinois Emergency Management Agency, for
21 the Illinois Emergency Management Agency.

22 Director of Employment Security, for the Department of
23 Employment Security.

24 Secretary of Financial and Professional Regulation, for
25 the Department of Financial and Professional Regulation.

26 Director of Healthcare and Family Services, for the

1 Department of Healthcare and Family Services.

2 Director of Human Rights, for the Department of Human
3 Rights.

4 Secretary of Human Services, for the Department of Human
5 Services.

6 Director of Juvenile Justice, for the Department of
7 Juvenile Justice.

8 Director of Labor, for the Department of Labor.

9 Director of Natural Resources, for the Department of
10 Natural Resources.

11 Director of Public Health, for the Department of Public
12 Health.

13 Director of Revenue, for the Department of Revenue.

14 Director of State Police, for the Department of State
15 Police.

16 Secretary of Transportation, for the Department of
17 Transportation.

18 Director of Veterans' Affairs, for the Department of
19 Veterans' Affairs.

20 (Source: P.A. 96-328, eff. 8-11-09; 97-464, eff. 10-15-11;
21 97-618, eff. 10-26-11; revised 11-9-11.)

22 Section 90. The Department of Commerce and Economic
23 Opportunity Law of the Civil Administrative Code of Illinois is
24 amended by changing Section 605-5 as follows:

1 (20 ILCS 605/605-5) (was 20 ILCS 605/46.1 in part)

2 Sec. 605-5. Definitions. As used in the Sections following
3 this Section:

4 "Department" means the Department of Commerce and Economic
5 Opportunity. On or after the effective date of this amendatory
6 Act of the 97th General Assembly, "Department" shall be
7 construed to mean the Illinois Economic Development Authority
8 created by the Illinois Business and Economic Advocacy and
9 Development Act.

10 "Director" means the Director of Commerce and Economic
11 Opportunity. On or after the effective date of this amendatory
12 Act of the 97th General Assembly, "Director" shall be construed
13 to mean the Executive Director of the Illinois Economic
14 Development Authority created by the Illinois Business and
15 Economic Advocacy and Development Act.

16 "Local government" means every county, municipality,
17 township, school district, and other local political
18 subdivision having authority to enact laws and ordinances, to
19 administer laws and ordinances, to raise taxes, or to expend
20 funds.

21 (Source: P.A. 93-25, eff. 6-20-03.)

22 Section 95. The State Finance Act is amended by adding
23 Section 5.811 as follows:

24 (30 ILCS 105/5.811 new)

1 Sec. 5.811. The Illinois Economic Development Authority
2 Fund.

3 (20 ILCS 5/5-120 rep.)

4 (20 ILCS 5/5-330 rep.)

5 Section 105. The Civil Administrative Code of Illinois is
6 amended by repealing Sections 5-120 and 5-330.

7 Section 999. Effective date. This Act takes effect upon
8 becoming law.".