



Rep. Barbara Flynn Currie

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1 AMENDMENT TO HOUSE BILL 574

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 574, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

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

7 Section 3. Findings. The General Assembly finds that  
8 targeted efforts to promote and foster business growth, job  
9 creation, and tourism are necessary for economic growth in  
10 Illinois to provide more prosperity and opportunities for  
11 Illinois residents. As both the public and private sectors have  
12 a shared interest in fostering the economic vitality of the  
13 State, it is the purpose of this Act to implement economic  
14 development policy in the State by means of collaboration  
15 between the government and a not-for-profit corporation.

1 Section 5. Definitions. For the purposes of this Act:

2 "Board" means the board of directors of the corporation.

3 "Chief Executive Officer" means the chief executive  
4 officer of the corporation.

5 "Conflict party" means a director, officer, or employee of  
6 the corporation; the spouse of a director, officer, or employee  
7 of the corporation; or an immediate family member of a  
8 director, officer, or employee of the corporation residing in  
9 the same residence as the director, officer or employee.

10 "Corporation" means the Illinois Business and Economic  
11 Development Corporation incorporated by the Department  
12 pursuant to Section 10.

13 "Department" means the Illinois Department of Commerce and  
14 Economic Opportunity.

15 "Director" means the Director of Commerce and Economic  
16 Opportunity.

17 Section 10. Creation of the Illinois Business and Economic  
18 Development Corporation.

19 (a) The General Assembly authorizes the Department, in  
20 accordance with Section 10 of the State Agency Entity Creation  
21 Act, to incorporate the Illinois Business and Economic  
22 Development Corporation as a not-for-profit corporation  
23 pursuant to the General Not For Profit Corporation Act of 1986.

24 (b) The purpose of the corporation shall be to operate  
25 exclusively for charitable purposes within the government, by

1 promoting the economic development and well-being of the State.  
2 The corporation shall focus on business development, small and  
3 minority-owned business incubation, trade and investment,  
4 tourism and film. The corporation shall:

5 (1) develop best practices for economic development in  
6 consultation with the Department;

7 (2) enter into grant agreements with the Department and  
8 sub-grants with other persons and entities;

9 (3) maintain and develop economic data and research  
10 that is beneficial to business development in the State;

11 (4) maintain and develop information about specific  
12 statewide and regional economic incentives and benefits  
13 that may be available to a business to expand within, or  
14 relocate to, the State; and provide such information to  
15 prospective businesses;

16 (5) formulate and pursue programs and local  
17 partnerships for encouraging the location of new  
18 businesses in the State and for retaining and fostering the  
19 growth of existing businesses;

20 (6) negotiate tax incentives with private businesses,  
21 subject to Department approval; and

22 (7) cooperate with and provide information to State  
23 agencies, local governments, community colleges, and State  
24 universities on economic development matters.

25 (c) For the purposes described in this Act, the corporation  
26 shall collaborate with the Department; with other State

1 agencies, authorities, boards, and commissions whose programs  
2 and activities significantly affect economic activity in the  
3 State as appropriate; and with local and regional economic  
4 development organizations, local elected officials,  
5 community-based organizations, service delivery providers, and  
6 other organizations whose programs and activities  
7 significantly affect economic activity. The Department and  
8 each other State agency, authority, board, or commission with  
9 which the corporation seeks to collaborate shall assist the  
10 corporation in carrying out its purposes as directed by the  
11 Governor.

12 (d) The corporation shall not be considered, in whole or in  
13 part, an agency, political subdivision, or instrumentality of  
14 the State. The corporation shall not exercise any sovereign  
15 power of the State. Employees and officers of the corporation  
16 shall not be considered employees or officers of the State or  
17 subject to the Personnel Code or other laws applicable to State  
18 employees and officers. The corporation does not have authority  
19 to pledge the credit of the State; the State shall not be  
20 liable for the debts or obligations of the corporation; and all  
21 debts and obligations of the corporation shall be payable  
22 solely from the corporation's funds.

23 (e) The corporation shall have such powers, rights, and  
24 obligations as are conferred upon a not-for-profit corporation  
25 under the General Not For Profit Corporation Act of 1986,  
26 including to accept grants, loans, or other amounts from the

1 State, the federal government, or other persons; to enter into  
2 contracts; and to employ personnel and other agents.

3 (f) The corporation shall be established, maintained, and  
4 operated so that donations and bequests to the corporation  
5 qualify as tax deductible under State income tax laws and  
6 Sections 170(c)(2) and 501(c)(3) of the Internal Revenue Code.

7 (g) The articles of incorporation and bylaws of the  
8 corporation shall provide for (1) governance and efficient  
9 management of the corporation, (2) a board of directors  
10 satisfying the requirements of Section 15, (3) a conflict of  
11 interest policy satisfying the requirements of Section 30, and  
12 (4) financial operations of the corporation, including the  
13 authority to receive and expend funds from public and private  
14 sources and to use its property, money, and other resources for  
15 the purposes of the corporation.

16 Section 15. Board of directors and Chief Executive Officer  
17 of the corporation.

18 (a) The affairs of the corporation shall be managed by or  
19 under the direction of the board of directors of the  
20 corporation.

21 (b) The board shall comprise 16 directors as follows:

22 (1) The Governor or his or designee shall be a director  
23 ex officio and serve as chairperson of the board.

24 (2) The Governor shall appoint 11 directors, including  
25 (i) one director with professional experience in finance,

1 insurance, or investment banking, (ii) one director with  
2 professional experience in small business development,  
3 (iii) one director with professional experience in the  
4 tourism or hospitality industry, and (iv) eight directors  
5 who are actively employed in the private, for-profit sector  
6 or who otherwise have substantial experience in economic  
7 development. Of those eight directors described in clause  
8 (iv), there shall be at least one director from each  
9 industry cluster as identified to the Governor by the  
10 Director. Of the 11 directors appointed pursuant to this  
11 paragraph, at least 4 directors shall be representatives of  
12 minority-owned and women-owned businesses.

13 (3) The Speaker and Minority Leader of the House of  
14 Representatives and the President and Minority Leader of  
15 the Senate each shall appoint one director who is employed  
16 in, or retired from employment in, a private business,  
17 not-for-profit organization, or academic organization.

18 (c) To facilitate communication and cooperation between  
19 the corporation and State agencies involved in economic  
20 development, the director or head of each of the following  
21 agencies shall serve as a non-voting, non-director member of  
22 the board: Department of Commerce and Economic Opportunity,  
23 Department of Agriculture, Department of Natural Resources,  
24 Department of Financial and Professional Regulation, Illinois  
25 Finance Authority, Department of Revenue, Department of Labor,  
26 Department of Veterans' Affairs, Department of Central

1 Management Services, Illinois Environmental Protection Agency,  
2 and Department of Employment Security.

3 (d) Except for the Governor or his or her designee, each  
4 director shall serve a term of three years. The articles of  
5 incorporation or bylaws shall divide the other 15 directors  
6 into three equal classes, with the terms of one class of  
7 directors expiring each year. In the event of a vacancy on the  
8 Board, the Governor shall appoint a replacement member within  
9 60 days. In the event of a position appointed by a legislative  
10 leader, the leader making the original appointment shall fill  
11 the vacancy within 60 days.

12 (e) The Governor shall select an initial Chief Executive  
13 Officer of the corporation, subject to confirmation by a  
14 majority of members of the board. After the initial Chief  
15 Executive Officer, each subsequent Chief Executive Officer  
16 shall be selected and confirmed by a majority vote of the  
17 Board.

18 Section 20. Office of Economic Development and Tourism.  
19 Within the Department, there shall be created a new division  
20 called the Office of Economic Development and Tourism for the  
21 purpose of collaborating with the corporation, issuing grants  
22 to the corporation, and being responsible for the following  
23 functions of the Department: business development;  
24 entrepreneurship, innovation, and technology; trade and  
25 investment; and tourism and film. The director of that office

1 shall report directly to the Director.

2 Section 25. Accountability and transparency.

3 (a) Within the Office of the Director there is created a  
4 new division called the Office of Accountability and  
5 Transparency. Such division shall be responsible for  
6 monitoring all grants made by the Department; for ensuring  
7 compliance by the Department and its grantees, including the  
8 corporation, with all applicable laws and grant terms and  
9 conditions; and for ensuring transparency in the Department's  
10 grant-making and other activities.

11 (b) With respect to any grant agreement entered into  
12 between the corporation and the Department, the corporation  
13 shall comply with the following provisions:

14 (1) For the purposes of the Freedom of Information Act,  
15 the corporation shall be considered a contractor  
16 performing a governmental function on behalf of the  
17 Department in accordance with subsection (2) of Section 7  
18 of such Act, whether the corporation receives a grant from  
19 or enters into a contract with the Department.

20 (2) The corporation shall post copies of minutes of its  
21 board meetings on its publicly-accessible website. Any  
22 redactions shall be limited to information exempt from  
23 disclosure pursuant to subsection (1) of Section 7 of the  
24 Freedom of Information Act or other applicable law.

25 (3) The corporation shall post copies of all final



1 grant agreements and tax incentives on its  
2 publicly-accessible website within 10 business days of the  
3 later of the execution of the final agreement or incentive  
4 or the public announcement of the final agreement or  
5 incentive. Any redactions shall be limited to information  
6 exempt from disclosure pursuant to subsection (1) of  
7 Section 7 of the Freedom of Information Act or other  
8 applicable law.

9 (4) The corporation shall develop procedures,  
10 standards, and objectives for evaluating all sub-grant  
11 applicants and sub-grants awarded to ensure that State  
12 funds spent by the corporation and its sub-grantees  
13 optimize return on investment for Illinois taxpayers. Such  
14 procedures, standards, and objectives shall be disclosed  
15 on the corporation's publicly-accessibly website.

16 (5) The corporation shall assess and report its efforts  
17 and results to the public and the Department's Office of  
18 Accountability and Transparency. In addition, the  
19 corporation shall comply with all grant monitoring  
20 procedures issued by the Department for the monitoring of  
21 grants of State and federal funds.

22 (6) The corporation shall conduct an annual audit  
23 performed by a certified public accountant in accordance  
24 with generally accepted accounting principles. Such audit  
25 shall be filed with the Department's Office of  
26 Accountability and Transparency and made available to the

1 public.

2 (7) The corporation shall be subject to bi-annual  
3 audits by the Auditor General.

4 (8) The corporation shall submit an annual report to  
5 the Governor, the General Assembly, and the Department's  
6 Office of Accountability and Transparency that describes  
7 the corporation's operations and activities during the  
8 prior fiscal year, including: (A) the corporation's  
9 complete, audited financial statements, including a  
10 description of the corporation's financial conditions and  
11 operations; (B) a listing of all public sources of funds  
12 received by the corporation; (C) a listing of all private  
13 sources of funds received by the corporation; (D) a listing  
14 of all firms and individuals who provided assistance or  
15 resources to the corporation without compensation,  
16 including the approximate value of the assistance or  
17 resources provided; (E) a description of how the operations  
18 and activities of the corporation serve the interests of  
19 the State and promote economic development; and (F) a  
20 listing of all conflicts of interest from directors,  
21 officers, and employees identified in the board meeting  
22 minutes.

23 (9) The corporation shall comply with all applicable  
24 State and federal laws, including all applicable terms of  
25 the Grant Accountability and Transparency Act. For  
26 purposes of the Illinois Grant Fund Recovery Act, all

1 sub-grants of grant funds made by the corporation shall be  
2 treated as grant funds in accordance with Section 12 of  
3 that Act.

4 Section 30. Conflicts of interest.

5 (a) In the conduct of their service to the corporation,  
6 directors, officers, and employees of the corporation shall  
7 behave ethically and in the best interests of the State and  
8 avoid actual and potential conflicts of interest.

9 (b) The corporation shall adopt and maintain a  
10 comprehensive conflicts of interest policy. Such policy shall  
11 include, without limitation, the following:

12 (1) Any pecuniary interest held by or for a conflict  
13 party in a grant from or contract with the corporation or a  
14 tax incentive from the Department shall be disclosed in  
15 writing and identified in the minutes of the board. Such  
16 conflict must be disclosed before the approval of any  
17 grant, contract, or incentive.

18 (2) A conflict party who holds a pecuniary interest in  
19 a grant from or contract with the corporation or a tax  
20 incentive from the Department, or for whom such an interest  
21 is held, shall not participate in any corporate action,  
22 including deliberations on such action, with respect to  
23 such grant, contract, or incentive.

24 (3) A conflict party may not acquire a pecuniary  
25 interest in a grant from or contract with the corporation

1 or a tax incentive from the Department during the time that  
2 the conflict party (or the spouse or immediate family  
3 member of the conflict party) serves as a director,  
4 officer, or employee of the corporation and for one year  
5 after termination of such service.

6 (4) The corporation shall not enter into any grant or  
7 contract with any entity in which a conflict party is  
8 entitled to receive more than 7.5%, or in which a conflict  
9 party together with his or her spouse and immediate family  
10 members residing in his or her residence are entitled to  
11 receive more than 15%, of the total distributable income of  
12 the entity. For purposes of this paragraph (4),  
13 "distributable income" means the income of a company after  
14 payment of all expenses, including employee salary and  
15 bonus, and retained earnings, which is distributed to those  
16 entitled to receive a share of the income. In the case of a  
17 for-profit corporation, "distributable" income means  
18 dividends. When calculating entitlement to distributable  
19 income the entitlement shall be determined at the end of  
20 the company's most recent fiscal year.

21 (5) The board of directors shall determine appropriate  
22 penalties for any violations of these provisions.

23 Section 35. Fundraising. The corporation shall raise and  
24 accept funds from private donors to support its economic  
25 development efforts and other operations.

1 (20 ILCS 605/605-300 rep.)

2 Section 90. The Department of Commerce and Economic  
3 Opportunity Law of the Civil Administrative Code of Illinois is  
4 amended by repealing Section 605-300."