

REFERENCE TITLE: economic development; corporate accountability

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2697

Introduced by
Representatives McGuire: Ableser, Alvarez, Brown, Garcia M, Lopes, Lujan,
Pancrazi, Rios P, Schapira, Ulmer

AN ACT

AMENDING TITLE 42, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7;
RELATING TO CORPORATE ACCOUNTABILITY FOR ECONOMIC DEVELOPMENT SUBSIDIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 42, chapter 1, Arizona Revised Statutes, is amended
3 by adding article 7, to read:

4 ARTICLE 7. ECONOMIC DEVELOPMENT AND CORPORATE ACCOUNTABILITY

5 42-1301. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "CORPORATE PARENT" MEANS ANY PERSON, ASSOCIATION, CORPORATION,
8 JOINT VENTURE, PARTNERSHIP OR OTHER ENTITY THAT OWNS OR CONTROLS FIFTY PER
9 CENT OR MORE OF A RECIPIENT CORPORATION.

10 2. "DATE OF SUBSIDY" MEANS THE DAY THAT A GRANTING BODY PROVIDES THE
11 INITIAL MONETARY VALUE OF A DEVELOPMENT SUBSIDY TO A RECIPIENT CORPORATION.
12 IF THE SUBSIDY IS FOR THE INSTALLATION OF NEW EQUIPMENT, THE DATE OF SUBSIDY
13 IS THE DAY THE CORPORATION PUTS THE EQUIPMENT INTO SERVICE. IF THE SUBSIDY
14 IS FOR IMPROVEMENTS TO PROPERTY, THE DATE OF SUBSIDY IS THE DAY THE
15 IMPROVEMENTS ARE FINISHED OR THE DAY THE CORPORATION OCCUPIES THE PROPERTY,
16 WHICHEVER IS EARLIER.

17 3. "DEVELOPMENT SUBSIDY" MEANS ANY EXPENDITURE OF PUBLIC MONIES WITH A
18 VALUE OF AT LEAST TWENTY-FIVE THOUSAND DOLLARS FOR THE PURPOSE OF STIMULATING
19 ECONOMIC DEVELOPMENT WITHIN THIS STATE, INCLUDING BONDS, GRANTS, LOANS, LOAN
20 GUARANTEES, ENTERPRISE ZONES, EMPOWERMENT ZONES, TAX INCREMENT FINANCING,
21 GRANTS, FEE WAIVERS, LAND PRICE SUBSIDIES, MATCHING FUNDS, TAX ABATEMENTS,
22 TAX EXEMPTIONS AND TAX CREDITS.

23 4. "FULL-TIME JOB" MEANS A JOB IN WHICH AN INDIVIDUAL IS EMPLOYED BY A
24 RECIPIENT CORPORATION FOR AT LEAST THIRTY-FIVE HOURS PER WEEK.

25 5. "GRANTING BODY" MEANS AN AGENCY, BOARD, OFFICE, PUBLIC BENEFIT
26 CORPORATION OR AUTHORITY OF THIS STATE OR A LOCAL GOVERNMENT UNIT THAT
27 PROVIDES A DEVELOPMENT SUBSIDY.

28 6. "LOCAL GOVERNMENT UNIT" MEANS AN AGENCY, BOARD, COMMISSION, OFFICE,
29 PUBLIC BENEFIT CORPORATION OR PUBLIC AUTHORITY OF A POLITICAL SUBDIVISION OF
30 THIS STATE.

31 7. "PART-TIME JOB" MEANS A JOB IN WHICH AN INDIVIDUAL IS EMPLOYED BY A
32 RECIPIENT CORPORATION FOR FEWER THAN THIRTY-FIVE HOURS PER WEEK.

33 8. "PROJECT SITE" MEANS THE SITE OF A PROJECT FOR WHICH A DEVELOPMENT
34 SUBSIDY IS PROVIDED.

35 9. "PROPERTY TAXING ENTITY" MEANS ANY ENTITY THAT LEVIES TAXES ON REAL
36 OR PERSONAL PROPERTY.

37 10. "RECIPIENT CORPORATION" MEANS ANY PERSON, ASSOCIATION, CORPORATION,
38 JOINT VENTURE, PARTNERSHIP OR OTHER ENTITY THAT RECEIVES A DEVELOPMENT
39 SUBSIDY.

40 11. "SMALL BUSINESS" MEANS A CORPORATION WHOSE CORPORATE PARENT, AND
41 ALL SUBSIDIARIES OF THE PARENT, EMPLOYS FEWER THAN TWENTY FULL-TIME EMPLOYEES
42 OR HAD TOTAL GROSS RECEIPTS OF LESS THAN ONE MILLION DOLLARS DURING THE
43 PREVIOUS CALENDAR YEAR.

44 12. "STATE" MEANS AN AGENCY, BOARD, COMMISSION, OFFICE, PUBLIC BENEFIT
45 CORPORATION OR PUBLIC BENEFIT AUTHORITY OF THIS STATE.

1 13. "SUBSIDY VALUE" MEANS THE FACE VALUE OF ANY DEVELOPMENT SUBSIDIES
2 PROVIDED TO A RECIPIENT CORPORATION.

3 14. "TEMPORARY JOB" MEANS A JOB IN WHICH AN INDIVIDUAL IS HIRED FOR A
4 SEASON OR FOR A LIMITED PERIOD OF TIME.

5 42-1302. Unified economic development budget

6 A. THE JOINT LEGISLATIVE BUDGET COMMITTEE SHALL SUBMIT AN ANNUAL
7 UNIFIED ECONOMIC DEVELOPMENT BUDGET TO THE PRESIDENT OF THE SENATE AND THE
8 SPEAKER OF THE HOUSE OF REPRESENTATIVES BY SEPTEMBER 30. THE BUDGET SHALL
9 PRESENT ALL TYPES OF EXPENDITURES FOR ECONOMIC DEVELOPMENT DURING THE PRIOR
10 FISCAL YEAR, INCLUDING:

11 1. THE AMOUNT OF UNCOLLECTED STATE TAX REVENUES THAT RESULTS FROM EACH
12 CORPORATE TAX CREDIT, ABATEMENT, EXEMPTION AND REDUCTION PROVIDED BY THIS
13 STATE OR A LOCAL GOVERNMENTAL UNIT, INCLUDING GROSS RECEIPTS, INCOME, SALES,
14 USE, RAW MATERIALS, EXCISE, PROPERTY, UTILITY AND INVENTORY TAXES AS
15 DETERMINED BY THE DEPARTMENT.

16 2. THE NAME OF EACH CORPORATE TAXPAYER THAT CLAIMED A TAX CREDIT,
17 ABATEMENT, EXEMPTION OR REDUCTION WITH A VALUE OF FIVE THOUSAND DOLLARS OR
18 MORE, TOGETHER WITH THE DOLLAR AMOUNT RECEIVED BY EACH CORPORATION.

19 3. ALL STATE APPROPRIATED EXPENDITURES FOR ECONOMIC DEVELOPMENT,
20 INCLUDING LINE-ITEM BUDGETS FOR EACH STATE-FUNDED ENTITY CONCERNED WITH
21 ECONOMIC DEVELOPMENT.

22 B. A TAX CREDIT, ABATEMENT, EXEMPTION OR REDUCTION RECEIVED BY A
23 CORPORATION OF LESS THAN FIVE THOUSAND DOLLARS SHALL NOT BE ITEMIZED. THE
24 DEPARTMENT SHALL REPORT AN AGGREGATE DOLLAR AMOUNT OF THESE EXPENDITURES AND
25 THE NUMBER OF COMPANIES SO AGGREGATED FOR EACH TAX EXPENDITURE.

26 42-1303. Unified reporting of property tax reductions and
27 abatements

28 A. EACH PROPERTY TAXING ENTITY SHALL ANNUALLY SUBMIT A REPORT TO THE
29 DEPARTMENT REGARDING ANY REAL PROPERTY IN THE PROPERTY TAXING ENTITY'S
30 JURISDICTION THAT HAS RECEIVED A PROPERTY TAX ABATEMENT OR REDUCTION DURING
31 THE FISCAL YEAR. THE REPORT SHALL CONTAIN INFORMATION INCLUDING:

- 32 1. THE NAME OF THE PROPERTY OWNER.
- 33 2. THE ADDRESS OF THE PROPERTY.
- 34 3. THE START AND END DATES OF THE PROPERTY TAX REDUCTION OR ABATEMENT.
- 35 4. THE SCHEDULE OF THE TAX REDUCTION.
- 36 5. EACH TAX ABATEMENT, REDUCTION AND EXEMPTION FOR THE PROPERTY.
- 37 6. THE AMOUNT OF PROPERTY TAX REVENUE NOT PAID TO THE TAXING ENTITY AS

38 A RESULT OF THE REDUCTION OR ABATEMENT.

39 B. EACH PROPERTY TAXING ENTITY SHALL ALSO SUBMIT A REPORT TO THE
40 DEPARTMENT THAT SETS FORTH THE TOTAL PROPERTY TAX REVENUE NOT PAID TO THE
41 PROPERTY TAXING ENTITY DURING THE FISCAL YEAR AS A RESULT OF ALL PROPERTY TAX
42 REDUCTIONS AND ABATEMENTS IN THE PROPERTY TAXING ENTITY'S JURISDICTION.

43 C. THE PROPERTY TAXING ENTITY SHALL PREPARE THE REPORTS REQUIRED UNDER
44 SUBSECTIONS A AND B ON TWO FORMS THAT ARE APPROVED BY THE DEPARTMENT. THE

1 PROPERTY TAXING ENTITY SHALL SUBMIT THE REPORTS TO THE DEPARTMENT NO LATER
2 THAN THREE MONTHS AFTER THE END OF THE FISCAL YEAR.

3 D. THE DEPARTMENT SHALL ANNUALLY COMPILE AND PUBLISH ALL OF THE DATA
4 CONTAINED IN THE REPORTS REQUIRED UNDER SUBSECTIONS A AND B IN BOTH WRITTEN
5 AND ELECTRONIC FORM, INCLUDING PUBLICATION ON THE DEPARTMENT'S WEBSITE.

6 E. IF A PROPERTY TAXING ENTITY FAILS TO SUBMIT THE REQUIRED REPORTS TO
7 THE DEPARTMENT WITHIN THE PRESCRIBED TIME, THE DEPARTMENT SHALL NOTIFY THE
8 STATE TREASURER, WHO SHALL WITHHOLD FURTHER PAYMENTS OF ANY DEVELOPMENT
9 SUBSIDY TO THE DELINQUENT PROPERTY TAXING ENTITY UNTIL THE PROPERTY TAXING
10 ENTITY FILES ITS REPORTS WITH THE DEPARTMENT.

11 42-1304. Application for economic development subsidies

12 A. A DEVELOPMENT SUBSIDY APPLICANT SHALL COMPLETE AN APPLICATION FOR
13 THE SUBSIDY ON A FORM PRESCRIBED BY THE DEPARTMENT OF COMMERCE. THE
14 INFORMATION REQUIRED ON THE APPLICATION SHALL INCLUDE THE FOLLOWING:

15 1. AN APPLICATION TRACKING NUMBER THAT IS PROVIDED BY THE GRANTING
16 AGENCY FOR THE PROJECT.

17 2. THE NAME, STREET AND MAILING ADDRESS AND PHONE NUMBER OF THE CHIEF
18 OFFICER OF THE GRANTING BODY PROVIDED BY THE GRANTING AGENCY.

19 3. THE NAME, STREET AND MAILING ADDRESS AND PHONE NUMBER OF THE CHIEF
20 OFFICER OF THE APPLICANT'S CORPORATE PARENT.

21 4. THE NAME, STREET AND MAILING ADDRESS AND PHONE NUMBER OF THE CHIEF
22 OFFICER OF THE APPLICANT.

23 5. THE STREET ADDRESS OF THE PROJECT SITE.

24 6. THE THREE DIGIT NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM
25 NUMBER OF THE PROJECT SITE.

26 7. THE TOTAL NUMBER OF INDIVIDUALS EMPLOYED BY THE APPLICANT AT THE
27 PROJECT SITE ON THE DAY OF THE APPLICATION, ITEMIZED BY FULL-TIME, PART-TIME
28 AND TEMPORARY POSITIONS.

29 8. THE TOTAL NUMBER OF INDIVIDUALS EMPLOYED IN THIS STATE BY THE
30 APPLICANT'S CORPORATE PARENT, AND ALL SUBSIDIARIES OF THE PARENT, AS OF
31 DECEMBER 31 OF THE PRIOR FISCAL YEAR, ITEMIZED BY FULL-TIME, PART-TIME AND
32 TEMPORARY POSITIONS.

33 9. THE DEVELOPMENT SUBSIDY BEING APPLIED FOR WITH THE GRANTING BODY
34 AND THE VALUE OF THE SUBSIDY.

35 10. THE NUMBER OF NEW JOBS TO BE CREATED BY THE APPLICANT AT THE
36 PROJECT SITE, ITEMIZED BY FULL-TIME, PART-TIME AND TEMPORARY POSITIONS.

37 11. THE AVERAGE HOURLY WAGE TO BE PAID TO ALL CURRENT AND NEW EMPLOYEES
38 AT THE PROJECT SITE, ITEMIZED BY FULL-TIME, PART-TIME AND TEMPORARY
39 POSITIONS, AND FURTHER ITEMIZED BY WAGE GROUPS AS FOLLOWS:

40 (a) \$6.75 OR LESS AN HOUR.

41 (b) \$6.76 TO \$8.00 AN HOUR.

42 (c) \$8.01 TO \$9.00 AN HOUR.

43 (d) \$9.01 TO \$10.00 AN HOUR.

44 (e) \$10.01 TO \$11.00 AN HOUR.

45 (f) \$11.01 TO \$12.00 AN HOUR.

1 (g) \$12.01 TO \$13.00 AN HOUR.

2 (h) \$13.01 TO \$14.00 AN HOUR.

3 (i) \$14.01 OR MORE PER HOUR.

4 12. FOR PROJECT SITES LOCATED IN A METROPOLITAN STATISTICAL AREA, AS
5 DEFINED BY THE UNITED STATES DEPARTMENT OF COMMERCE, THE AVERAGE HOURLY WAGE
6 PAID TO NONMANAGERIAL EMPLOYEES IN THIS STATE FOR THE INDUSTRIES INVOLVED AT
7 THE PROJECT, AS ESTABLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS.

8 13. FOR PROJECT SITES LOCATED OUTSIDE OF A METROPOLITAN STATISTICAL
9 AREA, THE AVERAGE WEEKLY WAGE PAID TO NONMANAGERIAL EMPLOYEES IN THE COUNTY
10 FOR INDUSTRIES INVOLVED AT THE PROJECT, AS ESTABLISHED BY THE UNITED STATES
11 DEPARTMENT OF COMMERCE.

12 14. THE TYPE AND AMOUNT OF HEALTH CARE COVERAGE TO BE PROVIDED BY THE
13 APPLICANT WITHIN NINETY DAYS OF BEGINNING EMPLOYMENT AT THE PROJECT SITE,
14 INCLUDING ANY COSTS TO BE BORNE BY THE EMPLOYEES.

15 15. A LIST OF ALL DEVELOPMENT SUBSIDIES THAT THE APPLICANT REQUESTS AND
16 THE NAME OF ANY OTHER GRANTING BODY FROM WHICH THE SUBSIDIES ARE SOUGHT.

17 16. A STATEMENT AS TO WHETHER THE DEVELOPMENT SUBSIDY MAY REDUCE
18 EMPLOYMENT AT ANY OTHER SITE CONTROLLED BY THE APPLICANT OR ITS CORPORATE
19 PARENT, IN OR OUT OF THIS STATE, RESULTING FROM AUTOMATION, MERGER,
20 ACQUISITION, CORPORATE RESTRUCTURING OR OTHER BUSINESS ACTIVITY.

21 17. A STATEMENT AS TO WHETHER OR NOT THE PROJECT INVOLVES THE
22 RELOCATION OF WORK FROM ANOTHER ADDRESS AND, IF SO, THE NUMBER OF FULL-TIME,
23 PART-TIME AND TEMPORARY JOBS TO BE RELOCATED AND THE ADDRESS FROM WHICH THEY
24 ARE TO BE RELOCATED.

25 18. A CERTIFICATION BY THE CHIEF OFFICER OF THE APPLICANT AS TO THE
26 ACCURACY OF THE APPLICATION.

27 B. IF THE GRANTING BODY APPROVES THE APPLICATION, THE GRANTING BODY
28 SHALL SEND A COPY TO THE COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION WITHIN
29 FIFTEEN DAYS OF APPROVAL. IF THE APPLICATION IS NOT APPROVED, THE GRANTING
30 BODY SHALL RETAIN THE APPLICATION IN ITS RECORDS.

31 42-1305. Annual reports

32 A. EACH GRANTING BODY SHALL FILE A PROGRESS REPORT WITH THE COMMERCE
33 AND ECONOMIC DEVELOPMENT COMMISSION FOR EACH PROJECT FOR WHICH A DEVELOPMENT
34 SUBSIDY HAS BEEN GRANTED NO LATER THAN FEBRUARY 1 OF EACH YEAR. THE REPORT
35 SHALL INCLUDE THE FOLLOWING INFORMATION:

36 1. THE APPLICATION TRACKING NUMBER.

37 2. THE NAME, STREET AND MAILING ADDRESSES, PHONE NUMBER AND CHIEF
38 OFFICER OF THE GRANTING BODY.

39 3. THE NAME, STREET AND MAILING ADDRESSES, PHONE NUMBER AND CHIEF
40 OFFICER OF THE RECIPIENT CORPORATION.

41 4. A SUMMARY OF THE NUMBER OF JOBS REQUIRED, CREATED AND LOST,
42 ITEMIZED BY FULL-TIME, PART-TIME AND TEMPORARY POSITIONS AND BY WAGE GROUPS
43 AS PRESCRIBED IN SECTION 41-1304.

44 5. THE TYPE AND AMOUNT OF HEALTH CARE COVERAGE PROVIDED TO THE
45 EMPLOYEES AT THE PROJECT SITE, INCLUDING ANY COSTS BORNE BY THE EMPLOYEES.

1 6. THE COMPARISON OF THE TOTAL EMPLOYMENT IN THIS STATE BY THE
2 RECIPIENT'S CORPORATE PARENT ON THE DAY OF THE APPLICATION AND THE DAY OF THE
3 REPORT, ITEMIZED BY FULL-TIME, PART-TIME AND TEMPORARY POSITIONS.

4 7. A STATEMENT AS TO WHETHER THE USE OF THE DEVELOPMENT SUBSIDY DURING
5 THE PREVIOUS FISCAL YEAR REDUCED EMPLOYMENT AT ANY OTHER SITE CONTROLLED BY
6 THE RECIPIENT CORPORATION OR ITS CORPORATE PARENT IN OR OUT OF THIS STATE AS
7 A RESULT OF AUTOMATION, MERGER, ACQUISITION, CORPORATE RESTRUCTURING OR OTHER
8 BUSINESS ACTIVITY.

9 8. A SIGNED CERTIFICATION BY THE CHIEF OFFICER OF THE RECIPIENT
10 CORPORATION AS TO THE ACCURACY OF THE PROGRESS REPORT.

11 B. ON ALL SUBSEQUENT ANNUAL PROGRESS REPORTS, THE GRANTING BODY SHALL
12 INDICATE WHETHER THE RECIPIENT CORPORATION IS STILL IN COMPLIANCE WITH ITS
13 JOB CREATION, WAGE AND BENEFIT GOALS, AND WHETHER THE CORPORATE PARENT IS
14 STILL IN COMPLIANCE WITH ITS STATE EMPLOYMENT REQUIREMENT.

15 C. A GRANTING BODY AND RECIPIENT CORPORATION SHALL FILE ANNUAL
16 PROGRESS REPORTS FOR THE DURATION OF THE SUBSIDY OR AT LEAST FIVE YEARS,
17 WHICHEVER IS GREATER.

18 42-1306. Two year report; penalty for failure to report

19 A. NO LATER THAN FIFTEEN DAYS AFTER THE SECOND ANNIVERSARY OF THE DATE
20 OF A SUBSIDY, THE GRANTING BODY SHALL FILE A TWO YEAR PROGRESS REPORT WITH
21 THE COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION, AND SHALL INCLUDE THE SAME
22 INFORMATION AS REQUIRED UNDER SECTION 42-1305. THE RECIPIENT CORPORATION
23 SHALL CERTIFY AS TO THE ACCURACY OF THE REPORT.

24 B. THE GRANTING BODY SHALL STATE IN THE TWO YEAR REPORT WHETHER THE
25 RECIPIENT CORPORATION HAS ACHIEVED ITS JOB CREATION, WAGE AND BENEFIT GOALS
26 AND WHETHER THE CORPORATE PARENT HAS MAINTAINED NINETY PER CENT OF ITS
27 EMPLOYMENT IN THIS STATE.

28 C. THE COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION SHALL COMPILE AND
29 PUBLISH ALL DATA FROM THE PROGRESS REPORTS IN BOTH WRITTEN AND ELECTRONIC
30 FORM, INCLUDING PUBLICATION ON THE COMMISSION'S WEBSITE.

31 D. THE GRANTING BODY AND THE COMMERCE AND ECONOMIC DEVELOPMENT
32 COMMISSION SHALL HAVE ACCESS AT ALL REASONABLE TIMES TO THE PROJECT SITE AND
33 THE RECORDS OF THE RECIPIENT CORPORATION IN ORDER TO MONITOR THE PROJECT AND
34 TO PREPARE PROGRESS REPORTS.

35 E. A RECIPIENT CORPORATION THAT FAILS TO PROVIDE THE GRANTING BODY
36 WITH THE INFORMATION OR ACCESS REQUIRED PURSUANT TO THIS SECTION IS SUBJECT
37 TO A FINE OF AT LEAST FIVE HUNDRED DOLLARS PER DAY TO BEGIN IN TEN WORKING
38 DAYS AFTER THE FEBRUARY 1 DEADLINE, AND OF AT LEAST ONE THOUSAND DOLLARS PER
39 DAY TO BEGIN TWENTY DAYS AFTER THE DEADLINE.

40 42-1307. Subsidy limit and job quality standards

41 A. A GRANTING BODY SHALL NOT AWARD A DEVELOPMENT SUBSIDY IF THE COST
42 PER JOB IS GREATER THAN THIRTY-FIVE THOUSAND DOLLARS. THE COST SHALL BE
43 DETERMINED BY DIVIDING THE AMOUNT OF THE SUBSIDY BY THE NUMBER OF FULL-TIME
44 JOBS REQUIRED UNDER THE APPLICATION THAT IS APPROVED BY THE GRANTING BODY.

1 B. A GRANTING BODY SHALL NOT GRANT A SUBSIDY TO AN APPLICANT UNLESS
2 THE WAGES PAID TO EMPLOYEES AT THE PROJECT SITE ARE EQUAL TO OR EXCEED
3 EIGHTY-FIVE PER CENT OF THE AVERAGE WAGE AS ESTABLISHED PURSUANT TO SECTION
4 42-1304, SUBSECTION A, PARAGRAPHS 12 AND 13, EXCEPT THAT FOR SMALL
5 BUSINESSES, THE AVERAGE WAGE MUST EQUAL OR EXCEED SEVENTY-FIVE PER CENT OF
6 THE WAGES ESTABLISHED PURSUANT TO THOSE PARAGRAPHS. THE COMPUTATION OF WAGES
7 UNDER THIS SECTION ONLY APPLY TO A RECIPIENT CORPORATION THAT PROVIDES THE
8 HEALTH CARE COVERAGE AS APPROVED IN ITS APPLICATION BY THE GRANTING BODY.

9 42-1308. Recapture

10 A. A RECIPIENT CORPORATION SHALL FULFILL ITS JOB CREATION, WAGE,
11 HEALTH CARE AND OTHER BENEFIT REQUIREMENTS FOR THE PROJECT SITE WITHIN TWO
12 YEARS OF THE DATE OF SUBSIDY. THE RECIPIENT CORPORATION SHALL MAINTAIN ITS
13 WAGE AND BENEFIT GOALS AS LONG AS THE SUBSIDY IS IN EFFECT, OR FOR FIVE
14 YEARS, WHICHEVER IS LONGER.

15 B. THE CORPORATE PARENT OF A RECIPIENT CORPORATION SHALL MAINTAIN AT
16 LEAST NINETY PER CENT OF ITS EMPLOYMENT IN THIS STATE AS LONG AS THE
17 DEVELOPMENT SUBSIDY IS IN EFFECT, OR FOR AT LEAST FIVE YEARS, WHICHEVER IS
18 LONGER.

19 C. IF THE REQUIREMENTS OF SUBSECTION A OR B ARE NOT MET, THE GRANTING
20 BODY SHALL RECAPTURE THE DEVELOPMENT SUBSIDY FROM THE RECIPIENT CORPORATION
21 AS FOLLOWS:

22 1. ON A FAILURE BY THE RECIPIENT CORPORATION TO CREATE THE REQUIRED
23 NUMBER OF JOBS OR TO PAY THE REQUIRED WAGES OR BENEFITS, THE AMOUNT
24 RECAPTURED SHALL BE BASED ON THE PRO RATA AMOUNT BY WHICH THE UNFULFILLED
25 JOBS, WAGES OR BENEFITS BEAR TO THE TOTAL AMOUNT OF THE DEVELOPMENT SUBSIDY.

26 2. ON A FAILURE OF THE CORPORATE PARENT TO MAINTAIN NINETY PER CENT OF
27 ITS EMPLOYMENT IN THIS STATE, THE RATE OF RECAPTURE EQUALS TWICE THE
28 PERCENTAGE BY WHICH THE EMPLOYMENT IS LESS THAN NINETY PER CENT.

29 D. THE GRANTING BODY SHALL PROVIDE NOTICE AND EXPLANATION TO THE
30 RECIPIENT CORPORATION OF THE GRANTING BODY'S INTENT TO RECAPTURE THE
31 DEVELOPMENT SUBSIDY AND SHALL STATE THE AMOUNT TO BE RECAPTURED. THE
32 RECIPIENT CORPORATION SHALL REMIT TO THE GOVERNING BODY THAT AMOUNT WITHIN
33 SIXTY CALENDAR DAYS OF THE DATE OF NOTICE.

34 E. IF A RECIPIENT CORPORATION DEFAULTS ON A DEVELOPMENT SUBSIDY IN
35 THREE CONSECUTIVE CALENDAR YEARS, THE GRANTING BODY SHALL DECLARE THE SUBSIDY
36 VOID, AND SHALL SO NOTIFY THE COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION
37 AND THE RECIPIENT CORPORATION. THE RECIPIENT CORPORATION SHALL PAY BACK TO
38 THE GRANTING BODY ALL REMAINING VALUE OF THE DEVELOPMENT SUBSIDY IT HAS NOT
39 PREVIOUSLY REPAID WITHIN ONE HUNDRED EIGHTY CALENDAR DAYS OF THE DATE OF THE
40 NOTICE OF THE DEFAULT.

41 42-1309. Private enforcement action; attorney fees

42 IF A GRANTING BODY FAILS TO ENFORCE THIS ARTICLE, AN INDIVIDUAL WHO
43 PAID PERSONAL INCOME TAXES TO THIS STATE IN THE CALENDAR YEAR BEFORE THE YEAR
44 IN DISPUTE, OR ANY ORGANIZATION REPRESENTING SUCH A TAXPAYER, IS ENTITLED TO
45 BRING A CIVIL ACTION IN THE SUPERIOR COURT TO COMPEL ENFORCEMENT UNDER THIS

1 ARTICLE. THE COURT SHALL AWARD REASONABLE ATTORNEY FEES AND COSTS TO A
2 PREVAILING TAXPAYER OR ORGANIZATION.

3 42-1310. Public record disclosure

4 ALL RECORDS REQUIRED TO BE PREPARED OR MAINTAINED UNDER THIS ARTICLE,
5 INCLUDING APPLICATIONS, PROGRESS REPORTS, RECAPTURE NOTICES AND ANY OTHER
6 RECORDS OR PROCEEDINGS RELATING TO THOSE ITEMS, ARE SUBJECT TO DISCLOSURE
7 PURSUANT TO TITLE 39, CHAPTER 2, ARTICLE 1.

8 42-1311. No reduction in wages

9 THIS SECTION DOES NOT REQUIRE OR AUTHORIZE A RECIPIENT CORPORATION TO
10 REDUCE WAGES THAT ARE ESTABLISHED BY ANY COLLECTIVE BARGAINING AGREEMENT OR
11 STATE OR FEDERAL PREVAILING WAGE LAWS.

12 Sec. 2. Effective date

13 This act is effective from and after June 30, 2008.