

**SENATE . . . . . No. 153**

The Commonwealth of Massachusetts

PRESENTED BY:

***James B. Eldridge***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act promoting efficiency and transparency in economic development .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>James B. Eldridge</i>	
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Patricia D. Jehlen</i>	
<i>Susan C. Fargo</i>	
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>George T. Ross</i>	<i>2nd Bristol</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex, Suffolk, and Essex</i>
<i>Geraldine M. Creedon</i>	<i>11th Plymouth</i>
<i>Katherine M. Clark</i>	<i>Middlesex and Essex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>William N. Brownsberger</i>	
<i>Robert M. Koczera</i>	<i>11th Bristol</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Sonia Chang-Diaz</i>	
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Cynthia S. Creem</i>	

<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Kevin J. Murphy</i>	<i>18th Middlesex</i>
<i>Marc R. Pacheco</i>	
<i>Angelo M. Scaccia</i>	<i>14th Suffolk</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Walter F. Timilty</i>	<i>7th Norfolk</i>
<i>Daniel A. Wolf</i>	
<i>Mark C. Montigny</i>	

**SENATE . . . . . No. 153**

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By Mr. Eldridge, petition (accompanied by bill, Senate, No. 153) of Wolf, Timilty, Story and other members of the General Court for legislation to promote efficiency and transparency in economic development [Joint Committee on Economic Development and Emerging Technologies].

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The Commonwealth of Massachusetts

\_\_\_\_\_  
In the Year Two Thousand Eleven  
\_\_\_\_\_

An Act promoting efficiency and transparency in economic development .

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. The General laws are hereby amended by inserting after Chapter 30b:-

2 Chapter 30C. Economic Development, Transparency and Fiscal Accountability

3 Section 1. As used in Chapter 30C, the following words shall, unless the context clearly  
4 requires otherwise, have the following meanings:-

5 "Corporate parent" means any person, association, corporation, joint venture, partnership,  
6 or other entity, that owns or controls 50 percent or more of a recipient corporation.

7 "Date of subsidy" means the date that a granting body provides the initial monetary value  
8 of a development subsidy to a recipient corporation provided, however, that where the subsidy is  
9 for the installation of new equipment, such date shall be the date the corporation puts the  
10 equipment into service and provided, further, that where the subsidy is for improvements to

11 property, such date shall be the date the improvements are finished, or the date the corporation  
12 occupies the property, whichever is earlier.

13 "Development subsidy" means any expenditure of public funds with a value of at least  
14 \$25,000.00 for the purpose of stimulating economic development within the Commonwealth,  
15 including but not limited to bonds, grants, loans, loan guarantees, enterprise zones,  
16 empowerment zones, tax increment financing, grants, fee waivers, land price subsidies, matching  
17 funds, tax abatements, tax exemptions, and tax credits.

18 "Full-time job" means a job in which an individual is employed by a recipient  
19 corporation for at least 35 hours per week.

20 "Granting body" means any agency, board, office, public benefit corporation or authority  
21 of the Commonwealth or a local government unit that provides a development subsidy.

22 "Local government unit" means an agency, board, commission, office, public benefit  
23 corporation, or public authority of a political subdivision of the Commonwealth.

24 "New Employee" means a full-time employee who represents a net increase in the  
25 number of individuals employed by the recipient corporation in the Commonwealth. "New  
26 employee" does not include an employee who performs a job that was previously performed by  
27 another employee of the recipient corporation if that job existed for at least 6 months before  
28 hiring the employee.

29 "Part-time job" means a job in which an individual is employed by a recipient  
30 corporation for less than 35 hours per week.

31                   “Permanent Job” means a job that is not scheduled to terminate at the completion  
32 of a discrete project.

33                   "Project site" means the site of a project for which any development subsidy is provided.

34                   "Property-taxing entity" means any entity that levies taxes upon real or personal property.

35                   “Recipient corporation” means any person, association, corporation, joint venture,  
36 partnership or other entity that receives a development subsidy.

37                   “Searchable Website” means the website defined in Section 14C (a) of Chapter 7 of the  
38 Massachusetts General Laws and administered by the Secretary of Administration and Finance  
39 that allows the public at no cost to search for, obtain and aggregate state spending and revenue  
40 information.

41                   "Small business" means a corporation whose corporate parent, and all subsidiaries  
42 thereof, that employed fewer than twenty full-time employees or had total gross receipts of less  
43 than one million dollars during the calendar year.

44                   “State” means an agency, board, commission, office, public benefit corporation or public  
45 benefit authority of the Commonwealth.

46                   "Subsidy value” means the face value of any and all development subsidies provided to a  
47 recipient corporation.

48                   “Temporary job” means a job in which an individual is hired for a season or for a limited  
49 period of time.

50                   Section 2. Unified Economic Development Budget

51 (a) The Massachusetts Department of Revenue shall submit an annual Unified  
52 Economic Development Budget to the Legislature no later than three months after the end of the  
53 Commonwealth's fiscal year. The report shall present all types of expenditures for economic  
54 development during the prior fiscal year, including but not limited to:

55 (i) The amount of uncollected state tax revenues resulting from every corporate tax  
56 credit, abatement, exemption and reduction provided by the Commonwealth's or a local  
57 governmental unit including but not limited to gross receipts, income, sales, use, raw materials,  
58 excise, property, utility, and inventory taxes.

59 (ii) The name of each corporate taxpayer which claimed any tax credit, abatement,  
60 exemption or reduction under subdivision (i) of any value equal to or greater than \$5,000,  
61 together with the dollar amount received by each such corporation.

62 (iii) Any tax credit, abatement, exemption or reduction received by a corporation of  
63 less than \$5,000 each shall not be itemized. The Department of Revenue shall report an  
64 aggregate dollar amount of such expenditures and the number of companies so aggregated for  
65 each tax expenditure.

66 (iv) All state appropriated expenditures for economic development, including line-  
67 item budgets for every state-funded entity concerned with economic development, including but  
68 not limited to, Executive Office of Housing and Economic Development, Massachusetts  
69 Marketing Partnership, Massachusetts Growth Capital Corporation, Massachusetts Office of  
70 Business Development, Massachusetts Office of International Trade and Investment, Office of  
71 Small Business & Entrepreneurship, Seaport Advisory Council, Department of Housing and  
72 Community Development, Office of Indian Affairs, Department of Consumer Affairs and

73 Business Regulation, Division of Insurance, Division of Banks, State Racing Commission,  
74 Division of Professional Licensure, Division of Standards, Department of Revenue, Department  
75 of Telecommunications and Cable, Executive Office of Labor and Workforce Development,  
76 Department of Workforce Development, Commonwealth Corporation, Division of Apprentice  
77 Training, Division of Career Services, Division of Unemployment Assistance, Department of  
78 Labor, Division of Occupational Safety, Labor Relations Council, Division of Labor Relations,  
79 Joint Labor Management Committee, Division of Industrial Accidents, Workers Compensation  
80 Advisory Council, Massachusetts Aeronautics Commission, Affirmative Market Program,  
81 Massachusetts Dept. of Agricultural Resources, BDC Capital, Community Economic  
82 Development Assistance Corporation, Massachusetts Office of International Trade and  
83 Investment, Massachusetts Development Finance Agency, Massachusetts Export Center,  
84 Massachusetts Small Business Development Center Network, State Office of Minority and  
85 Women Business Assistance, Office of Technical Assistance and Technology, Massachusetts  
86 Technology Collaborative, Massachusetts Life Science Center.

87 (v) The Department of Revenue shall annually compile and publish all of the data  
88 contained in the reports required under paragraph (a) in both written and electronic form. The  
89 information in the report shall be included as part of the Searchable Website administered by the  
90 Secretary of Administration and Finance.

91 Section 3. Unified Reporting of Property Tax Reductions and Abatements

92 (a) Each property-taxing entity shall annually submit a report to the Massachusetts  
93 Department of Revenue regarding any real property in the entity's jurisdiction that has received a  
94 development subsidy of at least \$5,000 in the form of a property tax abatement or reduction

95 during the fiscal year. The report shall contain information including but not limited to: the name  
96 of the property owner; the address of the property; the start and end dates of the property tax  
97 reduction or abatement; the schedule of the tax reduction; each tax abatement, reduction and  
98 exemption for the property; and the amount of property tax revenue not paid to the taxing entity  
99 as a result of the reduction or abatement.

100 (b) Each property-taxing entity shall also submit a report to the Department of  
101 Revenue setting forth the total property tax revenue not paid to such entity during the fiscal year  
102 as a result of all property tax reductions and abatements in the entity's jurisdiction.

103 (c) The reports required under paragraphs (a) and (b) of this section shall be prepared  
104 on two forms prepared by the Department, and shall be submitted to the Department of Revenue  
105 by the property- taxing entity no later than three months after the end of the fiscal year.

106 (d) The Department of Revenue shall annually compile and publish all of the data  
107 contained in the reports required under paragraphs (a) and (b) in both written and electronic  
108 form. The information in the report shall be included as part of the Searchable Website  
109 administered by the Secretary of Administration and Finance.

110 (e) If a property-taxing entity fails to submit its reports to the Department or Revenue  
111 within the prescribed time, the Department shall notify the Comptroller of the Commonwealth,  
112 whereupon the Comptroller shall withhold further payments of any development subsidy to the  
113 delinquent entity until the entity files its reports with the Department.

114 Section 4. Application for Economic Development Subsidies



115 (a) Each granting body, together with the applicant for a development subsidy, shall  
116 complete an application for the subsidy on a form prepared by the Executive Office of Housing  
117 and Economic Development. The information required on the application shall include the  
118 following:

119 (i) An application tracking number for the granting agency and the project;

120 (ii) The name, street and mailing address, and phone number of the chief officer of  
121 the granting body;

122 (iii) The name, street and mailing address, and phone number of the chief officer of  
123 the applicant's corporate parent;

124 (iv) The name, street and mailing address, and phone number of the chief officer of  
125 the applicant;

126 (v) The street address of the project site;

127 (vi) The three-digit North American Industry Classification System number of the  
128 project site;

129 (vii) The total number of individuals employed by the applicant at the project site  
130 on the date of the application, broken down by full-time, part-time, and temporary positions;

131 (viii) The total number of individuals employed in the Commonwealth by the  
132 applicant's corporate parent, and all subsidiaries thereof, as of December 31 of the prior fiscal  
133 year, broken down by full-time, part-time and temporary positions;

134 (ix) The development subsidy or subsidies being applied for with the granting  
135 body, and the value of such subsidy or subsidies;

136 (x) The number of new jobs to be created by the applicant at the project site,  
137 broken down by full-time, part-time and temporary positions;

138 (xi) The average hourly wage to be paid to all current and new employees at the  
139 project site, broken down by full-time, part-time and temporary positions, and further broken  
140 down by wage groups as follows: \$8.00 or less an hour, \$8.01 to \$9.00 an hour, \$9.01 to \$10.00  
141 an hour, \$10.01 to \$11.00 an hour, \$11.01 to \$12.00 an hour, \$12.01 to \$13.00 an hour, \$13.01 to  
142 \$14.00 an hour, and \$14.01 to \$15.00 an hour, \$15.01 to \$16.00 an hour, \$17.01 to \$18.00 an  
143 hour, \$18.01 to \$19.00 an hour, \$19.01 to \$20.00 an hour, \$20.01 to \$21.00 and hour, \$21.01 to  
144 \$22.00 and hour, \$22.01 to \$23.00 an hour, \$23.01 to \$24.00 an hour, \$24.01 to \$25.00 and hour,  
145 \$25.01 to \$30.00 an hour, \$30.01 to \$40.00 an hour, \$40.01 to \$50.00 an hour and \$50.01 or  
146 more per hour;

147 (xii) For project sites located in a Metropolitan Statistical Area, as defined by the  
148 federal Office of Management and Budget, the average hourly wage paid to non-managerial  
149 employees in the Commonwealth for the industries involved at the project, as established by the  
150 United States Bureau of Labor Statistics;

151 (xiii) For project sites located outside of Metropolitan Statistical Areas, the average  
152 weekly wage paid to non-managerial employees in the county for industries involved at the  
153 project, as established by the United States Department of Commerce;

154 (xiv) The type and amount of health care coverage to be provided by the applicant  
155 within ninety days of commencement of employment at the project site, including any costs to be  
156 borne by the employees;

157 (xv) A list of all development subsidies which the applicant is requesting and the  
158 name of any other granting body from which such subsidies are sought;

159 (xvi) The value of any additional private investment to be committed to this  
160 project;

161 (xvi) A statement as to whether the development subsidy may reduce employment  
162 at any other site controlled by the applicant or its corporate parent, within or without of the  
163 Commonwealth, resulting from automation, merger, acquisition, corporate restructuring or other  
164 business activity;

165 (xvii) A certification by the chief officer of the applicant as to the accuracy of the  
166 application.

167 (1) If the granting body shall approve the application, it shall send a copy to the  
168 Executive Office of Housing and Economic Development within fifteen days of such approval.  
169 If the application is not approved, the granting body shall retain the application in its records.

## 170 Section. 5 Reports

### 171 (a) Annual reports

172 (i) Each granting body shall file a progress report with the Executive Office of  
173 Housing and Economic Development for each project for which a development subsidy has been  
174 granted, no later than February 1 each year. The report shall include the following information:-

175 (1) The application tracking number;

176 (2) The name, street and mailing addresses, phone number and chief officer of the  
177 granting body;

178 (3) The name, street and mailing addresses, phone number, and chief officer of the  
179 recipient corporation;

180 (4) The value and source of each subsidy, including TIF, annually and cumulative;

181 (5) A list of all other development subsidies which the applicant has been granted by state  
182 or local agencies within the Commonwealth.

183 (i) Subsidies granted over a period of time, including but not limited to tax  
184 increment financing agreements, shall include both the value of the annual subsidy and the  
185 estimated cumulative total for each subsequent year.

186 (6) The value of committed private investment and the value of the actual private  
187 investment;

188 (7) A summary of the number of jobs committed, created, and lost, broken down by full-  
189 time, part- time and temporary positions, and by wage groups.

190 (8) The type and amount of health care coverage provided to the employees at the project  
191 site, including any costs borne by the employees;

192 (9) The comparison of the total employment in the Commonwealth by the recipient's  
193 corporate parent on the date of the application and the date of the report, broken down by full-  
194 time, part-time and temporary positions;

195 (10) A statement as to whether the use of the development subsidy during the previous  
196 fiscal year has reduced employment at any other site controlled by the recipient corporation or its  
197 corporate parent, within or without of the Commonwealth as a result of automation, merger,  
198 acquisition, corporate restructuring or other business activity;

199 (11) A signed certification by the chief officer of the recipient corporation as to the  
200 accuracy of the progress report;

201 (ii) On all subsequent annual progress reports, the granting body shall indicate  
202 whether the recipient corporation is still in compliance with its job creation, wage and benefit  
203 goals, and whether the corporate parent is still in compliance with its state employment  
204 requirement;

205 (iii) Granting bodies and recipient corporations shall file annual progress reports  
206 for the duration of the subsidy, or not less than five years, whichever period is greater.

207 (b) Two-Year Report

208 (i) No later than fifteen days after the second anniversary of the date of subsidy, the  
209 granting body shall file with the Executive Office of Housing and Economic Development a two-  
210 year progress report including the same information as required under section 5(a) The recipient  
211 corporation shall certify as to the accuracy of such report.

212 (ii) The granting body shall state in the two-year report whether the recipient  
213 corporation has achieved its job creation, wage and benefit goals, and whether the corporate  
214 parent has maintained 90% of its employment in the Commonwealth.

215 (c) The Executive Office of Housing and Economic Development (EOHED) shall  
216 compile and publish all data from the progress reports in both written and electronic form,  
217 including to a reporting web site maintained by the Executive Office of Housing and Economic  
218 Development. The information in the reports shall be included as part of the Searchable Website  
219 administered by the Secretary of Administration and Finance.

220 (d) The granting body and the Executive Office of Housing and Economic  
221 Development shall have access at all reasonable times to the project site and the records of the  
222 recipient corporation in order to monitor the project and to prepare progress reports. The  
223 Executive Office of Housing and Economic Development shall commit the resources necessary  
224 to audit compliance and verify the accuracy of progress reports.

225 (e) A recipient corporation that fails to provide the granting body with the  
226 information or access required under paragraphs (1) and (2) of this section shall be subject to a  
227 fine of not less than \$500 per day to commence within ten working days after the February 1  
228 deadline, and of not less than \$1,000 per day to commence twenty days after such deadline.

229 Section. 6 Subsidy Limit and Job Quality Standards

230 (a) A granting body shall not grant award a development subsidy if the cost per  
231 permanent, full-time job is greater than \$35,000.00. Such cost shall be determined by dividing  
232 the amount of the subsidy by the number of permanent, full-time jobs required under the  
233 application approved by the granting body.

234 (b) A granting body shall not grant a subsidy to an applicant unless the wages paid to  
235 employees at the project site are equal to or exceed 85% of the average wage as established  
236 under paragraphs (xii) and (xiii) of section 4, provided, however, that for small businesses, the

237 average wage must equal or exceed 75% of the wages established hereunder. The computation  
238 of wages under this section shall only apply to a recipient corporation that provides the health  
239 care coverage as approved in its application by the granting body.

240 Section 7. Recapture

241 (a) A recipient corporation shall fulfill its job creation, wage, health care and other  
242 benefit requirements for the project site within two years of the date of subsidy. Such recipient  
243 shall maintain its wage and benefit goals as long as the subsidy is in effect, or five years,  
244 whichever is longer.

245 (b) The corporate parent of a recipient corporation must maintain at least 90% of its  
246 employment in the Commonwealth as long as the development subsidy is in effect, or not less  
247 than five years, whichever is longer.

248 (c) If the requirements under paragraphs (a) or (b) are not fulfilled, the granting body  
249 shall recapture the development subsidy from the recipient corporation as follows:

250 (i) Upon a failure by the recipient corporation to create the required number of jobs  
251 or to pay the required wages or benefits, the amount recaptured shall be based on the pro rata  
252 amount by which the unfulfilled jobs, wages or benefits bear to the total amount of the  
253 development subsidy.

254 (ii) Upon a failure of the corporate parent to maintain 90% of its employment in the  
255 Commonwealth, the rate of recapture shall equal twice the percentage by which such  
256 employment is less than 90%.

257 (d) The granting body shall provide notice to the recipient corporation of its intent to  
258 recapture the development subsidy and state the reasons and amount to be recaptured. The  
259 recipient corporation shall remit to the governing body such amount within 60 calendar days of  
260 the date of such notice.

261 (e) If a recipient corporation fails to create at least 90% of the required number of  
262 jobs or to pay the required wages or benefits for three consecutive calendar years, the granting  
263 body shall declare the subsidy null and void, and shall so notify the Executive Office of Housing  
264 and Economic Development and the recipient corporation. The recipient corporation shall pay  
265 back to the granting body all remaining value of the development subsidy it has not previously  
266 repaid within 180 calendar days of the date of the notice of such default.

267 (i) Recipient corporations that have defaulted on their agreement and had their full  
268 subsidy recaptured shall be barred from applying for any other economic development subsidy in  
269 the Commonwealth for a period not less than 5 years.

#### 270 Section 8. Private Enforcement Action

271 If a granting body fails to enforce any provision of this Act, any individual who paid  
272 personal income taxes to the Commonwealth in the calendar year prior to the year in dispute, or  
273 any organization representing such taxpayers, shall be entitled to bring a civil action in state  
274 court to compel enforcement under this statute. The court shall award reasonable attorney's fees  
275 and costs to such prevailing taxpayer or organization.

#### 276 Section 9. Transparency & Public Record Disclosure



277 (a) All records required to be prepared or maintained under this Act, including but  
278 not limited to applications, progress reports, audits, recapture notices and any other records or  
279 proceedings relating thereto, shall be subject to disclosure under the Commonwealth's Open  
280 Records Law and be made available as part of the Searchable Website administered by the  
281 Secretary of Administration and Finance.

282 (b) Granting bodies administering discretionary economic development incentive  
283 programs, including but not limited to the Economic Assistance Coordinating Council and the  
284 Massachusetts Life Sciences Center, shall be required to:

285 (i) Post meeting dates 30 days in advance on the website of the Executive  
286 Office of Housing and Economic Development.

287 (ii) Make meeting agendas and supporting materials, including but not limited to  
288 the full text of the applications to be considered, publicly available on the website of the  
289 Executive Office of Housing and Economic Development at least 2 weeks prior to the meeting.

290 (iii) Make meeting members, votes, and minutes publicly available on the website  
291 of the Executive Office of Housing and Economic Development within 24 hours of the meeting.

## 292 Section 10. Pre-emption

293 Nothing in this chapter shall be read to require or authorize any recipient corporation to  
294 reduce wages or benefits established under any collective bargaining agreement or state or  
295 federal prevailing wage law.

## 296 Section 11. Separability

297 If any provision of this Act is determined to be unenforceable in a court of law, such  
298 determination shall not affect the validity or enforceability of any other provision of this Act.

299 Section 12. Waivers

300 The Executive Office of Economic Development may waive the subsidy limit and job  
301 quality standards described in section 6 upon a finding that there exists significant public policy  
302 goals apart from job creation. Thirty days prior to waiving requirements, the Executive Office of  
303 Economic Development shall publish its intent to do so on its reporting website with an  
304 explanation of the specific public policy goals, why the waiver is necessary to meet the public  
305 policy goals and define objective standards by which the public policy goals will be measured.  
306 The one and two year progress reports described in section 5 will use these standards to  
307 determine whether these public policy goals were met.