

HOUSE No. xxxxx

The Commonwealth of Massachusetts

PRESENTED BY:

Carl M. Sciortino, Jr.

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 passage of the accompanying bill:

An Act To Promote Efficiency and Transparency in Economic Development.

PETITION OF:

NAME:

Carl M. Sciortino, Jr.

DISTRICT/ADDRESS:

34th Middlesex

HOUSE No. XXXXX

[Pin Slip]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act To Promote 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 requires
4 otherwise, have the following meanings:-
5 “Corporate parent” means any person, association, corporation, joint venture, partnership, or
6 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 of a
8 development subsidy to a recipient corporation provided, however, that where the subsidy is for

9 the installation of new equipment, such date shall be the date the corporation puts the equipment
10 into service and provided, further, that where the subsidy is for improvements to property, such
11 date shall be the date the improvements are finished, or the date the corporation occupies the
12 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 corporation for at
19 least 35 hours per week.

20 "Granting body" means any agency, board, office, public benefit corporation or authority of the
21 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 number of
25 individuals employed by the recipient corporation in the Commonwealth. "New employee" does
26 not include an employee who performs a job that was previously performed by another employee
27 of the recipient corporation if that job existed for at least 6 months before hiring the employee.

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

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

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

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

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

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

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

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

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

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

49 Section 2. Unified Economic Development Budget

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

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

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

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

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

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

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

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

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

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

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

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

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

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

113 Section 4. Application for Economic Development Subsidies

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

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

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

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

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

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

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

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

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

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

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

134 (xi) The average hourly wage to be paid to all current and new employees at the project site,
135 broken down by full-time, part-time and temporary positions, and further broken down by wage
136 groups as follows: \$8.00 or less an hour, \$8.01 to \$9.00 an hour, \$9.01 to \$10.00 an hour,
137 \$10.01 to \$11.00 an hour, \$11.01 to \$12.00 an hour, \$12.01 to \$13.00 an hour, \$13.01 to \$14.00
138 an hour, and \$14.01 to \$15.00 an hour, \$15.01 to \$16.00 an hour, \$17.01 to \$18.00 an hour,
139 \$18.01 to \$19.00 an hour, \$19.01 to \$20.00 an hour, \$20.01 to \$21.00 and hour, \$21.01 to \$22.00
140 and hour, \$22.01 to \$23.00 an hour, \$23.01 to \$24.00 an hour, \$24.01 to \$25.00 and hour, \$25.01
141 to \$30.00 an hour, \$30.01 to \$40.00 an hour, \$40.01 to \$50.00 an hour and \$50.01 or more per
142 hour;

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

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

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

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

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

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

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

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

163 Section. 5 Reports

164 (a) Annual reports

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

169 (1) The application tracking number;

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

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

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

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

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

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

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

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

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

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

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

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

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

198 (b) Two-Year Report

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

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

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

211 (d) The granting body and the Executive Office of Housing and Economic Development shall
212 have access at all reasonable times to the project site and the records of the recipient corporation
213 in order to monitor the project and to prepare progress reports. The Executive Office of Housing

214 and Economic Development shall commit the resources necessary to audit compliance and verify
215 the accuracy of progress reports.

216 (e) A recipient corporation that fails to provide the granting body with the information or access
217 required under paragraphs (1) and (2) of this section shall be subject to a fine of not less than
218 \$500 per day to commence within ten working days after the February 1 deadline, and of not less
219 than \$1,000 per day to commence twenty days after such deadline.

220 Section. 6 Subsidy Limit and Job Quality Standards

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

225 (b) A granting body shall not grant a subsidy to an applicant unless the wages paid to employees
226 at the project site are equal to or exceed 85% of the average wage as established under
227 paragraphs (xii) and (xiii) of section 4, provided, however, that for small businesses, the average
228 wage must equal or exceed 75% of the wages established hereunder. The computation of wages
229 under this section shall only apply to a recipient corporation that provides the health care
230 coverage as approved in its application by the granting body.

231 Section 7. Recapture

232 (a) A recipient corporation shall fulfill its job creation, wage, health care and other benefit
233 requirements for the project site within two years of the date of subsidy. Such recipient shall

234 maintain its wage and benefit goals as long as the subsidy is in effect, or five years, whichever is
235 longer.

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

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

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

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

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

252 (e) If a recipient corporation fails to create at least 90% of the required number of jobs or to pay
253 the required wages or benefits for three consecutive calendar years, the granting body shall
254 declare the subsidy null and void, and shall so notify the Executive Office of Housing and

255 Economic Development and the recipient corporation. The recipient corporation shall pay back
256 to the granting body all remaining value of the development subsidy it has not previously repaid
257 within 180 calendar days of the date of the notice of such default.

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

261 Section 8. Private Enforcement Action

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

267 Section 9. Transparency & Public Record Disclosure

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

273

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

277

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

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

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

285 Section 10. Pre-emption

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

289 Section 11. Separability

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

292 Section 12. Waivers

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

301