S T A T E O F N E W Y O R K

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2011-2012 Regular Sessions

I N S E N A T E

January 13, 2011

Introduced by Sen. ESPAILLAT -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to establishing the position of the public authorities inspector general; to amend the public authorities law and the general municipal law, in relation to the accountability of industrial development agencies and prevailing wage requirements for industrial development agency projects and certain empire zone work; and to amend the public health law, in relation to providing health care coverage for workers on industrial development agency projects and certain empire zone work

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public authorities law is amended by adding a new article 1-B to read as follows:

ARTICLE 1-B

PUBLIC AUTHORITIES INSPECTOR GENERAL

SECTION 55. PUBLIC AUTHORITIES INSPECTOR GENERAL; APPOINTMENT; TERM OF OFFICE.

56. OFFICE OF THE PUBLIC AUTHORITIES INSPECTOR GENERAL.

57. AUTHORITY OF THE INSPECTOR GENERAL.

S 55. PUBLIC AUTHORITIES INSPECTOR GENERAL; APPOINTMENT; TERM OF OFFICE. 1. AS USED IN THIS ARTICLE:

A. THE TERM "ATTORNEY GENERAL" SHALL MEAN THE NEW YORK STATE ATTORNEY GENERAL;

B. THE TERM "INSPECTOR GENERAL" SHALL MEAN THE PUBLIC AUTHORITIES INSPECTOR GENERAL CREATED BY SUBDIVISION TWO OF THIS SECTION; AND

C. THE TERM "PUBLIC AUTHORITY" SHALL INCLUDE ANY AUTHORITY OR OTHER PUBLIC BENEFIT CORPORATION CREATED IN THIS CHAPTER OR ANY OTHER LAW, INCLUDING BUT NOT LIMITED TO AN INDUSTRIAL DEVELOPMENT AGENCY.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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2. THERE SHALL BE A PUBLIC AUTHORITIES INSPECTOR GENERAL WHO SHALL HAVE AND EXERCISE THE POWERS, DUTIES AND PREROGATIVES PROVIDED BY THIS CHAPTER AND ANY OTHER PROVISIONS OF LAW. THE INSPECTOR GENERAL SHALL BE APPOINTED BY THE ATTORNEY GENERAL.

3. THE TERM OF THE FIRST INSPECTOR GENERAL APPOINTED UNDER THIS ARTICLE SHALL BEGIN ON THE DATE OF APPOINTMENT, AND SHALL END ON THE MARCH THIRTY-FIRST OF THE FIFTH CALENDAR YEAR BEGINNING AFTER THE EFFECTIVE DATE OF THIS ARTICLE. ALL SUBSEQUENT INSPECTORS GENERAL SHALL BE APPOINTED FOR A FIVE YEAR TERM. IN THE EVENT THAT A VACANCY SHALL OCCUR FOR ANY REASON DURING ANY FIVE YEAR TERM, THE VACANCY SHALL BE FILLED FOR THE REMAINDER OF THE UNCOMPLETED TERM, PROVIDED, HOWEVER, THAT IF THE UNCOMPLETED TERM IS LESS THAN TWO YEARS, THE ATTORNEY GENERAL MAY APPOINT THE NEW INSPECTOR GENERAL TO A FULL FIVE YEAR TERM.

4. THE OFFICE OF THE INSPECTOR GENERAL SHALL BE AN INDEPENDENT OFFICE AND SHALL NOT BE A UNIT OF THE ATTORNEY GENERAL'S OFFICE. THE SALARY OF THE INSPECTOR GENERAL SHALL BE AS PROVIDED BY LAW, AND THE ANNUAL BUDGET FOR THE OFFICE SHALL BE DETERMINED AND FUNDED IN THE MANNER PROVIDED BY SECTION FIFTY-SIX OF THIS ARTICLE. THE OFFICE OF GENERAL SERVICES SHALL ARRANGE FOR SUITABLE OFFICE SPACE, EQUIPMENT AND RESOURCES. EACH PUBLIC AUTHORITY SUBJECT TO THE OFFICE OF THE INSPECTOR GENERAL SHALL PROVIDE SUITABLE OFFICE SPACE, EQUIPMENT AND RESOURCES FOR EMPLOYEES OF THE INSPECTOR GENERAL ASSIGNED TO SUCH PUBLIC AUTHORITY ON A FULL-TIME OR PART-TIME BASIS.

5. THE INSPECTOR GENERAL MAY NOT BE REMOVED EXCEPT BY A JOINT RESOLUTION OF THE LEGISLATURE, AFTER NOTICE AND OPPORTUNITY FOR HEARING, ONLY FOR:

A. PERMANENT DISABILITY;

B. INEFFICIENCY;

C. NEGLECT OF DUTY;

D. MALFEASANCE; OR

E. A FELONY OR CONDUCT INVOLVING MORAL TURPITUDE.

S 56. OFFICE OF THE PUBLIC AUTHORITIES INSPECTOR GENERAL. 1. THE INSPECTOR GENERAL SHALL BE AUTHORIZED TO APPOINT AND AT PLEASURE REMOVE DEPUTY INSPECTORS GENERAL, ASSISTANT DEPUTY INSPECTORS GENERAL, AND SUCH OTHER STAFF, INCLUDING INVESTIGATORS, ACCOUNTANTS, ADMINISTRATIVE ASSISTANTS AND SUCH OTHER SUPPORT STAFF AND CONSULTANTS AS HE OR SHE SHALL DEEM NECESSARY AND APPROPRIATE TO ACCOMPLISH THE RESPONSIBILITIES AND DUTIES CONTAINED IN THIS ARTICLE OR ELSEWHERE IN LAW, AND FIX AND DETERMINE THE QUALIFICATIONS, DUTIES AND COMPENSATION OF SUCH ADDITIONAL OFFICERS AND STAFF, SUBJECT TO THE PROVISIONS OF THE CIVIL SERVICE LAW AND SUCH RULES AS THE CIVIL SERVICE COMMISSION MAY ADOPT AND MAKE APPLICABLE TO THE OFFICE OF THE INSPECTOR GENERAL. THE INSPECTOR GENERAL MAY ALSO FROM TIME TO TIME CONTRACT FOR SUCH EXPERT PROFESSIONAL SERVICES AS MAY BE DEEMED NECESSARY AND CONVENIENT.

2. NOT MORE THAN NINETY DAYS FROM THE BEGINNING OF HIS OR HER TERM, THE FIRST INSPECTOR GENERAL SHALL PROPOSE AND DELIVER TO THE GOVERNOR, THE ATTORNEY GENERAL, THE COMPTROLLER, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY A PLAN OF ORGANIZATION OF THE OFFICE OF THE INSPECTOR GENERAL SO AS TO PROVIDE THE SERVICES NORMALLY PROVIDED BY AN INSPECTOR GENERAL IN AN ADEQUATE AND COST EFFECTIVE MANNER. THEREAFTER, THE INSPECTOR GENERAL MAY FROM TIME TO TIME PROPOSE AN AMENDED OR MODIFIED PLAN OF ORGANIZATION. SUCH PLAN SHALL EVALUATE THE PROJECTED NEEDS OF EACH PUBLIC AUTHORITY FOR THE SERVICES OF THE INSPECTOR GENERAL WHICH SHALL BE BASED ON RELEVANT CONSIDERATIONS, INCLUDING WITHOUT LIMITATION, THE SIZE OF THE AUTHORITY AND THE COMPLEXITY OF ITS BUSINESS; WHETHER THE BUSINESS OF THE AUTHORITY IS SUCH THAT

WOULD PROVIDE THE OPPORTUNITY FOR WRONGDOING AND WHETHER THERE IS ANY HISTORY OF WRONGDOING IN THE AUTHORITY; AND WHETHER THERE ARE OTHER AUTHORITIES IN THE SAME OR SIMILAR BUSINESS SUCH THAT IT WOULD PROMOTE EFFICIENCY FOR THEM TO SHARE INSPECTOR GENERAL STAFF. SUCH PROPOSED PLAN OF ORGANIZATION SHALL SET FORTH THE FOLLOWING ITEMS:

A. THE NAMES OF THE PUBLIC AUTHORITIES THAT REQUIRE A FULL-TIME DEPUTY INSPECTOR GENERAL WITH OR WITHOUT ONE OR MORE ASSISTANT DEPUTY INSPECTORS GENERAL;

B. A DESCRIPTION OF GROUPS OF PUBLIC AUTHORITIES, BY NAMES, BY CHARACTERISTICS, OR BY PURPOSE THAT COULD BE COVERED BY ONE DEPUTY INSPECTOR GENERAL WITH OR WITHOUT ONE OR MORE ASSISTANT DEPUTY INSPECTORS GENERAL;

C. A PLAN TO PROVIDE INSPECTOR GENERAL SERVICES TO THE PUBLIC AUTHORITIES NOT COVERED BY PARAGRAPHS A AND B OF THIS SUBDIVISION; AND

D. SUCH OTHER MATTER AS MAY BE DEEMED APPROPRIATE.

3. THE PLAN OF ORGANIZATION OF THE INSPECTOR GENERAL SHALL BE EFFECTIVE UNTIL MODIFIED, AMENDED OR REPLACED BY LAW.

4. NOTWITHSTANDING ANY PLAN OF ORGANIZATION, THE INSPECTOR GENERAL MAY BE REQUIRED BY LAW TO PROVIDE INSPECTOR GENERAL SERVICES TO ANY PUBLIC AUTHORITY OR GROUP OF PUBLIC AUTHORITIES IN A SPECIFIC MANNER SPECIFIED IN SUCH LAW.

5. ALL COSTS AND EXPENSES OF THE OFFICE OF THE INSPECTOR GENERAL SHALL BE PAID PURSUANT TO APPROPRIATION IN THE FIRST INSTANCE FROM THE STATE TREASURY ON THE CERTIFICATION OF THE INSPECTOR GENERAL AND UPON THE AUDIT AND WARRANT OF THE COMPTROLLER. THE STATE TREASURY SHALL BE REIMBURSED THEREFOR BY PAYMENTS TO BE MADE THERETO FROM ALL MONEYS COLLECTED PURSUANT TO THIS SECTION. THE TOTAL OF SUCH COSTS AND EXPENSES SHALL BE BORNE BY THE PUBLIC AUTHORITIES AND PUBLIC BENEFIT CORPORATIONS SUBJECT TO THE INSPECTOR GENERAL, TO BE ASSESSED IN THE MANNER PROVIDED IN SUBDIVISIONS SIX, SEVEN AND EIGHT OF THIS SECTION.

6. THE INSPECTOR GENERAL SHALL ESTIMATE AND DELIVER TO THE ATTORNEY GENERAL, THE COMPTROLLER, THE DIRECTOR OF THE BUDGET, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY PRIOR TO DECEMBER FIRST OF EACH YEAR THE TOTAL COSTS AND EXPENSES FOR THE SUBSEQUENT STATE FISCAL YEAR, INCLUDING THE COMPENSATION AND EXPENSES OF THE INSPECTOR GENERAL AND HIS OR HER STAFF, THEIR AGENTS AND EMPLOYEES, AND INCLUDING THE COST OF RETIREMENT CONTRIBUTIONS, SOCIAL SECURITY, HEALTH AND DENTAL INSURANCE, SURVIVOR'S BENEFITS, WORKERS' COMPENSATION, UNEMPLOYMENT INSURANCE AND OTHER FRINGE BENEFITS REQUIRED TO BE PAID BY THE STATE FOR THE PERSONNEL OF THE OFFICE OF THE INSPECTOR GENERAL, AND INCLUDING ALL OTHER ITEMS OF MAINTENANCE AND OPERATION EXPENSES, AND ALL OTHER DIRECT AND INDIRECT COSTS. BASED ON SUCH ESTIMATE, THE INSPECTOR GENERAL SHALL DETERMINE THE AMOUNT TO BE PAID BY EACH PUBLIC AUTHORITY AND PUBLIC BENEFIT CORPORATION IN ACCORDANCE WITH SUBDIVISION SEVEN OF THIS SECTION. UNLESS AMENDED BY LAW, THE ESTIMATE AND ALLOCATION SHALL BECOME FINAL. THE INSPECTOR GENERAL SHALL RENDER BILLS IN ACCORDANCE WITH THE ORIGINAL ESTIMATE AND ALLOCATION TO EACH SUCH PUBLIC AUTHORITY AND PUBLIC BENEFIT CORPORATION, NOT LATER THAN FEBRUARY FIRST PRIOR TO THE BEGINNING OF THE APPLICABLE FISCAL YEAR; AN AMENDED BILL IN ACCORDANCE WITH ANY AMENDING CHAPTER OF LAW SHALL BE SENT OUT AS SOON AS PRACTICABLE AFTER THE ENACTMENT OF SUCH LAW.

7. THE ESTIMATE OF TOTAL COSTS AND EXPENSES SHALL BE ALLOCATED AMONG THE PUBLIC AUTHORITIES ON AN EQUITABLE BASIS CONSISTENT WITH THE FOLLOWING PRINCIPLES:

A. EACH PUBLIC AUTHORITY SHALL BE ASSESSED FOR THE ESTIMATED COSTS AND EXPENSES RELATING TO ANY DEPUTY INSPECTOR GENERAL, ALL OTHER PERSONNEL, AND ANY OTHER EXPENDITURES DEDICATED TO SUCH PUBLIC AUTHORITY;

B. EACH PUBLIC AUTHORITY THAT IS A MEMBER OF A GROUP OF PUBLIC AUTHORITIES WHICH SHARES RESOURCES SHALL BE ASSESSED FOR A PROPORTIONAL SHARE OF THE ESTIMATED COSTS AND EXPENSES RELATING TO ANY DEPUTY INSPECTOR GENERAL, ALL OTHER PERSONNEL, AND ANY OTHER EXPENDITURES DEDICATED TO SUCH GROUP; AND

C. EACH PUBLIC AUTHORITY SHALL BE ASSESSED FOR A PROPORTIONAL SHARE OF THE ESTIMATED COSTS AND EXPENSES RELATING TO THE INSPECTOR GENERAL, ANY DEPUTY INSPECTOR GENERALS, AND ALL OTHER PERSONNEL, AND ANY OTHER EXPENDITURES WHICH ARE NOT DEDICATED TO ANY PUBLIC AUTHORITY OR GROUP OF PUBLIC AUTHORITIES.

8. THE PUBLIC AUTHORITIES SHALL PAY THE INSPECTOR GENERAL'S ASSESSMENT TO THE STATE TREASURY IN QUARTERLY INSTALLMENTS DUE ON OR BEFORE APRIL FIRST (WHICH PAYMENT MAY BE PROVISIONAL IF A FINAL AMENDED BILL HAS NOT BEEN SENT), JULY FIRST, OCTOBER FIRST, AND JANUARY FIRST OF EACH STATE FISCAL YEAR.

S 57. AUTHORITY OF THE INSPECTOR GENERAL. 1. IN ADDITION TO ANY OTHER DUTIES AND RESPONSIBILITIES AS MAY BE PROVIDED BY LAW, THE INSPECTOR GENERAL SHALL HAVE THE DUTY AND RESPONSIBILITY TO:

A. INITIATE, CONDUCT, AND SUPERVISE SUCH INQUIRIES AND INVESTIGATIONS RELATING TO ANY ALLEGED OR POSSIBLE WRONG, WHETHER CIVIL, CRIMINAL, ADMINISTRATIVE, OR ETHICAL IN NATURE, IN ANY PUBLIC AUTHORITY AS HE OR SHE CONSIDERS APPROPRIATE BASED ON INFORMATION RECEIVED FROM ANY OFFICER OR EMPLOYEE OF THE AUTHORITY OR FROM ANY OTHER INFORMANT, OR UPON HIS OR HER OWN INITIATIVE, PROVIDED, HOWEVER, THAT THE INSPECTOR GENERAL SHALL PROMPTLY TURN OVER TO THE PROPER PROSECUTORIAL AUTHORITIES ANY SUBSTANTIAL EVIDENCE THAT A CRIME HAS BEEN COMMITTED;

B. INVESTIGATE EVIDENCE OR ALLEGATIONS OF CORRUPTION, GRAFT, FRAUD, CONFLICTS OF INTEREST, UNLAWFUL DISCRIMINATION OR OTHER ABUSE IN ANY PUBLIC AUTHORITY;

C. INFORM THE GOVERNOR, THE COMPTROLLER, THE LEADERS OF THE SENATE AND THE ASSEMBLY, THE BOARDS AND EXECUTIVE MANAGEMENT OF THE INVOLVED PUBLIC AUTHORITY AND THE PUBLIC CONCERNING ALLEGATIONS, EVIDENCE AND THE RESULTS OF INVESTIGATIONS; PROVIDED, HOWEVER, THAT SUCH REPORTING SHALL BE DONE AT SUCH TIMES AND IN SUCH DETAIL AS THE CIRCUMSTANCES REQUIRE;

D. RECOMMEND APPROPRIATE ACTION WITH RESPECT TO EACH INVESTIGATION, SUCH AS DISCIPLINARY ACTION, CIVIL LAWSUIT, CRIMINAL PROSECUTION, OR REFERRAL TO AN APPROPRIATE FEDERAL, STATE, OR LOCAL AGENCY FOR FURTHER INVESTIGATION OR ACTION AND TO COOPERATE IN ANY CONTINUING INVESTIGATION;

E. PREPARE AND RELEASE TO THE PUBLIC WRITTEN REPORTS OF EACH SUCH INVESTIGATION AND PERIODIC SUMMARY REPORTS OF INVESTIGATIVE ACTIVITY; PROVIDED, HOWEVER, THAT SUCH REPORTS AND SUMMARY REPORTS MAY BE DELAYED, REDACTED, OR WRITTEN USING FICTITIOUS NAMES SO AS TO PRESERVE THE PRIVACY RIGHTS OF AFFECTED INDIVIDUALS;

F. REVIEW AND EXAMINE THE POLICIES AND PROCEDURES OF PUBLIC AUTHORITIES WITH REGARD TO THE PREVENTION AND DETECTION OF CORRUPTION, GRAFT, FRAUD, CONFLICTS OF INTEREST, UNLAWFUL DISCRIMINATION OR OTHER ABUSE;

G. RECOMMEND REMEDIAL ACTION TO PREVENT OR ELIMINATE CORRUPTION, GRAFT, FRAUD, CONFLICTS OF INTEREST, UNLAWFUL DISCRIMINATION OR OTHER ABUSE; AND

H. ESTABLISH OR MONITOR TRAINING PROGRAMS FOR OFFICERS AND EMPLOYEES OF PUBLIC AUTHORITIES REGARDING THE PREVENTION OR ELIMINATION OF CORRUPTION, GRAFT, FRAUD, CONFLICTS OF INTEREST, UNLAWFUL DISCRIMINATION OR OTHER ABUSE.

2. IN ADDITION TO THE AUTHORITY OTHERWISE PROVIDED BY LAW, THE INSPECTOR GENERAL, EACH DEPUTY INSPECTOR GENERAL AND EACH ASSISTANT DEPUTY

INSPECTOR GENERAL, IN CARRYING OUT THE PROVISIONS OF THIS ARTICLE, IS AUTHORIZED TO:

A. HAVE ACCESS TO ALL RECORDS, REPORTS, AUDITS, REVIEWS, DOCUMENTS, PAPERS, RECOMMENDATIONS, OR OTHER MATERIAL ON ANY MATTER INVOLVING THE OPERATIONS OR ADMINISTRATION OF ANY PUBLIC AUTHORITY SUBJECT TO INVESTIGATION BY THE INSPECTOR GENERAL;

B. REQUEST SUCH INFORMATION OR ASSISTANCE AS MAY BE NECESSARY FOR CARRYING OUT THE DUTIES AND RESPONSIBILITIES OF THE INSPECTOR GENERAL FROM ANY FEDERAL, STATE, OR LOCAL GOVERNMENT OR ANY AGENCY OR UNIT THEREOF;

C. REQUIRE BY SUBPOENA THE PRODUCTION OF ALL INFORMATION, DOCUMENTS, REPORTS, ANSWERS, RECORDS, ACCOUNTS, PAPERS, AND OTHER DATA AND DOCUMENTARY EVIDENCE NECESSARY OR USEFUL IN THE PERFORMANCE OF THE DUTIES OR RESPONSIBILITIES OF THE INSPECTOR GENERAL, WHICH SUBPOENA SHALL BE ENFORCEABLE BY ORDER OF THE SUPREME COURT OF APPROPRIATE JURISDICTION AND VENUE;

D. ADMINISTER TO OR TAKE FROM ANY PERSON AN OATH, AFFIRMATION, OR AFFIDAVIT, WHENEVER NECESSARY IN THE PERFORMANCE OF THE DUTIES OR RESPONSIBILITIES OF THE INSPECTOR GENERAL, WHICH OATH, AFFIRMATION, OR AFFIDAVIT WHEN ADMINISTERED OR TAKEN BY OR BEFORE AN EMPLOYEE OF THE OFFICE OF INSPECTOR GENERAL DESIGNATED BY THE INSPECTOR GENERAL SHALL HAVE THE SAME FORCE AND EFFECT AS IF ADMINISTERED OR TAKEN BY OR BEFORE A NOTARY PUBLIC;

E. HAVE DIRECT AND PROMPT ACCESS TO THE HEAD OF ANY PUBLIC AUTHORITY WHEN NECESSARY OR USEFUL IN THE PERFORMANCE OF THE DUTIES OR RESPONSIBILITIES OF THE INSPECTOR GENERAL; AND

F. ENTER INTO CONTRACTS AND OTHER ARRANGEMENTS FOR AUDITS, STUDIES, ANALYSES, AND OTHER SERVICES WITH PUBLIC AGENCIES OR WITH PRIVATE PERSONS AS MAY BE DEEMED NECESSARY OR USEFUL IN THE PERFORMANCE OF THE DUTIES OR RESPONSIBILITIES OF THE INSPECTOR GENERAL.

3. A. NO INFORMATION, DOCUMENTS, REPORTS, ANSWERS, RECORDS, ACCOUNTS, PAPERS, AND OTHER DATA AND DOCUMENTARY EVIDENCE SHALL BE DENIED TO THE INSPECTOR GENERAL OR ANY PERSON ACTING ON BEHALF OF THE INSPECTOR GENERAL: (I) BECAUSE OF ANY PRIVILEGE OR ALLEGED PRIVILEGE, INCLUDING BUT NOT LIMITED TO THE ATTORNEY-CLIENT PRIVILEGE, EXECUTIVE PRIVILEGE, OR PUBLIC INTEREST PRIVILEGE, WHICH BELONGS TO OR COULD BE WAIVED BY THE PUBLIC AUTHORITY IN POSSESSION OF THE INFORMATION; OR (II) BECAUSE OF ANY DEFENSE THAT THE PUBLIC AUTHORITY MAY HAVE AGAINST ANY REQUEST FOR ANY SUCH EVIDENCE UNDER ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

B. IF ANY PUBLIC AUTHORITY BELIEVES THAT ANY SUCH EVIDENCE IS PRIVILEGED OR OTHERWISE PROTECTED AGAINST DISCLOSURE, SUCH PUBLIC AUTHORITY SHALL NEVERTHELESS MAKE OR PERMIT ANY SUCH DISCLOSURE, AND THE PUBLIC AUTHORITY MAY AT THE TIME OF SUCH DISCLOSURE MAKE A CLAIM OF CONFIDENTIALITY FOR ANY SUCH EVIDENCE AND STATE WITH PARTICULARITY THE NATURE OF SUCH CLAIM.

C. NOTWITHSTANDING ANY OTHER PROVISIONS OF STATUTE OR COMMON LAW, THE DISCLOSURE OF ANY EVIDENCE TO THE INSPECTOR GENERAL UNDER A CLAIM OF CONFIDENTIALITY SHALL NOT BE CONSTRUED TO BE A WAIVER OF ANY PRIVILEGE OR ANY OTHER PROTECTION AGAINST DISCLOSURE. SUCH EVIDENCE SHALL BE PROTECTED AGAINST SUBPOENA OR OTHER FORM OF FORCED DISCLOSURE TO THE SAME EXTENT THAT IT WOULD HAVE BEEN IF IT HAD NEVER BEEN DISCLOSED TO THE INSPECTOR GENERAL.

D. THE INSPECTOR GENERAL MAY IN HIS OR HER DISCRETION DETERMINE TO DISCLOSE ANY EVIDENCE RECEIVED UNDER THE CLAIM OF CONFIDENTIALITY UPON A FINDING THAT THE MATTER UNDER INVESTIGATION IS HIGHLY IMPORTANT TO THE PUBLIC AUTHORITY AND THAT THE PUBLIC HAS A RIGHT TO RECEIVE KNOWLEDGE OF

THE RESULT OF THE INVESTIGATION, AND THAT THE EVIDENCE (I) IS HIGHLY MATERIAL AND RELEVANT TO THE MATTER UNDER INVESTIGATION; (II) THAT IT IS CRITICAL OR NECESSARY TO AN UNDERSTANDING OF THE OUTCOME OF THE INVESTIGATION; AND (III) THAT IT IS NOT READILY OBTAINABLE FROM ANY ALTERNATIVE SOURCE.

E. NOTWITHSTANDING PARAGRAPH D OF THIS SUBDIVISION, THE INSPECTOR GENERAL MAY NOT DISCLOSE ANY EVIDENCE RECEIVED UNDER A CLAIM OF CONFIDENTIALITY WITHOUT FIRST GIVING THIRTY DAYS ADVANCE WRITTEN NOTICE TO THE PUBLIC AUTHORITY AND ANY OTHER PERSON WHO MAY BE ENTITLED TO OBJECT TO THE DISCLOSURE OF THE EVIDENCE. IN THE EVENT OF ANY CIVIL ACTION TO PREVENT THE DISCLOSURE OF ANY SUCH EVIDENCE, THE COURT SHALL ALLOW THE DISCLOSURE UNLESS IT SHALL FIND THAT THE INSPECTOR GENERAL HAS ABUSED HIS OR HER DISCRETION. THE COURT MAY AWARD REASONABLE ATTORNEYS' FEES AND DISBURSEMENTS REASONABLY INCURRED TO A LITIGANT THAT SUBSTANTIALLY PREVAILS AGAINST THE RELEASE OF INFORMATION BY THE INSPECTOR GENERAL IF THE INSPECTOR GENERAL LACKED A REASONABLE BASIS PURSUANT TO THIS ARTICLE FOR THE CHALLENGED RELEASE OF INFORMATION.

S 2. Subdivision 1 of section 51 of the public authorities law is amended by adding a new paragraph o to read as follows:

O. INDUSTRIAL DEVELOPMENT AGENCIES

S 3. Subdivision 14 of section 854 of the general municipal law, as added by chapter 356 of the laws of 1993, is amended and two new subdivisions 20 and 21 are added to read as follows:

(14) "Financial assistance" - shall mean the proceeds of bonds issued by an agency, straight-leases, or exemptions from taxation claimed by a project occupant as a result of an agency taking title, possession or control (by lease, license or otherwise) to the property or equipment of such project occupant or of such project occupant acting as an agent of an agency AND SHALL ALSO MEAN AND INCLUDE, NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, EACH CONTRACT, AGREEMENT OR UNDERSTANDING BY WHICH A PERSON, FIRM, PARTNERSHIP, COMPANY, ASSOCIATION OR CORPORATION RECEIVES AN AWARD, GRANT, LOAN, TAX ABATEMENT OR OTHER BUSINESS INCENTIVE FROM THE STATE, ANY OF ITS POLITICAL SUBDIVISIONS, OR ANY DEPARTMENT, BUREAU, BOARD, COMMISSION, AUTHORITY, OR ANY OTHER AGENCY OR INSTRUMENTALITY OF THE STATE OR ITS POLITICAL SUBDIVISIONS, OR ANY PUBLIC BENEFIT CORPORATION AS DEFINED IN SUBDIVISION FOUR OF SECTION SIXTY-SIX OF THE GENERAL CONSTRUCTION LAW, OR ANY MUNICIPAL CORPORATION AS DEFINED IN SUBDIVISION THREE OF SECTION THREE-A OF THIS CHAPTER FOR THE PURPOSES OF JOB TRAINING, JOB CREATION OR RETENTION, OR THE DEVELOPMENT OF ITS OPERATION WITHIN THE STATE.

(20) "PRESERVATION" SHALL MEAN MAINTAINING LANDS IN EXISTING USES, OR USES THAT ARE COMPATIBLE WITH EXISTING USES AND WHICH DO NOT INCREASE THE OVERALL DENSITY OF DEVELOPMENT IN AN AREA, AND MAINTAIN SCENIC, OPEN SPACE, WATER QUALITY, WETLANDS, AGRICULTURAL LANDS, AND WILDLIFE CONDITIONS IN AN AREA, OR RESTORING LANDS TO AN OPEN CONDITION.

(21) "PUBLIC OPEN SPACE" MEANS PRESERVATION AREAS THAT ARE ACCESSIBLE TO THE GENERAL PUBLIC FOR RECREATIONAL OR SCENIC USE, OR WHICH ARE RESERVED FOR WILDLIFE.

S 4. Subdivision 2 of section 856 of the general municipal law, as amended by chapter 356 of the laws of 1993, is amended to read as follows:

2. An agency shall be a corporate governmental agency, constituting a public benefit corporation. Except as otherwise provided by special act of the legislature, an agency shall consist of not less than [three] FIVE nor more than [seven] NINE members who shall be appointed by the governing body of each municipality and who shall serve at the pleasure

of the appointing authority. Such members [may] SHALL include, BUT NEED NOT BE LIMITED TO, representatives of [local government, school boards, organized labor and business] (A) BUSINESS IN THE LOCAL AREA, WHO

(1) ARE OWNERS OF BUSINESSES, CHIEF EXECUTIVES OR OPERATING OFFICERS OF BUSINESSES, AND OTHER BUSINESS EXECUTIVES OR EMPLOYERS WITH OPTIMUM POLICYMAKING OR HIRING AUTHORITY; (2) REPRESENT BUSINESSES WITH EMPLOYMENT OPPORTUNITIES THAT REFLECT THE EMPLOYMENT OPPORTUNITIES OF THE LOCAL AREA; AND (3) ARE APPOINTED FROM AMONG INDIVIDUALS NOMINATED BY LOCAL BUSINESS ORGANIZATIONS AND BUSINESS TRADE ASSOCIATIONS; AND (B) REPRESENTATIVES OF LOCAL EDUCATIONAL ENTITIES, INCLUDING REPRESENTATIVES OF LOCAL EDUCATIONAL AGENCIES, LOCAL SCHOOL BOARDS, ENTITIES PROVIDING ADULT EDUCATION AND LITERACY ACTIVITIES, AND POSTSECONDARY EDUCATIONAL INSTITUTIONS (INCLUDING REPRESENTATIVES OF COMMUNITY COLLEGES, WHERE SUCH ENTITIES EXIST), SELECTED FROM AMONG INDIVIDUALS NOMINATED BY REGIONAL OR LOCAL EDUCATIONAL AGENCIES, INSTITUTIONS, OR ORGANIZATIONS REPRESENTING SUCH LOCAL EDUCATIONAL ENTITIES; AND (C) REPRESENTATIVES OF LABOR ORGANIZATIONS (FOR A LOCAL AREA IN WHICH EMPLOYEES ARE REPRESENTED BY LABOR ORGANIZATIONS), NOMINATED BY LOCAL LABOR FEDERATIONS, OR (FOR A LOCAL AREA IN WHICH NO EMPLOYEES ARE REPRESENTED BY SUCH ORGANIZATIONS), OTHER REPRESENTATIVES OF EMPLOYEES; AND (D) REPRESENTATIVES OF COMMUNITY-BASED ORGANIZATIONS (INCLUDING ORGANIZATIONS REPRESENTING INDIVIDUALS WITH DISABILITIES AND VETERANS, FOR A LOCAL AREA IN WHICH SUCH ORGANIZATIONS ARE PRESENT). A member shall continue to hold office until his OR HER successor is appointed and has qualified. The governing body of each municipality shall designate the first [chairman] CHAIRPERSON and file with the secretary of state a certificate of appointment or reappointment of any member. Such members shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties.

S 5. The general municipal law is amended by adding a new section 857 to read as follows:

S 857. LIMITATIONS ON POWERS OF AGENCIES. 1. NO AGENCY SHALL PROVIDE FINANCIAL ASSISTANCE TO OR FOR ANY PROJECT OR FACILITY THAT WOULD DIMINISH THE PRESERVATION OF PUBLIC OPEN SPACE.

2. NO AGENCY SHALL PROVIDE FINANCIAL ASSISTANCE TO OR FOR ANY PROJECT OR FACILITY THAT WOULD EXTEND PUBLICLY OWNED WATER OR SEWER LINES OR BOTH.

3. NO AGENCY SHALL PROVIDE FINANCIAL ASSISTANCE TO OR FOR ANY "APPLICANT" (WHICH MEANS, FOR THE PURPOSES OF THIS SUBDIVISION, ANY PROJECT OR FACILITY WHOSE INITIAL OWNER, OPERATOR, OR MANAGER (OR WHOSE INTENDED OR CONTEMPLATED SUBSEQUENT OWNER, OPERATOR, OR MANAGER)), WHO OR WHICH HAS A SUBSTANTIAL RECORD OF UNLAWFUL CONDUCT.

(A) IN DETERMINING THE EXISTENCE OR NONEXISTENCE OF A SUBSTANTIAL RECORD OF UNLAWFUL CONDUCT, THERE SHALL BE A REBUTTABLE PRESUMPTION OF THE EXISTENCE THEREOF IF THE APPLICANT HAS:

(1) AN UNCURED BREACH OF ANY OBLIGATION TO ANY AGENCY IN EXISTENCE AT THE TIME OF APPLICATION;

(2) MADE ANY FALSE STATEMENT AS TO A MATERIAL MATTER IN THE INSTANT APPLICATION FOR FINANCIAL ASSISTANCE FROM AN AGENCY OR IN CONNECTION WITH ANY OTHER APPLICATION OR OTHER MATTER INVOLVING ANY OTHER AGENCY;

(3) BEEN CONVICTED OF ANY CRIME OR OFFENSE IN CONNECTION WITH ANY PROJECT OR FACILITY WITHIN THE TEN-YEAR PERIOD PRIOR TO THE APPLICATION;

(4) HAD ANY JUDGMENTS, MEDIATION AND ARBITRATION DECISIONS AND AWARDS, OR INJUNCTIONS, ISSUED WITHIN THE PRIOR TEN YEARS, IN ANY JUDICIAL ACTIONS OR PROCEEDINGS AND IN ANY MEDIATION OR ARBITRATION PROCEEDINGS AND INITIATED BY ANY AGENCY OR PUBLIC OFFICER AGAINST THE APPLICANT WITH

RESPECT TO A PROJECTOR FACILITY AND ANY SUCH JUDICIAL ACTIONS OR PROCEEDINGS OR HAS MEDIATION OR ARBITRATION PROCEEDINGS THAT ARE PRESENTLY PENDING OR FOR WHICH NOTICE OF CLAIM HAS BEEN RECEIVED;

(5) ANY RECORD OF SANCTIONS IMPOSED WITHIN THE PRIOR TEN YEARS AS A RESULT OF JUDICIAL OR ADMINISTRATIVE DISCIPLINARY PROCEEDINGS WITH RESPECT TO ANY PROFESSIONAL LICENSES HELD BY THE APPLICANT, OR A PRINCIPAL OWNER OR OFFICER OF THE APPLICANT;

(6) NOT FILED STATE OF NEW YORK INCOME TAX RETURNS, WHERE REQUIRED, FOR THE PAST TEN YEARS;

(7) OUTSTANDING TAX WARRANTS AND UNSATISFIED TAX LIENS, AS REFLECTED IN THE RECORDS OF THE STATE;

(8) BEEN THE SUBJECT OF INFORMATION FROM PUBLIC REPORTS OF THE ORGANIZED CRIME CONTROL BUREAU AND THE NEW YORK STATE ORGANIZED CRIME TASK FORCE THAT INDICATES INVOLVEMENT IN CRIMINAL ACTIVITY;

(9) CRIMINAL PROCEEDINGS PENDING AGAINST THE APPLICANT AND ANY PRINCIPAL OWNER OR OFFICER OF SUCH APPLICANT;

(10) ANY RECORD OF CRIMINAL CONVICTIONS OF THE APPLICANT, ANY CURRENT PRINCIPAL OWNER OR OFFICER FOR ANY CRIME RELATED TO TRUTHFULNESS OR BUSINESS CONDUCT AND FOR ANY OTHER FELONY COMMITTED WITHIN THE PRIOR TEN YEARS, AND OF ANY FORMER PRINCIPAL OWNER OR OFFICER, WITHIN THE PRIOR TEN YEARS, FOR ANY CRIME RELATED TO TRUTHFULNESS OR BUSINESS CONDUCT AND FOR ANY OTHER FELONY COMMITTED WHILE HE OR SHE HELD SUCH POSITION OR STATUS;

(11) ANY PENDING BANKRUPTCY PROCEEDINGS AND ANY BANKRUPTCY PROCEEDINGS INITIATED WITHIN THE PAST SEVEN YEARS BY OR AGAINST THE APPLICANT OR ITS AFFILIATES.

(12) BEEN FOUND BY A COURT OR GOVERNMENT AGENCY TO HAVE ENGAGED IN SYSTEMATIC FALSIFICATION OF PAYROLL RECORDS OR TO HAVE VIOLATED ANY EMPLOYMENT, LABOR, TAX, ENVIRONMENTAL, OR LAND USE LAW, ON A PATTERN AND PRACTICE BASIS DURING THE TEN YEARS PRECEDING THE DATE OF THE APPLICATION;

(13) BEEN THE DEFENDANT IN ANY CERTIFIED CLASS ACTION LAWSUITS INVOLVING CLAIMS OF WAGE OR HOUR VIOLATIONS, EMPLOYMENT DISCRIMINATION, OR OTHER EMPLOYMENT OR LABOR LAW VIOLATIONS INVOLVING AT LEAST ONE HUNDRED WORKERS DURING THE TEN YEARS PRECEDING THE DATE OF THE APPLICATION; OR

(14) BEEN REQUIRED TO PAY MORE THAN ONE MILLION DOLLARS IN BACK PAY OR CIVIL DAMAGES AS A RESULT OF WAGE AND HOUR, EMPLOYMENT DISCRIMINATION, OR OTHER EMPLOYMENT-RELATED LITIGATION OR SETTLEMENTS DURING THE TEN YEARS PRECEDING THE DATE OF THE APPLICATION.

(B) AN APPLICANT MAY REBUT AN APPLICABLE PRESUMPTION OF DENIAL BY:

(1) DISCLOSING DISCOVERY MATERIALS FROM PENDING, SETTLED, OR OTHERWISE ADJUDICATED CIVIL LITIGATION INVOLVING WAGE AND HOUR, EMPLOYMENT DISCRIMINATION, OR OTHER EMPLOYMENT CLAIMS THAT DEMONSTRATE THAT THE ALLEGATIONS INVOKED IN PARAGRAPH (A) OF THIS SUBDIVISION THAT TRIGGERED A PRESUMPTIVE DENIAL ARE WITHOUT MERIT; OR

(2) DEMONSTRATING THAT THE AGGRIEVED EMPLOYEES IN QUESTION SHALL BE ENSURED FAIR TREATMENT AND RESPECT FOR THEIR EMPLOYMENT RIGHTS THROUGH A LEGALLY BINDING, WRITTEN COMMITMENT BY THE APPLICANT TO PAY SALARIES, WAGES, OR BENEFITS AS THEY ARE LEGALLY DUE, AND TO INCREASE EACH YEAR THE SALARIES, WAGES, OR BENEFITS OF EXISTING AND NEWLY HIRED EMPLOYEES, EXCLUDING MANAGERS, ADMINISTRATORS, AND CONTRACT EMPLOYEES, AND BY DEMONSTRATING THAT THERE EXISTS A METHOD FOR ENFORCING SUCH COMMITMENT, SUCH AS ARBITRATION, THAT IS AVAILABLE TO EMPLOYEES OR THEIR REPRESENTATIVE, AND THAT IS EXPEDITIOUS, USES A NEUTRAL DECISIONMAKER, AND IS ECONOMICAL FOR THE EMPLOYEES, AND WHERE THE APPLICANT HAS PROVIDED WRITTEN NOTICE OF THE TERMS OF THE COMMITMENT AND THE AVAILABILITY OF THE

ENFORCEMENT MECHANISM TO THE RELEVANT EMPLOYEES OR THEIR RECOGNIZED REPRESENTATIVE.

S 6. The opening paragraph of section 858 of the general municipal law, as amended by chapter 659 of the laws of 1997, is amended to read as follows:

The purposes of the agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities and continuing care retirement communities, provided, however, that, of agencies governed by this article, only agencies created for the benefit of a county and the agency created for the benefit of the city of New York shall be authorized to provide financial assistance in any respect to a continuing care retirement community, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the state of New York and to improve their recreation opportunities, prosperity and standard of living; TO PROMOTE ECONOMIC DEVELOPMENT IN AREAS WHERE TRANSPORTATION, WATER, AND SEWER INFRASTRUCTURE ARE READILY AVAILABLE OR ECONOMICALLY PRACTICAL IN PREFERENCE TO AREAS WHERE TRANSPORTATION, WATER, AND SEWER INFRASTRUCTURE ARE NOT READILY AVAILABLE OR NOT ECONOMICALLY PRACTICAL, and to carry out the aforesaid purposes, each agency shall have the following powers:

S 7. Section 858 of the general municipal law is amended by adding a new subdivision 15-a to read as follows:

(15-A) TO PROVIDE AN ANNUAL REPORT OF ITS ACTIVITIES TO THE PUBLIC AUTHORITIES CONTROL BOARD AND THE PUBLIC AUTHORITIES INSPECTOR GENERAL FOR REVIEW; AND TO SUBMIT TO ANNUAL AUDITS BY THE STATE COMPTROLLER'S OFFICE, WHICH SHALL PROVIDE, NO LESS THAN SIX MONTHS AFTER COMPLETION OF THE AUDIT OR AUDITS, THE RESULTS TO THE GOVERNOR'S OFFICE, THE SPEAKER OF THE ASSEMBLY, AND THE TEMPORARY PRESIDENT OF THE SENATE.

S 8. Section 868 of the general municipal law, as added by chapter 1030 of the laws of 1969, is amended to read as follows:

S 868. Agreements of the municipality and state. The municipality is authorized to, and the state does hereby, pledge to and agree with the holders of the bonds or notes that neither the municipality nor the state, respectively, will limit or alter the rights, hereby vested in the agency to acquire, construct, reconstruct, improve, maintain, equip and furnish the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds or notes nor in any way impair the rights and remedies of the bondholders or noteholders until the bonds or notes, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders are fully met and discharged. THE PUBLIC AUTHORITIES INSPECTOR GENERAL SHALL HAVE THE POWER TO REVIEW AND APPROVE, OR DISAPPROVE, ANY CONTRACT THAT SUCH INSPECTOR GENERAL CONSIDERS THE TERMS TO BE UNATTAINABLE BY THE APPLICANT OR THE LOCAL INDUSTRIAL DEVELOPMENT AGENCY. BOTH PARTIES SHALL BE NOTIFIED IN WRITING OF SUCH INSPECTOR GENERAL'S DECISION WITHIN SIXTY DAYS FROM SUBMISSION OF THE CONTRACT TO SUCH INSPECTOR GENERAL. IF AN APPLICANT IS DENIED APPROVAL, THE APPLICANT CAN APPEAL THE DECISION TO A FAIR HEARING IN WHICH FINAL JUDGMENT OF SUCH CONTRACT SHALL BE GIVEN.

S 9. Paragraph (a) of subdivision 4 of section 874 of the general municipal law, as amended by chapter 357 of the laws of 1993, is amended to read as follows:

(a) The agency shall establish a uniform tax exemption policy, with input from affected tax jurisdictions, which shall be applicable to the provision of financial assistance pursuant to section eight hundred fifty-nine-a of this [chapter] TITLE and shall provide guidelines for the claiming of real property, mortgage recording, and sales tax exemptions. Such guidelines shall include, but not be limited to: period of exemption; percentage of exemption; types of projects for which exemptions can be claimed; procedures for payments in lieu of taxes and instances in which real property appraisals are to be performed as a part of an application for tax exemption; in addition, agencies shall in adopting such policy consider such issues as: the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemptions to be provided; whether affected tax jurisdictions shall be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided; A SCHEDULE OF REIMBURSEMENT TO THE AGENCY OF SUCH PROJECT IF IT IS DECIDED THAT THE PROJECT WILL NOT FULFILL ITS CONTRACTUAL OBLIGATIONS; the impact of a proposed project on existing and proposed businesses and economic development projects in the vicinity; the amount of private sector investment generated or likely to be generated by the proposed project; the demonstrated public support for the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; the effect of the proposed project upon the environment; the extent to which the proposed project will require the provision of additional services, including, but not limited to additional educational, transportation, police, emergency medical or fire services; and the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts.

S 10. The general municipal law is amended by adding a new section 885 to read as follows:

S 885. PREVAILING WAGES. ANY CONTRACT FOR PUBLIC WORK PROJECTS LET BY AN AGENCY OR FOR WHICH AN AGENCY PROVIDES FINANCIAL ASSISTANCE SHALL BE SUBJECT TO SECTION TWO HUNDRED TWENTY OF THE LABOR LAW.

S 11. The general municipal law is amended by adding a new section 959-c to read as follows:

S 959-C. PREVAILING WAGES. ANY CONTRACT FOR WORK PROJECTS (INVOLVING THE KIND OF WORK WITHIN THE CONTEMPLATION OF SECTION TWO HUNDRED TWENTY OF THE LABOR LAW) LET BY A BUSINESS CERTIFIED PURSUANT TO THIS ARTICLE AND LOCATED WITHIN AN EMPIRE ZONE, INCLUDING A BUSINESS DESCRIBED IN PARAGRAPH (V) OF SUBDIVISION (D) OF SECTION NINE HUNDRED FIFTY-SEVEN OF THIS ARTICLE, SHALL BE SUBJECT TO SECTION TWO HUNDRED TWENTY OF THE LABOR LAW.

S 12. The public health law is amended by adding a new article 9-B to read as follows:

ARTICLE 9-B

HEALTH CARE SECURITY ACT

SECTION 930. I.D.A./E.Z. HEALTH CARE SECURITY ACT.

S 930. I.D.A./E.Z. HEALTH CARE SECURITY ACT.

A. SHORT TITLE. THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE "I.D.A./E.Z. HEALTH CARE SECURITY ACT".

B. DEFINITIONS. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(1) "ADMINISTERING AGENCY" MEANS THE DEPARTMENT OF HEALTH.

(2) "I.D.A. EMPLOYER" MEANS ANY ENTITY THAT EMPLOYS PERSONS PERFORMING ON-SITE WORK, OTHER THAN PROFESSIONALS LICENSED PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW, ADMINISTRATIVE OR MANAGERIAL EMPLOYEES (EXCLUSIVE OF FOREPERSONS), OR PERSONS EMPLOYED PURSUANT TO AN INDIVIDUAL CONTRACT BETWEEN SUCH PERSON AND THE EMPLOYER, FOR THE DEVELOPMENT, PREPARATION, CONSTRUCTION, AND OTHER TASKS ON A PROJECT OR FACILITY RECEIVING FINANCIAL ASSISTANCE, AS DEFINED IN SUBDIVISION FOURTEEN OF SECTION EIGHT HUNDRED FIFTY-FOUR OF THE GENERAL MUNICIPAL LAW, FROM AN INDUSTRIAL DEVELOPMENT AGENCY FOR THE PURPOSES OF RENDERING SUCH SITE READY AND COMPLETE FOR ITS INTENDED USE.

(3) "STATE" MEANS THE STATE OF NEW YORK.

(4) "EMPLOYEE" MEANS ANY PERSON WHO IS EMPLOYED WITHIN THE CONTEMPLATION OF PARAGRAPH TWO OR TWELVE OF THIS SUBDIVISION.

(5) "FAMILY OF EMPLOYEE" MEANS THE SPOUSE OF AN EMPLOYEE AND EACH DEPENDENT OF SUCH EMPLOYEE.

(6) "HEALTH BENEFITS PLAN" MEANS A PLAN OR SYSTEM FOR PROVIDING HEALTH CARE SERVICES FOR EMPLOYEES AND FAMILIES OF EMPLOYEES.

(7) "HEALTH CARE EXPENDITURE" MEANS ANY AMOUNT PAID BY AN I.D.A./E.Z. EMPLOYER FOR THE PURPOSE OF PROVIDING HEALTH CARE SERVICES OR REIMBURSING THE COST OF SUCH SERVICES FOR ANY EMPLOYEE OF SUCH I.D.A./E.Z. EMPLOYER OR FAMILY OF EMPLOYEE, INCLUDING, BUT NOT LIMITED TO, GRATUITOUS PAYMENTS MADE BY SUCH EMPLOYER TO SUCH EMPLOYEE OR FAMILY OF SUCH EMPLOYEE WHO INCURRED HEALTH CARE EXPENSES, BUT WHO HAD NO ENTITLEMENT TO HAVE EXPENSES REIMBURSED UNDER ANY PLAN, FUND OR PROGRAM MAINTAINED BY AN I.D.A./E.Z. EMPLOYER.

(8) "HEALTH CARE SERVICES" MEANS PRIMARY OR SECONDARY MEDICAL CARE OR SERVICE INCLUDING, BUT NOT LIMITED TO, (I) INPATIENT AND OUTPATIENT HOSPITAL SERVICES, (II) PHYSICIANS' SURGICAL AND MEDICAL SERVICES, (III) LABORATORY, DIAGNOSTIC AND X-RAY SERVICES, (IV) PRESCRIPTION DRUG COVERAGE, (V) ANNUAL PHYSICAL EXAMINATIONS, (VI) PREVENTATIVE SERVICES, (VII) MENTAL HEALTH SERVICES AND (VIII) SUBSTANCE ABUSE TREATMENT SERVICES; PROVIDED, HOWEVER, THAT SUCH TERM SHALL NOT INCLUDE ANY MEDICAL PROCEDURE OR TREATMENT WHICH IS SOLELY COSMETIC.

(9) "PERSON" MEANS ANY NATURAL PERSON, CORPORATION, SOLE PROPRIETORSHIP, PARTNERSHIP, ASSOCIATION, JOINT VENTURE, LIMITED LIABILITY COMPANY OR OTHER LEGAL ENTITY.

(10) "PREVAILING HEALTH CARE EXPENDITURE" MEANS THE AMOUNT OF HEALTH CARE EXPENDITURE CUSTOMARILY MADE ON BEHALF OF FULL-TIME WORKERS AND THEIR FAMILIES IN NEW YORK STATE IN THE SAME TRADE OR OCCUPATION FOR EMPLOYEES OF AN I.D.A./E.Z. EMPLOYER, PRORATED ON AN HOURLY BASIS.

(11) "PROGRAM" MEANS THE NEW YORK STATE I.D.A./E.Z. HEALTH CARE SECURITY PROGRAM ESTABLISHED PURSUANT TO THIS SECTION.

(12) "E.Z. EMPLOYER" MEANS ANY BUSINESS CERTIFIED PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW AND LOCATED WITHIN AN EMPIRE ZONE, INCLUDING A BUSINESS DESCRIBED IN PARAGRAPH (V) OF SUBDIVISION (D) OF SECTION NINE HUNDRED FIFTY-SEVEN OF THE GENERAL MUNICIPAL LAW.

(13) "I.D.A./E.Z. EMPLOYER" MEANS ANY I.D.A. EMPLOYER, AS DEFINED IN PARAGRAPH TWO OF THIS SUBDIVISION, OR ANY E.Z. EMPLOYER AS DEFINED IN PARAGRAPH TWELVE OF THIS SUBDIVISION.

C. I.D.A./E.Z. HEALTH CARE SECURITY PROGRAM. THE ADMINISTERING AGENCY SHALL ESTABLISH AN I.D.A./E.Z. HEALTH CARE SECURITY PROGRAM TO PROVIDE HEALTH CARE SERVICES FOR EMPLOYEES AND FAMILIES OF EMPLOYERS OF I.D.A./E.Z. EMPLOYEES WHO DO NOT RECEIVE HEALTH CARE FROM THEIR I.D.A./E.Z. EMPLOYERS AND SHALL:

(1) CONTRACT OR ENTER INTO AGREEMENTS WITH PUBLIC OR PRIVATE HEALTH CARE PROVIDERS OR HEALTH BENEFITS PLANS, AS SUCH AGENCY DEEMS APPROPRIATE, TO PROVIDE SUCH HEALTH CARE SERVICES;

(2) ESTABLISH AND OPERATE A SYSTEM FOR ASSESSING AND COLLECTING FEES FROM ALL I.D.A./E.Z. EMPLOYERS ON A QUARTERLY BASIS TO ADMINISTER SUCH PROGRAM, WHEREBY FEES:

(I) SHALL BE SET BY THE ADMINISTERING AGENCY IN ACCORDANCE WITH GUIDING LEGAL STANDARDS FOR SETTING AND ADMINISTERING REGULATORY FEES, INCLUDING USING RELIABLE FACTUAL STUDIES OR STATISTICS TO SET THE APPROPRIATE LEVEL OF THE FEES;

(II) MAY DIFFER AMONG THE I.D.A./E.Z. EMPLOYERS IF THE ADMINISTERING AGENCY DETERMINES THAT THE PRORATED COST OF OPERATING THE PROGRAM VARIES SIGNIFICANTLY AMONG SUCH I.D.A./E.Z. EMPLOYERS;

(III) SHALL BE ASSESSED ON A PER EMPLOYEE BASIS FOR EACH HOUR THAT AN EMPLOYEE WORKS FOR AN I.D.A./E.Z. EMPLOYER WITHIN THE STATE; PROVIDED THAT AN I.D.A./E.Z. EMPLOYER THAT MAKES PREVAILING HEALTH CARE EXPENDITURES ON BEHALF OF ITS EMPLOYEES AND FAMILIES OF EMPLOYEES SHALL RECEIVE A CREDIT AGAINST THE ASSESSED FEE EQUAL TO THE PRORATED HOURLY COST TO THE EMPLOYER OF SUCH PREVAILING HEALTH CARE EXPENDITURES, AS PROVIDED IN PARAGRAPH TWO OF SUBDIVISION F OF THIS SECTION; AND

(IV) SHALL BE DETERMINED ON A PRORATED HOURLY BASIS BY (A) TAKING THE ANNUAL COST TO THE STATE OF PROVIDING OR PURCHASING HEALTH CARE SERVICES FOR ONE ENROLLED EMPLOYEE AND FOR THE FAMILY OF ONE ENROLLED EMPLOYEE, (B) ADDING SUCH COST TO THE PROJECTED ANNUAL COST TO THE STATE PER ENROLLED EMPLOYEE OF ADMINISTERING AND ENFORCING THE PROGRAM AND OF MAINTAINING AN APPROPRIATE RESERVE FUND TO PROTECT THE PROGRAM AGAINST OPERATING AT A DEFICIT, AND (C) THEN DIVIDING THAT TOTAL BY TWO THOUSAND EIGHTY, THE NUMBER OF HOURS IN A FULL-TIME WORK YEAR, IN ORDER TO DETERMINE AN HOURLY FEE; PROVIDED THAT THIS METHODOLOGY SHALL BE SUBJECT TO REVIEW AND REVISION BY THE ADMINISTERING AGENCY, AS IT DEEMS APPROPRIATE;

(3) ESTABLISH APPLICATION AND ELIGIBILITY RULES AND PROCEDURES FOR DETERMINING WHICH EMPLOYEES AND FAMILIES OF EMPLOYEES OF I.D.A./E.Z. EMPLOYERS SHALL BE ELIGIBLE TO RECEIVE HEALTH CARE SERVICES UNDER SUCH PROGRAM; PROVIDED THAT NO ELIGIBILITY RULE SHALL MAKE AN EMPLOYEE OR FAMILY OF AN EMPLOYEE ELIGIBLE, IN WHOLE OR IN PART, BECAUSE THE EMPLOYEE'S I.D.A./E.Z. EMPLOYER HAS PAID THE REQUIRED FEE, NOR SHALL AN EMPLOYEE OR FAMILY OF AN EMPLOYEE BE ELIGIBLE SOLELY BECAUSE THE EMPLOYEE'S I.D.A./E.Z. EMPLOYER IS OBLIGATED TO PAY THE REQUIRED FEE, BUT ELIGIBILITY SHALL DEPEND IN PART ON NEED-BASED CRITERIA TO BE DEVELOPED BY THE ADMINISTERING AGENCY; AND

(4) MAKE AVAILABLE ON THE STATE'S OFFICIAL WEBSITE INFORMATION ON WHETHER AN I.D.A./E.Z. EMPLOYER HAS COMPLIED WITH THIS SECTION AND FURTHER INDICATING WHETHER SUCH I.D.A./E.Z. EMPLOYER COMPLIED BY PAYING THE FEE ASSESSED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION OR BY FILING PROOF THAT SUCH I.D.A./E.Z. EMPLOYER MADE PREVAILING HEALTH CARE EXPENDITURES AS PROVIDED IN PARAGRAPH TWO OF SUBDIVISION F OF THIS SECTION.

D. PROGRAM REQUIREMENTS. THE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION SHALL:

(1) PROVIDE HEALTH CARE SERVICES THAT ARE SUBSTANTIALLY EQUIVALENT TO, OR SUPERIOR TO, THOSE PROVIDED TO STATE EMPLOYEES UNDER THE BASIC STATE EMPLOYEE HEALTH BENEFITS PLAN, INCLUDING THOSE HEALTH CARE SERVICES PROVIDED UNDER ANY SUPPLEMENT PLAN FOR PROVIDING PRESCRIPTION DRUGS TO STATE EMPLOYEES; AND

(2) NOT CHARGE A PREMIUM OR DEDUCTIBLE TO ENROLLED EMPLOYEES AND FAMILIES OF EMPLOYEES, AND SHALL LIMIT THE AMOUNT OF ANY CO-PAYMENTS OR OTHER REQUIRED OUT-OF-POCKET PAYMENTS TO NO MORE THAN SUCH AMOUNTS AS ARE CHARGED TO STATE EMPLOYEES UNDER THE BASIC STATE EMPLOYEE HEALTH BENEFITS PLAN.

E. ADVISORY BOARD. NOT LATER THAN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE ADMINISTERING AGENCY SHALL ESTABLISH AN ADVISORY BOARD COMPOSED OF EIGHT INDIVIDUALS, INCLUDING PUBLIC HEALTH EXPERTS, BUSINESS LEADERS AND LABOR LEADERS FROM THE I.D.A./E.Z. EMPLOYERS. THE ADVISORY BOARD SHALL ADVISE THE ADMINISTERING AGENCY ON ALL ASPECTS OF IMPLEMENTATION OF THIS SECTION AND SHALL BE PERMITTED ACCESS TO ALL RECORDS AND INFORMATION THAT ARE REQUIRED TO BE MAINTAINED BY I.D.A./E.Z. EMPLOYERS OR SUBMITTED TO THE ADMINISTERING AGENCY PURSUANT TO THIS SECTION. THE GOVERNOR SHALL APPOINT FOUR MEMBERS OF THE ADVISORY BOARD AND THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY SHALL EACH APPOINT TWO MEMBERS OF THE ADVISORY BOARD. MEMBERS SHALL SERVE FOR A TERM OF THREE YEARS TO COMMENCE UPON ESTABLISHMENT OF SUCH BOARD AND MAY BE REMOVED FOR CAUSE. VACANCIES SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL POSITION WAS FILLED. THE MEMBERS OF THE ADVISORY BOARD SHALL APPOINT A CHAIRPERSON DURING SUCH BOARD'S FIRST MEETING, WHICH SHALL BE CONVENED WITHIN ONE HUNDRED TWENTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION. THE ADVISORY BOARD SHALL MEET AT LEAST QUARTERLY AND ALL MEMBERS OF THE ADVISORY BOARD SHALL SERVE WITHOUT COMPENSATION, EXCEPT THAT EACH MEMBER SHALL BE ALLOWED HIS OR HER ACTUAL AND NECESSARY EXPENSES. NO PERSON SHALL BE INELIGIBLE FOR MEMBERSHIP ON THE ADVISORY BOARD BECAUSE SUCH PERSON HOLDS ANY OTHER PUBLIC OFFICE, EMPLOYMENT OR TRUST, NOR SHALL ANY PERSON BE MADE INELIGIBLE TO OR FORFEIT SUCH PERSON'S RIGHT TO ANY PUBLIC OFFICE, EMPLOYMENT OR TRUST BY REASON OF SUCH APPOINTMENT.

F. PREVAILING HEALTH CARE EXPENDITURES. (1) THE COMPTROLLER SHALL ANNUALLY DETERMINE THE PREVAILING HEALTH CARE EXPENDITURE FOR FULL-TIME EMPLOYEES IN EACH TRADE OR OCCUPATION IN EACH I.D.A./E.Z. EMPLOYMENT, PRORATED ON AN HOURLY BASIS, USING PROCEDURES AND STANDARDS SIMILAR TO THOSE USED TO CALCULATE PREVAILING WAGES AND BENEFITS PURSUANT TO SECTIONS TWO HUNDRED THIRTY-FOUR AND TWO HUNDRED TWENTY OF THE LABOR LAW.

(2) THE ADMINISTERING AGENCY SHALL ESTABLISH PROCEDURES FOR DETERMINING WHETHER HEALTH CARE EXPENDITURES MADE BY AN I.D.A./E.Z. EMPLOYER ON BEHALF OF ITS EMPLOYEES QUALIFY AS PREVAILING HEALTH CARE EXPENDITURES PURSUANT TO PARAGRAPH ONE OF THIS SUBDIVISION AND, IF SUCH EXPENDITURES QUALIFY AS PREVAILING HEALTH CARE EXPENDITURES, THE CORRESPONDING HOURLY CREDIT THAT SUCH EMPLOYER SHOULD RECEIVE. IN MAKING SUCH A DETERMINATION THE AGENCY MAY, IF IT DEEMS APPROPRIATE, USE AN AVERAGE VALUE BY TAKING THE I.D.A./E.Z. EMPLOYER'S TOTAL HEALTH CARE EXPENDITURES ON BEHALF OF ALL EMPLOYEES IN A PARTICULAR TRADE OR OCCUPATION OVER A GIVEN PERIOD AND DIVIDING THAT SUM BY THE TOTAL HOURS WORKED BY SUCH EMPLOYEES. WHERE THE COST TO AN I.D.A./E.Z. EMPLOYER OF MAKING PREVAILING HEALTH CARE EXPENDITURES IS EQUAL TO OR GREATER, ON AN HOURLY PER EMPLOYEE BASIS, THAN THE AMOUNT OF THE FEE ASSESSED, SUCH I.D.A./E.Z. EMPLOYER MAY COMPLY WITH THIS SECTION BY PROVIDING PROOF TO THE ADMINISTERING AGENCY, IN A MANNER SPECIFIED BY SUCH AGENCY, THAT SUCH I.D.A./E.Z. EMPLOYER MAKES PREVAILING HEALTH CARE EXPENDITURES ON BEHALF OF ITS EMPLOYEES; PROVIDED THAT AN I.D.A./E.Z. EMPLOYER THAT IS A SIGNATORY TO A COLLECTIVE BARGAINING AGREEMENT PURSUANT TO WHICH IT MAKES PREVAILING HEALTH CARE EXPENDITURES ON BEHALF OF ITS EMPLOYEES AND FAMILIES OF EMPLOYEES MAY COMPLY WITH THIS SECTION AS PROVIDED IN SUBDIVISION J OF THIS

SECTION. AN I.D.A./E.Z. EMPLOYER SHALL NOT BE ENTITLED TO ANY PAYMENT OR REIMBURSEMENT FROM THE STATE OR FROM ANY OTHER PARTY IN CONNECTION WITH THE PROVISIONS OF THIS SECTION AND MAY NOT CLAIM ANY CREDIT AGAINST ANY FUTURE FEES OWED.

G. RESPONSIBILITIES OF AN I.D.A./E.Z. EMPLOYER. AN I.D.A./E.Z. EMPLOYER SHALL:

(1) MAINTAIN AN ACCURATE WORK LOG THAT LISTS, FOR EACH EMPLOYEE, SUCH EMPLOYEE'S NAME AND THE DATES AND HOURS WORKED BY SUCH EMPLOYEE, AND WHETHER SUCH EMPLOYER HAS PAID A FEE OR RECEIVED A CREDIT PURSUANT TO THIS SECTION;

(2) SUBMIT A REPORT TO THE ADMINISTERING AGENCY ON A QUARTERLY BASIS, INCLUDING, BUT NOT LIMITED TO, (I) THE NUMBER OF SUCH EMPLOYER'S EMPLOYEES AND (II) THE DATES AND HOURS EACH EMPLOYEE WORKED DURING THAT QUARTER. THE INFORMATION IN THE REPORT SHALL BE DISAGGREGATED BY JOB CLASSIFICATION;

(3) MAKE AVAILABLE TO THE PUBLIC, IN A MANNER SPECIFIED BY THE ADMINISTERING AGENCY, THE AMOUNT AND DATES OF ALL FEE PAYMENTS MADE TO THE STATE AND PROOF OF ENTITLEMENT TO ANY CREDIT CLAIMED AGAINST SUCH FEE; AND

(4) PROVIDE EMPLOYEES UPON HIRE, AND ON OR ABOUT JANUARY FIRST OF EACH YEAR, A WALLET-SIZED CARD IN A FORMAT SPECIFIED BY THE ADMINISTERING AGENCY, INDICATING WHETHER SUCH I.D.A./E.Z. EMPLOYER PAID A FEE OR RECEIVED A CREDIT PURSUANT TO THIS SECTION; PROVIDED THAT AN I.D.A./E.Z. EMPLOYER THAT DOES NOT MAKE PREVAILING HEALTH CARE EXPENDITURES ON BEHALF OF ITS EMPLOYEES SHALL PROVIDE EMPLOYEES UPON HIRE, AND ON OR ABOUT JANUARY FIRST OF EACH YEAR, A BROCHURE, IN A FORMAT SPECIFIED BY THE ADMINISTERING AGENCY, WITH INFORMATION ON PROCEDURES FOR APPLYING FOR HEALTH CARE SERVICES PURSUANT TO THE PROGRAM.

H. RULES. THE ADMINISTERING AGENCY SHALL PROMULGATE RULES IN ACCORDANCE WITH THIS SECTION AND SUCH OTHER RULES AS MAY BE NECESSARY FOR THE PURPOSE OF IMPLEMENTING, CONSTRUING AND CARRYING OUT THE PROVISIONS OF THIS SECTION. SUCH RULES SHALL HAVE THE FORCE AND EFFECT OF LAW.

I. ENFORCEMENT. (1) THE ADMINISTERING AGENCY, THE PUBLIC AUTHORITIES INSPECTOR GENERAL, OR ANY OTHER APPROPRIATE AGENCY AND THE COMPTROLLER SHALL BE AUTHORIZED TO TAKE ANY STEPS APPROPRIATE TO ENFORCE THE REQUIREMENTS OF THIS SECTION INCLUDING, BUT NOT LIMITED TO, INSPECTING THE RECORDS OF I.D.A./E.Z. EMPLOYERS. IN THE EVENT THAT SUCH AGENCY OR THE COMPTROLLER DETERMINES THAT AN I.D.A./E.Z. EMPLOYER HAS FAILED TO PAY THE FEE REQUIRED PURSUANT TO THIS SECTION OR VIOLATED ANY OTHER REQUIREMENT OF THIS SECTION, THE STATE OR THE COMPTROLLER MAY TAKE ANY STEP APPROPRIATE TO BRING ABOUT COMPLIANCE INCLUDING, BUT NOT LIMITED TO, INFORMING STATE OR MUNICIPAL AGENCIES OR DEPARTMENTS OF THE NEED TO REVOKE OR SUSPEND ANY STATE-ISSUED OR MUNICIPALLY ISSUED REGISTRATION CERTIFICATES, PERMITS OR LICENSES HELD OR REQUESTED BY SUCH I.D.A./E.Z. EMPLOYER, OR TO SUSPEND ANY CONSTRUCTION, DEMOLITION OR RENOVATION PROJECT ON WHICH SUCH I.D.A./E.Z. EMPLOYER IS WORKING, UNTIL SUCH TIME AS THE VIOLATION IS REMEDIED. ANY SUCH STATE OR MUNICIPAL AGENCY OR DEPARTMENT RECEIVING SUCH INFORMATION SHALL ENSURE SUCH REVOCATION OR SUSPENSION.

(2) AN I.D.A./E.Z. EMPLOYER, REPRESENTATIVE OF EMPLOYEES OF AN I.D.A./E.Z. EMPLOYER, OR AN ORGANIZATION THAT ADVOCATES FOR EMPLOYEES IN THE SAME INDUSTRY AS AN I.D.A./E.Z. EMPLOYER, CLAIMING TO BE INJURED BY THE VIOLATION OF THIS SECTION BY AN I.D.A./E.Z. EMPLOYER WITHIN THE SAME I.D.A./E.Z. INDUSTRY MAY COMMENCE AN ACTION IN A COURT OF COMPETENT JURISDICTION AGAINST SUCH I.D.A./E.Z. EMPLOYER FOR ANY SUCH VIOLATION OF THIS SECTION, INCLUDING: (A) THE FAILURE BY AN I.D.A./E.Z.

EMPLOYER TO PAY ON A TIMELY BASIS THE FEES ESTABLISHED PURSUANT TO THIS SECTION OR FILE PROOF THAT SUCH EMPLOYER PROVIDES HEALTH CARE EXPENDITURES AT A COST THAT IS EQUAL TO OR GREATER THAN THE FEE, (B) THE FAILURE BY AN I.D.A./E.Z. EMPLOYER TO PROVIDE INFORMATION TO THE ADMINISTERING AGENCY, EMPLOYEES AND THE PUBLIC AS PROVIDED IN THIS SECTION, AND (C) THE FAILURE BY AN I.D.A./E.Z. EMPLOYER TO REFRAIN FROM RETALIATION AS PROVIDED IN PARAGRAPH THREE OF THIS SUBDIVISION. THE COURT MAY ISSUE AN INJUNCTION ENJOINING ANY ACTS OR PRACTICES WHICH CONSTITUTE A VIOLATION OF THIS SECTION; AWARD LIQUIDATED DAMAGES TO THE PREVAILING PLAINTIFF IN THE AMOUNT OF FIVE HUNDRED DOLLARS FOR EACH DAY A VIOLATION OCCURRED OR PERSISTED TO COMPENSATE FOR ANY INJURY SUFFERED; OR ORDER SUCH OTHER RELIEF AS MAY BE APPROPRIATE; AND SHALL AWARD TO THE PREVAILING PLAINTIFF COURT COSTS AND A REASONABLE ATTORNEY'S FEE. A CIVIL ACTION COMMENCED UNDER THIS SECTION MUST BE COMMENCED WITHIN THREE YEARS AFTER THE DATE OF THE OCCURRENCE OR TERMINATION OF THE ALLEGED VIOLATION.

(3) RETALIATION. IT SHALL BE UNLAWFUL FOR ANY I.D.A./E.Z. EMPLOYER TO DEPRIVE OR THREATEN TO DEPRIVE ANY PERSON OF EMPLOYMENT, TAKE OR THREATEN TO TAKE ANY REPRISAL OR RETALIATORY ACTION AGAINST ANY PERSON, OR DIRECTLY OR INDIRECTLY INTIMIDATE, THREATEN, COERCE, COMMAND OR INFLUENCE OR ATTEMPT TO INTIMIDATE, THREATEN, COERCE, COMMAND OR INFLUENCE ANY PERSON BECAUSE SUCH PERSON HAS TAKEN AN ACTION TO ENFORCE OR INFORM OTHERS ABOUT THE REQUIREMENTS OF THIS SECTION. TAKING ADVERSE ACTION AGAINST A PERSON WITHIN SIXTY DAYS OF A PERSON'S EXERCISE OF RIGHTS PROTECTED UNDER THIS SECTION SHALL RAISE A REBUTTABLE PRESUMPTION THAT SUCH ACTION WAS IN RETALIATION FOR THE EXERCISE OF SUCH RIGHTS. AN I.D.A./E.Z. EMPLOYER WHO VIOLATES THE PROHIBITIONS OF THIS SUBDIVISION SHALL BE GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE NOT TO EXCEED ONE THOUSAND DOLLARS UPON CONVICTION.

J. AN I.D.A./E.Z. EMPLOYER THAT IS A SIGNATORY TO A COLLECTIVE BARGAINING AGREEMENT UNDER WHICH SUCH EMPLOYER MAKES PREVAILING HEALTH CARE EXPENDITURES ON BEHALF OF EMPLOYEES AND FAMILIES OF EMPLOYEES AS DETERMINED BY THE COMPTROLLER MAY FULLY COMPLY WITH THE REQUIREMENTS OF THIS SECTION BY FILING ANNUALLY WITH THE ADMINISTERING AGENCY PROOF OF SUCH A COLLECTIVE BARGAINING AGREEMENT AND ITS TERMS, IN A FORMAT SPECIFIED BY THE ADMINISTERING AGENCY, AND SHALL OTHERWISE BE EXEMPT FROM ALL REPORTING AND ENFORCEMENT REQUIREMENTS AND PROVISIONS OF THIS SECTION. AN I.D.A./E.Z. EMPLOYER AND ITS EMPLOYEES MAY AGREE TO MODIFY OR WAIVE ANY OF THE REQUIREMENTS OF THIS SECTION PURSUANT TO A VALID COLLECTIVE BARGAINING AGREEMENT; PROVIDED THAT SUCH MODIFICATION OR WAIVER IS SET FORTH EXPRESSLY AND UNAMBIGUOUSLY IN THE COLLECTIVE BARGAINING AGREEMENT IN A PROVISION THAT MAKES EXPRESS REFERENCE TO THIS SECTION.

S 13. If any section, subdivision, sentence, clause, phrase, or other portion of this act, including any requirement imposed or credit authorized pursuant to it, is for any reason declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this act, which remaining portions shall continue in full force and effect.

S 14. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided that the commissioner of health is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date on or before such date; and provided that section four of this act shall take effect one year after the effective date of this act.