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I N   S E N A T E

April 11, 2014

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Introduced by Sen. MARTINS -- (at request of the Empire State Development) -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the economic development law, in relation to the excelsior jobs program and eligible business entities

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

1     Section 1. Subdivisions 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17,  
2     18 and 19 of section 352 of the economic development law are renumbered  
3     subdivisions 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 and  
4     a new subdivision 6 is added to read as follows:  
5     6. "CORPORATE HEADQUARTERS" MEANS A PLACE WHERE THE EXECUTIVES AND  
6     SENIOR MANAGERS OF A COMPANY OR BUSINESS UNIT DIRECT, CONTROL AND COOR-  
7     DINATE THE OPERATIONS OF THE COMPANY OR BUSINESS UNIT AS A WHOLE ON A  
8     DAY-TO-DAY BASIS. IT IS THE PART OF A CORPORATE STRUCTURE THAT COMMONLY  
9     DEALS WITH IMPORTANT TASKS SUCH AS STRATEGIC PLANNING, CORPORATE COMMU-  
10    NICATIONS, TAXES, LAW, MARKETING, FINANCE, HUMAN RESOURCES, AND INFORMA-  
11    TION TECHNOLOGY. THESE TASKS INCLUDE ALL CORPORATE FUNCTIONS NECESSARY  
12    TO STEER THE FIRM BY DEFINING AND ESTABLISHING CORPORATE POLICY.  
13    S 2. Subdivision 15 of section 352 of the economic development law, as  
14    added by section 1 of part MM of chapter 59 of the laws of 2010 and as  
15    renumbered by section one of this act, is amended to read as follows:  
16    15. "Regionally significant project" means (a) a manufacturer creating  
17    at least fifty net new jobs in the state and making significant capital  
18    investment in the state; (b) a business creating at least twenty net new  
19    jobs in agriculture in the state and making significant capital invest-  
20    ment in the state, (c) a financial services firm, distribution center,  
21    [or] back office operation OR CORPORATE HEADQUARTERS creating at least  
22    three hundred net new jobs in the state and making significant capital  
23    investment in the state, or (d) a scientific research and development  
24    firm creating at least twenty net new jobs in the state, and making  
25    significant capital investment in the state. Other businesses creating  
26    three hundred or more net new jobs in the state and making significant

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

LBD13910-02-4

1 capital investment in the state may be considered eligible as a  
2 regionally significant project by the commissioner as well. The commis-  
3 sioner shall promulgate regulations pursuant to section three hundred  
4 fifty-six of this article to determine what constitutes significant  
5 capital investment for each of the project categories indicated in this  
6 subdivision and what additional criteria a business must meet to be  
7 eligible as a regionally significant project, including, but not limited  
8 to, whether a business exports a substantial portion of its products or  
9 services outside of the state or outside of a metropolitan statistical  
10 area or county within the state.

11 S 3. Paragraphs (g) and (h) of subdivision 1, and subdivisions 3 and 4  
12 of section 353 of the economic development law, paragraphs (g) and (h)  
13 of subdivision 1 as amended by section 2 of part G of chapter 61 of the  
14 laws of 2011 and subdivisions 3 and 4 as amended by section 1 of part C  
15 of chapter 68 of the laws of 2013, are amended to read as follows:

16 (g) in a distribution center; [or]

17 (h) IN A CORPORATE HEADQUARTERS; OR

18 (I) in an industry with significant potential for private-sector  
19 economic growth and development in this state as established by the  
20 commissioner in regulations promulgated pursuant to this article. In  
21 promulgating such regulations the commissioner shall include job and  
22 investment criteria.

23 3. For the purposes of this article, in order to participate in the  
24 excelsior jobs program, a business entity operating predominantly in  
25 manufacturing must create at least ten net new jobs; a business entity  
26 operating predominately in agriculture must create at least five net new  
27 jobs; a business entity operating predominantly as a financial service  
28 data center or financial services customer back office operation must  
29 create at least fifty net new jobs; a business entity operating predomi-  
30 nantly in scientific research and development must create at least five  
31 net new jobs; a business entity operating predominantly in software  
32 development must create at least five net new jobs; a business entity  
33 creating or expanding back office operations must create at least fifty  
34 net new jobs; A BUSINESS ENTITY OPERATING AS A CORPORATE HEADQUARTERS  
35 MUST CREATE AT LEAST ONE HUNDRED NET NEW JOBS; or a business entity  
36 operating predominantly as a distribution center in the state must  
37 create at least seventy-five net new jobs, notwithstanding subdivision  
38 five of this section; or a business entity must be a regionally signif-  
39 icant project as defined in this article; or

40 4. A business entity operating predominantly in one of the industries  
41 referenced in paragraphs (a) through [(h)] (I) of subdivision one of  
42 this section but which does not meet the job requirements of subdivision  
43 three of this section must have at least twenty-five full-time job  
44 equivalents unless such business is a business entity operating predomi-  
45 nantly in manufacturing then it must have at least ten full-time job  
46 equivalents and must demonstrate that its benefit-cost ratio is at least  
47 ten to one.

48 S 4. This act shall take effect immediately.