

2627--A

2015-2016 Regular Sessions

I N S E N A T E

January 27, 2015

Introduced by Sen. HASSELL-THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business -- recommitted to the Committee on Commerce, Economic Development and Small Business in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the economic development law, in relation to establishing entrepreneurship assistance centers; to amend the economic development law and the labor law, in relation to making technical corrections relating thereto; and to repeal article 9 of the economic development law relating thereto

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

1 Section 1. Article 9 of the economic development law is REPEALED and a
2 new article 9 is added to read as follows:

3 ARTICLE 9

4 ENTREPRENEURSHIP ASSISTANCE CENTERS

5 SECTION 210. DEFINITIONS.

6 211. ENTREPRENEURSHIP ASSISTANCE CENTERS.

7 212. REPORTING.

8 S 210. DEFINITIONS. AS USED IN THIS ARTICLE THE FOLLOWING TERMS,
9 UNLESS THE CONTEXT INDICATES OTHERWISE, SHALL HAVE THE FOLLOWING MEAN-
10 INGS:

11 1. "ENTREPRENEURSHIP ASSISTANCE CENTERS" SHALL MEAN THE BUSINESS
12 DEVELOPMENT CENTERS WHICH PROVIDE ASSISTANCE TO PRIMARILY MINORITY GROUP
13 MEMBERS, WOMEN, INDIVIDUALS WITH A DISABILITY, DISLOCATED WORKERS AND
14 VETERANS AS ESTABLISHED BY THE DEPARTMENT PURSUANT TO SECTION TWO
15 HUNDRED ELEVEN OF THIS ARTICLE.

16 2. "DISABILITY" SHALL MEAN, WITH RESPECT TO AN INDIVIDUAL:

17 (A) A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR
18 MORE OF THE MAJOR LIFE ACTIVITIES OF SUCH INDIVIDUAL;

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

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1 (B) A RECORD OF SUCH AN IMPAIRMENT; OR

2 (C) BEING REGARDED AS HAVING AN IMPAIRMENT.

3 3. "MINORITY BUSINESS ENTERPRISE" SHALL MEAN ANY BUSINESS ENTERPRISE
4 WHICH IS AT LEAST FIFTY-ONE PER CENTUM OWNED BY, OR IN THE CASE OF A
5 PUBLICLY OWNED BUSINESS AT LEAST FIFTY-ONE PER CENTUM OF THE STOCK OF
6 WHICH IS OWNED BY, CITIZENS OR PERMANENT RESIDENT ALIENS WHO ARE BLACK,
7 HISPANIC, ASIAN OR AMERICAN INDIAN, PACIFIC ISLANDER OR ALASKAN NATIVE
8 WHERE SUCH OWNERSHIP INTEREST IS REAL, SUBSTANTIAL AND CONTINUING AND
9 WHERE SUCH PERSONS HAVE THE AUTHORITY TO INDEPENDENTLY CONTROL THE DAY-
10 TO-DAY BUSINESS DECISIONS OF THE ENTITY.

11 4. "MINORITY GROUP MEMBER" SHALL MEAN A UNITED STATES CITIZEN OR
12 PERMANENT RESIDENT ALIEN WHO IS AND CAN DEMONSTRATE MEMBERSHIP IN ONE OF
13 THE FOLLOWING GROUPS:

14 (A) BLACK PERSONS HAVING ORIGINS IN ANY OF THE BLACK AFRICAN RACIAL
15 GROUPS NOT OF HISPANIC ORIGIN;

16 (B) HISPANIC PERSONS OF MEXICAN, PUERTO RICAN, DOMINICAN, CUBAN,
17 CENTRAL OR SOUTH AMERICAN DESCENT OF EITHER INDIAN OR HISPANIC ORIGIN,
18 REGARDLESS OF RACE;

19 (C) ASIAN AND PACIFIC ISLANDER PERSONS HAVING ORIGINS IN THE FAR EAST,
20 SOUTHEAST ASIA, THE INDIAN SUB-CONTINENT OR THE PACIFIC ISLANDS; OR

21 (D) AMERICAN INDIAN OR ALASKAN NATIVE PERSONS HAVING ORIGINS IN ANY OF
22 THE ORIGINAL PEOPLES OF NORTH AMERICA.

23 5. "WOMEN-OWNED BUSINESS ENTERPRISE" SHALL MEAN ANY BUSINESS ENTER-
24 PRISE WHICH IS AT LEAST FIFTY-ONE PER CENTUM OWNED BY, OR IN THE CASE OF
25 A PUBLICLY OWNED BUSINESS AT LEAST FIFTY-ONE PER CENTUM OF THE STOCK OF
26 WHICH IS OWNED BY, CITIZENS OR PERMANENT RESIDENT ALIENS WHO ARE WOMEN
27 WHERE SUCH OWNERSHIP INTEREST IS REAL, SUBSTANTIAL AND CONTINUING AND
28 WHERE SUCH PERSONS HAVE THE AUTHORITY TO INDEPENDENTLY CONTROL THE DAY-
29 TO-DAY BUSINESS DECISIONS OF THE ENTITY.

30 6. "VETERAN" SHALL MEAN A PERSON WHO SERVED IN AND WHO HAS RECEIVED AN
31 HONORABLE OR GENERAL DISCHARGE FROM, THE UNITED STATES ARMY, NAVY, AIR
32 FORCE, MARINES, COAST GUARD, AND/OR RESERVES THEREOF, AND/OR IN THE ARMY
33 NATIONAL GUARD, AIR NATIONAL GUARD, NEW YORK GUARD AND/OR NEW YORK NAVAL
34 MILITIA.

35 S 211. ENTREPRENEURSHIP ASSISTANCE CENTERS. 1. THE DEPARTMENT SHALL
36 ESTABLISH AND SUPPORT, WITHIN AVAILABLE APPROPRIATIONS, ENTREPRENEURSHIP
37 ASSISTANCE CENTERS AT CAREER EDUCATION AGENCIES AND NOT-FOR-PROFIT
38 CORPORATIONS INCLUDING, BUT NOT LIMITED TO, LOCAL DEVELOPMENT CORPO-
39 RATIONS, CHAMBERS OF COMMERCE, COMMUNITY-BASED BUSINESS OUTREACH CENTERS
40 AND OTHER COMMUNITY-BASED ORGANIZATIONS. THE PURPOSE OF SUCH CENTERS
41 SHALL BE TO TRAIN MINORITY GROUP MEMBERS, WOMEN, INDIVIDUALS WITH A
42 DISABILITY, DISLOCATED WORKERS AND VETERANS IN THE PRINCIPLES AND PRAC-
43 TICE OF ENTREPRENEURSHIP IN ORDER TO PREPARE SUCH PERSONS TO PURSUE
44 SELF-EMPLOYMENT OPPORTUNITIES AND TO PURSUE A MINORITY BUSINESS ENTER-
45 PRISE OR A WOMEN-OWNED BUSINESS ENTERPRISE. SUCH CENTERS SHALL PROVIDE
46 FOR TRAINING IN ALL ASPECTS OF BUSINESS DEVELOPMENT AND SMALL BUSINESS
47 MANAGEMENT AS DEFINED BY THE COMMISSIONER. FOR PURPOSES OF THIS SECTION,
48 "CAREER EDUCATION AGENCY" SHALL MEAN A COMMUNITY COLLEGE OR BOARD OF
49 COOPERATIVE EDUCATIONAL SERVICES OPERATING WITHIN THE STATE.

50 2. THE DEPARTMENT SHALL ESTABLISH CRITERIA FOR SELECTION AND DESIG-
51 NATION OF SUCH CENTERS WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO:

52 (A) THE LEVEL OF SUPPORT FOR THE CENTER FROM LOCAL POST-SECONDARY
53 EDUCATION INSTITUTIONS, BUSINESSES, AND GOVERNMENT;

54 (B) THE LEVEL OF FINANCIAL ASSISTANCE PROVIDED AT THE LOCAL AND FEDER-
55 AL LEVEL TO SUPPORT THE OPERATIONS OF THE CENTER;

1 (C) THE APPLICANT'S UNDERSTANDING OF PROGRAM GOALS AND OBJECTIVES
2 ARTICULATED BY THE DEPARTMENT;

3 (D) THE PLANS OF THE CENTER TO SUPPLEMENT STATE AND LOCAL FUNDING
4 THROUGH FEES FOR SERVICES WHICH MAY BE BASED ON A SLIDING SCALE BASED ON
5 ABILITY TO PAY;

6 (E) THE NEED FOR AND ANTICIPATED IMPACT OF THE CENTER ON THE COMMUNITY
7 IN WHICH IT WILL FUNCTION;

8 (F) THE QUALITY OF THE PROPOSED WORK PLAN AND STAFF OF THE CENTER; AND

9 (G) THE EXTENT OF ECONOMIC DISTRESS IN THE AREA TO BE SERVED.

10 3. APPLICATION FOR GRANTS MADE PURSUANT TO THIS SECTION SHALL BE MADE
11 IN THE MANNER AND ON FORMS PRESCRIBED BY THE DEPARTMENT. SUCH APPLICA-
12 TION SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO:

13 (A) A DESCRIPTION OF THE TRAINING PROGRAMS AVAILABLE WITHIN THE
14 GEOGRAPHIC AREA TO BE SERVED BY THE CENTER TO WHICH ELIGIBLE CLIENTS MAY
15 BE REFERRED;

16 (B) DESIGNATION OF A PROGRAM DIRECTOR;

17 (C) PLANS FOR PROVIDING ONGOING TECHNICAL ASSISTANCE TO PROGRAM GRADU-
18 ATES, INCLUDING LINKAGES WITH PROVIDERS OF OTHER ENTREPRENEURIAL ASSIST-
19 ANCE PROGRAMS AND WITH PROVIDERS OF SMALL BUSINESS TECHNICAL ASSISTANCE
20 AND SERVICES;

21 (D) A PROGRAM BUDGET, INCLUDING MATCHING FUNDS, IN-KIND AND OTHERWISE,
22 TO BE PROVIDED BY THE APPLICANT; AND

23 (E) SUCH OTHER REQUIREMENTS AS DEEMED NECESSARY BY THE DEPARTMENT.

24 4. EACH CENTER SHALL:

25 (A) BE OPERATED BY A BOARD OF DIRECTORS REPRESENTING COMMUNITY LEADERS
26 IN BUSINESS, EDUCATION, FINANCE AND GOVERNMENT;

27 (B) BE INCORPORATED AS A NOT-FOR-PROFIT CORPORATION;

28 (C) BE LOCATED IN AN AREA ACCESSIBLE TO ELIGIBLE CLIENTS;

29 (D) ESTABLISH AN ADVISORY GROUP OF COMMUNITY BUSINESS EXPERTS, AT
30 LEAST ONE-HALF OF WHOM SHALL BE REPRESENTATIVE OF THE CLIENTELE TO BE
31 SERVED BY THE CENTER, WHICH SHALL CONSTITUTE A SUPPORT NETWORK TO
32 PROVIDE COUNSELING AND MENTORING SERVICES TO MINORITY GROUP MEMBERS,
33 WOMEN, INDIVIDUALS WITH A DISABILITY, DISLOCATED WORKERS AND VETERANS
34 FROM THE CONCEPT STAGE OF DEVELOPMENT THROUGH THE FIRST ONE TO TWO YEARS
35 OF EXISTENCE ON A REGULAR BASIS AND AS NEEDED THEREAFTER; AND

36 (E) ESTABLISH A REFERRAL SYSTEM AND LINKAGES TO EXISTING AREA SMALL
37 BUSINESS ASSISTANCE PROGRAMS AND FINANCING SOURCES.

38 5. EACH ENTREPRENEURSHIP ASSISTANCE CENTER SHALL PROVIDE NEEDED
39 SERVICES TO ELIGIBLE CLIENTS, INCLUDING, BUT NOT LIMITED TO:

40 (A) ORIENTATION AND SCREENING OF PROSPECTIVE ENTREPRENEURS;

41 (B) ANALYSIS OF BUSINESS CONCEPTS AND TECHNICAL FEASIBILITY;

42 (C) MARKET ANALYSIS;

43 (D) MANAGEMENT ANALYSIS AND COUNSELING;

44 (E) BUSINESS PLANNING AND FINANCIAL PLANNING ASSISTANCE;

45 (F) REFERRALS TO FINANCIAL RESOURCES;

46 (G) REFERRAL TO EXISTING EDUCATIONAL PROGRAMS FOR TRAINING IN SUCH
47 AREAS AS MARKETING, ACCOUNTING AND OTHER SUCH TRAINING PROGRAMS AS MAY
48 BE NECESSARY AND AVAILABLE; AND

49 (H) REFERRAL TO BUSINESS INCUBATOR FACILITIES, WHERE APPROPRIATE, FOR
50 THE PURPOSE OF ENTERING INTO AGREEMENTS TO ACCESS SHARED SUPPORT
51 SERVICES.

52 6. GRANTS MADE PURSUANT TO THIS SECTION SHALL BE SUBJECT TO THE
53 FOLLOWING LIMITATIONS:

54 (A) NO GRANT SHALL BE MADE TO ANY ONE OR ANY CONSORTIUM OF CAREER
55 EDUCATION AGENCIES AND NOT-FOR-PROFIT CORPORATIONS IN EXCESS OF SEVEN-
56 TY-FIVE THOUSAND DOLLARS; AND

(B) EACH GRANT SHALL BE DISBURSED FOR PAYMENT OF THE COST OF SERVICES AND EXPENSES OF THE PROGRAM DIRECTOR, THE INSTRUCTORS OF THE PARTICIPATING CAREER EDUCATION AGENCY OR NOT-FOR-PROFIT CORPORATION, THE FACULTY AND SUPPORT PERSONNEL THEREOF AND ANY OTHER PERSON IN THE SERVICE OF PROVIDING INSTRUCTION AND COUNSELING IN FURTHERANCE OF THE PROGRAM.

S 212. REPORTING. THE DEPARTMENT SHALL:

1. MONITOR THE PERFORMANCE OF EACH ENTREPRENEURIAL ASSISTANCE CENTER AND REQUIRE QUARTERLY AND ANNUAL REPORTS FROM EACH ENTREPRENEURIAL ASSISTANCE CENTER AT SUCH TIME AND IN SUCH A MANNER AS PRESCRIBED BY THE COMMISSIONER.

2. EVALUATE THE ENTREPRENEURIAL ASSISTANCE CENTERS ESTABLISHED UNDER THIS ARTICLE AND REPORT QUARTERLY AND ANNUALLY, ON OR BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, AND ON OR BEFORE EACH JANUARY FIRST THEREAFTER, AND SUBMIT THE RESULTS OF SUCH EVALUATION TO THE GOVERNOR AND THE LEGISLATURE. SUCH REPORT SHALL DISCUSS THE EXTENT TO WHICH THE CENTERS SERVE MINORITY GROUP MEMBERS, WOMEN, INDIVIDUALS WITH A DISABILITY, DISLOCATED WORKERS AND VETERANS; THE EXTENT TO WHICH THE TRAINING PROGRAM IS COORDINATED WITH OTHER ASSISTANCE PROGRAMS TARGETED TO SMALL AND NEW BUSINESSES; THE ABILITY OF SUCH PROGRAM TO LEVERAGE OTHER SOURCES OF FUNDING AND SUPPORT; AND THE SUCCESS OF THE PROGRAM IN AIDING ENTREPRENEURS TO START UP NEW BUSINESSES, INCLUDING THE NUMBER OF NEW BUSINESS START-UPS RESULTING FROM THE PROGRAM. SUCH REPORT SHALL RECOMMEND CHANGES AND IMPROVEMENTS IN THE TRAINING PROGRAM AND IN THE QUALITY OF SUPPLEMENTAL TECHNICAL ASSISTANCE OFFERED TO GRADUATES OF THE TRAINING PROGRAMS. SUCH REPORTS SHALL BE MADE AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEBSITE.

3. SUBMIT TO THE DIRECTOR OF THE DIVISION OF THE BUDGET, THE CHAIRPERSON OF THE SENATE FINANCE COMMITTEE AND THE CHAIRPERSON OF THE ASSEMBLY WAYS AND MEANS COMMITTEE AN EVALUATION OF THE EFFECTIVENESS OF THE PROGRAMS ESTABLISHED UNDER THIS ARTICLE PREPARED BY AN ENTITY INDEPENDENT OF THE DEPARTMENT. SUCH EVALUATION SHALL BE SUBMITTED BY JANUARY FIRST, TWO THOUSAND EIGHTEEN AND BY JANUARY FIRST EVERY YEAR THEREAFTER.

4. BETWEEN EVALUATION DUE DATES, MAINTAIN THE NECESSARY RECORDS AND DATA REQUIRED TO SATISFY SUCH EVALUATION REQUIREMENTS AND TO SATISFY INFORMATION REQUESTS RECEIVED FROM THE DIRECTOR OF THE BUDGET, THE CHAIRPERSON OF THE SENATE FINANCE COMMITTEE AND THE CHAIRPERSON OF THE ASSEMBLY WAYS AND MEANS COMMITTEE BETWEEN SUCH EVALUATION DUE DATES.

S 2. Paragraph (c) of subdivision 37-b of section 100 of the economic development law, as added by chapter 524 of the laws of 2005, is amended to read as follows:

(c) Subdivision two of section two hundred [thirteen] TWELVE OF THIS CHAPTER, submitting the results of the annual evaluation of the entrepreneurial assistance programs established under article nine OF THIS CHAPTER.

S 3. Subparagraph (iii) of paragraph (c) of subdivision 2 of section 591-a of the labor law, as amended by section 1 of part Z of chapter 57 of the laws of 2013, is amended to read as follows:

(iii) are participating in self-employment assistance activities approved by the department and by the department of economic development which include but need not be limited to entrepreneurial training, business counseling, and technical assistance, including financing assistance for qualified individuals as appropriate, offered by entrepreneurship [support] ASSISTANCE centers established pursuant to section two hundred [twelve] ELEVEN of the economic development law, state university of New York small business development centers, programs offered by community-based organizations, local development corporations, and

1 boards of cooperative educational services (BOCES) as established pursu-
2 ant to section one thousand nine hundred fifty of the education law;
3 and, unless otherwise required by federal law or regulation, no individ-
4 ual shall be prohibited from or disqualified from eligibility for the
5 program if prior to applying for the program, an individual has printed
6 business cards or has a website that is designed but not active, and
7 neither are being used to solicit or conduct business;
8 S 4. This act shall take effect immediately; provided that the amend-
9 ments to subparagraph (iii) of paragraph (c) of subdivision 2 of section
10 591-a of the labor law made by section three of this act shall not
11 affect the repeal of such section and shall be deemed to repeal there-
12 with.