

STATE OF NEW YORK

4720

2019-2020 Regular Sessions

IN SENATE

March 21, 2019

Introduced by Sens. MAYER, SKOUFIS -- read twice and ordered printed,
and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to industrial
development agencies

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Section 854 of the general municipal law is amended by
2 adding a new subdivision 21 to read as follows:

3 (21) "Labor organization" -- shall mean any organization which exists
4 and is constituted for the purpose, in whole or in part, of collective
5 bargaining, or of dealing with employers concerning grievances, terms or
6 conditions of employment, or of other mutual aid or protection and which
7 is not a company union.

8 § 2. Subdivision 2 of section 856 of the general municipal law, as
9 amended by chapter 356 of the laws of 1993, is amended to read as
10 follows:

11 2. An agency shall be a corporate governmental agency, constituting a
12 public benefit corporation. Except as otherwise provided by special act
13 of the legislature, an agency shall consist of not less than three nor
14 more than seven members who shall be appointed by the governing body of
15 each municipality and who shall serve at the pleasure of the appointing
16 authority. Such members ~~[may]~~ shall include ~~[representatives]~~ at least
17 one representative of ~~[local government,]~~ a local labor organization and
18 at least one school ~~[boards, organized labor and business]~~ board member
19 of a school district within the jurisdiction of the agency. A member
20 shall continue to hold office until his successor is appointed and has
21 qualified. The governing body of each municipality shall designate the
22 first chairman and file with the secretary of state a certificate of
23 appointment or reappointment of any member. Such members shall receive
24 no compensation for their services but shall be entitled to the neces-

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

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1 sary expenses, including traveling expenses, incurred in the discharge
2 of their duties.

3 § 3. Section 859-a of the general municipal law, as added by chapter
4 356 of the laws of 1993 and subdivisions 4, 5 and 6 as added by chapter
5 563 of the laws of 2015, is amended to read as follows:

6 § 859-a. Additional prerequisites to the provisions of financial
7 assistance or payments in lieu of taxes. Prior to providing any finan-
8 cial assistance or payments in lieu of taxes of more than one hundred
9 thousand dollars to any project, the agency must comply with the follow-
10 ing prerequisites:

11 1. The agency must adopt a resolution describing the project and the
12 financial assistance or payments in lieu of taxes that the agency is
13 contemplating with respect to such project. Such assistance or payments
14 in lieu of taxes shall be consistent with the uniform tax exemption
15 policy adopted by the agency pursuant to subdivision four of section
16 eight hundred seventy-four of this chapter, unless the agency has
17 followed the procedures for deviation from such policy specified in
18 paragraph (b) of such subdivision.

19 2. The agency must hold a public hearing with respect to the project
20 and the proposed financial assistance or payments in lieu of taxes being
21 contemplated by the agency. Said public hearing shall be held in a city,
22 town or village where the project proposes to locate. At said public
23 hearing, interested parties shall be provided reasonable opportunity,
24 both orally and in writing, to present their views with respect to the
25 project.

26 3. The agency must give at least ten days published notice of said
27 public hearing and shall, at the same time, provide notice of such hear-
28 ing to the chief executive officer of each affected tax jurisdiction
29 within which the project is located, each school board of each school
30 district within which the project is located, and to all state senators
31 and members of the state assembly who represent any portion of any
32 affected tax jurisdiction that is subject to the proposed financial
33 assistance or payments in lieu of taxes. The notice of hearing must
34 state the time and place of the hearing, contain a general, functional
35 description of the project, describe the prospective location of the
36 project, identify the initial owner, operator or manager of the project
37 and generally describe the financial assistance or payments in lieu of
38 taxes contemplated by the agency with respect to the project.

39 4. Each agency shall develop a standard application form, which shall
40 be used by the agency to accept requests for financial assistance or
41 payments in lieu of taxes from all individuals, firms, companies, devel-
42 opers or other entities or organizations. The standard application form
43 shall be submitted by or on behalf of the applicant, and subscribed and
44 affirmed under the penalties of perjury by the applicant, or on behalf
45 of the applicant by the chief executive officer or such other individual
46 that is duly authorized to bind the applicant, as true, accurate and
47 complete to the best of his or her knowledge. The standard application
48 form shall include the following, and may include such other supple-
49 mental information as determined to be necessary and appropriate by the
50 agency, including supporting documents and information provided by or on
51 behalf of the applicant:

52 (a) the name and address of the project applicant;

53 (b) a description of the proposed project for which financial assist-
54 ance or payments in lieu of taxes is requested, including the type of
55 project, proposed location and purpose of the project;

(c) the amount and type of financial assistance or payments in lieu of taxes being requested, including the estimated value of each type of tax exemption sought to be claimed by reason of agency involvement in the project;

(d) a statement that there is a likelihood that the project would not be undertaken but for the financial assistance or payments in lieu of taxes provided by the agency or, if the project could be undertaken without financial assistance or payments in lieu of taxes provided by the agency, a statement indicating why the project should be undertaken by the agency;

(e) an estimate of capital costs of the project, including all costs of real property and equipment acquisition and building construction or reconstruction, financed from private sector sources, an estimate of the percentage of project costs financed from public sector sources, and an estimate of both the amount to be invested by the applicant and the amount to be borrowed to finance the project[~~-~~];

(f) the projected number of full time equivalent jobs that would be retained and that would be created if the request for financial assistance or payments in lieu of taxes is granted, the projected timeframe for the creation of new jobs, the estimated salary and fringe benefit averages or ranges for categories of the jobs that would be retained or created if the request for financial assistance or payments in lieu of taxes is granted, and an estimate of the number of residents of the economic development region as established pursuant to section two hundred thirty of the economic development law or the labor market area as defined by the agency, in which the project is located that would fill such jobs. The labor market area defined by the agency for this purpose may include no more than six contiguous counties in the state, including the county in which the project is to be located;

(g) a statement to the effect that the provisions of subdivision one of section eight hundred sixty-two of this chapter will not be violated if financial assistance or payments in lieu of taxes is provided for the proposed project;

(h) a statement that the owner, occupant or operator receiving financial assistance or payments in lieu of taxes is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations; and

(i) a statement acknowledging that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any financial assistance or payments in lieu of taxes and the reimbursement of an amount equal to all or part of any tax exemptions claimed by reason of agency involvement in the project.

5. Each agency shall develop, and adopt by resolution, uniform criteria for the evaluation and selection for each category of projects for which financial assistance or payments in lieu of taxes will be provided. At a minimum, the criteria shall require that, for each project, the following must occur prior to the approval of the provision of financial assistance or payments in lieu of taxes:

(a) an assessment by the agency of all material information included in connection with the application for financial assistance or payments in lieu of taxes, as necessary to afford a reasonable basis for the decision by the agency to provide financial assistance or payments in lieu of taxes for the project;

(b) a written cost-benefit analysis by the agency that identifies the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemptions to be provided;

1 the amount of private sector investment generated or likely to be gener-
2 ated by the proposed project; the likelihood of accomplishing the
3 proposed project in a timely fashion; and the extent to which the
4 proposed project will provide additional sources of revenue for munici-
5 palities and school districts; and any other public benefits that might
6 occur as a result of the project;

7 (c) a statement by the applicant that the project, as of the date of
8 the application, is in substantial compliance with all provisions of
9 this article including, but not limited to, the provisions of this
10 section and subdivision one of section eight hundred sixty-two of this
11 chapter; and

12 (d) if the project involves the removal or abandonment of a facility
13 or plant within the state, notification by the agency to the chief exec-
14 utive officer or officers of the municipality or municipalities in which
15 the facility or plant was located.

16 6. Each agency shall develop a uniform agency project agreement that
17 sets forth terms and conditions under which financial assistance or
18 payments in lieu of taxes shall be provided. The uniform agency project
19 agreement shall be used by the agency and no financial assistance or
20 payments in lieu of taxes shall be provided in the absence of the
21 execution of such an agreement. The uniform agency project agreement
22 shall, at a minimum:

23 (a) describe the project and the financial assistance or payments in
24 lieu of taxes, including the amount and type, to be provided, and the
25 agency purpose to be achieved;

26 (b) require each project owner, occupant or operator receiving finan-
27 cial benefits or payments in lieu of taxes to provide annually a certi-
28 fied statement and documentation: (i) enumerating the full time equiv-
29 alent jobs retained and the full time equivalent jobs created as a
30 result of the financial assistance or payments in lieu of taxes, by
31 category, including full time equivalent independent contractors or
32 employees of independent contractors that work at the project location,
33 and (ii) indicating that the salary and fringe benefit averages or rang-
34 es for categories of jobs retained and jobs created that was provided in
35 the application is still accurate and if it is not still accurate,
36 providing a revised list of salary and fringe benefit averages or ranges
37 for categories of jobs retained and jobs created[+];

38 (c) indicate the dates when PILOT payments are to be made and provide
39 an estimate of the amounts for each affected tax jurisdiction of any
40 payments in lieu of taxes that are included as part of the transaction,
41 or formula or formulas by which those amounts may be calculated. In lieu
42 of providing such information, a copy of an executed payment in lieu of
43 tax agreement that contains the same information may be attached to the
44 uniform agency project agreement;

45 (e) provide for the suspension or discontinuance of financial assist-
46 ance or payments in lieu of taxes, or for the modification of any
47 payment in lieu of tax agreement to require increased payments, in
48 accordance with policies developed by the agency pursuant to section
49 eight hundred seventy-four of this title;

50 (f) provide for the return of all or a part of the financial assist-
51 ance or payments in lieu of taxes provided for the project, including
52 all or part of the amount of any tax exemptions, which shall be redis-
53 tributed to the appropriate affected tax jurisdiction, as provided for
54 in policies developed by the agency pursuant to section eight hundred
55 seventy-four of this title, unless agreed to otherwise by any local
56 taxing jurisdiction or jurisdictions; and

1 (g) provide that the owner, occupant or operator receiving financial
2 assistance or payments in lieu of taxes shall certify, under penalty of
3 perjury, that it is in substantial compliance with all local, state and
4 federal tax, worker protection and environmental laws, rules and regu-
5 lations.

6 § 4. The general municipal law is amended by adding a new section
7 859-c to read as follows:

8 § 859-c. Notice of agenda. A printed calendar of items to be heard,
9 which may be subject to later amendment, shall be made available to the
10 public and forwarded to the members and chairman of the industrial
11 development agency at least three days in advance of the meeting. Where
12 an industrial development agency maintains a website, the notice of
13 agenda shall also be posted on such industrial development agency's
14 website.

15 § 5. The general municipal law is amended by adding a new section
16 859-d to read as follows:

17 § 859-d. School board reporting. Every industrial development agency,
18 continued or created by this chapter or any other law of the state shall
19 submit to the local school board or boards overlapping with an indus-
20 trial development agency, within ninety days after the end of its fiscal
21 year, a copy of the report required by subdivision two of section twen-
22 ty-eight hundred of the public authorities law and the audits required
23 by subdivision two of section twenty-eight hundred two of the public
24 authorities law.

25 § 6. This act shall take effect immediately.