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

4250

2009-2010 Regular Sessions

I N A S S E M B L Y

February 2, 2009

Introduced by M. of A. BRODSKY, BING, KOON, JOHN, FIELDS, CUSICK, LUPARDO -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the New York state urban development corporation act, in relation to enacting the state financial incentive protection act

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

Section 1. This act shall be known and may be cited as the "state financial incentive protection act".

S 2. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 5-a to read as follows:

S 5-A. STATE FINANCIAL INCENTIVE PROTECTION ACT. 1. LEGISLATIVE FINDINGS AND INTENT. THE LEGISLATURE HEREBY FINDS AND DECLARES IT TO BE THE POLICY OF THE STATE TO ENSURE THAT ECONOMIC DEVELOPMENT BENEFITS EXTENDED TO BUSINESSES AND CORPORATIONS ARE USED TO PROVIDE JOBS AND BENEFITS TO THE PEOPLE OF THE STATE. THE LEGISLATURE HAS A RESPONSIBILITY TO ENSURE THAT TAXPAYER MONEY IS USED FOR ITS INTENDED PURPOSE. THE LEGISLATURE ALSO FINDS THAT COMPANIES RELOCATE FOR A VARIETY OF REASONS, BUT BELIEVES THAT THE LEGISLATURE SHOULD NOT FINANCE SUCH RELOCATION. THE STATE HAS LIMITED RESOURCES THAT SHOULD BE USED TO ASSIST COMPANIES THAT HAVE MADE EFFORTS TOWARDS IMPROVING ECONOMIC DEVELOPMENT IN THIS STATE, NOT COMPANIES THAT DO NOT MAKE SUCH EFFORTS.

2. DEFINITIONS. AS USED IN THIS SECTION:

(A) "BUSINESS ENTITY" SHALL MEAN ANY PERSON, CORPORATION, LIMITED LIABILITY COMPANY, ORGANIZATION, OR PARTNERSHIP RECOGNIZED BY LAW, OR ANY COMBINATION THEREOF.

(B) "FINANCIAL INCENTIVES" SHALL MEAN ANY AGREEMENT OR UNDERSTANDING BETWEEN THE STATE OF NEW YORK AND A BUSINESS ENTITY PURSUANT TO ARTICLE 18-B OF THE GENERAL MUNICIPAL LAW, OR BETWEEN THE CORPORATION AND A

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

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BUSINESS ENTITY, PROVIDING FOR AWARDS, GRANTS, LOANS, LOAN GRANTEES, TAX BENEFITS AND OTHER FINANCIAL ASSISTANCE TO SUCH BUSINESS ENTITIES.

(C) "OUTSOURCING JOBS" MEANS TO RELOCATE OR MOVE EMPLOYMENT, JOBS OR POSITIONS FROM THE STATE OF NEW YORK TO OUTSIDE OF THE STATE.

3. PROHIBITION FROM RECEIVING STATE AID WHEN OUTSOURCING JOBS. (A) AS A CONDITION OF THE RECEIPT OF FINANCIAL INCENTIVES, THE BUSINESS ENTITY SHALL AGREE THAT IT WILL NOT OUTSOURCE JOBS.

(B) ANY BUSINESS ENTITY THAT OUTSOURCES JOBS SHALL RETURN SUCH FINANCIAL INCENTIVES TO THE STATE, EXCEPT AS PROVIDED FOR IN PARAGRAPH (E) OF THIS SUBDIVISION.

(C) A BUSINESS ENTITY THAT VIOLATES THIS SECTION SHALL NOT RECEIVE ANY FINANCIAL INCENTIVES FOR A PERIOD OF FIVE YEARS FROM THE DATE OF DETERMINATION OF SUCH VIOLATION.

(D) IF THE BUSINESS ENTITY RECEIVES FINANCIAL INCENTIVES BUT THEN OUTSOURCES JOBS DURING THE TWELVE MONTH PERIOD AFTER IT RECEIVES SUCH FINANCIAL INCENTIVES OR DURING THE CONTRACTUAL PERIOD FOR THE PARTICULAR FINANCIAL INCENTIVE WHICH RESULTS IN A NET LOSS OF JOBS, IT SHALL RETURN SUCH FINANCIAL INCENTIVES TO THE STATE.

(E) ANY FINANCIAL INCENTIVES RECEIVED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS SECTION.

(F) IF A BUSINESS ENTITY OUTSOURCES JOBS DURING THE PERIOD REFERRED TO IN PARAGRAPH (D) OF THIS SUBDIVISION BUT DOES NOT ACHIEVE A NET LOSS OF JOBS FOR THE BUSINESS ENTITY'S STATEWIDE EMPLOYMENT LEVEL, THE PROVISIONS OF THIS SECTION SHALL NOT APPLY.

4. ENFORCEMENT. THE ATTORNEY GENERAL SHALL HAVE THE AUTHORITY TO ENFORCE THE PROVISIONS OF THIS SECTION.

5. REPORTING. (A) THE CORPORATION AND THE DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL FILE AN ANNUAL REPORT WITH THE ATTORNEY GENERAL NOTING THE BUSINESS ENTITY, THE AMOUNT AND THE REASON FOR THE FINANCIAL INCENTIVE AND ANY OTHER DATE THAT THE ATTORNEY GENERAL MAY REQUIRE. THE REPORT SHALL BE SUBMITTED BEFORE FEBRUARY FIRST OF EACH YEAR.

(B) ANY BUSINESS ENTITY THAT RECEIVES FINANCIAL INCENTIVES FROM THE CORPORATION SHALL SUBMIT AN ANNUAL REPORT TO THE ATTORNEY GENERAL AND THE CORPORATION STATING THE AMOUNT OF THE FINANCIAL INCENTIVE RECEIVED, THE NUMBER OF EMPLOYEES OF SUCH BUSINESS ENTITY GAINED OR LOST IN NEW YORK OVER THE COURSE OF THE YEAR, THE USE TO WHICH THE FINANCIAL INCENTIVES WERE APPLIED, AND ANY OTHER DATA THE ATTORNEY GENERAL OR THE CORPORATION MAY REQUIRE. THE REPORT SHALL BE SUBMITTED BEFORE FEBRUARY FIRST OF EACH YEAR.

(C) EACH REPORT SHALL BE MADE AVAILABLE TO THE PUBLIC IN AN EASILY ACCESSIBLE FORMAT, INCLUDING BUT NOT LIMITED TO AN ELECTRONIC VERSION VIA THE WORLD WIDE WEB.

S 3. Severability. If any item, clause, sentence, subparagraph, paragraph, subdivision, section, or any other part of this act, or the application thereof to any person or circumstances, is held to be invalid, such holding shall not affect, impair, or invalidate the remainder of this act, or the application of such section or part of a section held invalid, to any other person or circumstances, but shall be confined in its operation to the item, clause, sentence, subparagraph, paragraph, subdivision, section, or other part of this act directly involved in such holding, or to the person and circumstances therein involved.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.