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

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2009-2010 Regular Sessions

I N S E N A T E

February 9, 2009

Introduced by Sens. MORAHAN, DIAZ -- 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general municipal law is amended by adding a new section 859-c to read as follows:

S 859-C. ADDITIONAL PROCEDURES FOR FINANCIAL ASSISTANCE. 1. PRIOR TO PROVIDING FINANCIAL ASSISTANCE, THE AGENCY SHALL FOLLOW CERTAIN PROCEDURES WHICH MUST INCLUDE AT LEAST ALL OF THE FOLLOWING:

(A) A DESCRIPTION OF THE DEVELOPMENT ASSISTANCE, INCLUDING THE AMOUNT AND TYPE. THE DESCRIPTION MUST INCLUDE THE FAIR MARKET VALUE OF THE DEVELOPMENT ASSISTANCE TO THE RECIPIENT, INCLUDING THE VALUE OF CONVEYING ANY PROPERTY AT LESS THAN A FAIR MARKET PRICE AND INCLUDING ANY OTHER IN-KIND BENEFITS TO THE PERSON RECEIVING THE DEVELOPMENT ASSISTANCE.

(B) A STATEMENT SPECIFYING THE PUBLIC PURPOSE FOR THE DEVELOPMENT ASSISTANCE. THE PUBLIC PURPOSE SPECIFIED IN THE DEVELOPMENT ASSISTANCE AGREEMENT MAY NOT BE INCREASING THE TAX BASE. JOB RETENTION MAY BE SPECIFIED IN THE DEVELOPMENT ASSISTANCE AGREEMENT AS A PUBLIC PURPOSE ONLY IF JOB LOSS BY THE PERSON RECEIVING THE DEVELOPMENT ASSISTANCE IS IMMINENT AND DEMONSTRABLE.

(C) THE GENERAL GOALS FOR THE DEVELOPMENT ASSISTANCE.

(D) GOALS FOR THE NUMBER OF JOBS TO BE CREATED BY THE PERSON RECEIVING THE DEVELOPMENT ASSISTANCE DURING THE TWO YEARS FOLLOWING THE DATE THE DEVELOPMENT ASSISTANCE IS GRANTED. THE GOALS MAY INCLUDE SEPARATE GOALS FOR THE NUMBER OF PART-TIME JOBS AND FULL-TIME JOBS, AND IN CASES WHERE JOB LOSS IS IMMINENT AND DEMONSTRABLE, SEPARATE GOALS FOR THE NUMBER OF JOBS RETAINED.

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

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(E) WAGE GOALS FOR THE JOBS TO BE CREATED OR RETAINED BY THE PERSON RECEIVING THE DEVELOPMENT ASSISTANCE DURING THE TWO YEARS FOLLOWING THE DATE THE DEVELOPMENT ASSISTANCE IS GRANTED.

(F) A DESCRIPTION OF THE FINANCIAL OBLIGATION OF THE PERSON RECEIVING THE DEVELOPMENT ASSISTANCE IF THE GOALS SPECIFIED IN THE DEVELOPMENT ASSISTANCE AGREEMENT ARE NOT MET.

(G) A STATEMENT EXPLAINING WHY THE DEVELOPMENT ASSISTANCE IS NEEDED TO ACHIEVE THE PUBLIC PURPOSE SPECIFIED IN THE DEVELOPMENT ASSISTANCE AGREEMENT.

(H) A COMMITMENT BY THE PERSON RECEIVING THE DEVELOPMENT ASSISTANCE TO CONTINUE OPERATIONS AT ANY SITE WHERE THE DEVELOPMENT ASSISTANCE IS USED FOR AT LEAST FIVE YEARS AFTER THE DATE THE DEVELOPMENT ASSISTANCE IS PROVIDED.

(I) THE NAME AND ADDRESS OF THE PARENT CORPORATION OR OTHER PARENT ENTITY, IF ANY, OF THE PERSON RECEIVING THE DEVELOPMENT ASSISTANCE.

(J) A LIST OF ALL DEVELOPMENT ASSISTANCE PROVIDED TO THE PERSON RECEIVING DEVELOPMENT ASSISTANCE DURING THE IMMEDIATELY PRECEDING FIVE YEARS BY OTHER GRANTING BODIES.

2. A DEVELOPMENT AGREEMENT ENTERED INTO UNDER THIS ARTICLE MUST BE APPROVED BY THE FOLLOWING:

(A) THE FISCAL BODY OF THE COUNTY WHERE THE DEVELOPMENT ASSISTANCE WILL BE USED, IF THE DEVELOPMENT ASSISTANCE WILL NOT BE USED SOLELY WITHIN A MUNICIPALITY.

(B) THE MUNICIPAL FISCAL BODY, IF THE DEVELOPMENT ASSISTANCE WILL BE USED ONLY WITHIN A MUNICIPALITY.

3. IF DEVELOPMENT ASSISTANCE PROVIDED BY A GRANTING BODY DIRECTLY BENEFITS MORE THAN ONE PERSON, THE GRANTING BODY MUST ASSIGN A PROPORTION OF THE DEVELOPMENT ASSISTANCE TO EACH PERSON RECEIVING DEVELOPMENT ASSISTANCE. THE PROPORTION ASSIGNED BY THE GRANTING BODY TO EACH PERSON MUST REFLECT A REASONABLE ESTIMATE OF THE PERSON'S SHARE OF THE TOTAL BENEFITS OF THE DEVELOPMENT ASSISTANCE.

4. (A) THE DEVELOPMENT ASSISTANCE AGREEMENT MUST INCLUDE PROVISIONS THAT SPECIFY THE OBLIGATION OF THE PERSON RECEIVING THE DEVELOPMENT ASSISTANCE TO REPAY THE DEVELOPMENT ASSISTANCE IF THE PERSON DOES NOT MEET THE GOALS SPECIFIED BY THE DEVELOPMENT ASSISTANCE AGREEMENT. THE DEVELOPMENT ASSISTANCE AGREEMENT MUST REQUIRE AT LEAST THAT A PERSON FAILING TO MEET THE GOALS MUST PAY BACK THE DEVELOPMENT ASSISTANCE PLUS INTEREST TO THE GRANTING BODY. A REPAYMENT REQUIRED BY THIS SECTION MAY BE PRORATED TO REFLECT PARTIAL FULFILLMENT OF GOALS. THE INTEREST RATE USED TO CALCULATE THE REPAYMENT MUST EQUAL THE GROSS DOMESTIC PRODUCT IMPLICIT PRICE DEFLATOR FOR THE APPLICABLE PERIOD.

(B) AN AGENCY MAY, AFTER A PUBLIC HEARING, EXTEND FOR NOT MORE THAN ONE YEAR THE PERIOD FOR MEETING THE GOALS SPECIFIED BY A DEVELOPMENT ASSISTANCE AGREEMENT.

5. A PERSON THAT FAILS TO MEET THE TERMS OF A DEVELOPMENT ASSISTANCE AGREEMENT MAY NOT RECEIVE ADDITIONAL DEVELOPMENT ASSISTANCE FROM A GRANTING BODY UNTIL THE EARLIER OF THE DATE:

(A) FIVE YEARS AFTER THE PERSON'S FAILURE TO MEET THE TERMS OF A DEVELOPMENT ASSISTANCE AGREEMENT; OR

(B) THE PERSON SATISFIES ITS REPAYMENT OBLIGATION UNDER SUBDIVISION FOUR OF THIS SECTION.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.