

2207

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 15, 2009

---

Introduced by M. of A. MORELLE, DESTITO, DelMONTE, CYMBROWITZ, CAHILL, CLARK, BOYLAND, PEOPLES, ROBINSON, BENJAMIN, KOON -- Multi-Sponsored by -- M. of A. BRENNAN, COLTON, FIELDS, GALEF, GREENE, GUNTHER, McENE- NY, SCHIMMINGER, SWEENEY, TOWNS, WRIGHT -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the economic development law, in relation to creating a high tech marketing program and making an appropriation therefor

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

1     Section 1. The economic development law is amended by adding a new  
2     article 11-B to read as follows:

3                                 ARTICLE 11-B  
4                                 HIGH TECH MARKETING PROGRAM

5     SECTION 239-A. DEFINITIONS.  
6                 239-B. APPLICATION.  
7                 239-C. USE OF FUNDS.  
8                 239-D. ADVISORY COMMITTEE.  
9                 239-E. REPORTING REQUIREMENTS.

10     S 239-A. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING WORDS AND  
11     TERMS SHALL HAVE THE FOLLOWING MEANINGS:

12     1. "ELIGIBLE APPLICANT" SHALL MEAN A STATEWIDE ECONOMIC DEVELOPMENT  
13     NOT-FOR-PROFIT ORGANIZATION ESTABLISHED TO PROMOTE THE ECONOMIC DEVELOP-  
14     MENT OF THE STATE AND ITS COMMUNITIES, ENCOURAGE SOUND PRACTICES IN THE  
15     CONDUCT OF REGIONAL AND STATEWIDE DEVELOPMENT PROGRAMS, AND TO DEVELOP  
16     EDUCATION PROGRAMS THAT ENHANCE THE PROFESSIONAL DEVELOPMENT SKILLS OF  
17     ITS MEMBERS, AND WHOSE MEMBERS REPRESENT COUNTY, STATEWIDE, AND LOCAL  
18     GOVERNMENT JURISDICTIONS FOR THE PURPOSE OF ATTRACTING INVESTMENT AND  
19     JOBS TO THE REGIONS THEY REPRESENT.

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

LBD04921-01-9

1 2. "STATEWIDE HIGH TECH MARKETING PROGRAM" SHALL MEAN A PROGRAM THAT  
2 PROMOTES THE STATE'S STRENGTHS AND ASSETS IN THE FOLLOWING TECHNOLOGY  
3 SECTORS: NANO-TECHNOLOGY; BIOTECHNOLOGY; AND PHOTONICS, OPTICS, AND  
4 IMAGING.

5 3. "REGIONAL BUSINESS MARKETING CORPORATION" SHALL MEAN ANY  
6 NOT-FOR-PROFIT CORPORATION CREATED FOR THE PRIMARY PURPOSE OF MARKING A  
7 MULTI-COUNTY REGION OF THE STATE FOR THE PURPOSE OF ATTRACTING PRIVATE  
8 SECTOR INVESTMENT AND CREATING JOBS, AND WHICH HAS RECEIVED THE FINAN-  
9 CIAL SUPPORT OF AT LEAST THREE COUNTY GOVERNMENTS.

10 S 239-B. APPLICATION. THE COMMISSIONER SHALL, WITHIN THREE MONTHS OF  
11 THE EFFECTIVE DATE OF THIS ARTICLE, IMPLEMENT A REQUEST FOR PROPOSALS  
12 PROCESS FOR SELECTING THE "ELIGIBLE APPLICANT". THE COMMISSIONER SHALL  
13 INSURE THAT THE APPLICATION OF THE WINNING APPLICANT FOR SUCH FUNDS  
14 SHALL HAVE SET FORTH THE SCHEDULE, BUDGET, SCOPE, USES OF FUNDS, AND  
15 THEME OF THE PROPOSED STATEWIDE MARKETING PROGRAM TO BE UNDERTAKEN FOR  
16 THE PURPOSE OF ENCOURAGING AND STIMULATING BUSINESS DEVELOPMENT AND  
17 ECONOMIC ACTIVITY IN THE TARGETED HIGH TECHNOLOGY SECTORS WITHIN NEW  
18 YORK STATE AND ITS REGIONS. THE APPROPRIATION FOR THIS PROGRAM SHALL BE  
19 PAID TO THE WINNING APPLICANT WITHIN SIXTY DAYS OF ITS SELECTION.

20 S 239-C. USE OF FUNDS. 1. THREE MILLION DOLLARS OF THE FUNDS MAY BE  
21 USED BY THE SELECTED APPLICANT TO DEVELOP AND IMPLEMENT A STATEWIDE HIGH  
22 TECH MARKETING PROGRAM, AND MAY BE USED FOR THE FOLLOWING PURPOSES:

23 A. PARTICIPATION AT KEY INTERNATIONAL AND DOMESTIC TRADE SHOWS AND  
24 INDUSTRY CONFERENCES.

25 B. DEVELOPMENT OF TARGETED INDUSTRY PROFILES AND OTHER PRIMARY  
26 RESEARCH ON TARGETED INDUSTRIES.

27 C. DEVELOPMENT OF TARGETED INDUSTRY COLLATERAL MATERIAL.

28 D. ONE-ON-ONE MEETINGS WITH INDUSTRY DECISION MAKERS.

29 E. DIRECT MAIL TO CORPORATE, SITE LOCATION CONSULTANTS, AND OTHER KEY  
30 DECISION MAKERS FOR TARGETED TECHNOLOGY SECTORS.

31 F. DEVELOPMENT OF NEW YORK LOVES NANO TECH, NEW YORK LOVES BIO TECH,  
32 AND NEW YORK LOVES PHOTONICS WEB SITES.

33 G. ADVERTISING IN INFLUENTIAL TRADE AND OTHER PUBLICATIONS.

34 H. NEW YORK STATE TOURS WITH TARGETED INDUSTRY DECISION MAKERS.

35 I. ALL FUNDS AWARDED TO THE WINNING APPLICANT MUST BE EXPENDED WITHIN  
36 TWELVE MONTHS, UNLESS AN EXTENSION OF TIME IS REQUESTED AND, UPON SHOW-  
37 ING OF GOOD CAUSE, GRANTED BY THE DEPARTMENT.

38 J. NO MORE THAN TEN PERCENT OF THE TOTAL AMOUNT OF FUNDS AWARDED TO  
39 THE SELECTED APPLICANT SHALL BE USED FOR ADMINISTRATIVE PURPOSES,  
40 INCLUDING SALARIES ASSOCIATED WITH IMPLEMENTING A STATEWIDE HIGH TECH  
41 MARKETING PROGRAM.

42 2. TWO MILLION DOLLARS OF THE FUNDS MAY BE AWARDED BY THE SELECTED  
43 APPLICANT ON A MATCHING BASIS TO NO MORE THAN FOUR ELIGIBLE BUSINESS  
44 REGIONAL MARKETING CORPORATIONS FOR THE PURPOSE OF IMPLEMENTING BUSINESS  
45 MARKETING INITIATIVES WITHIN THE TARGETED TECHNOLOGY SECTORS.

46 A. THE SELECTED APPLICANT SHALL ESTABLISH A REQUEST FOR PROPOSALS  
47 PROCESS FOR SELECTING REGIONAL BUSINESS MARKETING CORPORATIONS TO BE  
48 RECIPIENTS OF MATCHING GRANTS FROM THIS PROGRAM. THE SELECTED REGIONAL  
49 BUSINESS MARKETING CORPORATIONS SHALL HAVE DEMONSTRATED THAT:

50 (I) THE CORPORATION EXISTS IN LEGAL FORM.

51 (II) THE CORPORATION HAS SECURED AN AMOUNT EQUAL TO THE TOTAL MATCH  
52 AWARDED BY THE SELECTED APPLICANT.

53 (III) THE CORPORATION HAS RECEIVED AND IS RECEIVING FINANCIAL SUPPORT  
54 FROM AT LEAST COUNTY GOVERNMENTS FROM WITHIN ITS JURISDICTION.

55 B. APPLICATIONS OF SELECTED REGIONAL BUSINESS MARKETING CORPORATIONS  
56 SHALL HAVE SET FORTH THE SCHEDULE, BUDGET, SCOPE, USES OF FUNDS, AND

THEME OF THE PROPOSED STATEWIDE MARKETING PROGRAM TO BE UNDERTAKEN FOR THE PURPOSE OF ENCOURAGING AND STIMULATING BUSINESS DEVELOPMENT AND ECONOMIC ACTIVITY IN THE TARGETED HIGH TECHNOLOGY SECTORS WITHIN THE REGION, PROVIDED, HOWEVER, THAT:

(I) NO SUCH MATCHING FUNDS SHALL EXCEED THE SUM OF FIVE HUNDRED THOUSAND DOLLARS;

(II) NO MATCHING FUNDS WILL BE USED FOR ADMINISTRATIVE COSTS, INCLUDING SALARIES, ASSOCIATED WITH THE IMPLEMENTATION OF A REGIONAL HIGH TECH BUSINESS MARKETING PROGRAM;

(III) NO SUCH MATCHING FUNDS SHALL BE USED FOR THE DIRECT BENEFIT OF A FOR-PROFIT BUSINESS UNLESS SUCH EXPENDITURE SHALL FURTHER A PUBLIC PURPOSE AND HAVE A CLEAR, LONG-TERM BENEFIT TO THE REGIONAL ECONOMY;

(IV) THE USES OF THE FUNDS ARE CONSISTENT WITH THE BUSINESS MARKETING PROGRAMS DEVELOPED AND IMPLEMENTED BY THE WINNING APPLICANT; AND

(V) ALL FUNDS AWARDED TO REGIONAL BUSINESS MARKETING CORPORATIONS SHALL BE EXPENDED WITHIN TWELVE MONTHS OF SUCH PAYMENT UNLESS AN EXTENSION OF TIME IS REQUESTED AND, UPON SHOWING OF GOOD CAUSE, GRANTED BY THE WINNING APPLICANT.

C. NO ADVERTISING OR MARKETING FUNDED FOR THE PURPOSE OF THIS ARTICLE SHALL CONTAIN REFERENCES TO OR THE NAME OF ANY PUBLIC OFFICIAL OF THE STATE OF NEW YORK, OR ITS POLITICAL SUBDIVISIONS. REFERENCE SHALL INCLUDE BUT NOT BE LIMITED TO PHOTOGRAPHS, DRAWINGS, CARICATURES, OR SOUND OR VIDEO RECORDINGS, UNLESS EXPRESSLY AUTHORIZED BY THE ADVISORY COMMITTEE DESCRIBED IN SECTION TWO HUNDRED THIRTY-NINE-D OF THIS ARTICLE.

S 239-D. ADVISORY COMMITTEE. THE WINNING APPLICANT SHALL ESTABLISH AN ADVISORY COMMITTEE CONSISTING OF KEY STAKEHOLDERS TO ADVISE ON THE DEVELOPMENT AND IMPLEMENTATION OF A MARKETING PLAN FOR EACH TARGETED INDUSTRY SECTOR. THE ADVISORY COMMITTEE SHALL CONSIST OF REPRESENTATIVES OF REGIONAL MARKETING CORPORATIONS, ECONOMIC DEVELOPERS, UNIVERSITY REPRESENTATIVES, PRIVATE INDUSTRY, EMPIRE STATE DEVELOPMENT CORPORATION, THE SPEAKER OF THE ASSEMBLY, AND THE TEMPORARY PRESIDENT OF THE SENATE. THE CHAIRPERSON OF THE ADVISORY COMMITTEE SHALL BE SELECTED FROM AMONG ALL ITS MEMBERS.

S 239-E. REPORTING REQUIREMENTS. 1. EACH REGIONAL BUSINESS MARKETING CORPORATION SHALL PROVIDE AN ANNUAL FINANCIAL STATEMENT PREPARED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES TO THE WINNING APPLICANT, THE COMMISSIONER, THE SPEAKER OF THE ASSEMBLY, AND THE TEMPORARY PRESIDENT OF THE SENATE.

2. THE WINNING APPLICANT SHALL PROVIDE AN ANNUAL FINANCIAL STATEMENT PREPARED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES TO THE COMMISSIONER, THE SPEAKER OF THE ASSEMBLY, AND THE TEMPORARY PRESIDENT OF THE SENATE, AS WELL AS A PERFORMANCE REPORT INDICATING HOW FUNDS WERE EXPENDED, AND RESULTS OF THOSE EXPENDITURES.

S 2. The sum of five million dollars (\$5,000,000), or so much thereof as may be necessary, is hereby appropriated to the department of economic development from any moneys in the state treasury in the general fund not otherwise appropriated for services and expenses; including the expenses of the department of economic development, for the purposes of carrying out the provisions of this act. Such sum shall be payable on the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner of economic development, or his or her duly designated representative in the manner provided by law.

S 3. This act shall take effect immediately.