

3659

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. HOYT, JOHN, BRODSKY, MAGNARELLI, NOLAN, CAHILL, WEPRIN, GOTTFRIED, ARROYO, LATIMER, SCHROEDER, PEOPLES, MORELLE, GUNTHER, DelMONTE, LANCMAN, FIELDS, P. RIVERA, ESPAILLAT, MILLMAN, JEFFRIES, O'DONNELL, MAISEL, BOYLAND, BRADLEY, STIRPE, ENGLEBRIGHT, KAVANAGH, KELLNER, RABBITT, COLTON, PAULIN, ROSENTHAL, SWEENEY -- Multi-Sponsored by -- M. of A. BENJAMIN, CALHOUN, CAMARA, GALEF, GIANARIS, HEASTIE, KOON, PHEFFER, RAMOS, REILLY, SPANO, TOWNS, WALKER, WEISENBERG, ZEBROWSKI -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, the economic development law, the labor law and the public authorities law, in relation to the function of industrial development agencies and making certain conforming changes; to amend chapter 444 of the laws of 1997 amending the general municipal law and other laws relating to the tax exemption status of industrial development agencies, and chapter 905 of the laws of 1986 amending the general municipal law relating to authorizing financing assistance for civic facilities by industrial development agencies, in relation to the effectiveness of such chapter

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

1 Section 1. Subdivisions 4, 9, 14 and 18 of section 854 of the general
2 municipal law, subdivision 4 as separately amended by chapters 444 and
3 659 of the laws of 1997, subdivision 9 as amended by chapter 630 of the
4 laws of 1977, subdivisions 14 and 18 as added by chapter 356 of the laws
5 of 1993, and paragraph (c) of subdivision 18 as further amended by
6 section 15 of part GG of chapter 63 of the laws of 2000, are amended and
7 eight new subdivisions 20, 21, 22, 23, 24, 25, 26 and 27 are added to
8 read as follows:
9 (4) "Project" - shall mean any land, any building or other improve-
10 ment, and all real and personal properties located within the state of
11 New York and within or partially within and partially outside the muni-

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

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1 cipality for whose benefit the agency was created, including, but not
2 limited to, machinery, equipment and other facilities deemed necessary
3 or desirable in connection therewith, or incidental thereto, whether or
4 not now in existence or under construction, which shall be suitable for
5 manufacturing, warehousing, research, civic, commercial or industrial
6 purposes or other economically sound purposes identified and called for
7 to implement a state designated urban cultural park management plan as
8 provided in title G of the parks, recreation and historic preservation
9 law and which may include or mean an industrial pollution control facil-
10 ity, a recreation facility, educational or cultural facility, a horse
11 racing facility, a railroad facility, OR a continuing care retirement
12 community, [or a civic facility,] provided, however, that, of agencies
13 governed by this article, only agencies created for the benefit of a
14 county and the agency created for the benefit of the city of New York
15 shall provide financial assistance in any respect to a continuing care
16 retirement community, and provided, however, no agency shall provide
17 financial assistance in respect of any project partially outside the
18 municipality for whose benefit the agency was created without the prior
19 consent thereto by the governing body or bodies of all the other munici-
20 palities in which any part of the project is, or is to be, located.
21 Where a project is located partially within and partially outside the
22 municipality for whose benefit the agency was created, the portion of
23 the project outside the municipality must be contiguous with the portion
24 of the project inside the municipality. Provided further, that no agen-
25 cy shall provide financial assistance for any project where the project
26 applicant has any agreement to subsequently contract with a municipality
27 for the lease or purchase of such project or project facility. PROVIDED,
28 FURTHER, THAT NO AGENCY SHALL PROVIDE FINANCIAL ASSISTANCE TO A RECRE-
29 ATIONAL FACILITY UNLESS: IT WILL PROVIDE RECREATIONAL ACTIVITIES THAT
30 ARE NOT CURRENTLY PROVIDED IN THE AREA; THE RECREATIONAL FACILITY IS
31 LIKELY TO ATTRACT A SIGNIFICANT NUMBER OF VISITORS FROM OUTSIDE THE
32 ECONOMIC DEVELOPMENT REGION, AS ESTABLISHED BY SECTION TWO HUNDRED THIR-
33 TY OF THE ECONOMIC DEVELOPMENT LAW, IN WHICH THE PROJECT IS LOCATED; OR
34 THERE IS AN UNMET DEMAND FOR SUCH RECREATIONAL ACTIVITIES DESPITE THE
35 EXISTENCE OF ONE OR MORE PROVIDERS.

36 (9) "Recreation facility"--shall mean any facility for the use of the
37 general public as spectators or participants in recreation activities,
38 including [but not limited to] skiing, [golfing,] swimming, tennis, ice
39 skating or ice hockey facilities, together with all buildings, struc-
40 tures, machinery, equipment, facilities and appurtenances thereto which
41 the agency may deem necessary, useful or desirable in connection with
42 the construction, improvement or operation of any such facility, includ-
43 ing overnight accommodations and other facilities incidental thereto and
44 facilities that may permit the use of recreation facilities by the
45 general public as participants in recreation activities, but shall not
46 include facilities for automobile or horse racing or other similar
47 activities.

48 (14) "Financial assistance" - shall mean the proceeds of bonds issued
49 by an agency, straight-leases, GRANTS, LOANS, or exemptions from taxa-
50 tion claimed by a project occupant as a result of an agency taking
51 title, possession or control (by lease, license or otherwise) to the
52 property or equipment of such project occupant or of such project occu-
53 pant acting as an agent of an agency.

54 (18) "Highly distressed area" - shall mean (a) a census tract or
55 tracts or block numbering areas or areas or such census tract or block

1 numbering area contiguous thereto which, according to the most recent
2 census data available, has:

3 (i) a poverty rate of at least twenty percent for the year to which
4 the data relates or at least twenty percent of households receiving
5 public assistance; and
6 (ii) an unemployment rate of at least 1.25 times the statewide unem-
7 ployment rate for the year to which the data relates; or
8 (b) a city, town, village or county within a city with a population of
9 one million or more for which: (i) the ratio of the full value property
10 wealth, as determined by the comptroller for the year nineteen hundred
11 ninety, per resident to the statewide average full value property wealth
12 per resident; and (ii) the ratio of the income per resident; as shown in
13 the nineteen hundred ninety census to the statewide average income per
14 resident; are each fifty-five percent or less of the statewide average[;
15 or
16 (c) an area which was designated an empire zone pursuant to article
17 eighteen-B of this chapter].

18 (20) "APPLICATION" SHALL MEAN THE FORM SUBMITTED TO AN AGENCY TO
19 OBTAIN APPROVAL AND FINANCIAL ASSISTANCE FOR A PROJECT.

20 (21) "FULL-TIME JOB" SHALL MEAN A JOB IN WHICH AN INDIVIDUAL IS
21 EMPLOYED AT LEAST THIRTY-FIVE HOURS A WEEK.

22 (22) "LABOR MARKET AREA" SHALL MEAN AN AREA WITHIN WHICH INDIVIDUALS
23 CAN READILY CHANGE EMPLOYMENT WITHOUT CHANGING THEIR PLACE OF RESIDENCE.

24 (23) "LOSS OF EMPLOYMENT" SHALL MEAN THE LOSS OF FIFTY OR MORE JOBS IN
25 THE LABOR MARKET AREA THROUGH THE RELOCATION OF JOBS OR LAYOFFS.

26 (24) "PART-TIME JOB" SHALL MEAN A JOB IN WHICH AN INDIVIDUAL IS
27 EMPLOYED LESS THAN THIRTY-FIVE HOURS A WEEK.

28 (25) "PROJECT APPLICANT" SHALL MEAN A PERSON, FIRM, COMPANY, OR ORGAN-
29 IZATION THAT APPLIES FOR FINANCIAL ASSISTANCE FROM AN AGENCY TO DEVELOP
30 A PROJECT IN THIS STATE.

31 (26) "RECIPIENT" SHALL MEAN A PROJECT APPLICANT THAT HAS RECEIVED
32 APPROVAL AND FINANCIAL ASSISTANCE FOR A PROJECT.

33 (27) "SUBSTANTIAL VIOLATION" SHALL MEAN A VIOLATION OF A LAW, RULE OR
34 REGULATION THAT IS PUNISHABLE BY IMPRISONMENT FOR AT LEAST FIFTEEN DAYS
35 OR A FINE OF AT LEAST ONE HUNDRED DOLLARS, OR BOTH.

36 S 1-a. Paragraph (b) of subdivision 1 of section 856 of the general
37 municipal law, as added by chapter 1030 of the laws of 1969, is amended
38 to read as follows:

39 (b) Every such agency shall be perpetual in duration, except that if
40 (1) such certificate is not filed with the secretary of state within six
41 months after the effective date of the special act of the legislature
42 establishing such agency or before the first day of July, nineteen
43 hundred sixty-nine, whichever date shall be later, or if (2) at the
44 expiration of [ten] FIVE years subsequent to the effective date of the
45 special act, there shall be outstanding no bonds or other obligations
46 theretofore issued by such agency or by the municipality for or in
47 behalf of the agency, then the corporate existence of such agency shall
48 thereupon terminate and it shall thereupon be deemed to be and shall be
49 dissolved.

50 S 2. Subdivision 2 of section 856 of the general municipal law, as
51 amended by chapter 356 of the laws of 1993, is amended to read as
52 follows:

53 2. An agency shall be a corporate governmental agency, constituting a
54 public benefit corporation. Except as otherwise provided by special act
55 of the legislature, an agency shall consist of not less than three nor
56 more than seven members who shall be appointed by the governing body of

1 each municipality and who shall serve [at the pleasure of the appointing
2 authority] FOR A TERM OF FOUR YEARS. Such members [may] SHALL include
3 representatives of local government, school boards, organized labor
4 DESIGNATED BY THE LARGEST CENTRAL LABOR FEDERATION IN THE MUNICIPALITY,
5 and [business] ENVIRONMENTAL ORGANIZATIONS. A member shall continue to
6 hold office until his OR HER successor is appointed and has qualified.
7 The governing body of each municipality shall designate the first
8 [chairman] CHAIRPERSON and file with the secretary of state a certifi-
9 cate of appointment or reappointment of any member. Such members shall
10 receive no compensation for their services but shall be entitled to the
11 necessary expenses, including traveling expenses, incurred in the
12 discharge of their duties. EACH MEMBER MUST ATTEND AT LEAST TEN PERCENT
13 OF ALL OF THE HEARINGS HELD PURSUANT TO SECTION EIGHT HUNDRED
14 FIFTY-NINE-A OF THIS TITLE OR SUCH MEMBER SHALL BE DEEMED TO HAVE
15 FORFEITED THEIR OFFICE. MEMBERS MUST NOT BE OR HAVE, WITHIN THE PAST
16 FIVE YEARS, BEEN:

17 (A) AN EMPLOYEE OR AN OWNER OF A FIRM THAT IS A PAID ADVISOR OR
18 CONSULTANT OF THE AGENCY, INCLUDING A PRESENT OR FORMER INDEPENDENT
19 AUDITOR OF THE AGENCY;

20 (B) EMPLOYED BY A SIGNIFICANT SUPPLIER OF THE AGENCY;

21 (C) EMPLOYED BY AND HAD A FIVE PERCENT OR GREATER OWNERSHIP INTEREST
22 IN A SUPPLIER WHERE SALES TO THE AGENCY REPRESENT MORE THAN ONE PERCENT
23 OF THE SALES OF THE SUPPLIER OR MORE THAN ONE PERCENT OF THE PURCHASES
24 OF THE AGENCY;

25 (D) A LOBBYIST REGISTERED UNDER A STATE OR LOCAL LAW COVERING ANY
26 JURISDICTION SERVED IN WHOLE OR IN PART BY THE AGENCY.

27 S 3. Subdivision 15 of section 858 of the general municipal law, as
28 added by chapter 356 of the laws of 1993, is amended and a new subdivi-
29 sion 18 is added to read as follows:

30 (15) To enter into agreements requiring payments in lieu of taxes.
31 Such agreements shall be in writing and in addition to other terms shall
32 contain: the amount due annually to each affected tax jurisdiction (or a
33 formula by which the amount due can be calculated), the name and address
34 of the person, office or agency to which payment shall be delivered, the
35 date on which payment shall be made, and the date on which payment shall
36 be considered delinquent if not paid. Unless otherwise agreed by the
37 affected tax jurisdictions, any such agreement shall provide that
38 payments in lieu of taxes shall be allocated among affected tax juris-
39 dictions in proportion to the amount of real property tax and other
40 taxes which would have been received by each affected tax jurisdiction
41 had the project not been tax exempt due to the status of the agency
42 involved in the project. A copy of any such agreement shall be delivered
43 to each affected tax jurisdiction within fifteen days of signing the
44 agreement. [In the absence of any such written agreement, payments in
45 lieu of taxes made by an agency shall be allocated in the same
46 proportions as they had been prior to January first, nineteen hundred
47 ninety-three for so long as the agency's activities render a project
48 non-taxable by affected tax jurisdictions;] THE AGREEMENT SHALL BE
49 PUBLISHED BY THE AGENCY IN ELECTRONIC AND PAPER FORM, AND SHALL BE POST-
50 ED ON ITS WEBSITE AND MADE AVAILABLE FOR PUBLIC INSPECTION.

51 (18) TO ESTABLISH AND MAINTAIN AN AGENCY WEBSITE.

52 S 4. Subdivision 2 of section 858-b of the general municipal law, as
53 added by chapter 356 of the laws of 1993, is amended to read as follows:

54 2. Except as is otherwise provided by collective bargaining contracts
55 or agreements, new employment opportunities created as a result of
56 projects of the agency shall be listed with the New York state depart-

1 ment of labor community services division, and with the administrative
2 entity of the service delivery area created by the federal job training
3 partnership act (P.L. No. 97-300) in which the project is located.
4 Except as is otherwise provided by collective bargaining contracts or
5 agreements, sponsors of projects shall agree, where practicable, to
6 first consider persons eligible to participate in the federal job train-
7 ing partnership (P.L. No. 97-300) programs who shall be referred by
8 administrative entities of service delivery areas created pursuant to
9 such act or by the community services division of the department of
10 labor for such [such] new employment opportunities, AND SECONDLY TO
11 CONSIDER PERSONS LIVING IN A METROPOLITAN STATISTICAL AREA, AS DEFINED
12 BY THE UNITED STATES BUREAU OF LABOR STATISTICS, THAT IS IN OR ADJACENT
13 TO THE PROJECT IN WHICH THE MOST RECENT CENSUS DETERMINES THAT MORE THAN
14 THIRTY PERCENT OF THE RESIDENTS LIVE BELOW THE FEDERAL POVERTY LINE, AS
15 ISSUED IN THE FEDERAL REGISTER BY THE FEDERAL DEPARTMENT OF HEALTH AND
16 HUMAN SERVICES.

17 S 5. Section 859 of the general municipal law, as added by chapter 692
18 of the laws of 1989, paragraph (b), and the first and second undesig-
19 nated paragraphs and subparagraph (v) of paragraph (e) of subdivision 1
20 as amended by chapter 357 of the laws of 1993, paragraph (e) of subdivi-
21 sion 1 and subdivision 3 as added and subdivision 2 as amended by chap-
22 ter 356 of the laws of 1993, and paragraph (f) of subdivision 1 as added
23 by section 28 of part A3 of chapter 62 of the laws of 2003, is amended
24 to read as follows:

25 S 859. Financial AND OTHER records. 1. (a) Each agency shall maintain
26 books and records in such form as may be prescribed by the state comp-
27 troller.

28 (b) Within ninety days following the close of its fiscal year, each
29 agency or authority shall prepare a financial statement for that fiscal
30 year in such form as may be prescribed by the state comptroller. Such
31 statement shall be audited within such ninety day period by an independ-
32 ent certified public accountant in accordance with government accounting
33 standards established by the United States general accounting office.
34 The audited financial statement shall include supplemental schedules
35 listing all straight-lease transactions and bonds and notes issued,
36 outstanding or retired during the applicable accounting period whether
37 or not such bonds, notes or transactions are considered obligations of
38 the agency. For each issue of bonds or notes such schedules shall
39 provide the name of each project financed with proceeds of each issue,
40 and whether the project occupant is a not-for-profit corporation, the
41 name and address of each owner of each project, the estimated amount of
42 tax exemptions authorized for each project, the purpose for which each
43 bond or note was issued, date of issue, interest rate at issuance and if
44 variable the range of interest rates applicable, maturity date, federal
45 tax status of each issue, and an estimate of the number of jobs created
46 and retained by each project. For each straight-lease transaction, such
47 schedules shall provide the name of each project, and whether the
48 project occupant is a not-for-profit corporation, the name and address
49 of each owner of each project, the estimated amount of tax exemptions
50 authorized for each project, the purpose for which each transaction was
51 made, the method of financial assistance utilized by the project, other
52 than the tax exemptions claimed by the project and an estimate of the
53 number of jobs created and retained by each project.

54 (c) WITHIN NINETY DAYS FOLLOWING THE CLOSE OF ITS FISCAL YEAR, THE
55 AGENCY SHALL PREPARE A PROJECT REPORT FOR THAT FISCAL YEAR IN SUCH FORM
56 AS MAY BE PRESCRIBED BY THE STATE COMPTROLLER. SUCH REPORT SHALL INCLUDE

1 THE FOLLOWING INFORMATION CONCERNING RECIPIENTS THAT HAVE A CURRENT
2 FINANCIAL ASSISTANCE AGREEMENT WITH THE AGENCY:

3 (I) THE TOTAL AMOUNT OF EACH TYPE OF FINANCIAL ASSISTANCE PROVIDED TO
4 RECIPIENTS;

5 (II) THE TOTAL AMOUNT OF UNPAID TAX REVENUE TO THE MUNICIPALITY AS A
6 RESULT OF SUCH AGREEMENTS;

7 (III) A LIST OF ALL PROJECTS, INCLUDING THE FOLLOWING INFORMATION FOR
8 EACH PROJECT:

9 (1) A DESCRIPTION OF THE PROJECT, INCLUDING THE NAME, ADDRESS, AND THE
10 NAMES OF THE RECIPIENT AND ANY TENANTS AT THE PROJECT;

11 (2) THE PUBLIC PURPOSE AND BENEFITS OF THE PROJECT;

12 (3) THE AMOUNT OF EACH TYPE OF FINANCIAL ASSISTANCE PROVIDED, INCLUD-
13 ING THE PERIOD OF THE ASSISTANCE AND THE AMOUNT OF UNPAID TAX REVENUES
14 AS A RESULT OF THE AGREEMENT;

15 (4) THE NUMBER AND TYPES OF FULL-TIME AND PART-TIME JOBS REQUIRED TO
16 BE CREATED OR RETAINED, AND THE NUMBER AND TYPES OF JOBS ACTUALLY
17 CREATED OR RETAINED;

18 (5) THE WAGES AND BENEFITS REQUIRED TO BE PAID, AND THE WAGES AND
19 BENEFITS ACTUALLY PAID;

20 (6) THE AMOUNT OF CAPITAL INVESTMENT AND OTHER EXPENDITURES REQUIRED
21 TO BE MADE BY THE RECIPIENT, AND THE AMOUNTS ACTUALLY EXPENDED;

22 (7) ANY PAYMENTS MADE IN LIEU OF TAXES, INCLUDING ANY DELINQUENT
23 PAYMENTS; AND

24 (8) ANY ENFORCEMENT ACTION BY ANY LOCAL OR STATE AGENCY OR DEPARTMENT
25 FOR NON-COMPLIANCE WITH THE AGREEMENT.

26 (D) Within thirty days after completion, a copy of the audited finan-
27 cial statement AND THE PROJECT REPORT shall be transmitted to the
28 commissioner of the department of economic development, the state comp-
29 troller and the governing body of the municipality for whose benefit the
30 agency was created.

31 [(d)] (E) An agency with no bonds or notes OR OTHER FINANCIAL ASSIST-
32 ANCE issued or outstanding and no projects during the applicable
33 accounting period may apply to the state comptroller for a waiver of the
34 required audited financial statement AND PROJECT REPORT. Application
35 shall be made on such form as the comptroller may prescribe.

36 [(e)] (F) If an agency or authority shall fail to file or substantial-
37 ly complete, as determined by the state comptroller, the financial
38 statement AND THE PROJECT REPORT required by this section, the state
39 comptroller shall provide notice to the agency or authority. The notice
40 shall state the following:

41 (i) that the failure to file a financial statement AND THE PROJECT
42 REPORT as required is a violation of this section, or in the case of an
43 insufficient financial statement OR PROJECT REPORT, the manner in which
44 the financial statement OR PROJECT REPORT submitted is deficient;

45 (ii) that the agency or authority has thirty days to comply with this
46 section or provide an adequate written explanation to the comptroller of
47 the agency's or authority's reasons for the inability to comply; and

48 (iii) that the agency's or authority's failure to provide either the
49 required financial statement AND THE PROJECT REPORT or an adequate
50 explanation will result in the notification of the chief executive offi-
51 cer of the municipality for whose benefit the agency or authority was
52 created of the agency's noncompliance with this section. Where such
53 agency or authority has failed to file the required statement AND
54 PROJECT REPORT, the comptroller shall additionally notify the agency or
55 authority that continued failure to file the required statement AND

1 PROJECT REPORT may result in loss of the agency's or authority's author-
2 ity to provide exemptions from state taxes.

3 (iv) If an agency or authority after thirty days has failed to file
4 the required statement or the explanation in the manner required by
5 subparagraph (i) of this paragraph, or provides an insufficient explana-
6 tion, the comptroller shall notify the chief executive officer of the
7 municipality for whose benefit the agency or authority was created and
8 the agency of the agency's or authority's noncompliance with this
9 section. Such notice from the state comptroller shall further delineate
10 in what respect the agency or authority has failed to comply with this
11 section. If the agency or authority has failed to file the required
12 statement AND PROJECT REPORT, the notice shall additionally state that
13 continued failure to file the required statement AND PROJECT REPORT may
14 result in loss of the agency's or authority's authority to provide
15 exemptions from state taxes.

16 (v) If, thirty days after notification of the chief executive officer
17 of the municipality for whose benefit the agency or authority was
18 created of the agency's or authority's noncompliance, the agency or
19 authority fails to file the required statement AND PROJECT REPORT, the
20 comptroller shall notify the chief executive officer of the municipality
21 for whose benefit that agency or authority was created and the agency or
22 authority that if such STATEMENT AND PROJECT report [is] ARE not
23 provided within sixty days, that the agency or authority will no longer
24 be authorized to provide exemptions from state taxes.

25 (vi) If, sixty days after the notification required by subparagraph
26 (v) of this paragraph, the comptroller has not received the required
27 statement AND PROJECT REPORT, the agency or authority shall not offer
28 financial assistance which provides exemptions from state taxes until
29 such financial statement [is] AND PROJECT REPORT ARE filed and the comp-
30 troller shall so notify the agency or authority and the chief executive
31 officer of the municipality for whose benefit the agency was created.
32 Provided, however, that nothing contained in this paragraph shall be
33 deemed to modify the terms of any existing agreements.

34 [(f)] (G) Within thirty days after completion, a copy of an audited
35 financial statement which contains transactions of or bonds or notes of
36 civic facilities as defined in paragraph (b) of subdivision thirteen of
37 section eight hundred fifty-four of this [article] TITLE, AND THE
38 PROJECT REPORT, shall be transmitted by the agency to the commissioner
39 of health, the chair of the senate finance committee, the chair of the
40 assembly ways and means committee, the chair of the senate health
41 committee and the chair of the assembly health committee.

42 (H) THE PROJECT REPORT AND THE AUDITED FINANCIAL STATEMENT SHALL BE
43 PUBLISHED IN ELECTRONIC AND PAPER FORM, AND SHALL BE POSTED ON THE AGEN-
44 CY'S WEBSITE AND MADE AVAILABLE FOR PUBLIC INSPECTION.

45 2. On or before September first of each year, the commissioner of the
46 department of economic development shall prepare and submit to the
47 governor, speaker of the assembly, [majority leader] TEMPORARY PRESIDENT
48 of the senate, and the state comptroller, a report setting forth a
49 summary of the significant trends in operations and financing by agen-
50 cies and authorities; departures from acceptable practices by agencies
51 and authorities; a compilation by type of the bonds and notes outstand-
52 ing AND OTHER FINANCIAL ASSISTANCE PROVIDED; a compilation of all
53 outstanding straight-lease transactions; an estimate of the total number
54 of jobs created and retained by agency or authority projects; AN ESTI-
55 MATE OF THE WAGES AND BENEFITS PAID BY RECIPIENTS BROKEN DOWN BY JOB
56 TYPE; A STATEMENT OF WHETHER ANY RECIPIENT FAILED TO REMAIN AT A PROJECT

1 FOR THE REQUIRED PERIOD; A SUMMARY OF ANY ENFORCEMENT ACTIONS FOR
2 NON-COMPLIANCE WITH THIS SECTION OR ANY FINANCIAL ASSISTANCE AGREEMENT;
3 and any other information which in the opinion of the commissioner bears
4 upon the discharge of the statutory functions of agencies and authori-
5 ties.

6 3. On or before April first, nineteen hundred ninety-six, the commis-
7 sioner shall submit to the director of the division of the budget, the
8 temporary president of the senate, the speaker of the assembly, the
9 chairman of the senate finance committee, the chairman of the assembly
10 ways and means committee, the chairman of the senate local government
11 committee, the chairman of the senate committee on commerce, economic
12 development and small business, the chairman of the assembly committee
13 on commerce, industry and economic development, the chairman of the
14 assembly local governments committee and the chairman of the assembly
15 real property taxation committee an evaluation of the activities of
16 industrial development agencies and authorities in the state prepared by
17 an entity independent of the department. Such evaluation shall identify
18 the effect of agencies and authorities on: (a) job creation and
19 retention in the state, including the types of jobs created and
20 retained; (b) PAYMENT OF WAGES AND BENEFITS ON PROJECTS; (C) COMMITMENTS
21 BY RECIPIENTS TO REMAIN FOR THE REQUIRED PERIOD; (D) the value of tax
22 exemptions provided by such agencies and authorities; [(c)] (E) the
23 value of payments received in lieu of taxes received by municipalities
24 and school districts as a result of projects sponsored by such entities;
25 [(d)] (F) a summary of the types of projects that received financial
26 assistance; [(e)] (G) a summary of the types of financial assistance
27 provided by the agencies and authorities; [(f)] (H) a summary of crite-
28 ria for evaluation of projects used by agencies and authorities; [(g)]
29 (I) a summary of tax exemption policies of agencies and authorities; and
30 [(h)] (J) such other factors as may be relevant to an assessment of the
31 performance of such agencies and authorities in creating and retaining
32 job opportunities for residents of the state. Such evaluation shall also
33 assess the process by which agencies and authorities grant exemptions
34 from state taxes and make recommendations for the most efficient and
35 effective procedures for the use of such exemptions. Such evaluation
36 shall further include any recommendations for changes in laws governing
37 the operations of industrial development agencies and authorities which
38 would enhance the creation and retention of jobs in the state.

39 4. (A) EACH AGENCY SHALL MAINTAIN:

40 (I) AN OFFICIAL RECORD OF ITS PROCEEDINGS, INCLUDING ALL MINUTES OF
41 MEETINGS, RESOLUTIONS AND MOTIONS VOTED UPON;

42 (II) A LIST OF ALL PENDING PROJECTS FOR WHICH IT HAS RECEIVED AN
43 APPLICATION; AND

44 (III) A SCHEDULE OF ALL PAYMENTS IN LIEU OF TAXES (PILOT) OWED TO
45 AFFECTED TAX JURISDICTIONS, INCLUDING ALL DELINQUENT PILOT PAYMENTS AND
46 THE NAME OF THE TAXPAYER, THE AMOUNT OF THE DELINQUENCY AND THE DUE DATE
47 OF THE PAYMENT.

48 (B) THE INFORMATION REQUIRED UNDER THIS SUBDIVISION SHALL BE PUBLISHED
49 ON THE AGENCY'S WEBSITE AND MADE AVAILABLE FOR PUBLIC INSPECTION.

50 S 6. Section 859-a of the general municipal law, as added by chapter
51 356 of the laws of 1993, subdivision 3 as amended by chapter 444 of the
52 laws of 1997, is amended to read as follows:

53 S 859-a. Additional prerequisites to the provisions of financial
54 assistance. 1. THE AGENCY SHALL PROVIDE FINANCIAL ASSISTANCE OF LESS
55 THAN ONE HUNDRED THOUSAND DOLLARS TO NO LESS THAN THREE PROJECTS EACH
56 CALENDAR YEAR; PROVIDED THAT IN ANY YEAR WHERE NO FINANCIAL ASSISTANCE

1 IS PROVIDED TO ANY PROJECT, OR IN CASES WHERE NO PROJECT REQUESTS FOR
2 LESS THAN ONE HUNDRED THOUSAND DOLLARS ARE RECEIVED, SUCH REQUIREMENT
3 SHALL BE WAIVED.

4 2. Prior to providing any financial assistance of more than one
5 hundred thousand dollars to any project, the agency must comply with the
6 following prerequisites:

7 [1.] (A) The agency must adopt a resolution describing the project and
8 the financial assistance that the agency is contemplating with respect
9 to such project. Such assistance shall be consistent with the uniform
10 [tax exemption] PAYMENT IN LIEU OF TAX (PILOT) policy adopted by the
11 agency pursuant to subdivision four of section eight hundred seventy-
12 four of this [chapter] TITLE, unless the agency has followed the proce-
13 dures for deviation from such policy specified in paragraph (b) of such
14 subdivision.

15 (B) THE AGENCY SHALL ADOPT A RESOLUTION ESTABLISHING CRITERIA TO EVAL-
16 UATE AND SELECT PROJECTS FOR WHICH FINANCIAL ASSISTANCE MAY BE PROVIDED.
17 THE CRITERIA SHALL REQUIRE THAT:

18 (I) ALL NECESSARY INFORMATION AND CERTIFICATIONS HAVE BEEN SUBMITTED
19 TO THE AGENCY PRIOR TO THE APPROVAL OF AN APPLICATION;

20 (II) CLEAR AND CONVINCING EVIDENCE EXISTS THAT THE PROJECT WOULD NOT
21 BE UNDERTAKEN BUT FOR THE FINANCIAL ASSISTANCE PROVIDED BY THE AGENCY;

22 (III) THE AGENCY HAS UNDERTAKEN AN INDEPENDENT ANALYSIS COMPARING EACH
23 PROPOSED PROJECT BASED ON THE NUMBER OF FULL-TIME AND PART-TIME JOBS TO
24 BE CREATED AND RETAINED, THE WAGES AND BENEFITS TO BE PAID FOR THOSE
25 JOBS, AND THE ESTIMATED COST OF THE FINANCIAL ASSISTANCE;

26 (IV) THE AGENCY HAS DETERMINED THAT THE PROJECTED JOB CREATION AND
27 RETENTION GOALS ARE REASONABLE;

28 (V) THE AGENCY HAS ESTABLISHED BENCHMARKS TO DETERMINE WHETHER THE
29 PROJECT WILL MEET PROJECTED GOALS, INCLUDING JOB CREATION AND RETENTION
30 GOALS;

31 (VI) THE AGENCY HAS ESTABLISHED A POINT SCORING SYSTEM TO EVALUATE THE
32 JOB, WAGE, INVESTMENT, AND COMMUNITY AND WORKFORCE DEVELOPMENT ATTRI-
33 BUTES OF EACH PROJECT IN ORDER TO DETERMINE A SCHEDULE FOR RELEASING THE
34 FINANCIAL ASSISTANCE; AND

35 (VII) THE AGENCY HAS REVIEWED THE PROJECT APPLICANT'S COMPLIANCE WITH
36 APPLICABLE LAWS AND REGULATIONS.

37 (C) THE AGENCY HAS RECEIVED AN APPLICATION AND COMMUNITY IMPACT REPORT
38 FROM THE RECIPIENT.

39 [2] 3. The agency [must] SHALL hold a public hearing with respect to
40 the project and the proposed financial assistance being contemplated by
41 the agency WITHIN SIXTY DAYS OF THE FILING OF THE APPLICATION AND COMMU-
42 NITY IMPACT REPORT. [Said] SUCH public hearing shall be held in a city,
43 town or village where the project [proposes] IS PROPOSED to [locate] BE
44 LOCATED AND SHALL BE ATTENDED BY NO LESS THAN TWO BOARD MEMBERS. At
45 [said] SUCH public hearing, interested parties shall be provided reason-
46 able opportunity, both orally and in writing, to present their views
47 with respect to the project, THE APPLICATION, AND THE COMMUNITY IMPACT
48 REPORT.

49 [3] 4. The agency must give at least thirty days published notice of
50 [said] SUCH public hearing and shall, at the same time, provide notice
51 of such hearing to [the] STATE LEGISLATORS, chief executive officer AND
52 GOVERNING BODY of each affected tax jurisdiction within which the
53 project is PROPOSED TO BE located. SUCH NOTICE SHALL ALSO BE PROVIDED
54 VIA E-MAIL AND SHALL BE POSTED ON THE AGENCY WEBSITE. The notice of
55 hearing must state the time and place of the hearing, contain a general,
56 functional description of the project, describe the prospective location

1 of the project, identify the initial owner, operator or manager of the
2 project [and], generally describe the financial assistance contemplated
3 by the agency with respect to the project, and provide an opportunity
4 for the public to review the project application AND THE COMMUNITY
5 IMPACT REPORT, which shall include an analysis of the costs and benefits
6 of the proposed project.

7 5. THE AGENCY SHALL MAINTAIN A COMPLETE AND ACCURATE RECORD OF THE
8 HEARING, INCLUDING ALL DOCUMENTS AND ALL WRITTEN OR ORAL STATEMENTS
9 PRESENTED. ANY MEMBERS NOT PRESENT AT THE HEARING SHALL BE PROVIDED WITH
10 A COPY OF SUCH RECORD BEFORE DECIDING WHETHER TO APPROVE THE APPLICA-
11 TION. SUCH RECORD SHALL ALSO BE POSTED ON THE AGENCY WEBSITE AND MADE
12 AVAILABLE FOR PUBLIC INSPECTION.

13 6. AN AGENCY MAY NOT APPROVE AN APPLICATION UNLESS IT FINDS THAT ANY
14 NEGATIVE IMPACT FROM THE PROJECT PRESENTED IN THE COMMUNITY IMPACT
15 REPORT OR DURING THE HEARING PROCESS WILL BE AVOIDED OR MINIMIZED TO THE
16 MAXIMUM EXTENT POSSIBLE.

17 S 7. The general municipal law is amended by adding a new section
18 859-c to read as follows:

19 S 859-C. APPLICATION AND COMMUNITY IMPACT REPORT. 1. THE PROJECT
20 APPLICANT SHALL SUBMIT AN APPLICATION TO THE AGENCY FOR APPROVAL OF A
21 PROPOSED PROJECT AND FINANCIAL ASSISTANCE. THE DEPARTMENT OF ECONOMIC
22 DEVELOPMENT SHALL DEVELOP AN APPLICATION FORM FOR THE AGENCY TO PROVIDE
23 TO APPLICANTS THAT SHALL REQUIRE THE FOLLOWING INFORMATION:

24 (A) THE NAME AND ADDRESS OF THE PROJECT APPLICANT, INCLUDING THE NAMES
25 OF THE PRINCIPAL OFFICERS AND ANY PARENT OR SUBSIDIARY CORPORATIONS, AND
26 MAJOR SHAREHOLDERS (TEN PERCENT OR MORE OF THE VOTING SHARES FOR PUBLIC-
27 LY TRADED COMPANIES, AND TWENTY-FIVE PERCENT OR MORE OF THE SHARES FOR
28 OTHER COMPANIES);

29 (B) A DESCRIPTION OF THE PROJECT, INCLUDING THE ADDRESS OF THE
30 PROPOSED LOCATION;

31 (C) THE PUBLIC PURPOSE OF THE PROJECT;

32 (D) THE PROJECTED PUBLIC AND PRIVATE COSTS OF THE PROJECT, INCLUDING
33 FINANCIAL ASSISTANCE AND CAPITAL AND INFRASTRUCTURE COSTS;

34 (E) THE AMOUNT AND TYPE OF FINANCIAL ASSISTANCE REQUESTED;

35 (F) THE AMOUNT AND TYPE OF PRIVATE FINANCING REQUIRED, AND THE TERMS
36 AND COMMITMENTS TO PROVIDE SUCH FINANCING;

37 (G) THE AMOUNT AND TYPE OF CAPITAL INVESTMENT TO BE PROVIDED BY THE
38 PROJECT APPLICANT;

39 (H) THE NUMBER AND TYPES OF FULL-TIME AND PART-TIME JOBS TO BE
40 CREATED, THE WAGES AND BENEFITS TO BE PAID, THE PROJECTED DATES OF HIRE,
41 AND THE NUMBER OF LOCAL RESIDENTS TO BE EMPLOYED;

42 (I) A STATEMENT AS TO WHETHER THE PROJECT APPLICANT, ITS OFFICERS,
43 PARENT COMPANY, SUBSIDIARIES, OR MAJOR SHAREHOLDERS HAVE BEEN FOUND TO
44 HAVE VIOLATED ANY FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION RELAT-
45 ING TO ENVIRONMENTAL PROTECTION, TAXATION, FINANCIAL ASSISTANCE,
46 PROTECTION OF WORKERS, OR MINORITY OR WOMEN-OWNED BUSINESSES, OR IS
47 SUBJECT TO A PENDING PROCEEDING OR INVESTIGATION FOR SUCH A VIOLATION;

48 (J) A CERTIFICATION BY THE PROJECT APPLICANT'S CHIEF EXECUTIVE OFFICER
49 THAT THE APPLICATION IS ACCURATE AND COMPLETE;

50 (K) THE NAME OF THE PROJECT ARCHITECT, ENGINEER AND CONTRACTORS;

51 (L) THE HISTORY OF THE APPLICANT INCLUDING THE YEAR THE BUSINESS WAS
52 ESTABLISHED, ANNUAL REPORT AND STATEMENT AND STATUS REGARDING THE PAST
53 USE OF GOVERNMENT INCENTIVES;

54 (M) A PROJECT DESCRIPTION INCLUDING LOCATION, PROPERTY AND/OR BUILDING
55 SIZE AND PROPOSED START AND COMPLETION DATES; AND

1 (N) A NARRATIVE DESCRIPTION BY THE APPLICANT REGARDING THE NEED FOR
2 THE IDA ASSISTANCE REQUESTED.

3 2. (A) THE PROJECT APPLICANT SHALL SUBMIT A COMMUNITY IMPACT REPORT TO
4 THE AGENCY THAT SHALL INCLUDE THE FOLLOWING INFORMATION:

5 (I) A DESCRIPTION OF THE PROPOSED PROJECT AND THE ECONOMIC, SOCIAL,
6 AND ENVIRONMENTAL CONDITIONS EXISTING IN THE COMMUNITY WHERE THE PROJECT
7 IS TO BE LOCATED;

8 (II) AN ANALYSIS OF THE ECONOMIC, SOCIAL AND ENVIRONMENTAL IMPACT OF
9 THE PROJECT ON THE COMMUNITY, INCLUDING ITS EMPLOYMENT, INFRASTRUCTURE
10 AND HOUSING;

11 (III) A STATEMENT OF ANY POTENTIAL ADVERSE ECONOMIC, SOCIAL OR ENVI-
12 RONMENTAL EFFECTS TO THE COMMUNITY AND OTHER AREAS OF THE STATE;

13 (IV) AN ANALYSIS OF THE IMPACT ON TRANSPORTATION AND THE PUBLIC TRANS-
14 PORTATION ALTERNATIVES FOR THE PROJECT;

15 (V) AN ANALYSIS OF THE EXISTING ON-SITE INFRASTRUCTURE AND ANY
16 PROPOSED NEW INFRASTRUCTURE;

17 (VI) AN ANALYSIS OF ALTERNATIVES, INCLUDING A NO-PROJECT ALTERNATIVE,
18 OR MITIGATION MEASURES THAT WILL AVOID OR MINIMIZE ANY NEGATIVE EFFECTS
19 FROM THE PROJECT;

20 (VII) AN ANALYSIS OF THE COSTS AND BENEFITS, INCLUDING ANY SHORT AND
21 LONG TERM PUBLIC COSTS AND OBLIGATIONS;

22 (VIII) THE AMOUNT AND TYPE OF PRIVATE AND PUBLIC FINANCING REQUIRED;

23 (IX) THE NUMBER AND TYPE OF FULL-TIME AND PART-TIME JOBS TO BE CREATED
24 OR RETAINED, AND THE WAGES AND BENEFITS TO BE PAID;

25 (X) THE EFFORTS THAT WILL BE USED TO HIRE LOCAL RESIDENTS; AND

26 (XI) ANY AFFORDABLE HOUSING TO BE PROVIDED.

27 (B) THE ENVIRONMENTAL INFORMATION REQUIRED UNDER PARAGRAPH (A) OF THIS
28 SUBDIVISION SHALL BE BASED ON THE STANDARDS ESTABLISHED UNDER THE
29 PROVISIONS AND REGULATIONS OF ARTICLE EIGHT OF THE ENVIRONMENTAL CONSER-
30 VATION LAW.

31 3. THE PROJECT APPLICANT SHALL SUBMIT THE COMMUNITY IMPACT REPORT WITH
32 THE APPLICATION TO THE AGENCY. A COPY OF BOTH DOCUMENTS SHALL BE
33 PROVIDED TO THE GOVERNING BODY OF EACH AFFECTED TAX JURISDICTION WITHIN
34 FIFTEEN DAYS OF THEIR RECEIPT BY THE AGENCY. THE APPLICATION AND COMMU-
35 NITY IMPACT REPORT SHALL BE SUBMITTED TO THE AGENCY IN PAPER AND ELEC-
36 TRONIC FORM, AND SHALL BE POSTED ON THE AGENCY'S WEBSITE AND MADE AVAIL-
37 ABLE FOR PUBLIC INSPECTION; PROVIDED, THAT IF ANY MATERIALS SUBMITTED
38 WITH THE APPLICATION CANNOT BE TRANSMITTED IN ELECTRONIC FORM, THEY MAY
39 BE SUBMITTED IN PAPER FORM.

40 S 8. The general municipal law is amended by adding a new section
41 859-d to read as follows:

42 S 859-D. FINANCIAL ASSISTANCE AGREEMENT. 1. THE AGENCY SHALL ENTER
43 INTO AN AGREEMENT WITH THE RECIPIENT PRIOR TO PROVIDING FINANCIAL
44 ASSISTANCE. THE FORM OF THE AGREEMENT SHALL BE PREPARED BY THE DEPART-
45 MENT OF ECONOMIC DEVELOPMENT AND SHALL INCLUDE THE FOLLOWING INFORMA-
46 TION:

47 (A) A DESCRIPTION OF THE AMOUNT AND TYPE OF FINANCIAL ASSISTANCE TO BE
48 PROVIDED BY THE AGENCY, INCLUDING THE FAIR MARKET VALUE OF SUCH ASSIST-
49 ANCE AND THE VALUE OF ANY PROPERTY CONVEYED AT LESS THAN FAIR MARKET
50 VALUE;

51 (B) A DESCRIPTION OF THE AMOUNT OF FINANCING TO BE PROVIDED BY THE
52 PROJECT OWNER;

53 (C) THE PUBLIC PURPOSE OF THE PROJECT, PROVIDED THAT SUCH PURPOSE MAY
54 NOT BE LIMITED TO INCREASING THE LOCAL TAX BASE, AND MAY NOT INCLUDE JOB
55 RETENTION UNLESS A SIGNIFICANT JOB LOSS IS IMMINENT AND DEMONSTRABLE;

56 (D) THE SPECIFIC AND MEASURABLE GOALS OF THE PROJECT;

1 (E) THE AMOUNT, TYPE, SOURCES AND COMMITMENTS OF ANY PRIVATE FINANC-
2 ING;
3 (F) THE INFRASTRUCTURE WORK REQUIRED, AND THE AMOUNT AND SOURCE OF
4 FINANCING FOR SUCH WORK;
5 (G) THE NUMBER AND TYPES OF NEW FULL-TIME AND PART-TIME JOBS TO BE
6 CREATED, THE PROJECTED DATES OF HIRE, AND THE HOURLY WAGES AND BENEFITS
7 TO BE PAID;
8 (H) THE NUMBER AND TYPES OF FULL-TIME AND PART-TIME JOBS TO BE
9 RETAINED, AND THE NUMBER OF JOBS EXISTING AT THE PROJECT ON THE DATE THE
10 AGREEMENT IS EXECUTED;
11 (I) THE AMOUNT AND TYPE OF AFFORDABLE HOUSING TO BE BUILT, IF ANY;
12 (J) THE AMOUNT, TYPE AND DATE OF CAPITAL INVESTMENT TO BE PROVIDED BY
13 THE RECIPIENT;
14 (K) A COMMITMENT TO CONTINUE OPERATIONS AT THE PROJECT SITE FOR AT
15 LEAST FIVE YEARS AFTER THE TERMS OF THE FINANCIAL ASSISTANCE HAVE
16 EXPIRED;
17 (L) A COMMITMENT TO MAKE TIMELY PAYMENTS IN LIEU OF TAXES; AND
18 (M) THE PENALTIES IF THE TERMS OF THE AGREEMENT ARE NOT MET.

19 2. THE AGENCY AND THE DEPARTMENT OF ECONOMIC DEVELOPMENT, SHALL HAVE
20 THE RIGHT OF ACCESS TO THE PROJECT AND TO EXAMINE ALL DOCUMENTS, PAYROLL
21 RECORDS AND OTHER MATERIALS DEEMED NECESSARY BY THE AGENCY OR DEPARTMENT
22 TO DETERMINE THE RECIPIENT IS IN COMPLIANCE WITH PROVISIONS OF THE
23 FINANCIAL ASSISTANCE AGREEMENT AND THIS ARTICLE. THE AGENCY SHALL COOP-
24 ERATE FULLY WITH THE DEPARTMENT IN CARRYING OUT ITS DUTIES.

25 3. THE AGENCY SHALL FILE A COPY OF THE FINANCIAL ASSISTANCE AGREEMENT,
26 THE APPLICATION AND THE COMMUNITY IMPACT REPORT WITH THE GOVERNING BODY
27 OF THE MUNICIPALITY WITHIN FIVE DAYS OF THE EXECUTION OF THE AGREEMENT.
28 THE AGREEMENT SHALL BE EFFECTIVE WITHIN SIXTY DAYS OF THE DATE OF ITS
29 EXECUTION UNLESS A MEMBER OF THE GOVERNING BODY FILES A NOTICE OF INTENT
30 TO REVIEW THE AGREEMENT WITH THE GOVERNING BODY. UPON THE FILING OF SUCH
31 NOTICE, THE FINANCIAL ASSISTANCE AGREEMENT SHALL NOT TAKE EFFECT UNTIL
32 THE AGREEMENT IS APPROVED BY THE GOVERNING BODY.

33 4. (A) IF THE RECIPIENT FAILS TO FULFILL ANY OBLIGATION UNDER THE
34 FINANCIAL ASSISTANCE AGREEMENT, OR IS FOUND TO HAVE COMMITTED A SUBSTAN-
35 TIAL VIOLATION OF ANY STATE OR LOCAL LAW, RULE OR REGULATION RELATING TO
36 ENVIRONMENTAL PROTECTION, TAXATION, FINANCIAL ASSISTANCE, PROTECTION OF
37 WORKERS, OR MINORITY OR WOMEN-OWNED BUSINESSES BY FINAL JUDGMENT OF A
38 COURT OR ADMINISTRATIVE TRIBUNAL, THE AGENCY SHALL IMMEDIATELY SUSPEND
39 ALL FINANCIAL ASSISTANCE TO THE RECIPIENT. THE RECIPIENT SHALL NOTIFY
40 THE AGENCY WITHIN FOURTEEN DAYS OF SUCH JUDGMENT. THE AGENCY SHALL
41 PROMPTLY ISSUE A NOTICE OF DEFAULT TO THE RECIPIENT WHO SHALL REMIT
42 REPAYMENT WITHIN SIXTY DAYS OF THE DATE OF SUCH NOTICE. ALL FINANCIAL
43 ASSISTANCE PREVIOUSLY PROVIDED TO THE RECIPIENT SHALL BE REVOKED AND THE
44 RECIPIENT SHALL REPAY SUCH ASSISTANCE TO THE AGENCY AT A RATE OF INTER-
45 EST EQUAL TO THE PRIME RATE, PLUS ONE PERCENT AS OF THE DATE OF THE
46 NOTICE. THE AMOUNT OF REPAYMENT MAY BE PRORATED ACCORDING TO ANY PARTIAL
47 FULFILLMENT OF THE RECIPIENT'S OBLIGATIONS UNDER THE AGREEMENT.

48 (B) IF A RECIPIENT IS REQUIRED TO REPAY FINANCIAL ASSISTANCE UNDER
49 THIS SUBDIVISION, THE RECIPIENT AND ANY SUBSIDIARY, PARENT OR SUCCESSOR
50 OF THE RECIPIENT SHALL BE PROHIBITED FROM ENTERING INTO A FINANCIAL
51 ASSISTANCE AGREEMENT WITH ANY OTHER STATE OR LOCAL AGENCY OR INSTRUMEN-
52 TALITY OF THIS STATE UNTIL THE AGENCY HAS RECEIVED FULL REPAYMENT OF THE
53 AMOUNT DUE.

54 (C) WHENEVER THE ATTORNEY GENERAL HAS GOOD REASON TO BELIEVE THAT THE
55 RECIPIENT'S FAILURE TO FULFILL THE FINANCIAL ASSISTANCE AGREEMENT
56 INVOLVES THE STATE'S INTEREST, OR THAT THE RECIPIENT HAS COMMITTED A

1 SUBSTANTIAL VIOLATION OF THE LAWS OF THIS STATE, HE OR SHE MAY COMMENCE
2 AN ACTION TO RECOVER THE FINANCIAL ASSISTANCE AND FOR SUCH OTHER RELIEF
3 AS PROVIDED BY LAW.

4 (D) WHERE AN INDUSTRIAL DEVELOPMENT AGENCY FUNDED BUILDING IS FOUND TO
5 HAVE TENANTS WHICH ARE IN VIOLATION OF SUCH INDUSTRIAL DEVELOPMENT AGEN-
6 CY'S REQUIREMENTS FOR FUNDING, THE DEVELOPER MUST REIMBURSE ALL FINAN-
7 CIAL ASSISTANCE GIVEN IN THE FORM OF TAX EXEMPTIONS. THIS SPECIFICALLY
8 APPLIES TO PROJECTS FOR SPECULATION BUILDINGS WHICH HAVE RECEIVED A TAX
9 BREAK FOR CONSTRUCTION MATERIALS WITHOUT REVEALING THE IDENTITIES OF ALL
10 FUTURE QUALIFIED COMMERCIAL TENANTS. WHERE A BUILDING PROJECT RECEIVES
11 TAX EXEMPTIONS THROUGH SUCH INDUSTRIAL DEVELOPMENT AGENCY AND LATER
12 HOUSES UNQUALIFIED COMMERCIAL TENANTS, SUCH DEVELOPER WILL BE REQUIRED
13 TO REPAY ALL TAXES WHICH WERE AVOIDED DUE TO RECEIVING INDUSTRIAL DEVEL-
14 OPMENT AGENCY ASSISTANCE.

15 S 9. The general municipal law is amended by adding a new section
16 859-e to read as follows:

17 S 859-E. WAGES AND STANDARDS. 1. WHENEVER A RECIPIENT OF FINANCIAL
18 ASSISTANCE FROM AN AGENCY ENTERS INTO ANY CONTRACT, SUBCONTRACT, LEASE,
19 GRANT, BOND, COVENANT OR OTHER AGREEMENT FOR OR IN CONNECTION WITH ANY
20 CONSTRUCTION, DEMOLITION, RECONSTRUCTION, EXCAVATION, REHABILITATION,
21 REPAIR, RENOVATION, ALTERATION, OR IMPROVEMENT WORK ON A PROJECT, SUCH
22 PROJECT SHALL BE DEEMED TO BE A PUBLIC WORK FOR THE PURPOSES OF ARTICLE
23 EIGHT OF THE LABOR LAW AND ALL THE PROVISIONS OF SUCH ARTICLE SHALL
24 APPLY. AN EMPLOYER SHALL PAY EMPLOYEES NO LESS THAN THE PREVAILING RATE
25 OF WAGE AND SUPPLEMENTS UNDER ARTICLE EIGHT OF THE LABOR LAW.

26 2. THE AGENCY SHALL REQUIRE THAT WHENEVER WORK IS PERFORMED UNDER
27 SUBDIVISION ONE OF THIS SECTION, THE RECIPIENT SHALL USE CONTRACTORS AND
28 SUBCONTRACTORS THAT HAVE APPRENTICESHIP AGREEMENTS APPROPRIATE FOR THE
29 TYPE AND SCOPE OF WORK TO BE PERFORMED, THAT HAVE BEEN REGISTERED WITH
30 AND APPROVED BY THE COMMISSIONER OF LABOR PURSUANT TO ARTICLE
31 TWENTY-THREE OF THE LABOR LAW.

32 3. WHENEVER FINANCIAL ASSISTANCE IS PROVIDED TO A RECIPIENT BY AN
33 AGENCY FOR A PROJECT, ALL WORK PERFORMED IN CONNECTION WITH THE CARE,
34 MAINTENANCE OR PROTECTION OF THE PROPERTY AT THE PROJECT SHALL BE DEEMED
35 TO BE BUILDING SERVICE WORK FOR THE PURPOSES OF ARTICLE NINE OF THE
36 LABOR LAW AND ALL THE PROVISIONS OF SUCH ARTICLE SHALL APPLY. EMPLOYERS
37 SHALL BE SUBJECT TO THE REQUIREMENTS OF CONTRACTORS UNDER ARTICLE NINE
38 OF THE LABOR LAW. AN EMPLOYER SHALL PAY BUILDING SERVICE EMPLOYEES PAID
39 NO LESS THAN THE HIGHER OF THE PREVAILING WAGE INCLUDING SUPPLEMENTS
40 PURSUANT TO SECTION TWO HUNDRED THIRTY OF THE LABOR LAW FOR THE RELEVANT
41 BUILDING SERVICE JOB CLASSIFICATION, OR THE MEDIAN HOURLY WAGE FOR "ALL
42 OCCUPATIONS" IN THE METROPOLITAN STATISTICAL AREA CLOSEST TO THE PROJECT
43 LOCATION, PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS, FOR
44 THE DURATION OF ANY FINANCIAL ASSISTANCE AND FOR FIVE YEARS AFTER THE
45 TERMS OF THE FINANCIAL ASSISTANCE HAVE EXPIRED.

46 4. WHENEVER FINANCIAL ASSISTANCE IS PROVIDED TO A RECIPIENT BY AN
47 AGENCY FOR A PROJECT, EMPLOYEES WHO PERFORM WORK OTHER THAN WORK
48 PERFORMED UNDER SUBDIVISIONS ONE AND THREE OF THIS SECTION SHALL BE PAID
49 BY THEIR EMPLOYER NO LESS THAN THE MEDIAN HOURLY WAGE FOR "ALL OCCUPA-
50 TIONS" IN THE METROPOLITAN STATISTICAL AREA CLOSEST TO THE PROJECT
51 LOCATION, PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS, FOR
52 THE DURATION OF ANY FINANCIAL ASSISTANCE AND FOR FIVE YEARS AFTER THE
53 TERMS OF THE FINANCIAL ASSISTANCE HAVE EXPIRED. ALL OF THE PROVISIONS OF
54 ARTICLE NINE OF THE LABOR LAW SHALL APPLY. EMPLOYERS SHALL BE SUBJECT TO
55 THE REQUIREMENTS OF CONTRACTORS UNDER ARTICLE NINE OF THE LABOR LAW.

56 FOR THE PURPOSES OF THIS SECTION:

1 (A) "BUILDING SERVICE EMPLOYEE" SHALL MEAN AN EMPLOYEE AS DEFINED
2 UNDER SECTION TWO HUNDRED THIRTY OF THE LABOR LAW, WHETHER OR NOT
3 EMPLOYED BY AN EMPLOYER UNDER A CONTRACT OR AGREEMENT WITH A PUBLIC
4 AGENCY;

5 (B) "EMPLOYER" SHALL MEAN AN EMPLOYER AS DEFINED UNDER SECTION SIX
6 HUNDRED FIFTY-ONE OF THE LABOR LAW THAT IS OPERATING ON THE PREMISES OF
7 A PROJECT, WHICH IS RECEIVING FINANCIAL ASSISTANCE FROM THE AGENCY; AND

8 (C) "EMPLOYEE" SHALL MEAN AN EMPLOYEE AS DEFINED UNDER SECTION SIX
9 HUNDRED FIFTY-ONE OF THE LABOR LAW WHO WORKS FIVE OR MORE HOURS A WEEK
10 FOR AN EMPLOYER, WHETHER OR NOT EMPLOYED BY AN EMPLOYER UNDER A CONTRACT
11 OR AGREEMENT WITH A PUBLIC AGENCY.

12 5. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PROHIBITING OR
13 CONFLICTING WITH ANY LAW, OBLIGATION, OR COLLECTIVE BARGAINING AGREEMENT
14 THAT REQUIRES HIGHER WAGES OR BENEFITS, OR INCREASED PROTECTIONS FOR
15 EMPLOYEES.

16 6. THE REQUIREMENTS OF THIS SECTION, EXCEPT THOSE PERTAINING TO BUILD-
17 ING SERVICE WORK, MAY BE WAIVED BY THE WRITTEN TERMS OF A BONA FIDE
18 COLLECTIVE BARGAINING AGREEMENT, PROVIDED THAT THIS SECTION IS REFER-
19 ENCED IN SUCH AGREEMENT, AND THAT THE AGREEMENT SETS FORTH IN CLEAR AND
20 UNAMBIGUOUS TERMS THE DESIRE OF ALL PARTIES TO WAIVE SOME OR ALL OF THE
21 REQUIREMENTS OF THIS SECTION. UNILATERAL IMPLEMENTATION OF TERMS AND
22 CONDITIONS OF EMPLOYMENT BY EITHER PARTY TO A COLLECTIVE BARGAINING
23 RELATIONSHIP SHALL NOT CONSTITUTE A WAIVER OF ANY OF THE REQUIREMENTS OF
24 THIS SECTION.

25 7. NO EMPLOYER MAY REDUCE THE WAGES OF EMPLOYEES IN ORDER TO COMPLY
26 WITH THE REQUIREMENTS OF THIS SECTION.

27 8. EACH RECIPIENT SHALL ENSURE THAT ALL TENANTS, SUBTENANTS, CONTRAC-
28 TORS AND SUBCONTRACTORS COMPLY WITH THE REQUIREMENTS UNDER THIS SECTION
29 AND THAT ANY LEASE, SUBLEASE, CONTRACT OR SUBCONTRACT FOR THE PROJECT
30 INCLUDES THESE REQUIREMENTS.

31 9. A COMPLAINT FOR A VIOLATION OF THIS SECTION MAY BE FILED BY AN
32 AFFECTED EMPLOYEE, OR BY AN ORGANIZATION REPRESENTING SUCH EMPLOYEE,
33 PURSUANT TO THE PROCEDURES UNDER ARTICLES EIGHT AND NINE OF THE LABOR
34 LAW.

35 10. THE COMMISSIONER OF LABOR SHALL HAVE THE AUTHORITY TO ENSURE
36 COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.

37 11. THE COMMISSIONER OF LABOR SHALL PROMPTLY NOTIFY THE AGENCY AFTER A
38 FINAL JUDGMENT DETERMINING THAT THE EMPLOYER HAS VIOLATED THIS SECTION.
39 UPON RECEIPT OF SUCH NOTICE, THE AGENCY SHALL IMMEDIATELY SUSPEND FINAN-
40 CIAL ASSISTANCE TO THE RECIPIENT AND SHALL REVOKE THE FINANCIAL ASSIST-
41 ANCE PREVIOUSLY PROVIDED. THE RECIPIENT SHALL REPAY SUCH ASSISTANCE TO
42 THE AGENCY PURSUANT TO SUBDIVISION FOUR OF SECTION EIGHT HUNDRED FIFTY-
43 NINE-D OF THIS TITLE.

44 12. THE COMMISSIONER OF LABOR, ON BEHALF OF ANY EMPLOYEE PAID LESS
45 THAN THE WAGE TO WHICH HE OR SHE IS ENTITLED UNDER THE PROVISIONS OF
46 THIS ARTICLE, MAY BRING ANY LEGAL ACTION NECESSARY TO COLLECT SUCH
47 CLAIM. THE EMPLOYER SHALL BE REQUIRED TO PAY THE COSTS AND IF SUCH
48 UNDERPAYMENT WAS WILLFUL, AN ADDITIONAL AMOUNT AS LIQUIDATED DAMAGES
49 EQUAL TO TWENTY-FIVE PERCENT OF THE TOTAL OF SUCH UNDERPAYMENTS FOUND TO
50 BE DUE HIM OR HER. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN ACTION
51 TO RECOVER UPON A LIABILITY IMPOSED BY THIS TITLE MUST BE COMMENCED
52 WITHIN SIX YEARS.

53 S 10. The general municipal law is amended by adding a new section
54 859-f to read as follows:

55 S 859-F. DISPLACED WORKER PROTECTION. 1. DEFINITIONS. AS USED IN THIS
56 SECTION:

1 (A) "COVERED ENTITY" SHALL MEAN ANY PERSON THAT OWNS, LEASES,
2 SUBLEASES OR MANAGES PROPERTY WHERE SERVICE WORK IS PERFORMED.

3 (B) "PERSON" SHALL MEAN ANY INDIVIDUAL, PROPRIETORSHIP, PARTNERSHIP,
4 JOINT VENTURE, CORPORATION, LIMITED LIABILITY COMPANY, TRUST, ASSOCI-
5 ATION, OR OTHER ENTITY THAT MAY EMPLOY INDIVIDUALS OR ENTER INTO SERVICE
6 CONTRACTS.

7 (C) "PROPERTY" SHALL MEAN THE REAL PROPERTY AT THE PROJECT WHERE
8 SERVICE EMPLOYEES WORK.

9 (D) "SERVICE CONTRACT" SHALL MEAN AN AGREEMENT WITH A SERVICE CONTRAC-
10 TOR TO FURNISH SERVICES, INCLUDING ANY SUBCONTRACTS FOR THOSE SERVICES.

11 (E) "SERVICE CONTRACTOR" SHALL MEAN ANY CONTRACTOR THAT ENTERS INTO A
12 SERVICE CONTRACT WITH A COVERED ENTITY.

13 (F) "SERVICE EMPLOYEE" SHALL MEAN ANY PERSON EMPLOYED BY A SERVICE
14 CONTRACTOR WHO HAS BEEN REGULARLY ASSIGNED TO WORK AT THE PROPERTY ON A
15 FULL OR PART-TIME BASIS FOR AT LEAST NINETY DAYS, BUT SHALL NOT INCLUDE
16 A MANAGERIAL, SUPERVISORY, OR CONFIDENTIAL EMPLOYEE.

17 (G) "SERVICE WORK" SHALL MEAN ANY TYPE OF SERVICES PERFORMED AT THE
18 PROPERTY, EXCEPT SERVICES IN CONNECTION WITH ANY CONSTRUCTION, DEMOLI-
19 TION, RECONSTRUCTION, EXCAVATION, REHABILITATION, REPAIR, RENOVATION,
20 ALTERATION, OR IMPROVEMENT WORK.

21 (H) "SUCCESSOR CONTRACTOR" SHALL MEAN A CONTRACTOR THAT: (I) HAS BEEN
22 AWARDED A SERVICE CONTRACT FOR SERVICES THAT ARE SUBSTANTIALLY SIMILAR
23 TO THOSE PROVIDED UNDER A TERMINATED SERVICE CONTRACT, OR (II) HAS
24 PURCHASED OR ACQUIRED CONTROL OF ANY PART OF THE PROPERTY WHERE SERVICE
25 EMPLOYEES WORK.

26 2. (A) NO LATER THAN FIFTEEN DAYS PRIOR TO TERMINATING A SERVICE
27 CONTRACT, A COVERED ENTITY SHALL PROVIDE A NOTICE OF TERMINATION TO THE
28 SERVICE CONTRACTOR AND REQUEST A LIST CONTAINING THE NAME, ADDRESS, DATE
29 OF HIRE AND JOB CLASSIFICATION OF EACH SERVICE EMPLOYEE EMPLOYED AT THE
30 PROPERTY.

31 (B) NO LATER THAN FIFTEEN DAYS PRIOR TO TRANSFERRING A CONTROLLING
32 INTEREST IN ANY PART OF THE PROPERTY, A COVERED ENTITY SHALL PROVIDE THE
33 SUCCESSOR CONTRACTOR WITH A LIST CONTAINING THE NAME, ADDRESS, DATE OF
34 HIRE AND JOB CLASSIFICATION OF EACH SERVICE EMPLOYEE EMPLOYED AT THE
35 PROPERTY.

36 (C) A COVERED ENTITY SHALL ENSURE THAT A COPY OF THE NOTICE, THE LIST
37 AND THE RIGHTS OF SERVICE EMPLOYEES UNDER THIS SECTION IS CONSPICUOUSLY
38 POSTED AT THE PROPERTY.

39 (D) A SUCCESSOR CONTRACTOR SHALL RETAIN ALL SERVICE EMPLOYEES UNDER
40 THE TERMINATED SERVICE CONTRACT FOR A PERIOD OF NINETY DAYS AFTER THE
41 DATE OF CONTRACT TERMINATION.

42 (E) IF A SUCCESSOR CONTRACTOR DETERMINES THAT FEWER SERVICE EMPLOYEES
43 ARE NEEDED TO PERFORM SERVICE WORK THAN UNDER THE FORMER SERVICE
44 CONTRACT, THE SUCCESSOR CONTRACTOR SHALL RETAIN SUCH EMPLOYEES BY
45 SENIORITY WITHIN EACH JOB CLASSIFICATION; PROVIDED, THAT THE SUCCESSOR
46 CONTRACTOR SHALL MAINTAIN A PREFERENTIAL HIRING LIST OF SERVICE EMPLOY-
47 EES NOT RETAINED WHO SHALL HAVE A RIGHT OF FIRST REFUSAL TO ANY JOBS
48 WITHIN THEIR CLASSIFICATION THAT BECOME AVAILABLE DURING THIS PERIOD.

49 (F) NO SUCCESSOR CONTRACTOR MAY DISCHARGE A SERVICE EMPLOYEE RETAINED
50 UNDER THIS SECTION WITHOUT CAUSE.

51 (G) AT THE END OF THE NINETY-DAY TRANSITION PERIOD, THE SUCCESSOR
52 CONTRACTOR SHALL PERFORM A WRITTEN EVALUATION OF EACH RETAINED SERVICE
53 EMPLOYEE. IF THE EMPLOYEE'S PERFORMANCE DURING THIS PERIOD IS SATISFAC-
54 TORY, THE EMPLOYEE SHALL BE OFFERED CONTINUED EMPLOYMENT BY THE SUCCE-
55 SSOR CONTRACTOR.

(H) ANY SERVICE EMPLOYEE WHO HAS NOT BEEN RETAINED OR HAS BEEN DISCHARGED IN VIOLATION OF THIS SECTION, OR AN ORGANIZATION REPRESENTING SUCH EMPLOYEE, MAY BRING AN ACTION IN A COURT OF COMPETENT JURISDICTION FOR INJUNCTIVE RELIEF AND DAMAGES. THE COURT MAY ORDER REINSTATEMENT, BACK PAY WITH WAGES AND BENEFITS, COSTS AND REASONABLE ATTORNEY'S FEES UPON DETERMINING THAT A VIOLATION HAS OCCURRED.

3. THIS SECTION SHALL BE SUBJECT TO THE TERMS OF ANY COLLECTIVE BARGAINING AGREEMENT BETWEEN ANY LABOR ORGANIZATION REPRESENTING SERVICE EMPLOYEES AND ANY SERVICE CONTRACTOR, SUCCESSOR CONTRACTOR OR COVERED ENTITY.

S 11. The general municipal law is amended by adding a new section 859-g to read as follows:

S 859-G. COMPLAINT AND APPEALS. 1. (A) ANY PERSON RESIDING WITHIN THE GEOGRAPHIC BOUNDARIES OF THE AGENCY MAY FILE A COMPLAINT WITH THE AGENCY ALLEGING A VIOLATION OF THIS ARTICLE, EXCEPT AS OTHERWISE PROVIDED UNDER SECTIONS EIGHT HUNDRED FIFTY-NINE-E AND EIGHT HUNDRED FIFTY-NINE-F OF THIS TITLE. THE AGENCY SHALL PREPARE A COMPLAINT FORM THAT SHALL BE POSTED ON ITS WEBSITE AND MADE AVAILABLE AT THE AGENCY'S OFFICE.

(B) THE AGENCY SHALL HOLD A HEARING WITHIN FORTY-FIVE DAYS AFTER THE FILING OF A COMPLAINT, AND SHALL SERVE NOTICE OF THE TIME AND PLACE OF THE HEARING UPON THE PARTIES WITHIN FIVE DAYS OF SUCH FILING. THE AGENCY SHALL RENDER ITS DECISION WITH WRITTEN FINDINGS WITHIN TEN DAYS FOLLOWING THE HEARING AND SHALL PROMPTLY MAIL A COPY OF THE DECISION TO THE PARTIES. THE AGENCY MAY ORDER ANY RELIEF AUTHORIZED UNDER THIS TITLE UPON DETERMINING A VIOLATION HAS OCCURRED.

(C) WITHIN THIRTY DAYS AFTER THE MAILING OF THE AGENCY'S DECISION, AN AGGRIEVED PARTY MAY APPEAL THE DECISION BY FILING A NOTICE OF APPEAL WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT. THE DEPARTMENT MAY DECIDE ANY APPEAL BASED ON THE RECORD AT THE HEARING, OR MAY HOLD A NEW HEARING. THE HEARING SHALL BE HELD AT THE DEPARTMENT'S REGIONAL OFFICE LOCATED CLOSEST TO THE AGENCY WITHIN THIRTY DAYS OF THE FILING OF THE NOTICE OF APPEAL. THE DEPARTMENT SHALL PROMPTLY SERVE NOTICE OF THE TIME AND PLACE OF THE HEARING ON THE PARTIES.

(D) THE DEPARTMENT SHALL RENDER ITS DECISION IN WRITING WITHIN THIRTY DAYS AFTER THE FILING OF THE NOTICE OF APPEAL OR AFTER ITS HEARING, WHICHEVER OCCURS LATER. THE DEPARTMENT MAY AFFIRM, REVERSE OR MODIFY THE DECISION APPEALED FROM AND MAY ORDER ANY RELIEF AUTHORIZED UNDER THIS TITLE. THE DECISION OF THE DEPARTMENT SHALL BE FINAL ON ALL QUESTIONS OF FACT, AND UNLESS APPEALED FROM, SHALL BE FINAL ON ALL QUESTIONS OF LAW. AN APPEAL FROM A QUESTION OF LAW MAY BE TAKEN TO THE APPELLATE DIVISION OF THE SUPREME COURT, THIRD DEPARTMENT.

(E) THE DEPARTMENT SHALL ESTABLISH RULES FOR THE CONDUCT OF ANY HEARING OR APPEAL UNDER THIS SECTION, WHICH SHALL NOT BE LIMITED BY COMMON LAW, OR STATUTORY RULES OF EVIDENCE.

2. A PERSON UNDER SUBDIVISION ONE OF THIS SECTION MAY FILE A COMPLAINT IN A COURT OF COMPETENT JURISDICTION, UNLESS HE OR SHE HAS FILED THE SAME COMPLAINT WITH THE AGENCY. THE COURT MAY ORDER INJUNCTIVE RELIEF, DAMAGES AND ANY OTHER RELIEF AUTHORIZED UNDER THIS TITLE FOR A VIOLATION, ALONG WITH COSTS AND ATTORNEY'S FEES.

S 12. The general municipal law is amended by adding a new section 859-h to read as follows:

S 859-H. REPORTS BY RECIPIENTS. 1. A RECIPIENT OF FINANCIAL ASSISTANCE SHALL SUBMIT AN ANNUAL REPORT TO THE AGENCY NO LATER THAN THE ANNIVERSARY DATE OF THE FINANCIAL ASSISTANCE AGREEMENT. THE DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL PREPARE A FORM FOR THE REPORT THAT SHALL BE

1 POSTED ON THE AGENCY'S WEBSITE. THE REPORT SHALL INCLUDE THE FOLLOWING
2 INFORMATION:
3 (A) THE TYPE, PURPOSE AND AMOUNT OF FINANCIAL ASSISTANCE PROVIDED BY
4 THE AGENCY;
5 (B) THE NUMBER AND TYPES OF NEW FULL-TIME AND PART-TIME JOBS, DATES OF
6 HIRE, AND WAGES AND BENEFITS REQUIRED UNDER THE AGREEMENT;
7 (C) THE NUMBER AND TYPES OF NEW FULL-TIME AND PART-TIME JOBS THAT HAVE
8 BEEN CREATED, THE DATES OF HIRE, AND THE WAGES AND BENEFITS PAID;
9 (D) THE NUMBER AND TYPES OF FULL-TIME AND PART-TIME JOBS REQUIRED TO
10 BE RETAINED, THE NUMBER AND TYPES OF FULL-TIME AND PART-TIME JOBS THAT
11 HAVE BEEN RETAINED;
12 (E) THE AMOUNT, TYPE AND DATES OF CAPITAL INVESTMENT AND OTHER EXPEND-
13 ITURES BY THE RECIPIENT REQUIRED UNDER THE AGREEMENT;
14 (F) THE AMOUNT, TYPE AND DATES OF CAPITAL INVESTMENT AND OTHER EXPEND-
15 ITURES MADE BY THE RECIPIENT;
16 (G) THE AMOUNT AND TYPE OF INFRASTRUCTURE AND TRANSPORTATION INVEST-
17 MENT BY THE RECIPIENT REQUIRED UNDER THE AGREEMENT;
18 (H) THE AMOUNT AND TYPE OF INFRASTRUCTURE AND TRANSPORTATION EXPENDI-
19 TURES MADE BY THE RECIPIENT;
20 (I) THE AMOUNT AND DATE OF ANY PRIVATE FINANCING REQUIRED, AND THE
21 AMOUNT AND DATE OF ANY PRIVATE FINANCING RECEIVED BY THE RECIPIENT;
22 (J) THE AMOUNT, TYPE AND DATE OF ANY OTHER OBLIGATIONS OF THE RECIPI-
23 ENT AND THE RECIPIENT'S COMPLIANCE; AND
24 (K) A CERTIFICATION BY THE RECIPIENT'S CHIEF EXECUTIVE OFFICER THAT
25 THE REPORT IS ACCURATE AND COMPLETE.
26 2. IF A RECIPIENT FAILS TO FILE THE REPORT REQUIRED BY THIS SECTION
27 WITHIN THIRTY DAYS OF THE DUE DATE, THE AGENCY SHALL SUSPEND ALL FURTHER
28 FINANCIAL ASSISTANCE UNTIL THE REPORT IS FILED.
29 3. THE REPORT SHALL BE SUBMITTED IN ELECTRONIC AND PAPER FORM, AND
30 SHALL BE POSTED ON THE AGENCY'S WEBSITE AND MADE AVAILABLE FOR PUBLIC
31 INSPECTION.
32 S 13. The general municipal law is amended by adding a new section
33 859-i to read as follows:
34 S 859-I. GREEN BUILDING STANDARDS. 1. DEFINITIONS. FOR THE PURPOSES OF
35 THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:
36 (A) "CONSTRUCTION" SHALL MEAN ANY WORK NECESSARY OR INCIDENTAL TO THE
37 ERECTION, DEMOLITION, ASSEMBLING, ALTERATION, INSTALLING, OR EQUIPPING
38 OF ANY BUILDING.
39 (B) "GREEN BUILDING STANDARDS" SHALL MEAN DESIGN GUIDELINES, A RATING
40 SYSTEM OR RULES FOR CONSTRUCTING BUILDINGS THAT ENSURE SITE PLANNING,
41 WATER EFFICIENCY, ENERGY EFFICIENCY AND RENEWABLE ENERGY, CONSERVATION
42 OF MATERIALS AND RESOURCES, AND INDOOR ENVIRONMENTAL QUALITY.
43 (C) "INFLATION" SHALL MEAN THE ANNUAL TWELVE-MONTH AVERAGE OF THE
44 CONSUMER PRICE INDEX PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR.
45 (D) "LEED ENERGY AND ATMOSPHERE CREDIT 1" SHALL MEAN THE CREDIT POINT
46 UNDER LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) FOR NEW
47 CONSTRUCTION VERSION 2.1 INTENDED TO ACHIEVE INCREASED ENERGY PERFORM-
48 ANCE.
49 (E) "LEED GREEN BUILDING RATING SYSTEM" SHALL MEAN A VERSION OF THE
50 LEED BUILDING RATING SYSTEM PUBLISHED BY THE UNITED STATES GREEN BUILD-
51 ING COUNCIL, NOT LESS STRINGENT THAN THE SELECTED GREEN BUILDING RATING
52 SYSTEM.
53 (F) "LEED WATER EFFICIENCY CREDIT 3.2" SHALL MEAN THE CREDIT POINT
54 UNDER THE LEED FOR NEW CONSTRUCTION VERSION 2.1 INTENDED TO ACHIEVE
55 WATER USE REDUCTION.

(G) "NOT LESS STRINGENT" SHALL MEAN PROVIDING NO LESS NET ENVIRONMENTAL AND HEALTH BENEFITS.

(H) "REHABILITATION" SHALL MEAN ANY RESTORATION, REPLACEMENT OR REPAIR OF ANY MATERIALS, SYSTEMS OR COMPONENTS.

(I) "SELECTED GREEN BUILDING RATING SYSTEM" SHALL MEAN THE CURRENT AND MOST APPROPRIATE BUILDING RATING SYSTEM PUBLISHED BY THE UNITED STATES GREEN BUILDING COUNCIL.

(J) "SUBSTANTIAL RECONSTRUCTION" SHALL MEAN A PROJECT IN WHICH THE SCOPE OF WORK INCLUDES REHABILITATION OF AT LEAST TWO OF THE THREE MAJOR SYSTEMS FOR (I) ELECTRICAL, (II) HEATING, VENTILATING AND AIR CONDITIONING (HVAC) AND (III) PLUMBING OF A BUILDING, WHERE CONSTRUCTION AFFECTS AT LEAST FIFTY PERCENT OF THE BUILDING'S FLOOR AREA.

2. (A) EACH PROJECT WITH AN ESTIMATED CONSTRUCTION COST OF TWO MILLION DOLLARS OR MORE INVOLVING (I) THE CONSTRUCTION OF A NEW BUILDING, (II) AN ADDITION TO AN EXISTING BUILDING, OR (III) THE SUBSTANTIAL RECONSTRUCTION OF AN EXISTING BUILDING SHALL BE DESIGNED AND CONSTRUCTED TO COMPLY WITH GREEN BUILDING STANDARDS NOT LESS STRINGENT THAN THE STANDARDS FOR BUILDINGS DESIGNED IN ACCORDANCE WITH THE LEED GREEN BUILDING RATING SYSTEM TO ACHIEVE A LEED SILVER OR HIGHER RATING, OR, WITH RESPECT TO BUILDINGS CLASSIFIED IN OCCUPANCY GROUPS G OR H-2, TO ACHIEVE A LEED CERTIFIED OR HIGHER RATING.

(B) IF THE ESTIMATED CONSTRUCTION COST OF A PROJECT REQUIRED TO COMPLY WITH GREEN BUILDING STANDARDS IS TWELVE MILLION DOLLARS OR MORE, THE PROJECT SHALL BE DESIGNED AND CONSTRUCTED AS FOLLOWS:

(I) PROJECTS INVOLVING BUILDINGS CLASSIFIED IN OCCUPANCY GROUP G SHALL BE DESIGNED AND CONSTRUCTED TO REDUCE ENERGY COST BY A MINIMUM OF TWENTY PERCENT, AS DETERMINED BY THE METHODOLOGY PRESCRIBED IN LEED ENERGY AND ATMOSPHERE CREDIT 1 OR THE NEW YORK STATE ENERGY CONSERVATION CODE, WHICHEVER IS MORE STRINGENT.

(II) PROJECTS, OTHER THAN BUILDINGS CLASSIFIED IN OCCUPANCY GROUP G WITH AN ESTIMATED CONSTRUCTION COST OF TWELVE MILLION DOLLARS OR MORE BUT LESS THAN THIRTY MILLION DOLLARS SHALL BE DESIGNED AND CONSTRUCTED TO REDUCE ENERGY COST BY AT LEAST TWENTY PERCENT, AS DETERMINED BY THE METHODOLOGY PRESCRIBED IN LEED ENERGY AND ATMOSPHERE CREDIT 1 OR THE NEW YORK STATE ENERGY CONSERVATION CODE, WHICHEVER IS MORE STRINGENT.

(III) PROJECTS, OTHER THAN BUILDINGS CLASSIFIED IN OCCUPANCY GROUP G, WITH AN ESTIMATED CONSTRUCTION COST OF THIRTY MILLION DOLLARS OR MORE SHALL BE DESIGNED AND CONSTRUCTED TO REDUCE ENERGY COST BY AT LEAST TWENTY-FIVE PERCENT, AS DETERMINED BY THE METHODOLOGY PRESCRIBED IN LEED ENERGY AND ATMOSPHERE CREDIT 1 OR THE NEW YORK STATE ENERGY CONSERVATION CODE, WHICHEVER IS MORE STRINGENT.

3. PROJECTS, OTHER THAN PROJECTS UNDER SUBDIVISION TWO OF THIS SECTION, SHALL BE SUBJECT TO THE FOLLOWING:

(A) EACH PROJECT THAT INCLUDES THE INSTALLATION OR REPLACEMENT OF A BOILER WHERE THE ESTIMATED COST FOR SUCH WORK IS TWO MILLION DOLLARS OR MORE, OR THAT INVOLVES THE INSTALLATION OR REPLACEMENT OF LIGHTING SYSTEMS IN A BUILDING AT AN ESTIMATED COST FOR SUCH WORK OF ONE MILLION DOLLARS OR MORE, SHALL BE DESIGNED AND CONSTRUCTED TO REDUCE ENERGY COST BY AT LEAST TEN PERCENT, AS DETERMINED BY THE METHODOLOGY PRESCRIBED IN LEED ENERGY AND ATMOSPHERE CREDIT 1 OR THE NEW YORK STATE ENERGY CONSERVATION CODE, WHICHEVER IS MORE STRINGENT.

(B) EACH PROJECT, OTHER THAN A PROJECT UNDER PARAGRAPH (A) OF THIS SUBDIVISION, THAT INVOLVES THE INSTALLATION OR REPLACEMENT OF HVAC COMFORT CONTROLS AT AN ESTIMATED WORK COST OF TWO MILLION DOLLARS OR MORE, SHALL BE DESIGNED AND CONSTRUCTED TO REDUCE ENERGY COST BY A MINIMUM OF FIVE PERCENT AS DETERMINED BY THE METHODOLOGY PRESCRIBED IN LEED

ENERGY AND ATMOSPHERE CREDIT 1 OR THE NEW YORK STATE ENERGY CONSERVATION CODE, WHICHEVER IS MORE STRINGENT.

4. ANY PROJECT INVOLVING THE INSTALLATION OR REPLACEMENT OF PLUMBING SYSTEMS THAT INCLUDES PLUMBING FIXTURES WHERE THE ESTIMATED COST FOR SUCH WORK IS FIVE HUNDRED THOUSAND DOLLARS OR MORE SHALL BE DESIGNED AND CONSTRUCTED TO REDUCE POTABLE WATER CONSUMPTION IN THE AGGREGATE BY A MINIMUM OF THIRTY PERCENT, AS DETERMINED BY A METHODOLOGY NOT LESS STRINGENT THAN THAT PRESCRIBED IN LEED WATER EFFICIENCY CREDIT 3.2; PROVIDED, HOWEVER, THAT SUCH PERCENTAGE SHALL BE REDUCED TO A MINIMUM OF TWENTY PERCENT IF THE LOCAL AGENCY WITH JURISDICTION OVER BUILDINGS IN THE MUNICIPALITY REJECTS AN APPLICATION FOR THE USE OF WATERLESS URINALS FOR THE PROJECT.

5. THIS SECTION SHALL APPLY ONLY TO PROJECTS INVOLVING BUILDINGS CLASSIFIED IN OCCUPANCY GROUPS B-1, B-2, C, E, F-1A, F-1B, F-3, F-4, G, H-1 AND H-2. THE COSTS UNDER SUBDIVISIONS TWO, THREE AND FOUR OF THIS SECTION SHALL BE INDEXED TO INFLATION.

6. THIS SECTION SHALL NOT APPLY TO PROJECTS FOR WHICH THE AGENCY ENTERED INTO A FINANCIAL ASSISTANCE AGREEMENT WITH THE RECIPIENT PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

7. RECIPIENTS OF PROJECTS SUBJECT TO PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION THAT UTILIZE A VERSION OF THE LEED GREEN BUILDING RATING SYSTEM FOR WHICH THE UNITED STATES GREEN BUILDING COUNCIL WILL ACCEPT APPLICATIONS FOR CERTIFICATION, SHALL APPLY TO THE UNITED STATES GREEN BUILDING COUNCIL FOR CERTIFICATION THAT SUCH PROJECTS HAVE ACHIEVED A SILVER OR HIGHER RATING UNDER THE LEED GREEN BUILDING RATING SYSTEM OR, WITH RESPECT TO PROJECTS INVOLVING BUILDINGS CLASSIFIED IN OCCUPANCY GROUPS G OR H-2, A CERTIFIED OR HIGHER RATING UNDER SUCH RATING SYSTEM.

8. (A) RECIPIENTS SUBJECT TO THIS SECTION SHALL SUBMIT AN ANNUAL REPORT TO THE AGENCY NO LATER THAN THE ANNIVERSARY DATE OF THE FINANCIAL ASSISTANCE AGREEMENT. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL PREPARE A FORM FOR SUCH REPORT THAT SHALL BE POSTED ON THE AGENCY'S WEBSITE. THE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION:

(I) THE NAME, ADDRESS AND DESCRIPTION OF THE PROJECT, INCLUDING ITS SQUARE FOOTAGE AND TOTAL COST;

(II) THE LEVEL OF LEED CERTIFICATION THE PROJECT HAS ACHIEVED BASED ON THE LEED RATING SYSTEM OR, IF APPLICABLE, THE LEVEL ACHIEVED, AS CERTIFIED BY THE UNITED STATES GREEN BUILDING COUNCIL;

(III) AN ASSESSMENT OF THE HEALTH, ENVIRONMENTAL AND ENERGY-RELATED BENEFITS ACHIEVED IN COMPARISON WITH A BASE-CASE CODE COMPLIANT PROJECT, INCLUDING PROJECTED ENERGY SAVINGS AND REDUCTIONS IN PEAK LOAD, REDUCTIONS IN EMISSIONS, REDUCTIONS IN STORM WATER RUNOFF AND POTABLE WATER USE; AND

(IV) FUNDS SPENT TO COMPLY WITH THE LEED GREEN BUILDING RATING SYSTEM OR ANY OTHER GREEN BUILDING STANDARD.

(B) THE REPORT SHALL BE SUBMITTED IN ELECTRONIC AND PAPER FORM, AND SHALL BE POSTED ON THE AGENCY'S WEBSITE AND MADE AVAILABLE BY THE AGENCY FOR PUBLIC INSPECTION.

9. (A) EACH AGENCY SHALL SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE GOVERNING BODY WITHIN NINETY DAYS FOLLOWING THE CLOSE OF ITS FISCAL YEAR. THE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION:

(I) A LIST AND BRIEF DESCRIPTION, INCLUDING SQUARE FOOTAGE AND TOTAL COST, OF ALL PROJECTS SUBJECT TO THIS SECTION COMPLETED DURING THE PRECEDING FISCAL YEAR;

(II) THE ESTIMATED LEVEL OF LEED CERTIFICATION SUCH PROJECTS HAVE ACHIEVED BASED UPON THE LEED RATING SYSTEM OR, IF APPLICABLE, THE LEVEL ACHIEVED, AS CERTIFIED BY THE UNITED STATES GREEN BUILDING COUNCIL; AND

(III) AN ASSESSMENT OF THE HEALTH, ENVIRONMENTAL AND ENERGY-RELATED BENEFITS ACHIEVED, INCLUDING PROJECTED ENERGY SAVINGS AND REDUCTIONS IN PEAK LOAD, REDUCTIONS IN EMISSIONS, REDUCTIONS IN STORM WATER RUNOFF AND POTABLE WATER USE.

(B) THE AGENCY'S REPORT SHALL BE POSTED ON ITS WEBSITE AND MADE AVAILABLE FOR PUBLIC INSPECTION.

10. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL PROVIDE CONSULTATION AND OTHER ASSISTANCE AS NEEDED BY THE AGENCY TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS SECTION.

S 14. Section 862 of the general municipal law, as added by chapter 1030 of the laws of 1969, is amended to read as follows:

S 862. Restrictions on funds of the agency. 1. No [funds] FINANCIAL ASSISTANCE of the agency shall be used in respect of any project if the completion thereof would result in the removal of [an industrial or manufacturing] ALL OR ANY PART OF A FACILITY OR plant of the project occupant from one area of the state to another area of the state or in the abandonment of ALL OR ANY PART OF one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry, AND THE PRIOR CONSENT OF THE GOVERNING BODY OR BODIES OF ALL THE MUNICIPALITIES FROM WHICH ALL OR ANY PART OF A FACILITY OR PLANT OF THE PROJECT OCCUPANT WILL BE REMOVED OR ABANDONED IS PROVIDED IN WRITING. UPON A COMPLAINT BY A MUNICIPALITY THAT FINANCIAL ASSISTANCE OF AN AGENCY HAS RESULTED IN THE ABANDONMENT OR REMOVAL BY A PROJECT OCCUPANT OF ALL OR ANY PART OF ONE OR MORE PLANTS OR FACILITIES IN SUCH MUNICIPALITY, THE COMPTROLLER OR HIS OR HER DESIGNEE SHALL INVESTIGATE SUCH ALLEGATION. IF HE OR SHE DETERMINES THAT THE COMPLAINT IS VALID, THE AGENCY THAT PROVIDED THE FINANCIAL ASSISTANCE SHALL PAY TO THE MUNICIPALITY AN AMOUNT EQUAL TO THE PORTION OF TAX OR TAXES THAT THE PROJECT OCCUPANT SAVED OR AVOIDED DUE TO ITS RELOCATION AND THE AGENCY IS SUSPENDED FROM NEGOTIATING ANY DEVELOPMENT ASSISTANCE AGREEMENTS FOR SIX MONTHS.

2. NO FINANCIAL ASSISTANCE OF THE AGENCY SHALL BE USED TO ASSIST IN THE RELOCATION OF ALL OR ANY PART OF A PLANT, FACILITY OR OPERATION FROM ONE MUNICIPALITY IN THE STATE TO ANOTHER MUNICIPALITY IN THE STATE IF THE RELOCATION IS LIKELY TO RESULT IN A LOSS OF EMPLOYMENT IN THE LABOR MARKET AREA FROM WHICH THE RELOCATION OCCURS.

3. NO FINANCIAL ASSISTANCE SHALL BE PROVIDED TO A PROJECT APPLICANT FOUND TO HAVE COMMITTED A SUBSTANTIAL VIOLATION OF ANY STATE OR LOCAL LAW, RULE OR REGULATION RELATING TO ENVIRONMENTAL PROTECTION, TAXATION, FINANCIAL ASSISTANCE, PROTECTION OF WORKERS, OR MINORITY OR WOMEN-OWNED BUSINESSES BY FINAL JUDGMENT OF A COURT OR ADMINISTRATIVE TRIBUNAL WITHIN THREE YEARS PRECEDING AN APPLICATION FOR A PROJECT.

4. NO FINANCIAL ASSISTANCE OF THE AGENCY SHALL BE USED TO ASSIST IN THE RELOCATION OF ALL OR ANY PART OF A PLANT, FACILITY OR OPERATION FROM ONE LOCATION IN THE STATE WITH EXISTING INFRASTRUCTURE TO ANOTHER LOCATION IN THE STATE WITH NO EXISTING INFRASTRUCTURE.

5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, AN AGENCY SHALL NOT UNDERTAKE ANY PROJECT THAT EXCEEDS ONE HUNDRED MILLION

1 DOLLARS IN VALUE WITHOUT THE APPROVAL OF THE NEW YORK STATE PUBLIC
2 AUTHORITIES CONTROL BOARD CREATED PURSUANT TO ARTICLE ONE-A OF THE
3 PUBLIC AUTHORITIES LAW. EACH APPLICATION TO THE PUBLIC AUTHORITIES
4 CONTROL BOARD SHALL CONTAIN A PROJECT DESCRIPTION, AN EXPLANATION OF WHY
5 THE PROJECT MEETS THE STANDARDS FOR PROJECT APPROVAL, AND ANY ADDITIONAL
6 INFORMATION THAT THE PUBLIC AUTHORITIES CONTROL BOARD DEEMS NECESSARY.

7 6. NO FINANCIAL ASSISTANCE OF THE AGENCY SHALL BE USED IN SUPPORT OF A
8 PROJECT IN AN AREA OR AREAS: NOT SERVED BY PUBLIC SEWER AND WATER
9 INFRASTRUCTURE; OR DESIGNATED AS LANDS SUITABLE FOR CONSERVATION IN A
10 COMPREHENSIVE LAND USE PLAN; OR WHERE THE EXISTING ZONING CLASSIFICA-
11 TIONS ARE INCONSISTENT WITH THE PROPOSED PROJECT; OR RECEIVING A MINIMUM
12 SCORE, ABOVE THE CUTOFF, IN AN ANALYSIS OF THE NATURAL RESOURCE VALUES
13 OF THE LAND, USING THE APPROPRIATE RATING SYSTEM AS DEFINED IN THE STATE
14 LAND ACQUISITION PLAN, PURSUANT TO SECTION 49-0207 OF THE ENVIRONMENTAL
15 CONSERVATION LAW AND APPROVED BY THE COMMISSIONER OF THE DEPARTMENT OF
16 ENVIRONMENTAL CONSERVATION. FURTHER, NO FINANCIAL ASSISTANCE SHALL BE
17 USED IN SUPPORT OF A PROJECT UNLESS THE PROJECT IS LOCATED ON A BROWN-
18 FIELD SITE AS DEFINED IN SECTION 27-1405 OF THE ENVIRONMENTAL CONSERVA-
19 TION LAW; PROVIDED, HOWEVER, THAT IF THE AGENCY DEMONSTRATES THAT THERE
20 IS NO VIABLE ALTERNATIVE AREA OR AREAS FOR SUCH PROJECT, FINANCIAL
21 ASSISTANCE MAY BE PROVIDED.

22 S 15. Subdivision 4 of section 874 of the general municipal law, as
23 amended by chapter 357 of the laws of 1993, paragraphs (b) and (c) as
24 amended by chapter 444 of the laws of 1997, is amended to read as
25 follows:

26 (4) (a) The agency shall establish a uniform [tax exemption] PAYMENT
27 IN LIEU OF TAX (PILOT) AGREEMENT policy, with input from affected tax
28 jurisdictions, which shall be applicable to the provision of financial
29 assistance pursuant to section eight hundred fifty-nine-a of this [chap-
30 ter] TITLE and shall provide guidelines for the claiming of real proper-
31 ty, mortgage recording, and sales tax exemptions. Such guidelines shall
32 include, but not be limited to: period of exemption; PAYMENTS IN LIEU OF
33 TAXES, AS A percentage of [exemption] TAXES THAT WOULD HAVE BEEN LEVIED
34 BY OR ON BEHALF OF AFFECTED TAX JURISDICTIONS IF THE PROJECT WAS NOT TAX
35 EXEMPT BY REASON OF AGENCY INVOLVEMENT; types of projects for which
36 exemptions can be claimed; procedures for payments in lieu of taxes and
37 instances in which real property appraisals are to be performed as a
38 part of an application for tax exemption; in addition, agencies shall in
39 adopting such policy consider such issues as: the extent to which a
40 project will create or retain permanent, private sector jobs; THE WAGES
41 AND BENEFITS TO BE PAID; the estimated value of any tax exemptions to be
42 provided; whether affected tax jurisdictions shall be reimbursed by the
43 project occupant if a project does not fulfill the purposes for which an
44 exemption was provided; the impact of a proposed project on existing and
45 proposed businesses and economic development projects in the vicinity;
46 the amount of private sector investment generated or likely to be gener-
47 ated by the proposed project; the demonstrated public support for the
48 proposed project; the likelihood of accomplishing the proposed project
49 in a timely fashion; the effect of the proposed project upon the envi-
50 ronment; the extent to which the proposed project will require the
51 provision of additional services, including, but not limited to addi-
52 tional educational, transportation, police, emergency medical or fire
53 services; and the extent to which the proposed project will provide
54 additional sources of revenue for municipalities and school districts.

55 (b) [The uniform tax exemption policy established pursuant to this
56 section shall be reviewed and readopted by the agency on or before April

1 first, nineteen hundred ninety-nine following a public hearing. Notice
2 of this hearing shall be given to the chief executive officer of each
3 affected tax jurisdictions at least sixty days before the hearing. Prior
4 to the hearing the agency shall review, and respond to any correspond-
5 ence received from any affected tax jurisdiction. The agency shall allow
6 any representative of an affected tax jurisdiction to address the agency
7 at the hearing. The agency shall develop and submit a report to the
8 affected tax jurisdictions sixty days prior to the hearing which details
9 the projects which the agency has assisted in the previous five years
10 and shall include information specific to each project including the
11 period of exemption; the type of project; the estimated percentage of
12 exemption by year; the estimated value of any other assistance provided
13 by the agency; whether commitments for payments in lieu of taxes were
14 made and met, the estimated value of such payments by year and affected
15 tax jurisdiction; the estimated amount of private sector investment
16 generated by the project; and the extent to which the project created or
17 retained permanent, private sector jobs.] THE UNIFORM PAYMENT IN LIEU OF
18 TAX (PILOT) AGREEMENT POLICY ESTABLISHED PURSUANT TO THIS SECTION SHALL
19 BE REVIEWED AND READOPTED BY THE AGENCY ON OR BEFORE APRIL FIRST, TWO
20 THOUSAND TEN AND EACH YEAR THEREAFTER FOLLOWING A PUBLIC HEARING. NOTICE
21 OF THIS HEARING SHALL BE GIVEN TO THE CHIEF EXECUTIVE OFFICER AND THE
22 MEMBERS OF THE GOVERNING BODY OF EACH AFFECTED TAX JURISDICTION AT LEAST
23 SIXTY DAYS BEFORE THE HEARING. PRIOR TO THE HEARING THE AGENCY SHALL
24 REVIEW, AND RESPOND TO ANY CORRESPONDENCE RECEIVED FROM ANY AFFECTED TAX
25 JURISDICTION. THE AGENCY SHALL ALLOW ANY REPRESENTATIVE OF AN AFFECTED
26 TAX JURISDICTION TO ADDRESS THE AGENCY AT THE HEARING. THE AGENCY SHALL
27 DEVELOP AND SUBMIT A REPORT TO THE AFFECTED TAX JURISDICTIONS SIXTY DAYS
28 PRIOR TO THE HEARING WHICH DETAILS THE PROJECTS WHICH THE AGENCY HAS
29 ASSISTED IN THE PREVIOUS FIVE YEARS AND SHALL INCLUDE INFORMATION
30 SPECIFIC TO EACH PROJECT INCLUDING THE PERIOD OF EXEMPTION; THE TYPE OF
31 PROJECT; THE ESTIMATED PERCENTAGE OF EXEMPTION BY YEAR; THE ESTIMATED
32 VALUE OF ANY OTHER ASSISTANCE PROVIDED BY THE AGENCY; WHETHER COMMIT-
33 MENTS FOR PAYMENTS IN LIEU OF TAXES WERE MADE AND MET, THE ESTIMATED
34 VALUE OF SUCH PAYMENTS BY YEAR AND AFFECTED TAX JURISDICTION; THE ESTI-
35 MATED AMOUNT OF PRIVATE SECTOR INVESTMENT GENERATED BY THE PROJECT; THE
36 EXTENT TO WHICH THE PROJECT CREATED OR RETAINED PERMANENT, PRIVATE
37 SECTOR JOBS; AND THE WAGES AND BENEFITS PAID. THE ADOPTED UNIFORM
38 PAYMENT IN LIEU OF TAX (PILOT) POLICY SHALL BE SENT TO THE CHIEF EXECU-
39 TIVE OFFICER AND THE MEMBERS OF THE GOVERNING BODY OF EACH AFFECTED TAX
40 JURISDICTION AND SHALL BE MADE AVAILABLE TO PUBLIC INSPECTION AT THE
41 AGENCY'S OFFICE AND ON THE AGENCY'S WEBSITE IMMEDIATELY FOLLOWING ITS
42 ADOPTION.

43 (c) The agency shall establish a procedure for deviation from the
44 uniform [tax exemption] PAYMENT IN LIEU OF TAX (PILOT) AGREEMENT policy
45 required pursuant to this subdivision. The agency shall set forth in
46 writing the reasons for deviation from such policy, and shall further
47 notify the affected local taxing jurisdictions of the proposed deviation
48 from such policy and the reasons therefor AND OBTAIN THE WRITTEN
49 APPROVAL OF EACH AFFECTED TAX JURISDICTION.

50 Such notice to the affected tax jurisdictions shall be given to the
51 chief executive officer AND THE MEMBERS OF THE GOVERNING BODY of each
52 affected tax jurisdiction at least thirty days prior to the meeting of
53 the agency at which the agency shall consider whether to approve such
54 proposed deviation. Prior to taking final action at said meeting, the
55 agency shall review and respond to any correspondence received from any
56 affected tax jurisdiction regarding such proposed deviation. The agency

1 shall allow any representative of an affected tax jurisdiction present
2 at such meeting to address the agency regarding such proposed deviation.
3 THE ADOPTED DEVIATION TO THE UNIFORM PAYMENT IN LIEU OF TAX (PILOT)
4 POLICY SHALL BE SENT TO THE CHIEF EXECUTIVE OFFICER OF EACH AFFECTED TAX
5 JURISDICTION AND BE MADE AVAILABLE FOR PUBLIC INSPECTION AT THE AGENCY'S
6 OFFICE AND ON ITS WEBSITE IMMEDIATELY FOLLOWING ITS ADOPTION.

7 S 16. Section 882 of the general municipal law, as added by chapter
8 1030 of the laws of 1969, is amended to read as follows:

9 S 882. Termination of the agency. WHENEVER ONE HUNDRED THOUSAND
10 DOLLARS OR LESS OF AGENCY BONDS OR NOTES ARE OUTSTANDING, THE AGENCY
11 SHALL ONLY EXIST TO PAY THE DEBT SERVICE ON ANY OUTSTANDING BONDS OR
12 NOTES. Whenever all of the bonds or notes issued by the agency shall
13 have been redeemed or cancelled, the agency shall cease to exist and all
14 rights, titles, and interest and all obligations and liabilities thereof
15 vested in or possessed by the agency shall thereupon vest in and be
16 possessed by the municipality.

17 S 17. Section 886 of the general municipal law is renumbered section
18 887 and a new section 886 is added to read as follows:

19 S 886. DISSOLUTION AND MERGER OF AGENCIES. 1. ANY INDUSTRIAL DEVELOP-
20 MENT AGENCY ESTABLISHED FOR THE BENEFIT OF A TOWN, VILLAGE OR CITY WITH-
21 IN A COUNTY MAY DISSOLVE AND SIMULTANEOUSLY MERGE WITH THE INDUSTRIAL
22 DEVELOPMENT AGENCY ESTABLISHED FOR THE BENEFIT OF THE COUNTY IN WHICH
23 THE AGENCY ESTABLISHED FOR THE BENEFIT OF THE TOWN, VILLAGE OR CITY IS
24 LOCATED, IF SUCH COUNTY AGENCY HAS BEEN ESTABLISHED, SUBJECT TO THE
25 PROVISIONS OF THIS SECTION. UPON THE EFFECTIVE DATE OF THE DISSOLUTION
26 AND MERGER, THE TOWN, VILLAGE OR CITY AGENCY, NOTWITHSTANDING THE
27 PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION EIGHT HUNDRED
28 FIFTY-SIX AND SECTION EIGHT HUNDRED EIGHTY-TWO OF THIS TITLE, SHALL
29 CEASE TO EXIST AND ALL THE RIGHTS, TITLES, INTERESTS, OBLIGATIONS AND
30 LIABILITIES OF SUCH AGENCIES, INCLUDING BUT NOT LIMITED TO THE RIGHTS
31 AND OBLIGATIONS UNDER ANY BOND, NOTE, CONTRACT OR OTHER AGREEMENT,
32 EXPRESS OR IMPLIED, SHALL DEVOLVE TO, BE VESTED IN AND POSSESSED BY THE
33 COUNTY AGENCY, WHICH SHALL IN ALL RESPECTS AND FOR ALL PURPOSES BE THE
34 SUCCESSOR IN INTEREST TO SUCH TOWN, VILLAGE OR CITY AGENCY.

35 2. THE GOVERNING BODY OF THE TOWN, VILLAGE OR CITY FOR WHOSE BENEFIT
36 THE AGENCY THAT IS PROPOSING TO DISSOLVE AND MERGE IS ESTABLISHED, IN
37 CONSULTATION WITH (A) THE MEMBERS OF THE AGENCY, (B) MEMBERS OF THE
38 AGENCY ESTABLISHED FOR THE BENEFIT OF THE COUNTY, AND (C) THE CHIEF
39 EXECUTIVE OF THE COUNTY, SHALL ADOPT A PLAN SETTING FORTH, AT A MINIMUM:

40 (I) THE NAME AND DATE OF ESTABLISHMENT OF THE AGENCY OR AGENCIES TO BE
41 DISSOLVED;

42 (II) THE NAMES OF THE MEMBERS OF SUCH AGENCY, SPECIFYING THE IDENTITY
43 OF THE CHAIRPERSON;

44 (III) THE UNDERLYING PURPOSE OF THE DISSOLUTION AND MERGER, INCLUDING
45 ECONOMIES AND EFFICIENCIES THAT ARE PROJECTED AS A RESULT THEREOF;

46 (IV) A STATEMENT, CONTAINING BOTH CURRENT INFORMATION AND INFORMATION
47 PROJECTED TO THE PROPOSED DATE OF THE DISSOLUTION AND MERGER, OF (1) THE
48 OUTSTANDING BONDS, NOTES AND ANY OTHER OBLIGATIONS OR LIABILITIES, (2)
49 ACTUAL AND ACCRUED REVENUES, (3) EACH PROJECT FOR WHICH FINANCIAL
50 ASSISTANCE HAS BEEN PROVIDED, THE TYPE OF FINANCIAL ASSISTANCE PROVIDED
51 AND THE STATUS OF THE PROJECT, AND (4) THE GENERAL TERMS AND CONDITIONS
52 OF EACH CONTRACT, INCLUDING PAYMENT IN LIEU OF TAX AGREEMENTS;

53 (V) THE TERMS AND CONDITIONS OF THE PROPOSED DISSOLUTION AND MERGER
54 INCLUDING A STATEMENT ACKNOWLEDGING THAT THE COUNTY AGENCY SHALL, UPON
55 THE EFFECTIVE DATE OF THE DISSOLUTION AND MERGER, SUCCEED TO ALL THE
56 RIGHTS, TITLES, INTERESTS, OBLIGATIONS AND LIABILITIES, INCLUDING BONDS,

1 NOTES AND OTHER OBLIGATIONS AND CONTRACTUAL RIGHTS AND OBLIGATIONS, OF
2 THE DISSOLVED AND MERGED TOWN, VILLAGE OR CITY AGENCIES;

3 (VI) A STATEMENT OF ANY AMENDMENTS OR CHANGES TO THE CERTIFICATE OF
4 THE COUNTY AGENCY FILED IN THE OFFICE OF THE SECRETARY OF STATE NECESSI-
5 TATED BY THE MERGER; AND

6 (VII) A STATEMENT THAT THE PLAN OF MERGER HAS BEEN REVIEWED AND
7 APPROVED BY COUNSEL FOR THE TOWN, VILLAGE OR CITY AGENCY AND COUNSEL FOR
8 THE COUNTY AGENCY, INDICATING THAT EACH COUNSEL HAS CONSIDERED THE
9 IMPACT, IF ANY, OF THE DISSOLUTION AND MERGER ON: (1) THE RIGHTS OF ANY
10 EMPLOYEES OF THE MERGING AGENCIES; AND (2) THE RECIPIENTS OF FINANCIAL
11 ASSISTANCE FROM THE AGENCIES.

12 3. NO LATER THAN JULY FIRST, TWO THOUSAND NINE, THE COMMISSIONER OF
13 THE DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL UNDERTAKE A STUDY TO IDEN-
14 TIFY THOSE TOWN, VILLAGE OR CITY AGENCIES THAT, AS DETERMINED BY THE
15 COMMISSIONER, HAVE NOT UNDERTAKEN SIGNIFICANT ACTIVITY WITHIN THE PRIOR
16 FIVE YEARS AND, IF DEEMED APPROPRIATE BY THE COMMISSIONER, THE COMMIS-
17 SIONER SHALL RECOMMEND THAT THOSE AGENCIES BE DISSOLVED AND MERGED INTO
18 THE COUNTY AGENCY. THE COMMISSIONER'S FINDINGS SHALL BE REPORTED NO
19 LATER THAN DECEMBER THIRTY-FIRST, TWO THOUSAND TEN, TO THE SPEAKER OF
20 THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, THE STATE COMP-
21 TROLLER, THE GOVERNOR AND TO EACH AGENCY IDENTIFIED IN THE REPORT.

22 S 18. The general municipal law is amended by adding a new section 889
23 to read as follows:

24 S 889. ADDITIONAL POWERS. NOTHING IN THIS TITLE SHALL LIMIT A GOVERN-
25 ING BODY FROM ENACTING LAWS OR OTHERWISE EXERCISING ITS AUTHORITY RELAT-
26 ING TO A PROJECT OR ANY OTHER PROVISION OF THIS ARTICLE TO ADD REQUIRE-
27 MENTS THAT ARE NOT LESS THAN THE WAGE, REPORTING, DEFAULT OR OTHER
28 REQUIREMENTS OF THIS TITLE.

29 S 19. The general municipal law is amended by adding a new section
30 889-a to read as follows:

31 S 889-A. BROWNFIELD REDEVELOPMENT INCENTIVE. APPLICANTS SEEKING
32 APPROVAL FOR PROJECTS LOCATED ON A BROWNFIELD SHALL BE ELIGIBLE FOR
33 EXISTING LOW COST POWER ALLOCATION AVAILABLE FROM THE POWER AUTHORITY OF
34 THE STATE OF NEW YORK. IN ADDITION, SUCH PROJECTS WILL NOT BE SUBJECT TO
35 THE BOND ISSUANCE CHARGE LEVIED PURSUANT TO SECTION TWENTY-NINE HUNDRED
36 SEVENTY-SIX OF THE PUBLIC AUTHORITIES LAW.

37 THE PROVISIONS OF THIS SECTION SHALL ONLY APPLY TO REAL PROPERTY
38 SUBJECT TO THE BROWNFIELD SITE CLEAN-UP AGREEMENT ENTERED INTO BY A
39 VOLUNTEER PURSUANT TO SECTION 27-1405 OF THE ENVIRONMENTAL CONSERVATION
40 LAW. FAILURE OF ANY REAL PROPERTY TO RECEIVE A CERTIFICATE OF
41 COMPLETION PURSUANT TO SECTION 27-1419 OF SUCH LAW SHALL BE GROUNDS FOR
42 REVOCATION OF THE BENEFITS PROVIDED BY THIS SECTION.

43 S 20. Sections twenty-one through twenty-five of this act shall be
44 called the Erie County agency pilot program. Whereas Erie County
45 contains six industrial development agencies that have demonstrated a
46 recognition of the disadvantages of intermunicipal competition and the
47 need for a regional approach to economic planning, the legislature here-
48 by designates Erie County as the pilot county for the sub-county agency
49 consolidation program.

50 S 21. The first undesignated paragraph of section 898-a of the general
51 municipal law is designated subdivision 1 and a new subdivision 2 is
52 added to read as follows:

53 2. AS OF THE EFFECTIVE DATE OF THIS SUBDIVISION, THE AGENCY, NOTWITH-
54 STANDING THE POWERS CONFERRED IN SUBDIVISION ONE OF THIS SECTION, SHALL
55 ONLY EXIST TO PAY THE DEBT SERVICE ON ANY OUTSTANDING BONDS OR NOTES. AT

1 THE TIME THE DEBT SERVICE ON THE OUTSTANDING BONDS AND NOTES IS FULLY
2 PAID, THE AGENCY SHALL BE DEEMED TERMINATED.

3 S 22. The first undesignated paragraph of section 901-a of the general
4 municipal law is designated subdivision 1 and a new subdivision 2 is
5 added to read as follows:

6 2. AS OF THE EFFECTIVE DATE OF THIS SUBDIVISION, THE AGENCY, NOTWITH-
7 STANDING THE POWERS CONFERRED IN SUBDIVISION ONE OF THIS SECTION, SHALL
8 ONLY EXIST TO PAY THE DEBT SERVICE ON ANY OUTSTANDING BONDS OR NOTES.
9 AT THE TIME THE DEBT SERVICE ON THE OUTSTANDING BONDS AND NOTES IS FULLY
10 PAID, THE AGENCY SHALL BE DEEMED TERMINATED.

11 S 23. The first undesignated paragraph of section 914-a of the general
12 municipal law, as added by chapter 579 of the laws of 1973, is desig-
13 nated subdivision 1 and a new subdivision 2 is added to read as follows:

14 2. AS OF THE EFFECTIVE DATE OF THIS SUBDIVISION, THE AGENCY, NOTWITH-
15 STANDING THE POWERS CONFERRED IN SUBDIVISION ONE OF THIS SECTION, SHALL
16 ONLY EXIST TO PAY THE DEBT SERVICE ON ANY OUTSTANDING BONDS OR NOTES.
17 AT THE TIME THE DEBT SERVICE ON THE OUTSTANDING BONDS AND NOTES IS FULLY
18 PAID, THE AGENCY SHALL BE DEEMED TERMINATED.

19 S 24. Section 925-t of the general municipal law is amended by adding
20 a new subdivision 3 to read as follows:

21 3. AS OF THE EFFECTIVE DATE OF THIS SUBDIVISION, THE AGENCY, NOTWITH-
22 STANDING THE POWERS CONFERRED IN SUBDIVISION ONE OF THIS SECTION, SHALL
23 ONLY EXIST TO PAY THE DEBT SERVICE ON ANY OUTSTANDING BONDS OR NOTES. AT
24 THE TIME THE DEBT SERVICE ON THE OUTSTANDING BONDS AND NOTES IS FULLY
25 PAID, THE AGENCY SHALL BE DEEMED TERMINATED.

26 S 25. Section 925-v of the general municipal law is amended by adding
27 a new subdivision 3 to read as follows:

28 3. AS OF THE EFFECTIVE DATE OF THIS SUBDIVISION, THE AGENCY, NOTWITH-
29 STANDING THE POWERS CONFERRED IN SUBDIVISION ONE OF THIS SECTION, SHALL
30 ONLY EXIST TO PAY THE DEBT SERVICE ON ANY OUTSTANDING BONDS OR NOTES. AT
31 THE TIME THE DEBT SERVICE ON THE OUTSTANDING BONDS AND NOTES IS FULLY
32 PAID, THE AGENCY SHALL BE DEEMED TERMINATED.

33 S 26. Section 100 of the economic development law is amended by adding
34 a new subdivision 25-a to read as follows:

35 25-A. TO DETERMINE APPEALS FROM THE DECISIONS OF INDUSTRIAL DEVELOP-
36 MENT AGENCIES AND TO CARRY OUT SUCH OTHER DUTIES AS REQUIRED UNDER ARTI-
37 CLE EIGHTEEN-A OF THE GENERAL MUNICIPAL LAW.

38 S 27. The opening paragraph of paragraph 3 of subdivision (h) of
39 section 183 of the economic development law, as added by chapter 313 of
40 the laws of 2005, is amended to read as follows:

41 Each application for an energy cost savings benefit shall be evaluated
42 under criteria adopted by the board in consultation with the power
43 authority of the state of New York, which criteria shall be designed to
44 promote economic development, maintain and develop jobs, [and] encourage
45 new capital investment, AND PROMOTE BROWNFIELD CLEAN-UP AND REDEVELOP-
46 MENT throughout the state of New York. Such criteria shall address but
47 need not be limited to:

48 S 27-a. Subdivision 2 of section 220 of the labor law, as amended by
49 chapter 678 of the laws of 2007, is amended to read as follows:

50 2. Each contract, LEASE, GRANT, BOND, COVENANT, DEBT AGREEMENT OR
51 PERMIT to which the state or a public benefit corporation or a municipal
52 corporation or a commission appointed pursuant to law is a party,
53 INCLUDING ALL PROJECTS INVOLVING THE CONSTRUCTION, DEMOLITION, RECON-
54 STRUCTION, EXCAVATION, REHABILITATION, REPAIR, RENOVATION OR ALTERATION
55 OF A BUILDING, CHARTER SCHOOL OR IMPROVEMENT TO PROPERTY FINANCED, IN
56 WHOLE OR IN PART, THROUGH AN INDUSTRIAL DEVELOPMENT AGENCY, and any

1 contract for public work entered into by a third party acting in place
2 of, on behalf of and for the benefit of such public entity pursuant to
3 any lease, permit or other agreement between such third party and the
4 public entity, and which may involve the employment of laborers, workers
5 or mechanics shall contain a stipulation that no laborer, worker or
6 mechanic in the employ of the contractor, subcontractor or other person
7 doing or contracting to do the whole or a part of the work contemplated
8 by the contract shall be permitted or required to work more than eight
9 hours in any one calendar day or more than five days in any one week
10 except in cases of extraordinary emergency including fire, flood or
11 danger to life or property. No such person shall be so employed more
12 than eight hours in any day or more than five days in any one week
13 except in such emergency. Extraordinary emergency within the meaning of
14 this section shall be deemed to include situations in which sufficient
15 laborers, workers and mechanics cannot be employed to carry on public
16 work expeditiously as a result of such restrictions upon the number of
17 hours and days of labor and the immediate commencement or prosecution or
18 completion without undue delay of the public work is necessary in the
19 judgment of the commissioner for the preservation of the contract site
20 and for the protection of the life and limb of the persons using the
21 same. Upon the application of any person interested, the commissioner
22 shall make a determination as to whether or not on any public project or
23 on all public projects in any area of this state, sufficient laborers,
24 workers and mechanics of any or all classifications can be employed to
25 carry on work expeditiously if their labor is restricted to eight hours
26 per day and five days per week, and in the event that the commissioner
27 determines that there are not sufficient workers, laborers and mechanics
28 of any or all classifications which may be employed to carry on such
29 work expeditiously if their labor is restricted to eight hours per day
30 and five days per week, and the immediate commencement or prosecution or
31 completion without undue delay of the public work is necessary in the
32 judgment of the commissioner for the preservation of the contract site
33 and for the protection of the life and limb of the persons using the
34 same, the commissioner shall grant a dispensation permitting all labor-
35 ers, workers and mechanics, or any classification of such laborers,
36 workers and mechanics, to work such additional hours or days per week on
37 such public project or in such areas the commissioner shall determine.
38 Whenever such a dispensation is granted, all work in excess of eight
39 hours per day and five days per week shall be considered overtime work,
40 and the laborers, workers and mechanics performing such work shall be
41 paid a premium wage commensurate with the premium wages prevailing in
42 the area in which the work is performed. No such dispensation shall be
43 effective with respect to any public work unless and until the depart-
44 ment of jurisdiction, as defined in this section, certifies to the
45 commissioner that such public work is of an important nature and that a
46 delay in carrying it to completion would result in serious disadvantage
47 to the public. Time lost in any week because of inclement weather by
48 employees engaged in the construction, reconstruction and maintenance of
49 highways outside of the limits of cities and villages may be made up
50 during that week and/or the succeeding three weeks.

51 S 28. Subdivision 2 of section 220 of the labor law, as amended by
52 chapter 851 of the laws of 1947, is amended to read as follows:

53 2. Each contract, LEASE, GRANT, BOND, COVENANT, DEBT AGREEMENT OR
54 PERMIT to which the state or a public benefit corporation or a municipal
55 corporation or a commission appointed pursuant to law is a party,
56 INCLUDING ALL PROJECTS INVOLVING THE CONSTRUCTION, DEMOLITION, RECON-

1 STRUCTION, EXCAVATION, REHABILITATION, REPAIR, RENOVATION OR ALTERATION
2 OF A BUILDING, CHARTER SCHOOL OR IMPROVEMENT TO PROPERTY FINANCED, IN
3 WHOLE OR IN PART, THROUGH AN INDUSTRIAL DEVELOPMENT AGENCY, and which
4 may involve the employment of laborers, workmen or mechanics shall
5 contain a stipulation that no laborer, workman or mechanic in the employ
6 of the contractor, sub-contractor or other person doing or contracting
7 to do the whole or a part of the work contemplated by the contract shall
8 be permitted or required to work more than eight hours in any one calen-
9 dar day or more than five days in any one week except in cases of
10 extraordinary emergency including fire, flood or danger to life or prop-
11 erty. No such person shall be so employed more than eight hours in any
12 day or more than five days in any one week except in such emergency.
13 Extraordinary emergency within the meaning of this section shall be
14 deemed to include situations in which sufficient laborers, workmen and
15 mechanics cannot be employed to carry on public work expeditiously as a
16 result of such restrictions upon the number of hours and days of labor
17 and the immediate commencement or prosecution or completion without
18 undue delay of the public work is necessary in the judgment of the
19 [industrial] commissioner for the preservation of the contract site and
20 for the protection of the life and limb of the persons using the same.
21 Upon the application of any person interested, the [industrial] commis-
22 sioner shall make a determination as to whether or not on any public
23 project or on all public projects in any area of this state, sufficient
24 laborers, workmen and mechanics of any or all classifications can be
25 employed to carry on work expeditiously if their labor is restricted to
26 eight hours per day and five days per week, and in the event that the
27 [industrial] commissioner determines that there are not sufficient work-
28 men, laborers and mechanics of any or all classifications which may be
29 employed to carry on such work expeditiously if their labor is
30 restricted to eight hours per day and five days per week, and the imme-
31 diate commencement or prosecution or completion without undue delay of
32 the public work is necessary in the judgment of the [industrial] commis-
33 sioner for the preservation of the contract site and for the protection
34 of the life and limb of the persons using the same, the [industrial]
35 commissioner shall grant a dispensation permitting all laborers, workmen
36 and mechanics, or any classification of such laborers, workmen and
37 mechanics, to work such additional hours or days per week on such public
38 project or in such areas the [industrial] commissioner shall determine.
39 Whenever such a dispensation is granted, all work in excess of eight
40 hours per day and five days per week shall be considered overtime work,
41 and the laborers, workmen and mechanics performing such work shall be
42 paid a premium wage commensurate with the premium wages prevailing in
43 the area in which the work is performed. No such dispensation shall be
44 effective with respect to any public work unless and until the depart-
45 ment of jurisdiction, as defined in this section, certifies to the
46 [industrial] commissioner that such public work is of an important
47 nature and that a delay in carrying it to completion would result in
48 serious disadvantage to the public. Time lost in any week because of
49 inclement weather by employees engaged in the construction, recon-
50 struction and maintenance of highways outside of the limits of cities
51 and villages may be made up during that week and/or the succeeding three
52 weeks.

53 S 29. Section 1963-a of the public authorities law, as amended by
54 chapter 357 of the laws of 1993, is amended to read as follows:

55 S 1963-a. Uniform tax exemption policy. 1. The authority shall estab-
56 lish a uniform tax exemption policy, with input from affected local

1 taxing jurisdictions, which shall be applicable to provisions of finan-
2 cial assistance pursuant to section nineteen hundred fifty-three-a of
3 this [chapter] TITLE and shall provide guidelines for the claiming of
4 real property, mortgage recording, and sales tax exemptions. Such guide-
5 lines shall include, but not be limited to: period of exemption;
6 PAYMENTS IN LIEU OF TAXES, AS A percentage of [exemption] TAXES THAT
7 WOULD HAVE BEEN LEVIED BY OR ON BEHALF OF AFFECTED TAX JURISDICTIONS IF
8 THE PROJECT WAS NOT TAX EXEMPT BY REASON OF AGENCY INVOLVEMENT; types of
9 projects for which exemptions can be claimed; procedures for payments in
10 lieu of taxes and instances in which real property appraisals are to be
11 performed as a part of an application for tax exemption; in addition,
12 the authority in adopting such policy shall consider such issues as: the
13 extent to which a project will create or retain permanent, private
14 sector jobs; THE WAGES AND BENEFITS TO BE PAID; the estimated value of
15 any tax exemption to be provided; whether affected tax jurisdictions
16 should be reimbursed by the project occupant if a project does not
17 fulfill the purposes for which an exemption was provided; the impact of
18 a proposed project on existing and proposed businesses and economic
19 development projects in the vicinity; the amount of private sector
20 investment generated or likely to be generated by the proposed project;
21 the demonstrated public support for the proposed project; the likelihood
22 of accomplishing the proposed project in a timely fashion; the effect of
23 the proposed project upon the environment; the extent to which the
24 proposed project will require the provision of additional services,
25 including, but not limited to additional educational, transportation,
26 police, emergency medical or fire services; and the extent to which the
27 proposed project will provide additional sources or revenue for munici-
28 palities and school districts. THE ADOPTED UNIFORM PAYMENT IN LIEU OF
29 TAX (PILOT) AGREEMENT POLICY SHALL BE SENT TO THE CHIEF EXECUTIVE OFFI-
30 CER OF EACH AFFECTED TAX JURISDICTION AND BE MADE AVAILABLE FOR PUBLIC
31 INSPECTION AT THE AGENCY'S OFFICE AND ON ITS WEBSITE IMMEDIATELY FOLLOW-
32 ING ITS ADOPTION.

33 2. The authority shall establish a procedure for deviation from the
34 uniform tax exemption policy required pursuant to this section. The
35 authority shall set forth in writing the reasons for deviation from such
36 policy, and shall further notify the affected tax jurisdictions of the
37 proposed deviation from such policy and the reasons therefor. THE
38 ADOPTED DEVIATION TO THE UNIFORM PAYMENT IN LIEU OF TAX (PILOT) AGREE-
39 MENT POLICY SHALL BE SENT TO THE CHIEF EXECUTIVE OFFICER OF EACH
40 AFFECTED TAX JURISDICTION AND BE MADE AVAILABLE FOR PUBLIC INSPECTION AT
41 THE AGENCY'S OFFICE AND ON ITS WEBSITE IMMEDIATELY FOLLOWING ITS
42 ADOPTION.

43 S 30. Section 2315 of the public authorities law, as amended by chap-
44 ter 357 of the laws of 1993, is amended to read as follows:

45 S 2315. Uniform [tax exemption] PAYMENT IN LIEU OF TAX (PILOT) AGREE-
46 MENT policy. 1. The authority shall establish a uniform [tax exemption]
47 PAYMENT IN LIEU OF TAX (PILOT) AGREEMENT policy, with input from
48 affected local taxing jurisdictions, which shall be applicable to
49 provisions of financial assistance pursuant to section twenty-three
50 hundred seven of this [chapter] TITLE and shall provide guidelines for
51 the claiming of real property, mortgage recording, and sales tax
52 exemptions. Such guidelines shall include, but not be limited to: period
53 of exemption; PAYMENTS IN LIEU OF TAXES, AS A percentage of [exemption]
54 TAXES THAT WOULD HAVE BEEN LEVIED BY OR ON BEHALF OF AFFECTED TAX JURIS-
55 DICTIONS IF THE PROJECT WAS NOT TAX EXEMPT BY REASON OF AGENCY INVOLVE-
56 MENT; types of projects for which exemptions may be claimed; procedures

1 for payments in lieu of taxes and instances in which real property
2 appraisals are to be performed as a part of an application for tax
3 exemption; in addition, the authority in adopting such policy shall
4 consider such issues as: the extent to which a project will create or
5 retain permanent, private sector jobs; THE WAGES AND BENEFITS TO BE
6 PAID; the estimated value of any tax exemption to be provided; whether
7 affected tax jurisdictions should be reimbursed by the project occupant
8 if a project does not fulfill the purposes for which an exemption was
9 provided; the impact of a proposed project on existing and proposed
10 businesses and economic development projects in the vicinity; the amount
11 of private sector investment generated or likely to be generated by the
12 proposed project; the demonstrated public support for the proposed
13 project; the likelihood of accomplishing the proposed project in a time-
14 ly fashion; the effect of the proposed project upon the environment; the
15 extent to which the proposed project will require the provision of addi-
16 tional services, including, but not limited to additional educational,
17 transportation, police, emergency medical or fire services; and the
18 [extend] EXTENT to which the proposed project will provide additional
19 sources of revenue for municipalities and school districts. THE ADOPTED
20 UNIFORM PAYMENT IN LIEU OF TAX (PILOT) AGREEMENT POLICY SHALL BE SENT TO
21 THE CHIEF EXECUTIVE OFFICER OF EACH AFFECTED TAX JURISDICTION AND BE
22 MADE AVAILABLE FOR PUBLIC INSPECTION AT THE AGENCY'S OFFICE AND ON ITS
23 WEBSITE IMMEDIATELY FOLLOWING ITS ADOPTION.

24 2. The authority shall establish a procedure for deviation from the
25 uniform [tax exemption] PAYMENT IN LIEU OF TAX (PILOT) AGREEMENT policy
26 required pursuant to this section. The authority shall set forth in
27 writing the reasons for deviation from such policy, and shall further
28 notify the affected local taxing jurisdictions of the proposed deviation
29 from such policy and the reasons therefor. THE ADOPTED DEVIATION TO THE
30 UNIFORM PAYMENT IN LIEU OF TAX (PILOT) AGREEMENT POLICY SHALL BE SENT TO
31 THE CHIEF EXECUTIVE OFFICER OF EACH AFFECTED TAX JURISDICTION AND BE
32 MADE AVAILABLE FOR PUBLIC INSPECTION AT THE AGENCY'S OFFICE AND ON ITS
33 WEBSITE IMMEDIATELY FOLLOWING ITS ADOPTION.

34 S 31. Federal preemption and severability. The provisions of each
35 section of this act shall be deemed severable, and the declaration by a
36 court of competent jurisdiction that any part thereof is preempted or
37 otherwise invalid shall not affect the remaining parts thereof.

38 S 32. Subdivision 3 of section 8 of chapter 444 of the laws of 1997
39 amending the general municipal law and other laws relating to the tax
40 exemption status of industrial development agencies, as amended by chap-
41 ter 381 of the laws of 2007, is amended to read as follows:

42 3. [sections one through three] SECTION TWO of this act shall expire
43 and be deemed repealed on and after January 31, 2008; and

44 S 33. Section 5 of chapter 905 of the laws of 1986 amending the gener-
45 al municipal law relating to authorizing financing assistance for civic
46 facilities by industrial development agencies, as amended by chapter 381
47 of the laws of 2007, is amended to read as follows:

48 S 5. This act shall take effect immediately [and shall remain in full
49 force and effect until the end of calendar day January 31, 2008, when
50 upon such date (i) the provisions of subdivision 4 of section 854 of the
51 general municipal law, as amended by section one of this act, shall
52 revert to and be read as set out in law on the date immediately preced-
53 ing the effective date of this act, and (ii) the provisions of sections
54 two and three of this act shall be deemed repealed].

55 S 34. Notwithstanding the provisions of article 5 of the general
56 construction law, the provisions of subdivisions 4 and 13 of section

1 854, paragraphs (b) and (c) of subdivision 4 of section 874, subdivision
2 3 of section 859-a, and subdivision 3 of section 859 and subdivision (c)
3 of section 917 of the general municipal law are hereby revived and shall
4 continue in full force and effect as such provisions existed on January
5 31, 2008.
6 S 35. This act shall take effect on the ninetieth day after it shall
7 have become a law, provided that sections thirty-two and thirty-three of
8 this act shall take effect immediately and section thirty-two of this
9 act shall be deemed to have been in full force and effect on and after
10 January 31, 2008 provided further that the amendments to section 183 of
11 the economic development law made by section twenty-seven of this act
12 shall not affect the expiration of such section and shall expire there-
13 with; provided further that the amendments to subdivision 2 of section
14 220 of the labor law made by section twenty-seven-a of this act shall be
15 subject to the expiration and reversion of such subdivision pursuant to
16 section 5 of chapter 678 of the laws of 2007, as amended, when upon such
17 date the provisions of section twenty-eight of this act shall take
18 effect.