

1241

2009-2010 Regular Sessions

I N S E N A T E

January 28, 2009

Introduced by Sen. THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, 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-
12 cipality for whose benefit the agency was created, including, but not
13 limited to, machinery, equipment and other facilities deemed necessary
14 or desirable in connection therewith, or incidental thereto, whether or
15 not now in existence or under construction, which shall be suitable for
16 manufacturing, warehousing, research, civic, commercial or industrial
17 purposes or other economically sound purposes identified and called for
18 to implement a state designated urban cultural park management plan as

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

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

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

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

47 (18) "Highly distressed area" - shall mean (a) a census tract or
48 tracts or block numbering areas or areas or such census tract or block
49 numbering area contiguous thereto which, according to the most recent
50 census data available, has:

51 (i) a poverty rate of at least twenty percent for the year to which
52 the data relates or at least twenty percent of households receiving
53 public assistance; and

54 (ii) an unemployment rate of at least 1.25 times the statewide unem-
55 ployment rate for the year to which the data relates; or

(b) a city, town, village or county within a city with a population of one million or more for which: (i) the ratio of the full value property wealth, as determined by the comptroller for the year nineteen hundred ninety, per resident to the statewide average full value property wealth per resident; and (ii) the ratio of the income per resident; as shown in the nineteen hundred ninety census to the statewide average income per resident; are each fifty-five percent or less of the statewide average[; or

(c) an area which was designated an empire zone pursuant to article eighteen-B of this chapter].

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

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

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

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

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

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

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

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

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

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

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

2. An agency shall be a corporate governmental agency, constituting a public benefit corporation. Except as otherwise provided by special act of the legislature, an agency shall consist of not less than three nor more than seven members who shall be appointed by the governing body of each municipality and who shall serve [at the pleasure of the appointing authority] FOR A TERM OF FOUR YEARS. Such members [may] SHALL include representatives of local government, school boards, organized labor DESIGNATED BY THE LARGEST CENTRAL LABOR FEDERATION IN THE MUNICIPALITY, and [business] ENVIRONMENTAL ORGANIZATIONS. A member shall continue to hold office until his OR HER successor is appointed and has qualified. The governing body of each municipality shall designate the first

1 [chairman] CHAIRPERSON and file with the secretary of state a certifi-
2 cate of appointment or reappointment of any member. Such members shall
3 receive no compensation for their services but shall be entitled to the
4 necessary expenses, including traveling expenses, incurred in the
5 discharge of their duties. EACH MEMBER MUST ATTEND AT LEAST TEN PERCENT
6 OF ALL OF THE HEARINGS HELD PURSUANT TO SECTION EIGHT HUNDRED
7 FIFTY-NINE-A OF THIS TITLE OR SUCH MEMBER SHALL BE DEEMED TO HAVE
8 FORFEITED THEIR OFFICE. MEMBERS MUST NOT BE OR HAVE, WITHIN THE PAST
9 FIVE YEARS, BEEN:

10 (A) AN EMPLOYEE OR AN OWNER OF A FIRM THAT IS A PAID ADVISOR OR
11 CONSULTANT OF THE AGENCY, INCLUDING A PRESENT OR FORMER INDEPENDENT
12 AUDITOR OF THE AGENCY;

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

14 (C) EMPLOYED BY AND HAD A FIVE PERCENT OR GREATER OWNERSHIP INTEREST
15 IN A SUPPLIER WHERE SALES TO THE AGENCY REPRESENT MORE THAN ONE PERCENT
16 OF THE SALES OF THE SUPPLIER OR MORE THAN ONE PERCENT OF THE PURCHASES
17 OF THE AGENCY;

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

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

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

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

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

47 2. Except as is otherwise provided by collective bargaining contracts
48 or agreements, new employment opportunities created as a result of
49 projects of the agency shall be listed with the New York state depart-
50 ment of labor community services division, and with the administrative
51 entity of the service delivery area created by the federal job training
52 partnership act (P.L. No. 97-300) in which the project is located.
53 Except as is otherwise provided by collective bargaining contracts or
54 agreements, sponsors of projects shall agree, where practicable, to
55 first consider persons eligible to participate in the federal job train-
56 ing partnership (P.L. No. 97-300) programs who shall be referred by

1 administrative entities of service delivery areas created pursuant to
2 such act or by the community services division of the department of
3 labor for such [such] new employment opportunities, AND SECONDLY TO
4 CONSIDER PERSONS LIVING IN A METROPOLITAN STATISTICAL AREA, AS DEFINED
5 BY THE UNITED STATES BUREAU OF LABOR STATISTICS, THAT IS IN OR ADJACENT
6 TO THE PROJECT IN WHICH THE MOST RECENT CENSUS DETERMINES THAT MORE THAN
7 THIRTY PERCENT OF THE RESIDENTS LIVE BELOW THE FEDERAL POVERTY LINE, AS
8 ISSUED IN THE FEDERAL REGISTER BY THE FEDERAL DEPARTMENT OF HEALTH AND
9 HUMAN SERVICES.

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

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

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

47 (c) WITHIN NINETY DAYS FOLLOWING THE CLOSE OF ITS FISCAL YEAR, THE
48 AGENCY SHALL PREPARE A PROJECT REPORT FOR THAT FISCAL YEAR IN SUCH FORM
49 AS MAY BE PRESCRIBED BY THE STATE COMPTROLLER. SUCH REPORT SHALL INCLUDE
50 THE FOLLOWING INFORMATION CONCERNING RECIPIENTS THAT HAVE A CURRENT
51 FINANCIAL ASSISTANCE AGREEMENT WITH THE AGENCY:

52 (I) THE TOTAL AMOUNT OF EACH TYPE OF FINANCIAL ASSISTANCE PROVIDED TO
53 RECIPIENTS;

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

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

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

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

(3) THE AMOUNT OF EACH TYPE OF FINANCIAL ASSISTANCE PROVIDED, INCLUDING THE PERIOD OF THE ASSISTANCE AND THE AMOUNT OF UNPAID TAX REVENUES AS A RESULT OF THE AGREEMENT;

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

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

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

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

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

(D) Within thirty days after completion, a copy of the audited financial statement AND THE PROJECT REPORT shall be transmitted to the commissioner of the department of economic development, the state comptroller and the governing body of the municipality for whose benefit the agency was created.

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

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

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

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

(iii) that the agency's or authority's failure to provide either the required financial statement AND THE PROJECT REPORT or an adequate explanation will result in the notification of the chief executive officer of the municipality for whose benefit the agency or authority was created of the agency's noncompliance with this section. Where such agency or authority has failed to file the required statement AND PROJECT REPORT, the comptroller shall additionally notify the agency or authority that continued failure to file the required statement AND PROJECT REPORT may result in loss of the agency's or authority's authority to provide exemptions from state taxes.

(iv) If an agency or authority after thirty days has failed to file the required statement or the explanation in the manner required by subparagraph (i) of this paragraph, or provides an insufficient explanation, the comptroller shall notify the chief executive officer of the municipality for whose benefit the agency or authority was created and

1 the agency of the agency's or authority's noncompliance with this
2 section. Such notice from the state comptroller shall further delineate
3 in what respect the agency or authority has failed to comply with this
4 section. If the agency or authority has failed to file the required
5 statement AND PROJECT REPORT, the notice shall additionally state that
6 continued failure to file the required statement AND PROJECT REPORT may
7 result in loss of the agency's or authority's authority to provide
8 exemptions from state taxes.

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

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

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

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

38 2. On or before September first of each year, the commissioner of the
39 department of economic development shall prepare and submit to the
40 governor, speaker of the assembly, [majority leader] TEMPORARY PRESIDENT
41 of the senate, and the state comptroller, a report setting forth a
42 summary of the significant trends in operations and financing by agen-
43 cies and authorities; departures from acceptable practices by agencies
44 and authorities; a compilation by type of the bonds and notes outstand-
45 ing AND OTHER FINANCIAL ASSISTANCE PROVIDED; a compilation of all
46 outstanding straight-lease transactions; an estimate of the total number
47 of jobs created and retained by agency or authority projects; AN ESTI-
48 MATE OF THE WAGES AND BENEFITS PAID BY RECIPIENTS BROKEN DOWN BY JOB
49 TYPE; A STATEMENT OF WHETHER ANY RECIPIENT FAILED TO REMAIN AT A PROJECT
50 FOR THE REQUIRED PERIOD; A SUMMARY OF ANY ENFORCEMENT ACTIONS FOR
51 NON-COMPLIANCE WITH THIS SECTION OR ANY FINANCIAL ASSISTANCE AGREEMENT;
52 and any other information which in the opinion of the commissioner bears
53 upon the discharge of the statutory functions of agencies and authori-
54 ties.

55 3. On or before April first, nineteen hundred ninety-six, the commis-
56 sioner shall submit to the director of the division of the budget, the

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

32 4. (A) EACH AGENCY SHALL MAINTAIN:

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

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

37 (III) A SCHEDULE OF ALL PAYMENTS IN LIEU OF TAXES (PILOT) OWED TO
38 AFFECTED TAX JURISDICTIONS, INCLUDING ALL DELINQUENT PILOT PAYMENTS AND
39 THE NAME OF THE TAXPAYER, THE AMOUNT OF THE DELINQUENCY AND THE DUE DATE
40 OF THE PAYMENT.

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

43 S 6. Section 859-a of the general municipal law, as added by chapter
44 356 of the laws of 1993, subdivision 3 as amended by chapter 444 of the
45 laws of 1997, is amended to read as follows:

46 S 859-a. Additional prerequisites to the provisions of financial
47 assistance. 1. THE AGENCY SHALL PROVIDE FINANCIAL ASSISTANCE OF LESS
48 THAN ONE HUNDRED THOUSAND DOLLARS TO NO LESS THAN THREE PROJECTS EACH
49 CALENDAR YEAR; PROVIDED THAT IN ANY YEAR WHERE NO FINANCIAL ASSISTANCE
50 IS PROVIDED TO ANY PROJECT, OR IN CASES WHERE NO PROJECT REQUESTS FOR
51 LESS THAN ONE HUNDRED THOUSAND DOLLARS ARE RECEIVED, SUCH REQUIREMENT
52 SHALL BE WAIVED.

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

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

(B) THE AGENCY SHALL ADOPT A RESOLUTION ESTABLISHING CRITERIA TO EVALUATE AND SELECT PROJECTS FOR WHICH FINANCIAL ASSISTANCE MAY BE PROVIDED. THE CRITERIA SHALL REQUIRE THAT:

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

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

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

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

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

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

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

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

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

[3] 4. The agency must give at least thirty days published notice of [said] SUCH public hearing and shall, at the same time, provide notice of such hearing to [the] STATE LEGISLATORS, chief executive officer AND GOVERNING BODY of each affected tax jurisdiction within which the project is PROPOSED TO BE located. SUCH NOTICE SHALL ALSO BE PROVIDED VIA E-MAIL AND SHALL BE POSTED ON THE AGENCY WEBSITE. The notice of hearing must state the time and place of the hearing, contain a general, functional description of the project, describe the prospective location of the project, identify the initial owner, operator or manager of the project [and], generally describe the financial assistance contemplated by the agency with respect to the project, and provide an opportunity for the public to review the project application AND THE COMMUNITY IMPACT REPORT, which shall include an analysis of the costs and benefits of the proposed project.

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

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

11 S 7. The general municipal law is amended by adding a new section
12 859-c to read as follows:

13 S 859-C. APPLICATION AND COMMUNITY IMPACT REPORT. 1. THE PROJECT
14 APPLICANT SHALL SUBMIT AN APPLICATION TO THE AGENCY FOR APPROVAL OF A
15 PROPOSED PROJECT AND FINANCIAL ASSISTANCE. THE DEPARTMENT OF ECONOMIC
16 DEVELOPMENT SHALL DEVELOP AN APPLICATION FORM FOR THE AGENCY TO PROVIDE
17 TO APPLICANTS THAT SHALL REQUIRE THE FOLLOWING INFORMATION:

18 (A) THE NAME AND ADDRESS OF THE PROJECT APPLICANT, INCLUDING THE NAMES
19 OF THE PRINCIPAL OFFICERS AND ANY PARENT OR SUBSIDIARY CORPORATIONS, AND
20 MAJOR SHAREHOLDERS (TEN PERCENT OR MORE OF THE VOTING SHARES FOR PUBLIC-
21 LY TRADED COMPANIES, AND TWENTY-FIVE PERCENT OR MORE OF THE SHARES FOR
22 OTHER COMPANIES);

23 (B) A DESCRIPTION OF THE PROJECT, INCLUDING THE ADDRESS OF THE
24 PROPOSED LOCATION;

25 (C) THE PUBLIC PURPOSE OF THE PROJECT;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(III) A STATEMENT OF ANY POTENTIAL ADVERSE ECONOMIC, SOCIAL OR ENVIRONMENTAL EFFECTS TO THE COMMUNITY AND OTHER AREAS OF THE STATE;

(IV) AN ANALYSIS OF THE IMPACT ON TRANSPORTATION AND THE PUBLIC TRANSPORTATION ALTERNATIVES FOR THE PROJECT;

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

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

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

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

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

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

(XI) ANY AFFORDABLE HOUSING TO BE PROVIDED.

(B) THE ENVIRONMENTAL INFORMATION REQUIRED UNDER PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE BASED ON THE STANDARDS ESTABLISHED UNDER THE PROVISIONS AND REGULATIONS OF ARTICLE EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW.

3. THE PROJECT APPLICANT SHALL SUBMIT THE COMMUNITY IMPACT REPORT WITH THE APPLICATION TO THE AGENCY. A COPY OF BOTH DOCUMENTS SHALL BE PROVIDED TO THE GOVERNING BODY OF EACH AFFECTED TAX JURISDICTION WITHIN FIFTEEN DAYS OF THEIR RECEIPT BY THE AGENCY. THE APPLICATION AND COMMUNITY IMPACT REPORT SHALL BE SUBMITTED TO THE AGENCY IN PAPER AND ELECTRONIC FORM, AND SHALL BE POSTED ON THE AGENCY'S WEBSITE AND MADE AVAILABLE FOR PUBLIC INSPECTION; PROVIDED, THAT IF ANY MATERIALS SUBMITTED WITH THE APPLICATION CANNOT BE TRANSMITTED IN ELECTRONIC FORM, THEY MAY BE SUBMITTED IN PAPER FORM.

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

S 859-D. FINANCIAL ASSISTANCE AGREEMENT. 1. THE AGENCY SHALL ENTER INTO AN AGREEMENT WITH THE RECIPIENT PRIOR TO PROVIDING FINANCIAL ASSISTANCE. THE FORM OF THE AGREEMENT SHALL BE PREPARED BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND SHALL INCLUDE THE FOLLOWING INFORMATION:

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

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

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

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

(E) THE AMOUNT, TYPE, SOURCES AND COMMITMENTS OF ANY PRIVATE FINANCING;

(F) THE INFRASTRUCTURE WORK REQUIRED, AND THE AMOUNT AND SOURCE OF FINANCING FOR SUCH WORK;

(G) THE NUMBER AND TYPES OF NEW FULL-TIME AND PART-TIME JOBS TO BE CREATED, THE PROJECTED DATES OF HIRE, AND THE HOURLY WAGES AND BENEFITS TO BE PAID;

1 (H) THE NUMBER AND TYPES OF FULL-TIME AND PART-TIME JOBS TO BE
2 RETAINED, AND THE NUMBER OF JOBS EXISTING AT THE PROJECT ON THE DATE THE
3 AGREEMENT IS EXECUTED;

4 (I) THE AMOUNT AND TYPE OF AFFORDABLE HOUSING TO BE BUILT, IF ANY;

5 (J) THE AMOUNT, TYPE AND DATE OF CAPITAL INVESTMENT TO BE PROVIDED BY
6 THE RECIPIENT;

7 (K) A COMMITMENT TO CONTINUE OPERATIONS AT THE PROJECT SITE FOR AT
8 LEAST FIVE YEARS AFTER THE TERMS OF THE FINANCIAL ASSISTANCE HAVE
9 EXPIRED;

10 (L) A COMMITMENT TO MAKE TIMELY PAYMENTS IN LIEU OF TAXES; AND

11 (M) THE PENALTIES IF THE TERMS OF THE AGREEMENT ARE NOT MET.

12 2. THE AGENCY AND THE DEPARTMENT OF ECONOMIC DEVELOPMENT, SHALL HAVE
13 THE RIGHT OF ACCESS TO THE PROJECT AND TO EXAMINE ALL DOCUMENTS, PAYROLL
14 RECORDS AND OTHER MATERIALS DEEMED NECESSARY BY THE AGENCY OR DEPARTMENT
15 TO DETERMINE THE RECIPIENT IS IN COMPLIANCE WITH PROVISIONS OF THE
16 FINANCIAL ASSISTANCE AGREEMENT AND THIS ARTICLE. THE AGENCY SHALL COOP-
17 ERATE FULLY WITH THE DEPARTMENT IN CARRYING OUT ITS DUTIES.

18 3. THE AGENCY SHALL FILE A COPY OF THE FINANCIAL ASSISTANCE AGREEMENT,
19 THE APPLICATION AND THE COMMUNITY IMPACT REPORT WITH THE GOVERNING BODY
20 OF THE MUNICIPALITY WITHIN FIVE DAYS OF THE EXECUTION OF THE AGREEMENT.
21 THE AGREEMENT SHALL BE EFFECTIVE WITHIN SIXTY DAYS OF THE DATE OF ITS
22 EXECUTION UNLESS A MEMBER OF THE GOVERNING BODY FILES A NOTICE OF INTENT
23 TO REVIEW THE AGREEMENT WITH THE GOVERNING BODY. UPON THE FILING OF SUCH
24 NOTICE, THE FINANCIAL ASSISTANCE AGREEMENT SHALL NOT TAKE EFFECT UNTIL
25 THE AGREEMENT IS APPROVED BY THE GOVERNING BODY.

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

41 (B) IF A RECIPIENT IS REQUIRED TO REPAY FINANCIAL ASSISTANCE UNDER
42 THIS SUBDIVISION, THE RECIPIENT AND ANY SUBSIDIARY, PARENT OR SUCCESSOR
43 OF THE RECIPIENT SHALL BE PROHIBITED FROM ENTERING INTO A FINANCIAL
44 ASSISTANCE AGREEMENT WITH ANY OTHER STATE OR LOCAL AGENCY OR INSTRUMEN-
45 Tality OF THIS STATE UNTIL THE AGENCY HAS RECEIVED FULL REPAYMENT OF THE
46 AMOUNT DUE.

47 (C) WHENEVER THE ATTORNEY GENERAL HAS GOOD REASON TO BELIEVE THAT THE
48 RECIPIENT'S FAILURE TO FULFILL THE FINANCIAL ASSISTANCE AGREEMENT
49 INVOLVES THE STATE'S INTEREST, OR THAT THE RECIPIENT HAS COMMITTED A
50 SUBSTANTIAL VIOLATION OF THE LAWS OF THIS STATE, HE OR SHE MAY COMMENCE
51 AN ACTION TO RECOVER THE FINANCIAL ASSISTANCE AND FOR SUCH OTHER RELIEF
52 AS PROVIDED BY LAW.

53 (D) WHERE AN INDUSTRIAL DEVELOPMENT AGENCY FUNDED BUILDING IS FOUND TO
54 HAVE TENANTS WHICH ARE IN VIOLATION OF SUCH INDUSTRIAL DEVELOPMENT AGEN-
55 CY'S REQUIREMENTS FOR FUNDING, THE DEVELOPER MUST REIMBURSE ALL FINAN-
56 CIAL ASSISTANCE GIVEN IN THE FORM OF TAX EXEMPTIONS. THIS SPECIFICALLY

1 APPLIES TO PROJECTS FOR SPECULATION BUILDINGS WHICH HAVE RECEIVED A TAX
2 BREAK FOR CONSTRUCTION MATERIALS WITHOUT REVEALING THE IDENTITIES OF ALL
3 FUTURE QUALIFIED COMMERCIAL TENANTS. WHERE A BUILDING PROJECT RECEIVES
4 TAX EXEMPTIONS THROUGH SUCH INDUSTRIAL DEVELOPMENT AGENCY AND LATER
5 HOUSES UNQUALIFIED COMMERCIAL TENANTS, SUCH DEVELOPER WILL BE REQUIRED
6 TO REPAY ALL TAXES WHICH WERE AVOIDED DUE TO RECEIVING INDUSTRIAL DEVEL-
7 OPMENT AGENCY ASSISTANCE.

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

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

19 2. THE AGENCY SHALL REQUIRE THAT WHENEVER WORK IS PERFORMED UNDER
20 SUBDIVISION ONE OF THIS SECTION, THE RECIPIENT SHALL USE CONTRACTORS AND
21 SUBCONTRACTORS THAT HAVE APPRENTICESHIP AGREEMENTS APPROPRIATE FOR THE
22 TYPE AND SCOPE OF WORK TO BE PERFORMED, THAT HAVE BEEN REGISTERED WITH
23 AND APPROVED BY THE COMMISSIONER OF LABOR PURSUANT TO ARTICLE
24 TWENTY-THREE OF THE LABOR LAW.

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

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

49 FOR THE PURPOSES OF THIS SECTION:

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

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

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

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

6. THE REQUIREMENTS OF THIS SECTION, EXCEPT THOSE PERTAINING TO BUILDING SERVICE WORK, MAY BE WAIVED BY THE WRITTEN TERMS OF A BONA FIDE COLLECTIVE BARGAINING AGREEMENT, PROVIDED THAT THIS SECTION IS REFERENCED IN SUCH AGREEMENT, AND THAT THE AGREEMENT SETS FORTH IN CLEAR AND UNAMBIGUOUS TERMS THE DESIRE OF ALL PARTIES TO WAIVE SOME OR ALL OF THE REQUIREMENTS OF THIS SECTION. UNILATERAL IMPLEMENTATION OF TERMS AND CONDITIONS OF EMPLOYMENT BY EITHER PARTY TO A COLLECTIVE BARGAINING RELATIONSHIP SHALL NOT CONSTITUTE A WAIVER OF ANY OF THE REQUIREMENTS OF THIS SECTION.

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

8. EACH RECIPIENT SHALL ENSURE THAT ALL TENANTS, SUBTENANTS, CONTRACTORS AND SUBCONTRACTORS COMPLY WITH THE REQUIREMENTS UNDER THIS SECTION AND THAT ANY LEASE, SUBLEASE, CONTRACT OR SUBCONTRACT FOR THE PROJECT INCLUDES THESE REQUIREMENTS.

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

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

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

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

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

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

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

(B) "PERSON" SHALL MEAN ANY INDIVIDUAL, PROPRIETORSHIP, PARTNERSHIP, JOINT VENTURE, CORPORATION, LIMITED LIABILITY COMPANY, TRUST, ASSOCIATION, OR OTHER ENTITY THAT MAY EMPLOY INDIVIDUALS OR ENTER INTO SERVICE CONTRACTS.

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

(D) "SERVICE CONTRACT" SHALL MEAN AN AGREEMENT WITH A SERVICE CONTRACTOR TO FURNISH SERVICES, INCLUDING ANY SUBCONTRACTS FOR THOSE SERVICES.

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

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

(G) "SERVICE WORK" SHALL MEAN ANY TYPE OF SERVICES PERFORMED AT THE PROPERTY, EXCEPT SERVICES IN CONNECTION WITH ANY CONSTRUCTION, DEMOLITION, RECONSTRUCTION, EXCAVATION, REHABILITATION, REPAIR, RENOVATION, ALTERATION, OR IMPROVEMENT WORK.

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

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

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

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

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

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

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

(G) AT THE END OF THE NINETY-DAY TRANSITION PERIOD, THE SUCCESSOR CONTRACTOR SHALL PERFORM A WRITTEN EVALUATION OF EACH RETAINED SERVICE EMPLOYEE. IF THE EMPLOYEE'S PERFORMANCE DURING THIS PERIOD IS SATISFACTORY, THE EMPLOYEE SHALL BE OFFERED CONTINUED EMPLOYMENT BY THE SUCCESSOR 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.

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

5 S 11. The general municipal law is amended by adding a new section
6 859-g to read as follows:

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

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

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

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

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

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

44 S 12. The general municipal law is amended by adding a new section
45 859-h to read as follows:

46 S 859-H. REPORTS BY RECIPIENTS. 1. A RECIPIENT OF FINANCIAL ASSISTANCE
47 SHALL SUBMIT AN ANNUAL REPORT TO THE AGENCY NO LATER THAN THE ANNIVER-
48 SARY DATE OF THE FINANCIAL ASSISTANCE AGREEMENT. THE DEPARTMENT OF
49 ECONOMIC DEVELOPMENT SHALL PREPARE A FORM FOR THE REPORT THAT SHALL BE
50 POSTED ON THE AGENCY'S WEBSITE. THE REPORT SHALL INCLUDE THE FOLLOWING
51 INFORMATION:

52 (A) THE TYPE, PURPOSE AND AMOUNT OF FINANCIAL ASSISTANCE PROVIDED BY
53 THE AGENCY;

54 (B) THE NUMBER AND TYPES OF NEW FULL-TIME AND PART-TIME JOBS, DATES OF
55 HIRE, AND WAGES AND BENEFITS REQUIRED UNDER THE AGREEMENT;

(C) THE NUMBER AND TYPES OF NEW FULL-TIME AND PART-TIME JOBS THAT HAVE BEEN CREATED, THE DATES OF HIRE, AND THE WAGES AND BENEFITS PAID;

(D) THE NUMBER AND TYPES OF FULL-TIME AND PART-TIME JOBS REQUIRED TO BE RETAINED, THE NUMBER AND TYPES OF FULL-TIME AND PART-TIME JOBS THAT HAVE BEEN RETAINED;

(E) THE AMOUNT, TYPE AND DATES OF CAPITAL INVESTMENT AND OTHER EXPENDITURES BY THE RECIPIENT REQUIRED UNDER THE AGREEMENT;

(F) THE AMOUNT, TYPE AND DATES OF CAPITAL INVESTMENT AND OTHER EXPENDITURES MADE BY THE RECIPIENT;

(G) THE AMOUNT AND TYPE OF INFRASTRUCTURE AND TRANSPORTATION INVESTMENT BY THE RECIPIENT REQUIRED UNDER THE AGREEMENT;

(H) THE AMOUNT AND TYPE OF INFRASTRUCTURE AND TRANSPORTATION EXPENDITURES MADE BY THE RECIPIENT;

(I) THE AMOUNT AND DATE OF ANY PRIVATE FINANCING REQUIRED, AND THE AMOUNT AND DATE OF ANY PRIVATE FINANCING RECEIVED BY THE RECIPIENT;

(J) THE AMOUNT, TYPE AND DATE OF ANY OTHER OBLIGATIONS OF THE RECIPIENT AND THE RECIPIENT'S COMPLIANCE; AND

(K) A CERTIFICATION BY THE RECIPIENT'S CHIEF EXECUTIVE OFFICER THAT THE REPORT IS ACCURATE AND COMPLETE.

2. IF A RECIPIENT FAILS TO FILE THE REPORT REQUIRED BY THIS SECTION WITHIN THIRTY DAYS OF THE DUE DATE, THE AGENCY SHALL SUSPEND ALL FURTHER FINANCIAL ASSISTANCE UNTIL THE REPORT IS FILED.

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

S 13. The general municipal law is amended by adding a new section 859-i to read as follows:

S 859-I. GREEN BUILDING STANDARDS. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "CONSTRUCTION" SHALL MEAN ANY WORK NECESSARY OR INCIDENTAL TO THE ERECTION, DEMOLITION, ASSEMBLING, ALTERATION, INSTALLING, OR EQUIPPING OF ANY BUILDING.

(B) "GREEN BUILDING STANDARDS" SHALL MEAN DESIGN GUIDELINES, A RATING SYSTEM OR RULES FOR CONSTRUCTING BUILDINGS THAT ENSURE SITE PLANNING, WATER EFFICIENCY, ENERGY EFFICIENCY AND RENEWABLE ENERGY, CONSERVATION OF MATERIALS AND RESOURCES, AND INDOOR ENVIRONMENTAL QUALITY.

(C) "INFLATION" SHALL MEAN THE ANNUAL TWELVE-MONTH AVERAGE OF THE CONSUMER PRICE INDEX PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR.

(D) "LEED ENERGY AND ATMOSPHERE CREDIT 1" SHALL MEAN THE CREDIT POINT UNDER LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) FOR NEW CONSTRUCTION VERSION 2.1 INTENDED TO ACHIEVE INCREASED ENERGY PERFORMANCE.

(E) "LEED GREEN BUILDING RATING SYSTEM" SHALL MEAN A VERSION OF THE LEED BUILDING RATING SYSTEM PUBLISHED BY THE UNITED STATES GREEN BUILDING COUNCIL, NOT LESS STRINGENT THAN THE SELECTED GREEN BUILDING RATING SYSTEM.

(F) "LEED WATER EFFICIENCY CREDIT 3.2" SHALL MEAN THE CREDIT POINT UNDER THE LEED FOR NEW CONSTRUCTION VERSION 2.1 INTENDED TO ACHIEVE 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

1 STRINGENT THAN THAT PRESCRIBED IN LEED WATER EFFICIENCY CREDIT 3.2;
2 PROVIDED, HOWEVER, THAT SUCH PERCENTAGE SHALL BE REDUCED TO A MINIMUM OF
3 TWENTY PERCENT IF THE LOCAL AGENCY WITH JURISDICTION OVER BUILDINGS IN
4 THE MUNICIPALITY REJECTS AN APPLICATION FOR THE USE OF WATERLESS URINALS
5 FOR THE PROJECT.

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

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

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

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

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

28 (II) THE LEVEL OF LEED CERTIFICATION THE PROJECT HAS ACHIEVED BASED ON
29 THE LEED RATING SYSTEM OR, IF APPLICABLE, THE LEVEL ACHIEVED, AS CERTI-
30 FIED BY THE UNITED STATES GREEN BUILDING COUNCIL;

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

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

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

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

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

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

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

55 (B) THE AGENCY'S REPORT SHALL BE POSTED ON ITS WEBSITE AND MADE AVAIL-
56 ABLE FOR PUBLIC INSPECTION.

1 10. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL PROVIDE CONSUL-
2 TATION AND OTHER ASSISTANCE AS NEEDED BY THE AGENCY TO CARRY OUT ITS
3 RESPONSIBILITIES UNDER THIS SECTION.

4 S 14. Section 862 of the general municipal law, as added by chapter
5 1030 of the laws of 1969, is amended to read as follows:

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

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

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

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

46 5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, AN
47 AGENCY SHALL NOT UNDERTAKE ANY PROJECT THAT EXCEEDS ONE HUNDRED MILLION
48 DOLLARS IN VALUE WITHOUT THE APPROVAL OF THE NEW YORK STATE PUBLIC
49 AUTHORITIES CONTROL BOARD CREATED PURSUANT TO ARTICLE ONE-A OF THE
50 PUBLIC AUTHORITIES LAW. EACH APPLICATION TO THE PUBLIC AUTHORITIES
51 CONTROL BOARD SHALL CONTAIN A PROJECT DESCRIPTION, AN EXPLANATION OF WHY
52 THE PROJECT MEETS THE STANDARDS FOR PROJECT APPROVAL, AND ANY ADDITIONAL
53 INFORMATION THAT THE PUBLIC AUTHORITIES CONTROL BOARD DEEMS NECESSARY.

54 6. NO FINANCIAL ASSISTANCE OF THE AGENCY SHALL BE USED IN SUPPORT OF A
55 PROJECT IN AN AREA OR AREAS: NOT SERVED BY PUBLIC SEWER AND WATER
56 INFRASTRUCTURE; OR DESIGNATED AS LANDS SUITABLE FOR CONSERVATION IN A

1 COMPREHENSIVE LAND USE PLAN; OR WHERE THE EXISTING ZONING CLASSIFICA-
2 TIONS ARE INCONSISTENT WITH THE PROPOSED PROJECT; OR RECEIVING A MINIMUM
3 SCORE, ABOVE THE CUTOFF, IN AN ANALYSIS OF THE NATURAL RESOURCE VALUES
4 OF THE LAND, USING THE APPROPRIATE RATING SYSTEM AS DEFINED IN THE STATE
5 LAND ACQUISITION PLAN, PURSUANT TO SECTION 49-0207 OF THE ENVIRONMENTAL
6 CONSERVATION LAW AND APPROVED BY THE COMMISSIONER OF THE DEPARTMENT OF
7 ENVIRONMENTAL CONSERVATION. FURTHER, NO FINANCIAL ASSISTANCE SHALL BE
8 USED IN SUPPORT OF A PROJECT UNLESS THE PROJECT IS LOCATED ON A BROWN-
9 FIELD SITE AS DEFINED IN SECTION 27-1405 OF THE ENVIRONMENTAL CONSERVA-
10 TION LAW; PROVIDED, HOWEVER, THAT IF THE AGENCY DEMONSTRATES THAT THERE
11 IS NO VIABLE ALTERNATIVE AREA OR AREAS FOR SUCH PROJECT, FINANCIAL
12 ASSISTANCE MAY BE PROVIDED.

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

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

46 (b) [The uniform tax exemption policy established pursuant to this
47 section shall be reviewed and readopted by the agency on or before April
48 first, nineteen hundred ninety-nine following a public hearing. Notice
49 of this hearing shall be given to the chief executive officer of each
50 affected tax jurisdictions at least sixty days before the hearing. Prior
51 to the hearing the agency shall review, and respond to any correspond-
52 ence received from any affected tax jurisdiction. The agency shall allow
53 any representative of an affected tax jurisdiction to address the agency
54 at the hearing. The agency shall develop and submit a report to the
55 affected tax jurisdictions sixty days prior to the hearing which details
56 the projects which the agency has assisted in the previous five years

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

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

41 Such notice to the affected tax jurisdictions shall be given to the
42 chief executive officer AND THE MEMBERS OF THE GOVERNING BODY of each
43 affected tax jurisdiction at least thirty days prior to the meeting of
44 the agency at which the agency shall consider whether to approve such
45 proposed deviation. Prior to taking final action at said meeting, the
46 agency shall review and respond to any correspondence received from any
47 affected tax jurisdiction regarding such proposed deviation. The agency
48 shall allow any representative of an affected tax jurisdiction present
49 at such meeting to address the agency regarding such proposed deviation.
50 THE ADOPTED DEVIATION TO THE UNIFORM PAYMENT IN LIEU OF TAX (PILOT)
51 POLICY SHALL BE SENT TO THE CHIEF EXECUTIVE OFFICER OF EACH AFFECTED TAX
52 JURISDICTION AND BE MADE AVAILABLE FOR PUBLIC INSPECTION AT THE AGENCY'S
53 OFFICE AND ON ITS WEBSITE IMMEDIATELY FOLLOWING ITS ADOPTION.

54 S 16. Section 882 of the general municipal law, as added by chapter
55 1030 of the laws of 1969, is amended to read as follows:

1 S 882. Termination of the agency. WHENEVER ONE HUNDRED THOUSAND
2 DOLLARS OR LESS OF AGENCY BONDS OR NOTES ARE OUTSTANDING, THE AGENCY
3 SHALL ONLY EXIST TO PAY THE DEBT SERVICE ON ANY OUTSTANDING BONDS OR
4 NOTES. Whenever all of the bonds or notes issued by the agency shall
5 have been redeemed or cancelled, the agency shall cease to exist and all
6 rights, titles, and interest and all obligations and liabilities thereof
7 vested in or possessed by the agency shall thereupon vest in and be
8 possessed by the municipality.

9 S 17. Section 886 of the general municipal law is renumbered section
10 887 and a new section 886 is added to read as follows:

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

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

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

34 (II) THE NAMES OF THE MEMBERS OF SUCH AGENCY, SPECIFYING THE IDENTITY
35 OF THE CHAIRPERSON;

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

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

45 (V) THE TERMS AND CONDITIONS OF THE PROPOSED DISSOLUTION AND MERGER
46 INCLUDING A STATEMENT ACKNOWLEDGING THAT THE COUNTY AGENCY SHALL, UPON
47 THE EFFECTIVE DATE OF THE DISSOLUTION AND MERGER, SUCCEED TO ALL THE
48 RIGHTS, TITLES, INTERESTS, OBLIGATIONS AND LIABILITIES, INCLUDING BONDS,
49 NOTES AND OTHER OBLIGATIONS AND CONTRACTUAL RIGHTS AND OBLIGATIONS, OF
50 THE DISSOLVED AND MERGED TOWN, VILLAGE OR CITY AGENCIES;

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

54 (VII) A STATEMENT THAT THE PLAN OF MERGER HAS BEEN REVIEWED AND
55 APPROVED BY COUNSEL FOR THE TOWN, VILLAGE OR CITY AGENCY AND COUNSEL FOR
56 THE COUNTY AGENCY, INDICATING THAT EACH COUNSEL HAS CONSIDERED THE

1 IMPACT, IF ANY, OF THE DISSOLUTION AND MERGER ON: (1) THE RIGHTS OF ANY
2 EMPLOYEES OF THE MERGING AGENCIES; AND (2) THE RECIPIENTS OF FINANCIAL
3 ASSISTANCE FROM THE AGENCIES.

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

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

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

21 S 19. The general municipal law is amended by adding a new section
22 889-a to read as follows:

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

29 THE PROVISIONS OF THIS SECTION SHALL ONLY APPLY TO REAL PROPERTY
30 SUBJECT TO THE BROWNFIELD SITE CLEAN-UP AGREEMENT ENTERED INTO BY A
31 VOLUNTEER PURSUANT TO SECTION 27-1405 OF THE ENVIRONMENTAL CONSERVATION
32 LAW. FAILURE OF ANY REAL PROPERTY TO RECEIVE A CERTIFICATE OF
33 COMPLETION PURSUANT TO SECTION 27-1419 OF SUCH LAW SHALL BE GROUNDS FOR
34 REVOCATION OF THE BENEFITS PROVIDED BY THIS SECTION.

35 S 20. Sections twenty-one through twenty-five of this act shall be
36 called the Erie County agency pilot program. Whereas Erie County
37 contains six industrial development agencies that have demonstrated a
38 recognition of the disadvantages of intermunicipal competition and the
39 need for a regional approach to economic planning, the legislature here-
40 by designates Erie County as the pilot county for the sub-county agency
41 consolidation program.

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

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

50 S 22. The first undesignated paragraph of section 901-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.

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

3 S 23. The first undesignated paragraph of section 914-a of the general
4 municipal law, as added by chapter 579 of the laws of 1973, is desig-
5 nated subdivision 1 and a new subdivision 2 is 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 24. Section 925-t of the general municipal law is amended by adding
12 a new subdivision 3 to read as follows:

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

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

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

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

27 25-A. TO DETERMINE APPEALS FROM THE DECISIONS OF INDUSTRIAL DEVELOP-
28 MENT AGENCIES AND TO CARRY OUT SUCH OTHER DUTIES AS REQUIRED UNDER ARTI-
29 CLE EIGHTEEN-A OF THE GENERAL MUNICIPAL LAW.

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

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

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

42 2. Each contract, LEASE, GRANT, BOND, COVENANT, DEBT AGREEMENT OR
43 PERMIT to which the state or a public benefit corporation or a municipal
44 corporation or a commission appointed pursuant to law is a party,
45 INCLUDING ALL PROJECTS INVOLVING THE CONSTRUCTION, DEMOLITION, RECON-
46 STRUCTION, EXCAVATION, REHABILITATION, REPAIR, RENOVATION OR ALTERATION
47 OF A BUILDING, CHARTER SCHOOL OR IMPROVEMENT TO PROPERTY FINANCED, IN
48 WHOLE OR IN PART, THROUGH AN INDUSTRIAL DEVELOPMENT AGENCY, and any
49 contract for public work entered into by a third party acting in place
50 of, on behalf of and for the benefit of such public entity pursuant to
51 any lease, permit or other agreement between such third party and the
52 public entity, and which may involve the employment of laborers, workers
53 or mechanics shall contain a stipulation that no laborer, worker or
54 mechanic in the employ of the contractor, subcontractor or other person
55 doing or contracting to do the whole or a part of the work contemplated
56 by the contract shall be permitted or required to work more than eight

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

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

45 2. Each contract, LEASE, GRANT, BOND, COVENANT, DEBT AGREEMENT OR
46 PERMIT to which the state or a public benefit corporation or a municipal
47 corporation or a commission appointed pursuant to law is a party,
48 INCLUDING ALL PROJECTS INVOLVING THE CONSTRUCTION, DEMOLITION, RECON-
49 STRUCTION, EXCAVATION, REHABILITATION, REPAIR, RENOVATION OR ALTERATION
50 OF A BUILDING, CHARTER SCHOOL OR IMPROVEMENT TO PROPERTY FINANCED, IN
51 WHOLE OR IN PART, THROUGH AN INDUSTRIAL DEVELOPMENT AGENCY, and which
52 may involve the employment of laborers, workmen or mechanics shall
53 contain a stipulation that no laborer, workman or mechanic in the employ
54 of the contractor, sub-contractor or other person doing or contracting
55 to do the whole or a part of the work contemplated by the contract shall
56 be permitted or required to work more than eight hours in any one calen-

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

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

47 S 1963-a. Uniform tax exemption policy. 1. The authority shall estab-
48 lish a uniform tax exemption policy, with input from affected local
49 taxing jurisdictions, which shall be applicable to provisions of finan-
50 cial assistance pursuant to section nineteen hundred fifty-three-a of
51 this [chapter] TITLE and shall provide guidelines for the claiming of
52 real property, mortgage recording, and sales tax exemptions. Such guide-
53 lines shall include, but not be limited to: period of exemption;
54 PAYMENTS IN LIEU OF TAXES, AS A percentage of [exemption] TAXES THAT
55 WOULD HAVE BEEN LEVIED BY OR ON BEHALF OF AFFECTED TAX JURISDICTIONS IF
56 THE PROJECT WAS NOT TAX EXEMPT BY REASON OF AGENCY INVOLVEMENT; types of

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

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

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

37 S 2315. Uniform [tax exemption] PAYMENT IN LIEU OF TAX (PILOT) AGREE-
38 MENT policy. 1. The authority shall establish a uniform [tax exemption]
39 PAYMENT IN LIEU OF TAX (PILOT) AGREEMENT policy, with input from
40 affected local taxing jurisdictions, which shall be applicable to
41 provisions of financial assistance pursuant to section twenty-three
42 hundred seven of this [chapter] TITLE and shall provide guidelines for
43 the claiming of real property, mortgage recording, and sales tax
44 exemptions. Such guidelines shall include, but not be limited to: period
45 of exemption; PAYMENTS IN LIEU OF TAXES, AS A percentage of [exemption]
46 TAXES THAT WOULD HAVE BEEN LEVIED BY OR ON BEHALF OF AFFECTED TAX JURIS-
47 DICTIONS IF THE PROJECT WAS NOT TAX EXEMPT BY REASON OF AGENCY INVOLVE-
48 MENT; types of projects for which exemptions may be claimed; procedures
49 for payments in lieu of taxes and instances in which real property
50 appraisals are to be performed as a part of an application for tax
51 exemption; in addition, the authority in adopting such policy shall
52 consider such issues as: the extent to which a project will create or
53 retain permanent, private sector jobs; THE WAGES AND BENEFITS TO BE
54 PAID; the estimated value of any tax exemption to be provided; whether
55 affected tax jurisdictions should be reimbursed by the project occupant
56 if a project does not fulfill the purposes for which an exemption was

1 provided; the impact of a proposed project on existing and proposed
2 businesses and economic development projects in the vicinity; the amount
3 of private sector investment generated or likely to be generated by the
4 proposed project; the demonstrated public support for the proposed
5 project; the likelihood of accomplishing the proposed project in a time-
6 ly fashion; the effect of the proposed project upon the environment; the
7 extent to which the proposed project will require the provision of addi-
8 tional services, including, but not limited to additional educational,
9 transportation, police, emergency medical or fire services; and the
10 [extend] EXTENT to which the proposed project will provide additional
11 sources of revenue for municipalities and school districts. THE ADOPTED
12 UNIFORM PAYMENT IN LIEU OF TAX (PILOT) AGREEMENT POLICY SHALL BE SENT TO
13 THE CHIEF EXECUTIVE OFFICER OF EACH AFFECTED TAX JURISDICTION AND BE
14 MADE AVAILABLE FOR PUBLIC INSPECTION AT THE AGENCY'S OFFICE AND ON ITS
15 WEBSITE IMMEDIATELY FOLLOWING ITS ADOPTION.

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

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

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

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

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

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

47 S 34. Notwithstanding the provisions of article 5 of the general
48 construction law, the provisions of subdivisions 4 and 13 of section
49 854, paragraphs (b) and (c) of subdivision 4 of section 874, subdivision
50 3 of section 859-a, and subdivision 3 of section 859 and subdivision (c)
51 of section 917 of the general municipal law are hereby revived and shall
52 continue in full force and effect as such provisions existed on January
53 31, 2008.

54 S 35. This act shall take effect on the ninetieth day after it shall
55 have become a law, provided that sections thirty-two and thirty-three of
56 this act shall take effect immediately and section thirty-two of this

1 act shall be deemed to have been in full force and effect on and after
2 January 31, 2008 provided further that the amendments to section 183 of
3 the economic development law made by section twenty-seven of this act
4 shall not affect the expiration of such section and shall expire there-
5 with; provided further that the amendments to subdivision 2 of section
6 220 of the labor law made by section twenty-seven-a of this act shall be
7 subject to the expiration and reversion of such subdivision pursuant to
8 section 5 of chapter 678 of the laws of 2007, as amended, when upon such
9 date the provisions of section twenty-eight of this act shall take
10 effect.