

4425

2009-2010 Regular Sessions

I N S E N A T E

April 23, 2009

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

AN ACT to amend the general municipal law, in relation to placing certain restrictions on industrial development agencies providing financial assistance to various industrial and commercial projects unless located on or near property currently or previously used for industrial or commercial development, and providing for additional financial incentives through the industrial development agencies and urban renewal or development agencies to assist such projects

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

1 Section 1. Legislative findings. The legislature finds that farmland
2 and other greenfields within the state are being encroached upon at an
3 ever alarming rate and that a significant amount of such encroachment is
4 caused by the construction, development and operation upon such lands of
5 commercial and industrial facilities, and that such encroachment has or
6 may have an adverse effect upon the environment, quality of life and
7 land values within such communities, as well as creating severe fiscal
8 problems to pay for the expanded infrastructure within the communities,
9 where such facilities are located.
10 The legislature further finds that where such facilities have been
11 relocated within the state, from brownfields to such greenfields or
12 farmlands, that such relocation often leads to severe fiscal problems in
13 those communities from which such facilities have been relocated includ-
14 ing loss of tax revenue and employment opportunities in such communi-
15 ties.
16 The legislature further finds that the use or reuse of abandoned,
17 vacated, idled or under used industrial and commercial facility sites
18 (hereafter referred to in this section as "class 2 brownfield sites")
19 and especially such of those sites where expansion, use, reuse or rede-
20 velopment is complicated by real or perceived environmental contam-

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

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1 ination (hereafter referred to in this section as "class 1 brownfield
2 sites"), enhances the tax base of the communities where such facilities
3 and sites are located, increases employment opportunities in those
4 communities which are often depressed, enhances the use of the utilities
5 already existent in those communities and reduces the transportation
6 burden on the entire community while preserving the land values, quality
7 of life and environment in the farmlands and greenfields areas of the
8 state and that therefore such class 1 and class 2 brownfield sites
9 should be preferred, in that order, as sites for industrial and commer-
10 cial development over farmlands and greenfield sites.

11 The legislature further finds that the environmental, fiscal and qual-
12 ity of life concerns of local communities raised by the location or
13 relocation of industrial and commercial facilities within the state, of
14 necessity, impact upon the entire state, and the state's policy with
15 regard to the entire state's environment and economic development and
16 therefore are matters of state concern.

17 The legislature determines, therefore, that it is in the interest of
18 all the people of the state to have a statewide policy to protect and
19 safeguard the farmlands and greenfields of the state and to revitalize
20 and reuse class 1 and class 2 brownfield sites as much as possible for
21 the location or relocation of industrial and commercial facilities with-
22 in the state.

23 The legislature recognizes that in order to encourage the revitaliza-
24 tion of the brownfield sites and to preserve greenfield sites it is
25 necessary to create new developmental incentives and redirect existing
26 developmental incentives for such purposes and that the industrial
27 development agencies having been created by state legislation to provide
28 incentives for industrial and commercial development, must be directed
29 to use those developmental incentives with which they are empowered, as
30 instrumentalities of state policy, to encourage the revitalization use
31 and reuse of both class 1 and class 2 brownfield sites and to discourage
32 the use of greenfield sites for such development.

33 The legislature also recognizes that urban renewal or development
34 agencies must also be granted the power to provide additional incentives
35 to encourage the use and reuse and revitalization of class 1 brownfield
36 sites within their jurisdictions and that certain incentives already
37 granted for empire zones should be extended to such agencies and the
38 industrial development agencies on a project by project basis for the
39 use and reuse and revitalization of class 1 and class 2 brownfield
40 sites.

41 The legislature, therefore, accordingly enacts this act.

42 S 2. Subdivisions 5 and 6 of section 692 of the general municipal law,
43 subdivision 5 as amended by chapter 437 of the laws of 2000 and subdivi-
44 sion 6 as amended by chapter 486 of the laws of 1982, are amended to
45 read as follows:

46 5. "Urban development action area". [An] A CLASS ONE BROWNFIELD SITE
47 LOCATED WITHIN A MUNICIPALITY OR AN area designated by the governing
48 body, or by the commission where so authorized to act by the governing
49 body, pursuant to section six hundred ninety-three of this article as
50 appropriate for urban development, at least sixty percent of which
51 constitutes an eligible area.

52 6. "Urban development action area project". A CLASS ONE BROWNFIELD
53 PROJECT OR A project which shall be consistent with the policy and
54 purposes stated in section six hundred ninety-one of this article, and
55 located in an urban development action area, unless the area designation
56 requirement is waived pursuant to section six hundred ninety-three of

1 this article. The project summary for an urban development action area
2 project shall include but shall not be limited to: a statement of
3 proposed land uses; proposed public, semi-public, private or community
4 facilities or utilities; a statement as to proposed new codes and ordi-
5 nances and amendments to existing codes and ordinances as are required
6 or necessary to effectuate the project; a proposed time schedule for the
7 effectuation of such project, and such additional statements or documen-
8 tation as the agency may deem appropriate.

9 S 3. Section 692 of the general municipal law is amended by adding two
10 new subdivisions 8 and 9 to read as follows:

11 8. "URBAN DEVELOPMENT ACTION AREA CLASS ONE BROWNFIELD SITE". ANY
12 SITE ON, WITHIN, AT OR ADJACENT TO ABANDONED, VACATED, IDLED OR UNDER
13 USED INDUSTRIAL OR COMMERCIAL FACILITIES WHERE USE, REUSE, IMPROVEMENT,
14 EXPANSION, DEVELOPMENT OR REDEVELOPMENT IS COMPLICATED BY REAL OR
15 PERCEIVED ENVIRONMENTAL CONTAMINATION INCLUDING SITES INVESTIGATED OR
16 REMEDIATED PURSUANT TO SECTION 27-1313 OR TITLE FIVE OF ARTICLE
17 FIFTY-SIX OF THE ENVIRONMENTAL CONSERVATION LAW, OR TITLE 42, CHAPTER
18 103 OF THE UNITED STATES CODE.

19 9. "URBAN DEVELOPMENT ACTION AREA CLASS ONE BROWNFIELD PROJECT". A
20 PROJECT THAT INVOLVES THE USE, REUSE, EXPANSION, IMPROVEMENT, DEVELOP-
21 MENT OR REDEVELOPMENT OF A CLASS ONE BROWNFIELD SITE WITHIN THE MUNICI-
22 PALITY OR PARTLY WITHIN AND PARTLY WITHOUT THE MUNICIPALITY FOR INDUS-
23 TRIAL OR COMMERCIAL PURPOSES WHERE SUCH ACTIVITY WILL HELP TO RETAIN OR
24 CREATE EMPLOYMENT OPPORTUNITIES WITHIN THE MUNICIPALITY.

25 S 4. The general municipal law is amended by adding a new section
26 696-e to read as follows:

27 S 696-E. SPECIAL PROVISIONS RELATING TO FINANCIAL ASSISTANCE TO URBAN
28 DEVELOPMENT ACTION AREA CLASS ONE BROWNFIELD PROJECTS. NOTWITHSTANDING
29 ANY PROVISION OF LAW TO THE CONTRARY, THE GOVERNING BODY OR COMMISSION,
30 WHERE SO AUTHORIZED BY THE GOVERNING BODY, MAY, BY RESOLUTION, ELECT TO
31 MAKE AN URBAN DEVELOPMENT ACTION AREA CLASS ONE BROWNFIELD PROJECT
32 ELIGIBLE FOR ALL BENEFITS GRANTED AN EMPIRE ZONE EQUIVALENT AREA PURSU-
33 ANT TO SECTION NINE HUNDRED SIXTY-SIX OF THIS CHAPTER. UPON SUCH
34 ELECTION AND FOR THE PURPOSES OF SUCH SECTION, AN URBAN DEVELOPMENT
35 ACTION AREA CLASS ONE BROWNFIELD PROJECT SHALL BE DEEMED TO BE AN EMPIRE
36 ZONE EQUIVALENT AREA.

37 S 5. Section 854 of the general municipal law is amended by adding
38 four new subdivisions 4-a, 4-b, 4-c and 4-d to read as follows:

39 (4-A) "CLASS ONE BROWNFIELD SITE" - SHALL MEAN ANY SITE ON, WITHIN, AT
40 OR ADJACENT TO ABANDONED, VACATED, IDLED, OR UNDER USED INDUSTRIAL OR
41 COMMERCIAL FACILITIES WHERE USE, REUSE, EXPANSION, DEVELOPMENT OR REDE-
42 VELOPMENT IS COMPLICATED BY REAL OR PERCEIVED ENVIRONMENTAL CONTAM-
43 INATION INCLUDING SITES INVESTIGATED OR REMEDIATED PURSUANT TO SECTION
44 27-1313 OR TITLE FIVE OF ARTICLE FIFTY-SIX OF THE ENVIRONMENTAL CONSER-
45 VATION LAW, OR CHAPTER 103 OF TITLE 42 OF THE UNITED STATES CODE.

46 (4-B) "CLASS TWO BROWNFIELD SITE" - SHALL MEAN ANY SITE ON, WITHIN OR
47 AT, ABANDONED, VACATED, IDLED OR UNDER USED INDUSTRIAL OR COMMERCIAL
48 FACILITIES BUT WHERE THE USE, REUSE, EXPANSION, DEVELOPMENT OR REDEVEL-
49 OPMENT IS NOT COMPLICATED BY REAL OR PERCEIVED ENVIRONMENTAL CONTAM-
50 INATION.

51 (4-C) "CLASS ONE BROWNFIELD PROJECT" - SHALL MEAN ANY INDUSTRIAL OR
52 COMMERCIAL PROJECT ON A CLASS ONE BROWNFIELD SITE.

53 (4-D) "CLASS TWO BROWNFIELD PROJECT" - SHALL MEAN ANY INDUSTRIAL OR
54 COMMERCIAL PROJECT ON A CLASS TWO BROWNFIELD SITE.

55 S 6. Section 859-a of the general municipal law is amended by adding a
56 new subdivision 1-a to read as follows:

1 1-A. IF THE PROJECT TO BE ASSISTED BY THE AGENCY IS NOT AN ENHANCEMENT
2 OR ENLARGEMENT OF AN EXISTING PROJECT AND IS NOT LOCATED IN EITHER A
3 CLASS ONE OR CLASS TWO BROWNFIELD SITE, THE AGENCY SHALL SET OUT IN THE
4 RESOLUTION ADOPTED PURSUANT TO SUBDIVISION ONE OF THIS SECTION THE
5 REASONS WHY THE PROJECT WAS NOT LOCATED ON SUCH A SITE AND THE COST TO
6 THE COMMUNITY, IF ANY, FOR INFRASTRUCTURE ADDITION, REPAIR OR REPLACE-
7 MENT BY REASON OF THE LOCATION OF THE PROJECT.

8 S 7. The general municipal law is amended by adding a new section
9 859-c to read as follows:

10 S 859-C. SPECIAL PROVISIONS RELATING TO FINANCIAL ASSISTANCE TO CLASS
11 ONE AND CLASS TWO BROWNFIELD PROJECTS. NOTWITHSTANDING ANY PROVISION OF
12 LAW TO THE CONTRARY:

13 1. A CLASS ONE BROWNFIELD PROJECT SHALL HAVE FIRST PRIORITY AND A
14 CLASS TWO BROWNFIELD PROJECT SHALL HAVE SECOND PRIORITY OVER AND ABOVE
15 ALL OTHER PROJECTS IN THE SERVICING OF APPLICATIONS FOR FUNDING AND TO
16 ANY FUNDING AVAILABLE FROM THE AGENCY IN ANY FISCAL YEAR, AND SUCH
17 PROJECTS MAY RECEIVE FINANCIAL ASSISTANCE WHICH DEVIATES IN A MORE
18 FAVORABLE WAY FOR THE APPLICANT OF SUCH PROJECTS THAN IS CONSISTENT WITH
19 THE UNIFORM TAX EXEMPTION POLICY OF THE AGENCY.

20 2. UPON THE ADOPTION OF A LOCAL LAW GIVING THE APPROVAL OF THE CITY,
21 COUNTY (OTHER THAN A COUNTY LOCATED WHOLLY WITHIN A CITY), TOWN OR
22 VILLAGE WHERE A CLASS ONE OR CLASS TWO BROWNFIELD PROJECT IS TO BE
23 LOCATED:

24 (A) A CLASS ONE BROWNFIELD PROJECT LOCATED WITHIN SUCH MUNICIPALITY
25 SHALL BE ELIGIBLE FOR ALL BENEFITS GRANTED AN EMPIRE ZONE EQUIVALENT
26 AREA PURSUANT TO SECTION NINE HUNDRED SIXTY-SIX OF THIS CHAPTER, AND FOR
27 THE PURPOSE OF SUCH SECTION SUCH CLASS ONE BROWNFIELD PROJECT SHALL BE
28 DEEMED TO BE AN EMPIRE ZONE EQUIVALENT AREA; AND

29 (B) A CLASS TWO BROWNFIELD PROJECT LOCATED WITHIN SUCH MUNICIPALITY
30 UNLESS OTHERWISE QUALIFIED FOR ALL SUCH BENEFITS, SHALL BE ENTITLED TO
31 ONE-THIRD OF EACH OF THE BENEFITS GRANTED AN EMPIRE ZONE EQUIVALENT AREA
32 PURSUANT TO SECTION NINE HUNDRED SIXTY-SIX OF THIS CHAPTER, AND FOR THE
33 PURPOSE OF SUCH SECTION SUCH CLASS TWO BROWNFIELD PROJECT SHALL BE
34 DEEMED TO BE AN EMPIRE ZONE EQUIVALENT AREA BUT WITH REDUCED BENEFITS AS
35 SET FORTH IN THIS PARAGRAPH.

36 3. IN ITS ANNUAL REPORT FILED PURSUANT TO SECTION EIGHT HUNDRED
37 FIFTY-NINE OF THIS TITLE EACH AGENCY SHALL FILE A DETAILED REPORT ON ITS
38 ACTIVITIES TO PROMOTE, FUND AND ASSIST CLASS ONE AND CLASS TWO BROWN-
39 FIELD PROJECTS AND A DETAILED EXPLANATION OF WHY ANY OTHER PROJECTS
40 ASSISTED BY THE AGENCY DID NOT INVOLVE THE USE, REUSE OR REVITALIZATION
41 OF EITHER CLASS ONE OR CLASS TWO BROWNFIELD SITES, AND THE COMMISSIONER
42 OF ECONOMIC DEVELOPMENT SHALL INCLUDE A REPORT ON THIS ACTIVITY IN THE
43 REPORT HE OR SHE SUBMITS PURSUANT TO SUBDIVISION TWO OF SECTION EIGHT
44 HUNDRED FIFTY-NINE OF THIS TITLE.

45 4. IN ADMINISTERING THE ALLOCATION OF STATEWIDE BOND RESERVES AMONG
46 LOCAL AGENCIES AND LOCAL AGENCY SET-ASIDES AND CARRY FORWARD APPROVALS,
47 THE COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE MEMBERS OF THE NEW YORK
48 STATE BOND ALLOCATION POLICY ADVISORY PANEL SHALL TAKE INTO ACCOUNT IN
49 MAKING THEIR DECISIONS THE ACTIVITY OR LACK OF IT OF ANY AGENCY IN
50 UTILIZING ITS RESOURCES TO ASSIST PROJECTS TO LOCATE ON CLASS ONE AND
51 CLASS TWO BROWNFIELD SITES AND MAY GIVE MORE FAVORABLE TREATMENT TO
52 THOSE AGENCIES WHICH ARE BEST UTILIZING THEIR RESOURCES TO ASSIST CLASS
53 ONE AND CLASS TWO BROWNFIELD PROJECTS.

54 S 8. This act shall take effect immediately.