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

9690

I N A S S E M B L Y

March 23, 2012

Introduced by M. of A. MAGNARELLI -- (at request of the State Comptroller) -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law and the public authorities law, in relation to the accountability and efficiency of industrial development agencies and authorities

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

Section 1. Section 859 of the general municipal law is amended by adding three new subdivisions 4, 5 and 6 to read as follows:

4. (A) FOR PURPOSES OF THIS SECTION, THE TERM "REPORT CARD" SHALL MEAN THE ANNUAL SUMMARY AND ASSESSMENT OF FINANCIAL ACTIVITIES AND OPERATIONS FOR THE PRIOR FISCAL YEAR OF THE AGENCY AS PRESCRIBED IN THIS SUBDIVISION.

(B) WITHIN NINETY DAYS FOLLOWING THE CLOSE OF EACH FISCAL YEAR, EACH AGENCY SHALL PREPARE A REPORT CARD, IN SUCH FORM AS MAY BE PRESCRIBED BY THE STATE COMPTROLLER, IN THE EXERCISE OF HIS OR HER DISCRETION. THE REPORT CARD SHALL CONTAIN INFORMATION FOR EACH PROJECT FOR WHICH EXEMPTIONS FROM TAXATION WERE CLAIMED DURING THE PRECEDING FISCAL YEAR AS A RESULT OF THE AGENCY HAVING TITLE, POSSESSION OR CONTROL (BY LEASE, LICENSE OR OTHERWISE) OF THE PROPERTY OR EQUIPMENT OF THE PROJECT OCCUPANT, OR WHICH WAS FINANCED, IN WHOLE OR IN PART, BY THE PROCEEDS OF OUTSTANDING BONDS OR NOTES ISSUED BY THE AGENCY. THE REPORT CARD SHALL INCLUDE, AT A MINIMUM:

(I) AN OVERVIEW OF THE AGENCY, INCLUDING:

(1) THE NAMES OF THE MEMBERS OF THE AGENCY AND ITS OFFICERS;

(2) THE TOTAL AMOUNT OF OUTSTANDING BONDS OR NOTES AS OF THE CLOSE OF THE PRIOR FISCAL YEAR, WHETHER OR NOT SUCH BONDS OR NOTES ARE CONSIDERED OBLIGATIONS OF THE AGENCY; AND

(3) A SUMMARY OF REVENUES AND EXPENDITURES AS OF THE CLOSE OF THE PRIOR FISCAL YEAR;

(II) A DESCRIPTION OF EACH PROJECT INCLUDING:

(1) THE NAME OF THE PROJECT APPLICANT, PROJECT OCCUPANT, AND ANY TENANTS OR SUBTENANTS;

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

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(2) THE TYPE OF PROJECT;
(3) THE ADDRESS OF THE PROJECT; AND
(4) A DESCRIPTION OF THE UNDERLYING PURPOSE OF THE PROJECT AND BENEFIT OF THE PROJECT TO THE COMMUNITY SERVED BY THE AGENCY;
(III) THE TOTAL PROJECTED OR ACTUAL CAPITAL COST OF EACH PENDING PROJECT, INCLUDING:
(1) ALL COSTS OF REAL PROPERTY AND EQUIPMENT ACQUISITIONS, DESIGN, BUILDING CONSTRUCTION OR RECONSTRUCTION AND OTHER CAPITAL ITEMS, WHETHER FINANCED FROM PUBLIC OR PRIVATE SECTOR SOURCES; AND
(2) THE PROJECTED TOTAL AMOUNT OF THE PROCEEDS OF AGENCY BONDS OR NOTES TO BE APPLIED TO THE PROJECT, THE PERCENTAGE SHARE THIS CONSTITUTES IN TERMS OF THE TOTAL PROJECT CAPITAL COST AND THE AMOUNT OF THE PROCEEDS OF AGENCY BONDS OR NOTES ACTUALLY PROVIDED FOR THE PROJECT AS OF THE CLOSE OF THE FISCAL YEAR;
(IV) WITH RESPECT TO EACH PENDING PROJECT, THE TOTAL NUMBER OF FULL-TIME AND PART-TIME JOBS, INCLUDING:
(1) THE SALARIES AND TOTAL ESTIMATED VALUE OF FRINGE BENEFITS FOR EACH JOB PROJECTED TO BE CREATED AND RETAINED AT THE TIME OF APPLICATION FOR EACH PROJECT;
(2) THE TOTAL NUMBER OF FULL-TIME AND PART-TIME JOBS, INCLUDING THE SALARIES AND TOTAL ESTIMATED VALUE OF FRINGE BENEFITS FOR EACH JOB, EXISTING AT THE START OF EACH PROJECT; AND
(3) THE TOTAL NUMBER OF FULL-TIME AND PART-TIME JOBS, INCLUDING THE SALARIES AND TOTAL ESTIMATED VALUE OF FRINGE BENEFITS FOR EACH JOB, ACTUALLY CREATED OR RETAINED AS OF THE CLOSE OF THE LAST FISCAL YEAR FOR EACH PROJECT;
(V) THE PROJECTED TOTAL AMOUNT OF TAX EXEMPTIONS TO BE CLAIMED, BY YEAR AND BY TYPE (E.G., PROPERTY, SALES AND USE, MORTGAGE RECORDING) FOR EACH PENDING PROJECT;
(VI) THE AMOUNT AND TYPE OF TAX EXEMPTIONS ACTUALLY PROVIDED AS OF THE CLOSE OF THE LAST FISCAL YEAR FOR EACH PENDING PROJECT;
(VII) A SCHEDULE OF PAYMENTS IN LIEU OF TAXES, IF ANY, FOR EACH PROJECT, INCLUDING PAYMENTS MADE TO DATE, REMAINING PAYMENTS OUTSTANDING AND AMOUNTS OWED BUT NOT PAID;
(VIII) AN ASSESSMENT OF THE ESTIMATED ECONOMIC IMPACT OF EACH PENDING PROJECT, INCLUDING:
(1) THE IMPACT OF THE PENDING PROJECT ON EXISTING AND PROPOSED BUSINESSES AND ECONOMIC DEVELOPMENT PROJECTS IN THE VICINITY;
(2) THE AMOUNT OF PRIVATE SECTOR INVESTMENT GENERATED BY THE PENDING PROJECT;
(3) THE EXTENT TO WHICH THE PENDING PROJECT WILL REQUIRE THE PROVISION OF ADDITIONAL GOVERNMENTAL SERVICES, SUCH AS POLICE, FIRE AND TRANSPORTATION; AND
(4) THE EXTENT TO WHICH THE PENDING PROJECT WILL PROVIDE ADDITIONAL SOURCES OF REVENUE FOR MUNICIPALITIES AND SCHOOL DISTRICTS; AND
(IX) AN ASSESSMENT OF THE ECONOMIC IMPACT OF EACH COMPLETED PROJECTED, INCLUDING:
(1) THE TOTAL FINAL ACTUAL CAPITAL COSTS OF EACH COMPLETED PROJECT, INCLUDING:
(A) ALL COSTS OF REAL PROPERTY AND EQUIPMENT ACQUISITIONS, DESIGN, BUILDING CONSTRUCTION OR RECONSTRUCTION AND OTHER CAPITAL ITEMS, WHETHER FINANCED FROM PUBLIC OR PRIVATE SECTOR SOURCES; AND
(B) THE PROJECTED TOTAL AMOUNT OF THE PROCEEDS OF AGENCY BONDS OR NOTES TO BE APPLIED TO THE PROJECT, THE PERCENTAGE SHARE THIS CONSTITUTES IN TERMS OF THE TOTAL PROJECT CAPITAL COST AND THE AMOUNT OF THE

PROCEEDS OF AGENCY BONDS OR NOTES ACTUALLY PROVIDED FOR THE PROJECT AS OF THE CLOSE OF THE FISCAL YEAR;

(2) THE TOTAL AMOUNT OF TAX EXEMPTIONS ACTUALLY PROVIDED OVER THE LIFE OF THE PROJECT, BY TYPE (E.G. PROPERTY, SALES AND USE, MORTGAGE RECORDING);

(3) THE TOTAL AMOUNT OF PAYMENTS IN LIEU OF TAXES, IF ANY, MADE AND TO BE MADE OVER THE LIFE OF THE PROJECT; AND

(4) AN EVALUATION OF WHETHER PROJECTED JOB CREATION AND RETENTION GOALS WERE MET.

5. WITHIN THIRTY DAYS OF COMPLETION, A COPY OF THE REPORT CARD SHALL BE FILED WITH THE GOVERNING BODY OF THE MUNICIPALITY FOR WHOSE BENEFIT THE AGENCY WAS CREATED, THE STATE COMPTROLLER AND THE DEPARTMENT OF ECONOMIC DEVELOPMENT, AT THE SAME TIME AND TOGETHER WITH THE AUDITED FINANCIAL STATEMENT REQUIRED BY SUBDIVISION ONE OF THIS SECTION, AND THE REPORT CARD SHALL BE MADE PUBLICLY AVAILABLE BY TRANSMITTING IT TO LOCAL NEWSPAPERS OF GENERAL CIRCULATION WITHIN THE MUNICIPALITY AND BY POSTING ON THE WEBSITES, IF ANY, OF THE AGENCY AND THE MUNICIPALITY FOR WHOSE BENEFIT THE AGENCY WAS CREATED.

6. IF AN AGENCY SHALL FAIL TO FILE OR MAKE PUBLICLY AVAILABLE A REPORT CARD AS REQUIRED BY THIS SECTION AND CONTINUE TO SO FAIL FOR A PERIOD OF ONE HUNDRED TWENTY DAYS AFTER THE DAY ON WHICH THE REPORT CARD IS REQUIRED TO BE FILED AND MADE PUBLICLY AVAILABLE, THE AGENCY SHALL NOT OFFER FINANCIAL ASSISTANCE WHICH PROVIDES FOR EXEMPTIONS FROM STATE TAXES UNTIL THE REPORT CARD IS FILED AND MADE PUBLICLY AVAILABLE.

S 2. Section 859-a of the general municipal law, as added by chapter 356 of the laws of 1993, is amended to read as follows:

S 859-a. Additional prerequisites to the provisions of financial assistance. Prior to providing any financial assistance of more than one hundred thousand dollars to any project, the agency must comply with the following prerequisites:

1. 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.

2. The agency must hold a public hearing BEFORE A QUORUM OF AGENCY MEMBERS with respect to the project and the proposed financial assistance being contemplated by the agency. Said public hearing shall be held in a city, town or village where the project proposes to locate. At said public hearing, interested parties shall be provided reasonable opportunity, both orally and in writing, to present their views with respect to the project. A COMPLETE AND ACCURATE RECORD OF THE HEARING, INCLUDING ALL WRITTEN OR ORAL STATEMENTS MADE OR SUBMITTED, SHALL BE KEPT. NO FINAL DETERMINATION ON THE PROJECT OR THE FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY SHALL BE MADE UNTIL AT LEAST THIRTY DAYS AFTER THE PUBLIC HEARING.

3. The agency must give at least [ten] THIRTY days published notice of [said] SUCH public hearing and shall, at the same time, provide notice of such hearing to the chief executive officer of each affected tax jurisdiction within which the project is located. 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, WHICH SHALL INCLUDE AN ANALYSIS OF THE COSTS AND BENEFITS OF THE PROPOSED PROJECT.

4. THE DEPARTMENT OF ECONOMIC DEVELOPMENT, IN CONSULTATION WITH THE STATE COMPTROLLER, SHALL DEVELOP A STANDARD APPLICATION FORM, WHICH SHALL BE USED BY THE AGENCY TO ACCEPT REQUESTS FOR FINANCIAL ASSISTANCE FROM ALL INDIVIDUALS, FIRMS, COMPANIES, DEVELOPERS OR OTHER ENTITIES OR ORGANIZATIONS, UNLESS A WAIVER FROM SUCH REQUIREMENT IS GRANTED BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT UPON TIMELY REQUEST AND GOOD CAUSE SHOWN. THE STANDARD APPLICATION FORM SHALL BE SUBMITTED BY OR ON BEHALF OF THE APPLICANT, AND CERTIFIED BY THE APPLICANT, OR ON BEHALF OF THE APPLICANT BY THE CHIEF EXECUTIVE OFFICER OR SUCH OTHER INDIVIDUAL THAT IS DULY AUTHORIZED TO BIND THE APPLICANT, TO THE EFFECT THAT ALL INFORMATION PROVIDED THEREIN IS TRUE, ACCURATE AND COMPLETE TO THE BEST OF HIS OR HER KNOWLEDGE AND BELIEF. THE STANDARD APPLICATION FORM SHALL INCLUDE THE FOLLOWING AND SUCH OTHER SUPPLEMENTAL INFORMATION AS DETERMINED TO BE NECESSARY AND APPROPRIATE BY THE AGENCY OR BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT, INCLUDING SUPPORTING DOCUMENTS AND INFORMATION PROVIDED BY OR ON BEHALF OF THE APPLICANT:

(A) THE NAME AND ADDRESS OF THE PROJECT APPLICANT;

(B) A DESCRIPTION OF THE PROPOSED PROJECT FOR WHICH FINANCIAL ASSISTANCE IS REQUESTED, INCLUDING THE TYPE OF PROJECT, PROPOSED LOCATION AND PURPOSE OF THE PROJECT;

(C) THE AMOUNT AND TYPE OF FINANCIAL ASSISTANCE BEING REQUESTED, INCLUDING THE ESTIMATED VALUE OF EACH TYPE OF TAX EXEMPTION SOUGHT TO BE CLAIMED WITH RESPECT TO THE PROJECT;

(D) THE TOTAL PROJECTED CAPITAL COST OF THE PROJECT, INCLUDING ALL COSTS OF REAL PROPERTY AND EQUIPMENT ACQUISITION, BUILDING CONSTRUCTION OR RECONSTRUCTION AND OTHER CAPITAL ITEMS, WHETHER FINANCED FROM PUBLIC OR PRIVATE SECTOR SOURCES, AND A STATEMENT OF THE PROJECTED TERMS AND CONDITIONS OF ANY PROPOSED FINANCING;

(E) THE PROJECTED NUMBER OF FULL TIME EQUIVALENT JOBS THAT WOULD BE RETAINED OR CREATED IF THE REQUEST FOR FINANCIAL ASSISTANCE IS GRANTED, THE PROJECTED TIMEFRAME FOR THE CREATION OF NEW JOBS, THE ESTIMATED AVERAGE SALARIES OF THE JOBS THAT WOULD BE RETAINED OR CREATED IF THE REQUEST FOR FINANCIAL ASSISTANCE IS GRANTED AND AN ESTIMATE OF THE NUMBER OF RESIDENTS OF THE MUNICIPALITY FOR WHOSE BENEFIT THE AGENCY WAS CREATED THAT WOULD FILL SUCH JOBS;

(F) A STATEMENT TO THE EFFECT THAT THE PROVISIONS OF SECTION EIGHT HUNDRED SIXTY-TWO OF THIS TITLE WILL NOT BE VIOLATED IF FINANCIAL ASSISTANCE IS PROVIDED FOR THE PROPOSED PROJECT;

(G) A STATEMENT INDICATING WHETHER THE APPLICANT, ANY PRINCIPAL THEREOF, OR ANY CORPORATE AFFILIATE OR SUBSIDIARY, WITHIN THE PAST THREE YEARS, HAS BEEN FOUND, BY FINAL JUDGMENT OF A COURT OR ADMINISTRATIVE TRIBUNAL, IN VIOLATION OF ANY FEDERAL, STATE OR LOCAL LAWS, RULES OR REGULATIONS PERTAINING TO ENVIRONMENTAL PROTECTION, TAXATION, PROTECTION OF WORKERS OR EMPLOYMENT OF MINORITY OR WOMEN-OWNED BUSINESSES, AND IF SO, LISTING ALL SUCH VIOLATIONS;

(H) A STATEMENT INDICATING THAT THE APPLICANT HAS OR WILL COMPLY WITH, OR CAUSE TO BE COMPLIED WITH, ALL APPLICABLE REVIEW AND APPROVAL REQUIREMENTS PRESCRIBED BY ANY SUCH LAWS, RULES OR REGULATIONS, INCLUDING, BUT NOT LIMITED TO, THE STATE ENVIRONMENTAL QUALITY REVIEW ACT, PERTAINING TO THE PROJECT; AND

(I) A STATEMENT ACKNOWLEDGING THAT THE SUBMISSION OF ANY FALSE OR MISLEADING INFORMATION MAY LEAD TO THE IMMEDIATE TERMINATION OF ANY

FINANCIAL ASSISTANCE AND THE REIMBURSEMENT OF AN AMOUNT EQUAL TO ALL OR PART OF ANY TAX EXEMPTIONS CLAIMED AS A RESULT OF THE PROJECT.

5. EACH AGENCY SHALL DEVELOP, AND ADOPT BY RESOLUTION, UNIFORM CRITERIA FOR THE EVALUATION AND SELECTION OF PROJECTS FOR WHICH FINANCIAL ASSISTANCE WILL BE PROVIDED. THE CRITERIA SHALL, AT A MINIMUM, PROVIDE THAT PRIOR TO THE APPROVAL OF THE PROVISION OF FINANCIAL ASSISTANCE, THERE SHALL BE:

(A) AN INDEPENDENT ASSESSMENT, INQUIRY INTO AND CONFIRMATION BY THE AGENCY OF ALL MATERIAL INFORMATION INCLUDED IN CONNECTION WITH THE APPLICATION FOR FINANCIAL ASSISTANCE, AS NECESSARY TO AFFORD A REASONABLE BASIS FOR THE DECISION BY THE AGENCY TO PROVIDE FINANCIAL ASSISTANCE FOR THE PROJECT;

(B) A DETERMINATION BY THE AGENCY THAT EMPLOYMENT PROJECTIONS FOR THE PROJECT ARE REASONABLE;

(C) A DETERMINATION BY THE AGENCY THAT THERE IS A LIKELIHOOD THAT THE PROJECT WOULD NOT BE UNDERTAKEN BUT FOR THE FINANCIAL ASSISTANCE PROVIDED BY THE AGENCY;

(D) A STANDARDIZED, WRITTEN COST-BENEFIT ANALYSIS BY THE AGENCY THAT (I) INDICATES THAT THE PROJECTED ECONOMIC BENEFITS OF THE PROJECT, INCLUDING THE CREATION AND RETENTION OF JOBS WITHIN THE MUNICIPALITY FOR WHOSE BENEFIT THE AGENCY WAS CREATED, WILL EXCEED THE ESTIMATED COST OF PROVIDING FINANCIAL ASSISTANCE, INCLUDING THE COST IN NET LOSS OF REVENUES TO AFFECTED TAX JURISDICTIONS, AND THE APPROXIMATE POINT IN TIME WHEN SUCH BENEFITS WILL EXCEED SUCH COST, (II) INCLUDES AN ANALYSIS OF THE ESTIMATED COST PER JOB CREATED OR RETAINED, AND (III) INCLUDES AN ANALYSIS OF THE LOSS IN TAX REVENUES TO THE AFFECTED TAX JURISDICTIONS OVER THE PERIOD OF ANY TAX EXEMPTIONS;

(E) A DETERMINATION BY THE AGENCY THAT THE PROJECT IS IN COMPLIANCE WITH ALL PROVISIONS OF THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO, THIS SECTION AND SECTION EIGHT HUNDRED SIXTY-TWO OF THIS TITLE;

(F) IF THE PROJECT INVOLVES THE REMOVAL OR ABANDONMENT OF A FACILITY OR PLANT WITHIN THE STATE, NOTIFICATION BY THE AGENCY TO THE CHIEF EXECUTIVE OFFICER OR OFFICERS OF THE MUNICIPALITY OR MUNICIPALITIES IN WHICH THE FACILITY OR PLANT WAS LOCATED;

(G) A DEVELOPMENT OF BENCHMARKS TO EVALUATE WHETHER THE PROJECT WILL MEET PROJECTED GOALS AND TARGETS, INCLUDING THOSE RELATING TO JOB CREATION AND RETENTION; AND

(H) A DETERMINATION THAT NEITHER THE APPLICANT, NOR ANY PRINCIPAL THEREOF OR CORPORATE AFFILIATE OR SUBSIDIARY, WITHIN THE PAST THREE YEARS, HAS BEEN FOUND, BY FINAL JUDGMENT OF A COURT OR ADMINISTRATIVE TRIBUNAL, IN VIOLATION OF ANY FEDERAL, STATE OR LOCAL LAWS, RULES OR REGULATIONS, IF SUCH VIOLATION IS DEEMED BY THE AGENCY TO BE A MATERIAL VIOLATION, PERTAINING TO ENVIRONMENTAL PROTECTION, TAXATION, PROTECTION OF WORKERS OR EMPLOYMENT OF MINORITY OR WOMEN-OWNED BUSINESSES.

6. THE DEPARTMENT OF ECONOMIC DEVELOPMENT, IN CONSULTATION WITH THE STATE COMPTROLLER, SHALL DEVELOP A UNIFORM INDUSTRIAL DEVELOPMENT AGENCY PROJECT AGREEMENT, THAT SETS FORTH TERMS AND CONDITIONS UNDER WHICH FINANCIAL ASSISTANCE SHALL BE PROVIDED. THE UNIFORM INDUSTRIAL DEVELOPMENT AGENCY PROJECT AGREEMENT SHALL BE USED BY ALL AGENCIES AND NO FINANCIAL ASSISTANCE SHALL BE PROVIDED IN THE ABSENCE OF THE EXECUTION OF SUCH AN AGREEMENT, UNLESS A WAIVER FROM SUCH REQUIREMENT IS GRANTED BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT UPON TIMELY REQUEST AND GOOD CAUSE SHOWN. THE UNIFORM INDUSTRIAL DEVELOPMENT AGENCY PROJECT AGREEMENT SHALL, AT A MINIMUM:

(A) DESCRIBE THE PROJECT AND THE FINANCIAL ASSISTANCE, INCLUDING THE AMOUNT AND TYPE, TO BE PROVIDED, AND THE AGENCY PURPOSE TO BE ACHIEVED;

(B) REQUIRE EACH PROJECT OCCUPANT TO PROVIDE ANNUALLY A CERTIFIED STATEMENT: (I) ENUMERATING THE JOBS RETAINED AND CREATED AS A RESULT OF THE FINANCIAL ASSISTANCE BY TITLE, FUNCTION AND WHETHER FULL OR PART TIME, AND THE SALARIES AND FRINGE BENEFITS FOR EACH SUCH JOB; AND (II) INDICATING THE AMOUNTS OF EACH PAYMENT IN LIEU OF TAX THAT WAS MADE AND THE ENTITY TO WHICH EACH PAYMENT WAS MADE;

(C) PRESCRIBE A SPECIFIC SCHEDULE, INCLUDING THE TIMING AND AMOUNTS FOR EACH AFFECTED TAX JURISDICTION, FOR THE PAYMENTS OF ANY PAYMENTS IN LIEU OF TAXES THAT ARE NEGOTIATED AS PART OF THE TRANSACTION;

(D) REQUIRE THE RETENTION OF, AND PERMIT THE AGENCY, OR INDIVIDUALS OR ENTITIES AUDITING THE AGENCY, ACCESS TO, FOR PURPOSES OF EXAMINATION INTO THE AFFAIRS OF THE AGENCY, ALL PAYROLL DOCUMENTS AND OTHER BOOKS AND RECORDS OF THE PROJECT APPLICANT, OCCUPANT OR ANY SUBTENANT OR EMPLOYER, AS NECESSARY TO CONFIRM JOB AND SALARY INFORMATION OR OTHERWISE ASSESS WHETHER THE TERMS, CONDITIONS, GOALS OR PURPOSES OF THE PROJECT HAVE BEEN MET;

(E) PROVIDE FOR DISCONTINUANCE OF FINANCIAL ASSISTANCE, OR FOR THE MODIFICATION OF ANY PAYMENT IN LIEU OF TAX AGREEMENT TO REQUIRE FOR INCREASED PAYMENTS, IN THE EVENT OF A MATERIAL VIOLATION OF THE TERMS AND CONDITIONS OF THE AGREEMENT;

(F) PROVIDE FOR THE RETURN OF ALL OR A PART OF THE FINANCIAL ASSISTANCE PROVIDED FOR THE PROJECT, INCLUDING ALL OR PART OF THE AMOUNT OF ANY TAX EXEMPTIONS, WHICH SHALL BE REDISTRIBUTED TO THE APPROPRIATE AFFECTED TAX JURISDICTION, IN THE EVENT OF MATERIAL SHORTFALLS FROM JOB CREATION AND RETENTION PROJECTIONS, OR A MATERIAL VIOLATION OF THE TERMS AND CONDITIONS OF THE AGREEMENT;

(G) IN THE CASE OF A PROJECT FOR WHICH THE APPLICATION FOR FINANCIAL ASSISTANCE INDICATES PLANS TO BUILD A FACILITY THAT WILL SUBSEQUENTLY BE LEASED TO TENANTS, AND IT IS UNKNOWN AT THE TIME OF APPLICATION WHO ALL THE TENANTS OF THE FACILITY WILL BE, PROVIDE FOR A PHASING-IN OF BENEFITS BASED UPON THE PRO RATA SHARE OF SQUARE FOOTAGE AND TYPE OF OCCUPANCY WITHIN THE FACILITY THAT IS OCCUPIED PURSUANT TO TENANT LEASE AGREEMENTS; AND

(H) INCLUDE AS APPENDICES: (I) A COPY OF THE STANDARD APPLICATION FORM SUBMITTED FOR THE PROJECT; (II) A SUMMARY OF THE AGENCY'S EVALUATION OF THE PROJECT PERFORMED PURSUANT TO SUBDIVISION FIVE OF THIS SECTION; (III) SIGNIFICANT CORRESPONDENCE PERTAINING TO THE PROJECT; (IV) A SUMMARY OF THE STATEMENTS BY ANY PUBLIC HEARING CONDUCTED IN CONNECTION WITH THE PROJECT; AND (V) ANY OTHER MATERIAL SUPPORTING DOCUMENTS PERTAINING TO THE PROJECT.

7. THE DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL CONDUCT INVESTIGATIONS OF MATERIAL COMPLAINTS CONCERNING POSSIBLE VIOLATIONS OF ANY UNIFORM INDUSTRIAL DEVELOPMENT AGENCY PROJECT AGREEMENT AND SHALL RECEIVE THE FULL COOPERATION OF, AND ACCESS TO ALL RELEVANT BOOKS AND RECORDS OF, THE AGENCY, THE MUNICIPALITY FOR WHOSE BENEFIT THE AGENCY IS CREATED, THE PROJECT OCCUPANT AND ANY TENANT OR SUBTENANT AND ANY STATE AGENCY IS CONDUCTING ANY SUCH INVESTIGATION. THE DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL NOTIFY THE AGENCY AND THE STATE COMPTROLLER OF THE RESULTS OF ANY SUCH INVESTIGATIONS.

S 3. Section 862 of the general municipal law, as added by chapter 1030 of the laws of 1969, is amended to read as follows:

S 862. Restrictions on funds of the agency. 1. No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project

occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

2. NO FUNDS OF THE AGENCY SHALL BE USED FOR ADVERTISING OR PROMOTIONAL MATERIALS WHICH DEPICT ELECTED OR APPOINTED GOVERNMENT OFFICIALS IN EITHER PRINT OR ELECTRONIC MEDIA.

S 4. Subdivision 4 of section 874 of the general municipal law, as amended by chapter 357 of the laws of 1993, is amended to read as follows:

(4) (a) The agency shall establish a uniform [tax exemption] PAYMENT IN LIEU OF TAX (PILOT) policy, with input from affected tax jurisdictions, which shall be applicable to the provision of financial assistance pursuant to section eight hundred fifty-nine-a of this [chapter] TITLE and shall provide guidelines for the claiming of real property, mortgage recording, and sales tax exemptions. Such guidelines shall include, but not be limited to: period of exemption; PAYMENTS IN LIEU OF TAXES, AS A percentage of [exemption] TAXES THAT WOULD HAVE BEEN LEVIED BY OR ON BEHALF OF AFFECTED TAX JURISDICTIONS IF THE PROJECT WAS NOT TAX EXEMPT BY REASON OF AGENCY INVOLVEMENT; types of projects for which exemptions can be claimed; procedures for payments in lieu of taxes and instances in which real property appraisals are to be performed as a part of an application for tax exemption; in addition, agencies shall in adopting such policy consider such issues as: the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemptions to be provided; whether affected tax jurisdictions shall be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided; the impact of a proposed project on existing and proposed businesses and economic development projects in the vicinity; the amount of private sector investment generated or likely to be generated by the proposed project; the demonstrated public support for the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; the effect of the proposed project upon the environment; the extent to which the proposed project will require the provision of additional services, including, but not limited to additional educational, transportation, police, emergency medical or fire services; and the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts.

(b) The agency shall establish a procedure for deviation from the uniform [tax exemption] PAYMENT IN LIEU OF TAX (PILOT) policy required pursuant to this subdivision. The agency shall set forth in writing the reasons for deviation from such policy, and shall further notify the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefor. SUCH NOTICE TO THE AFFECTED TAX JURISDICTIONS SHALL BE GIVEN TO THE CHIEF EXECUTIVE OFFICER OF EACH AFFECTED TAX JURISDICTION AT LEAST THIRTY DAYS PRIOR TO THE MEETING OF THE AGENCY AT WHICH THE AGENCY SHALL CONSIDER WHETHER TO APPROVE SUCH PROPOSED DEVIATION. PRIOR TO TAKING FINAL ACTION AT SUCH MEETING, THE AGENCY SHALL REVIEW AND RESPOND TO ANY CORRESPONDENCE RECEIVED FROM ANY AFFECTED TAX JURISDICTION REGARDING SUCH DEVIATION. THE AGENCY SHALL ALLOW ANY REPRESENTATIVE OF AN AFFECTED TAX JURISDICTION PRESENT AT SUCH MEETING TO ADDRESS THE AGENCY REGARDING SUCH PROPOSED DEVIATION.

S 5. The general municipal law is amended by adding a new section 885 to read as follows:

S 885. DISSOLUTION AND MERGER OF AGENCIES. 1. ANY INDUSTRIAL DEVELOPMENT AGENCY ESTABLISHED FOR THE BENEFIT OF A TOWN, VILLAGE OR CITY WITHIN A COUNTY MAY DISSOLVE AND SIMULTANEOUSLY MERGE WITH THE INDUSTRIAL DEVELOPMENT AGENCY ESTABLISHED FOR THE BENEFIT OF THE COUNTY IN WHICH THE AGENCY ESTABLISHED FOR THE BENEFIT OF THE TOWN, VILLAGE OR CITY IS LOCATED, IF SUCH A COUNTY AGENCY HAS BEEN ESTABLISHED, SUBJECT TO THE PROVISIONS OF THIS SECTION. UPON THE EFFECTIVE DATE OF THE DISSOLUTION AND MERGER, THE TOWN, VILLAGE OR CITY AGENCY, NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION EIGHT HUNDRED FIFTY-SIX AND SECTION EIGHT HUNDRED EIGHTY-TWO OF THIS TITLE, SHALL CEASE TO EXIST AND ALL THE RIGHTS, TITLES, INTERESTS, OBLIGATIONS AND LIABILITIES OF SUCH AGENCIES, INCLUDING, BUT NOT LIMITED TO, THE RIGHTS AND OBLIGATIONS UNDER ANY BOND, NOTE, CONTRACT OR OTHER AGREEMENT, EXPRESS OR IMPLIED, SHALL DEVOLVE TO, BE VESTED IN AND POSSESSED BY THE COUNTY AGENCY, WHICH SHALL IN ALL RESPECTS AND FOR ALL PURPOSES BE THE SUCCESSOR IN INTEREST TO SUCH TOWN, VILLAGE OR CITY AGENCY.

2. IN THE EVENT THAT AN AGENCY PROPOSES TO DISSOLVE OR MERGE PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE GOVERNING BODY OF THE TOWN, VILLAGE OR CITY FOR WHOSE BENEFIT THE AGENCY WAS ESTABLISHED, IN CONSULTATION WITH THE MEMBERS OF THE AGENCY, MEMBERS OF THE AGENCY ESTABLISHED FOR THE BENEFIT OF THE COUNTY, AND THE CHIEF EXECUTIVE OF THE COUNTY, SHALL ADOPT A PLAN SETTING FORTH, AT A MINIMUM:

(A) THE NAME AND DATE OF ESTABLISHMENT OF THE AGENCY OR AGENCIES TO BE DISSOLVED;

(B) THE NAMES OF THE MEMBERS OF SUCH AGENCY, SPECIFYING THE IDENTITY OF THE CHAIRPERSON;

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

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

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

(F) A STATEMENT OF ANY AMENDMENTS OR CHANGES TO THE CERTIFICATE OF THE COUNTY AGENCY FILED IN THE OFFICE OF THE SECRETARY OF STATE NECESSITATED BY THE MERGER; AND

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

3. NO LATER THAN JULY FIRST, TWO THOUSAND THIRTEEN, THE COMMISSIONER OF ECONOMIC DEVELOPMENT SHALL UNDERTAKE A STUDY TO IDENTIFY THOSE TOWN, VILLAGE OR CITY AGENCIES THAT, AS DETERMINED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT, HAVE NOT UNDERTAKEN SIGNIFICANT ACTIVITY WITHIN

THE PRIOR FIVE YEARS AND, IF DEEMED APPROPRIATE BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT, SUCH COMMISSIONER SHALL RECOMMEND THAT SUCH AGENCIES BE DISSOLVED AND MERGED INTO THE COUNTY AGENCY. THE COMMISSIONER OF ECONOMIC DEVELOPMENT'S FINDINGS SHALL BE REPORTED NO LATER THAN DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN, TO THE GOVERNOR, THE STATE COMPTROLLER, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY AND TO EACH AGENCY IDENTIFIED IN THE REPORT.

S 6. Subdivisions 1 and 2 of section 1953-a of the public authorities law, subdivision 1 as amended by chapter 357 of the laws of 1993 and subdivision 2 as added by chapter 356 of the laws of 1993, are amended to read as follows:

1. The authority must adopt a resolution describing the project and the financial assistance that the authority 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 one of section nineteen hundred sixty-three-a of this [chapter] TITLE, unless the agency has followed procedures for deviation from such policy specified in subdivision two of such section.

2. The authority must hold a public hearing BEFORE A QUORUM OF AGENCY MEMBERS with respect to the project and the proposed financial assistance being contemplated by the authority. At said public hearing, interested parties shall be provided reasonable opportunity, both orally and in writing, to present their views with respect to the project.

S 7. Section 1963-a of the public authorities law, as amended by chapter 357 of the laws of 1993, is amended to read as follows:

S 1963-a. Uniform tax exemption policy. 1. The authority shall establish a uniform [tax exemption] PAYMENT IN LIEU OF TAX (PILOT) policy, with input from affected local taxing jurisdictions, which shall be applicable to provisions of financial assistance pursuant to section nineteen hundred fifty-three-a of this [chapter] TITLE and shall provide guidelines for the claiming of real property, mortgage recording, and sales tax exemptions. Such guidelines shall include, but not be limited to: period of exemption; PAYMENTS IN LIEU OF TAXES, AS A percentage of [exemption] TAXES THAT WOULD HAVE BEEN LEVIED BY OR ON BEHALF OF AFFECTED TAX JURISDICTIONS IF THE PROJECT WAS NOT TAX EXEMPT BY REASON OF AGENCY INVOLVEMENT; types of projects for which exemptions can be claimed; procedures for payments in lieu of taxes and instances in which real property appraisals are to be performed as a part of an application for tax exemption; in addition, the authority in adopting such policy shall consider such issues as: the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemption to be provided; whether affected tax jurisdictions should be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided; the impact of a proposed project on existing and proposed businesses and economic development projects in the vicinity; the amount of private sector investment generated or likely to be generated by the proposed project; the demonstrated public support for the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; the effect of the proposed project upon the environment; the extent to which the proposed project will require the provision of additional services, including, but not limited to additional educational, transportation, police, emergency medical or fire services; and the extent to which the proposed project will provide additional sources or revenue for municipalities and school districts.

2. The authority shall establish a procedure for deviation from the uniform [tax exemption] PAYMENT IN LIEU OF TAX (PILOT) policy required pursuant to this section. The authority shall set forth in writing the reasons for deviation from such policy, and shall further notify the affected tax jurisdictions of the proposed deviation from such policy and the reasons therefor.

S 8. Subdivisions 1 and 2 of section 2307 of the public authorities law, subdivision 1 as amended by chapter 357 of the laws of 1993 and subdivision 2 as added by chapter 356 of the laws of 1993, are amended to read as follows:

1. The authority must adopt a resolution describing the project and the financial assistance that the authority 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 one of section twenty-three hundred fifteen of this [chapter] TITLE, unless the agency has followed procedures for deviation from such policy specified in subdivision two of such section.

2. The authority must hold a public hearing BEFORE A QUORUM OF AGENCY MEMBERS with respect to the project and the proposed financial assistance being contemplated by the authority. At said public hearing, interested parties shall be provided reasonable opportunity, both orally and in writing, to present their views with respect to the project.

S 9. Section 2315 of the public authorities law, as amended by chapter 357 of the laws of 1993, is amended to read as follows:

S 2315. Uniform tax exemption policy. 1. The authority shall establish a uniform [tax exemption] PAYMENT IN LIEU OF TAX (PILOT) policy, with input from affected local taxing jurisdictions, which shall be applicable to provisions of financial assistance pursuant to section twenty-three hundred seven of this [chapter] TITLE and shall provide guidelines for the claiming of real property, mortgage recording, and sales tax exemptions. Such guidelines shall include, but not be limited to: period of exemption; PAYMENTS IN LIEU OF TAXES, AS A percentage of [exemption] TAXES THAT WOULD HAVE BEEN LEVIED BY OR ON BEHALF OF AFFECTED TAX JURISDICTIONS IF THE PROJECT WAS NOT TAX EXEMPT BY REASON OF AGENCY INVOLVEMENT; types of projects for which exemptions may be claimed; procedures for payments in lieu of taxes and instances in which real property appraisals are to be performed as a part of an application for tax exemption; in addition, the authority in adopting such policy shall consider such issues as: the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemption to be provided; whether affected tax jurisdictions should be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided; the impact of a proposed project on existing and proposed businesses and economic development projects in the vicinity; the amount of private sector investment generated or likely to be generated by the proposed project; the demonstrated public support for the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; the effect of the proposed project upon the environment; the extent to which the proposed project will require the provision of additional services, including, but not limited to additional educational, transportation, police, emergency medical or fire services; and the [extend] EXTENT to which the proposed project will provide additional sources of revenue for municipalities and school districts.

2. The authority shall establish a procedure for deviation from the uniform [tax exemption] PAYMENT IN LIEU OF TAX (PILOT) policy required pursuant to this section. The authority shall set forth in writing the reasons for deviation from such policy, and shall further notify the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefor.

S 10. This act shall take effect immediately.