

993

2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

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Introduced by Sens. KLEIN, OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

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

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

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

3                                                             ARTICLE 11-B  
4                                                             HIGH TECH MARKETING PROGRAM

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

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

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

20     2. "STATEWIDE HIGH TECH MARKETING PROGRAM" SHALL MEAN A PROGRAM THAT  
21     PROMOTES THE STATE'S STRENGTHS AND ASSETS IN THE FOLLOWING TECHNOLOGY

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

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1 SECTORS: NANO-TECHNOLOGY; BIOTECHNOLOGY; AND PHOTONICS, OPTICS AND IMAG-  
2 ING.

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

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

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

21 (I) PARTICIPATION AT KEY INTERNATIONAL AND DOMESTIC TRADE SHOWS AND  
22 INDUSTRY CONFERENCES;

23 (II) DEVELOPMENT OF TARGETED INDUSTRY PROFILES AND OTHER PRIMARY  
24 RESEARCH ON TARGETED INDUSTRIES;

25 (III) DEVELOPMENT OF TARGETED INDUSTRY COLLATERAL MATERIAL;

26 (IV) ONE-ON-ONE MEETINGS WITH INDUSTRY DECISION MAKERS;

27 (V) DIRECT MAIL TO CORPORATE, SITE LOCATION CONSULTANTS AND OTHER KEY  
28 DECISION MAKERS FOR TARGETED TECHNOLOGY SECTORS;

29 (VI) DEVELOPMENT OF NEW YORK LOVES NANO TECH, NEW YORK LOVES BIO TECH,  
30 AND NEW YORK LOVES PHOTONICS WEB SITES;

31 (VII) ADVERTISING IN INFLUENTIAL TRADE AND OTHER PUBLICATIONS; AND

32 (VIII) STATE TOURS WITH TARGETED INDUSTRY DECISION MAKERS.

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

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

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

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

48 (I) THE CORPORATION EXISTS IN LEGAL FORM;

49 (II) THE CORPORATION HAS SECURED AN AMOUNT EQUAL TO THE TOTAL MATCH  
50 AWARDED BY THE SELECTED APPLICANT; AND

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

53 B. APPLICATIONS OF SELECTED REGIONAL BUSINESS MARKETING CORPORATIONS  
54 SHALL HAVE SET FORTH THE SCHEDULE, BUDGET, SCOPE, USES OF FUNDS AND  
55 THEME OF THE PROPOSED STATEWIDE MARKETING PROGRAM TO BE UNDERTAKEN FOR  
56 THE PURPOSE OF ENCOURAGING AND STIMULATING BUSINESS DEVELOPMENT AND

1 ECONOMIC ACTIVITY IN THE TARGETED HIGH TECHNOLOGY SECTORS WITHIN THE  
2 REGION, PROVIDED, HOWEVER, THAT:

3 (I) NO SUCH MATCHING FUNDS SHALL EXCEED THE SUM OF FIVE HUNDRED THOU-  
4 SAND DOLLARS;

5 (II) NO MATCHING FUNDS WILL BE USED FOR ADMINISTRATIVE COSTS, INCLUD-  
6 ING SALARIES, ASSOCIATED WITH THE IMPLEMENTATION OF A REGIONAL HIGH TECH  
7 BUSINESS MARKETING PROGRAM;

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

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

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

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

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

32 S 239-E. REPORTING REQUIREMENTS. 1. EACH REGIONAL BUSINESS MARKETING  
33 CORPORATION SHALL PROVIDE AN ANNUAL FINANCIAL STATEMENT PREPARED ACCORD-  
34 ING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES TO THE WINNING APPLI-  
35 CANT, THE COMMISSIONER, THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY  
36 PRESIDENT OF THE SENATE.

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

42 S 2. The sum of five million dollars (\$5,000,000), or so much thereof  
43 as may be necessary, is hereby appropriated to the department of econom-  
44 ic development from any moneys in the state treasury in the general fund  
45 to the credit of the local assistance account not otherwise appropri-  
46 ated, and made immediately available, for services and expenses includ-  
47 ing the expenses of the department of economic development, for the  
48 purposes of carrying out the provisions of this act. Such sum shall be  
49 payable on the audit and warrant of the state comptroller on vouchers  
50 certified or approved by the commissioner of economic development, or  
51 his or her duly designated representative in the manner provided by law.

52 S 3. This act shall take effect immediately.