

3393

2011-2012 Regular Sessions

I N S E N A T E

February 18, 2011

Introduced by Sen. PARKER -- 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 industrial development agencies

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

1 Section 1. The general municipal law is amended by adding a new
2 section 859-c to read as follows:
3 S 859-C. ADDITIONAL PROCEDURES FOR FINANCIAL ASSISTANCE. 1. PRIOR TO
4 PROVIDING FINANCIAL ASSISTANCE, THE AGENCY SHALL FOLLOW CERTAIN PROCE-
5 DURES WHICH MUST INCLUDE AT LEAST ALL OF THE FOLLOWING:
6 (A) A DESCRIPTION OF THE DEVELOPMENT ASSISTANCE, INCLUDING THE AMOUNT
7 AND TYPE. THE DESCRIPTION MUST INCLUDE THE FAIR MARKET VALUE OF THE
8 DEVELOPMENT ASSISTANCE TO THE RECIPIENT, INCLUDING THE VALUE OF CONVEY-
9 ING ANY PROPERTY AT LESS THAN A FAIR MARKET PRICE AND INCLUDING ANY
10 OTHER IN-KIND BENEFITS TO THE PERSON RECEIVING THE DEVELOPMENT ASSIST-
11 ANCE.
12 (B) A STATEMENT SPECIFYING THE PUBLIC PURPOSE FOR THE DEVELOPMENT
13 ASSISTANCE. THE PUBLIC PURPOSE SPECIFIED IN THE DEVELOPMENT ASSISTANCE
14 AGREEMENT MAY NOT BE INCREASING THE TAX BASE. JOB RETENTION MAY BE SPEC-
15 IFIED IN THE DEVELOPMENT ASSISTANCE AGREEMENT AS A PUBLIC PURPOSE ONLY
16 IF JOB LOSS BY THE PERSON RECEIVING THE DEVELOPMENT ASSISTANCE IS IMMI-
17 NENT AND DEMONSTRABLE.
18 (C) THE GENERAL GOALS FOR THE DEVELOPMENT ASSISTANCE.
19 (D) GOALS FOR THE NUMBER OF JOBS TO BE CREATED BY THE PERSON RECEIVING
20 THE DEVELOPMENT ASSISTANCE DURING THE TWO YEARS FOLLOWING THE DATE THE
21 DEVELOPMENT ASSISTANCE IS GRANTED. THE GOALS MAY INCLUDE SEPARATE GOALS
22 FOR THE NUMBER OF PART-TIME JOBS AND FULL-TIME JOBS, AND IN CASES WHERE
23 JOB LOSS IS IMMINENT AND DEMONSTRABLE, SEPARATE GOALS FOR THE NUMBER OF
24 JOBS RETAINED.

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

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1 (E) WAGE GOALS FOR THE JOBS TO BE CREATED OR RETAINED BY THE PERSON
2 RECEIVING THE DEVELOPMENT ASSISTANCE DURING THE TWO YEARS FOLLOWING THE
3 DATE THE DEVELOPMENT ASSISTANCE IS GRANTED.

4 (F) A DESCRIPTION OF THE FINANCIAL OBLIGATION OF THE PERSON RECEIVING
5 THE DEVELOPMENT ASSISTANCE IF THE GOALS SPECIFIED IN THE DEVELOPMENT
6 ASSISTANCE AGREEMENT ARE NOT MET.

7 (G) A STATEMENT EXPLAINING WHY THE DEVELOPMENT ASSISTANCE IS NEEDED TO
8 ACHIEVE THE PUBLIC PURPOSE SPECIFIED IN THE DEVELOPMENT ASSISTANCE
9 AGREEMENT.

10 (H) A COMMITMENT BY THE PERSON RECEIVING THE DEVELOPMENT ASSISTANCE TO
11 CONTINUE OPERATIONS AT ANY SITE WHERE THE DEVELOPMENT ASSISTANCE IS USED
12 FOR AT LEAST FIVE YEARS AFTER THE DATE THE DEVELOPMENT ASSISTANCE IS
13 PROVIDED.

14 (I) THE NAME AND ADDRESS OF THE PARENT CORPORATION OR OTHER PARENT
15 ENTITY, IF ANY, OF THE PERSON RECEIVING THE DEVELOPMENT ASSISTANCE.

16 (J) A LIST OF ALL DEVELOPMENT ASSISTANCE PROVIDED TO THE PERSON
17 RECEIVING DEVELOPMENT ASSISTANCE DURING THE IMMEDIATELY PRECEDING FIVE
18 YEARS BY OTHER GRANTING BODIES.

19 2. A DEVELOPMENT AGREEMENT ENTERED INTO UNDER THIS ARTICLE MUST BE
20 APPROVED BY THE FOLLOWING:

21 (A) THE FISCAL BODY OF THE COUNTY WHERE THE DEVELOPMENT ASSISTANCE
22 WILL BE USED, IF THE DEVELOPMENT ASSISTANCE WILL NOT BE USED SOLELY
23 WITHIN A MUNICIPALITY.

24 (B) THE MUNICIPAL FISCAL BODY, IF THE DEVELOPMENT ASSISTANCE WILL BE
25 USED ONLY WITHIN A MUNICIPALITY.

26 3. IF DEVELOPMENT ASSISTANCE PROVIDED BY A GRANTING BODY DIRECTLY
27 BENEFITS MORE THAN ONE PERSON, THE GRANTING BODY MUST ASSIGN A PROPOR-
28 TION OF THE DEVELOPMENT ASSISTANCE TO EACH PERSON RECEIVING DEVELOPMENT
29 ASSISTANCE. THE PROPORTION ASSIGNED BY THE GRANTING BODY TO EACH PERSON
30 MUST REFLECT A REASONABLE ESTIMATE OF THE PERSON'S SHARE OF THE TOTAL
31 BENEFITS OF THE DEVELOPMENT ASSISTANCE.

32 4. (A) THE DEVELOPMENT ASSISTANCE AGREEMENT MUST INCLUDE PROVISIONS
33 THAT SPECIFY THE OBLIGATION OF THE PERSON RECEIVING THE DEVELOPMENT
34 ASSISTANCE TO REPAY THE DEVELOPMENT ASSISTANCE IF THE PERSON DOES NOT
35 MEET THE GOALS SPECIFIED BY THE DEVELOPMENT ASSISTANCE AGREEMENT. THE
36 DEVELOPMENT ASSISTANCE AGREEMENT MUST REQUIRE AT LEAST THAT A PERSON
37 FAILING TO MEET THE GOALS MUST PAY BACK THE DEVELOPMENT ASSISTANCE PLUS
38 INTEREST TO THE GRANTING BODY. A REPAYMENT REQUIRED BY THIS SECTION MAY
39 BE PRORATED TO REFLECT PARTIAL FULFILLMENT OF GOALS. THE INTEREST RATE
40 USED TO CALCULATE THE REPAYMENT MUST EQUAL THE GROSS DOMESTIC PRODUCT
41 IMPLICIT PRICE DEFLATOR FOR THE APPLICABLE PERIOD.

42 (B) AN AGENCY MAY, AFTER A PUBLIC HEARING, EXTEND FOR NOT MORE THAN
43 ONE YEAR THE PERIOD FOR MEETING THE GOALS SPECIFIED BY A DEVELOPMENT
44 ASSISTANCE AGREEMENT.

45 5. A PERSON THAT FAILS TO MEET THE TERMS OF A DEVELOPMENT ASSISTANCE
46 AGREEMENT MAY NOT RECEIVE ADDITIONAL DEVELOPMENT ASSISTANCE FROM A
47 GRANTING BODY UNTIL THE EARLIER OF THE DATE:

48 (A) FIVE YEARS AFTER THE PERSON'S FAILURE TO MEET THE TERMS OF A
49 DEVELOPMENT ASSISTANCE AGREEMENT; OR

50 (B) THE PERSON SATISFIES ITS REPAYMENT OBLIGATION UNDER SUBDIVISION
51 FOUR OF THIS SECTION.

52 S 2. This act shall take effect on the first of November next succeed-
53 ing the date on which it shall have become a law.