

5776

2013-2014 Regular Sessions

I N S E N A T E

June 14, 2013

Introduced by Sen. MARTINS -- 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 restrictions on funds of industrial development agencies

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

1 Section 1. Subdivision 2 of section 862 of the general municipal law,  
2 as added by section 1 of part J of chapter 59 of the laws of 2013, is  
3 amended to read as follows:

4 (2) (a) Except as provided in paragraph (b) of this subdivision, no  
5 financial assistance of the agency shall be provided in respect of any  
6 project where facilities or property that are primarily used in making  
7 retail sales to customers who personally visit such facilities consti-  
8 tute more than one-third of the total project cost. For the purposes of  
9 this article, "retail sales" shall mean: (i) sales by a registered  
10 vendor under article twenty-eight of the tax law primarily engaged in  
11 the retail sale of tangible personal property, as defined in subpara-  
12 graph (i) of paragraph four of subdivision (b) of section eleven hundred  
13 one of the tax law; or (ii) sales of a service to such customers.  
14 Except, however, that tourism destination projects shall not be prohib-  
15 ited by this subdivision. For the purpose of this paragraph, "tourism  
16 destination" shall mean a location or facility which is likely to  
17 attract a significant number of visitors from outside the economic  
18 development region as established by section two hundred thirty of the  
19 economic development law, in which the project is located.

20 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-  
21 sion, financial assistance may, however, be provided to a project where  
22 facilities or property that are primarily used in making retail sales of  
23 goods or services to customers who personally visit such facilities to  
24 obtain such goods or services constitute more than one-third of the  
25 total project cost, where: (i) the predominant purpose of the project

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

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1 would be to make available goods or services which would not, but for  
2 the project, be reasonably accessible to the residents of the city,  
3 town, or village within which the proposed project would be located  
4 because of a lack of reasonably accessible retail trade facilities  
5 offering such goods or services; [or] (ii) the project is located in a  
6 highly distressed area; OR (III) THE PROJECT IS LOCATED IN A COUNTY THAT  
7 CONTAINS AN AREA WITH RESPECT TO WHICH THE GOVERNOR HAS DECLARED A  
8 DISASTER EMERGENCY PURSUANT TO SECTION TWENTY-EIGHT OF THE EXECUTIVE  
9 LAW, PROVIDED THE ADOPTION OF A RESOLUTION BY THE AGENCY WITH RESPECT TO  
10 THE PROJECT OCCURS WITHIN EIGHTEEN MONTHS OF SUCH DECLARATION AND THE  
11 PROJECT INCLUDES FACILITIES OR PROPERTY THAT SUSTAINED DIRECT DAMAGE OR  
12 WAS NEGATIVELY ECONOMICALLY IMPACTED AS A RESULT OF THE DISASTER.

13 (c) With respect to projects authorized pursuant to SUBPARAGRAPHS (I)  
14 AND (II) OF paragraph (b) of this subdivision, no project shall be  
15 approved unless the agency shall find after the public hearing required  
16 by section eight hundred fifty-nine-a of this title that undertaking the  
17 project will serve the public purposes of this article by preserving  
18 permanent, private sector jobs or increasing the overall number of  
19 permanent, private sector jobs in the state. Where the agency makes such  
20 a finding, prior to providing financial assistance to the project by the  
21 agency, the chief executive officer of the municipality for whose bene-  
22 fit the agency was created shall confirm the proposed action of the  
23 agency.

24 S 2. This act shall take effect immediately and shall be deemed to  
25 have been in full force and effect on the same date and in the same  
26 manner as section 1 of part J of chapter 59 of the laws of 2013 took  
27 effect; provided that this act shall apply to any declaration that  
28 occurred on or after October 1, 2012.