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

7398

I N S E N A T E

April 27, 2016

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the economic development law, the real property tax law and the tax law, in relation to the manufacturing development zone program and tax credits related thereto

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

Section 1. The economic development law is amended by adding a new article 23 to read as follows:

ARTICLE 23

MANUFACTURING DEVELOPMENT ZONE PROGRAM

SECTION 450. DEFINITIONS.
451. PURPOSE.
452. ELIGIBILITY AND APPLICATION PROCESS.
453. TAX CREDIT INCENTIVES.

S 450. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "AREA" MEANS A GEOGRAPHIC AREA IN ONE OR MORE POLITICAL SUBDIVISIONS IN THE STATE DESCRIBED BY A CLOSED PERIMETER BOUNDARY.

2. "BUSINESS ENTITY" MEANS A PERSON THAT OPERATES OR CONDUCTS A TRADE OR BUSINESS THAT IS ENGAGED IN HEAVY MANUFACTURING.

3. "HEAVY MANUFACTURING" MEANS A MANUFACTURING PROCESS THAT INVOLVES LARGE SCALE PROJECTS. IT INCLUDES CONSTRUCTION, MINING, AND METAL PROCESSING, BUT DOES NOT INCLUDE THE PROCESSING, FABRICATING, ASSEMBLY OR DISASSEMBLY OF APPAREL, DECORATIONS, ELECTRONIC DEVICES, FOOD, HOME ACCESSORIES, INSTRUMENTS, JEWELRY, LEATHER, PAPER, OR TEXTILES.

4. "MANUFACTURING DEVELOPMENT ZONE" MEANS AN AREA DESIGNATED AS A MANUFACTURING DEVELOPMENT ZONE BY THE COMMISSIONER UNDER SUBDIVISION FOUR OF SECTION FOUR HUNDRED FIFTY-TWO OF THIS ARTICLE.

5. "POLITICAL SUBDIVISION" MEANS A COUNTY OR MUNICIPAL CORPORATION.

6. "SUBMISSION DATE" MEANS APRIL FIFTEENTH OR OCTOBER FIFTEENTH.

S 451. PURPOSE. THE PURPOSE OF THE MANUFACTURING DEVELOPMENT ZONE PROGRAM IS TO ENCOURAGE BUSINESS ENTITIES ENGAGED IN MANUFACTURING

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

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OUTSIDE THE STATE TO INVEST IN MANUFACTURING FACILITIES IN MANUFACTURING DEVELOPMENT ZONES.

S 452. ELIGIBILITY AND APPLICATION PROCESS. 1. THE FOLLOWING POLITICAL SUBDIVISIONS MAY APPLY TO DESIGNATE A MANUFACTURING DEVELOPMENT ZONE:

(A) A POLITICAL SUBDIVISION FOR AN AREA WITHIN A POLITICAL SUBDIVISION;

(B) WITH THE PRIOR CONSENT OF THE MUNICIPAL CORPORATION, A COUNTY ON BEHALF OF A MUNICIPAL CORPORATION FOR AN AREA IN THE MUNICIPAL CORPORATION; OR

(C) TWO OR MORE POLITICAL SUBDIVISIONS JOINTLY FOR AN AREA ASTRIDE THEIR COMMON BOUNDARIES;

2. THE APPLICATION SHALL:

(A) BE IN THE FORM AND MANNER AND CONTAIN THE INFORMATION THAT THE COMMISSIONER REQUIRES BY REGULATION;

(B) BE SUBMITTED FOR A POLITICAL SUBDIVISION BY ITS CHIEF ELECTED OFFICER OR, IF NONE, ITS GOVERNING BODY;

(C) STATE WHETHER THE POLITICAL SUBDIVISION HAS EXAMINED THE FEASIBILITY OF CREATING EDUCATIONAL OR TRAINING OPPORTUNITIES FOR EMPLOYERS AND EMPLOYEES OF BUSINESS ENTITIES LOCATED OR TO BE LOCATED IN THE PROPOSED MANUFACTURING DEVELOPMENT ZONE;

(D) STATE THE STANDARDS ESTABLISHED BY THE POLITICAL SUBDIVISION THAT A BUSINESS ENTITY SHALL MEET BEFORE RECEIVING THE INCENTIVES AND INITIATIVES UNDER SECTION FOUR HUNDRED FIFTY-THREE OF THIS ARTICLE; AND

(E) STATE THE METHODS THAT THE POLITICAL SUBDIVISIONS WILL USE TO TARGET AND ATTRACT BUSINESS ENTITIES.

3. (A) THE COMMISSIONER SHALL SUBMIT EACH APPLICATION TO THE DEPARTMENT.

(B) WITHIN THIRTY DAYS OF RECEIVING AN APPLICATION, THE DEPARTMENT SHALL APPROVE OR REJECT AN APPLICATION.

4. (A) WITHIN SIXTY DAYS AFTER A SUBMISSION DATE, THE COMMISSIONER MAY DESIGNATE ONE OR MORE MANUFACTURING DEVELOPMENT ZONES FROM AMONG THE AREAS DESCRIBED IN THE APPLICATIONS AND APPROVED BY THE DEPARTMENT UNDER SUBDIVISION THREE OF THIS SECTION.

(B) THE DESIGNATION OF AN AREA AS A MANUFACTURING DEVELOPMENT ZONE IS EFFECTIVE FOR TEN YEARS.

(C) THE COMMISSIONER MAY NOT DESIGNATE MORE THAN SIX MANUFACTURING DEVELOPMENT ZONES IN A CALENDAR YEAR.

(D) A COUNTY MAY NOT RECEIVE MORE THAN TWO MANUFACTURING DEVELOPMENT ZONES IN A CALENDAR YEAR.

5. THE DESIGNATION OF THE COMMISSIONER IS FINAL.

6. AT ANY TIME, A POLITICAL SUBDIVISION MAY REAPPLY TO THE COMMISSIONER TO DESIGNATE AS A MANUFACTURING DEVELOPMENT ZONE AN AREA THAT IS NOT DESIGNATED.

7. (A) A POLITICAL SUBDIVISION MAY APPLY TO THE COMMISSIONER TO EXPAND AN EXISTING MANUFACTURING DEVELOPMENT ZONE IN THE SAME MANNER AS THE POLITICAL SUBDIVISION WOULD APPLY TO DESIGNATE A NEW MANUFACTURING DEVELOPMENT ZONE.

(B) THE COMMISSIONER MAY GRANT AN EXPANSION OF A MANUFACTURING DEVELOPMENT ZONE INTO AN AREA.

(C) FOR PURPOSES OF SUBDIVISIONS FOUR, FIVE AND SIX OF THIS SECTION, AN EXPANSION OF A MANUFACTURING DEVELOPMENT ZONE THAT DOES NOT EXCEED FIFTY PERCENT OF THE GEOGRAPHIC AREA OF THE EXISTING MANUFACTURING DEVELOPMENT ZONE DOES NOT COUNT TOWARDS THE LIMIT ON THE NUMBER OF THE MANUFACTURING DEVELOPMENT ZONES THAT THE COMMISSIONER MAY DESIGNATE IN A CALENDAR YEAR OR A COUNTY MAY RECEIVE IN A CALENDAR YEAR.

8. (A) THE COMMISSIONER MAY GRANT ONE EXTRAORDINARY EXPANSION OF A MANUFACTURING DEVELOPMENT ZONE IN THE STATE EACH CALENDAR YEAR FOR AN AREA THAT, IN THE DETERMINATION OF THE COMMISSIONER, HAS SUFFERED A SIGNIFICANT LOSS OF ECONOMIC BASE.

(B) FOR PURPOSES OF SUBDIVISIONS FOUR, FIVE AND SIX OF THIS SECTION, AN EXTRAORDINARY EXPANSION OF A MANUFACTURING DEVELOPMENT ZONE DOES NOT COUNT TOWARDS THE LIMIT ON THE NUMBER OF MANUFACTURING DEVELOPMENT ZONES THAT THE COMMISSIONER MAY DESIGNATE IN A CALENDAR YEAR OR A COUNTY MAY RECEIVE IN A CALENDAR YEAR.

S 453. TAX CREDIT INCENTIVES. 1. TO THE EXTENT PROVIDED FOR IN THIS SECTION, A BUSINESS ENTITY IS ENTITLED TO:

(A) THE PROPERTY TAX CREDIT PROVIDED FOR IN SECTION FOUR HUNDRED TWENTY-THREE-A OF THE REAL PROPERTY TAX LAW;

(B) THE INCOME TAX CREDIT PROVIDED FOR IN SUBSECTION (CCC) OF SECTION SIX HUNDRED SIX OF THE TAX LAW;

2. A BUSINESS ENTITY THAT MOVES INTO OR LOCATES IN A MANUFACTURING DEVELOPMENT ZONE ON OR AFTER THE DATE THAT THE MANUFACTURING DEVELOPMENT ZONE IS DESIGNATED UNDER SUBDIVISIONS FOUR, FIVE AND SIX OF SECTION FOUR HUNDRED FIFTY-TWO OF THIS ARTICLE MAY BENEFIT FROM THE INCENTIVE UNDER THIS SECTION IF:

(A) THE BUSINESS ENTITY MEETS THE STATUTORY REQUIREMENTS AND CONDITIONS APPLICABLE TO EACH INCENTIVE OR INITIATIVE;

(B) THE RESPECTIVE POLITICAL SUBDIVISION CERTIFIES THAT THE BUSINESS ENTITY HAS COMPLIED WITH THE STANDARDS THAT THE SUBDIVISIONS SUBMITTED UNDER PARAGRAPH (D) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED FIFTY-TWO OF THIS ARTICLE;

(C) THE BUSINESS ENTITY CREATES NEW OR ADDITIONAL JOBS OR MAKES A CAPITAL INVESTMENT TO QUALIFY FOR THE PROPERTY TAX CREDIT UNDER SECTION FOUR HUNDRED TWENTY-THREE-A OF THE REAL PROPERTY TAX LAW AND THE INCOME TAX CREDIT UNDER SUBSECTION (CCC) OF SECTION SIX HUNDRED SIX OF THE TAX LAW;

(D) THE BUSINESS ENTITY IS ENGAGED IN A MANUFACTURING TRADE OR BUSINESS ON REAL PROPERTY WITHIN THE MANUFACTURING DEVELOPMENT ZONE THAT THE BUSINESS ENTITY OWNS; AND

(E) THE COMMISSIONER DETERMINES THAT THE BUSINESS ENTITY DOES NOT HAVE AN ECONOMIC PRESENCE IN THE STATE PRIOR TO LOCATING IN THE MANUFACTURING DEVELOPMENT ZONE AND IS ENGAGED IN A MANUFACTURING TRADE OR BUSINESS.

3. THE INCENTIVES AND INITIATIVES PROVIDED FOR IN THIS SECTION ARE NOT AVAILABLE TO A BUSINESS ENTITY THAT WAS LOCATED IN A MANUFACTURING DEVELOPMENT ZONE BEFORE THE DATE THAT THE MANUFACTURING DEVELOPMENT ZONE IS DESIGNATED, EXCEPT FOR A CAPITAL INVESTMENT OR AN EXPANSION OF ITS LABOR FORCE THAT OCCURS ON OR AFTER THE MANUFACTURING DEVELOPMENT ZONE IS DESIGNATED.

4. (A) EXCEPT AS PROVIDED IN SECTION FOUR HUNDRED TWENTY-THREE-A OF THE REAL PROPERTY TAX LAW, THE INCENTIVES AND INITIATIVES SET FORTH IN THIS SECTION ARE AVAILABLE FOR TEN YEARS AFTER THE DATE THAT AN AREA IS DESIGNATED A MANUFACTURING DEVELOPMENT ZONE.

(B) A LAW ENACTED AFTER THE EFFECTIVE DATE OF THIS SECTION THAT ELIMINATES OR REDUCES THE BENEFITS AVAILABLE TO A BUSINESS ENTITY UNDER THIS SECTION DOES NOT APPLY TO A BUSINESS ENTITY THAT WAS IN A MANUFACTURING DEVELOPMENT ZONE BEFORE THE EFFECTIVE DATE OF THIS SECTION.

5. NOTWITHSTANDING SUBDIVISION FOUR OF THIS SECTION, A BUSINESS ENTITY LOCATED IN A MANUFACTURING DEVELOPMENT ZONE MAY NOT RECEIVE THE INCENTIVES AND INITIATIVES SET FORTH IN SUBDIVISION ONE OF THIS SECTION IF THE ENTITY IS LOCATED ON LAND OR WITHIN IMPROVEMENTS OWNED BY THE FEDERAL GOVERNMENT, THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION UNLESS

THE BUSINESS ENTITY HAS FIRST UTILIZED ALL APPLICABLE PROPERTY TAX EXEMPTIONS UNDER THE REAL PROPERTY TAX LAW INCLUDING ENTERING INTO ANY AVAILABLE PAYMENT IN LIEU OF TAX AGREEMENT.

6. THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL ASSESS EACH YEAR THE EFFECTIVENESS OF THE TAX CREDITS PROVIDED TO BUSINESS ENTITIES IN MANUFACTURING DEVELOPMENT ZONES, INCLUDING:

(A) THE NUMBER AND AMOUNTS OF CREDITS GRANTED EACH YEAR; AND

(B) THE SUCCESS OF THE TAX CREDITS IN ATTRACTING AND RETAINING BUSINESS ENTITIES IN MANUFACTURING DEVELOPMENT ZONES.

7. ON OR BEFORE DECEMBER FIFTEENTH OF EACH YEAR, THE DEPARTMENT AND THE COMPTROLLER SHALL SUBMIT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY, A REPORT OUTLINING THEIR FINDINGS AND ANY OTHER INFORMATION OF VALUE IN DETERMINING THE EFFECTIVENESS OF THE TAX CREDITS PROVIDED UNDER THIS SECTION.

S 2. The real property tax law is amended by adding a new section 423-a to read as follows:

S 423-A. EXEMPTION FOR BUSINESS ENTITIES PARTICIPATING IN MANUFACTURING DEVELOPMENT ZONE PROGRAM. 1. AS USED IN THIS SECTION, THE FOLLOWING WORDS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "BASE YEAR" MEANS THE TAXABLE YEAR IMMEDIATELY BEFORE THE TAXABLE YEAR IN WHICH A PROPERTY TAX CREDIT UNDER THIS SECTION IS TO BE GRANTED.

(B) "BASE YEAR VALUE" MEANS THE VALUE OF THE PROPERTY USED TO DETERMINE THE ASSESSMENT ON WHICH THE PROPERTY TAX ON REAL PROPERTY WAS IMPOSED FOR THE BASE YEAR. BASE YEAR VALUE DOES NOT INCLUDE ANY NEW REAL PROPERTY THAT WAS FIRST ASSESSED IN THE BASE YEAR.

(C) "BUSINESS ENTITY" MEANS A PERSON THAT OPERATES OR CONDUCTS A TRADE OR BUSINESS THAT IS ENGAGED IN MANUFACTURING.

(D) (I) "ELIGIBLE ASSESSMENT" MEANS THE DIFFERENCE BETWEEN THE BASE YEAR VALUE AND THE ACTUAL VALUE AS DETERMINED BY THE STATE BOARD FOR THE APPLICABLE TAXABLE YEAR IN WHICH THE TAX CREDIT UNDER THIS SECTION IS TO BE GRANTED.

(II) FOR A BUSINESS ENTITY THAT IS LOCATED ON LAND OR WITHIN IMPROVEMENTS OWNED BY THE FEDERAL, STATE, COUNTY, OR MUNICIPAL GOVERNMENT, "ELIGIBLE ASSESSMENT" MEANS THE DIFFERENCE BETWEEN THE BASE YEAR VALUE AND THE ACTUAL VALUE REDUCED BY THE VALUE OF ANY PROPERTY ENTITLED TO AN EXEMPTION UNDER THIS CHAPTER AS DETERMINED BY THE STATE BOARD FOR THE APPLICABLE TAXABLE YEAR IN WHICH THE TAX CREDIT UNDER THIS SECTION IS TO BE GRANTED.

(E) "QUALIFIED PROPERTY" MEANS REAL PROPERTY THAT IS (I) NOT USED FOR RESIDENTIAL PURPOSES; (II) USED IN A MANUFACTURING TRADE OR BUSINESS BY A BUSINESS ENTITY; AND

(III) LOCATED IN A MANUFACTURING DEVELOPMENT ZONE THAT IS DESIGNATED UNDER ARTICLE TWENTY-THREE OF THE ECONOMIC DEVELOPMENT LAW.

2. THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION SHALL GRANT A TAX CREDIT UNDER THIS SECTION AGAINST THE PROPERTY TAX IMPOSED ON THE ELIGIBLE ASSESSMENT OF A QUALIFIED PROPERTY.

3. (A) THE APPROPRIATE GOVERNING BODY SHALL CALCULATE THE AMOUNT OF THE CREDIT UNDER THIS SECTION EQUAL TO ONE HUNDRED PERCENT OF THE AMOUNT OF PROPERTY TAX IMPOSED ON THE ELIGIBLE ASSESSMENT.

(B) FOR PURPOSES OF CALCULATING THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION, THE AMOUNT OF PROPERTY TAX IMPOSED ON THE ELIGIBLE ASSESSMENT SHALL BE CALCULATED WITHOUT REDUCTION FOR ANY CREDITS ALLOWED UNDER THIS CHAPTER.

4. (A) A TAX CREDIT UNDER THIS SECTION IS AVAILABLE TO A QUALIFIED PROPERTY FOR NO MORE THAN TEN CONSECUTIVE YEARS BEGINNING WITH THE TAXA-

BLE YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE REAL PROPERTY INITIALLY BECOMES A QUALIFIED PROPERTY.

(B) IF THE DESIGNATION OF A MANUFACTURING DEVELOPMENT ZONE EXPIRES, THE TAX CREDIT UNDER THIS SECTION CONTINUES TO BE AVAILABLE TO A QUALIFIED PROPERTY.

(C) STATE PROPERTY TAX IMPOSED ON REAL PROPERTY IS NOT AFFECTED BY THIS SECTION.

5. WHEN A MANUFACTURING DEVELOPMENT ZONE IS DESIGNATED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT, SUCH COMMISSIONER SHALL CERTIFY TO THE STATE BOARD:

(A) THE REAL PROPERTIES IN THE ZONE THAT ARE QUALIFIED PROPERTIES FOR EACH TAXABLE YEAR FOR WHICH THE PROPERTY TAX CREDIT UNDER THIS SECTION IS TO BE GRANTED; AND

(B) THE DATE THAT THE REAL PROPERTIES BECAME QUALIFIED PROPERTIES.

6. BEFORE PROPERTY TAX BILLS ARE SENT, THE STATE BOARD SHALL SUBMIT TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT A LIST CONTAINING:

(A) THE LOCATION OF EACH QUALIFIED PROPERTY;

(B) THE AMOUNT OF THE BASE YEAR VALUE FOR EACH QUALIFIED PROPERTY; AND

(C) THE AMOUNT OF THE ELIGIBLE ASSESSMENT FOR EACH QUALIFIED PROPERTY.

S 3. Section 606 of the tax law is amended by adding a new subsection (ccc) to read as follows:

(CCC) MANUFACTURING DEVELOPMENT ZONE PROGRAM TAX CREDIT. (1) A BUSINESS ENTITY THAT IS LOCATED IN A MANUFACTURING DEVELOPMENT ZONE AND SATISFIES THE REQUIREMENTS OF SECTION FOUR HUNDRED FIFTY-THREE OF THE ECONOMIC DEVELOPMENT LAW MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN THE AMOUNT OF THE STATE INCOME TAX IMPOSED ON QUALIFIED INCOME.

(2) A BUSINESS ENTITY SHALL MEAN AN ENTITY THAT IS ENGAGED IN MANUFACTURING TRADE OR BUSINESS, OPERATES A MANUFACTURING FACILITY IN A MANUFACTURING DEVELOPMENT ZONE AS DESIGNATED BY ARTICLE TWENTY-THREE OF THE ECONOMIC DEVELOPMENT LAW AND IS ELIGIBLE FOR THE PROPERTY TAX CREDIT UNDER SECTION FOUR HUNDRED TWENTY-THREE-A OF THE REAL PROPERTY TAX LAW. QUALIFIED INCOME MEANS INCOME ATTRIBUTABLE TO ACTIVITIES AT A MANUFACTURING FACILITY LOCATED IN A MANUFACTURING DEVELOPMENT ZONE.

(3) THE CREDIT ALLOWED UNDER THIS SUBSECTION MAY NOT BE CLAIMED FOR MORE THAN TEN CONSECUTIVE YEARS BEGINNING WITH THE TAXABLE YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE BUSINESS ENTITY BECOMES ELIGIBLE FOR THE PROPERTY TAX CREDIT UNDER SECTION FOUR HUNDRED TWENTY-THREE-A OF THE REAL PROPERTY TAX LAW.

S 4. This act shall take effect immediately.