

STATE OF NEW YORK

3499

2017-2018 Regular Sessions

IN ASSEMBLY

January 27, 2017

Introduced by M. of A. RYAN -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to enacting the "just and open business subsidies act (JOBS act) of 2017", in relation to the reporting and collection of information, evaluation criteria, subsidy recapture, and restrictions on the funding of public financial assistance for private economic development

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings. The legislature finds that the state
2 and local governments of New York play an important role in facilitating
3 private economic development. Public financial assistance for economic
4 development should prioritize performance, encourage job creation for
5 all New Yorkers, and have money back guarantees. Empire State Develop-
6 ment (ESD) manages statewide economic development programs through as
7 many as 202 subsidiaries, each with its own board and staff. In addi-
8 tion, there are approximately 20 state agencies performing economic
9 development functions. At the local level, there are 114 Industrial
10 Development Agencies (IDAs), over 500 local development corporations, 82
11 Empire Zone Boards, 114 Business Improvement Districts, 49 Urban Renewal
12 and Community Development Agencies, and 10 Regional Economic Development
13 Councils, all engaging in economic development activity. These entities,
14 providing discretionary and as of right financial assistance, spend over
15 \$7 billion in state and local tax revenue and appropriations.

16 The legislature further finds that this system of economic development
17 is balkanized, opaque, often unaccountable, and has few performance
18 criteria on which to judge success or failure. This legislation is
19 intended to improve these important tools for economic development by
20 streamlining applications and reporting, strengthening accountability
21 mechanisms, and encouraging quality job creation for all New Yorkers.

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

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1 The legislature further finds that the International Economic Develop-
2 ment Council (IEDC), the nation's largest professional association of
3 economic development officials, released findings from a survey of its
4 4,500 members in February, 2013, in which 98.6 percent said "incentives
5 should be structured in such a way that the community receives a tangi-
6 ble return on investment (e.g., employment, capital investment)." In
7 addition, "96 percent believe that part or all of the granted incentives
8 should be returned if a company does not meet agreed-upon projections."
9 These findings show that there is significant support, even within the
10 economic development profession, for comprehensive reform.

11 The legislature further finds that the economic recovery from the
12 Great Recession has not reached all parts of New York. Unemployment and
13 poverty are significant problems throughout the state. For example, the
14 most recent census data shows that the Kingston Metropolitan Statistical
15 Area has an unemployment rate of 10.4% and a poverty rate of 14.7%.

16 The Ogdensburg-Massena Micropolitan Statistical Area has an unemploy-
17 ment rate of 10.8% and a poverty rate of 18.1%, Sullivan County has an
18 unemployment rate of 12.2% and a poverty rate of 18.5%. Meanwhile other
19 regions of New York and its neighboring states of Connecticut, Massachu-
20 setts, New Jersey, Pennsylvania and Vermont all have lower poverty and
21 unemployment rates than the aforementioned regions of New York. The
22 average unemployment rate of those six states is 9.4% and the average
23 poverty rate is 12.4%. New York has a significant interest in reducing
24 poverty and unemployment for its residents by ensuring that when public
25 money is used to finance economic development, a portion of the jobs
26 created are offered to residents of regions with high unemployment or
27 poverty.

28 § 2. This act shall be known and may be cited as the "just and open
29 business subsidies act (JOBS act) of 2017".

30 § 3. Section 2 of the public authorities law is amended by adding
31 seven new subdivisions 7, 8, 9, 10, 11, 12 and 13 to read as follows:

32 7. "financial assistance" shall mean: (a) any expenditure of public
33 funds for the purpose of stimulating economic development within the
34 state, including, but not limited to, cash payments or grants, bond
35 financing, tax abatements or exemptions (including, but not limited to,
36 abatements or exemptions from real property, mortgage recording, sales
37 and use taxes, or the difference between any payments in lieu of taxes
38 and the amount of real property or other taxes that would have been due
39 if the property were not exempted from such taxes), tax increment
40 financing, filing fee waivers, energy cost reductions, environmental
41 remediation costs, write-downs in the market value of buildings or land,
42 or the cost of capital improvements related to real property for which
43 the state would not pay absent the development project, and includes
44 both discretionary and as of right assistance, and (b) all successor and
45 subsequent expenditures of public funds for the purpose of stimulating
46 economic development within the state. In determining the value of
47 assistance provided, the full value of all city, state and federal
48 assistance received in connection with the project shall be included.

49 8. "recipient" shall mean any person, individual, proprietorship,
50 partnership, joint venture, corporation, limited liability company,
51 trust, association, organization or other entity that receives financial
52 assistance, or any assignee or successor in interest of real property
53 improved or developed with financial assistance.

54 9. "infrastructure" shall mean any substructure or underlying founda-
55 tion or network used for providing goods and services; especially the
56 basic installations and facilities on which the continuance and growth

1 of a community, state, etc., depend. Examples include roads, water
2 systems, communications facilities, sewers, sidewalks, cable, wiring,
3 schools, power plants, and transportation and communication systems.

4 10. "covered employer" shall mean: (a) a financial assistance recipi-
5 ent; (b) a tenant, sub-tenant, leaseholder or subleaseholder who occu-
6 pies real property that is improved or developed with financial assist-
7 ance; (c) fee holders or other condominium owners of any portion of real
8 property improved or developed with financial assistance who purchased
9 the property from a prior owner or were assigned the property through
10 foreclosure or other means; or (d) any person or entity that contracts
11 or subcontracts with a financial assistance recipient to perform work
12 for a period of more than thirty days on the premises of the financial
13 assistance recipient or on the premises of real property improved or
14 developed with financial assistance, including but not limited to tempo-
15 rary services or staffing agencies, food service contractors, and other
16 on-site service contractors.

17 11. "worker hours" shall mean the total hours worked exclusive of
18 hours worked by residents of states other than New York, whether the
19 workers in question are employed by the financial assistance recipient
20 or the covered employer.

21 12. "apprentice" shall mean a worker who participates in a federal or
22 state apprenticeship program or, as an apprentice equivalent, partic-
23 ipates in a department of labor approved training program, takes a
24 construction apprenticeship test, and receives benefits and pay not less
25 than those received by an apprentice.

26 13. "apprenticeship program" shall mean an apprenticeship program that
27 has been approved by the department of labor for not less than three
28 years and has graduated at least one apprentice in the last three years
29 and has at least one apprentice currently enrolled in such apprentice-
30 ship training program. In addition, it must be demonstrated that the
31 program has made significant efforts to attract and retain minority
32 apprentices, as determined by affirmative action goals established for
33 such program by the department of labor.

34 § 4. Article 9 of the public authorities law is amended by adding a
35 new title 13 to read as follows:

36 TITLE 13

37 JUST AND OPEN BUSINESS SUBSIDIES ACT (JOBS ACT)

38 Section 2990. Standard applications for financial assistance.

39 2991. Financial assistance agreements.

40 2992. Public review.

41 2993. Subsidy recapture.

42 2994. Unified economic development budget.

43 2995. Restrictions on funds of local and state authorities.

44 2996. Designated board representation.

45 2997. Targeted hire.

46 2998. Payments in lieu of taxes.

47 § 2990. Standard applications for financial assistance. 1. All appli-
48 cations submitted to state authorities, local authorities, or any other
49 state granting body requesting financial assistance shall be submitted
50 through a consolidated funding application. The consolidated funding
51 application shall be developed by the authorities budget office, in
52 collaboration with relevant granting bodies. The consolidated funding
53 application shall contain, at a minimum, all information necessary to
54 fulfill reporting requirements under subparagraph six of paragraph (a)
55 of subdivision one and subparagraph six of paragraph (a) of subdivision
56 two of section twenty-eight hundred of this article, and must be certi-

1 fied by the project applicant's chief executive officer that the appli-
2 cation is accurate and complete. The application shall include all
3 information needed by the New York state energy research and development
4 authority to calculate the greenhouse gas emissions from proposed
5 projects, including but not limited to amount of electricity usage and
6 type and amount of fuel usage.

7 2. No state authority, local authority, or any other state granting
8 body shall enter into a financial assistance agreement with a recipient
9 prior to receiving and processing a complete consolidated funding appli-
10 cation.

11 3. The state authority, local authority, state granting body and the
12 authorities budget office shall have the right of access to examine all
13 documents, payroll records and other materials deemed necessary by the
14 agency or department to determine the applicant's claims are accurate.

15 § 2991. Financial assistance agreements. The state authority, local
16 authority or state granting body shall enter into a financial assistance
17 agreement with the recipient prior to providing such assistance. Each
18 financial assistance agreement shall contain, at a minimum:

19 1. job creation and/or job retention targets and the maintenance of
20 such job levels five years beyond the end date of the financial assist-
21 ance agreement;

22 2. an approved targeted hiring plan, where applicable;

23 3. apprentice target hiring plan, where applicable;

24 4. investment targets;

25 5. detailed plans for compliance with the state smart growth public
26 infrastructure policy act;

27 6. greenhouse gas emissions and energy use benchmarks;

28 7. all information necessary to fulfill reporting requirements under
29 subparagraph six of paragraph (a) of subdivision one and subparagraph
30 six of paragraph (a) of subdivision two of section twenty-eight hundred
31 of this article;

32 8. subsidy recapture provisions; and

33 9. yearly and overall performance benchmarks.

34 § 2992. Public review. 1. The state authority, local authority, state
35 granting body and the authorities budget office shall have the right of
36 access to the covered employer's project site and to examine all docu-
37 ments, payroll records and other materials deemed necessary by the agen-
38 cy or department to determine the recipient is in compliance with
39 provisions of the financial assistance agreement and this article. The
40 state authorities and local authorities shall cooperate fully with the
41 authorities budget office in carrying out its duties.

42 2. The state authority, local authority, or state granting body shall
43 file a copy of each recipient's application, the financial assistance
44 agreement and the cost benefit analysis on its website, with the govern-
45 ing body of the municipality and with the authorities budget office
46 within five days of the execution of the agreement.

47 3. Notwithstanding any other provision of law to the contrary, a state
48 authority, local authority or state granting body in an area with one
49 million persons or more shall not provide discretionary financial
50 assistance exceeding a total of one million dollars in value without the
51 approval of the affected taxing jurisdictions in which the project will
52 occur. In all other areas, a state authority, local authority or state
53 granting body shall not provide discretionary financial assistance
54 exceeding one hundred thousand dollars in value without the approval of
55 the affected taxing jurisdictions in which the project will occur.

1 Approval of the affected taxing jurisdiction shall consist of a majority
2 vote by the relevant decision making body of that jurisdiction.

3 4. Prior to approving any discretionary economic development assist-
4 ance agreement over twenty-five thousand dollars, a state authority,
5 local authority or state granting body shall: (a) hold a public hearing
6 on the provision of financial assistance; and (b) provide notice to the
7 public thirty calendar days prior to the public hearing. At the time of
8 notice, the state authority, local authority or state granting body
9 shall provide the application, the proposed economic development assist-
10 ance agreement, and any other materials relevant to the decision, such
11 as the cost benefit analysis, to the public. The documents shall be
12 available electronically and the documents shall be available in print
13 upon request. The public hearing shall provide the public reasonable
14 opportunity to comment on the proposed financial assistance agreement.
15 The hearing shall take place no less than seven calendar days before the
16 final decision. The state authority, local authority or state granting
17 body must respond to public comments submitted orally or in writing with
18 official, written replies before such time as the decision is made. All
19 public hearings shall be recorded verbatim and transcripts available on
20 line and transcripts available in print upon request.

21 5. Prior to approving any as of right financial assistance agreement
22 over twenty-five thousand dollars, a state authority, local authority or
23 state granting body shall provide notice to the public thirty calendar
24 days prior to the approval of financial assistance. At the time of
25 notice, the state authority, local authority or state granting body
26 shall provide the application, the proposed financial assistance agree-
27 ment, and any other materials relevant to the decision, such as the cost
28 benefit analysis, to the public. The documents shall be available elec-
29 tronically and the documents shall be available in print upon request.

30 § 2993. Subsidy recapture. 1. All financial assistance agreements
31 shall contain: (a) a specific schedule for subsidy recapture; (b) the
32 measurable yearly benchmarks that a recipient must meet in order to
33 avoid recapture; and (c) provisions for recalibration or rescission of
34 benefits.

35 2. Recapture provisions, at a minimum, shall be based upon each
36 required component of the financial assistance agreement, as identified
37 in section twenty-nine hundred ninety-one of this title.

38 3. If the recipient fails to fulfill any obligation under the finan-
39 cial assistance agreement, or is found to have committed a violation of
40 any state or local law, rule or regulation relating to environmental
41 protection, taxation, financial assistance, protection of workers, or
42 minority or women-owned businesses by final judgment of a court or
43 administrative tribunal, the state authority or local authority shall
44 immediately suspend all financial assistance to the recipient and the
45 applicable recapture provisions set forth in subdivision one of this
46 section shall take effect. (a) The state authority or local authority
47 shall promptly issue a preliminary notice of default to the recipient
48 and provide an opportunity to cure. The recipient can cure the default
49 either by providing evidence documenting that the recipient is not in
50 default, or by meeting the obligations under the financial assistance
51 agreement within one month of notification of default. (b) If the recip-
52 ient of financial assistance fails to cure the default within twenty
53 business days of the issuance of notice, the state authority or local
54 authority shall promptly issue a final notice of default to the recipi-
55 ent who shall remit repayment based on the applicable recapture sched-
56 ule. (c) The recipient shall repay such assistance to the state authori-

1 ty, local authority, or state granting body at a rate of interest equal
2 to the prime rate, plus one percent as of the date of the notice. The
3 amount of repayment may be prorated according to any partial fulfillment
4 of the recipient's obligations under the agreement, as identified in the
5 subsidy recapture schedule. The local authority, state authority or
6 state granting body shall remit the recaptured subsidies to the relevant
7 local taxing jurisdiction. (d) If a recipient is required to repay
8 financial assistance under this subdivision, the recipient and any
9 subsidiary, parent or successor of the recipient shall be prohibited
10 from entering into a financial assistance agreement with any other state
11 or local authority or instrumentality of this state until the state
12 authority or local authority has received full repayment of the amount
13 due. (e) Whenever the attorney general has good reason to believe that
14 the recipient's failure to fulfill the financial assistance agreement
15 involves the state's interest, or that the recipient has committed a
16 substantial violation of the laws of this state, he or she may commence
17 an action to recover the financial assistance and for such other relief
18 as provided by law.

19 4. The authorities budget office shall annually compile a report on
20 the outcomes and effectiveness of recapture provisions by program,
21 including, but not limited to: (a) the total number of companies that
22 receive financial assistance as defined in this article; (b) the total
23 number of recipients in violation of development agreements; (c) the
24 total number of completed recapture efforts; (d) the total number of
25 recapture efforts initiated; and (e) the total number of waivers grant-
26 ed. Such report shall be disclosed consistent with the provisions of
27 section twenty-eight hundred of this article.

28 5. The state authority, local authority or state granting body may
29 elect to waive enforcement of any contractual provision arising out of
30 the financial assistance agreement, based on the finding that the waiver
31 is necessary to avert imminent and demonstrable hardship to the recipi-
32 ent, only after approval by the affected taxing jurisdictions. If the
33 waiver is granted, the recipient must agree to a contractual modifica-
34 tion to the financial assistance agreement that includes recapture
35 provisions.

36 § 2994. Unified economic development budget. 1. For each state fiscal
37 year ending on or after June thirtieth, two thousand seventeen, the
38 department of taxation and finance shall submit an annual unified
39 economic development budget to the governor, senate and assembly. The
40 unified economic development budget shall be due within three months
41 after the end of the fiscal year, and shall present all types of project
42 specific financial assistance granted during the prior fiscal year,
43 including, at a minimum:

44 (a) The amount of uncollected state tax revenues resulting from every
45 corporate tax credit, abatement, exemption and reduction provided by the
46 state or a local governmental unit including but not limited to gross
47 receipts, income, sales, use, raw materials, excise, property, utility,
48 and inventory taxes;

49 (b) The amount of uncollected state tax revenues resulting from every
50 tax exempt bond or loan provided by the state or a local governmental
51 unit;

52 (c) The amount of financial assistance provided from every grant by
53 the state or a local governmental unit;

54 (d) Estimates prepared by the commissioner of taxation and finance, in
55 conjunction with the director of the budget, of the cost of such finan-

1 cial assistance for the: (i) current taxable or calendar year; and (ii)
2 the five preceding years;

3 (e) The name of each corporate taxpayer which claimed any financial
4 assistance under paragraph (a), (b) or (c) of this subdivision of any
5 value equal to or greater than five thousand dollars, together with the
6 dollar amount received by each such corporation;

7 (f) Any tax credit, abatement, exemption or reduction received by a
8 corporation of less than five thousand dollars each shall not be item-
9 ized. The aggregate dollar amount of such expenditures and the number of
10 companies so aggregated for each tax expenditure shall be included;

11 (g) All state appropriated expenditures for economic development,
12 including expenditures for infrastructure improvements related to real
13 property for which the state would not pay absent the development
14 project, and line-item budgets for every state-funded entity concerned
15 with economic development;

16 (h) The provisions of law authorizing such tax expenditures, their
17 effective dates, the program, if any exists, through which the financial
18 assistance is granted, the agencies or entities that manage the program
19 and/or authorize the financial assistance, and, if applicable, the dates
20 on which such financial assistance expires or is reduced;

21 (i) Any recommendations of the governor regarding continuing, modify-
22 ing, or repealing such financial assistance, and such other information
23 regarding development expenditures as the executive may feel useful and
24 appropriate;

25 (j) If the governor's budget includes proposals for the expiration,
26 modification, or repeal of such financial assistance or for the addition
27 of financial assistance in or to such articles or such law, such report
28 shall also contain, to the extent reliable data are available, an analy-
29 sis of the number and types of persons and entities benefiting or
30 expected to benefit from such financial assistance, an estimate of the
31 costs of such financial assistance for the coming fiscal year, and an
32 explanation of the reasons for the proposals;

33 (k) General cautionary and advisory notes concerning limitations of
34 data, estimation procedures, sampling errors and imputed values, promi-
35 nently displayed.

36 § 2995. Restrictions on funds of local and state authorities. 1. No
37 financial assistance of the state authority or local authority shall be
38 used in respect of any project if the completion thereof would result in
39 the removal of all or any part of a facility or plant of the project
40 occupant from one area of the state to another area of the state or in
41 the abandonment of all or any part of one or more plants or facilities
42 of the project occupant located within the state, or in the loss of
43 employment in the labor market area from which the relocation occurs,
44 provided, however, that neither restriction shall apply if (a) the prior
45 consent of the affected taxing jurisdictions from which all or any part
46 of a facility or plant of the project occupant will be removed or aban-
47 doned is provided in writing and (b) the authority shall determine on
48 the basis of clear and convincing evidence that the project is reason-
49 ably necessary to discourage the project occupant from removing such
50 other plant or facility to a location outside the state or is reasonably
51 necessary to preserve the competitive position of the project occupant
52 in its respective industry.

53 2. Upon a complaint by a local or state elected official that finan-
54 cial assistance of an authority has resulted in the abandonment or
55 removal by a project occupant of all or any part of one or more plants
56 or facilities in such municipality, the authorities budget office or a

1 designee shall investigate such allegation and may schedule a public
2 hearing on the matter. If the authorities budget office determines that
3 the complaint is valid, the authority that provided the financial
4 assistance shall recapture the assistance from the project applicant,
5 and pay to the municipality an amount equal to the portion of tax or
6 taxes that the project applicant saved or avoided due to its relocation
7 and the authority is suspended from negotiating any financial assistance
8 agreements for one year.

9 3. No financial assistance of the state or local authority shall be
10 used to assist in the relocation of all or any part of a plant, facility
11 or operation from one location in the state with existing infrastructure
12 to another location in the state with no existing infrastructure.

13 § 2996. Designated board representation. Except as otherwise provided
14 by special act of the legislature, a state authority or local authority
15 shall consist of not less than three members who shall be appointed by
16 the governing body of each municipality and who shall serve for a term
17 of four years. Each board shall be representative of local businesses,
18 organized labor, community organizations, environmental organizations,
19 workforce development organizations, financial institutions, local
20 educational institutions and residents of the area. A member shall
21 continue to hold office until his or her successor is appointed and has
22 qualified. The governing body of each municipality shall designate the
23 first chairperson and file with the secretary of state a certificate of
24 appointment or reappointment of any member. Such members shall receive
25 no compensation for their services but shall be entitled to the neces-
26 sary expenses, including traveling expenses, incurred in the discharge
27 of their duties. Members must not be or have, within the past five
28 years, been:

29 1. an employee or an owner of a firm that is a paid advisor or
30 consultant of the authority, including a present or former independent
31 auditor of the authority;

32 2. employed by a significant supplier of the authority;

33 3. employed by and had a five percent or greater ownership interest in
34 a supplier where sales to the authority represent more than one percent
35 of the sales of the supplier or more than one percent of the purchases
36 of the authority; and

37 4. a lobbyist registered under a state or local law covering any
38 jurisdiction served in whole or in part by the authority.

39 § 2997. Targeted hire. 1. Notwithstanding any other provision of law
40 to the contrary, and except as is otherwise provided by collective
41 bargaining contracts or agreements, recipients of more than one hundred
42 thousand dollars in cumulative financial assistance by local and state
43 authorities, as well as covered employers, shall ensure that (a) fifty
44 percent of construction and non-construction worker hours performed on
45 the project benefiting from the financial assistance are performed by
46 residents of a New York metropolitan statistical area (MSA), micropoli-
47 tan statistical area (MiSA), or county that is not designated as an MSA
48 or MiSA, as defined by the United States bureau of labor statistics,
49 that contains the project or any part thereof, and in which the most
50 recent census determines that the poverty or unemployment rate is higher
51 than the average (aggregated) poverty or unemployment rate of the
52 regional labor market states of New York, Connecticut, Massachusetts,
53 New Jersey, Pennsylvania and Vermont; and (b) twenty-five percent of
54 construction worker hours performed on the project benefiting from the
55 financial assistance are performed by apprentices.

2. If the percentage targeted hiring requirements of subdivision one of this section have not been satisfied for a project, the recipient nonetheless may be deemed to be in compliance if it demonstrates that it and each covered employer have either (a) satisfied the targeted hiring requirements with regard to the project work that each has performed or (b) satisfactorily demonstrated the following: (i) adherence to procedures contained in an approved targeted hiring plan; (ii) as appropriate, made requests to unions, using proper forms, of sufficient numbers of targeted workers and apprentices to meet the targeted hiring percentages set forth in subdivision one of this section; (iii) as appropriate, documented contact with the appropriate agency representative in each instance when the relevant union did not refer qualified targeted workers within the forty-eight hours following the contractor's request; (iv) fair consideration by the recipient and covered employers of any targeted worker received from any referral source; (v) accurate records documenting the recipient's and covered employers' compliance efforts that include, but are not limited to, the following: (1) a listing by name and address of all local recruitment sources contacted by the recipient and covered employers; (2) the number of targeted worker hires made as a result of the contact; (3) the identity and address of the worker or workers hired pursuant to the contact; (4) documentation when a targeted worker was not hired (including the reason for non-hire) and/or premature termination; (5) for construction projects only, recipients shall also include the date of the local recruitment contact and the identity of the person contacted, the trade and classification and number of hire referrals requested.

3. Financial assistance recipients shall guarantee that all covered employers operating on their premises or on the premises of real property improved or developed with financial assistance comply with the requirements of this section.

4. Nothing herein shall be construed to require any recipient or covered employer to offer employment to any particular individual, or otherwise affect the authority of any employer with regard to personnel matters.

5. A complaint for a violation of this section may be filed by an affected employee, job applicant, or by an organization representing such employee, pursuant to the procedures under articles eight and nine of the labor law.

6. The relevant fiscal officer, as defined in subdivision eight of section two hundred thirty of the labor law, shall have the authority to ensure compliance with the provisions of this section. Monitoring activities may include requests to produce documentation including the provision of certified payrolls, site visits, interviews, review of required reports, and any other monitoring activities the fiscal officer reasonably finds necessary to assess compliance with this section. Covered employers shall cooperate fully and promptly with any inquiries the fiscal officer deems necessary in order to monitor compliance with this section. The fiscal officer may review a covered employer's compliance with this section either on its own initiative or after receiving a complaint or inquiry from a member of the public or city or state staff.

7. State authorities, local authorities, or any other state granting bodies shall prepare quarterly targeted hire reports listing each subsidiary recipient, whether it is subject to subdivision one of this section, and whether it has met the percent targeted hire requirements identified in subdivision one of this section. The report shall identify the

percentage of workers in each project that reside in an MSA, MiSA or county not designated as an MSA or MiSA and containing the project, as well as the percentage of workers that are New York residents. These reports shall be available to the public. Data from the quarterly reports may be used to compile the annual report, identified in section twenty-eight hundred of this article.

8. The fiscal officer shall promptly notify the state or local public authority after a final judgment determining that the employer has violated this section. Upon receipt of such notice, the authority shall immediately suspend financial assistance to the recipient. The recipient shall repay such assistance to the authority pursuant to section twenty-nine hundred ninety-three of this title.

9. Nothing in this section shall be construed as prohibiting or conflicting with any law, obligation, or collective bargaining agreement that requires greater levels of targeted hiring for recipients or covered employers.

10. Any person aggrieved by a violation of this section, any entity a member of which is aggrieved by a violation of this section, or any other person or entity acting on behalf of the public as provided for under applicable state law, may bring a civil action in a court of competent jurisdiction against the recipient or covered employer violating this section and, upon prevailing, shall be awarded reasonable attorneys' fees and costs and shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation. Provided, however, that any person or entity enforcing this title on behalf of the public as provided for under applicable state law shall, upon prevailing, be entitled only to equitable, injunctive or restitutionary relief to employees or job applicants, and reasonable attorneys' fees and costs.

§ 2998. Payments in lieu of taxes. No payment in lieu of taxes agreement shall be for a period of time longer than five years. The agreement shall be renewable for one additional period of five years, so long as the recipient has met the conditions of the financial assistance agreement and after a vote by the relevant board.

§ 5. Paragraph (a) of subdivision 1 and paragraph (a) of subdivision 2 of section 2800 of the public authorities law, as amended by chapter 506 of the laws of 2009, are amended to read as follows:

(a) For the purpose of furnishing the state with systematic information regarding the status and the activities of public authorities, every state authority continued or created by this chapter or any other chapter of the laws of the state of New York shall submit to the governor, the chairman and ranking minority member of the senate finance committee, the chairman and ranking minority member of the assembly ways and means committee, the state comptroller, and the authorities budget office, within ninety days after the end of its fiscal year, a complete and detailed report or reports setting forth: (1) its operations and accomplishments; (2) its financial reports, including (i) audited financials in accordance with all applicable regulations and following generally accepted accounting principles as defined in subdivision ten of section two of the state finance law, (ii) grant and subsidy programs, (iii) operating and financial risks, (iv) current ratings, if any, of its bonds issued by recognized municipal bond rating agencies and notice of changes in such ratings, and (v) long-term liabilities, including leases and employee benefit plans; (3) its mission statement and measurements including its most recent measurement report; (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together

1 with a statement of the amounts redeemed and incurred during such fiscal
2 year as part of a schedule of debt issuance that includes the date of
3 issuance, term, amount, interest rate and means of repayment. Addi-
4 tionally, the debt schedule shall also include all refinancings, calls,
5 refundings, defeasements and interest rate exchange or other such agree-
6 ments, and for any debt issued during the reporting year, the schedule
7 shall also include a detailed list of costs of issuance for such debt;
8 (5) a compensation schedule, in addition to the report described in
9 section twenty-eight hundred six of this title, that shall include, by
10 position, title and name of the person holding such position or title,
11 the salary, compensation, allowance and/or benefits provided to any
12 officer, director or employee in a decision making or managerial posi-
13 tion of such authority whose salary is in excess of one hundred thousand
14 dollars; (5-a) biographical information, not including confidential
15 personal information, for all directors and officers and employees for
16 whom salary reporting is required under subparagraph five of this para-
17 graph; (6) the projects undertaken by such authority during the past
18 year, made available to the public in an electronic non-proprietary and
19 downloadable database, that shall include but not be limited to:

20 (i) Project description: (a) name and address of project applicant,
21 including names of principal officers, any parent or subsidiary corpo-
22 rations and major shareholders; (b) name of the site consultants,
23 project architect, engineer and contractors; (c) project description,
24 including address, block and lot, property and building size, proposed
25 start and completion dates for the financial transaction, project goals,
26 and description of project tenants; (d) electronic link to the final
27 application, the financial assistance agreement, the cost benefit analy-
28 sis, environmental impact assessment and/or environmental impact state-
29 ment, and where applicable the quarterly targeted hire report; (e)
30 whether project is located in an area of high economic distress or on a
31 brownfield opportunity area; (f) the amount, type and date of capital
32 investment to be provided by the recipient, originally committed and to
33 date; (g) amount, type, and date of public infrastructure investments
34 made by recipient, originally committed and to date; (h) amount and type
35 of affordable housing to be built, if any, originally committed and to
36 date; (i) NAICS code for project; (j) the public purpose of the project;
37 (k) amount and type of point source and non-point source pollution
38 resulting from the project, if any, annually and to date; (l) amount and
39 type of energy use at project location, originally benchmarked and to
40 date; and (m) amount of greenhouse gas emissions at project location
41 originally benchmarked and to date;

42 (ii) Financial assistance: (a) categorized description of the total
43 amount and type of financial assistance provided by the authority over
44 the life of the agreement, amount committed to date, and amount commit-
45 ted during the prior fiscal year, including the value of any property
46 sold or leased at less than fair market value; (b) description of the
47 net amount and type of financial assistance provided by the authority
48 over the life of the agreement, amount committed to date, and amount
49 committed during the prior fiscal year, and where applicable, the
50 amount, type, and date of PILOT payments by tax jurisdiction, original
51 and to date; (c) attachment of the yearly schedule of exemptions and
52 other benefits committed by the authority for each year of the life of
53 the deal; (d) amount of public assistance, total, by program, and by
54 type of financial assistance, committed to the project by all other
55 federal, state, county, and local programs as of the date of the
56 execution of the agreement, as well as updated for the prior fiscal

1 year; and (e) amount and type of infrastructure investments incurred by
2 federal, state, county, and local governments on behalf of the project.

3 (iii) Project criteria: (a) number and types of full-time and part-
4 time jobs existing at the project on the date the original agreement was
5 executed, and median annual wage and benefit levels by job classifica-
6 tion; (b) number and types of full-time and part-time jobs originally
7 committed, as per financial assistance agreement, and median annual wage
8 and benefit levels by job classification; (c) number of full time and
9 part time jobs retained to date; (d) number of full time and part time
10 temporary construction jobs created by applicant and by project tenants
11 to date; (e) number of full time and part time non-construction jobs
12 created by applicant and by project tenants to date; (f) median annual
13 wage and benefit levels by job classification of full time and part
14 time, construction and non-construction jobs created and retained to
15 date; (g) actual date of hire for construction and non-construction
16 jobs; (h)(1) number and percent of total jobs created to date of New
17 York residents, separated by construction and non-construction employ-
18 ees; (2) number and percent of total jobs created to date of local resi-
19 dents, defined as those residing within the metropolitan statistical
20 area (MSA), micropolitan statistical area (MiSA), or county not within
21 an MSA or MiSA, in which the project occurs, separated by construction
22 and non-construction employees; (i) recipient use of union construction
23 apprenticeship programs or any other local workforce development
24 program, original and to date; (j) whether or not the project complied
25 with each aspect of the state smart growth public infrastructure policy
26 act; (k) the benchmarks for the current reporting year; (l) whether or
27 not the project has met each benchmark and if not, the financial assist-
28 ance amount the authority has recaptured during the current year and to
29 date; and (m) whether the project has a subsidy recapture provision.

30 (iv) Other: (a) whether recipient, its officers, principals, parent
31 company, subsidiaries or major shareholders have (1) violated the
32 prevailing wage law under article eight of the labor law or the federal
33 Davis-Bacon act; (2) violated state or federal laws relating to unem-
34 ployment compensation, workers' compensation, occupational health and
35 safety, employee misclassification, employment disability, employment
36 discrimination, or other labor laws; (3) violated state or federal envi-
37 ronmental protection laws; (4) failed to file federal, state or local
38 tax returns, any tax liabilities, judgments or liens, and violations of
39 agreements or laws under which a tax credit, tax exemption, loan or
40 grant was awarded by any federal, state or local entity; and (5) disclo-
41 sure of any investigations started or pending; (b) a description of such
42 violations; and (c) a statement as to whether the use of the financial
43 assistance during the previous fiscal year has reduced employment at any
44 other site controlled by the recipient corporation or its corporate
45 parent, within or without the state as a result of automation, merger,
46 acquisition, corporate restructuring or other business activity.

47 (v) Prior projects. Where information requested under this subdivision
48 is not required to be collected because the project was approved prior
49 to the effective date of title thirteen of this article, it shall be
50 noted accordingly in the report.

51 (vi) Duration. The database shall be for the period commencing on the
52 date that the financial assistance agreement and any other documents
53 applicable to such project have been executed through the final year
54 that such entity receives assistance for such project. At such point,
55 data on recipients of financial assistance shall be archived and avail-
56 able to the public; (7) a listing and description available to the

1 public in a non-proprietary electronic database, in addition to the
2 report required by paragraph a of subdivision three of section twenty-
3 eight hundred ninety-six of this article of all real property of such
4 authority having an estimated fair market value in excess of fifteen
5 thousand dollars that the authority acquires or disposes of through sale
6 or lease during such period. The report shall contain the price received
7 or paid by the authority, the fair market value at the time of sale or
8 lease, and the name of the purchaser or seller for all such property
9 sold or bought by the authority during such period; (8) such authority's
10 code of ethics; (9) an assessment of the effectiveness of its internal
11 control structure and procedures; (10) a copy of the legislation that
12 forms the statutory basis of the authority; (11) a description of the
13 authority and its board structure, including (i) names of committees and
14 committee members, (ii) lists of board meetings and attendance, (iii)
15 descriptions of major authority units, subsidiaries, ~~and~~ (iv) number
16 of employees, and (v) organizational chart; (12) its charter, if any,
17 and by-laws; (13) a listing of material changes in operations and
18 programs during the reporting year; (14) at a minimum a four-year finan-
19 cial plan, including (i) a current and projected capital budget, and
20 (ii) an operating budget report, including an actual versus estimated
21 budget, with an analysis and measurement of financial and operating
22 performance; (15) its board performance evaluations, including attend-
23 ance and voting records by each board member; ~~provided, however, that~~
24 ~~such evaluations shall not be subject to disclosure under article six of~~
25 ~~the public officers law,~~ (16) a description of the total amounts of
26 assets, services or both assets and services bought or sold without
27 competitive bidding, including (i) the nature of those assets and
28 services, (ii) the names of the counterparties, and (iii) where the
29 contract price for assets purchased exceeds fair market value, or where
30 the contract price for assets sold is less than fair market value, a
31 detailed explanation of the justification for making the purchase or
32 sale without competitive bidding, and a certification by the chief exec-
33 utive officer and chief financial officer of the public authority that
34 they have reviewed the terms of such purchase or sale and determined
35 that it complies with applicable law and procurement guidelines; and
36 (17) a description of any material pending litigation in which the
37 authority is involved as a party during the reporting year, except that
38 no hospital need disclose information about pending malpractice claims
39 beyond the existence of such claims.

40 (a) Every local authority, continued or created by this chapter or any
41 other chapter of the laws of the state of New York shall submit to the
42 chief executive officer, the chief fiscal officer, the chairperson of
43 the legislative body of the local government or local governments and
44 the authorities budget office, within ninety days after the end of its
45 fiscal year, a complete and detailed report or reports setting forth:
46 (1) its operations and accomplishments; (2) its financial reports,
47 including (i) audited financials in accordance with all applicable regu-
48 lations and following generally accepted accounting principles as
49 defined in subdivision ten of section two of the state finance law, (ii)
50 grants and subsidy programs, (iii) operating and financial risks, (iv)
51 current ratings if any, of its bonds issued by recognized municipal bond
52 rating agencies and notice of changes in such ratings, and (v) long-term
53 liabilities, including leases and employee benefit plans; (3) its
54 mission statement and measurements including its most recent measurement
55 report; (4) a schedule of its bonds and notes outstanding at the end of
56 its fiscal year, together with a statement of the amounts redeemed and

1 incurred during such fiscal year as part of a schedule of debt issuance
2 that includes the date of issuance, term, amount, interest rate and
3 means of repayment. Additionally, the debt schedule shall also include
4 all refinancings, calls, refundings, defeasements and interest rate
5 exchange or other such agreements, and for any debt issued during the
6 reporting year, the schedule shall also include a detailed list of costs
7 of issuance for such debt; (5) a compensation schedule in addition to
8 the report described in section twenty-eight hundred six of this title
9 that shall include, by position, title and name of the person holding
10 such position or title, the salary, compensation, allowance and/or bene-
11 fits provided to any officer, director or employee in a decision making
12 or managerial position of such authority whose salary is in excess of
13 one hundred thousand dollars; (5-a) biographical information, not
14 including confidential personal information, for all directors and offi-
15 cers and employees for whom salary reporting is required under subpara-
16 graph five of this paragraph; (6) the projects undertaken by such
17 authority during the past year, made available to the public in an elec-
18 tronic non-proprietary and downloadable database, that shall include but
19 not be limited to: (i) Project description: (a) name and address of
20 project applicant, including names of principal officers, any parent or
21 subsidiary corporations and major shareholders; (b) name of the site
22 consultants, project architect, engineer and contractors; (c) project
23 description, including address, block and lot, property and building
24 size, proposed start and completion dates for the financial transaction,
25 project goals, and description of project tenants; (d) electronic link
26 to the final application, the financial assistance agreement, the cost
27 benefit analysis, environmental impact assessment and/or environmental
28 impact statement, and where applicable the quarterly targeted hire
29 report; (e) whether project is located in an area of high economic
30 distress or on a brownfield opportunity area; (f) the amount, type and
31 date of capital investment to be provided by the recipient, originally
32 committed and to date; (g) amount, type, and date of public infrastruc-
33 ture investments made by recipient, originally committed and to date;
34 (h) amount and type of affordable housing to be built, if any,
35 originally committed and to date; (i) NAICS code for project; (j) the
36 public purpose of the project; (k) amount and type of point source and
37 non-point source pollution resulting from the project, if any, annually
38 and to date; (l) amount and type of energy use at project location,
39 originally benchmarked and to date; and (m) amount of greenhouse gas
40 emissions at project location originally benchmarked and to date.

41 (ii) Financial assistance: (a) categorized description of the total
42 amount and type of financial assistance provided by the authority over
43 the life of the agreement, amount committed to date, and amount commit-
44 ted during the prior fiscal year, including the value of any property
45 sold or leased at less than fair market value; (b) description of the
46 net amount and type of financial assistance provided by the authority
47 over the life of the agreement, amount committed to date, and amount
48 committed during the prior fiscal year, and where applicable, the
49 amount, type, and date of PILOT payments by tax jurisdiction, original
50 and to date; (c) attachment of the yearly schedule of exemptions and
51 other benefits committed by the authority for each year of the life of
52 the deal; (d) amount of public assistance, total, by program, and by
53 type of financial assistance, committed to the project by all other
54 federal, state, county, and local programs as of the date of the
55 execution of the agreement, as well as updated for the prior fiscal

1 year; and (e) amount and type of infrastructure investments incurred by
2 federal, state, county, and local governments on behalf of project.

3 (iii) Project criteria, where applicable: (a) number and types of
4 full-time and part-time jobs existing at the project on the date the
5 original agreement was executed, and median annual wage and benefit
6 levels by job classification; (b) number and types of full-time and
7 part-time jobs originally committed, as per financial assistance agree-
8 ment, and median annual wage and benefit levels by job classification;
9 (c) number of full time and part time jobs retained to date; (d) number
10 of full time and part time construction jobs created by applicant and by
11 project tenants to date; (e) number of full time and part time non-con-
12 struction jobs created by applicant and by project tenants to date; (f)
13 median annual wage and benefit levels by job classification of full time
14 and part time, construction and non-construction jobs created and
15 retained to date; (g) actual date of hire for construction and non-con-
16 struction jobs; (h) number and percent of total jobs created to date of
17 New York residents, separated by construction and non-construction
18 employees; (i) number and percent of total jobs created to date of local
19 residents, defined as those residing within the metropolitan statistical
20 area (MSA), micropolitan statistical area (MiSA), or county not within
21 an MSA or MiSA, in which the project occurs, separated by construction
22 and non-construction employees; (j) recipient use of union construction
23 apprenticeship programs or any other local workforce development
24 program, original and to date; (k) whether or not the project complied
25 with each aspect of the State Smart Growth Public Infrastructure Policy
26 Act; (l) the benchmarks for the current reporting year; (m) whether or
27 not the project has met each benchmark and if not, the financial assist-
28 ance amount the authority has recaptured during the current year and to
29 date; (n) whether the project has a subsidy recapture provision.

30 (iv) Other: (a) whether recipient, its officers, principals, parent
31 company, subsidiaries or major shareholders have (1) violated the
32 prevailing wage law under article eight of the labor law or the federal
33 Davis-Bacon act; (2) violated state or federal laws relating to unem-
34 ployment compensation, workers' compensation, occupational health and
35 safety, employee misclassification, employment disability, employment
36 discrimination, or other labor laws; (3) violated state or federal envi-
37 ronmental protection laws; (4) failed to file federal, state or local
38 tax returns, any tax liabilities, judgments or liens, and violations of
39 agreements or laws under which a tax credit, tax exemption, loan or
40 grant was awarded by any federal, state or local entity; and (5) disclo-
41 sure of any investigations started or pending; (b) a description of such
42 violations; and (c) a statement as to whether the use of the financial
43 assistance during the previous fiscal year has reduced employment at any
44 other site controlled by the recipient corporation or its corporate
45 parent, within or without the state as a result of automation, merger,
46 acquisition, corporate restructuring or other business activity.

47 (v) Prior projects. Where information requested under subdivision two
48 of this section is not required to be collected because the project was
49 approved prior to the adoption of this law, it shall be noted accord-
50 ingly in the report.

51 (vi) The database shall be for the period commencing on the date that
52 the financial assistance agreement and any other documents applicable to
53 such project have been executed through the final year that such entity
54 receives assistance for such project. At such point, data on recipients
55 of financial assistance shall be archived and available to the public;

56 (7) a listing and description available to the public in a non-proprie-

1 tary electronic database, in addition to the report required by para-
2 graph a of subdivision three of section twenty-eight hundred ninety-six
3 of this article of all real property of such authority having an esti-
4 mated fair market value in excess of fifteen thousand dollars that the
5 authority acquires or disposes of through sale or lease during such
6 period. The report shall contain the price received or paid by the
7 authority, the fair market value at the time of sale or lease, and the
8 name of the purchaser or seller for all such property sold or bought by
9 the authority during such period; (8) such authority's code of ethics;
10 (9) an assessment of the effectiveness of its internal control structure
11 and procedures; (10) a copy of the legislation that forms the statutory
12 basis of the authority; (11) a description of the authority and its
13 board structure, including (i) names of committees and committee
14 members, (ii) lists of board meetings and attendance, (iii) descriptions
15 of major authority units, subsidiaries, (iv) number of employees, and
16 (v) organizational chart; (12) its charter, if any, and by-laws; (13) a
17 listing of material changes in operations and programs during the
18 reporting year; (14) at a minimum a four-year financial plan, including
19 (i) a current and projected capital budget, and (ii) an operating budget
20 report, including an actual versus estimated budget, with an analysis
21 and measurement of financial and operating performance; (15) its board
22 performance evaluations [~~provided, however, that such evaluations shall~~
23 ~~not be subject to disclosure under article six of the public officers~~
24 ~~law~~], including attendance, voting records by each board member, and
25 categorization of each board member according to section twenty-nine
26 hundred ninety-six of this article; (16) a description of the total
27 amounts of assets, services or both assets and services bought or sold
28 without competitive bidding, including (i) the nature of those assets
29 and services, (ii) the names of the counterparties, and (iii) where the
30 contract price for assets purchased exceeds fair market value, or where
31 the contract price for assets sold is less than fair market value, a
32 detailed explanation of the justification for making the purchase or
33 sale without competitive bidding, and a certification by the chief exec-
34 utive officer and chief financial officer of the public authority that
35 they have reviewed the terms of such purchase or sale and determined
36 that it complies with applicable law and procurement guidelines; and
37 (17) a description of any material pending litigation in which the
38 authority is involved as a party during the reporting year, except that
39 no provider of medical services need disclose information about pending
40 malpractice claims beyond the existence of such claims.

41 § 6. Subdivision 1 of section 2800 of the public authorities law is
42 amended by adding a new paragraph (d) to read as follows:

43 (d) Nothing in this section shall be construed as prohibiting or
44 conflicting with any law or obligation that requires higher standards
45 for annual reporting by a state public authority.

46 § 7. Subdivision 2 of section 2800 of the public authorities law is
47 amended by adding two new paragraphs (c) and (d) to read as follows:

48 (c) The authorities budget office shall make accessible to the public,
49 via its official or shared internet web site, documentation pertaining
50 to each authority's mission, current activities, most recent annual
51 financial reports, current year budget and its most recent independent
52 audit report unless such information is covered by subdivision two of
53 section eighty-seven of the public officers law.

54 (d) Nothing in this section shall be construed as prohibiting or
55 conflicting with any law or obligation that requires higher standards
56 for annual reporting by a local public authority.

1 § 8. This act shall take effect on the ninetieth day after it shall
2 have become a law, provided, however, that effective immediately, the
3 addition, amendment and/or repeal of any rule or regulation necessary
4 for the implementation of this act on its effective date are authorized
5 to be made and completed on or before such date.