STATE OF NEW YORK

7524

2017-2018 Regular Sessions

IN ASSEMBLY

May 1, 2017

Introduced by M. of A. RA -- read once and referred to the Committee on Economic Development

AN ACT to amend the economic development law, in relation to reporting requirements for the START-UP NY program

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 section 438 to read as follows:

§ 438. Disclosure authorization and reporting requirements. 1. The commissioner and the department shall disclose publicly the names and addresses of the businesses located within a tax-free NY area. In addition, the commissioner and the department shall disclose publicly and include in the annual report required under subdivision two of this section such other information contained in such businesses' applications and annual reports, including the projected number of net new jobs to be created, as they determine is relevant and necessary to evaluate the success of this program.

2. (a) The commissioner shall prepare an annual report to the governor and the legislature. Such report shall include the number of business applicants, number of businesses approved, the names and addresses of the businesses located within a tax-free NY area, total amount of benefits distributed, benefits received per business, number of net new jobs created, net new jobs created per business, new investment per business, the types of industries represented and such other information as the commissioner determines is necessary to evaluate the progress of the START-UP NY program.

(b) Any business located in a tax-free NY area must submit an annual report to the commissioner in a form and at such time and with such information as prescribed by the commissioner in consultation with the commissioner of taxation and finance. Such information shall be sufficient for the commissioner and the commissioner of taxation and finance

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

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to: (i) monitor the continued eligibility of the business and its employees to participate in the START-UP NY program and receive the tax benefits described in section thirty-nine of the tax law; (ii) evaluate the progress of the START-UP NY program; and (iii) prepare the annual report required by paragraph (a) of this subdivision. Such annual report shall also include information regarding the wages paid during the year to its employees employed in the net new jobs created and maintained in the tax-free NY area.

3. The commissioner shall prepare on an annual basis a program report for posting on the department's website. The report shall be due on March first, two thousand eighteen and on March first every year thereafter.

§ 2. Subdivision 1 of section 433 of the economic development law, as amended by section 3 of part UUU of chapter 59 of the laws of 2017, is amended to read as follows:

1. In order to participate in the START-UP NY program, a business must satisfy all of the following criteria.

(a) The mission and activities of the business must align with or further the academic mission of the campus, college or university sponsoring the tax-free NY area in which it seeks to locate, and the business's participation in the START-UP NY program must have positive community and economic benefits.

(b) The business must demonstrate that it will, in its first year of operation, create net new jobs. After its first year of operation, the business must maintain net new jobs. In addition, the average number of employees of the business and its related persons in the state during the year must equal or exceed the sum of: (i) the average number of employees of the business and its related persons in the state during the year immediately preceding the year in which the business submits its application to locate in a tax-free NY area; and (ii) net new jobs of the business in the tax-free NY area during the year. The average number of employees of the business and its related persons in the state shall be determined by adding together the total number of employees of the business and its related persons in the state on March thirty-first, June thirtieth, September thirtieth and December thirty-first and dividing the total by the number of such dates occurring within such year.

(c) Except as provided in paragraphs [~~(f)~~] (g) and [~~(g)~~] (h) of this subdivision, at the time it submits its application for the START-UP NY program, the business must be a new business to the state.

(d) The business may be organized as a corporation, a partnership, limited liability company or a sole proprietorship.

(e) Upon completion of its first year in the START-UP NY program and thereafter, the business must complete and timely file the annual report required under section four hundred thirty-eight of this article.

(f) Except as provided in paragraphs [~~(f)~~] (g) and [~~(g)~~] (h) of this subdivision, the business must not be engaged in a line of business that is currently or was previously conducted by the business or a related person in the last five years in New York state.

[~~(f)~~] (g) If a business does not satisfy the eligibility standard set forth in paragraph (c) or [~~(e)~~] (f) of this subdivision, because at one point in time it operated in New York state but moved its operations out of New York state on or before June first, two thousand thirteen, the commissioner shall grant that business permission to apply to participate in the START-UP NY program if the commissioner determines that the business has demonstrated that it will substantially restore the jobs in New York state that it previously had moved out of state.

[~~(g)~~] (h) If a business seeks to expand its current operations in New York state into a tax-free NY area but the business does not qualify as a new business because it does not satisfy the criteria in paragraph (c) of subdivision six of section four hundred thirty-one of this article or the business does not satisfy the eligibility standard set forth in paragraph [~~(e)~~] (f) of this subdivision, the commissioner shall grant the business permission to apply to participate in the START-UP NY program if the commissioner determines that the business has demonstrated that it will create net new jobs in the tax-free NY area and that it or any related person has not eliminated any jobs in the state in connection with this expansion.

§ 3. This act shall take effect immediately.