

STATE OF NEW YORK

7697

IN SENATE

February 9, 2018

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to project applications and advisory opinions of the public authorities control board

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

1 Section 1. Subdivisions 2, 3, 3-a, 4 and 5 of section 51 of the public
2 authorities law are renumbered subdivisions 6, 7, 7-a, 8 and 9 and four
3 new subdivisions 2, 3, 4 and 5 are added to read as follows:

4 2. Any application made concerning a proposed project involving a loan
5 shall include the terms, conditions and dates of the repayment of state
6 appropriations authorized by law pursuant to a repayment agreement and
7 shall include a copy of the proposed repayment agreement. In any such
8 application the terms and conditions shall include, but not be limited
9 to:

10 a. Any job retention or job creation requirements and the terms of any
11 such requirements, where such loan would be conditional on any job
12 retention or job creation requirements, a description of any contractual
13 clawback provisions or other remedies in the event such requirements are
14 not met;

15 b. Rate of interest, for fixed rate agreements;

16 c. All terms necessary to determine and calculate interest for non-
17 fixed rate loan agreements;

18 d. Repayment date, or dates, and associated amounts, for the return of
19 loan principal;

20 e. Any conditions or restrictions associated with the loan, the terms
21 of such conditions or restrictions, and any contractual remedy if such
22 conditions or restrictions in the event of a breach of such terms;

23 f. Any security provision and a description of such provisions; and

24 g. Any guarantee associated with such loan.

25 3. Any application made concerning a proposed project involving a
26 grant shall include the terms and conditions of state appropriations

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

LBD14677-01-8

1 authorized by law pursuant to a grant disbursement agreement and pursu-
2 ant to any other agreements which would relate to such grant. In any
3 such application the terms and conditions shall include, but not be
4 limited to:

5 a. Any job retention or job creation requirements and the terms of any
6 such requirements, where such loan would be conditional on any job
7 retention or job creation requirements, a description of any contractual
8 clawback provisions or other remedies in the event such requirements are
9 not met;

10 b. A full description of the project and how the grant funds would be
11 used by the grantee;

12 c. Where such project would involve the purchase of real property, a
13 description of who would own the property;

14 d. Total cost of the project;

15 e. A list of all sources of funds for such project and a description
16 of each source of funds;

17 f. A list of all uses of funds for such project and a description of
18 each use of funds;

19 g. An conditions or restrictions on the grantee, the terms of such
20 conditions or restrictions, and any contractual remedies in the event of
21 a breach of such terms;

22 h. A description of the ownership;

23 i. A description of any lease agreements;

24 j. Any security provisions; and

25 k. Any guarantees associated with such grant.

26 4. Notwithstanding any law to the contrary, any project submitted to
27 the public authorities control board involving a loan or grant where
28 such loan or grant would be conditional on job retention or job creation
29 requirements shall include clawback provisions if such job requirements
30 are not met. The board may approve such projects only upon its determi-
31 nation that:

32 a. Such submitted project includes clawback provisions, in the event
33 job retention or job creation requirements are not met; and

34 b. Prior to grant disbursement, such applicant will submit to the
35 public authorities control board a binding letter of agreement between
36 the applicant and the grantee or loan recipient, or any beneficiaries of
37 such loan or grant who would be expected to retain or create jobs,
38 attesting that they agreed to the job creation or job retention clawback
39 requirements as a precondition to receiving the grant or loan.

40 5. A public benefit corporation subject to the provisions of this
41 section may submit to the public authorities control board a potential
42 project for comment from the public authorities control board. Such
43 preliminary project shall be submitted to all public authorities control
44 board members and all members as well as the state comptroller, and each
45 shall have thirty days to comment on the preliminary project, if they so
46 choose. Any such comments shall be filed by the public authorities
47 control board and transmitted to the relevant public benefit corpo-
48 ration. Any such comment shall be purely advisory, shall have no binding
49 effect on any future decision of the public authorities control board,
50 and shall not provide approval for any project.

51 § 2. This act shall take effect immediately.