

# STATE OF NEW YORK

5249

2019-2020 Regular Sessions

## IN ASSEMBLY

February 8, 2019

Introduced by M. of A. KIM, STECK, BURKE -- read once and referred to the Committee on Economic Development

AN ACT to amend the state finance law, in relation to creating an interstate compact prohibiting company-specific subsidies

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

1 Section 1. The state finance law is amended by adding a new article 17  
2 to read as follows:

### ARTICLE 17

#### INTERSTATE COMPACT PROHIBITING COMPANY-SPECIFIC SUBSIDIES

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5  
6 Section 250. Short title; purpose.

7 251. Definitions.

8 252. Compact.

9 253. Establishment of the board.

10 254. Entry into compact, withdrawal and termination.

11 255. Amendments to the compact.

12 256. Construction and severability.

13 257. Administration; expenses.

14 § 250. Short title; purpose. This article shall be known and may be  
15 cited as the "Interstate compact prohibiting company-specific subsidies".  
16 The purpose of this compact is, through means of joint and cooperative  
17 action among the compacting states, to eliminate company-specific subsi-  
18 dies.

19 § 251. Definitions. As used in this compact, unless the context clear-  
20 ly indicates otherwise, the following terms shall have the following  
21 meanings:

22 1. "Company-specific subsidy" shall mean company-specific tax incen-  
23 tives including any change in the general tax rate or valuation offered  
24 or presented by the state to a specific company that is not available to  
25 other similarly situated companies and company-specific grants including

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

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1 any disbursement of funds, property, cash or deferred tax liability  
2 offered by the state to a specific company. The term "company-specific  
3 subsidy" shall not include workforce development grants that provide  
4 funds for the purpose of training employees.

5 2. "By-laws" mean those by-laws established by the board for its  
6 governance or for directing or controlling the board's actions or  
7 conduct.

8 3. "Compacting state" means any state which has enacted this compact  
9 legislation and which has not withdrawn or been terminated pursuant to  
10 section two hundred fifty-four of this article.

11 4. "Board" means the "Interstate compact prohibiting company-specific  
12 subsidies board" established by the compact.

13 5. "State" means any state, district or territory of the United States  
14 of America.

15 6. "Company" means any proprietorship, partnership, corporation, or  
16 limited liability company.

17 § 252. Compact. 1. The compacting states hereby create and establish a  
18 compact to prohibit all company-specific subsidies. Such compacting  
19 states shall not provide any company-specific subsidy to any company  
20 whose headquarters, manufacturing facilities, office space or other real  
21 estate developments are located in their state or to incentivize any  
22 company to locate their headquarters, manufacturing facilities, office  
23 space or other real estate developments in their state.

24 2. Existing company-specific subsidies shall not be prohibited by this  
25 compact, however, any modification to the terms of any existing compa-  
26 ny-specific subsidy shall be considered a new company-specific subsidy  
27 and shall not be permitted under the terms of the compact.

28 § 253. Establishment of the board. 1. For the purpose of administering  
29 the provisions of this compact and to serve as a governing body for the  
30 resolution of all matters relating to the operation of this compact, a  
31 board of compact administrators is established. The board shall be  
32 composed of one representative from each of the compacting states to be  
33 known as the compact administrator. The compact administrator shall be  
34 appointed by the governor of each participating state and shall serve  
35 and be subject to removal in accordance with the laws of the state he or  
36 she represents. A compact administrator may provide for the discharge of  
37 his or her duties and the performance of his or her function as a board  
38 member by an alternate. An alternate shall not be entitled to serve  
39 unless written notification of his or her identity has been given to the  
40 board.

41 2. The board shall convene at least once annually and shall be respon-  
42 sible for collecting testimony from interested parties including, but  
43 not limited to, compacting states, organizations and associations  
44 representing state legislators, taxpayers and subject matter experts on  
45 how the compact can be improved and strengthened.

46 3. Each member of the board of compact administrators shall be enti-  
47 tled to one vote. No action of the board shall be binding unless at a  
48 meeting at which a majority of the total number of the board's votes are  
49 cast in favor thereof. Action by the board shall be only at a meeting at  
50 which a majority of the compacting states are represented.

51 4. The board shall elect annually from its membership a chair and  
52 vice-chair.

53 5. The board shall adopt by-laws not inconsistent with the provisions  
54 of this compact or the laws of a compacting state for the conduct of its  
55 business and shall have the power to amend and rescind its by-laws.

1 6. The board may accept for any of its purposes and functions under  
2 this compact any and all donations and grants of monies, equipment,  
3 supplies, materials and services conditional or otherwise, from any  
4 state, the United States or any governmental agency, and may receive,  
5 utilize and dispose of same.

6 7. The board may contract with, or accept services or personnel from,  
7 any governmental or intergovernmental agency, individual, firm or corpo-  
8 ration, or any private nonprofit organization or institution.

9 8. The board shall formulate all necessary procedures and develop  
10 uniform forms and documents for administering the provisions of this  
11 compact. All procedures and forms adopted pursuant to board action shall  
12 be contained in a compact manual.

13 § 254. Entry into compact, withdrawal and termination. 1. This compact  
14 shall become effective at such times as it is adopted in a substantially  
15 similar form by two or more states.

16 2. (a) Entry into the compact shall be made by resolution of ratifica-  
17 tion executed by the authorized officials of the applying state and  
18 submitted to the chair of the board.

19 (b) The resolution shall substantially be in the form and content as  
20 provided in the compact manual and shall include the following:

21 (i) A citation of the authority from which the state is empowered to  
22 become a party to this compact; and

23 (ii) An agreement of compliance with the terms and provisions of this  
24 compact.

25 (c) The effective date of entry shall be specified by the applying  
26 state but shall not be less than sixty days after notice has been given  
27 by the chair of the board of the compact administrators.

28 3. A compacting state may withdraw from participating in this compact  
29 by official written notice to each participating state, but withdrawal  
30 shall not become effective until ninety days after the notice of with-  
31 drawal is given. The notice shall be directed to the compact administra-  
32 tor of each compacting state. No withdrawal of any state shall affect  
33 the validity of this compact as to the remaining participating states.

34 4. If the board determines that any compacting state has at any time  
35 violated any of the terms or by-laws of the compact, then, after notice  
36 and hearing as set forth in the by-laws, may terminate such state from  
37 the compact if a willful violation has been found.

38 § 255. Amendments to the compact. 1. This compact may be amended from  
39 time to time. Amendments shall be presented in resolution form to the  
40 chair of the board of compact administrators and shall be initiated by  
41 one or more participating states.

42 2. Adoption of an amendment shall require endorsement by all partic-  
43 ipating states and shall become effective thirty days after the date of  
44 the last endorsement.

45 § 256. Construction and severability. This compact shall be liberally  
46 construed so as to effectuate the purposes stated herein. The provisions  
47 of this compact shall be severable and if any phrase, clause, sentence  
48 or provision of this compact is declared to be contrary to the constitu-  
49 tion of any compacting state or of the United States, or the applicabil-  
50 ity thereof to any government, agency, individual or circumstance is  
51 held invalid, the validity of the remainder of this compact shall not be  
52 affected thereby. If this compact shall be held contrary to the consti-  
53 tution of any compacting state, the compact shall remain in full force  
54 and effect as to the remaining states and in full force and effect as to  
55 the participating state affected as to all severable matters.

1 § 257. Administration; expenses. 1. The comptroller of the state of  
2 New York shall furnish to the appropriate authorities of the compacting  
3 states any information or documents reasonably necessary to facilitate  
4 the administration of this compact.

5 2. The compact administrator from this state is not entitled to any  
6 additional compensation for his or her service as such but is eligible  
7 for reimbursement for expenses incurred in connection with his or her  
8 responsibilities as compact administrator in the same manner as expenses  
9 incurred in connection with other responsibilities of his or her office  
10 or employment.

11 § 2. This act shall take effect upon the adoption of the interstate  
12 compact prohibiting company-specific subsidies by two or more states;  
13 and provided further that the comptroller of the state of New York shall  
14 notify the legislative bill drafting commission upon the occurrence of  
15 such adoption of the interstate compact prohibiting company-specific  
16 subsidies by two or more states in order that the commission may main-  
17 tain an accurate and timely effective data base of the official text of  
18 the laws of the state of New York in furtherance of effecting the  
19 provisions of section 44 of the legislative law and section 70-b of the  
20 public officers law.