

STATE OF NEW YORK

6311

2019-2020 Regular Sessions

IN ASSEMBLY

March 5, 2019

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

AN ACT to amend the economic development law, the public authorities law and the New York state urban development corporation act, in relation to establishing a residency requirement for state economic development assistance

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

1 Section 1. The economic development law is amended by adding a new
2 section 107 to read as follows:

3 § 107. Residency requirement. (1) The department shall require, as a
4 condition of any business incentive provided by or on behalf of the
5 department to a recipient firm, that: (a) such firm shall not relocate
6 outside the state during the term of such business incentive or for a
7 period of ten years after the award of such business incentive, whichever
8 is longer, unless the full amount of such assistance is repaid to the
9 state and a penalty equal to five percent of the total assistance
10 received is paid to the state, and (b) if the recipient firm relocates
11 within the state during the term of such business assistance in the case
12 of a loan or loan guarantee, or within two years of receiving an award,
13 grant, or other assistance, such firm shall offer employment at the new
14 location to its employees from the original location if such employment
15 is available.

16 (2) Notwithstanding any inconsistent provision of law, upon a finding
17 that a recipient firm relocates from one community to another community
18 within the state within two years of receiving a business incentive,
19 such firm shall be deemed ineligible to receive any additional business
20 incentives for a period of five years from the date of relocation. Upon
21 a finding that a recipient firm relocates outside of the state within
22 two years of receiving a business incentive, such firm shall be deemed
23 ineligible to receive any additional business incentives.

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

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1 (3) A waiver of the provisions of this section may be granted to a
2 recipient firm upon a determination of a legitimate hardship pursuant to
3 section fifty-one of the public authorities law.

4 (4) For the purposes of this section, the following terms shall have
5 the following meanings:

6 (a) "business incentive" means any award, contract for services, grant
7 or other financial assistance provided by or on behalf of the department
8 to assist an eligible recipient firm in retention or creation of jobs in
9 the state which, alone or in combination with other financial assistance
10 provided by a state agency, public authority, or public benefit corpo-
11 ration, exceeds five hundred thousand dollars;

12 (b) "legitimate hardship" means a circumstance under which a recipient
13 firm is compelled to relocate due to unforeseen circumstances beyond the
14 direct or indirect control of such recipient firm;

15 (c) "recipient firm" means any person, firm, partnership, company,
16 association, or corporation that is the recipient of a business incen-
17 tive; and

18 (d) "relocate" means the physical transfer of the operations of a
19 recipient firm in its entirety or of any division of a recipient firm
20 which independently receives a business incentive from the location such
21 business or division occupied at the time it accepted such business
22 incentive.

23 (5) The department shall adopt rules and regulations necessary to
24 implement the provisions of this section.

25 (6) On or before October first, two thousand twenty and on or before
26 such date annually thereafter, the commissioner shall submit a report to
27 the governor, the speaker of the assembly, and the temporary president
28 of the senate with respect to the implementation and enforcement of the
29 provisions of this section. Such report shall include, but not be limit-
30 ed to, a listing of those recipient firms subject to the provisions of
31 this section; the total amount of the business incentive associated with
32 each firm; and the aggregate amount of funds returned or anticipated to
33 be returned to the state.

34 § 2. The public authorities law is amended by adding a new section
35 1803-b to read as follows:

36 § 1803-b. Residency requirement. (1) The authority shall require, as a
37 condition of any business incentive provided to a recipient firm, that:
38 (a) such recipient firm shall not relocate outside the state during the
39 term of such business incentive or for a period of ten years after the
40 award of such business incentive, whichever is longer, unless the full
41 amount of such assistance is repaid to the state and a penalty equal to
42 five percent of the total assistance received is paid to the state, and
43 (b) if the recipient firm relocates within the state during the term of
44 such business assistance in the case of a loan or loan guarantee, or
45 within two years of receiving an award, grant, or other assistance, such
46 firm shall offer employment at the new location to its employees from
47 the original location if such employment is available.

48 (2) Notwithstanding any inconsistent provision of law, upon a finding
49 that a recipient firm relocates from one community to another community
50 within the state within two years of receiving a business incentive,
51 such firm shall be deemed ineligible to receive any additional business
52 incentives for a period of five years from the date of relocation. Upon
53 a finding that a recipient firm relocates outside of the state within
54 two years of receiving a business incentive, such firm shall be deemed
55 ineligible to receive any additional business incentives.

(3) A waiver of the provisions of this section may be granted to a recipient firm upon a determination of a legitimate hardship pursuant to section fifty-one of this chapter.

(4) For the purposes of this section, the following terms shall have the following meanings:

(a) "recipient firm" means any person, firm, partnership, company, association, or corporation that is the recipient of a business incentive;

(b) "business incentive" means any award, grant, interest subsidy grant, loan, loan guarantee, or other financial assistance that is provided by or on behalf of the authority to assist an eligible recipient firm in the retention or creation of jobs in the state and which, alone or in combination with other financial assistance provided by a state agency, public authority, or public benefit corporation, exceeds five hundred thousand dollars;

(c) "legitimate hardship" means a circumstance under which a recipient firm is compelled to relocate due to unforeseen circumstances beyond the direct or indirect control of such recipient firm; and

(d) "relocate" means the physical transfer of the operations of a recipient firm in its entirety or of any division of a recipient firm which independently receives a business incentive from the location such business or division occupied at the time it accepted such business incentive.

(5) The authority shall adopt rules and regulations necessary to implement the provisions of this section.

(6) On or before October first, two thousand twenty and on or before such date annually thereafter, the chairman shall submit a report to the governor, the speaker of the assembly, and the temporary president of the senate with respect to the implementation and enforcement of the provisions of this section. Such report shall include, but not be limited to, a listing of those recipient firms subject to the provisions of this section; the total amount of the business incentive associated with each firm; and the aggregate amount of funds returned or anticipated to be returned to the state.

§ 3. The public authorities law is amended by adding a new section 3105-b to read as follows:

§ 3105-b. Residency requirement. (1) The corporation shall require, as a condition of any business incentive provided to a recipient firm, that: (a) such recipient firm shall not relocate outside the state during the term of such business incentive or for a period of ten years after the award of such business incentive, whichever is longer, unless the full amount of such assistance is repaid to the state and a penalty equal to five percent of the total assistance received is paid to the state, and (b) if the recipient firm relocates within the state during the term of such business assistance in the case of a loan or loan guarantee, or within two years of receiving an award, grant, or other assistance, such firm shall offer employment at the new location to its employees from the original location if such employment is available.

(2) Notwithstanding any inconsistent provision of law, upon a finding that a recipient firm relocates from one community to another community within the state within two years of receiving a business incentive, such firm shall be deemed ineligible to receive any additional business incentives for a period of five years from the date of relocation. Upon a finding that a recipient firm relocates outside of the state within two years of receiving a business incentive, such firm shall be deemed ineligible to receive any additional business incentives.

1 (3) A waiver of the provisions of this section may be granted to a
2 recipient firm upon a determination of a legitimate hardship pursuant to
3 section fifty-one of this chapter.

4 (4) For the purposes of this section, the following terms shall have
5 the following meanings:

6 (a) "recipient firm" means any person, firm, partnership, company,
7 association or corporation that is the recipient of a business incen-
8 tive;

9 (b) "business incentive" means any award, grant, contract for
10 services, interest subsidy grant, loan, loan guarantee, or other finan-
11 cial assistance that is provided by or on behalf of the corporation to
12 assist an eligible recipient firm in the retention or creation of jobs
13 in the state and which, alone or in combination with other financial
14 assistance provided by a state agency, public authority, or public bene-
15 fit corporation, exceeds five hundred thousand dollars;

16 (c) "legitimate hardship" means a circumstance under which a recipient
17 firm is compelled to relocate due to unforeseen circumstances beyond the
18 direct or indirect control of such recipient firm; and

19 (d) "relocate" means the physical transfer of the operations of a
20 recipient firm in its entirety or of any division of a recipient firm
21 which independently receives a business incentive from the location such
22 business or division occupied at the time it accepted such business
23 incentive.

24 (5) The corporation shall adopt rules and regulations necessary to
25 implement the provisions of this section.

26 (6) On or before October first, two thousand twenty and on or before
27 such date annually thereafter, the chairman shall submit a report to the
28 governor, the speaker of the assembly, and the temporary president of
29 the senate with respect to the implementation and enforcement of the
30 provisions of this section. Such report shall include, but not be limit-
31 ed to, a listing of those recipient firms subject to the provisions of
32 this section; the total amount of the business incentive associated with
33 each firm; and the aggregate amount of funds returned or anticipated to
34 be returned to the state.

35 § 4. Section 1 of chapter 174 of the laws of 1968, constituting the
36 New York state urban development corporation act, is amended by adding a
37 new section 31-b to read as follows:

38 § 31-b. Residency requirement. (1) The corporation shall require, as a
39 condition of any business incentive provided to a recipient firm, that:

40 (a) such recipient firm shall not relocate outside the state during the
41 term of such business incentive or for a period of ten years after the
42 award of such business incentive, whichever is longer, unless the full
43 amount of such assistance is repaid to the state and a penalty equal to
44 five percent of the total assistance received is paid to the state, and

45 (b) if the recipient firm relocates within the state during the term of
46 such business assistance in the case of a loan or loan guarantee, or
47 within two years of receiving an award, grant or other assistance, such
48 firm shall offer employment at the new location to its employees from
49 the original location if such employment is available.

50 (2) Notwithstanding any inconsistent provision of law, upon a finding
51 that a recipient firm relocates from one community to another community
52 within the state within two years of receiving a business incentive,
53 such firm shall be deemed ineligible to receive any additional business
54 incentives for a period of five years from the date of relocation. Upon
55 a finding that a recipient firm relocates outside of the state within

1 two years of receiving a business incentive, such firm shall be deemed
2 ineligible to receive any additional business incentives.

3 (3) A waiver of the provisions of this section may be granted to a
4 recipient firm upon a determination of a legitimate hardship pursuant to
5 section fifty-one of the public authorities law.

6 (4) For the purposes of this section, the following terms shall have
7 the following meanings:

8 (a) "recipient firm" means any person, firm, partnership, company,
9 association, or corporation that is the recipient of a business incen-
10 tive;

11 (b) "business incentive" means any award, grant, interest subsidy
12 grant, loan, loan guarantee, or other financial assistance that is
13 provided by or on behalf of the corporation to assist an eligible recip-
14 ient firm in the retention or creation of jobs in the state and which,
15 alone or in combination with other financial assistance provided by a
16 state agency, public authority, or public benefit corporation, exceeds
17 five hundred thousand dollars;

18 (c) "legitimate hardship" means a circumstance under which a recipient
19 firm is compelled to relocate due to unforeseen circumstances beyond the
20 direct or indirect control of such recipient firm; and

21 (d) "relocate" means the physical transfer of the operations of a
22 recipient firm in its entirety or of any division of a recipient firm
23 which independently receives a business incentive from the location such
24 business or division occupied at the time it accepted such business
25 incentive.

26 (5) The corporation shall adopt rules and regulations necessary to
27 implement the provisions of this section.

28 (6) On or before October first, two thousand twenty and on or before
29 such date annually thereafter, the chairman shall submit a report to the
30 governor, the speaker of the assembly, and the temporary president of
31 the senate with respect to the implementation and enforcement of the
32 provisions of this section. Such report shall include, but not be limit-
33 ed to, a listing of those recipient firms subject to the provisions of
34 this section; the total amount of the business incentive associated with
35 each firm; and the aggregate amount of funds returned or anticipated to
36 be returned to the state.

37 § 5. Section 51 of the public authorities law is amended by adding two
38 new subdivisions 3-b and 3-c to read as follows:

39 3-b. Upon a determination of legitimate hardship, the board may waive
40 any requirements established pursuant to section one hundred seven of
41 the economic development law, sections eighteen hundred three-b and
42 thirty-one hundred five-b of this chapter, or section thirty-one-b of
43 the New York state urban development corporation act. In making such a
44 determination, the board shall find that sufficient justification exists
45 for the failure of a recipient firm to fully execute and complete the
46 terms and conditions associated with the award of a business incentive.

47 3-c. Insofar as the provisions of subdivision three-b of this section
48 are inconsistent with the provisions of any other general or special
49 law, the provisions of such subdivision three-b shall be controlling.

50 § 6. This act shall take effect immediately and shall apply only to
51 business incentives awarded on and after such date.