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:

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

§ 107. Residency requirement. (1) The department shall require, as a condition of any business incentive provided by or on behalf of the department to a recipient firm, that: (a) such 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.

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

LBD10088-02-9

(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 the public authorities law.

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

(a) "business incentive" means any award, contract for services, grant or other financial assistance provided by or on behalf of the department to assist an eligible recipient firm in retention or creation of jobs in the state 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;

(b) "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;

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

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

§ 1803-b. Residency requirement. (1) The authority 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.

(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.

(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, contract for services, interest subsidy grant, loan, loan guarantee, or other financial assistance that is provided by or on behalf of the corporation 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 corporation 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.

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

§ 31-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.

(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 the public authorities law.

(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 corporation 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 corporation 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.

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

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

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

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