

# STATE OF NEW YORK

8675

2019-2020 Regular Sessions

## IN ASSEMBLY

October 23, 2019

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

AN ACT to amend the state finance law, in relation to establishing an interstate compact agreement to phase out corporate giveaways

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 AGREEMENT TO PHASE OUT CORPORATE

#### GIVEAWAYS

3 Section 250. Interstate compact agreement to phase out corporate give-  
4 aways.

5 § 250. Interstate compact agreement to phase out corporate giveaways.  
6 This act shall be known and may be cited as the "agreement to phase out  
7 corporate giveaways act".

8 Article 1. Membership. Any state of the United States and the District  
9 of Columbia may become a member of this compact by enacting this agree-  
10 ment in substantially the following form.

11 Article 2. Definitions. As used in this compact, unless the context  
12 clearly indicates otherwise, the following terms shall have the follow-  
13 ing meanings:

14 a. "Corporate giveaway" means any company-specific or industry-specif-  
15 ic disbursement of funds via property, cash or deferred or reduced tax  
16 liability by a state or local government to a particular company or  
17 industry.

18 b. "Member state" means any state or the District of Columbia that has  
19 enacted a statute agreeing to this compact.

20 c. "Company-specific tax incentive" is any change in the general tax  
21 rate or valuation offered or presented to a specific company that is not  
22 available to other similarly-situated companies.

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

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1 d. "Company-specific grant" is any disbursement of funds via property,  
2 cash or deferred tax liability by the state or local government to a  
3 particular company.

4 e. "Located in any other member state" means any corporate headquar-  
5 ters, office space, manufacturing facility or other real estate develop-  
6 ment that is physically located in another member state, whether or not  
7 the company has other property in the member state.

8 Article 3. Findings. The member states find that:

9 a. Corporate giveaways are among the least effective uses of taxpayer  
10 dollars to create and maintain jobs;

11 b. Local and state leaders are in a prisoners' dilemma where it is  
12 best for all to create a level playing field for all employers without  
13 any corporate giveaways, but each level of government has an incentive  
14 to subsidize a company, generating a race to the bottom;

15 c. Governments should attract and retain companies based on general  
16 conditions (including but not limited to modern infrastructure, an  
17 educated workforce, a clean environment, and a favorable tax and regula-  
18 tory climate), not based on a specific grant for a particular company;

19 d. Corporate giveaways fuel business inequality as only the largest  
20 businesses receive the vast majority of these funds;

21 e. A reasonable first step in phasing out corporate giveaways is an  
22 anti-poaching agreement among state governments prohibiting state compa-  
23 ny-specific tax incentives and state company-specific grants as an  
24 inducement for entities to relocate existing facilities;

25 f. Creating a national board of gubernatorial appointees charged with  
26 finding consensus around improvements to this agreement over time in a  
27 phased approach will assist state and local governments in escaping from  
28 the prisoners' dilemma and implementing a level playing field for all  
29 employers.

30 Article 4. Anti-poaching prohibition. Each member state is prohibited  
31 from offering or providing any company-specific tax incentive or compa-  
32 ny-specific grant to any entity for a corporate headquarters, manufactur-  
33 ing facility, office space or other real estate development located  
34 in any other member state as an inducement for the corporate headquar-  
35 ters, manufacturing facility, office space or other real estate develop-  
36 ment to relocate to the offering member state.

37 Article 5. Exclusions. Workforce development grants that train employ-  
38 ees are not subject to this agreement. Company-specific tax incentives  
39 or company-specific grants from local governments are not subject to  
40 this agreement. State company-specific tax incentives or state compa-  
41 ny-specific grants to entities for corporate headquarters, office space,  
42 manufacturing facilities or real estate developments located within its  
43 own state are not subject to this agreement.

44 Article 6. Withdrawal. Any member state may withdraw from this agree-  
45 ment with six months' notice and shall do so in writing to the chief  
46 executive officer of every other member state to the agreement.

47 Article 7. Enforcement. a. The chief law enforcement officer of each  
48 member state shall enforce this compact.

49 b. A taxpaying resident of any member state has standing in the courts  
50 of any member state to require the chief law enforcement officer of that  
51 member state to enforce this compact.

52 Article 8. National board to draft suggested improvements over time to  
53 the agreement. A national board of the agreement to phase out corporate  
54 giveaways act is established by this agreement. Each chief executive  
55 officer of each member state shall appoint one member to the board. The  
56 board shall accept appointees from non-member states that wish to

1 appoint a member of the board. The purpose of the board is to publish  
2 suggested revisions to this agreement in December of every year to  
3 continue to phase out those forms of corporate giveaways that the board  
4 finds reasonable to include as suggested revisions to the agreement for  
5 member states to consider implementing. The board shall convene at  
6 least annually, elect officers from its membership, establish rules and  
7 procedures for its governance and publish a report in December of every  
8 year that includes suggested revisions and improvements to this agree-  
9 ment. The board shall collect testimony from all interested parties,  
10 including organizations and associations representing state legislators,  
11 taxpayers and subject matter experts on how the agreement can be  
12 improved and strengthened.

13 Article 9. Construction and severability. This compact shall be liber-  
14 ally construed so as to effectuate its purposes. If any phrase, clause,  
15 sentence or provision of this compact, or the applicability of any  
16 phrase, clause, sentence or provision of this compact to any government,  
17 agency, person or circumstance is declared in a final judgment by a  
18 court of competent jurisdiction to be contrary to the constitution of  
19 the United States or is otherwise held invalid, the validity of the  
20 remainder of this compact and the applicability of the remainder of this  
21 compact to any government, agency, person or circumstance shall not be  
22 affected.

23 If this compact is held to be contrary to the constitution of any  
24 member state, the compact shall remain in full force and effect as to  
25 the remaining member states and in full force and effect as to the  
26 affected member state as to all severable matters.

27 § 2. This act shall take effect upon the adoption of the interstate  
28 compact agreement to phase out corporate giveaways by two or more  
29 states; and provided further that the comptroller of the state of New  
30 York shall notify the legislative bill drafting commission upon the  
31 occurrence of such adoption of the interstate compact agreement to phase  
32 out corporate giveaways by two or more states in order that the commis-  
33 sion may maintain an accurate and timely effective data base of the  
34 official text of the laws of the State of New York in furtherance of  
35 effecting the provisions of section 44 of the legislative law and  
36 section 70-b of the public officers law.