

# STATE OF NEW YORK

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2766

2019-2020 Regular Sessions

## IN SENATE

January 29, 2019

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Introduced by Sen. COMRIE -- 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, 8, 9 and 10 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, expressly and in writing, the terms, conditions and dates  
6 of the repayment of state appropriations authorized by law pursuant to a  
7 repayment agreement and shall include a copy of the proposed repayment  
8 agreement. In any such application the terms and conditions, provided  
9 expressly and in writing, shall include, but not be limited 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

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

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1 g. Any guarantee associated with such loan.

2 3. Any application made concerning a proposed project involving a  
3 grant shall include, expressly and in writing, the terms and conditions  
4 of state appropriations authorized by law pursuant to a grant disburse-  
5 ment agreement and pursuant to any other agreements which would relate  
6 to such grant. In any such application the terms and conditions,  
7 provided expressly and in writing, shall include, but not be limited to:

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

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

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

17 d. Total cost of the project;

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

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

22 g. An conditions or restrictions on the grantee, the terms of such  
23 conditions or restrictions, and any contractual remedies in the event of  
24 a breach of such terms;

25 h. A description of the ownership;

26 i. A description of any lease agreements;

27 j. Any security provisions; and

28 k. Any guarantees associated with such grant.

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

35 a. Such submitted project includes, expressly and in writing, clawback  
36 provisions, in the event job retention or job creation requirements are  
37 not met; and

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

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

1 § 2. Subdivisions 8 and 9 of section 51 of the public authorities law,  
2 as added by chapter 838 of the laws of 1983 and as renumbered by section  
3 one of this act, are amended to read as follows:

4 9. Notwithstanding any other provisions of this section, the require-  
5 ments of subdivisions one, [~~two~~] six and [~~three~~] seven of this section  
6 shall not apply with regard to any project of the New York state envi-  
7 ronmental facilities corporation, the New York state housing finance  
8 agency, the New York state medical care facilities finance agency or the  
9 dormitory authority in progress on the first day of April, nineteen  
10 hundred seventy-six, with regard to any project of the New York state  
11 project finance agency or the New York state urban development corpo-  
12 ration in progress on the first day of April, nineteen hundred seventy-  
13 eight, with regard to any project of the job development authority or  
14 the battery park city authority in progress on the first day of July,  
15 nineteen hundred eighty, and with regard to a project of any other  
16 public benefit corporation subject to the provisions of this section in  
17 progress on the first day of July, nineteen hundred eighty-three, as  
18 determined by the New York state public authorities control board whose  
19 affirmative determination shall be conclusive as to all matters of law  
20 and fact for the purpose of the limitations of this section.

21 10. Nothing contained in subdivisions one, [~~two~~] six and [~~three~~] seven  
22 of this section shall limit the right or obligation of any public bene-  
23 fit corporation subject to the provisions of this section to comply with  
24 the provisions of any existing contract, including any existing contract  
25 with or for the benefit of the holders of any obligations of any public  
26 benefit corporation.

27 § 3. This act shall take effect immediately.