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:

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

ARTICLE 17
INTERSTATE COMPACT PROHIBITING
COMPANY-SPECIFIC SUBSIDIES

Section 250. Short title; purpose.
251. Definitions.
252. Compact.
253. Establishment of the board.
254. Entry into compact, withdrawal and termination.
255. Amendments to the compact.
256. Construction and severability.
257. Administration; expenses.

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

§ 251. Definitions. As used in this compact, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

1. "Company-specific subsidy" shall mean company-specific tax incentives including any change in the general tax rate or valuation offered or presented by the state to a specific company that is not available to 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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any disbursement of funds, property, cash or deferred tax liability offered by the state to a specific company. The term "company-specific subsidy" shall not include workforce development grants that provide funds for the purpose of training employees.

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

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 "Compacting state" means any state which has enacted this compact legislation and which has not withdrawn or been terminated pursuant to section two hundred fifty-four of this article.

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

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

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

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

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

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

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

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

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

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

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

7. The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm or corporation, or any private nonprofit organization or institution.

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

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

2. (a) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chair of the board.

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

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

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

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

3. A compacting state may withdraw from participating in this compact by official written notice to each participating state, but withdrawal shall not become effective until ninety days after the notice of withdrawal is given. The notice shall be directed to the compact administrator of each compacting state. No withdrawal of any state shall affect the validity of this compact as to the remaining participating states.

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

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

2. Adoption of an amendment shall require endorsement by all participating states and shall become effective thirty days after the date of the last endorsement.

§ 256. Construction and severability. This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any compacting state or of the United States, or the applicability thereof to any government, agency, individual or circumstance is held invalid, the validity of the remainder of this compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any compacting state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the participating state affected as to all severable matters.

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

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

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