

STATE OF NEW YORK

4720--B

2019-2020 Regular Sessions

IN SENATE

March 21, 2019

Introduced by Sens. MAYER, SKOUFIS, BIAGGI, HARCKHAM, KRUEGER, METZGER, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- recommitted to the Committee on Local Government in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, in relation to industrial development agencies

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

1 Section 1. Section 854 of the general municipal law is amended by
2 adding a new subdivision 21 to read as follows:

3 (21) "Labor organization" -- shall mean any organization which exists
4 and is constituted for the purpose, in whole or in part, of collective
5 bargaining, or of dealing with employers concerning grievances, terms or
6 conditions of employment, or of other mutual aid or protection and which
7 is not a company union.

8 § 2. Subdivision 2 of section 856 of the general municipal law, as
9 amended by chapter 356 of the laws of 1993, is amended to read as
10 follows:

11 2. An agency shall be a corporate governmental agency, constituting a
12 public benefit corporation. Except as otherwise provided by special act
13 of the legislature, an agency shall consist of not less than three nor
14 more than seven members who shall be appointed by the governing body of
15 each municipality and who shall serve at the pleasure of the appointing
16 authority. Such members ~~may~~ shall include ~~representatives~~ at least
17 one representative of ~~[local government, school boards, organized labor~~
18 ~~and business]~~ a local labor organization. A member shall continue to
19 hold office until his successor is appointed and has qualified. The

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

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1 governing body of each municipality shall designate the first chairman
2 and file with the secretary of state a certificate of appointment or
3 reappointment of any member. Such members shall receive no compensation
4 for their services but shall be entitled to the necessary expenses,
5 including traveling expenses, incurred in the discharge of their duties.

6 § 3. Section 859-a of the general municipal law, as added by chapter
7 356 of the laws of 1993 and subdivisions 4, 5 and 6 as added by chapter
8 563 of the laws of 2015, is amended to read as follows:

9 § 859-a. Additional prerequisites to the provisions of financial
10 assistance or payments in lieu of taxes. Prior to providing any finan-
11 cial assistance or payments in lieu of taxes of more than one hundred
12 thousand dollars to any project, the agency must comply with the follow-
13 ing prerequisites:

14 1. The agency must adopt a resolution describing the project and the
15 financial assistance or payments in lieu of taxes that the agency is
16 contemplating with respect to such project. Such assistance or payments
17 in lieu of taxes shall be consistent with the uniform tax exemption
18 policy adopted by the agency pursuant to subdivision four of section
19 eight hundred seventy-four of this [chapter] title, unless the agency
20 has followed the procedures for deviation from such policy specified in
21 paragraph (b) of such subdivision.

22 2. The agency must hold a public hearing with respect to the project
23 and the proposed financial assistance or payments in lieu of taxes being
24 contemplated by the agency. Said public hearing shall be held in a city,
25 town or village where the project proposes to locate. At said public
26 hearing, interested parties shall be provided reasonable opportunity,
27 both orally and in writing, to present their views with respect to the
28 project.

29 3. The agency must give at least ten days published notice of said
30 public hearing and shall, at the same time, provide notice of such hear-
31 ing to the chief executive officer of each affected tax jurisdiction
32 within which the project is located, each school board president and
33 superintendent of each school district within which the project is
34 located, and to all state senators and members of the state assembly who
35 represent any portion of any affected tax jurisdiction that is subject
36 to the proposed financial assistance or payments in lieu of taxes. The
37 notice of hearing must state the time and place of the hearing, contain
38 a general, functional description of the project, describe the prospec-
39 tive location of the project, identify the initial owner, operator or
40 manager of the project and generally describe the financial assistance
41 or payments in lieu of taxes contemplated by the agency with respect to
42 the project.

43 4. Each agency shall develop a standard application form, which shall
44 be used by the agency to accept requests for financial assistance or
45 payments in lieu of taxes from all individuals, firms, companies, devel-
46 opers or other entities or organizations. The standard application form
47 shall be submitted by or on behalf of the applicant, and subscribed and
48 affirmed under the penalties of perjury by the applicant, or on behalf
49 of the applicant by the chief executive officer or such other individual
50 that is duly authorized to bind the applicant, as true, accurate and
51 complete to the best of his or her knowledge. The standard application
52 form shall include the following, and may include such other supple-
53 mental information as determined to be necessary and appropriate by the
54 agency, including supporting documents and information provided by or on
55 behalf of the applicant:

56 (a) the name and address of the project applicant;

1 (b) a description of the proposed project for which financial assist-
2 ance or payments in lieu of taxes is requested, including the type of
3 project, proposed location and purpose of the project;

4 (c) the amount and type of financial assistance or payments in lieu of
5 taxes being requested, including the estimated value of each type of tax
6 exemption sought to be claimed by reason of agency involvement in the
7 project;

8 (d) a statement that there is a likelihood that the project would not
9 be undertaken but for the financial assistance or payments in lieu of
10 taxes provided by the agency or, if the project could be undertaken
11 without financial assistance or payments in lieu of taxes provided by
12 the agency, a statement indicating why the project should be undertaken
13 by the agency;

14 (e) an estimate of capital costs of the project, including all costs
15 of real property and equipment acquisition and building construction or
16 reconstruction, financed from private sector sources, an estimate of the
17 percentage of project costs financed from public sector sources, and an
18 estimate of both the amount to be invested by the applicant and the
19 amount to be borrowed to finance the project[-];

20 (f) the projected number of full time equivalent jobs that would be
21 retained and that would be created if the request for financial assist-
22 ance or payments in lieu of taxes is granted, the projected timeframe
23 for the creation of new jobs, the estimated salary and fringe benefit
24 averages or ranges for categories of the jobs that would be retained or
25 created if the request for financial assistance or payments in lieu of
26 taxes is granted, and an estimate of the number of residents of the
27 economic development region as established pursuant to section two
28 hundred thirty of the economic development law or the labor market area
29 as defined by the agency, in which the project is located that would
30 fill such jobs. The labor market area defined by the agency for this
31 purpose may include no more than six contiguous counties in the state,
32 including the county in which the project is to be located;

33 (g) a statement to the effect that the provisions of subdivision one
34 of section eight hundred sixty-two of this [~~chapter~~] title will not be
35 violated if financial assistance or payments in lieu of taxes is
36 provided for the proposed project;

37 (h) a statement that the owner, occupant or operator receiving finan-
38 cial assistance or payments in lieu of taxes is in substantial compli-
39 ance with applicable local, state and federal tax, worker protection and
40 environmental laws, rules and regulations; and

41 (i) a statement acknowledging that the submission of any knowingly
42 false or knowingly misleading information may lead to the immediate
43 termination of any financial assistance or payments in lieu of taxes and
44 the reimbursement of an amount equal to all or part of any tax
45 exemptions claimed by reason of agency involvement in the project.

46 5. Each agency shall develop, and adopt by resolution, uniform crite-
47 ria for the evaluation and selection for each category of projects for
48 which financial assistance or payments in lieu of taxes will be
49 provided. At a minimum, the criteria shall require that, for each
50 project, the following must occur prior to the approval of the provision
51 of financial assistance or payments in lieu of taxes:

52 (a) an assessment by the agency of all material information included
53 in connection with the application for financial assistance or payments
54 in lieu of taxes, as necessary to afford a reasonable basis for the
55 decision by the agency to provide financial assistance or payments in
56 lieu of taxes for the project;

1 (b) a written cost-benefit analysis by the agency that identifies the
2 extent to which a project will create or retain permanent, private
3 sector jobs; the estimated value of any tax exemptions to be provided;
4 the amount of private sector investment generated or likely to be gener-
5 ated by the proposed project; the likelihood of accomplishing the
6 proposed project in a timely fashion; and the extent to which the
7 proposed project will provide additional sources of revenue for munici-
8 palities and school districts; and any other public benefits that might
9 occur as a result of the project;

10 (c) a statement by the applicant that the project, as of the date of
11 the application, is in substantial compliance with all provisions of
12 this article including, but not limited to, the provisions of this
13 section and subdivision one of section eight hundred sixty-two of this
14 [~~chapter~~] title; and

15 (d) if the project involves the removal or abandonment of a facility
16 or plant within the state, notification by the agency to the chief exec-
17 utive officer or officers of the municipality or municipalities in which
18 the facility or plant was located.

19 6. Each agency shall develop a uniform agency project agreement that
20 sets forth terms and conditions under which financial assistance or
21 payments in lieu of taxes shall be provided. The uniform agency project
22 agreement shall be used by the agency and no financial assistance or
23 payments in lieu of taxes shall be provided in the absence of the
24 execution of such an agreement. The uniform agency project agreement
25 shall, at a minimum:

26 (a) describe the project and the financial assistance or payments in
27 lieu of taxes, including the amount and type, to be provided, and the
28 agency purpose to be achieved;

29 (b) require each project owner, occupant or operator receiving finan-
30 cial benefits or payments in lieu of taxes to provide annually a certi-
31 fied statement and documentation: (i) enumerating the full time equiv-
32 alent jobs retained and the full time equivalent jobs created as a
33 result of the financial assistance or payments in lieu of taxes, by
34 category, including full time equivalent independent contractors or
35 employees of independent contractors that work at the project location,
36 and (ii) indicating that the salary and fringe benefit averages or rang-
37 es for categories of jobs retained and jobs created that was provided in
38 the application is still accurate and if it is not still accurate,
39 providing a revised list of salary and fringe benefit averages or ranges
40 for categories of jobs retained and jobs created[+];

41 (c) indicate the dates when PILOT payments are to be made and provide
42 an estimate of the amounts for each affected tax jurisdiction of any
43 payments in lieu of taxes that are included as part of the transaction,
44 or formula or formulas by which those amounts may be calculated. In lieu
45 of providing such information, a copy of an executed payment in lieu of
46 tax agreement that contains the same information may be attached to the
47 uniform agency project agreement;

48 (e) provide for the suspension or discontinuance of financial assist-
49 ance or payments in lieu of taxes, or for the modification of any
50 payment in lieu of tax agreement to require increased payments, in
51 accordance with policies developed by the agency pursuant to section
52 eight hundred seventy-four of this title;

53 (f) provide for the return of all or a part of the financial assist-
54 ance or payments in lieu of taxes provided for the project, including
55 all or part of the amount of any tax exemptions, which shall be redis-
56 tributed to the appropriate affected tax jurisdiction, as provided for

1 in policies developed by the agency pursuant to section eight hundred
2 seventy-four of this title, unless agreed to otherwise by any local
3 taxing jurisdiction or jurisdictions; and

4 (g) provide that the owner, occupant or operator receiving financial
5 assistance or payments in lieu of taxes shall certify, under penalty of
6 perjury, that it is in substantial compliance with all local, state and
7 federal tax, worker protection and environmental laws, rules and regu-
8 lations.

9 § 4. The general municipal law is amended by adding a new section
10 859-c to read as follows:

11 § 859-c. Notice of agenda. A printed calendar of items to be heard,
12 which may be subject to later amendment, shall be made available to the
13 public and forwarded to the members and chairman of the industrial
14 development agency at least three days in advance of the meeting. Where
15 an industrial development agency maintains a website, the notice of
16 agenda shall also be posted on such industrial development agency's
17 website.

18 § 5. The general municipal law is amended by adding a new section
19 859-d to read as follows:

20 § 859-d. School board reporting. Every industrial development agency,
21 continued or created by this chapter or any other law of the state shall
22 submit to the local school board president and superintendent or boards
23 presidents and superintendents overlapping with an industrial develop-
24 ment agency, within ninety days after the end of its fiscal year, a copy
25 of the final report required by subdivision two of section twenty-eight
26 hundred of the public authorities law and the audits required by subdi-
27 vision two of section twenty-eight hundred two of the public authorities
28 law.

29 § 6. This act shall take effect immediately.