

# STATE OF NEW YORK

2145

2021-2022 Regular Sessions

## IN ASSEMBLY

January 14, 2021

Introduced by M. of A. SIMON, McDONOUGH -- Multi-Sponsored by -- M. of A. GOTTFRIED, GRIFFIN, GUNTHER, LALOR, NIOU, REYES, J. RIVERA, SEAWRIGHT -- read once and referred to the Committee on Local Governments

AN ACT to amend the not-for-profit corporation law and the general municipal law, in relation to reforming local development corporations and industrial development agencies

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

Section 1. Subparagraphs 2 and 3 of paragraph (d) of section 1411 of the not-for-profit corporation law are amended and a new subparagraph 2-a is added to read as follows:

(2) Notwithstanding the provisions of any general, special, or local law, charter, or ordinance to the contrary, such sale or lease ~~may~~ shall be made ~~[without]~~ with an appraisal, public notice, (except as provided in subparagraph (4) of this paragraph) ~~[or]~~ and subject to public bidding for such price or rental ~~[and upon such terms as may be agreed upon between the county, city, town or village and said local development corporation, provided, however, that in]~~. In case of a lease, the term may not exceed ninety-nine years; and provided, further, that, in cities having a population of one million or more, no such sale or lease shall be made without the approval of a majority of the members of the ~~[borough improvement board of the borough]~~ community board or boards for the community district or districts in which such real property is located and the respective borough board, if such real property is located in two or more community districts.

(2-a) (I) The corporation shall prepare or cause to be prepared, by contract or otherwise, an economic impact statement on any action that it proposes or approves which may have a significant effect on the affected local economy and local community. The corporation shall use all practicable means to realize the policies and goals set forth in

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

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1 this section, and shall act and choose alternatives which, consistent  
2 with social, economic, environmental, labor, and other essential consid-  
3 erations, to the maximum extent practicable, minimize or avoid adverse  
4 economic effects, including effects revealed in the economic impact  
5 statement process. Such a statement shall include a detailed statement  
6 setting forth the following:

7 (A) a description of the proposed action and its economic and social  
8 setting;

9 (B) the economic and social impact of the proposed action, including  
10 short-term and long-term effects, especially to the affected community;

11 (C) any adverse economic effects which cannot be avoided should the  
12 proposal be implemented;

13 (D) alternatives to the proposed action;

14 (E) any irreversible and irretrievable commitments and social  
15 resources which would be involved in the proposed action, should it be  
16 implemented;

17 (F) mitigation measures proposed to minimize the economic, social, or  
18 other essential impacts; and

19 (G) the growth-inducing aspects of the proposed action, where applica-  
20 ble and significant. Such a statement shall also include copies or a  
21 summary of the substantive comments received by the corporation pursuant  
22 to clause (IV) of this subparagraph and the corporation's response to  
23 such comments. The purpose of an economic impact statement is to provide  
24 detailed information about the effect which a proposed action is likely  
25 to have on the economy, employment conditions, and social character-  
26 istics of a community, to list ways in which any adverse effects of such  
27 an action might be minimized, and to suggest alternatives to such an  
28 action so as to form the basis for a decision as to whether or not to  
29 undertake or approve such action. Such statement shall be clearly writ-  
30 ten in a concise manner capable of being read and understood by the  
31 public, shall deal with the specific, significant economic impacts which  
32 can be reasonably anticipated, and shall not contain more detail than is  
33 appropriate, considering the nature and magnitude of the proposed action  
34 and the significance of its potential impacts.

35 (II) The corporation may require an applicant to submit an economic  
36 report to assist the corporation in carrying out its responsibilities,  
37 including the initial determination and, (where the applicant does not  
38 prepare the economic impact statement), the preparation of an economic  
39 impact statement under this subparagraph. The corporation may request  
40 such other information from an applicant as it deems necessary for the  
41 review of economic and social impacts. Notwithstanding any use of  
42 outside resources or work, corporations shall make their own independent  
43 judgment of the scope, contents, and adequacy of an economic impact  
44 statement.

45 (III) (A) As early as possible in the formulation of a proposal for an  
46 action, the corporation shall make an initial determination as to wheth-  
47 er or not an economic impact statement need be prepared for the action.  
48 With respect to actions involving the issuance to an applicant of a  
49 permit or other entitlement, the corporation shall notify the applicant  
50 in writing of its initial determination, specifying therein the basis  
51 for such determination. Notice of the initial determination, along with  
52 appropriate supporting findings on corporation actions, shall be kept on  
53 file in the main office of the corporation for public inspection. If the  
54 corporation determines that such statement is required, the corporation  
55 or the applicant, at the applicant's option, shall prepare or cause to  
56 be prepared a draft economic impact statement. If the applicant does

1 not exercise the option to prepare such statement, the corporation shall  
2 prepare it, cause it to be prepared, or terminate its review of the  
3 proposed action. Such statement shall describe the proposed action and  
4 reasonable alternatives to the action, and briefly discuss, on the basis  
5 of information then available, the remaining items required to be  
6 submitted by clause (I) of this subparagraph. The purpose of a draft  
7 economic statement is to relate economic and social considerations to  
8 the inception of the planning process, to inform the public and other  
9 public agencies as early as possible about proposed actions that may  
10 significantly affect the quality of the economic and social conditions,  
11 and to solicit comments which will assist the corporation in the deci-  
12 sion making process in determining the economic and social consequences  
13 of the proposed action. The draft statement shall resemble in form and  
14 content the economic impact statement to be prepared after comments have  
15 been received and considered pursuant to clause (I) of this subpara-  
16 graph; provided, however, that the length and detail of the draft  
17 economic statement will necessarily reflect the preliminary nature of  
18 the proposal and the early stage at which it is prepared;

19 (B) The draft statement shall be filed with the appropriate governing  
20 body of each municipality or political subdivision thereof for whose  
21 benefit such corporation is established.

22 (IV) (A) After the filing of a draft economic impact statement, the  
23 corporation shall determine whether or not to conduct a public hearing  
24 on the economic impact of the proposed action. Such public hearing shall  
25 be held in a city, town or village where the project is proposed to be  
26 located or, in cities having a population of one million or more, in the  
27 community district or districts in which such project is proposed to be  
28 located or in the respective borough, if such project is proposed to be  
29 located in two or more community districts. The corporation must give  
30 at least thirty days' published notice of such public hearing and shall,  
31 at the same time, provide notice of such hearing to the chief executive  
32 officer of each affected tax jurisdiction within which the project is  
33 proposed to be located. The notice of hearing must state the time and  
34 place of the hearing, contain a general, functional description of the  
35 project, describe the prospective location of the project, identify the  
36 initial owner, operator, or manager of the project, generally describe  
37 the financial assistance contemplated by the corporation with respect to  
38 the project, and provide an opportunity for the public to review the  
39 project application, which shall include an analysis of the costs and  
40 benefits of the proposed project. The notice of hearing must be  
41 published in the state register and the website of the corporation.

42 (B) If the corporation determines to hold such a hearing, it shall  
43 commence the hearing within sixty days of the filing and, unless the  
44 proposed action is withdrawn from consideration, shall prepare the  
45 economic impact statement within forty-five days after the close of the  
46 hearing, except as otherwise provided. The need for such a hearing shall  
47 be determined in accordance with procedures adopted by the corporation.  
48 If no hearing is held, the corporation shall prepare and make available  
49 the economic impact statement within sixty days after the filing of the  
50 draft, except as otherwise provided.

51 (C) Notwithstanding the specified time periods established by this  
52 subparagraph, a corporation shall vary the times so established in this  
53 clause for preparation, review, and public hearings to coordinate the  
54 economic and social review process with other procedures relating to  
55 review and approval or disapproval of an action. An application or  
56 authorization for an action upon which a draft economic impact statement

1 is determined to be required shall not be complete until such draft  
2 statement has been filed and accepted by the corporation as satisfactory  
3 with respect to scope, content, and adequacy for purposes of this  
4 subparagraph. Commencing upon such acceptance, the economic impact  
5 statement process shall run concurrently with other procedures relating  
6 to the review and approval of the action, so long as reasonable time is  
7 provided for preparation, review, and public hearings with respect to  
8 the draft economic impact statement.

9 (V) To the extent possible, the economic impact statement prepared  
10 pursuant to clause (I) of this subparagraph, together with the comments  
11 of public agencies and members of the public, shall be filed with the  
12 governing body of each municipality or political subdivision thereof for  
13 whose benefit such corporation is established and made available to the  
14 public prior to acting on the proposal which is the subject of the  
15 economic impact statement.

16 (VI) A corporation may charge a fee to an applicant to recover the  
17 costs incurred in preparing or causing to be prepared or reviewing a  
18 draft economic impact statement or an economic impact statement on the  
19 action which the applicant requests from the corporation; provided,  
20 however, that an applicant may not be charged a separate fee for both  
21 the preparation and review of such statements. The technical services of  
22 the corporation may be made available on a fee basis reflecting the  
23 costs thereof to a requesting applicant, which fee or fees may appropri-  
24 ately be charged by the corporation to the applicant under rules and  
25 regulations, which the corporation shall issue for such purpose.

26 (VII) When a corporation decides to carry out or approve an action  
27 which has been the subject of an economic impact statement, it shall  
28 make an explicit finding that the requirements of this subparagraph have  
29 been met and that, consistent with social, economic, and other essential  
30 consideration, to the maximum extent practicable, adverse economic,  
31 social, and community effects revealed in the economic impact statement  
32 process will be minimized or avoided.

33 (3) Before any sale or lease to a local development corporation incor-  
34 porated or reincorporated under this article shall be authorized, a  
35 public hearing shall be held by the local legislative body, or ~~[by the~~  
36 ~~board of estimate]~~, in cities having a population of one million or  
37 more, by the community board or boards or the respective borough board,  
38 as the case may be, to consider the proposed sale or lease only after  
39 the completion of the economic impact statement required by subparagraph  
40 two-a of this paragraph. A public hearing may only be convened if two-  
41 thirds of the board members are present. If not, such public hearing  
42 shall not be convened and shall be rescheduled, subject to the same  
43 quorum requirements.

44 § 2. Paragraph (i) of section 1411 of the not-for-profit corporation  
45 law is relettered paragraph (j) and a new paragraph (i) is added to read  
46 as follows:

47 (i) Municipal input.

48 (1) Board members or employees of a local development corporation must  
49 not be or have, within the past five years, been: (A) an employee or an  
50 owner of a firm that is a paid advisor or consultant of the local devel-  
51 opment corporation, including a present or former independent auditor of  
52 the local development corporation; (B) employed by a significant suppli-  
53 er of the local development corporation; (C) employed by and had a five  
54 percent or greater ownership interest in a supplier where sales to the  
55 local development corporation represent more than one percent of the  
56 sales of the supplier or more than one percent of the purchases of the

1 local development corporation; (D) a "political party chairman" as such  
2 term is defined in paragraph (k) of subdivision one of section seventy-  
3 three of the public officers law; or (E) a lobbyist registered under a  
4 state or local law covering any jurisdiction served in whole or in part  
5 by the local development corporation. In addition, at least one-third  
6 of all members shall be representative of local government, organized  
7 labor, or the engineering, business, or environmental communities.

8 (2) The local development corporation shall file an annual report with  
9 the attorney general noting the local development corporation's finan-  
10 cial activity during each year, including, but not limited to, the  
11 amount and the reason for the amount and kinds of financial incentives  
12 provided to any entity and any other data that the attorney general may  
13 require. The report shall be submitted before February first of each  
14 year. Each report shall be made available to the public in an easily  
15 accessible format, including but not limited to an electronic version  
16 via the world wide web.

17 (3) Any lease, sale, or other revenues collected by the corporation  
18 shall be paid to the local governing body in which real property or  
19 other source of revenue is located, and proportionally divided if  
20 located in more than one municipality.

21 (4) The governing body of each municipality for whose benefit a corpo-  
22 ration is established shall have the authority to approve or disapprove  
23 any agency use of eminent domain, disposition of corporate property,  
24 issuance of bonds, entrance into agreements requiring payments, or  
25 entering into agreements for payments in lieu of taxes. Each such  
26 governing body shall approve or disapprove any of the above corporate  
27 decisions by majority vote. Where applicable in the enactment of local  
28 laws, the chief executive officer shall approve or disapprove such  
29 governing body's decision, subject to any applicable right to override.  
30 Boards shall not violate any local zoning laws, ordinances, or regu-  
31 lations or local development plans. Where applicable, the provisions of  
32 this subparagraph shall apply to more than one local governing body and  
33 the New York job development authority.

34 § 3. Subdivision 2 of section 856 of the general municipal law, as  
35 amended by chapter 356 of the laws of 1993, is amended to read as  
36 follows:

37 2. An agency shall be a corporate governmental agency, constituting a  
38 public benefit corporation. Except as otherwise provided by special act  
39 of the legislature, an agency shall consist of not less than three nor  
40 more than seven members who shall be appointed by the chief executive  
41 officer, with the advice and consent of the local governing body, of  
42 each municipality and who shall serve at the pleasure of the appointing  
43 authority. [~~Such members may include representatives of local govern-~~  
44 ~~ment, school boards, organized labor and business.~~ At least one-third  
45 of all members shall be representative of local government, organized  
46 labor, or the engineering, business, or environmental communities. A  
47 member shall continue to hold office until his or her successor is  
48 appointed and has qualified. The governing body of each municipality  
49 shall designate the first [~~chairman~~] chairperson and file with the  
50 secretary of state a certificate of appointment or reappointment of any  
51 member. Such members shall receive no compensation for their services  
52 but shall be entitled to the necessary expenses, including traveling  
53 expenses, incurred in the discharge of their duties. Members must not  
54 be or have, within the past five years, been:



1 (a) an employee or an owner of a firm that is a paid advisor or  
2 consultant of the agency, including a present or former independent  
3 auditor of the agency;

4 (b) employed by a significant supplier of the agency;

5 (c) employed by and had a five percent or greater ownership interest  
6 in a supplier where sales to the agency represent more than one percent  
7 of the sales of the supplier or more than one percent of the purchases  
8 of the agency;

9 (d) a "political party chairman" as such term is defined in paragraph  
10 (k) of subdivision one of section seventy-three of the public officers  
11 law; or

12 (e) a lobbyist registered under a state or local law covering any  
13 jurisdiction served in whole or in part by the agency.

14 § 4. Subdivision 15 of section 858 of the general municipal law, as  
15 added by chapter 356 of the laws of 1993, is amended to read as follows:

16 (15) To enter into agreements requiring payments in lieu of taxes.  
17 Such agreements shall be in writing and in addition to other terms shall  
18 contain: the amount due annually to each affected tax jurisdiction (or  
19 a formula by which the amount due can be calculated), the name and  
20 address of the person, office or agency to which payment shall be deliv-  
21 ered, the date on which payment shall be made, and the date on which  
22 payment shall be considered delinquent if not paid. Unless otherwise  
23 agreed by the affected tax jurisdictions, any such agreement shall  
24 provide that payments in lieu of taxes shall be allocated among affected  
25 tax jurisdictions in proportion to the amount of real property tax and  
26 other taxes which would have been received by each affected tax juris-  
27 diction had the project not been tax exempt due to the status of the  
28 agency involved in the project. A copy of any such agreement shall be  
29 delivered to each affected tax jurisdiction within fifteen days of sign-  
30 ing the agreement. In the absence of any such written agreement,  
31 payments in lieu of taxes made by an agency shall be allocated in the  
32 same proportions as they had been prior to January first, nineteen  
33 hundred ninety-three for so long as the agency's activities render a  
34 project non-taxable by affected tax jurisdictions. Standard tax  
35 exemption policies established in law or by agencies shall be sent annu-  
36 ally to chief executives and all members of governing boards of all  
37 affected tax jurisdictions. Any changes to the standard tax exemption  
38 policies shall also be sent to chief executives and all members of  
39 governing boards of affected tax jurisdictions. Standard tax exemption  
40 policies shall also be made available to the public and posted on the  
41 agency's website. Every agency shall be required to maintain, and make  
42 available to all local elected officials and the public, a current sche-  
43 dule of all PILOT payments due each year and the amount of each payment  
44 allocable to each affected tax jurisdiction on whose behalf the PILOT is  
45 being collected. All agencies shall maintain, and make readily avail-  
46 able to all local elected officials and the public, current schedules of  
47 project owners who are in arrears in the making of required PILOT  
48 payments, the amounts involved, and the time periods involved. Every  
49 agency must ensure that all PILOT payments are promptly received and  
50 fully transmitted to the treasuries of the affected tax jurisdictions on  
51 whose behalf those PILOT payments were collected;

52 § 5. The general municipal law is amended by adding a new section  
53 858-c to read as follows:

54 § 858-c. Municipal input. 1. The governing body of each municipality  
55 for whose benefit an agency is established shall have the authority to  
56 approve or disapprove any agency use of eminent domain, disposition of

agency property, issuance of bonds, entrance into agreements requiring payments, or entering into agreements for payments in lieu of taxes. Each such governing body shall approve or disapprove any of the above agency decisions by majority vote. Where applicable in the enactment of local laws, the chief executive officer shall approve or disapprove such governing body's decision, subject to any applicable right to override.

2. Agency boards shall not violate any local zoning laws, ordinances, or regulations or local development plans.

§ 6. Paragraphs (a) and (b) of subdivision 1 of section 859 of the general municipal law, paragraph (a) as added by chapter 692 of the laws of 1989 and paragraph (b) as amended by chapter 357 of the laws of 1993, are amended to read as follows:

(a) Each agency shall maintain books and records in such form as may be prescribed by the state comptroller. The comptroller shall prescribe rules on standardizing the calculation of tax benefits.

(b) Within ninety days following the close of its fiscal year, each agency or authority shall prepare a financial statement for that fiscal year in such form as may be prescribed by the state comptroller. Such statement shall be audited within such ninety day period by an independent certified public accountant in accordance with government accounting standards established by the United States general accounting office. The audited financial statement shall include supplemental schedules listing all straight-lease transactions and bonds and notes issued, outstanding or retired during the applicable accounting period whether or not such bonds, notes or transactions are considered obligations of the agency, and information on PILOTs. For each issue of bonds or notes such schedules shall provide the name of each project financed with proceeds of each issue, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the address of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each bond or note was issued, date of issue, interest rate at issuance and if variable the range of interest rates applicable, maturity date, federal tax status of each issue, and an estimate of the number of jobs created and retained by each project. For each straight-lease transaction, such schedules shall provide the name of each project, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each transaction was made, the method of financial assistance utilized by the project, other than the tax exemptions claimed by the project and an estimate of the number of jobs created and retained by each project.

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

§ 859-a. Additional prerequisites to the provisions of financial assistance, economic impact statements and public hearings. Prior to providing any financial assistance of more than one hundred thousand dollars to any project, the agency must comply with the following prerequisites:

1. The agency must adopt a resolution describing the project and the financial assistance that the agency is contemplating with respect to such project. Agencies must maintain a list of all pending projects about which they have been contacted, and make such lists available for public inspection, including but not limited to publishing the lists on the agency's website. If any person requests more information about a

1 particular project, the agency shall provide such information as expe-  
2 ditiously as possible. Such assistance shall be consistent with the  
3 uniform tax exemption policy adopted by the agency pursuant to subdivi-  
4 sion four of section eight hundred seventy-four of this [~~chapter~~] title,  
5 unless the agency has followed the procedures for deviation from such  
6 policy specified in paragraph (b) of such subdivision. Such assistance  
7 shall also be consistent with environmental protection, such as open  
8 space protection, that will promote new development patterns in order to  
9 take advantage of resources and opportunities, such as existing public  
10 sewer and water infrastructure, without compromising the needs of future  
11 generations; and labor protection, including all federal, state, and  
12 local labor laws, rules, or regulations. The agency shall not grant or  
13 appropriate assistance to any entity that has committed violations of  
14 any federal, state, or local laws.

15 2. The agency shall prepare (where the applicant does not prepare the  
16 economic impact statement), or cause to be prepared by contract or  
17 otherwise, an economic impact statement on any action that it proposes  
18 or approves which may have a significant effect on the affected local  
19 economy and local community. The agency shall use all practicable means  
20 to realize the policies and goals set forth in this article, and shall  
21 act and choose alternatives which, consistent with social, economic, and  
22 other essential considerations, to the maximum extent practicable, mini-  
23 mize or avoid adverse economic effects, including effects revealed in  
24 the economic impact statement process. Such a statement shall include a  
25 detailed statement setting forth the following:

26 (a) a description of the proposed action and its economic and social  
27 setting;

28 (b) the economic and social impact of the proposed action, including  
29 short-term and long-term effects, especially to the affected community;

30 (c) any adverse economic effects which cannot be avoided should the  
31 proposal be implemented;

32 (d) alternatives to the proposed action;

33 (e) any irreversible and irretrievable commitments and social  
34 resources which would be involved in the proposed action, should it be  
35 implemented;

36 (f) mitigation measures proposed to minimize the economic, social or  
37 other essential impacts; and

38 (g) the growth-inducing aspects of the proposed action, where applica-  
39 ble and significant.

40 Such a statement shall also include copies or a summary of the  
41 substantive comments received by the agency pursuant to subdivision six  
42 of this section, and the agency response to such comments. The purpose  
43 of an economic impact statement is to provide detailed information about  
44 the effect which a proposed action is likely to have on the economy,  
45 employment conditions, and social characteristics of a community, to  
46 list ways in which any adverse effects of such an action might be mini-  
47 mized, and to suggest alternatives to such an action so as to form the  
48 basis for a decision as to whether or not to undertake or approve such  
49 action. Such statement shall be clearly written in a concise manner  
50 capable of being read and understood by the public, shall deal with the  
51 specific significant economic impacts which can be reasonably antic-  
52 ipated, and shall not contain more detail than is appropriate, consider-  
53 ing the nature and magnitude of the proposed action and the significance  
54 of its potential impacts.

55 3. The agency may require an applicant to submit an economic report to  
56 assist the agency in carrying out its responsibilities, including the



1 initial determination and, (where the applicant does not prepare the  
2 economic impact statement), the preparation of an economic impact state-  
3 ment under this article. The agency may request such other information  
4 from an applicant necessary for the review of economic and social  
5 impacts. Notwithstanding any use of outside resources or work, agencies  
6 shall make their own independent judgment of the scope, contents, and  
7 adequacy of an economic impact statement.

8 4. (a) As early as possible in the formulation of a proposal for an  
9 action, the agency shall make an initial determination as to whether or  
10 not an economic impact statement need be prepared for the action. With  
11 respect to actions involving the issuance to an applicant of a permit or  
12 other entitlement, the agency shall notify the applicant in writing of  
13 its initial determination, specifying therein the basis for such deter-  
14 mination. Notice of the initial determination, along with appropriate  
15 supporting findings on agency actions, shall be kept on file in the main  
16 office of the agency for public inspection. If the agency determines  
17 that such statement is required, the agency or the applicant, at the  
18 applicant's option, shall prepare or cause to be prepared a draft  
19 economic impact statement. If the applicant does not exercise the  
20 option to prepare such statement, the agency shall prepare it, cause it  
21 to be prepared, or terminate its review of the proposed action. Such  
22 statement shall describe the proposed action and reasonable alternatives  
23 to the action, and briefly discuss, on the basis of information then  
24 available, the remaining items required to be submitted by subdivision  
25 two of this section. The purpose of a draft economic statement is to  
26 relate economic and social considerations to the inception of the plan-  
27 ning process, to inform the public and other public agencies as early as  
28 possible about proposed actions that may significantly affect the quali-  
29 ty of the economic and social conditions, and to solicit comments which  
30 will assist the agency in the decision making process in determining the  
31 economic and social consequences of the proposed action. The draft  
32 statement shall resemble in form and content the economic impact state-  
33 ment to be prepared after comments have been received and considered  
34 pursuant to subdivision two of this section; however, that the length  
35 and detail of the draft economic statement will necessarily reflect the  
36 preliminary nature of the proposal and the early stage at which it is  
37 prepared;

38 (b) The draft statement shall be filed with the appropriate governing  
39 body of each municipality for whose benefit such agency is established.

40 5. (a) After the filing of a draft economic impact statement, the  
41 agency shall determine whether or not to conduct a public hearing on the  
42 economic impact of the proposed action. Such public hearing shall be  
43 held in a city, town, or village where the project is proposed to be  
44 located. The agency must give at least thirty days' published notice of  
45 such public hearing and shall, at the same time, provide notice of such  
46 hearing to the chief executive officer of each affected tax jurisdiction  
47 within which the project is proposed to be located. The notice of hear-  
48 ing must state the time and place of the hearing, contain a general,  
49 functional description of the project, describe the prospective location  
50 of the project, identify the initial owner, operator, or manager of the  
51 project, generally describe the financial assistance contemplated by the  
52 agency with respect to the project, and provide an opportunity for the  
53 public to review the project application, which shall include an analy-  
54 sis of the costs and benefits of the proposed project. The notice of  
55 hearing must be published in the state register and the website of the  
56 agency.

1 (b) If the agency determines to hold such a hearing, it shall commence  
2 the hearing within sixty days of the filing and, unless the proposed  
3 action is withdrawn from consideration, shall prepare the economic  
4 impact statement within forty-five days after the close of the hearing,  
5 except as otherwise provided. The need for such a hearing shall be  
6 determined in accordance with procedures adopted by the agency pursuant  
7 to section eight hundred fifty-eight of this title. If no hearing is  
8 held, the agency shall prepare and make available the economic impact  
9 statement within sixty days after the filing of the draft, except as  
10 otherwise provided.

11 (c) Notwithstanding the specified time periods established by this  
12 article, an agency shall vary the times so established herein for prepa-  
13 ration, review and public hearings to coordinate the economic and social  
14 review process with other procedures relating to review and approval of  
15 an action. An application or authorization for an action upon which a  
16 draft economic impact statement is determined to be required shall not  
17 be complete until such draft statement has been filed and accepted by  
18 the agency as satisfactory with respect to scope, content, and adequacy  
19 for purposes of subdivision four of this section. Commencing upon such  
20 acceptance, the economic impact statement process shall run concurrently  
21 with other procedures relating to the review and approval of the action,  
22 so long as reasonable time is provided for preparation, review, and  
23 public hearings with respect to the draft economic impact statement.

24 6. To the extent possible, the economic impact statement prepared  
25 pursuant to subdivision two of this section, together with the comments  
26 of public agencies and members of the public, shall be filed with the  
27 governing body of each municipality for whose benefit such agency is  
28 established and made available to the public prior to acting on the  
29 proposal which is the subject of the economic impact statement.

30 7. An agency may charge a fee to an applicant to recover the costs  
31 incurred in preparing or causing to be prepared or reviewing a draft  
32 economic impact statement or an economic impact statement on the action  
33 which the applicant requests from the agency; provided, however, that an  
34 applicant may not be charged a separate fee for both the preparation and  
35 review of such statements. The technical services of the agency may be  
36 made available on a fee basis reflecting the costs thereof to a request-  
37 ing agency, which fee or fees may appropriately be charged by the agency  
38 to the applicant under rules and regulations to be issued by the agency  
39 for such purpose under section eight hundred fifty-eight of this title.

40 8. When an agency decides to carry out or approve an action which has  
41 been the subject of an economic impact statement, it shall make an  
42 explicit finding that the requirements of this section have been met and  
43 that, consistent with social, economic, and other essential consider-  
44 ations, to the maximum extent practicable, adverse economic, social, and  
45 community effects revealed in the economic impact statement process will  
46 be minimized or avoided.

47 9. The agency ~~must~~ shall hold a public hearing with respect to the  
48 project and the proposed financial assistance being contemplated by the  
49 agency after the completion of the final economic impact statement.  
50 ~~Said~~ Such public hearing shall be held in a city, town, or village  
51 where the project ~~proposes~~ is proposed to ~~locate~~ be located. At  
52 ~~said~~ such public hearing, interested parties shall be provided reason-  
53 able opportunity, both orally and in writing, to present their views  
54 with respect to the project and the final economic impact statement. A  
55 public hearing may only be convened if two-thirds of the board members

1 are present. If not, such public hearing shall not be convened and shall  
2 be rescheduled, subject to the same quorum requirements.

3 ~~[3-]~~ 10. The agency must give at least ten days published notice of  
4 ~~[said]~~ such public hearing and shall, at the same time, provide notice  
5 of such hearing to the chief executive officer of each affected tax  
6 jurisdiction within which the project is located. The notice of hearing  
7 must state the time and place of the hearing, contain a general, func-  
8 tional description of the project, describe the prospective location of  
9 the project, identify the initial owner, operator, or manager of the  
10 project, and generally describe the financial assistance contemplated by  
11 the agency with respect to the project. The notice of hearing must be  
12 published in the state register and the website of the agency. Such  
13 assistance shall also be consistent with environmental protection, such  
14 as open space protection, that will promote new development patterns in  
15 order to take advantage of resources and opportunities, such as existing  
16 public sewer and water infrastructure, without compromising the needs of  
17 future generations; and labor protection, including all federal, state,  
18 and local labor laws, rules or regulations. The agency shall not grant  
19 or appropriate assistance to any entity that has committed violations of  
20 any federal, state, or local laws.

21 ~~[4-]~~ 11. Each agency shall develop a standard application form, which  
22 shall be used by the agency to accept requests for financial assistance  
23 from all individuals, firms, companies, developers or other entities or  
24 organizations. The standard application form shall be submitted by or on  
25 behalf of the applicant, and subscribed and affirmed under the penalties  
26 of perjury by the applicant, or on behalf of the applicant by the chief  
27 executive officer or such other individual that is duly authorized to  
28 bind the applicant, as true, accurate and complete to the best of his or  
29 her knowledge. The standard application form shall include the follow-  
30 ing, and may include such other supplemental information as determined  
31 to be necessary and appropriate by the agency, including supporting  
32 documents and information provided by or on behalf of the applicant:

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

34 (b) a description of the proposed project for which financial assist-  
35 ance is requested, including the type of project, proposed location and  
36 purpose of the project;

37 (c) the amount and type of financial assistance being requested,  
38 including the estimated value of each type of tax exemption sought to be  
39 claimed by reason of agency involvement in the project;

40 (d) a statement that there is a likelihood that the project would not  
41 be undertaken but for the financial assistance provided by the agency  
42 or, if the project could be undertaken without financial assistance  
43 provided by the agency, a statement indicating why the project should be  
44 undertaken by the agency;

45 (e) an estimate of capital costs of the project, including all costs  
46 of real property and equipment acquisition and building construction or  
47 reconstruction, financed from private sector sources, an estimate of the  
48 percentage of project costs financed from public sector sources, and an  
49 estimate of both the amount to be invested by the applicant and the  
50 amount to be borrowed to finance the project.

51 (f) the projected number of full time equivalent jobs that would be  
52 retained and that would be created if the request for financial assist-  
53 ance is granted, the projected timeframe for the creation of new jobs,  
54 the estimated salary and fringe benefit averages or ranges for catego-  
55 ries of the jobs that would be retained or created if the request for  
56 financial assistance is granted, and an estimate of the number of resi-

dents of the economic development region as established pursuant to section two hundred thirty of the economic development law or the labor market area as defined by the agency, in which the project is located that would fill such jobs. The labor market area defined by the agency for this purpose may include no more than six contiguous counties in the state, including the county in which the project is to be located;

(g) a statement to the effect that the provisions of subdivision one of section eight hundred sixty-two of this ~~chapter~~ title will not be violated if financial assistance is provided for the proposed project;

(h) a statement that the owner, occupant or operator receiving financial assistance is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations; and

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

~~[5-]~~ 12. Each agency shall develop, and adopt by resolution, uniform criteria for the evaluation and selection for each category of projects for which financial assistance will be provided. At a minimum, the criteria shall require that, for each project, the following must occur prior to the approval of the provision of financial assistance:

(a) an assessment by the agency of all material information included in connection with the application for financial assistance, as necessary to afford a reasonable basis for the decision by the agency to provide financial assistance for the project;

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

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

(d) if the project involves the removal or abandonment of a facility or plant within the state, notification by the agency to the chief executive officer or officers of the municipality or municipalities in which the facility or plant was located.

~~[6-]~~ 13. Each agency shall develop a uniform agency project agreement that sets forth terms and conditions under which financial assistance shall be provided. The uniform agency project agreement shall be used by the agency and no financial assistance shall be provided in the absence of the execution of such an agreement. The uniform agency project agreement shall, at a minimum:

(a) describe the project and the financial assistance, including the amount and type, to be provided, and the agency purpose to be achieved;

(b) require each project owner, occupant or operator receiving financial benefits to provide annually a certified statement and documentation: (i) enumerating the full time equivalent jobs retained and the

1 full time equivalent jobs created as a result of the financial assist-  
2 ance, by category, including full time equivalent independent contrac-  
3 tors or employees of independent contractors that work at the project  
4 location, and (ii) indicating that the salary and fringe benefit aver-  
5 ages or ranges for categories of jobs retained and jobs created that was  
6 provided in the application is still accurate and if it is not still  
7 accurate, providing a revised list of salary and fringe benefit averages  
8 or ranges for categories of jobs retained and jobs created.

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

16 ~~[(e)]~~ (d) provide for the suspension or discontinuance of financial  
17 assistance, or for the modification of any payment in lieu of tax agree-  
18 ment to require increased payments, in accordance with policies devel-  
19 oped by the agency pursuant to section eight hundred seventy-four of  
20 this title;

21 ~~[(f)]~~ (e) provide for the return of all or a part of the financial  
22 assistance provided for the project, including all or part of the amount  
23 of any tax exemptions, which shall be redistributed to the appropriate  
24 affected tax jurisdiction, as provided for in policies developed by the  
25 agency pursuant to section eight hundred seventy-four of this title,  
26 unless agreed to otherwise by any local taxing jurisdiction or jurisdic-  
27 tions; and

28 ~~[(g)]~~ (f) provide that the owner, occupant or operator receiving  
29 financial assistance shall certify, under penalty of perjury, that it is  
30 in substantial compliance with all local, state and federal tax, worker  
31 protection and environmental laws, rules and regulations.

32 § 8. Section 860 of the general municipal law, as added by chapter  
33 1030 of the laws of 1969, is amended to read as follows:

34 § 860. Moneys of the agency. The agency shall have power to contract  
35 with the holders of any of its bonds or notes as to the custody,  
36 collection, securing, investment and payment of any moneys of the agency  
37 or any moneys held in trust or otherwise for the payment of bonds or  
38 notes or in any way to secure bonds or notes and to carry out any such  
39 contract. Moneys held in trust or otherwise for the payment of bonds or  
40 notes or in any way to secure bonds or notes and deposits of such moneys  
41 may be secured in the same manner as moneys of the agency, and all banks  
42 and trust companies are authorized to give such security for such depos-  
43 its. Any lease payments, revenues, or other earnings of the agency  
44 shall be paid to the local governing body of the municipality for whose  
45 benefit such agency is established.

46 § 9. Section 882 of the general municipal law, as amended by chapter  
47 373 of the laws of 2012, is amended and a new section 882-a is added to  
48 read as follows:

49 § 882. Termination of the agency. Whenever all of the bonds or notes  
50 issued by the agency shall have been redeemed or cancelled, and all  
51 straight-lease transactions have been terminated, the agency shall cease  
52 to exist and all rights, titles, and interest and all obligations and  
53 liabilities thereof vested in or possessed by the agency shall thereupon  
54 vest in and be possessed by the municipality. After October first, two  
55 thousand twenty-three, non-county industrial development agencies



1 created under title two of this article shall not be able to issue any  
2 further bonds or notes.

3 § 882-a. Prohibition of local industrial development agencies. No  
4 further industrial development agencies may be created unless they are a  
5 county-wide industrial development agency.

6 § 10. The general municipal law is amended by adding two new sections  
7 885 and 885-a to read as follows:

8 § 885. Prevailing wage. Whenever a recipient of industrial develop-  
9 ment agency funds, financial assistance, or other benefit enters into  
10 any contract, subcontract, lease, grant, bond, covenant or other agree-  
11 ment for or in connection with any construction, demolition, recon-  
12 struction, excavation, rehabilitation, repair, renovation, alteration,  
13 or improvement project, such project shall be deemed to be a public  
14 works project for the purposes of article eight of the labor law, and  
15 all of the provisions of article eight of the labor law shall be appli-  
16 cable to all the work involved in the construction, demolition, recon-  
17 struction, excavation, rehabilitation, repair, renovation, alteration,  
18 or improvement of such project. Funds, financial assistance, or any  
19 other benefits provided pursuant to this article shall not be utilized  
20 for or in connection with the construction, demolition, reconstruction,  
21 excavation, rehabilitation, repair, renovation, alteration, or improve-  
22 ment of any project to which the provisions of article eight of the  
23 labor law are not applicable.

24 § 885-a. Recapture. If a recipient entity of agency assistance does  
25 not abide by any provision of this article or requirement made applica-  
26 ble pursuant to the authority of this article, it shall pay back to the  
27 agency that fraction of developmental assistance that accrued to its  
28 benefit for the calendar year in which the benefit occurred, plus inter-  
29 est at a rate determined by the granting agency. For one-time forms of  
30 assistance such as grants or land price discounts, a defaulting entity  
31 shall pay back to the granting agency one-fifth of the value of assist-  
32 ance. Remittance of the payback by a recipient entity to a granting  
33 agency shall take place within sixty calendar days of the delivery of  
34 the default notice to the recipient entity.

35 § 11. This act shall take effect on the sixtieth day after it shall  
36 have become a law; provided, however, that the provisions of section  
37 seven of this act shall take effect immediately.