

STATE OF NEW YORK

1478

2021-2022 Regular Sessions

IN SENATE

January 12, 2021

Introduced by Sens. KRUEGER, BIAGGI, LIU -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

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 this section, and shall act and choose alternatives which, consistent

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

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

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

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

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

12 (D) alternatives to the proposed action;

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

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

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

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

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

1 prepare it, cause it to be prepared, or terminate its review of the
2 proposed action. Such statement shall describe the proposed action and
3 reasonable alternatives to the action, and briefly discuss, on the basis
4 of information then available, the remaining items required to be
5 submitted by clause (I) of this subparagraph. The purpose of a draft
6 economic statement is to relate economic and social considerations to
7 the inception of the planning process, to inform the public and other
8 public agencies as early as possible about proposed actions that may
9 significantly affect the quality of the economic and social conditions,
10 and to solicit comments which will assist the corporation in the deci-
11 sion making process in determining the economic and social consequences
12 of the proposed action. The draft statement shall resemble in form and
13 content the economic impact statement to be prepared after comments have
14 been received and considered pursuant to clause (I) of this subpara-
15 graph; provided, however, that the length and detail of the draft
16 economic statement will necessarily reflect the preliminary nature of
17 the proposal and the early stage at which it is prepared;

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

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

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

50 (C) Notwithstanding the specified time periods established by this
51 subparagraph, a corporation shall vary the times so established in this
52 clause for preparation, review, and public hearings to coordinate the
53 economic and social review process with other procedures relating to
54 review and approval or disapproval of an action. An application or
55 authorization for an action upon which a draft economic impact statement
56 is determined to be required shall not be complete until such draft

1 statement has been filed and accepted by the corporation as satisfactory
2 with respect to scope, content, and adequacy for purposes of this
3 subparagraph. Commencing upon such acceptance, the economic impact
4 statement process shall run concurrently with other procedures relating
5 to the review and approval of the action, so long as reasonable time is
6 provided for preparation, review, and public hearings with respect to
7 the draft economic impact statement.

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

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

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

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

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

46 (i) Municipal input.

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

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

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

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

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

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

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

54 (a) an employee or an owner of a firm that is a paid advisor or
55 consultant of the agency, including a present or former independent
56 auditor of the agency;

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

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

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

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

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

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

49 § 5. The general municipal law is amended by adding a new section
50 858-c to read as follows:

51 § 858-c. Municipal input. 1. The governing body of each municipality
52 for whose benefit an agency is established shall have the authority to
53 approve or disapprove any agency use of eminent domain, disposition of
54 agency property, issuance of bonds, entrance into agreements requiring
55 payments, or entering into agreements for payments in lieu of taxes.
56 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 particular project, the agency shall provide such information as expeditiously as possible. Such assistance shall be consistent with the uniform tax exemption policy adopted by the agency pursuant to subdivi-

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

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

23 (a) a description of the proposed action and its economic and social
24 setting;

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

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

29 (d) alternatives to the proposed action;

30 (e) any irreversible and irretrievable commitments and social
31 resources which would be involved in the proposed action, should it be
32 implemented;

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

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

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

52 3. The agency may require an applicant to submit an economic report to
53 assist the agency in carrying out its responsibilities, including the
54 initial determination and, (where the applicant does not prepare the
55 economic impact statement), the preparation of an economic impact state-
56 ment under this article. The agency may request such other information

1 from an applicant necessary for the review of economic and social
2 impacts. Notwithstanding any use of outside resources or work, agencies
3 shall make their own independent judgment of the scope, contents, and
4 adequacy of an economic impact statement.

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

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

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

54 (b) If the agency determines to hold such a hearing, it shall commence
55 the hearing within sixty days of the filing and, unless the proposed
56 action is withdrawn from consideration, shall prepare the economic

1 impact statement within forty-five days after the close of the hearing,
2 except as otherwise provided. The need for such a hearing shall be
3 determined in accordance with procedures adopted by the agency pursuant
4 to section eight hundred fifty-eight of this title. If no hearing is
5 held, the agency shall prepare and make available the economic impact
6 statement within sixty days after the filing of the draft, except as
7 otherwise provided.

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

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

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

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

44 9. The agency [~~must~~] shall hold a public hearing with respect to the
45 project and the proposed financial assistance being contemplated by the
46 agency after the completion of the final economic impact statement.
47 [~~Said~~] Such public hearing shall be held in a city, town, or village
48 where the project [~~proposes~~] is proposed to [~~locate~~] be located. At
49 [~~said~~] such public hearing, interested parties shall be provided reason-
50 able opportunity, both orally and in writing, to present their views
51 with respect to the project and the final economic impact statement. A
52 public hearing may only be convened if two-thirds of the board members
53 are present. If not, such public hearing shall not be convened and shall
54 be rescheduled, subject to the same quorum requirements.

55 [~~3-~~] 10. The agency must give at least ten days published notice of
56 [~~said~~] such public hearing and shall, at the same time, provide notice

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

17 ~~[4-]~~ 11. Each agency shall develop a standard application form, which
18 shall be used by the agency to accept requests for financial assistance
19 from all individuals, firms, companies, developers or other entities or
20 organizations. The standard application form shall be submitted by or on
21 behalf of the applicant, and subscribed and affirmed under the penalties
22 of perjury by the applicant, or on behalf of the applicant by the chief
23 executive officer or such other individual that is duly authorized to
24 bind the applicant, as true, accurate and complete to the best of his or
25 her knowledge. The standard application form shall include the follow-
26 ing, and may include such other supplemental information as determined
27 to be necessary and appropriate by the agency, including supporting
28 documents and information provided by or on behalf of the applicant:

29 (a) the name and address of the project applicant;
30 (b) a description of the proposed project for which financial assist-
31 ance is requested, including the type of project, proposed location and
32 purpose of the project;

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

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

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

47 (f) the projected number of full time equivalent jobs that would be
48 retained and that would be created if the request for financial assist-
49 ance is granted, the projected timeframe for the creation of new jobs,
50 the estimated salary and fringe benefit averages or ranges for catego-
51 ries of the jobs that would be retained or created if the request for
52 financial assistance is granted, and an estimate of the number of resi-
53 dents of the economic development region as established pursuant to
54 section two hundred thirty of the economic development law or the labor
55 market area as defined by the agency, in which the project is located
56 that would fill such jobs. The labor market area defined by the agency

1 for this purpose may include no more than six contiguous counties in the
2 state, including the county in which the project is to be located;

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

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

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

15 ~~[5-]~~ 12. Each agency shall develop, and adopt by resolution, uniform
16 criteria for the evaluation and selection for each category of projects
17 for which financial assistance will be provided. At a minimum, the
18 criteria shall require that, for each project, the following must occur
19 prior to the approval of the provision of financial assistance:

20 (a) an assessment by the agency of all material information included
21 in connection with the application for financial assistance, as neces-
22 sary to afford a reasonable basis for the decision by the agency to
23 provide financial assistance for the project;

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

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

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

42 ~~[6-]~~ 13. Each agency shall develop a uniform agency project agreement
43 that sets forth terms and conditions under which financial assistance
44 shall be provided. The uniform agency project agreement shall be used by
45 the agency and no financial assistance shall be provided in the absence
46 of the execution of such an agreement. The uniform agency project agree-
47 ment shall, at a minimum:

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

50 (b) require each project owner, occupant or operator receiving finan-
51 cial benefits to provide annually a certified statement and documenta-
52 tion: (i) enumerating the full time equivalent jobs retained and the
53 full time equivalent jobs created as a result of the financial assist-
54 ance, by category, including full time equivalent independent contrac-
55 tors or employees of independent contractors that work at the project
56 location, and (ii) indicating that the salary and fringe benefit aver-

1 ages or ranges for categories of jobs retained and jobs created that was
2 provided in the application is still accurate and if it is not still
3 accurate, providing a revised list of salary and fringe benefit averages
4 or ranges for categories of jobs retained and jobs created.

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

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

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

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

28 § 8. Section 860 of the general municipal law, as added by chapter
29 1030 of the laws of 1969, is amended to read as follows:

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

42 § 9. Section 882 of the general municipal law, as amended by chapter
43 373 of the laws of 2012, is amended and a new section 882-a is added to
44 read as follows:

45 § 882. Termination of the agency. Whenever all of the bonds or notes
46 issued by the agency shall have been redeemed or cancelled, and all
47 straight-lease transactions have been terminated, the agency shall cease
48 to exist and all rights, titles, and interest and all obligations and
49 liabilities thereof vested in or possessed by the agency shall thereupon
50 vest in and be possessed by the municipality. After October first, two
51 thousand twenty-three, non-county industrial development agencies
52 created under title two of this article shall not be able to issue any
53 further bonds or notes.

54 § 882-a. Prohibition of local industrial development agencies. No
55 further industrial development agencies may be created unless they are a
56 county-wide industrial development agency.

1 § 10. The general municipal law is amended by adding two new sections
2 885 and 885-a to read as follows:

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

19 § 885-a. Recapture. If a recipient entity of agency assistance does
20 not abide by any provision of this article or requirement made applica-
21 ble pursuant to the authority of this article, it shall pay back to the
22 agency that fraction of developmental assistance that accrued to its
23 benefit for the calendar year in which the benefit occurred, plus inter-
24 est at a rate determined by the granting agency. For one-time forms of
25 assistance such as grants or land price discounts, a defaulting entity
26 shall pay back to the granting agency one-fifth of the value of assist-
27 ance. Remittance of the payback by a recipient entity to a granting
28 agency shall take place within sixty calendar days of the delivery of
29 the default notice to the recipient entity.

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