STATE OF NEW YORK

3718

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. KIM, STECK, CAHILL, ABINANTI -- read once and referred to the Committee on Economic Development

AN ACT to amend the state finance law, in relation to establishing an interstate compact agreement to phase out corporate giveaways

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

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

ARTICLE 17
INTERSTATE COMPACT AGREEMENT TO PHASE OUT CORPORATE GIVEAWAYS

Section 250. Interstate compact agreement to phase out corporate giveaways.

§ 250. Interstate compact agreement to phase out corporate giveaways. This act shall be known and may be cited as the "agreement to phase out corporate giveaways act".

Article 1. Membership. Any state of the United States and the District of Columbia may become a member of this compact by enacting this agreement in substantially the following form.

Article 2. Definitions. As used in this compact, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

a. "Corporate giveaway" means any company-specific or industry-specific disbursement of funds via property, cash or deferred or reduced tax liability by a state or local government to a particular company or industry.

b. "Member state" means any state or the District of Columbia that has enacted a statute agreeing to this compact.

c. "Company-specific tax incentive" is any change in the general tax rate or valuation offered or presented to a specific company that is not available to other similarly-situated companies.

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

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d. "Company-specific grant" is any disbursement of funds via property, cash or deferred tax liability by the state or local government to a particular company.

e. "Located in any other member state" means any corporate headquarters, office space, manufacturing facility or other real estate development that is physically located in another member state, whether or not the company has other property in the member state.

Article 3. Findings. The member states find that:

a. Corporate giveaways are among the least effective uses of taxpayer dollars to create and maintain jobs;

b. Local and state leaders are in a prisoners' dilemma where it is best for all to create a level playing field for all employers without any corporate giveaways, but each level of government has an incentive to subsidize a company, generating a race to the bottom;

c. Governments should attract and retain companies based on general conditions (including but not limited to modern infrastructure, an educated workforce, a clean environment, and a favorable tax and regulatory climate), not based on a specific grant for a particular company;

d. Corporate giveaways fuel business inequality as only the largest businesses receive the vast majority of these funds;

e. A reasonable first step in phasing out corporate giveaways is an anti-poaching agreement among state governments prohibiting state company-specific tax incentives and state company-specific grants as an inducement for entities to relocate existing facilities;

f. Creating a national board of gubernatorial appointees charged with finding consensus around improvements to this agreement over time in a phased approach will assist state and local governments in escaping from the prisoners' dilemma and implementing a level playing field for all employers.

Article 4. Anti-poaching prohibition. Each member state is prohibited from offering or providing any company-specific tax incentive or company-specific grant to any entity for a corporate headquarters, manufacturing facility, office space or other real estate development located in any other member state as an inducement for the corporate headquarters, manufacturing facility, office space or other real estate development to relocate to the offering member state.

Article 5. Exclusions. Workforce development grants that train employees are not subject to this agreement. Company-specific tax incentives or company-specific grants from local governments are not subject to this agreement. State company-specific tax incentives or state company-specific grants to entities for corporate headquarters, office space, manufacturing facilities or real estate developments located within its own state are not subject to this agreement.

Article 6. Withdrawal. Any member state may withdraw from this agreement with six months' notice and shall do so in writing to the chief executive officer of every other member state to the agreement.

Article 7. Enforcement. a. The chief law enforcement officer of each member state shall enforce this compact.

b. A taxpaying resident of any member state has standing in the courts of any member state to require the chief law enforcement officer of that member state to enforce this compact.

Article 8. National board to draft suggested improvements over time to the agreement. A national board of the agreement to phase out corporate giveaways act is established by this agreement. Each chief executive officer of each member state shall appoint one member to the board. The board shall accept appointees from non-member states that wish to

<u>appoint a member of the board. The purpose of the board is to publish suggested revisions to this agreement in December of every year to continue to phase out those forms of corporate giveaways that the board finds reasonable to include as suggested revisions to the agreement for member states to consider implementing. The board shall convene at least annually, elect officers from its membership, establish rules and procedures for its governance and publish a report in December of every year that includes suggested revisions and improvements to this agreement. The board shall collect testimony from all interested parties, including organizations and associations representing state legislators, taxpayers and subject matter experts on how the agreement can be improved and strengthened.</u>

<u>Article 9. Construction and severability. This compact shall be liberally construed so as to effectuate its purposes. If any phrase, clause, sentence or provision of this compact, or the applicability of any phrase, clause, sentence or provision of this compact to any government, agency, person or circumstance is declared in a final judgment by a court of competent jurisdiction to be contrary to the constitution of the United States or is otherwise held invalid, the validity of the remainder of this compact and the applicability of the remainder of this compact to any government, agency, person or circumstance shall not be affected.</u>

<u>If this compact is held to be contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the affected member state as to all severable matters.</u>

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