

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:

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

ARTICLE 17

INTERSTATE COMPACT AGREEMENT TO PHASE OUT CORPORATE

GIVEAWAYS

3 Section 250. Interstate compact agreement to phase out corporate give-
4 aways.

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

8 Article 1. Membership. Any state of the United States and the District
9 of Columbia may become a member of this compact by enacting this agree-
10 ment in substantially the following form.

11 Article 2. Definitions. As used in this compact, unless the context
12 clearly indicates otherwise, the following terms shall have the follow-
13 ing meanings:

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

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

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

23 EXPLANATION--Matter in italics (underscored) is new; matter in brackets
24 [-] is old law to be omitted.
25

LBD05950-01-1

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

4 e. "Located in any other member state" means any corporate headquar-
5 ters, office space, manufacturing facility or other real estate develop-
6 ment that is physically located in another member state, whether or not
7 the company has other property in the member state.

8 Article 3. Findings. The member states find that:

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

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

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

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

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

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

30 Article 4. Anti-poaching prohibition. Each member state is prohibited
31 from offering or providing any company-specific tax incentive or compa-
32 ny-specific grant to any entity for a corporate headquarters, manufac-
33 turing facility, office space or other real estate development located
34 in any other member state as an inducement for the corporate headquar-
35 ters, manufacturing facility, office space or other real estate develop-
36 ment to relocate to the offering member state.

37 Article 5. Exclusions. Workforce development grants that train employ-
38 ees are not subject to this agreement. Company-specific tax incentives
39 or company-specific grants from local governments are not subject to
40 this agreement. State company-specific tax incentives or state compa-
41 ny-specific grants to entities for corporate headquarters, office space,
42 manufacturing facilities or real estate developments located within its
43 own state are not subject to this agreement.

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

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

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

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

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

13 Article 9. Construction and severability. This compact shall be liber-
14 ally construed so as to effectuate its purposes. If any phrase, clause,
15 sentence or provision of this compact, or the applicability of any
16 phrase, clause, sentence or provision of this compact to any government,
17 agency, person or circumstance is declared in a final judgment by a
18 court of competent jurisdiction to be contrary to the constitution of
19 the United States or is otherwise held invalid, the validity of the
20 remainder of this compact and the applicability of the remainder of this
21 compact to any government, agency, person or circumstance shall not be
22 affected.

23 If this compact is held to be contrary to the constitution of any
24 member state, the compact shall remain in full force and effect as to
25 the remaining member states and in full force and effect as to the
26 affected member state as to all severable matters.

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