

STATE OF NEW YORK

2232

2021-2022 Regular Sessions

IN SENATE

January 20, 2021

Introduced by Sen. SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the economic development law, in relation to defining community significant projects and including such projects in the excelsior jobs program

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

1 Section 1. Subdivisions 17 and 20-a of section 352 of the economic
2 development law, subdivision 17 as amended by section 1 of part K and
3 subdivision 20-a as added by section 1 of part ZZ of chapter 59 of the
4 laws of 2017, are amended and a new subdivision 18-a is added to read as
5 follows:

6 17. "Qualified investment" means an investment in tangible property
7 (including a building or a structural component of a building) owned by
8 a business enterprise which:

9 (a) is depreciable pursuant to section one hundred sixty-seven of the
10 internal revenue code;

11 (b) has a useful life of four years or more;

12 (c) is acquired by purchase as defined in section one hundred seven-
13 ty-nine (d) of the internal revenue code;

14 (d) has a situs in this state; ~~and~~

15 (e) is placed in service in the state on or after the date the certif-
16 icate of eligibility is issued to the business enterprise; and

17 (f) demolition and remediation of costs incurred and paid in the
18 leased building by the business enterprise in a public housing develop-
19 ment in the state, as determined by the commissioner.

20 18-a. "Community significant project" means (a) a business creating or
21 retaining current jobs as determined by the commissioner, with partic-
22 ular emphasis on employment and/or training of current public housing
23 residents; (b) currently located or to be located in existing leased

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

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1 space of a building in a public housing development in the state that is
2 owned and operated by a public housing authority created under article
3 thirteen of the public housing law; (c) which makes significant quali-
4 fied capital investments to start a business, or improve services and
5 working conditions for an existing business, when located in such public
6 housing space; and (d) creates at least five new net jobs or retaining
7 current jobs or makes qualified capital investments to such space of a
8 building. The commissioner shall promulgate regulations pursuant to
9 section three hundred fifty-six of this article to determine what addi-
10 tional criteria a business must meet to be eligible as a community
11 significant project, including, but not limited to, incentivizing child
12 care providers and other businesses that support the needs of the work-
13 force residing in such public housing and the social and health needs of
14 residents in such public housing, ensuring that residents are not
15 displaced and ensuring that services or programs being offered to public
16 housing residents by either a public housing authority or an entity
17 already onsite, are not displaced in order to locate or expand a busi-
18 ness in a public housing development.

19 20-a. "Significant capital investment" means a project which will be
20 either a newly constructed facility or a newly constructed addition to,
21 expansion of or improvement of a facility, consisting of tangible
22 personal property and other tangible property, including buildings and
23 structural components of buildings, that are depreciable pursuant to
24 section one hundred sixty-seven of the internal revenue code, have a
25 useful life of four years or more, are acquired by purchase as defined
26 in section one hundred seventy-nine (d) of the internal revenue code,
27 and that is equal to or exceeds (a) one million dollars for a manufac-
28 turer; (b) two hundred fifty thousand dollars for an agriculture busi-
29 ness; (c) three million dollars for a financial services firm or back
30 office operation; (d) fifteen million dollars for a distribution center;
31 (e) three million dollars for a scientific research and development
32 firm; ~~(f)~~ (f) three million dollars for other businesses; or (g) one
33 million dollars for a significant project.

34 § 2. Subdivisions 1, 3 and 4 of section 353 of the economic develop-
35 ment law, subdivision 1 as amended by section 2 of part L of chapter 59
36 of the laws of 2020, subdivision 3 as separately amended by section 2 of
37 part K and section 2 of part ZZ and subdivision 4 as separately amended
38 by section 3 of part K and section 2 of part ZZ of chapter 59 of the
39 laws of 2017, are amended to read as follows:

40 1. To be a participant in the excelsior jobs program, a business enti-
41 ty shall operate in New York state predominantly:

42 (a) as a financial services data center or a financial services back
43 office operation;

44 (b) in manufacturing;

45 (c) in software development and new media;

46 (d) in scientific research and development;

47 (e) in agriculture;

48 (f) in the creation or expansion of back office operations in the
49 state;

50 (g) in a distribution center;

51 (h) in an industry with significant potential for private-sector
52 economic growth and development in this state as established by the
53 commissioner in regulations promulgated pursuant to this article. In
54 promulgating such regulations the commissioner shall include job and
55 investment criteria;

56 (i) as an entertainment company;

(j) in music production;
(k) as a life sciences company; ~~or~~
(l) as a company operating in one of the industries listed in paragraphs (b) through (e) of this subdivision and engaging in a green project as defined in section three hundred fifty-two of this article; or
(m) as a community significant project.

3. For the purposes of this article, in order to participate in the excelsior jobs program, a business entity operating predominantly in manufacturing must create at least five net new jobs; a business entity operating predominately in agriculture must create at least five net new jobs; a business entity operating predominantly as a financial service data center or financial services customer back office operation must create at least twenty-five net new jobs; a business entity operating predominantly in scientific research and development must create at least five net new jobs; a business entity operating predominantly in software development must create at least five net new jobs; a business entity creating or expanding back office operations must create at least twenty-five net new jobs; a business entity operating predominately in music production must create at least five net new jobs; a business entity operating predominantly as an entertainment company must create or obtain at least one hundred net new jobs; ~~or~~ a business entity operating predominantly as a distribution center in the state must create at least fifty net new jobs, notwithstanding subdivision five of this section; ~~or~~ a business entity operating predominately as a life sciences company must create at least five net new jobs; ~~or~~ a business entity must be a regionally significant project as defined in this article; or a community significant project as defined in this article; or

4. A business entity operating predominantly in one of the industries referenced in paragraphs (a) through (h) or in paragraph (k) or (m) of subdivision one of this section but which does not meet the job requirements of subdivision three of this section must have at least twenty-five full-time job equivalents unless such business is a business entity operating predominantly in manufacturing then it must have at least five full-time job equivalents and must demonstrate that its benefit-cost ratio is at least ten to one.

§ 3. Paragraph (a) of subdivision 4 of section 355 of the economic development law, as amended by section 4 of part G of chapter 61 of the laws of 2011, is amended to read as follows:

(a) A participant in the excelsior jobs program who either qualified as a regionally significant project, a community significant project or is located in an investment zone shall be eligible to claim a credit for a period of ten years. For the purposes of this subdivision, the lease payment paid by the business enterprise pursuant to a public housing development in this state shall be eligible real property tax for purposes of this subdivision.

§ 4. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2022.