

STATE OF NEW YORK

3265

2023-2024 Regular Sessions

IN ASSEMBLY

February 2, 2023

Introduced by M. of A. RA, BRABENEC -- read once and referred to the Committee on Economic Development

AN ACT to amend the economic development law, in relation to reporting requirements for the START-UP NY program

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

1 Section 1. The economic development law is amended by adding a new
2 section 438 to read as follows:

3 § 438. Disclosure authorization and reporting requirements. 1. The
4 commissioner and the department shall disclose publicly the names and
5 addresses of the businesses located within a tax-free NY area. In addi-
6 tion, the commissioner and the department shall disclose publicly and
7 include in the annual report required under subdivision two of this
8 section such other information contained in such businesses' applica-
9 tions and annual reports, including the projected number of net new jobs
10 to be created, as they determine is relevant and necessary to evaluate
11 the success of this program.

12 2. (a) The commissioner shall prepare an annual report to the governor
13 and the legislature. Such report shall include the number of business
14 applicants, number of businesses approved, the names and addresses of
15 the businesses located within a tax-free NY area, total amount of bene-
16 fits distributed, benefits received per business, number of net new jobs
17 created, net new jobs created per business, new investment per business,
18 the types of industries represented and such other information as the
19 commissioner determines is necessary to evaluate the progress of the
20 START-UP NY program.

21 (b) Any business located in a tax-free NY area must submit an annual
22 report to the commissioner in a form and at such time and with such
23 information as prescribed by the commissioner in consultation with the
24 commissioner of taxation and finance. Such information shall be suffi-
25 cient for the commissioner and the commissioner of taxation and finance

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

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1 to: (i) monitor the continued eligibility of the business and its
2 employees to participate in the START-UP NY program and receive the tax
3 benefits described in section thirty-nine of the tax law; (ii) evaluate
4 the progress of the START-UP NY program; and (iii) prepare the annual
5 report required by paragraph (a) of this subdivision. Such annual report
6 shall also include information regarding the wages paid during the year
7 to its employees employed in the net new jobs created and maintained in
8 the tax-free NY area.

9 3. The commissioner shall prepare on an annual basis a program report
10 for posting on the department's website. The report shall be due on
11 March first, two thousand twenty-three and on March first every year
12 thereafter.

13 § 2. Subdivision 1 of section 433 of the economic development law, as
14 amended by section 3 of part UUU of chapter 59 of the laws of 2017, is
15 amended to read as follows:

16 1. In order to participate in the START-UP NY program, a business must
17 satisfy all of the following criteria.

18 (a) The mission and activities of the business must align with or
19 further the academic mission of the campus, college or university spon-
20 soring the tax-free NY area in which it seeks to locate, and the busi-
21 ness's participation in the START-UP NY program must have positive
22 community and economic benefits.

23 (b) The business must demonstrate that it will, in its first year of
24 operation, create net new jobs. After its first year of operation, the
25 business must maintain net new jobs. In addition, the average number of
26 employees of the business and its related persons in the state during
27 the year must equal or exceed the sum of: (i) the average number of
28 employees of the business and its related persons in the state during
29 the year immediately preceding the year in which the business submits
30 its application to locate in a tax-free NY area; and (ii) net new jobs
31 of the business in the tax-free NY area during the year. The average
32 number of employees of the business and its related persons in the state
33 shall be determined by adding together the total number of employees of
34 the business and its related persons in the state on March thirty-first,
35 June thirtieth, September thirtieth and December thirty-first and divid-
36 ing the total by the number of such dates occurring within such year.

37 (c) Except as provided in paragraphs [~~(f)~~] (g) and [~~(g)~~] (h) of this
38 subdivision, at the time it submits its application for the START-UP NY
39 program, the business must be a new business to the state.

40 (d) The business may be organized as a corporation, a partnership,
41 limited liability company or a sole proprietorship.

42 (e) Upon completion of its first year in the START-UP NY program and
43 thereafter, the business must complete and timely file the annual report
44 required under section four hundred thirty-eight of this article.

45 (f) Except as provided in paragraphs [~~(f)~~] (g) and [~~(g)~~] (h) of this
46 subdivision, the business must not be engaged in a line of business that
47 is currently or was previously conducted by the business or a related
48 person in the last five years in New York state.

49 [~~(f)~~] (g) If a business does not satisfy the eligibility standard set
50 forth in paragraph (c) or [~~(e)~~] (f) of this subdivision, because at one
51 point in time it operated in New York state but moved its operations out
52 of New York state on or before June first, two thousand thirteen, the
53 commissioner shall grant that business permission to apply to partic-
54 ipate in the START-UP NY program if the commissioner determines that the
55 business has demonstrated that it will substantially restore the jobs in
56 New York state that it previously had moved out of state.

1 ~~(g)~~ (h) If a business seeks to expand its current operations in New
2 York state into a tax-free NY area but the business does not qualify as
3 a new business because it does not satisfy the criteria in paragraph (c)
4 of subdivision six of section four hundred thirty-one of this article or
5 the business does not satisfy the eligibility standard set forth in
6 paragraph ~~(e)~~ (f) of this subdivision, the commissioner shall grant
7 the business permission to apply to participate in the START-UP NY
8 program if the commissioner determines that the business has demon-
9 strated that it will create net new jobs in the tax-free NY area and
10 that it or any related person has not eliminated any jobs in the state
11 in connection with this expansion.
12 § 3. This act shall take effect immediately.