

STATE OF NEW YORK

5215

2023-2024 Regular Sessions

IN ASSEMBLY

March 7, 2023

Introduced by M. of A. WALLACE -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law and the public authorities law, in relation to the purposes and powers of industrial development agencies and to improve the accountability and transparency of such agencies; to amend the public authorities law, in relation to extending the bond issuance charge to the debt issued by not-for-profit corporations acting on behalf of the state or its political subdivisions; to amend the not-for-profit corporation law, in relation to the purposes and powers of local development corporations and certain other not-for-profit corporations thereof; and to repeal subdivision 3 of section 859 of the general municipal law relating to an evaluation of the activities of industrial development agencies and authorities in the state prepared by an entity independent of the department

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

1 Section 1. Subdivisions 4 and 14 of section 854 of the general municipal law, subdivision 4 as amended by section 5 of part X of chapter 59
2 of the laws of 2021 and subdivision 14 as added by chapter 356 of the
3 laws of 1993, are amended and a new subdivision 22 is added to read as
4 follows:
5
6 (4) "Project" - shall mean any land, any building or other improvement,
7 and all real and personal properties located within the state of
8 New York and within or outside or partially within and partially outside
9 the municipality for whose benefit the agency was created, including,
10 but not limited to, machinery, equipment and other facilities deemed
11 necessary or desirable in connection therewith, or incidental thereto,
12 whether or not now in existence or under construction, which shall be
13 suitable for manufacturing, warehousing, research, civic, commercial,
14 renewable energy or industrial purposes or other economically sound
15 purposes identified and called for to implement a state designated urban

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

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1 cultural park management plan as provided in title G of the parks,
2 recreation and historic preservation law and which may include or mean
3 an industrial pollution control facility, a recreation facility, educa-
4 tional or cultural facility, a horse racing facility, a railroad facili-
5 ty, a renewable energy project, a continuing care retirement community,
6 or a civic facility, provided, however, that, of agencies governed by
7 this article, only agencies created for the benefit of a county and the
8 agency created for the benefit for the city of New York shall provide
9 financial assistance in any respect to a continuing care retirement
10 community, or an automobile racing facility, provided, however, no agen-
11 cy shall use its funds or provide financial assistance in respect of any
12 project wholly or partially outside the municipality for whose benefit
13 the agency was created without the prior consent thereto by the govern-
14 ing body or bodies of all the other municipalities in which a part or
15 parts of the project is, or is to be, located, and such portion of the
16 project located outside such municipality for whose benefit the agency
17 was created shall be contiguous with the portion of the project inside
18 such municipality. Provided further, however, that no agency shall
19 provide financial assistance for any project where the project applicant
20 has any agreement to subsequently contract with a municipality for the
21 lease or purchase of such project or project facility.

22 (14) "Financial assistance" - shall mean the proceeds of bonds issued
23 by an agency, straight-leases, grants, loans, or exemptions from taxa-
24 tion claimed by a project occupant as a result of an agency taking
25 title, possession or control (by lease, license or otherwise) to the
26 property or equipment of such project occupant or of such project occu-
27 pant acting as an agent of an agency.

28 (22) "Civic facility" shall mean a facility to be owned or occupied by
29 a municipal corporation, a district corporation, or a not-for-profit
30 corporation organized and existing under the laws of this state or
31 authorized to conduct activities in this state; provided that such
32 facilities shall be limited to medical facilities including those
33 defined in article twenty-eight of the public health law, educational
34 facilities, recreational facilities for public use, facilities used for
35 municipal government or public safety purposes, or housing facilities
36 primarily designed to be occupied by individuals sixty years of age or
37 older. Nothing in this article shall be deemed to waive any applicable
38 requirement for an operating facility certificate, consent or other
39 approval as provided by law.

40 § 2. Subdivision 2 of section 856 of the general municipal law, as
41 amended by chapter 356 of the laws of 1993, is amended to read as
42 follows:

43 2. An agency shall be a corporate governmental agency, constituting a
44 public benefit corporation. Except as otherwise provided by special act
45 of the legislature, an agency shall consist of not less than [~~three~~]
46 five nor more than seven members who shall be appointed by the governing
47 body of each municipality and who shall serve at the pleasure of the
48 appointing authority. Such members may include representatives of local
49 government, school boards, organized labor and business. A member shall
50 continue to hold office until his successor is appointed and has quali-
51 fied. The governing body of each municipality shall designate the first
52 chairman and file with the secretary of state a certificate of appoint-
53 ment or reappointment of any member. Such members shall receive no
54 compensation for their services but shall be entitled to the necessary
55 expenses, including traveling expenses, incurred in the discharge of
56 their duties.

1 § 3. Section 858 of the general municipal law, as added by chapter
2 1030 of the laws of 1969, the opening paragraph as amended by section 6
3 of part X of chapter 59 of the laws of 2021, subdivision 4 as amended by
4 chapter 747 of the laws of 2005, subdivision 7 as amended by chapter 559
5 of the laws of 2021, subdivision 8 as amended and subdivision 15 as
6 added by chapter 356 of the laws of 1993, subdivision 9 as amended by
7 chapter 444 of the laws of 1997, and subdivisions 16 and 17 as renu-
8 bered by chapter 356 of the laws of 1993, is amended to read as follows:

9 § 858. Purposes and powers of the agency. The purposes of the agency
10 shall be to promote, develop, encourage and assist in the acquiring,
11 constructing, reconstructing, improving, maintaining, equipping and
12 furnishing industrial, manufacturing, warehousing, commercial, research,
13 renewable energy and recreation facilities including industrial
14 pollution control facilities, educational or cultural facilities, **civic**
15 **facilities**, railroad facilities, horse racing facilities, automobile
16 racing facilities, renewable energy projects and continuing care retire-
17 ment communities, provided, however, that, of agencies governed by this
18 article, only agencies created for the benefit of a county and the agen-
19 cy created for the benefit of the city of New York shall be authorized
20 to provide financial assistance in any respect to a continuing care
21 retirement community, and thereby advance the job opportunities, health,
22 general prosperity and economic welfare of the people of the state of
23 New York and to improve their recreation opportunities, prosperity and
24 standard of living; and to carry out the aforesaid purposes, each agency
25 shall have the following powers:

26 (1) To sue and be sued;

27 (2) To have a seal and alter the same at pleasure;

28 (3) To acquire, hold and dispose of personal property for its corpo-
29 rate purposes;

30 (4) To acquire by purchase, grant, lease, gift, pursuant to the
31 provisions of the eminent domain procedure law, or otherwise and to use,
32 real property or rights or easements therein necessary for its corporate
33 purposes in compliance with the local zoning and planning regulations
34 and shall take into consideration regional and local comprehensive land
35 use plans and state designated heritage area management plans, and to
36 sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of
37 any such property in such manner as the agency shall determine. In the
38 case of railroad facilities, however, the phrase to use real property or
39 rights or easements therein shall not be interpreted to include opera-
40 tion by the agency of rail service upon or in conjunction with such
41 facilities[+];

42 (5) To acquire real property from a municipality as necessary for its
43 corporate purposes pursuant to section eight hundred fifty-eight-c of
44 this title;

45 (6) To make by-laws for the management and regulation of its affairs
46 and, subject to agreements with its bondholders, for the regulation of
47 the use of a project or projects[+];

48 [~~6~~] (7) With the consent of the municipality, to use agents, employ-
49 ees and facilities of the municipality, paying the municipality its
50 agreed proportion of the compensation or costs;

51 [~~7~~] (8) To appoint officers, agents and employees, to prescribe
52 their qualifications and to fix their compensation and to pay the same
53 out of funds of the agency, provided, however, that an elected officer
54 of the municipality may not serve as a compensated officer, agent or
55 employee of the agency;

1 ~~(8)~~ (9) (a) To appoint an attorney, who may be the counsel of the
2 municipality, and to fix the attorney's compensation for services which
3 shall be payable to the attorney, and to retain and employ private
4 consultants for professional and technical assistance and advice;

5 (b) An attorney acting as bond counsel for a project must file with
6 the agency a written statement in which the attorney identifies each
7 party to the transaction which such attorney represents. If bond counsel
8 provides any legal services to parties other than the agency the written
9 statement must describe the nature of legal services provided by such
10 bond counsel to all parties to the transaction, including the nature of
11 the services provided to the agency~~(10)~~;

12 ~~(9)~~ (10) To make contracts and leases, and to execute all instru-
13 ments necessary or convenient to or with any person, firm, partnership
14 or corporation, either public or private; provided, however, that any
15 extension of an existing contract, lease or other agreement entered into
16 by an agency with respect to a project shall be guided by the provisions
17 of this article;

18 ~~(10)~~ (11) To acquire, construct, reconstruct, lease, improve, main-
19 tain, equip or furnish one or more projects;

20 ~~(11)~~ (12) To accept gifts, grants, loans, or contributions from, and
21 enter into contracts or other transactions with, the United States and
22 the state or any agency of either of them, any municipality, any public
23 or private corporation or any other legal entity, and to use any such
24 gifts, grants, loans or contributions for any of its corporate purposes;

25 ~~(12)~~ (13) To provide financial assistance in the form of loans to
26 improve, maintain or equip one or more projects consistent with its
27 corporate purposes;

28 (14) To provide financial assistance in the form of grants for one or
29 more projects consistent with its corporate purposes;

30 (15) To borrow money and to issue bonds and to provide for the rights
31 of the holders thereof;

32 ~~(13)~~ (16) To grant options to renew any lease with respect to any
33 project or projects and to grant options to buy any project at such
34 price as the agency may deem desirable;

35 ~~(14)~~ (17) To designate the depositories of its money either within
36 or without the state;

37 ~~(15)~~ (18) To enter into agreements requiring payments in lieu of
38 taxes. Such agreements shall be in writing and in addition to other
39 terms shall contain: the amount due annually to each affected tax juris-
40 diction (or a formula by which the amount due can be calculated), the
41 name and address of the person, office or agency to which payment shall
42 be delivered, the date on which payment shall be made, and the date on
43 which payment shall be considered delinquent if not paid. Unless other-
44 wise agreed by the affected tax jurisdictions, any such agreement shall
45 provide that payments in lieu of taxes shall be allocated among affected
46 tax jurisdictions in proportion to the amount of real property tax and
47 other taxes which would have been received by each affected tax juris-
48 diction had the project not been tax exempt due to the status of the
49 agency involved in the project. A copy of any such agreement shall be
50 delivered to each affected tax jurisdiction within fifteen days of sign-
51 ing the agreement~~(16) In the absence of any such written agreement,~~
52 ~~payments in lieu of taxes made by an agency shall be allocated in the~~
53 ~~same proportions as they had been prior to January first, nineteen~~
54 ~~hundred ninety-three for so long as the agency's activities render a~~
55 ~~project non-taxable by affected tax jurisdictions] and published by the
56 agency on its website;~~

1 ~~(16)~~ (19) To establish and re-establish its fiscal year; and
2 ~~(17)~~ (20) To do all things necessary or convenient to carry out its
3 purposes and exercise the powers expressly given in this title.

4 § 3-a. Subdivision 15 of section 858 of the general municipal law, as
5 amended by chapter 708 of the laws of 2022, is amended to read as
6 follows:

7 ~~(15)~~ (18) To enter into agreements requiring payments in lieu of
8 taxes. Such agreements shall be in writing and in addition to other
9 terms shall contain: the amount due annually to each affected tax juris-
10 diction (or a formula by which the amount due can be calculated), the
11 name and address of the person, office or agency to which payment shall
12 be delivered, the date on which payment shall be made, and the date on
13 which payment shall be considered delinquent if not paid. Unless other-
14 wise agreed by the affected tax jurisdictions, any such agreement shall
15 provide that payments in lieu of taxes shall be allocated among affected
16 tax jurisdictions in proportion to the amount of real property tax and
17 other taxes which would have been received by each affected tax juris-
18 diction had the project not been tax exempt due to the status of the
19 agency involved in the project. A copy of any such agreement shall be
20 delivered to each affected tax jurisdiction within fifteen days of sign-
21 ing the agreement~~[. In the absence of any such written agreement,~~
22 ~~payments in lieu of taxes made by an agency shall be allocated in the~~
23 ~~same proportions as they had been prior to January first, nineteen~~
24 ~~hundred ninety-three for so long as the agency's activities render a~~
25 ~~project non-taxable by affected tax jurisdictions]~~ and published by the
26 agency on its website. A notification of the expiration of such agree-
27 ment shall be delivered to the affected tax jurisdiction two years prior
28 to the expiration of such agreement and immediately upon early termi-
29 nation of an agreement~~[.]~~.

30 § 4. The general municipal law is amended by adding a new section
31 858-c to read as follows:

32 § 858-c. Purchase or lease of real property owned by a county, city,
33 town or village. 1. The local legislative body of a county, city, town
34 or village may by resolution determine that specifically described real
35 property owned by the county, city, town or village is not required for
36 use by such county, city, town or village and authorize the county,
37 city, town or village to sell or lease such real property to an agency;
38 provided, however, that title to such land be not declared inalienable
39 as a forest preserve or a parkland.

40 2. Notwithstanding the provisions of any general, special or local
41 law, charter or ordinance to the contrary, such sale or lease may be
42 made without appraisal, public notice (except as provided in subdivision
43 four of this section), or public bidding for such price or rental and
44 upon such terms as may be agreed upon between the county, city, town or
45 village and said agency; provided, however, that in the case of a lease
46 the term may not exceed ninety-nine years and provided, further, that in
47 cities having a population of one million or more, no such sale or lease
48 shall be made without the approval of a majority of the members of the
49 borough board of the borough in which such real property is located.

50 3. Before any sale or lease to an agency shall be authorized, a public
51 hearing shall be held by the local legislative body or borough board to
52 consider the proposed sale or lease.

53 4. Notice of such hearing shall be published at least ten days before
54 the date set for the hearing in such publication and in such manner as
55 may be designated by the local legislative body or borough board. Such
56 notice shall include a description of the real property proposed to be

1 sold or leased; a statement of the estimated fair market value of the
2 real property proposed to be sold or leased; the value of the financial
3 consideration to be received by the county, city, town or village from
4 such sale or lease of the real property; and a statement of the intended
5 use or disposition of such real property by the agency.

6 § 5. Subdivision 3 of section 859 of the general municipal law is
7 REPEALED.

8 § 6. The opening paragraph and subdivisions 1 and 2 of section 859-a
9 of the general municipal law, as added by chapter 356 of the laws of
10 1993, are amended and a new subdivision 3-a is added to read as follows:

11 Prior to providing any financial assistance [~~of~~] totaling more than
12 one hundred thousand dollars to any project, the agency must comply with
13 the following prerequisites:

14 1. The agency must adopt a resolution describing the project and the
15 type and amount of financial assistance that the agency is contemplating
16 with respect to such project. Such assistance shall be consistent with
17 the uniform [~~tax-exemption~~] financial assistance policy adopted by the
18 agency pursuant to subdivision four of section eight hundred seventy-
19 four of this [~~chapter~~] title, unless the agency has followed the proce-
20 dures for deviation from such policy specified in paragraph (b) of such
21 subdivision.

22 2. The agency must hold a public hearing with respect to the project
23 and the proposed financial assistance being contemplated by the agency
24 not less than thirty days prior to executing a written agreement to
25 provide financial assistance. Said public hearing shall be held in [~~a~~]
26 each city, town or village where the project to receive financial
27 assistance is located or proposes to locate. At said public hearing,
28 interested parties shall be provided reasonable opportunity, both orally
29 and in writing, to present their views with respect to the project and
30 the type and amount of financial assistance to be provided. The agency
31 shall also accept written comments up to seven days after such hearing
32 is held.

33 3-a. The agency shall maintain a complete record of the hearing,
34 including all documents, oral statements, and written statements
35 presented at or within seven days following the hearing. All members
36 shall be provided with a copy of such record at least seven days before
37 voting whether to approve financial assistance for the project. Such
38 record shall also be posted on the agency website at the time it is
39 provided to members.

40 § 7. The general municipal law is amended by adding four new sections
41 859-d, 859-e, 859-f and 859-g to read as follows:

42 § 859-d. Project application and approval criteria. 1. The project
43 applicant shall submit an application, developed by the agency, for
44 approval of a proposed project and financial assistance. The agency
45 shall adopt project application review and approval criteria that shall
46 be applied to all project applications under consideration for approval
47 and financial assistance. The decision to approve or not approve finan-
48 cial assistance shall be based on, but not limited to, consideration of
49 the following criteria:

50 (a) Strategic objectives. Consideration is to be given to the purpose
51 of the project, such as the nature of the planned business activity, the
52 extent to which the planned business activity is unrepresented or under-
53 represented in the community, and whether the project involves a busi-
54 ness interested in relocating from outside the state of New York.

55 (b) Job creation. A decision to fund a project shall be based on the
56 number of jobs to be created or retained by the proposed project, the

1 range of projected salaries and benefits associated with jobs to be
2 created, and the benchmarks and timeframes to be used by the project to
3 determine whether it is meeting projected job creation and retention
4 goals.

5 (c) The financial viability of the project. Approval for funding must
6 consider the extent to which the viability and success of the project is
7 dependent on financial assistance from the agency. The agency shall also
8 consider the amount and type of financial assistance being requested,
9 the amount and type of private financing required, the amount and type
10 of capital investment to be provided by the project applicant, and any
11 prior financial assistance provided to the project or to the project
12 applicant.

13 (d) Economic benefits. Funding decisions shall consider the potential
14 economic and financial impact of the project on existing businesses in
15 the area, on the affected tax jurisdictions, and on the local labor
16 market.

17 (e) Legal issues. Consideration shall be given to the project appli-
18 cant's record of compliance with applicable laws and regulations.

19 2. The project application review and approval criteria shall be
20 reviewed and approved annually at a regular meeting of the agency and
21 made available to the public on the agency's website.

22 3. The agency shall provide the director of the authorities budget
23 office with an electronic copy of the application and project review and
24 approval criteria within thirty days of their adoption or revision.

25 4. The agency shall retain a written record of the evaluation of each
26 project application to document its decision to provide or deny finan-
27 cial assistance.

28 § 859-e. Financial assistance agreement. 1. The agency shall enter
29 into a written agreement with the project applicant prior to providing
30 financial assistance. The agreement shall include the following informa-
31 tion:

32 (a) a description of the amount and type of financial assistance to be
33 provided by the agency, including a description and the value of proper-
34 ty conveyed at less than fair market value;

35 (b) a description of the amount of financing to be provided by the
36 project applicant, including the amount and type of capital investment
37 to be provided;

38 (c) the purpose of the project;

39 (d) the amount, types, sources and commitments of any private financ-
40 ing;

41 (e) the projected number of new full-time and part-time positions
42 expected to be created over the period of financial assistance, and an
43 estimated schedule by year of when those positions will be created;

44 (f) the number and types of full-time and part-time jobs to be
45 retained, and the number of filled positions at the project as of the
46 date the agreement is executed;

47 (g) the types and value of other forms of financial assistance
48 provided to the project or requested by the project applicant from other
49 state or local government agencies or authorities; and

50 (h) the penalties to be imposed on the project applicant if the terms
51 of the agreement are not met.

52 2. The length of a financial assistance agreement shall be limited to
53 no more than five years; provided however that the agreement may be
54 renewed for up to five additional years if the agency determines that
55 the project applicant has acted in good faith to meet the terms and
56 conditions of the agreement. In no event may financial assistance in the

1 form of a loan or exemption from taxation be provided to a project for
2 more than ten years.

3 3. The financial assistance agreement shall be made available to the
4 public on the website of the agency.

5 4. The agency shall adopt a methodology to evaluate the conformance of
6 each assisted project to the terms and conditions of the financial
7 assistance agreement. This methodology shall be made available to the
8 public on the agency's website.

9 § 859-f. Recapture of certain financial assistance. 1. The agency,
10 pursuant to the terms and conditions of its financial assistance agree-
11 ment, may recapture financial assistance to a project from real property
12 tax exemptions, mortgage recording tax exemptions, or local sales or
13 compensating use tax exemptions if (a) the project violates state or
14 federal tax law, labor law, environmental protection law, or contract
15 law, or any state or federal rule or regulation implementing such law,
16 as determined by a court of competent jurisdiction or administrative
17 tribunal, provided that such court or tribunal concludes that the
18 violation would cause material harm to the economy or quality of life of
19 the community; or (b) all or part of the project's business activity or
20 workforce is moved to a location outside the community served by the
21 agency and by doing so violates the terms and conditions of its finan-
22 cial assistance agreement.

23 2. An agency which elects to initiate the recapture of financial
24 assistance pursuant to subdivision one of this section must notify the
25 recipient of such financial assistance in writing that it is in default
26 of its financial assistance agreement and may direct the recipient of
27 financial assistance to repay up to the full amount of such financial
28 assistance received as of the date of the written notice plus interest
29 at the rate set forth in section five thousand four of the civil prac-
30 tice law and rules.

31 3. Financial assistance recaptured pursuant to this section and any
32 interest paid shall be redistributed to affected tax jurisdictions in
33 proportion to the amount of real property tax and other taxes which
34 would have been received by each affected tax jurisdiction had the
35 project not been tax exempt. Unless otherwise agreed to in writing by an
36 affected tax jurisdiction, the agency shall not retain any portion of
37 such funds as an administrative or project fee.

38 § 859-g. Wages and standards. Whenever a recipient of financial
39 assistance from an agency enters into a contract, subcontract, lease or
40 other agreement for or in connection with the construction, demolition,
41 reconstruction, rehabilitation, repair, or renovation of an assisted
42 project, the recipient of financial assistance shall pay workers engaged
43 in such work no less than the prevailing rate of wage and supplements
44 under article eight of the labor law.

45 § 8. Subdivision 1 of section 862 of the general municipal law, as
46 amended by section 1 of part J of chapter 59 of the laws of 2013, is
47 amended to read as follows:

48 (1) (a) No [~~funds~~] financial assistance of the agency shall be used in
49 respect [~~of~~] to any project if the [~~completion thereof would result in~~]
50 project approval or provision of financial assistance contributes to the
51 removal of [~~an industrial or manufacturing plant of~~] all or part of the
52 project occupant from one area of the state to another area of the state
53 or in the abandonment of one or more [~~plants or~~] facilities of the
54 project occupant located within the state, or provides the project with
55 a competitive advantage over existing like businesses in the same indus-
56 try located in the same city, town, or village as such project.

1 provided, however, that [~~neither restriction~~] such restrictions shall
2 not apply if the agency shall determine on the basis of the application
3 before it that the project is reasonably necessary to discourage the
4 project occupant from removing such other plant or facility to a
5 location outside the state or is reasonably necessary to preserve the
6 competitive position of the project occupant in its respective industry.

7 (b) For the purposes of this subdivision, "competitive advantage"
8 shall include trade secrets that are submitted to an agency by a commer-
9 cial enterprise or derived from information obtained from a commercial
10 enterprise and which if disclosed would cause substantial injury to the
11 competitive position of the subject enterprise. Other factors to be
12 considered in determining whether a trade secret exists include:

13 (i) the extent to which the information is known outside the business;

14 (ii) the extent to which the information is known by a business'
15 employees and others involved in the business;

16 (iii) the extent of measures taken by a business to guard the secrecy
17 of the information;

18 (iv) the value of the information to a business and to its compet-
19 itors;

20 (v) the amount of effort or money expended by a business in developing
21 the information; and,

22 (vi) the ease or difficulty with which the information could be prop-
23 erly acquired or duplicated by others. If there has been a voluntary
24 disclosure by the plaintiff, or if the facts pertaining to the matter
25 are a subject of general knowledge in the trade, then any property right
26 has evaporated.

27 § 9. Subdivision 4 of section 874 of the general municipal law, as
28 amended by chapter 357 of the laws of 1993, paragraph (a) as amended by
29 chapter 386 of the laws of 2019, and paragraph (b) as amended by chapter
30 766 of the laws of 2022, is amended to read as follows:

31 (4) (a) The agency shall [~~establish~~] adopt a uniform [~~tax exemption~~]
32 financial assistance policy, [~~with input from~~] subject to the approval
33 of all affected tax jurisdictions, which shall be applicable to the
34 provision of financial assistance pursuant to section eight hundred
35 fifty-nine-a of this [~~chapter~~] title and shall provide guidelines for
36 the claiming of real property, mortgage recording, and sales tax
37 exemptions. Such guidelines shall include, but not be limited to: peri-
38 od of exemption; payments in lieu of taxes, as a percentage of
39 [~~exemption~~] taxes that would have been levied by or on behalf of
40 affected tax jurisdictions if the project was not tax exempt by reason
41 of agency involvement; types of projects for which exemptions can be
42 claimed; procedures for payments in lieu of taxes and instances in which
43 real property appraisals are to be performed as a part of an application
44 for tax exemption; in addition, agencies shall in adopting such policy
45 consider such issues as: the extent to which a project will create or
46 retain permanent, private sector jobs; the estimated value of any tax
47 exemptions to be provided; whether affected tax jurisdictions shall be
48 reimbursed by the project occupant if a project does not fulfill the
49 purposes for which an exemption was provided; the impact of a proposed
50 project on existing and proposed businesses and economic development
51 projects in the vicinity; the amount of private sector investment gener-
52 ated or likely to be generated by the proposed project; the demonstrated
53 public support for the proposed project; the likelihood of accomplishing
54 the proposed project in a timely fashion; the effect of the proposed
55 project upon the environment; the extent to which the project will
56 utilize, to the fullest extent practicable and economically feasible,

1 resource conservation, energy efficiency, green technologies, and alter-
2 native and renewable energy measures; the extent to which the proposed
3 project will require the provision of additional services, including,
4 but not limited to additional educational, transportation, police, emer-
5 gency medical or fire services; and the extent to which the proposed
6 project will provide additional sources of revenue for municipalities
7 and school districts. The adopted uniform financial assistance policy
8 shall be provided to the chief executive officer and the members of the
9 governing body of each affected tax jurisdiction and shall be made
10 available for public inspection at the agency's office and on the agen-
11 cy's website upon its adoption.

12 (b) The agency shall [~~establish a procedure~~] adopt criteria for devi-
13 ation from the uniform [~~tax exemption~~] financial assistance policy
14 required pursuant to this subdivision, which shall be subject to the
15 approval of all affected local tax jurisdictions. The agency shall set
16 forth in writing the reasons for deviation from such policy, and shall
17 further notify by certified mail, return receipt requested, the affected
18 local taxing jurisdictions of the proposed deviation from such policy
19 and the reasons therefor not less than sixty days before such deviation
20 from the uniform financial assistance policy takes effect. When the
21 affected local taxing jurisdiction is a school district, the agency
22 shall notify by certified mail, return receipt requested, the school
23 board and district superintendent of each affected school district.

24 § 10. Section 1953 of the public authorities law, as added by chapter
25 759 of the laws of 1967, the opening paragraph, second undesignated
26 paragraph, and subdivisions 4 and 7 as amended by chapter 579 of the
27 laws of 2021, subdivision 8 as amended, subdivision 14 as added and
28 subdivisions 15 and 16 as renumbered by chapter 356 of the laws of 1993,
29 and subdivisions 9 and 13 as amended by chapter 907 of the laws of 1972,
30 is amended to read as follows:

31 § 1953. Purpose and powers of the authority.

32 The purposes of the authority shall be to promote, develop, encourage
33 and assist in the acquiring, constructing, reconstructing, improving,
34 maintaining, equipping and furnishing industrial, manufacturing, ware-
35 house, civic facilities, commercial and research facilities including
36 industrial pollution control facilities, transportation facilities
37 including but not limited to those relating to water, highway, rail and
38 air, in one or more areas of the city, particularly but not exclusively
39 at the site of what was formerly the Troy airport including an airstrip
40 or airport located in the southern section of the city and thereby
41 advance the job opportunities, health, general prosperity and economic
42 welfare of the people of said city and to improve their standard of
43 living; provided, however, that the authority shall not undertake any
44 project if the completion thereof would result in the removal of an
45 industrial or manufacturing plant of the project occupant from one area
46 of the state to another area of the state or in the abandonment of one
47 or more plants or facilities of the project applicant located within the
48 state, provided, however, that neither restriction shall apply if the
49 authority shall determine on the basis of the application before it that
50 the project is reasonably necessary to discourage the project occupant
51 from removing such other plant or facility to a location outside the
52 state or is reasonably necessary to preserve the competitive position of
53 the project occupant in its respective industry. Except as otherwise
54 provided for in this section, no financial assistance of the authority
55 shall be provided in respect of any project where facilities or property
56 that are primarily used in making retail sales to customers who

1 personally visit such facilities constitute more than one-third of the
2 total project cost. For the purposes of this article, "retail sales"
3 shall mean: (i) sales by a registered vendor under article twenty-eight
4 of the tax law primarily engaged in the retail sale of tangible personal
5 property, as defined in subparagraph (i) of paragraph four of subdivi-
6 sion (b) of section eleven hundred one of the tax law; or (ii) sales of
7 a service to such customers. Except, however, that tourism destination
8 projects shall not be prohibited by this paragraph. For the purpose of
9 this paragraph, "tourism destination" shall mean a location or facility
10 which is likely to attract a significant number of visitors from outside
11 the economic development region as established by section two hundred
12 thirty of the economic development law in which the project is located.

13 Notwithstanding the provisions of this section to the contrary, such
14 financial assistance may, however, be provided to a project where facil-
15 ities or property that are primarily used in making retail sales of
16 goods or services to customers who personally visit such facilities to
17 obtain such goods or services constitute more than one-third of the
18 total project cost, where: (i) the predominant purpose of the project
19 would be to make available goods or services which would not, but for
20 the project, be reasonably accessible to the residents of the city of
21 Troy because of a lack of reasonably accessible retail trade facilities
22 offering such goods or services; or (ii) the project is located in a
23 highly distressed area. With respect to projects authorized pursuant to
24 this paragraph no project shall be approved unless the authority shall
25 find after the public hearing required by section twenty-three hundred
26 seven of this chapter that undertaking the project will serve the public
27 purposes of this article by preserving permanent, private sector jobs or
28 increasing the overall number of permanent, private sector jobs in the
29 state. Where the authority makes such a finding, prior to providing
30 financial assistance to the project by the authority, the chief execu-
31 tive officer of the city of Troy shall confirm the proposed action of
32 the authority. To carry out said purposes, the authority shall have
33 power:

- 34 1. To sue and be sued;
- 35 2. To have a seal and alter the same at pleasure;
- 36 3. To acquire, hold and dispose of personal property for its corporate
37 purpose;
- 38 4. To acquire by purchase, grant, lease, gift, condemnation, or other-
39 wise and to use, real property or rights or easements therein necessary
40 for its corporate purposes, and to sell, convey, mortgage, lease,
41 pledge, exchange or otherwise dispose of any such property in such
42 manner as the authority shall determine. With respect to real property
43 conveyed to it by the city, however, such power of disposition shall be
44 limited as hereinafter provided in section nineteen hundred fifty-five
45 of this title;
- 46 5. To acquire real property within the city of Troy as necessary for
47 its corporate purposes pursuant to section eight hundred fifty-eight-c
48 of the general municipal law;
- 49 6. To make by-laws for the management and regulation of its affairs
50 and, subject to agreements with its bondholders, for the regulation of
51 the use of the project;
- 52 [~~6-~~] 7. With the consent of the city, to use agents, employees and
53 facilities of the city, paying the city its agreed proportion of the
54 compensation or costs;
- 55 [~~7-~~] 8. To appoint officers, agents and employees, to prescribe their
56 qualifications and to fix their compensation and to pay the same out of

1 funds of the authority, subject, however, to the provisions of the civil
2 service law as hereinafter provided in section nineteen hundred fifty-
3 four of this title;

4 ~~[8-]~~ 9. To appoint an attorney, who may be the corporation counsel of
5 the city, and to fix the attorney's compensation for services which
6 shall be payable to the attorney, and to retain and employ private
7 consultants for professional and technical assistance and advice;
8 provided that an attorney acting as bond counsel for a project must file
9 with the authority a written statement in which the attorney identifies
10 each party to the transaction which such attorney represents. If bond
11 counsel provides any legal services to parties other than the authority,
12 the written statement must describe the nature of legal services
13 provided by such bond counsel to all parties to the transaction, includ-
14 ing the nature of the services provided to the authority;

15 ~~[9-]~~ 10. To make contracts and leases upon such terms as the authority
16 shall deem appropriate, including without limitation leases which grant
17 the tenant of a project an option to renew or an option to purchase the
18 project, or both, at a fixed or otherwise predetermined price and to
19 execute all instruments necessary or convenient;

20 ~~[10-]~~ 11. To acquire, construct, reconstruct, lease, improve, main-
21 tain, equip or furnish one or more projects;

22 ~~[11-]~~ 12. To accept gifts, grants, loans or contributions from, and
23 enter into contracts or other transactions with, the United States and
24 the state or any agency of either of them, any municipality, any public
25 or private corporation or any other legal entity, and to use any such
26 gifts, grants, loans or contributions for any of its corporate purposes;

27 ~~[12-]~~ 13. To provide financial assistance in the form of loans to
28 improve, maintain or equip one or more projects consistent with its
29 corporate purposes;

30 14. To provide financial assistance in the form of grants to one or
31 more projects consistent with its corporate purposes;

32 15. To borrow money and to issue bonds and to provide for the rights
33 of the holders thereof;

34 ~~[13-]~~ 16. To designate the depositories of its money either within or
35 without the state of New York;

36 ~~[14-]~~ 17. To enter into agreements requiring payments in lieu of
37 taxes. Such agreements shall be in writing and in addition to other
38 terms shall contain: the amount due annually to each affected tax juris-
39 diction (or a formula by which the amount due can be calculated), the
40 name and address of the person, office or agency to which payment shall
41 be delivered, the date on which payment shall be made, and the date on
42 which payment shall be considered delinquent if not paid. Unless other-
43 wise agreed by the affected tax jurisdictions, any such agreement shall
44 provide that payments in lieu of taxes shall be allocated among affected
45 tax jurisdictions in proportion to the amount of real property tax and
46 other taxes which would have been received by each affected tax juris-
47 diction had the project not been tax exempt due to the status of the
48 authority involved in the project. A copy of any such agreement shall be
49 delivered to each affected tax jurisdiction within fifteen days of sign-
50 ing the agreement. In the absence of any such written agreement,
51 payments in lieu of taxes made by an agency shall be allocated in the
52 same proportions as they had been prior to January first, nineteen
53 hundred ninety-three for so long as the authority's activities render a
54 project non-taxable by affected tax jurisdictions.

55 ~~[15-]~~ 18. To establish and reestablish its fiscal year; and

1 ~~[16.]~~ 19. To do all things necessary or convenient to carry out its
2 purposes and exercise the powers expressly given in this title.

3 § 10-a. Subdivision 14 of section 1953 of the public authorities law,
4 as amended by chapter 708 of the law of 2022, is amended to read as
5 follows:

6 ~~[14.]~~ 17. To enter into agreements requiring payments in lieu of
7 taxes. Such agreements shall be in writing and in addition to other
8 terms shall contain: the amount due annually to each affected tax juris-
9 diction (or a formula by which the amount due can be calculated), the
10 name and address of the person, office or agency to which payment shall
11 be delivered, the date on which payment shall be made, and the date on
12 which payment shall be considered delinquent if not paid. Unless other-
13 wise agreed by the affected tax jurisdictions, any such agreement shall
14 provide that payments in lieu of taxes shall be allocated among affected
15 tax jurisdictions in proportion to the amount of real property tax and
16 other taxes which would have been received by each affected tax juris-
17 diction had the project not been tax exempt due to the status of the
18 authority involved in the project. A copy of any such agreement shall be
19 delivered to each affected tax jurisdiction within fifteen days of sign-
20 ing the agreement. In the absence of any such written agreement,
21 payments in lieu of taxes made by an agency shall be allocated in the
22 same proportions as they had been prior to January first, nineteen
23 hundred ninety-three for so long as the authority's activities render a
24 project non-taxable by affected tax jurisdictions. A notification of the
25 expiration of such agreement shall be delivered to the affected tax
26 jurisdiction two years prior to the expiration of such agreement and
27 immediately upon early termination of an agreement;

28 § 11. Section 1953-a of the public authorities law, as added by chap-
29 ter 356 of the laws of 1993, subdivision 1 as amended by chapter 357 of
30 the laws of 1993, and subdivision 1-a as added by chapter 766 of the
31 laws of 2022, is amended to read as follows:

32 § 1953-a. Additional prerequisites to the provision of financial
33 assistance. Prior to providing any financial assistance ~~[of]~~ totaling
34 more than one hundred thousand dollars to any project, the authority
35 must comply with the following prerequisites:

36 1. The authority must adopt a resolution describing the project and
37 type and amount of the financial assistance that the authority is
38 contemplating with respect to such project. Such assistance shall be
39 consistent with the uniform ~~[tax-exemption]~~ financial assistance policy
40 adopted by the agency pursuant to subdivision one of section nineteen
41 hundred sixty-three-a of this ~~[chapter]~~ title, unless the agency has
42 followed procedures for deviation from such policy specified in subdivi-
43 sion two of such section.

44 1-a. The authority shall deliver a copy of the resolution adopted
45 pursuant to subdivision one of this section by certified mail, return
46 receipt requested, to the chief executive officer of each affected tax
47 jurisdiction. When the affected tax jurisdiction is a school district,
48 the authority shall deliver a copy of such resolution by certified mail,
49 return receipt requested, to the school board and district superinten-
50 dent of each affected school district.

51 2. The authority must hold a public hearing with respect to the
52 project and the proposed financial assistance being contemplated by the
53 authority not less than thirty days prior to executing a written agree-
54 ment to provide financial assistance. At said public hearing, inter-
55 ested parties shall be provided reasonable opportunity, both orally and
56 in writing, to present their views with respect to the project and the

1 type and amount of financial assistance to be provided. The authority
2 shall also accept written comments up to seven days after such hearing
3 is held.

4 3. The authority must give at least ten days published notice of said
5 public hearing and shall, at the same time, provide notice of such hear-
6 ing to the chief executive officer of the affected tax jurisdiction
7 within which the project is located. The notice of hearing must state
8 the time and place of the hearing, contain a general, functional
9 description of the project, describe the prospective location of the
10 project, identify the initial owner, operator or manager of the project
11 and generally describe the financial assistance contemplated by the
12 authority with respect to the project.

13 4. The authority shall maintain a complete record of the hearing,
14 including all documents and oral statements, and written statements
15 presented at or within seven days following such hearing. All members
16 shall be provided with a copy of such record at least seven days before
17 voting whether to approve financial assistance for the project. Such
18 record shall also be posted on the authority website at the time it is
19 provided to members.

20 § 12. The public authorities law is amended by adding four new
21 sections 1953-b, 1953-c, 1953-d and 1953-e to read as follows:

22 § 1953-b. Project application and approval criteria. 1. The project
23 applicant shall submit an application, developed by the authority, for
24 approval of a proposed project and financial assistance. The authority
25 shall adopt project application review and approval criteria that shall
26 be applied to all project applications under consideration for approval
27 and financial assistance. The decision to approve or not approve finan-
28 cial assistance shall be based on, but not limited to, consideration of
29 the following criteria:

30 (a) Strategic objectives. Consideration is to be given to the purpose
31 of the project, such as the nature of the planned business activity, the
32 extent to which the planned business activity is unrepresented or under-
33 represented in the community, and whether the project involves a busi-
34 ness interested in relocating from outside the state of New York.

35 (b) Job creation. A decision to fund a project shall be based on the
36 number of jobs to be created or retained by the proposed project, the
37 range of projected salaries and benefits associated with jobs to be
38 created, and the benchmarks and timeframes to be used by the project to
39 determine whether it is meeting projected job creation and retention
40 goals.

41 (c) The financial viability of the project. Approval for funding shall
42 consider the extent to which the viability and success of the project is
43 dependent on financial assistance from the authority. The authority
44 shall also consider the amount and type of financial assistance being
45 requested, the amount and type of private financing required, the amount
46 and type of capital investment to be provided by the project applicant,
47 and any prior financial assistance provided to the project or to the
48 project applicant.

49 (d) Economic benefits. Funding decisions shall consider the potential
50 economic and financial impact of the project on existing businesses in
51 the area, on the affected tax jurisdictions, and on the local labor
52 market.

53 (e) Legal issues. Consideration shall be given to the project appli-
54 cant's record of compliance with applicable laws and regulations.

1 2. The project application review and approval criteria shall be
2 reviewed and approved annually at a regular meeting of the authority and
3 made available to the public on the authority's website.

4 3. The authority shall provide the director of the authorities budget
5 office with an electronic copy of the application and project review and
6 approval criteria within thirty days of their adoption or revision.

7 4. The authority shall retain a written record of the evaluation of
8 each project application to document its decision to provide or deny
9 financial assistance.

10 § 1953-c. Financial assistance agreement. 1. The authority shall enter
11 into a written agreement with the project applicant prior to providing
12 financial assistance. The agreement shall include the following informa-
13 tion:

14 (a) a description of the amount and type of financial assistance to be
15 provided by the authority, including a description and the value of
16 property conveyed at less than fair market value;

17 (b) a description of the amount of financing to be provided by the
18 project applicant, including the amount and type of capital investment
19 to be provided;

20 (c) the purpose of the project;

21 (d) the amount, types, sources and commitments of any private financ-
22 ing;

23 (e) the projected number of new full-time and part-time positions
24 expected to be created over the period of financial assistance, and an
25 estimated schedule by year of when those positions will be created;

26 (f) the number and types of full-time and part-time jobs to be
27 retained, and the number of filled positions at the project as of the
28 date the agreement is executed;

29 (g) the types and value of other forms of financial assistance
30 provided to the project or requested by the project applicant from other
31 state or local government agencies or authorities; and

32 (h) the penalties to be imposed on the project applicant if the terms
33 of the agreement are not met.

34 2. The length of a financial assistance agreement shall be limited to
35 no more than five years; provided however that the agreement may be
36 renewed for up to five additional years if the authority determines that
37 the project applicant has acted in good faith to meet the terms and
38 conditions of the agreement. In no event may financial assistance in the
39 form of a loan or exemption from taxation be provided to a project for
40 more than ten years.

41 3. The financial assistance agreement shall be made available to the
42 public on the website of the authority.

43 4. The authority shall adopt a methodology to evaluate the conformance
44 of each assisted project to the terms and conditions of the financial
45 assistance agreement. This methodology shall be made available to the
46 public on the authority's website.

47 § 1953-d. Recapture of certain financial assistance. 1. The authority,
48 pursuant to the terms and conditions of its financial assistance agree-
49 ment, may recapture financial assistance to a project from the proceeds
50 of bonds issued by the authority, mortgage recording tax exemptions, or
51 local sales or compensating use tax exemptions if (a) the project
52 violates state or federal tax law, labor law, environmental protection
53 law, or contract law, or any state or federal rule or regulation imple-
54 menting such law, as determined by a court of competent jurisdiction or
55 administrative tribunal, provided that such court or tribunal concludes
56 that the violation would cause material harm to the economy or quality

1 of life of the community; or (b) all or part of the project's business
2 activity or workforce is moved to a location outside the community
3 served by the authority and by doing so violates the terms and condi-
4 tions of its financial assistance agreement.

5 2. An authority which elects to initiate the recapture of financial
6 assistance pursuant to subdivision one of section eight hundred fifty-
7 nine-f of the general municipal law must notify the recipient of such
8 financial assistance in writing that it is in default of its financial
9 assistance agreement and may direct the recipient of financial assist-
10 ance to repay up to the full amount of such financial assistance
11 received as of the date of the written notice plus interest at the rate
12 set forth in section five thousand four of the civil practice law and
13 rules.

14 3. Financial assistance recaptured pursuant to this section and any
15 interest paid shall be redistributed to affected tax jurisdictions in
16 proportion to the amount of real property tax and other taxes which
17 would have been received by each affected tax jurisdiction had the
18 project not been tax exempt. Unless otherwise agreed to in writing by an
19 affected tax jurisdiction, the authority shall not retain any portion of
20 such funds as an administrative or project fee.

21 § 1953-e. Wages and standards. Whenever a recipient of financial
22 assistance from the authority enters into a contract, subcontract, lease
23 or other agreement for or in connection with the construction, demoli-
24 tion, reconstruction, rehabilitation, repair, or renovation of an
25 assisted project, the recipient of financial assistance shall pay work-
26 ers engaged in such work no less than the prevailing rate of wage and
27 supplements under article eight of the labor law.

28 § 13. Section 1963-a of the public authorities law, as amended by
29 chapter 357 of the laws of 1993, subdivision 1 as amended by chapter 386
30 of the laws of 2019, and subdivision 2 as amended by chapter 766 of the
31 laws of 2022, is amended to read as follows:

32 § 1963-a. Uniform [~~tax-exemption~~] financial assistance policy. 1. The
33 authority shall [~~establish~~] adopt a uniform [~~tax-exemption~~] financial
34 assistance policy, [~~with input from~~] subject to the approval of affected
35 local taxing jurisdictions, which shall be applicable to provisions of
36 financial assistance pursuant to section nineteen hundred fifty-three-a
37 of this title and shall provide guidelines for the claiming of real
38 property, mortgage recording, and sales tax exemptions. Such guidelines
39 shall include, but not be limited to: period of exemption; payments in
40 lieu of taxes as a percentage of [~~exemption~~] taxes that would have been
41 levied by or on behalf of affected tax jurisdictions if the project was
42 not exempt by reason of authority involvement; types of projects for
43 which exemptions can be claimed; procedures for payments in lieu of
44 taxes and instances in which real property appraisals are to be
45 performed as a part of an application for tax exemption; in addition,
46 the authority in adopting such policy shall consider such issues as: the
47 extent to which a project will create or retain permanent, private
48 sector jobs; the estimated value of any tax exemption to be provided;
49 whether affected tax jurisdictions should be reimbursed by the project
50 occupant if a project does not fulfill the purposes for which an
51 exemption was provided; the impact of a proposed project on existing and
52 proposed businesses and economic development projects in the vicinity;
53 the amount of private sector investment generated or likely to be gener-
54 ated by the proposed project; the demonstrated public support for the
55 proposed project; the likelihood of accomplishing the proposed project
56 in a timely fashion; the effect of the proposed project upon the envi-

1 ronment; the extent to which the project will utilize, to the fullest
2 extent practicable and economically feasible, resource conservation,
3 energy efficiency, green technologies, and alternative and renewable
4 energy measures; the extent to which the proposed project will require
5 the provision of additional services, including, but not limited to
6 additional educational, transportation, police, emergency medical or
7 fire services; and the extent to which the proposed project will provide
8 additional sources [~~or~~] of revenue for municipalities and school
9 districts. The adopted uniform financial assistance policy shall be
10 provided to the chief executive officer and members of the governing
11 body of each affected tax jurisdiction and shall be made available for
12 public inspection at the authority's office and on the authority's
13 website upon its adoption.

14 2. The authority shall [~~establish a procedure~~] adopt criteria for
15 deviation from the uniform [~~tax exemption~~] financial assistance policy
16 required pursuant to this section. The authority shall set forth in
17 writing the reasons for deviation from such policy, and shall further
18 notify by certified mail, return receipt requested, the affected tax
19 jurisdictions of the proposed deviation from such policy and the reasons
20 therefor not less than sixty days before such deviation from the uniform
21 financial assistance policy takes effect. When the affected tax juris-
22 diction is a school district, the authority shall notify by certified
23 mail, return receipt requested, the school board and district super-
24 intendent of each affected school district.

25 § 14. Section 2306 of the public authorities law, as added by chapter
26 915 of the laws of 1969, the opening paragraph and an undesignated para-
27 graph as amended by chapter 304 of the laws of 2013, subdivision 8 as
28 amended, subdivision 14 as added and subdivisions 15 and 16 as renum-
29 bered by chapter 356 of the laws of 1993, and subdivision 9 as amended
30 by chapter 556 of the laws of 1973, is amended to read as follows:

31 § 2306. Purpose and powers of the authority. The purposes of the
32 authority shall be to promote, develop, encourage and assist in the
33 acquiring, constructing, reconstructing, improving, maintaining, equip-
34 ping and furnishing industrial, manufacturing, warehouse, civic facili-
35 ties, commercial and research facilities and facilities for use by a
36 federal agency or a medical facility including industrial pollution
37 control facilities, which may include transportation facilities includ-
38 ing but not limited to those relating to water, highway, rail and air,
39 in one or more areas of the city, and thereby advance the job opportu-
40 nities, health, general prosperity and economic welfare of the people of
41 said city and to improve their medical care and standard of living;
42 provided, however, that the authority shall not undertake any project if
43 the completion thereof would result in the removal of an industrial or
44 manufacturing plant of the project occupant from one area of the state
45 to another area of the state or in abandonment of one or more plants or
46 facilities of the project applicant located within the state, provided,
47 however, that neither restriction shall apply if the authority shall
48 determine on the basis of the application before it that the project is
49 reasonably necessary to discourage the project occupant from removing
50 such other plant or facility to a location outside the state or is
51 reasonably necessary to preserve the competitive position of the project
52 occupant in its respective industry. Except as otherwise provided for in
53 this section, no financial assistance of the authority shall be provided
54 in respect of any project where facilities or property that are primari-
55 ly used in making retail sales to customers who personally visit such
56 facilities constitute more than one-third of the total project cost. For

1 the purposes of this article, "retail sales" shall mean: (i) sales by a
2 registered vendor under article twenty-eight of the tax law primarily
3 engaged in the retail sale of tangible personal property, as defined in
4 subparagraph (i) of paragraph four of subdivision (b) of section eleven
5 hundred one of the tax law; or (ii) sales of a service to such custom-
6 ers. Except, however, that tourism destination projects shall not be
7 prohibited by this paragraph. For the purpose of this paragraph, "tour-
8 ism destination" shall mean a location or facility which is likely to
9 attract a significant number of visitors from outside the economic
10 development region as established by section two hundred thirty of the
11 economic development law, in which the project is located.

12 Notwithstanding the provisions of this section to the contrary, such
13 financial assistance may, however, be provided to a project where facil-
14 ities or property that are primarily used in making retail sales of
15 goods or services to customers who personally visit such facilities to
16 obtain such goods or services constitute more than one-third of the
17 total project cost, where: (i) the predominant purpose of the project
18 would be to make available goods or services which would not, but for
19 the project, be reasonably accessible to the residents of the city of
20 Auburn because of a lack of reasonably accessible retail trade facili-
21 ties offering such goods or services; or (ii) the project is located in
22 a highly distressed area. With respect to projects authorized pursuant
23 to this paragraph no project shall be approved unless the authority
24 shall find after the public hearing required by section twenty-three
25 hundred seven of this title that undertaking the project will serve the
26 public purposes of this article by preserving permanent, private sector
27 jobs or increasing the overall number of permanent, private sector jobs
28 in the state. Where the authority makes such a finding, prior to provid-
29 ing financial assistance to the project by the authority, the chief
30 executive officer of the city of Auburn shall confirm the proposed
31 action of the authority. To carry out said purpose, the authority shall
32 have power:

- 33 1. To sue and be sued;
- 34 2. To have a seal and alter the same at pleasure;
- 35 3. To acquire, hold and dispose of personal property for its corporate
36 purpose;
- 37 4. To acquire by purchase, grant, lease, gift, condemnation, or other-
38 wise and to use, real property or rights or easements therein necessary
39 for its corporate purposes, and to sell, convey, mortgage, lease,
40 pledge, exchange or otherwise dispose of any such property in such
41 manner as the authority shall determine. With respect to real property
42 conveyed to it by the city, however, such power of disposition shall be
43 limited as hereinafter provided in section twenty-three hundred ten of
44 this title;

45 5. To acquire real property within the city of Auburn as necessary for
46 its corporate purposes pursuant to section eight hundred fifty-eight-c
47 of the general municipal law;

48 ~~6.~~ 6. To make by-laws for the management and regulation of its affairs
49 and, subject to agreements with its bondholders, for the regulation of
50 the use of the project[-];

51 [~~6-~~] 7. With the consent of the city, to use agents, employees and
52 facilities of the city, paying the city its agreed proportion of the
53 compensation or costs[-];

54 [~~7-~~] 8. To appoint officers, agents and employees, to prescribe their
55 qualifications and to fix their compensation and to pay the same out of
56 funds of the authority, subject, however, to the provisions of the civil

1 service law hereinafter provided in section twenty-three hundred eight
2 of this title;

3 ~~[8-]~~ 9. To retain and employ financial advisors, engineers, archi-
4 tects, attorneys and other consultants for professional and technical
5 assistance and advice; that an attorney acting as bond counsel for a
6 project must file with the authority a written statement in which the
7 attorney identifies each party to the transaction which such attorney
8 represents. If bond counsel provides any legal services to the parties
9 other than the authority, the written statement must describe the nature
10 of legal services provided by such bond counsel to all parties to the
11 transaction, including the nature of the services provided to the
12 authority;

13 ~~[9-]~~ 10. To make contracts and leases upon such terms as the authority
14 shall deem appropriate, including without limitation leases which grant
15 the tenant of a project an option to renew or an option to purchase the
16 project, or both, at a fixed or otherwise predetermined price, and to
17 execute all instruments necessary or convenient;

18 ~~[10-]~~ 11. To acquire, construct, reconstruct, lease, improve, main-
19 tain, equip or furnish one or more projects;

20 ~~[11-]~~ 12. To accept gifts, grants, loans or contributions from, and
21 enter into contracts or other transactions with, the United States and
22 the state or any agency of either of them, any municipality, any public
23 or private corporation or any other legal entity, and to use any such
24 gifts, grants, loans or contributions for any of its corporate purposes;

25 ~~[12-]~~ 13. To provide financial assistance in the form of loans to
26 improve, maintain or equip one or more projects consistent with its
27 corporate purposes;

28 14. To provide financial assistance in the form of grants for one or
29 more projects consistent with its corporate purposes;

30 15. To borrow money and to issue bonds and to provide for the rights
31 of the holders thereof;

32 ~~[13-]~~ 16. To designate the depositories of its money in the city of
33 Auburn~~[-]~~;

34 ~~[14-]~~ 17. To enter into agreements requiring payments in lieu of
35 taxes. Such agreements shall be in writing and in addition to other
36 terms shall contain: the amount due annually to each affected tax juris-
37 diction (or a formula by which the amount due can be calculated), the
38 name and address of the person, office or agency to which payment shall
39 be delivered, the date on which the payment shall be made, and the date
40 on which payment shall be considered delinquent if not paid. Unless
41 otherwise agreed by the affected tax jurisdictions, any such agreement
42 shall provide that payments in lieu of taxes shall be allocated among
43 affected tax jurisdictions in proportion to the amount of real property
44 tax and other taxes which would have been received by each affected tax
45 jurisdiction had the project not been tax exempt due to the status of
46 the agency involved in the project. A copy of any such agreement shall
47 be delivered to each tax affected jurisdiction within fifteen days of
48 signing the agreement. In the absence of any such written agreement,
49 payments in lieu of taxes shall be allocated in the same proportions as
50 they had been prior to January first, nineteen hundred ninety-three for
51 so long as the authority's activities render a project non-taxable by
52 affected tax jurisdictions~~[-]~~;

53 ~~[15-]~~ 18. To establish and reestablish its fiscal year; and

54 ~~[16-]~~ 19. To do all things necessary or convenient to carry out its
55 purposes and exercise the powers expressly given in this title.

1 § 14-a. Subdivision 14 of section 2306 of the public authorities law,
2 as amended by chapter 708 of the laws of 2022, is amended to read as
3 follows:

4 ~~[14.]~~ 17. To enter into agreements requiring payments in lieu of
5 taxes. Such agreements shall be in writing and in addition to other
6 terms shall contain: the amount due annually to each affected tax juris-
7 diction (or a formula by which the amount due can be calculated), the
8 name and address of the person, office or agency to which payment shall
9 be delivered, the date on which the payment shall be made, and the date
10 on which payment shall be considered delinquent if not paid. Unless
11 otherwise agreed by the affected tax jurisdictions, any such agreement
12 shall provide that payments in lieu of taxes shall be allocated among
13 affected tax jurisdictions in proportion to the amount of real property
14 tax and other taxes which would have been received by each affected tax
15 jurisdiction had the project not been tax exempt due to the status of
16 the agency involved in the project. A copy of any such agreement shall
17 be delivered to each tax affected jurisdiction within fifteen days of
18 signing the agreement. In the absence of any such written agreement,
19 payments in lieu of taxes shall be allocated in the same proportions as
20 they had been prior to January first, nineteen hundred ninety-three for
21 so long as the authority's activities render a project non-taxable by
22 affected tax jurisdictions. A notification of the expiration of such
23 agreement shall be delivered to the affected tax jurisdiction two years
24 prior to the expiration of such agreement and immediately upon early
25 termination of an agreement;

26 § 15. Section 2307 of the public authorities law, as added by chapter
27 356 of the laws of 1993, subdivision 1 as amended by chapter 357 of the
28 laws of 1993, and subdivision 1-a as added by chapter 766 of the laws of
29 2022, is amended to read as follows:

30 § 2307. Additional prerequisites to the provision of financial assist-
31 ance. Prior to providing any financial assistance ~~[of]~~ totaling more
32 than one hundred thousand dollars to any project, the authority must
33 comply with the following prerequisites:

34 1. The authority must adopt a resolution describing the project and
35 type and amount of the financial assistance that the authority is
36 contemplating with respect to such project. Such assistance shall be
37 consistent with the uniform ~~[tax-exemption]~~ financial assistance policy
38 adopted by the agency pursuant to subdivision one of section twenty-
39 three hundred fifteen of this chapter, unless the agency has followed
40 procedures for deviation from such policy specified in subdivision two
41 of such section.

42 1-a. The authority shall deliver a copy of the resolution adopted
43 pursuant to subdivision one of this section by certified mail, return
44 receipt requested, to the chief executive officer of each affected tax
45 jurisdiction. When the affected tax jurisdiction is a school district,
46 the authority shall deliver a copy of such resolution by certified mail,
47 return receipt requested, to the school board and district superinten-
48 dent of each affected school district.

49 2. The authority must hold a public hearing with respect to the
50 project and the proposed financial assistance being contemplated by the
51 authority not less than thirty days prior to executing a written agree-
52 ment to provide financial assistance. At said public hearing, inter-
53 ested parties shall be provided reasonable opportunity, both orally and
54 in writing, to present their views with respect to the project and the
55 type and amount of financial assistance to be provided. The authority

1 shall also accept written comments up to seven days after such hearing
2 is held.

3 3. The authority must give at least ten days published notice of said
4 public hearing and shall, at the same time, provide notice of such hear-
5 ing to the chief executive officer of each affected tax [~~jurisdiction~~]
6 jurisdiction within which the project is located. The notice of hearing
7 must state the time and place of the hearing, contain a general, func-
8 tional description of the project, describe the prospective location of
9 the project, identify the initial owner, operator or manager of the
10 project and generally describe the financial assistance contemplated by
11 the authority with respect to the project.

12 4. The authority shall maintain a complete record of the hearing,
13 including all documents and oral statements, and written statements
14 presented at or within seven days following such hearing. All members
15 shall be provided with a copy of such record at least seven days before
16 deciding whether to approve financial assistance for the project. Such
17 record shall also be posted on the authority's website at the time it is
18 provided to members.

19 § 16. The public authorities law is amended by adding four new
20 sections 2307-a, 2307-b, 2307-c and 2307-d to read as follows:

21 § 2307-a. Project application and approval criteria. 1. The project
22 applicant shall submit an application, developed by the authority, for
23 approval of a proposed project and financial assistance. The authority
24 shall adopt project application review and approval criteria that shall
25 be applied to all project applications under consideration for approval
26 and financial assistance. The decision to approve or not approve finan-
27 cial assistance shall be based on, but not limited to, consideration of
28 the following criteria:

29 (a) Strategic objectives. Consideration is to be given to the purpose
30 of the project, such as the nature of the planned business activity, the
31 extent to which the planned business activity is unrepresented or under-
32 represented in the community, and whether the project involves a busi-
33 ness interested in relocating from outside the state of New York.

34 (b) Job creation. A decision to fund a project shall be based on the
35 number of jobs to be created or retained by the proposed project, the
36 range of projected salaries and benefits associated with jobs to be
37 created, and the benchmarks and timeframes to be used by the project to
38 determine whether it is meeting projected job creation and retention
39 goals.

40 (c) The financial viability of the project. Approval for funding shall
41 consider the extent to which the viability and success of the project is
42 dependent on financial assistance from the authority. The authority
43 shall also consider the amount and type of financial assistance being
44 requested, the amount and type of private financing required, the amount
45 and type of capital investment to be provided by the project applicant,
46 and any prior financial assistance provided to the project or to the
47 project applicant.

48 (d) Economic benefits. Funding decisions shall consider the potential
49 economic and financial impact of the project on existing businesses in
50 the area, on the affected tax jurisdictions, and on the local labor
51 market.

52 (e) Legal issues. Consideration shall be given to the project appli-
53 cant's record of compliance with applicable laws and regulations.

54 2. The project application review and approval criteria shall be
55 reviewed and approved annually at a regular meeting of the authority and
56 made available to the public on the authority's website.

1 3. The authority shall provide the director of the authorities budget
2 office with an electronic copy of the application and project review and
3 approval criteria within thirty days of their adoption or revision.

4 4. The authority shall retain a written record of the evaluation of
5 each project application to document its decision to provide or deny
6 financial assistance.

7 § 2307-b. Financial assistance agreement. 1. The authority shall enter
8 into a written agreement with the project applicant prior to providing
9 financial assistance. The agreement shall include the following informa-
10 tion:

11 (a) a description of the amount and type of financial assistance to be
12 provided by the authority, including a description and the value of
13 property conveyed at less than fair market value;

14 (b) a description of the amount of financing to be provided by the
15 project applicant, including the amount and type of capital investment
16 to be provided;

17 (c) the purpose of the project;

18 (d) the amount, types, sources and commitments of any private financ-
19 ing;

20 (e) the projected number of new full-time and part-time positions
21 expected to be created over the period of financial assistance, and an
22 estimated schedule by year of when those positions will be created;

23 (f) the number and types of full-time and part-time jobs to be
24 retained, and the number of filled positions at the project as of the
25 date the agreement is executed;

26 (g) the types and value of other forms of financial assistance
27 provided to the project or requested by the project applicant from other
28 state or local government agencies or authorities; and

29 (h) the penalties to be imposed on the project applicant if the terms
30 of the agreement are not met.

31 2. The length of a financial assistance agreement shall be limited to
32 no more than five years; provided however that the agreement may be
33 renewed for up to five additional years if the authority determines that
34 the project applicant has acted in good faith to meet the terms and
35 conditions of the agreement. In no event may financial assistance in the
36 form of a loan or exemption from taxation be provided to a project for
37 more than ten years.

38 3. The financial assistance agreement shall be made available to the
39 public on the website of the authority.

40 4. The authority shall adopt a methodology to evaluate the conformance
41 of each assisted project to the terms and conditions of the financial
42 assistance agreement. This methodology shall be made available to the
43 public on the authority's website.

44 § 2307-c. Recapture of certain financial assistance. 1. The authority,
45 pursuant to the terms and conditions of its financial assistance agree-
46 ment, may recapture financial assistance to a project from the proceeds
47 of bonds issued by the authority, mortgage recording tax exemptions, or
48 local sales or compensating use tax exemptions if (a) the project
49 violates state or federal tax law, labor law, environmental protection
50 law, or contract law, or any state or federal rule or regulation imple-
51 menting such law, as determined by a court of competent jurisdiction or
52 administrative tribunal, provided that such court or tribunal concludes
53 that the violation would cause material harm to the economy or quality
54 of life of the community; or (b) all or part of the project's business
55 activity or workforce is moved to a location outside the community

1 served by the authority and by doing so violates the terms and condi-
2 tions of its financial assistance agreement.

3 2. An authority which elects to initiate the recapture of financial
4 assistance pursuant to subdivision one of section eight hundred fifty-
5 nine-e of the general municipal law must notify the recipient of such
6 financial assistance in writing that it is in default of its financial
7 assistance agreement and may direct the recipient of financial assist-
8 ance to repay up to the full amount of such financial assistance
9 received as of the date of the written notice plus interest at the rate
10 set forth in section five thousand four of the civil practice law and
11 rules.

12 3. Financial assistance recaptured pursuant to this section and any
13 interest paid shall be redistributed to affected tax jurisdictions in
14 proportion to the amount of real property tax and other taxes which
15 would have been received by each affected tax jurisdiction had the
16 project not been tax exempt. Unless otherwise agreed to in writing by an
17 affected tax jurisdiction, the authority shall not retain any portion of
18 such funds as an administrative or project fee.

19 § 2307-d. Wages and standards. Whenever a recipient of financial
20 assistance from the authority enters into a contract, subcontract, lease
21 or other agreement for or in connection with the construction, demoli-
22 tion, reconstruction, rehabilitation, repair, or renovation of an
23 assisted project, the recipient of financial assistance shall pay work-
24 ers engaged in such work no less than the prevailing rate of wage and
25 supplements under article eight of the labor law.

26 § 17. Section 2315 of the public authorities law, as amended by chap-
27 ter 357 of the laws of 1993, subdivision 1 as amended by chapter 386 of
28 the laws of 2019, and subdivision 2 as amended by chapter 766 of the
29 laws of 2022, is amended to read as follows:

30 § 2315. Uniform [~~tax exemption~~] financial assistance policy. 1. The
31 authority shall [~~establish~~] adopt a uniform [~~tax exemption~~] financial
32 assistance policy, [~~with input from~~] subject to the approval of affected
33 local taxing jurisdictions, which shall be applicable to provisions of
34 financial assistance pursuant to section twenty-three hundred seven of
35 this title and shall provide guidelines for the claiming of real proper-
36 ty, mortgage recording, and sales tax exemptions. Such guidelines shall
37 include, but not be limited to: period of exemption; payments in lieu of
38 taxes as a percentage of [~~exemption~~] taxes that would have been levied
39 by or on behalf of affected tax jurisdictions if the project was not
40 exempt by reason of authority involvement; types of projects for which
41 exemptions may be claimed; procedures for payments in lieu of taxes and
42 instances in which real property appraisals are to be performed as a
43 part of an application for tax exemption; in addition, the authority in
44 adopting such policy shall consider such issues as: the extent to which
45 a project will create or retain permanent, private sector jobs; the
46 estimated value of any tax exemption to be provided; whether affected
47 tax jurisdictions should be reimbursed by the project occupant if a
48 project does not fulfill the purposes for which an exemption was
49 provided; the impact of a proposed project on existing and proposed
50 businesses and economic development projects in the vicinity; the amount
51 of private sector investment generated or likely to be generated by the
52 proposed project; the demonstrated public support for the proposed
53 project; the likelihood of accomplishing the proposed project in a time-
54 ly fashion; the effect of the proposed project upon the environment; the
55 extent to which the project will utilize, to the fullest extent practi-
56 cable and economically feasible, resource conservation, energy efficien-

1 cy, green technologies, and alternative and renewable energy measures;
2 the extent to which the proposed project will require the provision of
3 additional services, including, but not limited to additional educa-
4 tional, transportation, police, emergency medical or fire services; and
5 the extent to which the proposed project will provide additional sources
6 of revenue for municipalities and school districts. The adopted uniform
7 financial assistance policy shall be provided to the chief executive
8 officer and members of the governing body of each affected tax jurisdic-
9 tion and shall be made available for public inspection at the authori-
10 ty's office and on the authority's website upon its adoption.

11 2. The authority shall [~~establish a procedure~~] adopt criteria for
12 deviation from the uniform [~~tax exemption~~] financial assistance policy
13 required pursuant to this section which shall be subject to the approval
14 of affected local tax jurisdictions. The authority shall set forth in
15 writing the reasons for deviation from such policy, and shall further
16 notify by certified mail, return receipt requested, the affected local
17 taxing jurisdictions of the proposed deviation from such policy and the
18 reasons therefor not less than sixty days before such deviation from the
19 uniform financial assistance policy shall take effect. When the affected
20 tax jurisdiction is a school district, the authority shall notify by
21 certified mail, return receipt requested, the school board and district
22 superintendent of each affected school district.

23 § 18. Subdivision 1 of section 2976 of the public authorities law, as
24 amended by section 1 of part C of chapter 19 of the laws of 2010, is
25 amended to read as follows:

26 1. Notwithstanding any other law to the contrary, public benefit
27 corporations (which for purposes of this section shall include indus-
28 trial development agencies created pursuant to title one of article
29 eighteen-A of the general municipal law or any other provision of law
30 and the New York city housing development corporation created pursuant
31 to article twelve of the private housing finance law) which issue bonds,
32 notes or other obligations and not-for-profit corporations that issue
33 bonds on behalf of the state or a political subdivision thereof shall
34 pay to the state a bond issuance charge upon the issuance of such bonds
35 in an amount determined pursuant to subdivision two of this section.
36 Such charge shall be paid to the state department of taxation and
37 finance, upon forms prescribed therefor, no later than fifteen days from
38 the end of the month within which such bonds are issued.

39 § 19. The not-for-profit corporation law is amended by adding a new
40 section 206 to read as follows:

41 § 206. Financial assistance agreement.

42 1. A corporation, including a local development corporation, deter-
43 mined to be a local authority pursuant to subdivision two of section two
44 and paragraph (j) of subdivision one of section six of the public
45 authorities law that provides financial assistance to a project in the
46 form of a grant, loan, exemption from taxation, or contribution for the
47 public purpose of relieving or reducing unemployment, promoting and
48 marketing job opportunities, or supporting the formation, relocation,
49 expansion, or retention of business shall enter into a written agreement
50 with the project applicant prior to providing financial assistance.

51 2. The agreement shall include the following information:

52 (a) a description of the amount and type of financial assistance to be
53 provided by the corporation, including a description and the value of
54 property conveyed at less than fair market value;

1 (b) a description of the amount of financing to be provided by the
2 project applicant, including the amount and type of capital investment
3 to be provided;

4 (c) the purpose of the project;

5 (d) the amount, types, sources and commitments of any private financ-
6 ing;

7 (e) the projected number of new full-time and part-time positions
8 expected to be created over the period of financial assistance, and an
9 estimated schedule by year of when those positions will be created;

10 (f) the number and types of full-time and part-time jobs to be
11 retained, and the number of filled positions at the project as of the
12 date the agreement is executed;

13 (g) the types and value of other forms of financial assistance
14 provided to the project or requested by the project applicant from other
15 state or local government agencies or authorities; and

16 (h) the penalties to be imposed on the project applicant if the terms
17 of the agreement are not met.

18 3. The length of a financial assistance agreement shall be limited to
19 no more than five years; provided however that the agreement may be
20 renewed for up to five additional years if the corporation determines
21 that the project applicant has acted in good faith to meet the terms and
22 conditions of the agreement. In no event may financial assistance in the
23 form of a loan or exemption from taxation be provided to a project for
24 more than ten years.

25 4. The financial assistance agreement shall be made available to the
26 public on the website of the corporation.

27 5. The corporation shall adopt a methodology to evaluate the conform-
28 ance of each assisted project to the terms and conditions of the finan-
29 cial assistance agreement. This methodology shall be made available to
30 the public on the corporation's website.

31 6. (a) The corporation, pursuant to the terms and conditions of its
32 financial assistance agreement, may recapture financial assistance to a
33 project from grants, loans, real property tax exemptions, mortgage
34 recording tax exemptions, or local sales or compensating use tax
35 exemptions if (i) the project violates state or federal tax law, labor
36 law, environmental protection law, or contract law, or any state or
37 federal rule or regulation implementing such law, as determined by a
38 court of competent jurisdiction or administrative tribunal, provided
39 that such court or tribunal concludes that the violation would cause
40 material harm to the economy or quality of life of the community; or
41 (ii) all or part of the project's business activity or workforce is
42 moved to a location outside the community served by the corporation and
43 by doing so violates the terms and conditions of its financial assist-
44 ance agreement.

45 (b) A corporation which elects to initiate the recapture of financial
46 assistance pursuant to subdivision one of this section must notify the
47 recipient of such financial assistance in writing that it is in default
48 of its financial assistance agreement and may direct the recipient of
49 financial assistance to repay up to the full amount of such financial
50 assistance received as of the date of the written notice plus interest
51 at the rate set forth in section five thousand four of the civil prac-
52 tice law and rules.

53 (c) Financial assistance recaptured pursuant to this section and any
54 interest paid shall be redistributed to affected tax jurisdictions in
55 proportion to the amount of real property tax and other taxes which
56 would have been received by each affected tax jurisdiction had the

1 project not been tax exempt. Unless otherwise agreed to in writing by an
2 affected tax jurisdiction, the corporation shall not retain any portion
3 of such funds as an administrative or project fee.

4 7. Wages and standards. Whenever a recipient of financial assistance
5 from the corporation enters into a contract, subcontract, lease or other
6 agreement for or in connection with the construction, demolition, recon-
7 struction, rehabilitation, repair, or renovation of an assisted project,
8 the recipient of financial assistance shall pay workers engaged in such
9 work no less than the prevailing rate of wage and supplements under
10 article eight of the labor law.

11 8. For the purposes of this section, "project" shall mean any land,
12 any building or other improvement, and all real and personal properties
13 located within the state of New York and within or outside or partially
14 within and partially outside the municipality for whose benefit the
15 agency was created, including, but not limited to, machinery, equipment
16 and other facilities deemed necessary or desirable in connection there-
17 with, or incidental thereto, whether or not now in existence or under
18 construction, which shall be suitable for manufacturing, warehousing,
19 research, commercial or industrial purposes or other economically sound
20 purposes identified and called for to implement a state designated urban
21 cultural park management plan as provided in title G of the parks,
22 recreation and historic preservation law and which may include or mean
23 an industrial pollution control facility, a recreation facility, educa-
24 tional or cultural facility, a horse racing facility, a railroad facili-
25 ty or an automobile racing facility, provided, however, that no agency
26 shall use its funds or provide financial assistance in respect of any
27 project wholly or partially outside the municipality for whose benefit
28 the agency was created without the prior consent thereto by the govern-
29 ing body or bodies of all the other municipalities in which a part or
30 parts of the project is, or is to be, located, and such portion of the
31 project located outside such municipality for whose benefit the agency
32 was created shall be contiguous with the portion of the project inside
33 such municipality.

34 § 20. Paragraphs (a), (b) and (d) of section 1411 of the not-for-pro-
35 fit corporation law, paragraph (a) as amended by chapter 847 of the laws
36 of 1970 and paragraph (b) as amended by chapter 549 of the laws of 2013,
37 are amended to read as follows:

38 (a) Purposes.

39 This section shall provide an additional and alternate method of
40 incorporation or reincorporation of not-for-profit corporations for any
41 of the purposes set forth in this paragraph [~~and shall not be deemed to~~
42 ~~alter, impair or diminish the purposes, rights, powers or privileges of~~
43 ~~any corporation heretofore or hereafter incorporated under this section~~
44 ~~or under the stock or business corporation laws~~]. Corporations may be
45 incorporated or reincorporated under this section as not-for-profit
46 local development corporations operated for the exclusively charitable
47 or public purposes of relieving and reducing unemployment, promoting and
48 providing for additional and maximum employment, bettering and maintain-
49 ing job opportunities, instructing or training individuals to improve or
50 develop their capabilities for such jobs, carrying on scientific
51 research for the purpose of aiding a community or geographical area by
52 attracting new industry to the community or area or by encouraging the
53 development of, or retention of, an industry in the community or area[~~7~~
54 ~~and lessening the burdens of government and acting in the public inter-~~
55 ~~est, and any~~]. Any one or more counties, cities, towns or villages of
56 the state, or any combination thereof, or the New York job development

1 authority in exercising its power under the public authorities law to
2 encourage the organization of local development corporations, may cause
3 such corporations to be incorporated by public officers or private indi-
4 viduals or reincorporated upon compliance with the requirements of this
5 section, and it is hereby found, determined and declared that in carry-
6 ing out said purposes and in exercising the powers conferred by para-
7 graph (b) of this section such corporations will be acting in the public
8 interest and performing an essential governmental function.

9 (b) Type of corporation.

10 A local development corporation [~~is~~] incorporated for one or more of
11 the purposes described in paragraph (a) of this section shall be a char-
12 itable corporation under this chapter.

13 (d) Purchase or lease of real property owned by a county, city, town
14 or village.

15 (1) The local legislative body of a county, city, town or village or,
16 if there is a board of estimate in a city, then the board of estimate,
17 may by resolution determine that specifically described real property
18 owned by the county, city, town or village is not required for use by
19 such county, city, town or village and authorize the county, city, town
20 or village to sell or lease such real property to a local development
21 corporation incorporated or reincorporated under this article; provided,
22 however, that title to such land be not declared inalienable as a forest
23 preserve or a parkland.

24 (2) Notwithstanding the provisions of any general, special or local
25 law, charter or ordinance to the contrary, no such sale or lease may be
26 made without appraisal, public notice, (except as provided in subpara-
27 graph (4)) or public bidding [~~for such price or rental and upon such~~
28 ~~terms as may be agreed upon between the county, city, town or village~~
29 ~~and said local development corporation~~]; provided, however, that in case
30 of a lease the term may not exceed ninety-nine years and provided,
31 further, that in cities having a population of one million or more, no
32 such sale or lease shall be made without the approval of a majority of
33 the members of the borough [~~improvement~~] board of the borough in which
34 such real property is located.

35 (3) Before any sale or lease to a local development corporation incor-
36 porated or reincorporated under this article shall be authorized, a
37 public hearing shall be held by the local legislative body [~~, or by the~~
38 ~~board of estimate, as the case may be,~~] to consider the proposed sale or
39 lease.

40 (4) Notice of such hearing shall be published at least ten days before
41 the date set for the hearing in such publication and in such manner as
42 may be designated by the local legislative body [~~, or the board of esti-~~
43 ~~mate as the case may be~~]. Such notice shall include a description of the
44 real property proposed to be sold or leased; a statement of the esti-
45 ated fair market value of the real property proposed to be sold or
46 leased; the value of the financial consideration to be received by the
47 county, city, town or village from such sale or lease of the real prop-
48 erty; and a statement of the intended use or disposition of such real
49 property by the local development corporation.

50 (5) A local development corporation, incorporated or reincorporated
51 under this section, which purchases or leases real property from a coun-
52 ty, city, town or village, shall not, without the written approval of
53 the county, city, town or village, use such real property for any
54 purpose except the purposes set forth in the certificate of incorpo-
55 ration or reincorporation of said local development corporation. In the
56 event such real property is used in violation of the restrictions of

1 this paragraph, the attorney-general may bring an action or special
2 proceeding to enjoin the unauthorized use.

3 § 21. Paragraphs (e), (f), (g), (h), and (i) of section 1411 of the
4 not-for-profit corporation law are relettered paragraphs (f), (g), (h),
5 (i), and (j) and a new paragraph (e) is added to read as follows:

6 (e) Contracts with municipalities.

7 Any contract or other agreement between a local development corpo-
8 ration and a municipality or state authority or local authority for one
9 or more of the purposes described in paragraph (a) of this section
10 shall: (i) cause the local development corporation to be defined as a
11 local authority pursuant to subdivision two of section two of the public
12 authorities law; (ii) provide for the municipality or state authority or
13 local authority to receive fair and adequate consideration for the
14 services provided by the local development corporation; (iii) be subject
15 to the requirements of article five-A of the general municipal law; and
16 (iv) have a term not to exceed ten years, subject to one or more
17 renewals for a term not to exceed ten years upon the mutual consent of
18 the parties; provided however that a contract with a municipality shall
19 not be used to finance the municipality's operations or to acquire or
20 improve an asset for use of the municipality.

21 § 22. Paragraph (j) of section 1411 of the not-for-profit corporation
22 law, as relettered by section twenty-one of this act, is amended to read
23 as follows:

24 (j) Effect of section.

25 Corporations incorporated or reincorporated under this section shall
26 be organized and operated exclusively for the purposes set forth in
27 paragraph (a), shall have, in addition to the powers otherwise conferred
28 by law, the powers conferred by paragraph (c) of this section and shall
29 be subject to all the restrictions and limitations imposed by [~~paragraph~~
30 ~~(e) and paragraph (g)] paragraphs (c), (d), (e), (h) and (i) of this
31 section. In so far as the provisions of this section are inconsistent
32 with the provisions of any other law, general or special, the provisions
33 of this section shall be controlling as to corporations incorporated or
34 reincorporated hereunder.~~

35 § 23. Federal preemption and severability. The provisions of each
36 section of this act shall be deemed severable, and the declaration by a
37 court of competent jurisdiction that any part thereof is preempted or
38 otherwise invalid shall not affect the remaining parts thereof.

39 § 24. This act shall take effect on the thirtieth day after it shall
40 have become a law, or January 1, 2024, whichever shall come first;
41 provided, however, that section fifteen of this act shall apply to bonds
42 issued or re-issued on or after the effective date of this act;
43 provided, however, sections 3-a, 10-a and 14-a of this act shall take
44 effect on the same date and in the same manner as chapter 708 of the
45 laws of 2022, takes effect.