

STATE OF NEW YORK

11214

IN ASSEMBLY

May 1, 2026

Introduced by M. of A. KELLES -- 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 reforming the industrial development authority program; and to amend the tax law, in relation to adding a tax clearance process

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

1 Section 1. The section heading and subdivisions 1, 2, 3, 4, 6, 7 and 9
2 of section 875 of the general municipal law, as added by section 2 of
3 part J of chapter 59 of the laws of 2013, are amended to read as
4 follows:

5 Special provisions applicable to state [~~sales and compensating use~~]
6 taxes and certain types of facilities. 1. For purposes of this section:

7 [~~state~~] (a) "State sales and use taxes" means sales and compensating
8 use taxes and fees imposed by article twenty-eight or twenty-eight-A of
9 the tax law but excluding such taxes imposed in a city by section eleven
10 hundred seven or eleven hundred eight of such article twenty-eight[-];

11 (b) "State taxes" means any or all of the following: state sales and
12 use taxes, any mortgage recording tax imposed under section two hundred
13 fifty-three of the tax law, any state real estate transfer tax imposed
14 by article thirty-one of the tax law;

15 (c) "IDA" means an industrial development agency established by this
16 article or an industrial development authority created by the public
17 authorities law[-];

18 (d) "Commissioner" means the commissioner of taxation and finance[-];

19 (e) "ABO" means the authorities budget office established by section
20 four of the public authorities law; and

21 (f) "PACB" means the public authorities control board established by
22 article one-A of the public authorities law.

23 2. An IDA shall keep records of the amount of state and local sales
24 and use tax exemption benefits and any other state tax exemption bene-
25 fits provided to each project and each agent or project operator and
26 shall make such records available to the commissioner upon request. Such

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

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1 IDA shall also, within thirty days of providing financial assistance to
2 a project that includes any amount of state [~~sales and use~~] tax
3 exemption benefits, report to the commissioner the amount of such bene-
4 fits for such project, the project to which they are being provided,
5 together with such other information and such specificity and detail as
6 the commissioner may prescribe. This report may be made in conjunction
7 with the statement required by subdivision nine of section eight hundred
8 seventy-four of this title or it may be made as a separate report, at
9 the discretion of the commissioner. An IDA that fails to make such
10 records available to the commissioner or to file such reports shall be
11 prohibited from providing any state [~~sales and use~~] tax exemption bene-
12 fits for any project unless and until such IDA comes into compliance
13 with all such requirements.

14 3. (a) An IDA shall include within its resolutions and project docu-
15 ments establishing any project or appointing an agent or project opera-
16 tor for any project the terms and conditions in this subdivision, and
17 every agent, project operator or other person or entity that shall enjoy
18 any state [~~sales and use~~] tax exemption benefits provided by an IDA
19 shall agree to such terms as a condition precedent to receiving or bene-
20 fitting from any such state [~~sales and use exemptions~~] tax exemption
21 benefits.

22 (b) The IDA shall recover, recapture, receive, or otherwise obtain
23 from an agent, project operator or other person or entity any state
24 [~~sales and use exemptions~~] tax exemption benefits taken or purported to
25 be taken by any such person to which the person is not entitled or which
26 are in excess of the amounts authorized or, as to state sales and use
27 taxes, which are for property or services not authorized or taken in
28 cases where such agent or project operator, or other person or entity
29 failed to comply with a material term or condition to use property or
30 services in the manner required by the person's agreement with the IDA.
31 Such agent or project operator, or other person or entity shall cooper-
32 ate with the IDA in its efforts to recover, recapture, receive, or
33 otherwise obtain any such state [~~sales and use~~] tax exemptions benefits
34 and shall promptly pay over any such amounts to the IDA that it
35 requests. The failure to pay over such amounts to the IDA shall be
36 grounds for the commissioner to assess and determine state [~~sales and~~
37 ~~use~~] taxes due from the person under [~~article twenty-eight of~~] the tax
38 law, together with any relevant penalties and interest due on such
39 amounts.

40 (c) If an IDA recovers, recaptures, receives, or otherwise obtains,
41 any amount of state [~~sales and use~~] tax exemption benefits from an
42 agent, project operator or other person or entity, the IDA shall, within
43 thirty days of coming into possession of such amount, remit it to the
44 commissioner, together with such information and report that the commis-
45 sioner deems necessary to administer payment over of such amount. An
46 IDA shall join the commissioner as a party in any action or proceeding
47 that the IDA commences to recover, recapture, obtain, or otherwise seek
48 the return of, any state [~~sales and use~~] tax exemption benefits from an
49 agent, project operator or other person or entity.

50 (d) An IDA shall prepare an annual compliance report detailing its
51 terms and conditions described in paragraph (a) of this subdivision and
52 its activities and efforts to recover, recapture, receive, or otherwise
53 obtain any state [~~sales and use exemptions~~] tax exemption benefits
54 described in paragraph (b) of this subdivision, together with such other
55 information as the commissioner and the commissioner of economic devel-
56 opment may require. The report required by this subdivision shall be

1 filed with the commissioner, the director of the division of the budget,
2 the commissioner of economic development, the state comptroller, the
3 governing body of the municipality for whose benefit the agency was
4 created, and may be included with the annual financial statement
5 required by paragraph (b) of subdivision one of section eight hundred
6 fifty-nine of this title. Such report required by this subdivision shall
7 be filed regardless of whether the IDA is required to file such finan-
8 cial statement described by such paragraph (b) of subdivision one of
9 section eight hundred fifty-nine. The failure to file or substantially
10 complete the report required by this subdivision shall be deemed to be
11 the failure to file or substantially complete the statement required by
12 such paragraph (b) of subdivision one of such section eight hundred
13 fifty-nine, and the consequences shall be the same as provided in para-
14 graph (e) of subdivision one of such section eight hundred fifty-nine.

15 (e) This subdivision shall apply to any amounts of state [~~sales and~~
16 ~~use~~] tax exemption benefits that an IDA recovers, recaptures, receives,
17 or otherwise obtains, regardless of whether the IDA or the agent,
18 project operator or other person or entity characterizes such benefits
19 recovered, recaptured, received, or otherwise obtained, as a penalty or
20 liquidated or contract damages or otherwise. The provisions of this
21 subdivision shall also apply to any interest or penalty that the IDA
22 imposes on any such amounts or that are imposed on such amounts by oper-
23 ation of law or by judicial order or otherwise. Any such amounts or
24 payments that an IDA recovers, recaptures, receives, or otherwise
25 obtains, together with any interest or penalties thereon, shall be
26 deemed to be state sales and use taxes, mortgage recording tax, or real
27 estate transfer tax, as the case may be, and the IDA shall receive any
28 such amounts or payments, whether as a result of court action or other-
29 wise, as trustee for and on account of the state.

30 4. The commissioner shall deposit and dispose of any amount of any
31 payments or moneys received from or paid over by an IDA or from or by
32 any person or entity, or received pursuant to an action or proceeding
33 commenced by an IDA, together with any interest or penalties thereon,
34 pursuant to subdivision three of this section, as state sales and use
35 taxes in accord with the provisions of article twenty-eight of the tax
36 law, or as mortgage recording tax imposed under section two hundred
37 fifty-three of the tax law or real estate transfer tax imposed under
38 article thirty-one of the tax law, as the case may be. The amount of
39 any such payments or moneys in respect of sales or use taxes, together
40 with any interest or penalties thereon, shall be attributed to the taxes
41 imposed by sections eleven hundred five and eleven hundred ten, on the
42 one hand, and section eleven hundred nine of the tax law, on the other
43 hand, or to any like taxes or fees imposed by such article, based on the
44 proportion that the rates of such taxes or fees bear to each other,
45 unless there is evidence to show that only one or the other of such
46 taxes or fees was imposed or received or paid over.

47 6. The commissioner is hereby authorized to audit the records,
48 actions, and proceedings of an IDA and of its agents and project opera-
49 tors to ensure that the IDA and its agents and project operators comply
50 with all the requirements of this section. In addition, the commission-
51 er is hereby authorized to audit IDA projects and IDA agents and project
52 operators with regard to the requirements and restrictions of this title
53 and title eleven or fifteen of article eight of the public authorities
54 law to ensure that job targets, investment targets, construction, and
55 expenditures described in subdivision five-a of this section, and any
56 exemptions from any state taxes or from local sales and compensating use

1 taxes administered by the commissioner comply with the details of the
2 project and the application as approved by the IDA. In addition, the
3 department of economic development, the ABO, the PACB, or another person
4 or entity may report to the commissioner that an agent or project opera-
5 tor has not met any such targets or goals or otherwise complied with any
6 such provisions. If the commissioner finds that any such job targets,
7 investment targets, construction, expenditures, or tax exemption
8 provisions or other conditions or provisions have not been met or
9 complied with, the commissioner shall determine the amount of any
10 exemption from state taxes that the agent or project operator claimed
11 and such agent or project operator shall pay such amounts as tax. If the
12 commissioner finds that the agent or project operator has partially met
13 such targets, goals, or conditions, the commissioner may determine the
14 degree of compliance to determine the amount of such tax exemptions
15 claimed that the agent or project operator must pay as tax. In making
16 such compliance determination, the commissioner may consider the number
17 of years or other period of time in which such agent or project operator
18 met the targets, goals, or conditions, as compared to the total years or
19 other period of time of the project, the percentage of compliance with
20 regard to the number of jobs created as compared to the job targets, the
21 severity of failure to comply with tax exemption limitations based on
22 the number of dollars by which the agent or project operator exceeded
23 the allowed amount of tax exemptions approved, and such other factors as
24 the commissioner deems reasonable and pertinent. The commissioner shall
25 be authorized to assess or otherwise bill the agent or project operator
26 for any such amounts that the commissioner determined the agent or
27 project operator must pay as tax, in the manner that the commissioner
28 would assess or bill for the tax from which such exemptions were
29 claimed. Any information the commissioner finds in the course of any
30 such audit may be used by the commissioner to assess and determine state
31 and local taxes of the IDA's agent or project operator.

32 7. In addition to any other reporting or filing requirements an IDA
33 has under this article or other law, an IDA shall [~~also~~] maintain a
34 public internet website and report and make available on [~~the internet~~]
35 such website, without charge, copies of its resolutions and agreements
36 appointing an agent or project operator or otherwise related to any
37 project it establishes. In addition, every IDA shall post on such
38 website the following information and shall timely update all such
39 information so that it remains current and accurate within thirty days
40 of any change:

- 41 (a) the name and title of each member and officer of the IDA;
- 42 (b) public notice of every meeting to be held by the IDA, as required
43 by subdivision five-c of this section;
- 44 (c) the agenda of every such meeting to be held, at least ten days
45 prior to the commencement of the meeting;
- 46 (d) minutes of every meeting the IDA holds, together with the details
47 of every vote each member of the IDA casts at any meeting; and
- 48 (e) a description of every project established by the IDA, together
49 with a description of any state or local tax exemption benefits the IDA
50 intends to provide or extend in duration, or has provided or extended,
51 with respect to the project, including what the exemption applies to,
52 the type of tax exempted or to be exempted and the duration and annual
53 and total dollar value of each such exemption.

54 It shall also provide, without charge, copies of all such reports and
55 information to a person who asks for [~~it~~] any of them in writing or in
56 person. The IDA may, at the request of its agent or project operator

1 delete from any such copies posted on the internet or provided to a
2 person described in the prior sentence portions of its records that are
3 specifically exempted from disclosure under article six of the public
4 officers law. If the ABO finds, on its own, or after recommendation by
5 the department of economic development, the commissioner, the PACB or
6 any other person or entity, that an IDA has failed to comply with the
7 requirements of this section, the ABO shall advise the IDA of its find-
8 ings, and the IDA shall have thirty days to come into compliance. If the
9 IDA fails to do so, the IDA shall not be able to establish any project
10 or provide any financial assistance in the nature of exemptions from any
11 state taxes. The ABO shall notify the PACB and the commissioner of the
12 failure in compliance.

13 9. To the extent that a provision of this section conflicts with a
14 provision of any other section of this article or with a provision of
15 title eleven or fifteen of article eight of the public authorities law,
16 the provisions of this section shall control.

17 § 2. Section 875 of the general municipal law is amended by adding
18 three new subdivisions 5-a, 5-b and 5-c to read as follows:

19 5-a. In addition to any other requirement of this article or other
20 law: Every IDA and its members and officers shall comply with the
21 applicable provisions of the public officers law, including among other
22 things the open meetings law and the freedom of information law, the
23 applicable provisions of the public authorities law, and this title. If
24 the ABO or any other person or entity finds that an IDA or its member or
25 officer has failed to comply with an applicable provision of the public
26 officers law or of the public authorities law, or with this title, the
27 ABO or such other person or entity shall notify the PACB of such non-
28 compliance. The IDA shall not approve any project or benefits for a
29 project unless and until the IDA and its member or officer corrects or
30 causes to be corrected such non-compliance and the ABO has certified
31 that such compliance has been achieved; and such IDA shall, among other
32 things, not provide or extend in duration any financial assistance
33 consisting of exemption from any state tax to any project. Such an IDA
34 that has been found not to be in compliance shall be required to correct
35 any such non-compliance and demonstrate its compliance to the satisfac-
36 tion of the ABO, before any such state tax exemption benefit shall be
37 valid.

38 5-b. In addition to any other requirement of this article or other
39 law: (a) An IDA shall be required to apply for and obtain prior
40 approval from the PACB before the IDA can provide financial assistance
41 consisting of any exemption equal to or greater than five million
42 dollars from state taxes with respect to a project, or before it can
43 increase or extend in duration any such financial assistance if such
44 increase or extension will result in the total sum of the state tax
45 benefit is equal to or greater than five million dollars. The IDA shall
46 submit its application to the PACB using a form prescribed by the PACB
47 in consultation with the ABO. Such application shall include the types
48 and amounts of financial assistance proposed to be offered; IDA's target
49 for the number of full-time equivalent jobs to be created in each year
50 of such project; the IDA's target for investments in each year of such
51 project; a schedule of construction, if any; and a plan of expenditures
52 by the agent or project operator. Such application shall also include
53 copies of the IDA's notice of public meeting regarding the project,
54 minutes of the meeting's proceedings, details of votes taken at the
55 meeting, and such other documents and other information as the PACB or
56 the ABO may require.

1 (b) If the IDA submits a complete application in processible form,
2 together with any such required documents and other information, the
3 PACB shall approve or deny such application within forty-five days. If
4 the PACB does not act on such application within forty-five days of
5 receiving it, such application shall be deemed approved and the IDA
6 shall note on its public website that such application was approved as a
7 result of the PACB failing to vote in a timely manner. An application
8 shall not be complete and in processible form unless it includes, among
9 other things, a construction schedule, and specific job creation and
10 investment targets for each year that the IDA's proposed project would
11 be in effect. Notwithstanding the foregoing or other law, the PACB
12 shall not approve any project that provides financial assistance
13 consisting substantially only of exemptions from state taxes.

14 (c) In considering such an IDA application, the PACB shall not approve
15 financial assistance consisting of any exemption from state taxes unless
16 the PACB concludes that such assistance shall not provide the project or
17 the IDA's agent or project operator with a competitive advantage over an
18 existing business in a similar industry in that area.

19 (d) No financial assistance consisting of an exemption from any state
20 taxes shall be increased or extended in duration with respect to a
21 project or to an agent or project operator that has benefitted from any
22 such assistance in the past unless the IDA receives the prior approval
23 of the PACB in the manner described in this subdivision if the total sum
24 of the state tax benefit is equal to or greater than five million
25 dollars.

26 5-c. In addition to any other requirement of this article or other
27 law, and notwithstanding any other law, an IDA shall not establish a
28 project or provide financial assistance with respect to a project, or
29 provide additional financial assistance with respect to an existing
30 project, without first having received from every applicant, agent, and
31 project operator related to the project and from every person required
32 to collect tax, as defined in subdivision one of section eleven hundred
33 thirty-one of the tax law, with respect to every such applicant, agent
34 or project operator, a tax clearance under section one hundred seventy-
35 one-x of the tax law.

36 § 3. Section 862 of the general municipal law is amended by adding a
37 new subdivision 3 to read as follows:

38 (3) The provisions of this section shall also apply to the industrial
39 development authority created by title eleven of article eight of the
40 public authorities law with the same force and effect as if the
41 provisions of this section had been incorporated in full into such title
42 eleven and expressly referred to the provisions of such title and to
43 such authority, with such changes to this section as are necessary to
44 refer to the provisions of such title eleven and to such authority
45 created by such title.

46 § 4. Section 4 of the public authorities law, as added by chapter 506
47 of the laws of 2009, is amended to read as follows:

48 § 4. Establishment of the independent authorities budget office. There
49 is hereby established the independent authorities budget office as an
50 independent entity within the department of state, which shall have and
51 exercise the powers and duties provided by this title and by section
52 eight hundred seventy-five and related sections of the general municipal
53 law.

54 § 5. The tax law is amended by adding a new section 171-x to read as
55 follows:

1 § 171-x. Enforcement of delinquent tax liabilities through tax clear-
2 ances. (1) For the purposes of this section, the term "tax liabilities"
3 shall mean any tax, surcharge, or fee administered by the commissioner,
4 or any penalty or interest owed by an individual or entity. The term
5 "past-due tax liabilities" means any unpaid tax liabilities that have
6 become fixed and final such that the taxpayer no longer has any right to
7 administrative or judicial review. The term "government entity" means
8 the state of New York, or any of its agencies, political subdivisions,
9 instrumentalities, public corporations (including a public corporation
10 created pursuant to agreement or compact with another state or Canada),
11 or combination thereof.

12 (2) The commissioner, or the commissioner's designee, shall cooperate
13 with any government entity that is required by law or has elected to
14 require tax clearances to establish procedures by which the department
15 shall receive a tax clearance request and transmit such tax clearance to
16 the government entity, and any other procedures deemed necessary to
17 carry out the provisions of this section. These procedures shall, to the
18 extent practicable, require secure electronic communication between the
19 department and the requesting government entity for the transmission of
20 tax clearance requests to the department and transmission of tax clear-
21 ances to the requesting entity. Notwithstanding any other law to the
22 contrary, a government entity shall be authorized to share any applicant
23 data or information with the department that is necessary to ensure the
24 proper matching of the applicant to the tax records maintained by the
25 department.

26 (3) Upon receipt of a tax clearance request, the department shall
27 examine its records to determine whether the subject of the tax clear-
28 ance request has past-due tax liabilities equal to or in excess of the
29 dollar threshold applicable for such tax clearance request or, where no
30 threshold has been established by law or otherwise, equal to or in
31 excess of five hundred dollars. When a tax clearance request so
32 requires, the department shall also determine whether (a) the subject of
33 such request has complied with applicable tax return filing requirements
34 for each of the past three years; and/or (b) whether a subject of such
35 request that is an individual or entity that is a person required to
36 register pursuant to section one thousand one hundred thirty-four of
37 this chapter is registered pursuant to such section. The department
38 shall deny a tax clearance if it determines that the subject of a tax
39 clearance request has past-due tax liabilities equal to or in excess of
40 the applicable threshold or, when the tax clearance request so requires,
41 has not complied with applicable return filing and/or registration
42 requirements.

43 (4) If a tax clearance is denied, the government entity that requested
44 the clearance shall provide notice to the applicant to contact the
45 department. Such notice shall be made by first class mail with a certif-
46 icate of mailing and a copy of such notice also shall be provided to the
47 department. When the applicant contacts the department, the department
48 shall inform the applicant of the basis for the denial of the tax clear-
49 ance and shall also inform the applicant (a) that a tax clearance denied
50 due to past-due tax liabilities may be issued once the taxpayer fully
51 satisfies past-due tax liabilities or makes payment arrangements satis-
52 factory to the commissioner; (b) that a tax clearance denied due to
53 failure to file tax returns may be issued once the applicant has satis-
54 fied the applicable return filing requirements; (c) that a tax clearance
55 denied for failure to register pursuant to section one thousand one
56 hundred thirty-four of this chapter may be issued once the applicant has

1 registered pursuant to such section; and (d) the grounds for challenging
2 the denial of a tax clearance listed in subdivision five of this
3 section.

4 (5) (a) Notwithstanding any other provision of law, and except as
5 specifically provided herein, an applicant denied a tax clearance shall
6 have no right to commence a court action or proceeding or seek any other
7 legal recourse against the department or the government entity related
8 to the denial of a tax clearance by the department.

9 (b) An applicant seeking to challenge the denial of a tax clearance
10 must protest to the department or the division of tax appeals no later
11 than sixty days from the date of the notification to the applicant that
12 the tax clearance was denied. An applicant may challenge a department
13 finding of past-due tax liabilities only on the grounds that (i) the
14 individual or entity denied the tax clearance is not the individual or
15 entity with the past-due tax liabilities at issue; (ii) the past-due tax
16 liabilities were satisfied; (iii) the applicant's wages are being
17 garnished for the payment of child support or combined child and spousal
18 support pursuant to an income execution issued pursuant to section five
19 thousand two hundred forty-one or five thousand two hundred forty-two of
20 the civil practice laws and rules or another state's income withholding
21 order as authorized under part five of article five-B of the family
22 court act, or garnished by the department for the payment of the past-
23 due tax liabilities at issue; or (iv) the applicant is making child
24 support payments or combined child and spousal support payments pursuant
25 to a satisfactory payment arrangement under section one hundred eleven-b
26 of the social services law with a support collection unit or otherwise
27 making periodic payments in accordance with section four hundred forty
28 of the family court act. An applicant may challenge a department finding
29 of failure to comply with tax return filing requirements only on the
30 grounds that all required tax returns have been filed for each of the
31 past three years.

32 (c) Nothing in this subdivision is intended to limit any applicant
33 from seeking relief from joint and several liability pursuant to section
34 six hundred fifty-four of this chapter, to the extent that the applicant
35 is eligible pursuant to that section, or establishing to the department
36 that the enforcement of the underlying tax liabilities has been stayed
37 by the filing of a petition pursuant to the Bankruptcy Code of 1978
38 (Title Eleven of the United States Code).

39 (6) Notwithstanding any other provision of law, the department may
40 exchange with a government entity any data or information that, in the
41 discretion of the commissioner, is necessary for the implementation of a
42 tax clearance requirement. However, no government entity may re-disclose
43 this information to any other entity or person, other than for the
44 purpose of informing the applicant that a required tax clearance has
45 been denied, unless otherwise permitted by law.

46 (7) Except as otherwise provided in this section, the activities to
47 collect past-due tax liabilities undertaken by the department pursuant
48 to this section shall not in any way limit, restrict or impair the
49 department from exercising any other authority to collect or enforce tax
50 liabilities under any other applicable provision of law.

51 (8) Except as otherwise provided in this section, the provisions of
52 this section are not applicable to the tax clearance required by section
53 one hundred seventy-one-x of this article.

54 § 6. This act shall take effect immediately and shall apply to (a) any
55 project established or any agent or project operator appointed, on or
56 after the date this act shall have become a law and any financial

1 assistance provided thereto, (b) any amendment or revision involving
2 additional financial assistance, funds or benefits made on or after the
3 date this act shall have become a law to any project established, agent
4 or project operator appointed, or financial assistance provided, prior
5 to that date, and (c) any state sales and compensating use tax or other
6 state tax exemption benefits and any state sales and compensating use
7 taxes or other taxes recovered, recaptured, received, or otherwise
8 obtained by an industrial development agency established by the general
9 municipal law or an industrial development authority created by title 11
10 or title 15 of article 8 of the public authorities law on or after such
11 date.