STATE OF NEW YORK

9521

IN SENATE

March 19, 2026

Introduced by Sen. BASKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to the recoupment of economic incentives to businesses

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

Section 1. The executive law is amended by adding a new section 163-b to read as follows:

§ 163-b. Recoupment of economic incentives. 1. Notwithstanding any inconsistent provision of law, each contract, agreement or understanding by which a person, firm, partnership, company, association or corporation receives an award, grant, loan, tax abatement or other business incentive from the state, any of its political subdivisions, or any department, bureau, board, commission, authority, or any other agency or instrumentality of the state or its political subdivisions, or any public benefit corporation as defined in subdivision four of section sixty-six of the general construction law, or any municipal corporation as defined in subdivision three of section three-a of the general municipal law for the purposes of job training, job creation or retention, or the development of its operation within the state, shall contain the following provisions:

(a) a stated period of time within which the terms of the contract, agreement or understanding are to be fully executed and completed;

(b) a stated purpose and the amount of the award, grant or other business incentive;

(c) where applicable, the number of persons to be trained pursuant to the terms of the contract, agreement or understanding;

(d) where applicable, the number of jobs to be created or retained pursuant to the terms of the contract, agreement or understanding;

(e) where applicable, the extent of the operations or facilities to be developed pursuant to the terms of the contract, agreement or understanding; and

(f) notice to the recipient that the award, grant or other business incentive shall be subject to recoupment pursuant to this section.

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

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2. Except as provided in subdivision three of this section, every award, grant or other business incentive awarded pursuant to this chapter shall be subject to repayment with interest, by the recipient upon a finding by the awarding entity that the person, firm, partnership, company, association, or corporation has not fully executed and completed the stated purposes or objectives of the award, grant or other business incentive within the stated period of time as set forth in the contract, agreement or understanding.

3. If the awarding entity determines that the recipient who has received an award, grant or other business incentive under this chapter is not complying with the contract, agreement or understanding entered into with the awarding entity, it shall notify the recipient of such noncompliance. Such notice shall state that the recipient is entitled to a hearing and an opportunity to explain the noncompliance. If the entity finds that the recipient has not complied with the contract, agreement or understanding, the recipient shall be required to refund the full amount of the incentive provided, however, that:

(a) upon a finding that the recipient has created or retained some of the jobs promised under the contract, agreement, or understanding, the recipient shall only be required to refund the amount which represents the jobs which it failed to create or retain, or

(b) upon a finding that the recipient has failed to develop certain facilities or operations as promised under the contract, agreement, or understanding, the recipient shall refund the amount of the award, grant or business incentive as follows:

(i) where the recipient has developed one-third or less of the facilities or operations, the recipient shall refund at least two-thirds of the award, grant or business incentive;

(ii) where the recipient has developed two-thirds or less of the facilities or operations, the recipient shall refund at least one-third of the award, grant or business incentive;

(iii) where the recipient has developed more than two-thirds but less than all of the facilities or operations as promised under the contract, agreement or understanding, the recipient shall refund an amount which the entity determines to be a reasonable proportion of the award, grant or business incentive not fulfilled.

4. Upon a finding that the recipient of the award, grant, or other business incentive has not fully executed and completed the purposes or objectives of the award, grant or business incentive, the awarding entity may waive repayment of such award, grant or business incentive as required pursuant to this section, upon a finding that the failure was caused by unforeseen circumstances beyond the direct or indirect control of the recipient person, firm, partnership, company, association or corporation, and was not attributable to bad faith or fraud. Unforeseen circumstances shall include, but not be limited to, market conditions which adversely impact upon a recipient and which are of such magnitude that a waiver of repayment is absolutely necessary to ensure the continued operations of the recipient at the location for which the incentive was granted or to ensure continued employment of its employees at such location. No waiver of full repayment may be provided, however, upon the relocation outside of New York state, or from the location such recipient occupied at the time the recipient received the award, grant or business incentive to another location in the state. Upon the determination of unforeseen circumstances appropriate to grant a waiver, the repayment of the outstanding balance of any award, grant or business incentive, or of any tax credits, including interest thereon, may be

deferred for a period not to exceed five years from the date of such waiver, provided that if at the end of five years the conditions for which the waiver was granted continue, the awarding entity may grant an additional waiver.

5. Each entity of the state which enters into agreements pursuant to this chapter shall establish rules and regulations relating to the conduct of a hearing and the terms and conditions of repayment.

6. Any recipient aggrieved by a determination of the awarding entity may seek review of such determination pursuant to article seventy-eight of the civil practice law and rules.

7. Unless the agreement between the entity and the recipient otherwise provides for a penalty of interest in the event of non-compliance, for purposes of this section, interest charged in the repayment of an award, grant or business incentive shall be calculated at a rate equal to the underpayment rate set by the commissioner of taxation and finance pursuant to the provisions of subsection (e) of section one thousand ninety-six of the tax law; and shall be calculated from the date of disbursement of such award, grant or business incentive.

8. The provisions of this section shall not be deemed to alter or abridge any right or remedy existing at law or equity otherwise available to the awarding entity.

9. On or before September first, two thousand twenty-five, and annually thereafter, the state, any of its political subdivisions, or any department, bureau, board, commission, authority, or any other agency or instrumentality of the state or its political subdivisions, or any public benefit corporation as defined in subdivision four of section sixty-six of the general construction law, or any municipal corporation as defined in subdivision three of section three-a of the general municipal law for the purposes of job training, job creation or retention, or the development of its operation within the state, shall submit a report to the governor, the temporary president of the senate, the speaker of the assembly, the senate minority leader, the assembly minority leader and the state comptroller on the recoupment of financial incentives pursuant to this section. Such report shall include: a listing of recipients of an award, grant or business incentive who have failed to execute and complete the terms of a contract, agreement or understanding; the amount and type of award, grant or business incentive; the determination of the awarding entity with respect to such failure, including the reasons therefor; the status of repayment of the award, grant or business incentive by the recipient; any waiver provided for the repayment of an award, grant or business incentive and the reasons therefor; and any recommendations of the entity with respect to the recoupment of financial incentives pursuant to this section.

§ 2. This act shall take effect immediately and shall apply only to contracts, agreements and understandings entered into on or after such date.