# STATE OF NEW YORK

655--A

2025-2026 Regular Sessions

# IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. KRUEGER, BAILEY, LIU, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to enacting the "accountability for development assistance act"

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

Section 1. Short title. This act shall be known and may be cited as the "accountability for development assistance act".

§ 2. The executive law is amended by adding a new section 170-k to read as follows:

**§ 170-k. Accountability in economic development assistance provided by the state. 1. Definitions. As used in this section:**

**(a) "Base years" means the first two complete calendar years following the effective date of a recipient receiving development assistance.**

**(b) "Date of assistance" means the commencement date of the development assistance agreement, which date triggers the period during which the recipient is obligated to create or retain jobs and continue operations at the specific project site.**

**(c) "Development assistance" or "economic development assistance" means economic development benefits as such term is defined in section fifty-eight of the New York state urban development corporation act, or any portion thereof, provided however, that for the purposes of this section such term shall include any economic development benefits provided by a state or local authority as such terms are defined in section two of the public authorities law.**

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

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(d) "Full-time, permanent job" means a job in which the new employee works for the recipient at a rate of at least thirty-five hours per week.

(e) "New employee" means a full-time, permanent employee who represents a net increase in the number of the recipient's employees statewide. "New employee" may include an employee who previously filled a new employee position with the recipient who was rehired or called back from a layoff that occurs during or following the base years.

The term "new employee" does not include any of the following:

(1) An employee of the recipient who performs a job that was previously performed by another employee in this state, if that job existed in this state for at least six months before hiring the employee.

(2) A child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who has a direct or indirect ownership interest of at least five percent in the profits, capital, or value of any member of the recipient.

(f) "Part-time job" means a job in which the new employee works for the recipient at a rate of less than thirty-five hours per week.

(g) "Recipient" means any entity that receives economic development assistance.

(h) "Retained employee" means any employee defined as having a full-time or full-time equivalent job preserved at a specific facility or site, the continuance of which is threatened by a specific and demonstrable threat, which shall be specified in the application for development assistance.

(i) "Specific project site" means that distinct operational unit to which any development assistance is applied.

(j) "Granting entity" or "granting body" means the department or any other state department or state agency that provides development assistance.

(k) "Temporary job" means a job in which the new employee is hired for a specific duration of time or season.

(l) "Value of assistance" means the face value of any form of development assistance.

2. Standardized applications for state economic development assistance. (a) All final applications submitted to the department or any state entity requesting development assistance shall be required to contain, at a minimum:

(1) An application tracking number that is specific to both the granting entity and to each application.

(2) The office mailing address, office telephone number, and chief officer of the granting body.

(3) The office mailing address, telephone number, and the name of the chief officer of the applicant or authorized designee for the specific project site for which development assistance is requested.

(4) The applicant's total number of employees at the specific project site on the date that the application is submitted to the granting entity, including the number of full-time, permanent jobs, the number of part-time jobs, and the number of temporary jobs.

(5) The type of economic development assistance and value of assistance being requested.

(6) The number of jobs to be created and retained or both created and retained by the applicant as a result of the development assistance, including the number of full-time, permanent jobs, the number of part-time jobs, and the number of temporary jobs.

(7) A detailed list of the occupation or job classifications and number of new employees or retained employees to be hired in full-time, permanent jobs, a schedule of anticipated starting dates of the new hires and the anticipated average wage by occupation or job classification and total payroll to be created as a result of the development assistance.

(8) A list of all other forms of development assistance that the applicant is requesting for the specific project site and the name of each granting entity from which that development assistance is being requested.

(9) A narrative, if necessary, describing why the development assistance is needed and how the applicant's use of the development assistance may reduce employment at any site in New York.

(10) A certification by the chief officer of the applicant or the chief officer's authorized designee that the information contained in the application submitted to the granting body contains no knowing misrepresentation of material facts upon which eligibility for development assistance is based.

(b) Every granting body either shall complete, or shall require the applicant to complete, an application form that meets the minimum requirements as prescribed in this section each time an applicant applies for development assistance covered by this section.

(c) The department shall have the discretion to modify any standardized application for state development assistance required under paragraph (a) of this subdivision for any grants that are not given as an incentive to a recipient business organization.

(d) For each development assistance agreement, the recipient shall annually submit to the granting entity a progress report that shall include all update information completion of the contractual obligations of the recipient as provided in the development assistance agreement.

(e) If a recipient of development assistance fails to comply with paragraph (d) of this subdivision, the department shall, within twenty working days after the reporting submittal deadlines set forth in such paragraph (d), suspend within thirty-three working days any current development assistance to such recipient under its control, and shall be prohibited from completing any current or providing any future development assistance until it receives proof that such recipient has come into compliance with the requirements of paragraph (d) of this subdivision.

(f) The department shall have the discretion to modify the information required in the progress report required under paragraph (d) of this subdivision consistent with the disclosure purpose of this subdivision for any grants that are not given as an incentive to a recipient business organization.

(g) The granting entity, or a successor agency, shall have full authority to verify information contained in the recipient's application and progress report, including the authority to inspect the specific project site and inspect the records of the recipient that are subject to the development assistance agreement.

3. Recapture. (a) All development assistance agreements shall contain, at a minimum, the following provisions:

(1) The recipient shall:

(i) make the level of capital investment in the economic development project specified in the development assistance agreement; and

(ii) create or retain, or both, the requisite number of jobs, paying not less than specified wages for the created and retained jobs, within

and for the duration of the time period specified in the development assistance programs and the development assistance agreement.

(2) If the recipient fails to create or retain the requisite number of jobs within and for the time period specified, in the development assistance programs and the development assistance agreement, the recipient shall be deemed to no longer qualify for the state economic assistance and the recipient shall:

(i) be required to pay to the state the full amount of the state tax exemption that it received;

(ii) where the recipient receives a grant or loan, be required to repay to the state a pro rata amount of the grant or loan, and such amount shall reflect the percentage of the deficiency between the requisite number of jobs to be created or retained by the recipient and the actual number of such jobs in existence as of the date the department determines the recipient is in breach of the job creation or retention covenants contained in the development assistance agreement, provided however, if the recipient ceases operations at the relevant project site within five years of the date of assistance, the recipient shall be required to repay the entire amount of the grant or to accelerate repayment of the loan back to the state; and

(iii) where the recipient receives a tax credit, the development assistance agreement shall provide that (A) if the number of new or retained employees falls below the requisite number set forth in the development assistance agreement, the allowance of the credit shall be automatically suspended until the number of new and retained employees equals or exceeds the requisite number in the development assistance agreement; (B) if the recipient discontinues operations at the specific project site during the first five years of the term of the development assistance agreement, the recipient shall forfeit all credits taken by the recipient during such five year period; and (C) in the event of a revocation or suspension of the credit, the granting entity shall initiate proceedings against the recipient to recover wrongfully exempted state income taxes and the recipient shall promptly repay to the granting entity any wrongfully exempted state income taxes. The forfeited amount of credits shall be deemed assessed on the date the granting entity initiates proceedings against such recipient and the recipient shall promptly repay to the granting entity any wrongfully exempted state income taxes.

(b) The relevant granting entity may elect to waive enforcement of any contractual provision arising out of the development assistance agreement required by this section based on a finding that the waiver is necessary to avert an imminent and demonstrable hardship to the recipient that may result in such recipient's insolvency or discharge of workers. If a waiver is granted, the recipient shall agree to a contractual modification, including recapture provisions, to the development assistance agreement.

4. Unified economic development report. For each state fiscal year ending on or after June thirtieth, two thousand twenty-six, the department of economic development shall submit an annual unified economic development report to the governor, senate and assembly. The unified economic development report shall be due within three months after the end of the fiscal year, and shall present all types of development assistance granted during the prior fiscal year, including the aggregate amount of uncollected or diverted state tax revenues resulting from each type of development assistance provided by each agency pursuant to law,

as reported to the department of economic development pursuant to this section.

5. Development assistance disclosure to the department of economic development. (a) Beginning February first, two thousand twenty-seven and each year thereafter, any granting entity that provided development assistance shall submit to the department of economic development copies of all development assistance agreements that it approved in the prior calendar year.

(b) By June first, two thousand twenty-eight and by June first of each year thereafter, any granting entity with an active development assistance agreement shall submit to the department of economic development copies of all progress reports compiled pursuant to paragraph (d) of subdivision two of this section.

(c) The department of economic development shall compile and publish all progress reports received pursuant to this subdivision.

§ 3. This act shall take effect on the one hundred twentieth day after it shall have become a law and shall apply to contracts and agreements entered into on or after such effective date. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.