

# 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:

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

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

5 § 170-k. Accountability in economic development assistance provided by  
6 the state. 1. Definitions. As used in this section:

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

9 (b) "Date of assistance" means the commencement date of the develop-  
10 ment assistance agreement, which date triggers the period during which  
11 the recipient is obligated to create or retain jobs and continue oper-  
12 ations at the specific project site.

13 (c) "Development assistance" or "economic development assistance"  
14 means economic development benefits as such term is defined in section  
15 fifty-eight of the New York state urban development corporation act, or  
16 any portion thereof, provided however, that for the purposes of this  
17 section such term shall include any economic development benefits  
18 provided by a state or local authority as such terms are defined in  
19 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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1 (d) "Full-time, permanent job" means a job in which the new employee  
2 works for the recipient at a rate of at least thirty-five hours per  
3 week.

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

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

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

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

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

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

21 (h) "Retained employee" means any employee defined as having a full-  
22 time or full-time equivalent job preserved at a specific facility or  
23 site, the continuance of which is threatened by a specific and demon-  
24 strable threat, which shall be specified in the application for develop-  
25 ment assistance.

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

28 (j) "Granting entity" or "granting body" means the department or any  
29 other state department or state agency that provides development assist-  
30 ance.

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

33 (l) "Value of assistance" means the face value of any form of develop-  
34 ment assistance.

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

39 (1) An application tracking number that is specific to both the grant-  
40 ing entity and to each application.

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

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

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

50 (5) The type of economic development assistance and value of assist-  
51 ance being requested.

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

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

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

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

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

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

23 (c) The department shall have the discretion to modify any standard-  
24 ized application for state development assistance required under para-  
25 graph (a) of this subdivision for any grants that are not given as an  
26 incentive to a recipient business organization.

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

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

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

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

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

52 (1) The recipient shall:

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

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

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

3 (2) If the recipient fails to create or retain the requisite number of  
4 jobs within and for the time period specified, in the development  
5 assistance programs and the development assistance agreement, the recip-  
6 ient shall be deemed to no longer qualify for the state economic assist-  
7 ance and the recipient shall:

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

10 (ii) where the recipient receives a grant or loan, be required to  
11 repay to the state a pro rata amount of the grant or loan, and such  
12 amount shall reflect the percentage of the deficiency between the  
13 requisite number of jobs to be created or retained by the recipient and  
14 the actual number of such jobs in existence as of the date the depart-  
15 ment determines the recipient is in breach of the job creation or  
16 retention covenants contained in the development assistance agreement,  
17 provided however, if the recipient ceases operations at the relevant  
18 project site within five years of the date of assistance, the recipient  
19 shall be required to repay the entire amount of the grant or to acceler-  
20 ate repayment of the loan back to the state; and

21 (iii) where the recipient receives a tax credit, the development  
22 assistance agreement shall provide that (A) if the number of new or  
23 retained employees falls below the requisite number set forth in the  
24 development assistance agreement, the allowance of the credit shall be  
25 automatically suspended until the number of new and retained employees  
26 equals or exceeds the requisite number in the development assistance  
27 agreement; (B) if the recipient discontinues operations at the specific  
28 project site during the first five years of the term of the development  
29 assistance agreement, the recipient shall forfeit all credits taken by  
30 the recipient during such five year period; and (C) in the event of a  
31 revocation or suspension of the credit, the granting entity shall initi-  
32 ate proceedings against the recipient to recover wrongfully exempted  
33 state income taxes and the recipient shall promptly repay to the grant-  
34 ing entity any wrongfully exempted state income taxes. The forfeited  
35 amount of credits shall be deemed assessed on the date the granting  
36 entity initiates proceedings against such recipient and the recipient  
37 shall promptly repay to the granting entity any wrongfully exempted  
38 state income taxes.

39 (b) The relevant granting entity may elect to waive enforcement of any  
40 contractual provision arising out of the development assistance agree-  
41 ment required by this section based on a finding that the waiver is  
42 necessary to avert an imminent and demonstrable hardship to the recipi-  
43 ent that may result in such recipient's insolvency or discharge of work-  
44 ers. If a waiver is granted, the recipient shall agree to a contractual  
45 modification, including recapture provisions, to the development assist-  
46 ance agreement.

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

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

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

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

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

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