

STATE OF NEW YORK

11682

IN ASSEMBLY

June 18, 2004

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Brodsky, Lavelle, Bing, Koon, John, Fields, Cusick) -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the New York state urban development corporation act, in relation to enacting the state financial incentive protection act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "state
2 financial incentive protection act".
3 S 2. Section 1 of chapter 174 of the laws of 1968, constituting the
4 New York state urban development corporation act, is amended by adding a
5 new section 5-a to read as follows:
6 S 5-A. STATE FINANCIAL INCENTIVE PROTECTION ACT. 1. LEGISLATIVE FIND-
7 INGS AND INTENT. THE LEGISLATURE HEREBY FINDS AND DECLARES IT TO BE THE
8 POLICY OF THE STATE TO ENSURE THAT ECONOMIC DEVELOPMENT BENEFITS
9 EXTENDED TO BUSINESSES AND CORPORATIONS ARE USED TO PROVIDE JOBS AND
10 BENEFITS TO THE PEOPLE OF THE STATE. THE LEGISLATURE HAS A RESPONSIBIL-
11 ITY TO ENSURE THAT TAXPAYER MONEY IS USED FOR ITS INTENDED PURPOSE. THE
12 LEGISLATURE ALSO FINDS THAT COMPANIES RELOCATE FOR A VARIETY OF
REASONS,
13 BUT BELIEVES THAT THE LEGISLATURE SHOULD NOT FINANCE SUCH RELOCATION.
14 THE STATE HAS LIMITED RESOURCES THAT SHOULD BE USED TO ASSIST
COMPANIES
15 THAT HAVE MADE EFFORTS TOWARDS IMPROVING ECONOMIC DEVELOPMENT IN
THIS
16 STATE, NOT COMPANIES THAT DO NOT MAKE SUCH EFFORTS.
17 2. DEFINITIONS. AS USED IN THIS SECTION:
18 (A) "BUSINESS ENTITY" SHALL MEAN ANY PERSON, CORPORATION, LIMITED
19 LIABILITY COMPANY, ORGANIZATION, OR PARTNERSHIP RECOGNIZED BY LAW, OR
20 ANY COMBINATION THEREOF.
21 (B) "FINANCIAL INCENTIVES" SHALL MEAN ANY AGREEMENT OR UNDERSTANDING
22 BETWEEN THE STATE OF NEW YORK AND A BUSINESS ENTITY PURSUANT TO
ARTICLE
23 18-B OF THE GENERAL MUNICIPAL LAW, OR BETWEEN THE CORPORATION AND A
24 BUSINESS ENTITY, PROVIDING FOR AWARDS, GRANTS, LOANS, LOAN GRANTEEES,
TAX
25 BENEFITS AND OTHER FINANCIAL ASSISTANCE TO SUCH BUSINESS ENTITIES.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
{ } is old law to be omitted.

LBD18485-01-4

1 (C) "OUTSOURCING JOBS" MEANS TO RELOCATE OR MOVE EMPLOYMENT, JOBS OR
2 POSITIONS FROM THE STATE OF NEW YORK TO OUTSIDE OF THE STATE.

3 3. PROHIBITION FROM RECEIVING STATE AID WHEN OUTSOURCING JOBS. (A) AS
4 A CONDITION OF THE RECEIPT OF FINANCIAL INCENTIVES, THE BUSINESS ENTITY
5 SHALL AGREE THAT IT WILL NOT OUTSOURCE JOBS.

6 (B) ANY BUSINESS ENTITY THAT OUTSOURCES JOBS SHALL RETURN SUCH FINAN-
7 CIAL INCENTIVES TO THE STATE, EXCEPT AS PROVIDED FOR IN PARAGRAPH (E) OF
8 THIS SUBDIVISION.

9 (C) A BUSINESS ENTITY THAT VIOLATES THIS SECTION SHALL NOT RECEIVE ANY
10 FINANCIAL INCENTIVES FOR A PERIOD OF FIVE YEARS FROM THE DATE OF DETER-
11 MINATION OF SUCH VIOLATION.

12 (D) IF THE BUSINESS ENTITY RECEIVES FINANCIAL INCENTIVES BUT THEN
13 OUTSOURCES JOBS DURING THE TWELVE MONTH PERIOD AFTER IT RECEIVES SUCH
14 FINANCIAL INCENTIVES OR DURING THE CONTRACTUAL PERIOD FOR THE

PARTICULAR

15 FINANCIAL INCENTIVE WHICH RESULTS IN A NET LOSS OF JOBS, IT SHALL RETURN
16 SUCH FINANCIAL INCENTIVES TO THE STATE.

17 (E) ANY FINANCIAL INCENTIVES RECEIVED PRIOR TO THE EFFECTIVE DATE OF
18 THIS SECTION SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS SECTION.

19 (F) IF A BUSINESS ENTITY OUTSOURCES JOBS DURING THE PERIOD REFERRED TO
20 IN PARAGRAPH (D) OF THIS SUBDIVISION BUT DOES NOT ACHIEVE A NET LOSS OF
21 JOBS FOR THE BUSINESS ENTITY'S STATEWIDE EMPLOYMENT LEVEL, THE
22 PROVISIONS OF THIS SECTION SHALL NOT APPLY.

23 4. ENFORCEMENT. THE ATTORNEY GENERAL SHALL HAVE THE AUTHORITY TO
24 ENFORCE THE PROVISIONS OF THIS SECTION.

25 5. REPORTING. (A) THE CORPORATION AND THE DEPARTMENT OF ECONOMIC
26 DEVELOPMENT SHALL FILE AN ANNUAL REPORT WITH THE ATTORNEY GENERAL
NOTING

27 THE BUSINESS ENTITY, THE AMOUNT AND THE REASON FOR THE FINANCIAL INCEN-
28 TIVE AND ANY OTHER DATA THAT THE ATTORNEY GENERAL MAY REQUIRE. THE
29 REPORT SHALL BE SUBMITTED BEFORE FEBRUARY FIRST OF EACH YEAR.

30 (B) ANY BUSINESS ENTITY THAT RECEIVES FINANCIAL INCENTIVES FROM THE
31 CORPORATION SHALL SUBMIT AN ANNUAL REPORT TO THE ATTORNEY GENERAL
AND

32 THE CORPORATION STATING THE AMOUNT OF THE FINANCIAL INCENTIVE
RECEIVED,

33 THE NUMBER OF EMPLOYEES OF SUCH BUSINESS ENTITY GAINED OR LOST IN NEW
34 YORK OVER THE COURSE OF THE YEAR, THE USE TO WHICH THE FINANCIAL INCEN-
35 TIVES WERE APPLIED, AND ANY OTHER DATA THE ATTORNEY GENERAL OR THE
36 CORPORATION MAY REQUIRE. THE REPORT SHALL BE SUBMITTED BEFORE
FEBRUARY

37 FIRST OF EACH YEAR.

38 (C) EACH REPORT SHALL BE MADE AVAILABLE TO THE PUBLIC IN AN EASILY
39 ACCESSIBLE FORMAT, INCLUDING BUT NOT LIMITED TO AN ELECTRONIC VERSION
40 VIA THE WORLD WIDE WEB.

41 S 3. Severability. If any item, clause, sentence, subparagraph, para-
42 graph, subdivision, section, or any other part of this act, or the
43 application thereof to any person or circumstances, is held to be inval-
44 id, such holding shall not affect, impair, or invalidate the remainder
45 of this act, of the application of such section or part of a section
46 held invalid, to any other person or circumstances, but shall be
47 confined in its operation to the item, clause, sentence, subparagraph,
48 paragraph, subdivision, section, or other part of this act directly
49 involved in such holding, or to the person and circumstances therein

50 involved.

51 S 4. This act shall take effect on the first of January next succeed-
52 ing the date on which it shall have become a law.

.SO DOC A 11682 *END* BTXT