

**Testimony on ABO Rules on Posting Economic Development Project
Information on IDA Websites**

**New Part 250 to Title 19 of the New York Codes, Rules, and Regulations
Pursuant to Chapter 563 of the Laws of 2015**

September 4, 2018

Good afternoon Director Pearlman and staff of the Authorities Budget Office (ABO). My name is Alex Camarda, and I am the Senior Policy Advisor for Reinvent Albany. We are a non-profit watchdog group that advocates for more open and accountable New York State government, and has a special interest in the transparency of public authorities. Thank you for the opportunity to testify today.

Reinvent Albany strongly supports the ABO's rule to require Industrial Development Agencies (IDAs) to post essential information about economic development projects online.

Localities spend over \$4 billion annually on business subsidies, and taxpayers deserve to know exactly what their money is being spent on, and whether their investment is yielding returns in jobs produced and retained. State economic development programs have been plagued by corruption, and now more than ever greater scrutiny of these projects is needed. This rule is a small yet meaningful measure that IDAs should have already done without the ABO having to require it. It is 2018, and government agencies across the country are proactively making data and information available through Open Data and Open Records platforms rather than waiting reactively to release information in response to Freedom of Information Law (FOIL) requests.¹ IDAs should be using their websites to make detailed project information known to the public and demonstrating they are effective stewards of the public's money.

Beyond requiring this information be posted on IDA websites, Reinvent Albany also recommends the rule require IDAs to create [Reading Rooms](#) with documents for all

¹ See, for example, NYC IDA which does this to some extent, <https://www.nycedc.com/nycida/financial-public-documents/nycida-project-documents-archive>

approved projects, including their project agreements, any accompanying documents or records, and annual assessments of projects' progress in reaching job targets.

The rules proposed today by the ABO are promulgated pursuant to Chapter 563 of the Laws of 2015. This law was sponsored by Senator Marchione and Assemblymember Magnarelli, and was intended to make Industrial Development Agencies (IDAs) more accountable and efficient. (See Appendix B for Reinvent Albany's complete summary of the law).

This law has many significant and meaningful requirements.

It requires companies seeking public subsidies provide specific information on the number and types of jobs they will create and deadlines for doing so.

Company executives must complete a sworn application acknowledging that knowingly providing false or misleading information will result in benefits being terminated.

IDAs have to establish standardized criteria for evaluating projects and complete a cost-benefit analysis of the cost to taxpayers versus the jobs created and economic activity.

IDAs must create project agreements with subsidy recipients. These agreements specify annual certification and documentation of jobs produced, the dates for their creation, the formula for payments in lieu of taxes (PILOTs) where applicable, and the termination, reduction or clawback of benefits if promised job numbers are not met.

IDAs are further required to craft policies for ending or retracting benefits and for conducting annual assessments of whether projects are reaching their job targets.

While Chapter 563 imposes needed structure and uniformity on the process of granting economic development benefits by IDAs, it does not explicitly require that certain policies and information be made proactively available to the public, including: 1) financial assistance application forms; 2) criteria for evaluating projects; 3) project agreements between IDAs and companies; 4) annual assessments by IDAs of approved projects' progress; or 5) policies for rescission of benefits. The proposed ABO rule will change that by requiring this information be disclosed on IDA websites.

Requiring this information be posted on IDA websites will make it easier for the ABO to ensure compliance and compel IDAs to follow the requirements of Chapter 563.

It is critical IDAs follow the law to ensure taxpayer dollars are wisely spent. The public deserves to know the criteria by which proposed projects are evaluated, the terms for companies receiving public subsidies, whether companies are hitting job targets, and under what circumstances IDAs will terminate or clawback benefits if goals are not met.

Appendix A

Reinvent Albany Summary of ABO Proposed New Part 250 to Title 19 of the New York Codes, Rules, and Regulations

The ABO's proposed rule would mandate that IDAs make transparent on their websites several requirements of Chapter 563 of the Laws of 2015. The ABO's rule would require:

- IDA disclosure of the financial assistance application form companies, developers, organizations or individuals would complete when seeking taxpayer subsidies;
- IDA disclosure of their uniform criteria for evaluating and selecting different categories of projects;
- IDA disclosure of the completed uniform project agreement with companies providing the terms and conditions for receiving funds for every project along with all related attachments, appendices and other relevant records
- IDA disclosure of policies for the suspension or discontinuance of financial assistance or modifications to PILOTs for material violations of the project agreement;
- IDA disclosure of policies for the return of all or part of the financial assistance for material shortfalls in job creation and retention or material violations of the project agreement;
- IDA disclosure of annual assessments for each project to determine if projects are meeting their job creation and retention goals.

Appendix B

Reinvent Albany Summary of Chapter 563 of the Laws of 2015

Section 1 of the bill requires IDAs to create a standard application form to accept requests for financial assistance from developers, companies, firms, individuals or other entities or organizations. Applicants are required to provide, under penalty of perjury, among other information:

- The name and location of the project;
- a description of the project;
- the amount and type of assistance sought including the value of each tax exemption sought;
- a statement providing why the project should be funded, and all associated capital costs of the project (including private sources, and segmented by real property and equipment acquisition, and building construction or reconstruction);
- The number of full-time jobs created or retained by the project, the timeframe for job creation, the estimated salary and benefits for different categories of jobs created; and
- A statement acknowledging that financial benefits may be rescinded if knowingly false or misleading information is provided on the application.

The bill also requires IDAs develop and adopt by resolution uniform criteria for evaluating and selecting different categories of projects. The criteria created by the IDA for each project category must include, among other information, the following elements:

- An assessment by the IDA of all material information related to the application for financial assistance; and
- A written cost-benefit analysis by the IDA that identifies for the project, jobs created or retained, estimated value of tax exemptions, estimated private sector investment, whether the project will be completed in a timely fashion, revenues generated for the municipalities or school districts impacted by the project, and what public benefits will be created by the project.

The bill thirdly requires IDAs to enter into a uniform project agreement with companies providing the terms and conditions for receiving funds. This must be used for every project receiving financial assistance. The project agreement requires, among other information:

- A description of the project, the financial assistance provided, and IDA goals accomplished by the project;
- Annual certification and documentation of jobs produced, including full-time equivalents, independent contractors and their employees, and updated averages of salaries and benefits for different job categories;
- Dates for when PILOTs (Payment in Lieu of Taxes) are made, and the formulas by which PILOTs are calculated; and
- Discontinuance, suspension, modification or return of financial assistance for a material violation in the project agreement.

Section 2 of the bill requires IDAs create policies for: 1) the suspension or discontinuance of financial assistance or modifications to PILOTs for material violations of the project agreement; and 2) the return of all or part of the financial assistance for material shortfalls in job creation and retention or material violations of the project agreement, and for return of tax expenditures to the taxing jurisdiction. Section 2 also requires annual assessments of projects approved after the effective date of the law by IDAs to determine if projects are meeting the job creation and retention, or investment goals, and that these assessments be provided to IDA board members.