



# MEMO OF SUPPORT

## S2535 (Comrie)

*Increases Transparency of Grant and Bond Applications to the  
Public Authorities Control Board*

January 30, 2024

### **TITLE OF BILL**

An act to amend the public authorities law, in relation to project applications and advisory opinions of the public authorities control board.

### **SUMMARY OF PROVISIONS**

This legislation adds new subdivisions to the public authorities law:

- New subdivisions 2 and 3 standardize project applications:
  - Any applications concerning a loan shall include the terms, conditions, and dates of the repayment of state appropriations, including job retention or creation commitments, rate of interest (for fixed rate agreements), terms necessary to calculate interest, repayment date, any conditions or restrictions associated with the loan, any security provisions, and any guarantee associated with the loan; and
  - Any application concerning a grant shall include the terms and conditions of state appropriations, including any job retention or creation commitments, a description of clawback provisions or other remedies in case commitments are not met, a full description of the project and how the grant funds would be used, a description of who would own real property (if applicable), the total cost of the project, a list of all uses of funds, a description of ownership, a description of any lease agreements, any security provisions, and any guarantees associated with the grant
- New subdivision 4 mandates the inclusion of clawback provisions:
  - Notwithstanding any law to the contrary, any project submitted to the Public Authorities Control Board (PACB) involving a loan or grant where the loan or grant is conditional on job retention and creation requirements shall include clawback provisions if the job requirements are not met. The board may approve such projects only upon its determination that:

- the project includes clawback provisions; and
- the applicant must submit to the PACB a binding letter or agreement between the applicant and the grantee or loan recipient (or any other beneficiaries) that they agree to the job creation or retention clawback agreements as a precondition to receiving the loan or grant
- New subdivision 5 creates a process for advisory opinions:
  - Any public authority subject to PACB review may submit to the PACB a potential project for comment from PACB members. Such preliminary projects shall be submitted to all PACB members as well as the State Comptroller, and each shall have 30 days to comment on the preliminary project if they choose. These are advisory opinions only and have no binding effect on future decisions of the PACB.

## **STATEMENT OF SUPPORT**

Reinvent Albany strongly supports this legislation, which we see as increasing the transparency and accountability of state subsidized projects. We encourage the Legislature to require the same level of transparency proposed here for loans and grants for *all* PACB applications – including for public-private partnership, site, or Payment in Lieu of Taxes (PILOT) agreements like for the Penn Station Redevelopment project.

The PACB’s job is to review certain public authorities’ projects that have a fiscal impact on the state and involve some form of expenditure of public funds, whether in the form of a bond issuance, direct grant, tax abatement, or public-private partnership agreement that steers fees paid by the public to a private entity, rather than an authority or agency.

Currently, project applications submitted to the PACB do not require the information PACB members need to make fully informed decisions. Before voting to approve or deny a project application, PACB Members should know the terms of any loan or grant such as: (1) the number of jobs a project will create, (2) how taxpayer funds will be used, and (3) a detailed description of any agreements. This bill addresses these shortcomings.

Additionally, the state does not have any recourse to recover funding in the case that entities do not meet job creation and retention commitments. Clawback provisions such as those in this bill will protect the public from bad deals and overinflated expectations.

We also support creating a process for public authorities to seek advisory opinions before submitting a project for official approval by the PACB. This would deepen PACB involvement in the project approval process, and encourage officials to submit more detailed applications that allow the PACB to make informed decisions.

We urge the Legislature to pass this bill, and the Governor to sign it.