



NEW YORK STATE SENATOR

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## NYS Senate Upstate-Long Island Caucus Members Introduce Important Economic Development Legislation: Bill repeals the “Cost Recovery” Tax Assessment on Industrial Development Agencies

DARREL J. AUBERTINE March 3, 2010

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Senator David J. Valesky in partnership with several other members of the Upstate-Long Island Caucus (Senators Darrel J. Aubertine-Chair, William Stachowski, Antoine Thompson, Brian X. Foley and Craig M. Johnson) introduced important legislation repealing the “cost recovery” tax assessment imposed on Industrial Development Agencies (IDAs).

Senate Bill 6962 repeals the provision in the 2009-2010 Budget which imposed an assessment of approximately 4.7% of the IDAs revenues. IDAs began receiving notice of these fees in February; they are due by March 31st. This bill would retroactively repeal the provision and protect any IDA from the burden of payment.

The sponsoring Senators believe this assessment has been abused and flawed in its implementation. First, the interpretation resulted in the assessment being calculated on

pass-through revenues – funds that are statutorily required to be passed on to local jurisdictions and do not benefit the IDA.

Secondly, as this assessment was created to apply retroactively – the resulting assessment was calculated by the Department of Budget on 2008 revenues and yet instituted in 2009, so that IDAs could not possibly budget for such a measure. Lastly, the Department of Budget was required by statute to notify all IDAs of any assessment by November 1, 2009 and yet only sent notifications in early February 2010.

Senator David Valesky (D-Oneida) stated, “IDAs are the backbone of job creation efforts in Upstate New York and often times the only tools counties have to lure companies that want to locate and expand here. Our IDAs have played a valuable role in many projects throughout Central New York both big and small. These assessments have the potential to create an added burden for these agencies and slow projects that will create jobs, which we can ill afford. This legislation will ensure the IDAs can continue to serve as an impetus for forward progress.”

Not only is the “cost recovery charge” counterproductive, as implemented, to spurring economic growth throughout the state, but assessing a tax two years later means that no IDA could have possibly budgeted for such a charge.

Senator William T. Stachowski (D-C, Lake View), Chairman of the Senate Committee on Commerce, Economic Development and Small Business, said, "I am pleased to be a cosponsor of this very important legislation. My upstate colleagues and I are working hard to promote economic development and create and retain jobs especially in upstate New York. By removing the tax assessments on our local IDAs, we will assist them in the hard work they are doing every day to encourage businesses to relocate to, remain in or expand in New York State.

Sen. Darrel J. Aubertine (D-Cape Vincent), Chair of the Upstate Caucus said, "In these tough economic times we are working to help businesses thrive and this legislation will correct what is now being enforced as a tax on local economic development efforts. As a caucus we are committed to promoting the growth of our local economies to keep our young people here in New York State, create jobs and emerge from this economic downturn stronger and prepared for a bright future in Upstate New York."

"I am proud to be a prime sponsor, along with my colleagues in the Upstate-Long Island Caucus, of legislation to repeal the assessment for recovery of governmental costs on the Industrial Development Agencies," said Senator Brian X. Foley (D-Blue Point). "IDAs are invaluable to the business community in New York State. In my former role as Supervisor of Brookhaven Town, I saw first-hand the positive impact IDAs provided. They supply the funding and resources necessary to help certain businesses be able to locate within our state. The removal of this added burden that was placed on IDAs will save them money, and allow them to continue to be conduits for business expansion and job creation."

“Simply put, IDAs were created for job creation. I am proud to join my colleagues in introducing this effort that will reduce the burden on these vitally important entities and allow them to better fulfill their core mission,” said Senator Craig M. Johnson, (D-Nassau.)

IDAs provide funding for economic development programs in their localities and work to bring new businesses into the state. Members of the Upstate Caucus and Long Island delegations, as well as many regional economic development organizations, believe the implementation, interpretation, and calculated assessments are unfair and detrimental to economic growth in the state. Regional economic development organizations have showed their support for this legislative action taken by the Upstate Caucus and Long Island Delegation in releasing the following statements:

“The New York State Economic Development Council, which represents local economic development organizations throughout the state, applauds legislation introduced today by Senator Stachowski and other members of the Senate Upstate Caucus. This tax is unfair, punitive, deeply flawed and would do material harm to economic development efforts throughout the state. In some cases, this tax will result in making the IDA insolvent. In other instances, the tax represents 100 percent or more of an IDA's operating budget for 2010. We understand the fiscal plight of the state, but even in the best of times, which these are not, taxing economic development agencies is counterproductive, at best” said Brian McMahon, Executive Director, New York State Economic Development Council.

“Economic development in New York is being hampered by a thousand cuts,” said Kenneth Adams, President of The Business Council of New York State. “This legislation eliminates a \$5 million tax on economic development efforts. It should never have been imposed in the first place, and we support its repeal.”

"It sounds like absolute fiction that our state would move to rob resources from our economic development agencies during this recession just when we need them to be working harder than ever to help create jobs, but that's what's happening to all of our county IDAs," states Garry Douglas, President of the Plattsburgh-North Country Chamber of Commerce. "It is clear from all of our conversations in Albany that the State Legislators never intended this interpretation, and we applaud this effort to flat out repeal the language that is being used by the administration to try to justify this bizarre policy. We thank the sponsors, including Senator Stachowski, for moving on this, and urge State Tax and Finance to cease and desist while the Legislature makes clear that their actions are contrary to legislative intent.

Sandy Parker, President of the Rochester Business Alliance said: “We thank Senators Valesky, Stachowski and other members of the Senate Upstate Caucus for their efforts to repeal this punitive tax,” said Sandy Parker, president and CEO of the Rochester Business Alliance. “Industrial Development Agencies play a vital role in local job creation efforts, and attempts to limit their resources will hamper their effectiveness and damage our already struggling upstate economy.”

Andrew Rudnick, President of the Buffalo Niagara Partnership said: "Downstate legislative leadership seems to be hell-bent on annihilating the IDAs and their important economic development work throughout the state, but particularly in Upstate - this new tax is only the latest," said Andrew J. Rudnick, President & CEO of the Buffalo Niagara Partnership. "Repeal of this burdensome 'cost-recovery' tax is an important stance for our Upstate representatives to take, and we support their effort to fix this poorly-conceived budget cash-grab."

"Taxing local industrial development agencies was a counterproductive element of last year's state budget. It shifted precious resources away from our local economic development community and was apparently retroactive to 2008. This repeal will benefit and restore local economic development resources throughout New York State," said Darlene D. Kerr, President of the Greater Syracuse Chamber of Commerce. "We are grateful to Senator David Valesky and his colleagues in the Upstate Senate Democratic Caucus for their leadership with this effort...We believe the higher purpose for these dollars is to be directly circulating in our communities. No doubt both the local and state economies will benefit from these funds supporting job growth and capital projects."

"The Jefferson County Industrial Development Agency strongly endorses the action of the Upstate Senate Democratic Caucus to repeal section 2975-a of the Public Authorities Law. This ill-conceived tax will deplete IDAs from operation capital, limit our ability to be self-sufficient, further shift the tax burden from the State to local jurisdictions and do material harm to local economic development efforts," said Don Alexander, CEO, Jefferson County Industrial Development Agency.

"The IDA Tax is another hidden tax on business which amounts to a 90% income tax on ECIDA's 2008 net income. ECIDA is 100% self-supported. Without that income it cannot adequately provide the resources needed to encourage investment, innovation, growth and global competitiveness and to create a successful business climate that benefits the residents of our region," said Al Culliton, Chief Operating Officer, Erie County Industrial Development Agency. "This bill will allow for more money to be available for business growth and job creation through our organization," said Fred Braun, Chair of the Brookhaven Town Industrial Development Agency. "I applaud Senator Foley and his colleagues for introducing this legislation, and I look forward to its passage."

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The Upstate-Long Island Caucus was formed to identify policy priorities and positions that protect the regionally diverse interests and well being of Upstate-Long Island constituents.