

Public Hearing
IDA Reform Legislation
Sponsored by: Assemblyman Sam Hoyt

Testimony presented by James Giegerich
8825 Bradley Road, Gasport, NY 14067

Assemblyman Hoyt, thank you for providing a time and place for input to the Reform of Industrial Development Agency enabling legislation. We encourage you to move ahead with all due speed to sponsor IDA reform legislation similar to that which was passed in the Assembly in 2006 but not acted on by the Senate. We hope this can take place in 2007.

Overall, there is an urgent need to reform New York State laws creating Industrial Development Agencies. We hope that an IDA reform bill will be enacted this year that will be a substantial improvement over the current IDA laws that are clearly not working for employees, citizens and taxpayers in New York State.

In the interest of time, my comments are summarized as follows:

1. IDA's are not performing their mission consistent with the laws that created them. They are failing to create the jobs they publicly state in their applications and are giving away tax money for non-performing agreements that do not create jobs and in a high percentage of actions, actually lose jobs.

In Niagara County, tax breaks amount to hundreds of thousands of dollars for each job promised to be created. In one case of a PILOT for AES, a profitable power company, the IDA gave away \$43 million or \$92 million after historical tax inflation with no jobs and no new construction. Over 50% of this tax subsidy is being picked up by teacher job losses and tax increases to residents of a school district. Giving tax reductions with no new jobs, paid for on the backs of senior citizen tax payers, students and teachers is just not what was intended by the legislation creating IDA's. This is but one example of the need for IDA reform.

IDA reform laws should expressly limit tax breaks given by IDA's to only those companies for which new construction and new jobs are added. IDA's should be held to a business standard of evaluating the "tax cost and public benefit" of each tax subsidy proposal and each IDA should negotiate for the best terms as a "return on the investment" of tax money to generate jobs.

The tax subsidy should not exceed what the job would pay on its face by the company to its employees so that companies don't make a "tax payer profit" per job that is promised. For example, a company should not get a tax subsidy greater than the salary of any job added.

2. IDA reform is necessary to assure that tax money is not given to businesses unless there is documented performance in accordance with the agreement. Currently, there is very poor reporting as required by existing New York Municipal Law. The Office of the New York Comptroller, the legislated recipient of such annual IDA performance reports, cites an excessively low level of reporting on tax incentives and tax breaks to companies. In fact, 60% of IDA's didn't provide sufficient data to evaluate job creation performance.

The reporting of IDA actions should be improved and more transparent to specify how much tax subsidy was provided for each new job added. If an IDA doesn't provide correct and auditable reports, they should be prevented from any tax subsidy action until their report is filed and accepted as to sufficiency by the NY State Comptrollers office.

3. The state should take the opportunity given by the expiration of powers of the IDA's to enact meaningful IDA reform in 2007 including business standards, accountability measures, and transparency measures.

In Niagara County, 15 out of 56 projects actually lost jobs. This is an awful track record. In Getting our Money's Worth, 2007, available data indicates that 62 IDA's statewide, or 69%, subsidized companies that actually cut jobs. This is up from 63% in 2004. What company could survive with this performance record? Taxpayers are paying extremely high tax subsidies to companies for each job promised. We certainly shouldn't be giving tax breaks to companies that lose jobs or don't achieve their job creation goals including within the tax subsidy contract.

The IDA reform law should provide for "clawback" provisions so that tax subsidies do not go to companies that are not providing the jobs they promise in their subsidy application. If there is not the job creation agreed upon, then the company should return the tax money, retroactively to return all the tax subsidies provided.

4. A county created IDA agency should not be able to give tax breaks for individual jurisdictions for which the granting legislature does not have taxing jurisdiction. Generally, over 50% of the tax subsidies given by IDA's are paid for by school districts not within the IDA tax granting jurisdiction. This is not unlike the State of NY giving tax breaks to companies in Ohio or Pennsylvania, outside of its taxing jurisdiction.

IDA's should grant tax subsidies only for the tax base for which they have taxing jurisdiction. Alternatively, IDA's should get prior approval for any tax reductions or PILOTS from all affected jurisdictions, especially school districts, before the tax reduction is agreed upon or granted.

Thank you for this opportunity to present these ideas. We urge you to sponsor, and facilitate the adoption of IDA reform legislation this year. This is urgently needed in New York.

Respectfully submitted,
James Giegerich
716 772 7441