

BROKEN PROMISES ON JOBS

STATE GIVES AWAY MILLIONS FOR JOBS THAT NEVER COME

The Post-Standard
Sunday, May 15, 2005
EDITION: Final SECTION: News PAGE: *A1*

By Mike McAndrew and Michelle Breidenbach

Staff writers

Gov. George Pataki's administration gives millions of dollars every year to businesses that promise to hire more people or retain jobs. It's a promise that is often broken.

Almost half of those companies helped by New York taxpayers fell short of the job targets that are part of their deals with the state, records show.

In fact, a quarter of the businesses took taxpayers' money and loans, then cut jobs.

To protect itself, New York's contracts with the companies include penalties for those that don't live up to their promises.

But across the state, a deal is not always a deal. More often than not, state development officials forgive the penalties against companies that fail to keep their job pledge. In other cases, the state will plea-bargain down the penalty.

A Post-Standard analysis of Pataki's job-creation programs provides a reality check on the happy news conferences and press releases that accompanied \$195 million in help given in recent years to nearly 500 companies.

As it turns out, Pataki's Empire State Development Corp. runs a program with an increasing rate of failure, which overstates its successes and goes easy on companies that miss their job targets.

ESD officials say they're doing their best to overcome a tough economy.

"Right now, the challenges to the average business owners are fantastic," said Tom Gillson, ESD's regional director in Syracuse. "It's just a difficult business, period. We wish everyone would succeed. But it's not realistic."

William Stern, who ran ESD's predecessor for Gov. Mario Cuomo in the early 1980s, said government officials do not have the expertise to effectively choose which few businesses to help. Fewer than 1 percent of the state's 544,000 companies with employees receive the grants.

"The state should close the Empire State Development Corp.," said Stern, who ran the agency when it was called the Urban Development Corp. "The idea of subsidizing specific businesses through tax breaks and grants is a failure."

Instead, he said, the state should improve the climate for all New York businesses by lowering taxes, improving schools and upgrading the infrastructure.

Compliance slides

Among the state's many weapons for subsidizing businesses are the Jobs Now Fund and Empire State Economic Development Fund. ESD pays for them with tax revenue and borrowed money. ESD, a public authority controlled by Pataki, will have \$169 million at its disposal this year for the two job-creation programs.

Once a year, ESD accounts for the jobs and money in a report to its board of directors. Using the state Freedom of Information Law, The Post-Standard obtained a copy, as well as records on companies' penalties, which are omitted from the report.

The newspaper's review of those records shows that in 2004, companies with active grants and loans fell short of their combined targets by at least 6,000 jobs. In all, 47 percent of the companies missed their targets.

Take the case of Ingram Micro, a global computer-parts wholesaler with a distribution center near Buffalo.

In 1999, it accepted \$675,000 in taxpayers' money and promised to add 542 workers. Instead, it cut its workforce by nearly 400.

The state demanded a penalty of \$176,985, but an Ingram spokesman said it has not paid and is negotiating with the state.

Last month, Ingram Micro announced it will lay off another 120 Buffalo workers and send the work overseas.

The percentage of companies that ESD considers "not in compliance" with their hiring goals has climbed in each of the past three years.

At a 2002 meeting, Joseph Holland, a Harlem businessman who co-managed Pataki's first campaign for governor and whom Pataki appointed an ESD director, raised a concern -- an unusual event, according to the board's meeting minutes. Holland worried that the authority might be criticized by the press or the Legislature because 27 percent of the businesses missed their job targets that year.

He was assured that ESD maintains a good record that would refute any criticism, the minutes said.

In 2003, the non-compliance rate rose to 36 percent.

In 2004, ESD put the rate at 40 percent. That didn't include another 7 percent of companies that fell short but were considered in compliance because they came within 15 percent.

Holland declined to comment for this story. He is one of five Pataki appointees who make up the ESD board. Its chairman is Charles Gargano, a former Pataki campaign fund-raiser.

All's forgiven

To get the state economic development grants, companies must sign contracts that require them to create or retain a specific number of jobs, usually for three to five years. Those contracts include specific penalties that depend on a company's job totals.

"We tell them up front that if they don't do what they say they're going to do, we're coming after them," ESD's Gillson said.

In practice, ESD is reluctant to do that. In 2004, its officials imposed no penalty on more than half of the businesses that failed to keep their jobs pledges, ESD records show. It demanded the maximum penalty for 12 out of 198 companies that were not in compliance.

Last year, ESD told 60 companies to repay part of their grants. Here's what happened:

Under the contracts, the state could have demanded \$12.8 million.

The state settled for \$5.7 million.

ESD has so far collected less than \$3 million.

In a 1998 news release about a grant to The Gunlocke Co., located 60 miles south of Rochester, Pataki noted that he and his staff sit on Gunlocke furniture in the governor's New York City office.

"This is a great day for Wayland, Steuben County, The Gunlocke Co. and their present and future employees," Pataki said.

The reality in Wayland is far different.

From 1999 to 2001, Gunlocke received three grants totaling \$1.8 million. The company promised to boost its employment from 775 to 1,225. By 2004, The Gunlocke Co. had sunk to 541 workers - 30 percent fewer than when it first received state money.

ESD then required Gunlocke to sign a note agreeing to repay \$300,000. If Gunlocke does not employ 1,032 workers by 2006, ESD can impose another \$300,000 penalty.

Gunlocke officials said furniture orders have picked up in the past 12 months, and the company now employs 740 people. All told, though, it's down 35 employees and ahead \$1.5 million in taxpayer money.

The state extends leniency to businesses in another way: It lowers the bar.

In 38 cases where a business missed its mark in 2004, ESD simply reduced the job target for future years.

Most of those companies now have hiring goals that are smaller than the actual employment they had when they first got state money.

For example, in 2003 Philips Semiconductor Manufacturing got a \$1 million grant and promised to keep its 967 workers at its Dutchess County plant. Instead, it cut 123 workers.

ESD gave Philips a new target: 775, almost 200 fewer workers than it had when it received the state money. And if Philips can clear that friendlier goal? In future reports, the company will look like a winner.

Also, ESD could have penalized the company \$1 million. It settled for \$199,000.

One of 12 companies that paid the maximum penalty was Ethan Allen Interiors, which closed its Boonville factory in 2004 four years after it received a \$650,000 grant. That put 294 people out of work.

ESD required Ethan Allen to pay back \$390,000.

Peter Enrich, a Northeastern University law professor - who in an Ohio court case successfully challenged the legality of state tax breaks for DaimlerChrysler - said New York's record illustrates the troubles studies have found with government-run business incentives.

"The consistent finding is that businesses produce fewer jobs than they had promised, and states and cities tend to be reluctant to exercise rights they have to recoup benefits," Enrich said. "Businesses say, 'Well, gee, you don't want to hurt us when we're struggling.' So it's been a real problem in state after state after state."

Creative accounting

The state's report on the grant money has so many holes that it's hard to tell what New Yorkers are getting for their money.

In the annual jobs report, ESD Chairman Gargano boasted that the authority's grants and loans created 26,648 new jobs. The state spent an average of \$1,442 per job created or saved, Gargano said. As a group, the 495 grant recipients hired 98 percent of the workers they promised to add, according to ESD.

Those numbers were based on statistics that ESD now admits contain errors.

ESD took credit for creating 2,250 jobs at a General Motors engine factory in Tonawanda that received a \$5 million grant. The reality is the extreme opposite: GM has cut through attrition about 1,000 employees there since getting the help.

ESD says now that it can only claim its grant helped retain the jobs of 700 workers at GM.

"Somewhere in the process a mistake was made," ESD spokesman Ron Jury explained in an e-mail.

GM, whose 2004 revenue was nearly twice New York's \$106 billion budget, is among four of the 10 richest companies in America that received state job-creation grants in the past five years. GM, General Electric, American International Group and IBM have received a total of \$23 million .

In its report, ESD also takes credit for maintaining or creating every job at some companies that received a grant - such as the 3,814 workers reported in 2004 by New Venture Gear, which traces its history back more than a century.

In 2002, the state comptroller's office criticized ESD in an audit report for overstating its success by counting preexisting jobs along with jobs its grants had created or saved.

ESD officials also said it does not factor into its average cost per job the hundreds of millions of dollars in other state help to business, such as Empire Zone benefits or political slush-fund grants.

In the Syracuse area, the state aid recipients include heavy hitters like AT&T (\$300,000 grant), Carrier Corp. (\$2.5 million loan), and New AT&T got a \$300,000 grant in 2001 to help it expand its Syracuse call center to include a small-business section. The company agreed to retain at least 634 employees. Last year, when AT&T had only 603 local workers, ESD waived any penalty because the company came close.

In January, AT&T announced it was closing the small-business call center. About 210 workers lost their jobs. ESD isn't saying if it'll recover any of the money.

Photon Vision Systems, a Cortland firm that designed and tested image sensors for digital cameras and bar-code scanners, got a \$100,000 ESD grant in August 2002 to help it pay for a \$4.6 million office and laboratory. State Sen. John DeFrancisco steered to it another \$145,000 state grant in borrowed "slush fund" spending.

Photon promised to employ 64 workers, but never did.

ESD demanded that Photon Vision repay \$80,000. But it hasn't collected a dime. And it's not likely to.

Photon went out of business in 2003, said Terry Zarnowski, Photon's former director of marketing and brother of a Photon founder. The company's assets have been sold twice since then.

The 2004 ESD report reflects job figures as of Feb. 1, 2004 - too early to include a series of prominent Central New York disasters: Oneida Ltd. in Sherrill, Carrier Corp. in DeWitt, AT&T in Syracuse and Ethan Allen laid off more than 1,800 workers.

Rick Simone, business agent for the Sheet Metal Workers International Association union at Carrier, has no problem with state incentives to companies, but he questions their impact on the global companies that have cut back in Syracuse.

"Something must be done to keep good-paying jobs in the state, but they really have to put some teeth into it, too," he said of ESD. "You can't just keep waiving stuff and waiving stuff on a company like AT&T or a company like Carrier. If I was the attorney general or the governor, I'd be going after them."

"Kind of a game"

As states across America compete for jobs, governors have used grants and tax breaks to attract new businesses and keep the ones they have.

"If we didn't have these grants, these companies would definitely be in another country or another state," said Gillson, the ESD regional director. "We're desperately trying to hold on to all the manufacturing we can."

Because its economy is not as healthy as others and because of its high taxes, New York must offer more incentives than other states, said Brian McMahon, executive director of the New York State Economic Development Council.

McMahon's group, which represents government development officials and related professionals, has lobbied the state to keep the grants.

"These programs are very key in tipping the scales to our benefit when we're pursuing a prospect," McMahon said.

In fact, New York law bars ESD from giving out an economic development grant unless it determines the company is unlikely to create or retain the jobs without the state's money.

Among the ESD success stories is Byrne Dairy. The Syracuse firm received a \$142,500 grant in 1998 to expand its milk plant. Employment grew from 250 to 358.

Bill Byrne, president of the dairy, said the company would have done the expansion without the ESD aid. "I'll be honest with you here, that project was going to get done one way or another," he said.

However, a Byrne Dairy subsidiary might have built its factory last year in Massachusetts, instead of New York, if ESD hadn't provided \$400,000 in grants and loans, plus tax breaks, Byrne said.

Ultra Dairy built a plant in DeWitt that employs 30 people.

"We had a purchase offer on a piece of property (in Massachusetts). That's how serious we were," Byrne said. With the incentives, he said, "it made more sense to expand in New York state, so that's what we did."

Stern - the former state development director and ESD critic who works with the Manhattan Institute, a public policy think tank - said elected officials like these grants for political reasons.

"The economic development grants are a smoke screen," he said. "This creates the impression of doing something about the problem. Politicians perpetrate illusions.

"At some point,somebody will hopefully say we have much deeper problems and need core solutions."