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I N S E N A T E

June 16, 2012

Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public service law and the economic development law, in relation to eligibility for admission to the excelsior jobs program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The closing paragraph of paragraph (b) of subdivision 4 of
2 section 165 of the public service law, as added by chapter 388 of the
3 laws of 2011, is amended to read as follows:

4 The applicant shall supply the details of the analysis in the applica-
5 tion and such supporting information, as may be requested by the board
6 or, in the exercise of federally delegated or approved environmental
7 permitting authority, the department of environmental conservation,
8 necessary to show compliance with the requirements of subparagraphs (i)
9 through (iv) of this paragraph. The board may extend the deadline in
10 extraordinary circumstances by no more than three months in order to
11 give consideration to specific issues necessary to develop an adequate
12 record. The board shall render a final decision on the application by
13 the aforementioned deadlines unless such deadlines are waived by the
14 applicant. If, at any time subsequent to the commencement of the hear-
15 ing, there is a material and substantial amendment to the application,
16 the deadlines may be extended by no more than three months, unless such
17 deadline is waived by the applicant, to consider such amendment. SHOULD
18 THE BOARD GRANT A CERTIFICATE OR AMENDMENT THEREOF FOR THE CONSTRUCTION
19 OR OPERATION OF A FACILITY OR IF THERE IS A PROPOSED FACILITY THAT HAD
20 BEEN GRANTED CERTIFICATION OR OTHER APPROVAL PRIOR TO THE EFFECTIVE DATE
21 OF THIS SECTION, THE APPLICANT OR PROPOSED FACILITY SHALL BE ELIGIBLE TO
22 APPLY FOR ADMISSION TO THE EXCELSIOR JOBS PROGRAM ESTABLISHED PURSUANT
23 TO ARTICLE SEVENTEEN OF THE ECONOMIC DEVELOPMENT LAW.

24 S 2. Subdivision 14 of section 352 of the economic development law, as
25 added by section 1 of part MM of chapter 59 of the laws of 2010, is
26 amended to read as follows:

27 14. "Regionally significant project" means (a) a manufacturer creating
28 at least fifty net new jobs in the state and making significant capital

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 investment in the state; (b) a business creating at least twenty net new
2 jobs in agriculture in the state and making significant capital invest-
3 ment in the state, (c) a financial services firm, distribution center,
4 or back office operation creating at least three hundred net new jobs in
5 the state and making significant capital investment in the state, [or]
6 (d) a scientific research and development firm creating at least twenty
7 net new jobs in the state, and making significant capital investment in
8 the state, OR (E) A MAJOR ELECTRIC GENERATING FACILITY AS DEFINED IN
9 SECTION ONE HUNDRED SIXTY OF THE PUBLIC SERVICE LAW THAT HAS BEEN GRANT-
10 ED A CERTIFICATE OR AMENDMENT THEREOF FOR THE CONSTRUCTION OR OPERATION
11 OF A FACILITY PURSUANT TO SUBDIVISION FOUR OF SECTION ONE HUNDRED
12 SIXTY-FIVE OF THE PUBLIC SERVICE LAW OR IF THERE IS A PROPOSED FACILITY
13 THAT HAD BEEN GRANTED CERTIFICATION OR OTHER APPROVAL PRIOR TO THE
14 EFFECTIVE DATE OF THIS SECTION. Other businesses creating three hundred
15 or more net new jobs in the state and making significant capital invest-
16 ment in the state may be considered eligible as a regionally significant
17 project by the commissioner as well. The commissioner shall promulgate
18 regulations pursuant to section three hundred fifty-six of this article
19 to determine what constitutes significant capital investment for each of
20 the project categories indicated in this subdivision and what additional
21 criteria a business must meet to be eligible as a regionally significant
22 project, including, but not limited to, whether a business exports a
23 substantial portion of its products or services outside of the state or
24 outside of a metropolitan statistical area or county within the state.

25 S 3. Subdivision 5 of section 353 of the economic development law, as
26 amended by section 2 of part G of chapter 61 of the laws of 2011, is
27 amended to read as follows:

28 5. A not-for-profit business entity, a business entity whose primary
29 function is the provision of services including personal services, busi-
30 ness services, or the provision of utilities, and a business entity
31 engaged predominantly in the retail or entertainment industry, and a
32 company engaged in the generation or distribution of electricity, the
33 distribution of natural gas, or the production of steam associated with
34 the generation of electricity, EXCEPT A MAJOR ELECTRIC GENERATING FACIL-
35 ITY AS DEFINED IN SECTION ONE HUNDRED SIXTY OF THE PUBLIC SERVICE LAW
36 THAT HAS BEEN GRANTED A CERTIFICATE OR AMENDMENT THEREOF FOR THE
37 CONSTRUCTION OR OPERATION OF A FACILITY PURSUANT TO SUBDIVISION FOUR OF
38 SECTION ONE HUNDRED SIXTY-FIVE OF THE PUBLIC SERVICE LAW OR IF THERE IS
39 A PROPOSED FACILITY THAT HAD BEEN GRANTED CERTIFICATION OR OTHER
40 APPROVAL PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, are not eligible
41 to receive the tax credit described in this article.

42 S 4. This act shall take effect immediately.