S T A T E O F N E W Y O R K

4118

2013-2014 Regular Sessions

I N S E N A T E

March 11, 2013

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

AN ACT to amend the environmental conservation law, the state finance law, the tax law and the real property tax law, in relation to establishing a statewide green jobs development and recruitment strategy and creating tax credit incentives to attract green jobs

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

Section 1. The environmental conservation law is amended by adding a new section 3-0308 to read as follows:

S 3-0308. GREEN JOBS DEVELOPMENT AND RECRUITMENT STRATEGY.

1. THE DEPARTMENT, IN COLLABORATION WITH THE DEPARTMENT OF AGRICULTURE AND MARKETS, THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AND THE EMPIRE STATE DEVELOPMENT CORPORATION, SHALL DO THE FOLLOWING:

A. ESTABLISH A STATEWIDE GREEN JOBS DEVELOPMENT AND RECRUITMENT STRATEGY TO ATTRACT GREEN JOBS TO THE STATE OF NEW YORK;

B. CONVERT EXISTING COMPANIES INTO GREEN JOB PROVIDERS;

C. RECRUIT INDIVIDUALS FOR GREEN JOB CAREERS; AND

D. ESTABLISH GREEN JOB CURRICULUMS AT BOCES AND COMMUNITY COLLEGES.

2. WHENEVER USED IN THIS SECTION:

A. "GREEN JOB" SHALL MEAN WORK IN THE ENVIRONMENTAL OR AGRICULTURAL SECTOR OF THE ECONOMY INCLUDING WORK IN GREEN DEVELOPMENT, GREEN POWER PRODUCTION AND/OR ANY WORK UTILIZING GREEN POWER AT A MINIMUM OF TWENTY-FIVE PERCENT OF TOTAL ENERGY CONSUMPTION;

B. "GREEN DEVELOPMENT" SHALL MEAN EQUIPPING OR RETROFITTING BUILDINGS, HOMES AND FARMS TO INCREASE ENERGY EFFICIENCY; IMPROVING MASS TRANSIT SYSTEMS; IMPROVING ELECTRICAL TRANSMISSION SYSTEMS; CONVERTING TO GREEN POWER, OR UTILIZING LOCALLY GROWN FOOD PRODUCTS AT A MINIMUM OF TEN PERCENT OF TOTAL PRODUCTS UTILIZED; AND

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

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C. "GREEN POWER" SHALL MEAN WIND POWER, SOLAR POWER, NUCLEAR POWER, HYDROPOWER, NATURAL GAS, BIOFUELS, GEOTHERMAL SYSTEMS, ANAEROBIC DIGESTION AND METHANE GAS, INCLUDING THE CAPTURE OF METHANE GAS FROM DECOMPOSING WASTE IN LANDFILLS.

S 2. Paragraph (e) of subdivision 12 of section 213 of the state finance law, as added by chapter 705 of the laws of 1993, is amended and a new paragraph (f) is added to read as follows:

(e) for certified [minority-and] MINORITY- AND women-owned businesses, projects to provide financing necessary to carry out a procurement contract with an agency or authority or other entity of the state or federal government[.]; OR

(F) FOR ANY BUSINESS OR FARM SEEKING FINANCES FOR GREEN DEVELOPMENT, AS DEFINED BY SECTION 3-0308 OF THE ENVIRONMENTAL CONSERVATION LAW AND INCLUDING THE PURCHASE OF ANAEROBIC DIGESTERS OR FOR SWITCHING COMMERCIAL DAIRY OPERATIONS TO ORGANIC OPERATIONS.

S 3. Section 606 of the tax law is amended by adding three new subsections (g-3), (g-4) and (g-5) to read as follows:

(G-3) GREEN JOB CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR THE CREATION OR MAINTENANCE OF FULL-TIME GREEN JOBS AT SUCH TAXPAYER'S BUSINESS. THE AMOUNT OF THE CREDIT SHALL BE ONE THOUSAND FIVE HUNDRED DOLLARS FOR GREEN JOBS WITH A SALARY OF FORTY THOUSAND DOLLARS OR LESS OR A CREDIT OF TWO THOUSAND DOLLARS FOR GREEN JOBS WITH A SALARY OF OVER FORTY THOUSAND DOLLARS. A TAXPAYER SHALL BE ALLOWED TO CLAIM SUCH CREDIT FOR UP TO FIVE YEARS.

(2) "GREEN JOB" SHALL MEAN WORK IN THE ENVIRONMENTAL OR AGRICULTURAL SECTOR OF THE ECONOMY INCLUDING WORK IN GREEN DEVELOPMENT, GREEN POWER PRODUCTION AND/OR ANY WORK UTILIZING GREEN POWER AT A MINIMUM OF TWENTY-FIVE PERCENT OF TOTAL ENERGY CONSUMPTION.

(3) IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS OF SUCH CREDIT, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE CARRIED OVER TO THE FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(G-4) GREEN POWER CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR OPERATING SUCH TAXPAYER'S BUSINESS WITH A MINIMUM OF TWENTY-FIVE PERCENT OF TOTAL ENERGY CONSUMPTION STEMMING FROM GREEN POWER. THE AMOUNT OF SUCH TAX CREDIT SHALL BE EQUAL TO TWENTY-FIVE DOLLARS PER EMPLOYEE, BUT SHALL NOT EXCEED THE TOTAL ENERGY COSTS PAID BY SUCH TAXPAYER.

(2) A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR OPERATING SUCH TAXPAYER'S BUSINESS WITH A MINIMUM OF FIFTY PERCENT OF TOTAL ENERGY CONSUMPTION STEMMING FROM GREEN POWER. THE AMOUNT OF SUCH TAX CREDIT SHALL BE EQUAL TO FIFTY DOLLARS PER EMPLOYEE, BUT SHALL NOT EXCEED THE TOTAL ENERGY COSTS PAID BY SUCH TAXPAYER.

(3) "GREEN POWER" SHALL MEAN WIND POWER, SOLAR POWER, NUCLEAR POWER, HYDROPOWER, NATURAL GAS, BIOFUELS, GEOTHERMAL SYSTEMS, ANAEROBIC DIGESTION AND METHANE GAS, INCLUDING THE CAPTURE OF METHANE GAS FROM DECOMPOSING WASTE IN LANDFILLS.

(4) IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS OF SUCH CREDIT, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE CARRIED OVER TO THE FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(G-5) REAL PROPERTY TAX CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR MAINTAINING OR EXCEEDING EMPLOYMENT LEVELS AT SUCH TAXPAYER'S BUSINESS, AS SUCH LEVELS EXISTED WHEN SUCH TAXPAYER INITIALLY APPLIED FOR THIS TAX CREDIT. THE AMOUNT OF SUCH TAX CREDIT SHALL BE EQUAL TO TEN PERCENT OF THE TAXPAYER'S REAL PROPERTY TAXES PAID FOR THE TAXABLE YEAR.

(2) IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS OF SUCH CREDIT, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE CARRIED OVER TO THE FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 4. Section 209 of the tax law is amended by adding a new subdivision 11 to read as follows:

11. FOR ANY TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, AN ORGANIZATION AS DESCRIBED IN SUBSECTIONS (G-3), (G-4) AND (G-5) OF SECTION SIX HUNDRED SIX OF THIS CHAPTER SHALL BE ALLOWED AN EXEMPTION AGAINST THE TAX IMPOSED BY THIS ARTICLE. FOR A COMPUTATION OF THE AMOUNT OF SUCH EXEMPTION SEE PARAGRAPHS ONE OF SUBSECTIONS (G-3), (G-4) AND (G-5) OF SECTION SIX HUNDRED SIX OF THIS CHAPTER.

S 5. The real property tax law is amended by adding a new section 421-n to read as follows:

S 421-N. EXEMPTION OF CAPITAL IMPROVEMENTS FOR GREEN POWER OR GREEN DEVELOPMENT PROJECTS MADE IN RESIDENTIAL BUILDINGS. 1. RESIDENTIAL BUILDINGS RECONSTRUCTED, ALTERED OR IMPROVED FOR GREEN POWER OR GREEN DEVELOPMENT PURPOSES SUBSEQUENT TO THE EFFECTIVE DATE OF A LOCAL LAW OR RESOLUTION PURSUANT TO THIS SECTION SHALL BE EXEMPT FROM TAXATION AND SPECIAL AD VALOREM LEVIES TO THE EXTENT PROVIDED HEREINAFTER. AFTER A PUBLIC HEARING, THE GOVERNING BOARD OF A COUNTY, CITY, TOWN OR VILLAGE MAY ADOPT A LOCAL LAW AND A SCHOOL DISTRICT, OTHER THAN A SCHOOL DISTRICT SUBJECT TO ARTICLE FIFTY-TWO OF THE EDUCATION LAW, MAY ADOPT A RESOLUTION TO GRANT THE EXEMPTION AUTHORIZED PURSUANT TO THIS SECTION. A COPY OF SUCH LOCAL LAW OR RESOLUTION SHALL BE FILED WITH THE STATE BOARD AND THE ASSESSOR OF SUCH COUNTY, CITY, TOWN OR VILLAGE WHO PREPARES THE ASSESSMENT ROLL ON WHICH THE TAXES OF SUCH COUNTY, CITY, TOWN, VILLAGE OR SCHOOL DISTRICT ARE LEVIED.

2. (A) SUCH BUILDINGS SHALL BE EXEMPT TO THE EXTENT OF ONE HUNDRED PER CENTUM OF THE INCREASE IN ASSESSED VALUE THEREOF ATTRIBUTABLE TO SUCH RECONSTRUCTION, ALTERATION OR IMPROVEMENT RELATED TO GREEN POWER OR GREEN DEVELOPMENT PROJECTS FOR SUCH RESIDENTIAL BUILDINGS. FOR THE PURPOSES OF THIS SECTION, THE MARKET VALUE OF THE RECONSTRUCTION, ALTERATION OR IMPROVEMENT SHALL BE EQUAL TO THE INCREASED ASSESSED VALUE ATTRIBUTABLE TO SUCH RECONSTRUCTION, ALTERATION OR IMPROVEMENT DIVIDED BY THE CLASS I RATIO IN A SPECIAL ASSESSING UNIT OR THE MOST RECENTLY ESTABLISHED STATE EQUALIZATION RATE OR SPECIAL EQUALIZATION RATE IN THE REMAINDER OF THE STATE, EXCEPT WHERE THE STATE EQUALIZATION RATE OR SPECIAL EQUALIZATION RATE EQUALS OR EXCEEDS NINETY-FIVE PERCENT, IN WHICH CASE THE INCREASE IN ASSESSED VALUE ATTRIBUTABLE TO SUCH RECONSTRUCTION, ALTERATION OR IMPROVEMENT SHALL BE DEEMED TO EQUAL THE MARKET VALUE OF SUCH RECONSTRUCTION, ALTERATION OR IMPROVEMENT.

(B) NO SUCH EXEMPTION SHALL BE GRANTED FOR RECONSTRUCTION, ALTERATIONS OR IMPROVEMENTS UNLESS:

(I) SUCH RECONSTRUCTION, ALTERATION OR IMPROVEMENT WAS COMMENCED SUBSEQUENT TO THE EFFECTIVE DATE OF THE LOCAL LAW OR RESOLUTION ADOPTED PURSUANT TO SUBDIVISION ONE OF THIS SECTION; AND

(II) THE GREATER PORTION, AS SO DETERMINED BY SQUARE FOOTAGE, OF THE BUILDING RECONSTRUCTED, ALTERED OR IMPROVED IS AT LEAST FIVE YEARS OLD.

(C) FOR PURPOSES OF THIS SECTION THE TERMS RECONSTRUCTION, ALTERATION AND IMPROVEMENT SHALL NOT INCLUDE ORDINARY MAINTENANCE AND REPAIRS.

3. SUCH EXEMPTION SHALL BE GRANTED ONLY UPON APPLICATION BY THE OWNER OF SUCH BUILDING ON A FORM PRESCRIBED BY THE STATE BOARD. THE APPLICATION SHALL BE FILED WITH THE ASSESSOR OF THE CITY HAVING THE POWER TO ASSESS PROPERTY FOR TAXATION ON OR BEFORE THE APPROPRIATE TAXABLE STATUS DATE OF SUCH CITY.

4. IF SATISFIED THAT THE APPLICANT IS ENTITLED TO AN EXEMPTION PURSUANT TO THIS SECTION, THE ASSESSOR SHALL APPROVE THE APPLICATION AND SUCH BUILDING SHALL THEREAFTER BE EXEMPT FROM TAXATION AND SPECIAL AD VALOREM LEVIES AS HEREIN PROVIDED COMMENCING WITH THE ASSESSMENT ROLL PREPARED ON THE BASIS OF THE TAXABLE STATUS DATE REFERRED TO IN SUBDIVISION THREE OF THIS SECTION. THE ASSESSED VALUE OF ANY EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL BE ENTERED BY THE ASSESSOR ON THE ASSESSMENT ROLL WITH THE TAXABLE PROPERTY, WITH THE AMOUNT OF THE EXEMPTION SHOWN IN A SEPARATE COLUMN.

5. FOR THE PURPOSES OF THIS SECTION, A RESIDENTIAL BUILDING SHALL MEAN ANY BUILDING OR STRUCTURE DESIGNED AND OCCUPIED EXCLUSIVELY FOR RESIDENTIAL PURPOSES BY NOT MORE THAN ONE FAMILY.

6. FOR THE PURPOSES OF THIS SECTION, GREEN POWER SHALL MEAN WIND POWER, SOLAR POWER, NUCLEAR POWER, HYDROPOWER, NATURAL GAS, BIOFUELS, ANAEROBIC DIGESTION AND METHANE GAS, INCLUDING THE CAPTURE OF METHANE GAS FROM DECOMPOSING WASTE IN LANDFILLS.

7. FOR THE PURPOSES OF THIS SECTION, GREEN DEVELOPMENT SHALL MEAN EQUIPPING OR RETROFITTING BUILDINGS, HOMES AND FARMS TO INCREASE ENERGY EFFICIENCY; IMPROVING MASS TRANSIT SYSTEMS; IMPROVING ELECTRICAL TRANSMISSION SYSTEMS; CONVERTING TO GREEN POWER; OR UTILIZING LOCALLY GROWN FOOD PRODUCTS AT A MINIMUM OF TEN PERCENT OF TOTAL PRODUCTS UTILIZED.

8. IN THE EVENT THAT A BUILDING GRANTED AN EXEMPTION PURSUANT TO THIS SECTION CEASES TO BE USED PRIMARILY FOR RESIDENTIAL PURPOSES BY THE OWNER WHO WAS GRANTED THE EXEMPTION PURSUANT TO THIS SECTION OR TITLE THERETO IS TRANSFERRED TO OTHER THAN THE SPOUSE OF THE OWNER, THE EXEMPTION GRANTED PURSUANT TO THIS SECTION SHALL CEASE.

9. SUCH CITY MAY, BY ITS LOCAL LAW OR RESOLUTION:

(A) REDUCE THE PER CENTUM OF EXEMPTION OTHERWISE ALLOWED PURSUANT TO THIS SECTION;

(B) LIMIT ELIGIBILITY FOR THE EXEMPTION TO THOSE FORMS OF RECONSTRUCTION, ALTERATIONS OR IMPROVEMENTS AS ARE PRESCRIBED IN SUCH LOCAL LAW OR RESOLUTION;

(C) PROVIDE THAT THE EXEMPTION SHALL BE APPLICABLE ONLY TO THOSE IMPROVEMENTS WHICH WOULD OTHERWISE RESULT IN AN INCREASE IN THE ASSESSED VALUATION OF THE REAL PROPERTY BUT WHICH CONSIST OF AN ADDITION, REMODELING OR MODERNIZATION TO AN EXISTING RESIDENTIAL STRUCTURE TO PREVENT PHYSICAL DETERIORATION OF THE STRUCTURE OR TO COMPLY WITH APPLICABLE BUILDING, SANITARY, HEALTH AND/OR FIRE CODES.

S 6. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 44 to read as follows:

(44) RETAIL SALES OF ANY MATERIALS, PRODUCTS OR SERVICES PURCHASED FOR THE PURPOSE OF GREEN POWER OR GREEN DEVELOPMENT PROJECTS FOR RESIDENTIAL BUILDINGS OR BUSINESSES.

S 7. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as amended by chapter 406 of the laws of 2012, is amended to read as follows:

(1) Either, all of the taxes described in article twenty-eight of this chapter, at the same uniform rate, as to which taxes all provisions of the local laws, ordinances or resolutions imposing such taxes shall be identical, except as to rate and except as otherwise provided, with the corresponding provisions in such article twenty-eight, including the definition and exemption provisions of such article, so far as the provisions of such article twenty-eight can be made applicable to the taxes imposed by such city or county and with such limitations and special provisions as are set forth in this article. The taxes authorized under this subdivision may not be imposed by a city or county unless the local law, ordinance or resolution imposes such taxes so as to include all portions and all types of receipts, charges or rents, subject to state tax under sections eleven hundred five and eleven hundred ten of this chapter, except as otherwise provided. (i) Any local law, ordinance or resolution enacted by any city of less than one million or by any county or school district, imposing the taxes authorized by this subdivision, shall, notwithstanding any provision of law to the contrary, exclude from the operation of such local taxes all sales of tangible personal property for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, generating, assembly, refining, mining or extracting; and all sales of tangible personal property for use or consumption predominantly either in the production of tangible personal property, for sale, by farming or in a commercial horse boarding operation, or in both; and, unless such city, county or school district elects otherwise, shall omit the provision for credit or refund contained in clause six of subdivision (a) or subdivision (d) of section eleven hundred nineteen of this chapter. (ii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment exemption provided for in subdivision (ee), the commercial solar energy systems equipment exemption provided for in subdivision (hh) [and], the clothing and footwear exemption provided for in paragraph thirty AND THE GREEN POWER OR GREEN DEVELOPMENT PROJECTS EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-FOUR of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment exemption, such commercial solar energy systems equipment exemption or such clothing and footwear exemption OR SUCH GREEN POWER OR GREEN DEVELOPMENT EXEMPTION.

S 8. Section 1210 of the tax law is amended by adding a new subdivision (q) to read as follows:

(Q) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDINANCE OR RESOLUTION TO THE CONTRARY: (1) ANY CITY, COUNTY OR SCHOOL DISTRICT IN WHICH THE TAXES IMPOSED BY SECTION ELEVEN HUNDRED EIGHT OF THIS CHAPTER ARE IN EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED AND EMPOWERED TO ELECT TO PROVIDE THE SAME EXEMPTIONS FROM SUCH TAXES AS THE GREEN POWER AND/OR GREEN DEVELOPMENT PROJECTS EXEMPTION FROM STATE SALES AND COMPENSATING USE TAXES DESCRIBED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY ENACTING A RESOLUTION IN THE FORM SET FORTH IN PARAGRAPH TWO OF THIS SUBDIVISION; WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF SUBDIVISIONS (D) AND (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOLUTION SHALL BE DEEMED TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED EIGHT AND SUCH SECTION ELEVEN HUNDRED EIGHT SHALL

BE DEEMED TO INCORPORATE SUCH EXEMPTIONS AS IF THEY HAD BEEN DULY ENACTED BY THE STATE LEGISLATURE AND APPROVED BY THE GOVERNOR.

(2) FORM OF RESOLUTION: BE IT ENACTED BY THE (INSERT PROPER TITLE OF LOCAL LEGISLATIVE BODY) AS FOLLOWS:

SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH 44 OF SUBDIVISION (A) OF SECTION 1115 OF THE TAX LAW SHALL ALSO BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURISDICTION.

SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT SEPTEMBER 1, (INSERT THE YEAR, BUT NOT EARLIER THAN THE YEAR 2014) AND SHALL APPLY TO SALES MADE, SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106, 1216 AND 1217 OF THE NEW YORK TAX LAW.

S 9. This act shall take effect immediately; provided, however, that the department of environmental conservation shall promulgate rules and regulations necessary and appropriate to carry out the purposes of this act.