

5583

2013-2014 Regular Sessions

I N S E N A T E

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Introduced by Sens. RITCHIE, GRIFFO -- read twice and ordered printed,
and when printed to be committed to the Committee on Energy and Tele-
communications

AN ACT to amend the public authorities law, in relation to authorizing
unallocated power to be used for the specified purposes

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

1 Section 1. Section 1005 of the public authorities law is amended by
2 adding four undesignated paragraphs to be the thirteenth, fourteenth,
3 fifteenth and sixteenth undesignated paragraphs to read as follows:
4 THE AUTHORITY IS AUTHORIZED TO ALLOCATE UP TO TWENTY MEGAWATTS OF
5 POWER FROM THE SAINT LAWRENCE-FDR PROJECT HEREAFTER KNOWN AS "ST.
6 LAWRENCE COUNTY ECONOMIC DEVELOPMENT POWER" WHICH IS UNALLOCATED AS OF
7 THE EFFECTIVE DATE OF THIS PARAGRAPH, FOR SALE INTO THE WHOLESALE
8 MARKET, THE NET EARNINGS FROM WHICH AND SUCH OTHER FUNDS OF THE AUTHORI-
9 TY AS DEEMED FEASIBLE AND ADVISABLE BY THE TRUSTEES, SHALL BE USED FOR
10 PURPOSES OF THE ST. LAWRENCE RIVER VALLEY ECONOMIC DEVELOPMENT FUND
11 (HEREINAFTER REFERRED TO AS THE "SLRVED FUND"). SUCH PROCEEDS SHALL BE
12 DISBURSED UPON RECOMMENDATION OF THE ST. LAWRENCE RIVER VALLEY REDEVEL-
13 OPMENT DEVELOPMENT AGENCY AND/OR THE ST. LAWRENCE INDUSTRIAL DEVELOPMENT
14 AGENCY AND/OR THEIR SUCCESSORS (HEREINAFTER THE RVRDA ADVISORY GROUP)
15 PURSUANT TO THE FUND CONTEMPLATED IN THE AGREEMENT TO FUND THE ST.
16 LAWRENCE RIVER VALLEY REDEVELOPMENT DEVELOPMENT AGENCY DATED JUNE 2,
17 2010 BY AND BETWEEN THE POWER AUTHORITY OF THE STATE OF NEW YORK
18 (PASNY), THE ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY LOCAL
19 DEVELOPMENT CORPORATION AND THE PASNY HOST COMMUNITIES ON THE ST.
20 LAWRENCE RIVER INCLUDING THE TOWNS OF WADDINGTON, LOUISVILLE, LISBON AND
21 MASSENA, THE VILLAGES OF WADDINGTON AND MASSENA AND THE COUNTY OF ST.
22 LAWRENCE. FOR PURPOSES OF THIS PARAGRAPH, THE TERM NET EARNINGS SHALL
23 MEAN THE DIFFERENCE BETWEEN THE POWER AUTHORITY'S COST-BASED HYDROELEC-
24 TRIC RATE FOR POWER AND ENERGY AND THE PREVAILING WHOLESALE MARKET PRICE

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

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1 AT THE PROJECT IN THE MARKET ADMINISTERED BY THE NEW YORK INDEPENDENT
2 SYSTEM OPERATOR.

3 THE RVRDA ADVISORY GROUP SHALL SOLICIT APPLICATIONS FOR AND MAKE
4 RECOMMENDATIONS FOR APPROVAL OF SLRVED FUND BENEFITS MADE AVAILABLE
5 PURSUANT TO THIS PARAGRAPH. EACH APPLICATION FOR SLRVED FUND BENEFITS
6 SHALL BE EVALUATED UNDER CRITERIA ADOPTED BY THE RVRDA ADVISORY GROUP,
7 IN CONSULTATION WITH THE POWER AUTHORITY OF THE STATE OF NEW YORK, WHICH
8 CRITERIA SHALL BE DESIGNED TO PROMOTE ECONOMIC DEVELOPMENT, MAINTAIN AND
9 DEVELOP JOBS, AND ENCOURAGE NEW CAPITAL INVESTMENT WITHIN ST. LAWRENCE
10 COUNTY. SUCH CRITERIA SHALL ADDRESS BUT NEED NOT BE LIMITED TO: (A) THE
11 OVERALL ECONOMIC IMPACT OF THE APPLICANT IN TERMS OF THE NUMBER OF JOBS
12 TO BE CREATED OR RETAINED, AVERAGE ANNUAL PAYROLL, CAPITAL INVESTMENT
13 AND USE OF NEW YORK STATE SUPPLIERS; (B) THE LIKELIHOOD THAT IN THE
14 ABSENCE OF APPROVAL OF THE SLRVED FUND BENEFIT, THE APPLICANT WOULD
15 CLOSE, CONTRACT OR RELOCATE OUTSIDE THE STATE OF NEW YORK; (C) THE
16 APPLICANT'S COMPLIANCE WITH THE COMMITMENT TO RETAIN AND/OR CREATE JOBS
17 CONTAINED IN ITS PRIOR POWER CONTRACT WITH THE POWER AUTHORITY OF THE
18 STATE OF NEW YORK; (D) THE EXTENT TO WHICH A SLRVED FUND BENEFIT WILL
19 AFFECT THE OVERALL PRODUCTIVITY OR COMPETITIVENESS OF THE APPLICANT'S
20 BUSINESS AND ITS EXISTING EMPLOYMENT WITHIN THE STATE; AND (E) THE OVER-
21 ALL IMPACT OF THE PROJECT IN TERMS OF THE ECONOMIC VIABILITY OF IDENTI-
22 FIED ULTIMATE SITE OR USER INCLUDING THE PROJECT'S ABILITY TO INDUCE
23 ADDITIONAL COMMERCIAL ACTIVITY ON THE SITE, REVITALIZE AN URBAN AREA,
24 AND ITS COMPLIANCE WITH REGIONAL DEVELOPMENT PLANS.

25 APPLICATIONS FOR SLRVED FUND BENEFIT SHALL BE IN THE FORM AND CONTAIN
26 SUCH INFORMATION, EXHIBITS AND SUPPORTING DATA AS THE RVRDA ADVISORY
27 GROUP MAY PRESCRIBE. THE RVRDA ADVISORY GROUP SHALL REVIEW THE APPLICA-
28 TIONS RECEIVED AND SHALL DETERMINE THE APPLICATIONS WHICH BEST MEET THE
29 CRITERIA ESTABLISHED FOR THE BENEFITS PURSUANT TO THIS PARAGRAPH AND IT
30 SHALL RECOMMEND SUCH APPLICATIONS TO THE POWER AUTHORITY OF THE STATE OF
31 NEW YORK WITH SUCH TERMS AND CONDITIONS AS IT DEEMS APPROPRIATE. SUCH
32 TERMS AND CONDITIONS SHALL INCLUDE REASONABLE PROVISIONS PROVIDING FOR
33 THE PARTIAL OR COMPLETE WITHDRAWAL OF THE SLRVED FUND BENEFITS IN THE
34 EVENT THAT THE RECIPIENT FAILS TO MAINTAIN MUTUALLY AGREED UPON COMMIT-
35 MENTS THAT MAY INCLUDE, BUT ARE NOT LIMITED TO, INFRASTRUCTURE PROJECT
36 COMPLETION. RECOMMENDATION FOR APPROVAL OF A SLRVED FUND BENEFIT SHALL
37 QUALIFY AN APPLICANT TO RECEIVE A SLRVED FUND BENEFIT FROM THE POWER
38 AUTHORITY OF THE STATE OF NEW YORK PURSUANT TO THE TERMS AND CONDITIONS
39 OF THE RECOMMENDATION.

40 THE TRANSFER OF SLRVED FUND BENEFITS SHALL BE PROHIBITED UNLESS
41 SPECIFICALLY APPROVED BY THE RVRDA ADVISORY GROUP AS CONSISTENT WITH THE
42 CRITERIA ESTABLISHED PURSUANT TO THIS PARAGRAPH. ANY TRANSFER WHICH
43 OCCURS WITHOUT SUCH ADVISORY GROUP'S APPROVAL SHALL BE INVALID AND SUCH
44 TRANSFER MAY SUBJECT THE RECIPIENT TO REVOCATION OF ITS BENEFIT AND
45 MODIFICATION OR REVOCATION OF ITS CONTRACT.

46 S 2. The opening paragraph of subdivision 13 of section 1005 of the
47 public authorities law, as amended by chapter 645 of the laws of 2006,
48 is amended to read as follows:

49 Notwithstanding any other provision of law to the contrary but subject
50 to the terms and conditions of federal energy regulatory commission
51 licenses, to allocate or reallocate directly or by sale for resale, two
52 hundred fifty megawatts of firm Niagara project hydroelectric power as
53 "expansion power" and four hundred forty-five megawatts of firm Niagara
54 project hydroelectric power as "replacement power" to businesses within
55 the state located within thirty miles of the Niagara project, and four
56 hundred ninety megawatts of firm and interruptible power from the Saint

1 Lawrence-FDR project as "preservation power" sold to businesses located
2 within the counties of Jefferson, Saint Lawrence and Franklin, provided
3 that the amount of expansion power allocated to businesses in Chautauqua
4 county on January first, nineteen hundred eighty-seven shall continue to
5 be allocated in such county and, provided further that up to seventy
6 megawatts of replacement power, up to thirty-eight and six-tenths mega-
7 watts of preservation power from the Saint Lawrence-FDR project which is
8 relinquished or withdrawn after the effective date of chapter three
9 hundred thirteen of the laws of two thousand five which amended this
10 subdivision and, for the period ending on December thirty-first, two
11 thousand six, up to twenty megawatts of other power from the Saint
12 Lawrence-FDR project which is unallocated (HEREINAFTER "ST. LAWRENCE
13 COUNTY ECONOMIC DEVELOPMENT POWER" OR SLCEDP) as of the effective date
14 of chapter three hundred thirteen of the laws of two thousand five which
15 amended this subdivision, shall be allocated by the authority together
16 with such other funds of the authority as the trustees deem feasible and
17 advisable for energy cost savings benefits pursuant to the twelfth
18 undesignated paragraph of this section, AND FOR ST. LAWRENCE RIVER
19 VALLEY ECONOMIC DEVELOPMENT FUND BENEFITS PURSUANT TO THIS SECTION.
20 Provided, however, that the amount of replacement, preservation power,
21 or the additional twenty megawatts of Saint Lawrence-FDR power for the
22 period ending December thirty-first, two thousand six made available for
23 such purpose, used for energy cost savings benefits that are relin-
24 quished by or withdrawn from a recipient thereof shall be offered by the
25 authority proportionately for a period of six months for reallocation to
26 applicants who qualify respectively for replacement or preservation
27 power allocations as provided in this subdivision. If such power is not
28 allocated within such period it shall be allocated for the purpose of
29 energy cost savings benefits pursuant to [subdivision (h) of] section
30 one hundred eighty-three of the economic development law, EXCEPT TO THE
31 EXTENT USED TO FUND THE ST. LAWRENCE RIVER VALLEY ECONOMIC DEVELOPMENT
32 FUND. The authority shall negotiate contracts on reasonable terms and
33 conditions to renew or extend every permanent contract allocation of
34 expansion power in effect on the effective date of this subdivision and,
35 to the extent consistent with such contracts, the authority shall nego-
36 tiate contracts on reasonable terms and conditions to extend or renew
37 all other allocations or allotments of such power in effect on such
38 date. The authority shall negotiate contracts on reasonable terms and
39 conditions to renew or extend for a period of at least five years every
40 permanent contract allocation of replacement power in effect on the
41 effective date of chapter three hundred thirteen of the laws of two
42 thousand five which added this sentence and that would expire by its
43 terms on or before the end of the initial federal energy regulatory
44 commission license for the Niagara project; provided that, in negotiat-
45 ing the terms and conditions of such contracts, the authority may
46 consider a business' compliance with all current contractual obli-
47 gations, including employment and power usage commitments. Contracts
48 entered into pursuant to this subdivision shall contain reasonable
49 provisions providing for the partial or complete withdrawal of the power
50 in the event the recipient fails to maintain mutually agreed levels of
51 employment, investment, and power utilization. Expansion or replacement
52 power relinquished by businesses or withdrawn by the authority shall be
53 allocated directly or by sale for resale by the authority to businesses
54 within the state located within thirty miles of the Niagara project
55 provided, that the PROCEEDS FROM THE SALE OF SUCH UNALLOCATED AND ALLO-
56 CATED, BUT RELINQUISHED OR WITHDRAWN OR CURRENTLY NOT ACCESSED EXPANSION

1 OR REPLACEMENT POWER, AS SHALL BE DETERMINED BY THE TRUSTEES, SHALL BE
2 ALLOCATED FOR THE PURPOSES OF WESTERN NEW YORK ECONOMIC DEVELOPMENT FUND
3 BENEFITS PURSUANT TO THE ELEVENTH UNDESIGNATED PARAGRAPH OF THIS
4 SECTION. PROCEEDS TO SUCH WESTERN NEW YORK ECONOMIC DEVELOPMENT FUND
5 SHALL NOT PRECLUDE THE AUTHORITY FROM ALLOCATING EXPANSION OR REPLACE-
6 MENT POWER TO ELIGIBLE COMPANIES UNDER THE PROVISIONS OF THIS SECTION.
7 THE amount of power allocated to businesses in Chautauqua county on
8 January first, nineteen hundred eighty-seven shall be allocated in such
9 county. Preservation power that is relinquished by businesses or with-
10 drawn by the authority shall be allocated directly or by sale for resale
11 by the authority within the counties of Jefferson, Saint Lawrence and
12 Franklin. ST. LAWRENCE COUNTY ECONOMIC DEVELOPMENT POWER SHALL BE USED
13 TO FUND THE SLRVED FUND PURSUANT TO THIS SECTION. Allocations made
14 pursuant to this paragraph shall be made in accordance with criteria
15 established by the trustees. Such criteria shall address the expansion
16 of industry and employment pursuant to paragraph (a) of this subdivision
17 and the revitalization of existing industry pursuant to paragraph (b) of
18 this subdivision. PRESERVATION POWER OR ST. LAWRENCE COUNTY ECONOMIC
19 DEVELOPMENT POWER RELINQUISHED OR WITHDRAWN OR CURRENTLY NOT ACCESSED,
20 AS SHALL BE DETERMINED BY THE TRUSTEES, SHALL BE ALLOCATED FOR THE
21 PURPOSES OF ST. LAWRENCE RIVER VALLEY ECONOMIC DEVELOPMENT FUND BENEFITS
22 PURSUANT TO THIS SECTION. PROCEEDS TO SUCH ST. LAWRENCE RIVER VALLEY
23 ECONOMIC DEVELOPMENT FUND SHALL NOT PRECLUDE THE AUTHORITY FROM ALLOCAT-
24 ING EXPANSION OR REPLACEMENT POWER TO ELIGIBLE COMPANIES UNDER THE
25 PROVISIONS OF THIS SECTION.

26 S 3. This act shall take effect immediately.