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

580

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the executive law, in relation to giving the state division of homeland security and emergency services the power to decide if the sale, lease or operation of state-owned critical infrastructure would threaten public security and establishing the critical infrastructure advisory council; to amend the public service law, in relation to requiring the public service commission to consult with the division of homeland security and emergency services whenever there is a proposed sale or lease of an electric generating facility; and to amend the public officers law, in relation to the definition of critical infrastructure

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

Section 1. Paragraph (j) of subdivision 2 of section 709 of the executive law, as amended by section 14 of part B of chapter 56 of the laws of 2010, is amended and a new paragraph (j-1) is added to read as follows:

(j) work with local, state and federal agencies and private entities to conduct assessments of the vulnerability of critical infrastructure, AS DEFINED IN SUBDIVISION FIVE OF SECTION EIGHTY-SIX OF THE PUBLIC OFFICERS LAW, to terrorist attack and other natural and man-made disasters[, including, but not limited to, nuclear facilities, power plants, telecommunications systems, mass transportation systems, public roadways, railways, bridges and tunnels,] and develop strategies that may be used to protect such infrastructure from terrorist attack and other natural and man-made disasters;

(J-1) DECIDE, IF AND TO THE EXTENT REQUIRED BY SECTION SEVEN HUNDRED SIXTEEN-A OF THIS ARTICLE, UPON A VOTE OF THE CRITICAL INFRASTRUCTURE

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

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ADVISORY COUNCIL ESTABLISHED PURSUANT TO SUCH SECTION, IF THE SALE, LEASE OR OPERATION OF ANY CRITICAL INFRASTRUCTURE OWNED BY THE STATE OR PUBLIC AUTHORITY WOULD THREATEN PUBLIC SECURITY;

S 2. The executive law is amended by adding a new section 716-a to read as follows:

S 716-A. CRITICAL INFRASTRUCTURE ADVISORY COUNCIL. 1. THERE IS HEREBY ESTABLISHED A CRITICAL INFRASTRUCTURE ADVISORY COUNCIL CONSISTING OF THE COMMISSIONER OF THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES WHO SHALL ACT AS CHAIR OF THE COUNCIL, THE COMMISSIONER OF TRANSPORTATION, THE SUPERINTENDENT OF STATE POLICE, THE CHAIR OF THE PUBLIC AUTHORITIES CONTROL BOARD, A MEMBER APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE AND A MEMBER APPOINTED BY THE SPEAKER OF THE ASSEMBLY. THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY SHALL HAVE NINETY DAYS FROM THE EFFECTIVE DATE OF THIS SECTION TO APPOINT MEMBERS TO THIS COUNCIL.

2. (A) A FIRM OR CORPORATION PROPOSING TO PURCHASE OR LEASE CRITICAL INFRASTRUCTURE OWNED BY A STATE OR PUBLIC AUTHORITY SHALL NOTIFY THE COMMISSIONER WITHIN NINETY DAYS OF THE PROPOSED TRANSFER OF RIGHTS TO SUCH CRITICAL INFRASTRUCTURE. SUCH NOTICE SHALL INCLUDE:

(I) THE NATURE OF TRANSFER FROM THE STATE OR PUBLIC AUTHORITY TO THE TRANSFEREE INCLUDING THE IDENTIFICATION OF WHAT RIGHTS WILL BE TRANSFERRED, THE DURATION OF TRANSFER AND REASON FOR SUCH TRANSFER AS GIVEN BY THE STATE OR PUBLIC AUTHORITY OR CORPORATION TRANSFERRING AN ELECTRIC GENERATING FACILITY; AND

(II) MANAGEMENT AND OWNERSHIP DETAILS OF THE FIRM OR CORPORATION INCLUDING SHAREHOLDERS, CORPORATE OFFICERS AND DESIGNATION OF WHO WILL BE RESPONSIBLE FOR SECURITY AT THE FACILITY; AND

(III) A PROPOSAL FOR SECURITY MEASURES TO BE TAKEN AT THE FACILITY INCLUDING SECURITY PLANS TO PREVENT A TERRORIST ATTACK AND SCREENING OF PERSONNEL INCLUDING ANY CRIMINAL BACKGROUND CHECKS.

(B) WITHIN THIRTY DAYS OF THE INITIAL NOTIFICATION THE PROPOSED TRANSFEREE MAY SUBMIT AN ADDENDUM TO THE ORIGINAL NOTICE.

3. WITHIN NINETY DAYS OF NOTICE TO THE COMMISSIONER OF THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES, THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES SHALL EVALUATE THE PROPOSED TRANSFER INCLUDING THE SECURITY PLAN AND CRIMINAL HISTORY OF THOSE WITH OPERATIONAL RESPONSIBILITY OF THE FACILITY INCLUDING CHIEF SECURITY PERSONNEL AND SHALL SUBMIT A REPORT TO THE CRITICAL INFRASTRUCTURE ADVISORY COUNCIL.

4. WITHIN SIXTY DAYS OF SUBMISSION OF THE REPORT, THE CRITICAL INFRASTRUCTURE ADVISORY COUNCIL SHALL, BY MAJORITY VOTE, CHOOSE TO PROHIBIT OR APPROVE THE TRANSFER OF THE RIGHTS OF CRITICAL INFRASTRUCTURE. THE COUNCIL SHALL INFORM THE PROPOSED TRANSFEREE OF ITS DECISION INCLUDING SPECIFIC REASONS WHY THE TRANSFER IS DECLINED. THE TRANSFEREE MAY RESUBMIT ITS PROPOSAL WITHIN THIRTY DAYS OF THE DECISION TO ADDRESS ANY SPECIFIC REASON FOR DECLINATION. THE COMMITTEE MAY CHOOSE TO ACCEPT OR DECLINE ANY RESUBMISSION BY MAJORITY VOTE WITHIN THIRTY DAYS OF SUCH RESUBMISSION.

5. UPON THE APPROVAL OF TRANSFER, THE TRANSFEREE SHALL FILE A YEARLY STATEMENT FROM THE DATE OF TRANSFER, CHANGES TO ITS SECURITY PLAN AND ANY CHANGES IN CORPORATE OFFICERS OR SECURITY MANAGEMENT PERSONNEL.

6. THE PROVISIONS OF SUBDIVISIONS TWO, THREE, FOUR AND FIVE OF THIS SECTION SHALL NOT APPLY IN ANY RESPECT TO, NOR SHALL THE CRITICAL INFRASTRUCTURE ADVISORY COUNCIL HAVE ANY AUTHORITY IN CONNECTION WITH, ANY PURCHASE, LEASE, TRANSFER OF RIGHTS, OR OTHER TRANSACTION THAT WILL BE THE SUBJECT OF A NOTICE FILING WITH THE FEDERAL COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES (CFIUS).

S 3. Section 66 of the public service law is amended by adding a new subdivision 29 to read as follows:

29. THE COMMISSION SHALL CONSULT WITH THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES WHEN THERE IS A PROPOSED SALE OR LEASE OF AN ELECTRIC GENERATING FACILITY.

S 4. Subdivision 5 of section 86 of the public officers law, as added by chapter 403 of the laws of 2003, is amended to read as follows:

5. "Critical infrastructure" means systems, assets, places or things, whether physical or virtual, so vital to the state that the disruption, incapacitation or destruction of such systems, assets, places or things could jeopardize the health, safety, welfare or security of the state, its residents or its economy AND SHALL INCLUDE BUT IS NOT LIMITED TO NUCLEAR FACILITIES, POWER PLANTS, TELECOMMUNICATIONS SYSTEMS, MASS TRANSPORTATION SYSTEMS, PUBLIC ROADWAYS, RAILWAYS, BRIDGES AND TUNNELS, MARINE TERMINALS, AIRPORTS, HELIPORTS AND OTHER AIRCRAFT FACILITIES, WATER SUPPLIERS, AS DEFINED IN SUBDIVISION ONE OF SECTION ELEVEN HUNDRED TWENTY-FIVE OF THE PUBLIC HEALTH LAW, PRISONS AND JAILS.

S 5. This act shall take effect immediately.