

STATE OF NEW YORK

8173--A

2017-2018 Regular Sessions

IN ASSEMBLY

June 1, 2017

Introduced by M. of A. TITUS, GALEF, PAULIN, MAYER, ABBATE, BRONSON, CAHILL, BLAKE, ORTIZ, BYRNE -- read once and referred to the Committee on Labor -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommended to said committee

AN ACT to amend the public service law, the labor law and the public health law, in relation to the protection of the health, safety and employment rights of employees suffering employment loss as the result of the sale or closure of a nuclear electric generation facility

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "nuclear facility closing workers' protection act".

3 § 2. The public service law is amended by adding a new section 28 to
4 read as follows:

5 § 28. Nuclear electric plants; closure or sale plan. 1. Not less than
6 eighteen months prior to the closure or sale of a nuclear electric
7 plant, the electric corporation owning, operating or managing such plant
8 shall submit to the department a plan detailing the process for the
9 closure or sale of the nuclear electric plant. Such plan shall include
10 (a) details and specifics on the electric corporation's plan to comply
11 with article twenty-five-A of the labor law as they apply to nuclear
12 electric plants, and (b) a workforce retention component which shall
13 utilize the existing labor force during the closure and decommissioning
14 period. The workforce retention component shall include provisions that
15 (i) any construction work which may be performed during the closure and
16 decommissioning period, shall be performed pursuant to a project labor
17 agreement, as defined in section two hundred twenty-two of the labor
18 law, entered into with a bona fide building and construction trades
19 labor organization having jurisdiction over the scope of work to be
20 performed; and (ii) any other work which may be performed pursuant to a

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

LBD11437-13-7

1 project labor agreement, as defined in section two hundred twenty-two of
2 the labor law, entered into with a bona fide employee organization
3 having jurisdiction over the scope of the work to be performed. In addi-
4 tion, every plan submitted pursuant to this section shall be in such
5 form and contain such information as the department shall determine to
6 be necessary and proper. For purposes of this section, "construction
7 work" shall include, but not be limited to, any demolition, recon-
8 struction, excavation, rehabilitation, repair, installation, renovation
9 or alteration, which is customarily performed by a building and
10 construction trades organization.

11 2. No nuclear electric plant shall be closed or sold unless:

12 (a) the plan submitted pursuant to subdivision one of this section, or
13 an amended version of such plan as may be required by the department,
14 shall have been approved by the department;

15 (b) after the approval of such plan pursuant to paragraph (a) of this
16 subdivision, the affected employees shall have been provided notice of
17 employment loss, as required by section eight hundred sixty-b of the
18 labor law, not less than one year prior to such closure or sale;

19 (c) the plan approved pursuant to paragraph (a) of this subdivision is
20 included as a material term of every contract and plan relating to the
21 closure of sale of the electric plant; and

22 (d) the department has granted its approval of every contract or plan
23 providing for the sale or closure of the electric plant.

24 3. Upon a finding of the department that an electric corporation
25 violated any provision of this section, or that any person has violated
26 the provisions of a plan approved pursuant to this section, all
27 contracts and plans relating to the closure or sale of the nuclear elec-
28 tric plant by the electric corporation shall be deemed null and void,
29 and such corporation or person, after notice and hearing, may be liable
30 for a civil fine of not less than five million dollars to be imposed by
31 the department.

32 § 3. Section 860-a of the labor law is amended by adding two new
33 subdivisions 1-a and 1-b to read as follows:

34 1-a. "Electric corporation" shall have the same meaning as provided in
35 subdivision thirteen of section two of the public service law.

36 1-b. "Electric plant" shall have the same meaning as provided in
37 subdivision twelve of section two of the public service law.

38 § 4. Section 860-b of the labor law is amended by adding a new subdi-
39 vision 1-a to read as follows:

40 1-a. Notwithstanding the provisions of subdivision one of this
41 section, in the case of an employer that is an electric corporation
42 owning, operating or maintaining a nuclear electric plant, such employer
43 shall not order a mass layoff, relocation or employment loss until its
44 plan to implement the provisions of this article shall have been
45 approved by the department of public service pursuant to section twen-
46 ty-eight of the public service law, and thereafter, at least one year
47 before the order takes effect, such employer gives written notice of the
48 order to the following:

49 (a) affected employees and the representatives of the affected employ-
50 ees;

51 (b) the department; and

52 (c) the local workforce investment boards established pursuant to the
53 federal Workforce Investment Act (P.L. 105-220) for the locality in
54 which the mass layoff, relocation or employment loss will occur.

55 § 5. Subdivision 3 of section 860-b of the labor law, as added by
56 chapter 475 of the laws of 2008, is amended to read as follows:

1 3. Notwithstanding the requirements of subdivision one or one-a of
2 this section, an employer is not required to provide notice if a mass
3 layoff, relocation, or employment loss is necessitated by a physical
4 calamity or an act of terrorism or war.

5 § 6. The opening paragraph of subdivision 1 of section 860-g of the
6 labor law, as added by chapter 475 of the laws of 2008, is amended to
7 read as follows:

8 An employer who fails to give notice as required by paragraph (a) of
9 subdivision one or paragraph (a) of subdivision one-a of section eight
10 hundred sixty-b of this article before ordering a mass layoff, relo-
11 cation, or employment loss is liable to each employee entitled to notice
12 who lost his or her employment for:

13 § 7. Section 860-h of the labor law is amended by adding a new subdivi-
14 sion 5 to read as follows:

15 5. Notwithstanding any other provision of this section to the contra-
16 ry, if an employer that is an electric corporation owning, operating or
17 maintaining a nuclear electric plant violates any provision of this
18 article, such corporation, after notice and hearing, may be liable for a
19 civil fine of not less than five million dollars to be imposed by the
20 department.

21 § 8. The labor law is amended by adding a new section 860-j to read as
22 follows:

23 § 860-j. Employment loss at a nuclear electric plant. 1. The electric
24 corporation owning, operating or maintaining a nuclear electric plant at
25 which there will be a mass layoff, relocation or employment loss, shall
26 within ten days of providing notice thereof pursuant to subdivision
27 one-a of section eight hundred sixty-b of this article shall cause to be
28 conducted and completed an extensive health screening, in accordance
29 with the regulations of the commissioner of health, of all employees,
30 contractors and subcontractors working at such plant. Such health
31 screening shall include general health screening, and screening for
32 diseases and conditions related to employment in a nuclear electric
33 plant.

34 2. Each electric corporation owning, operating or maintaining a nucle-
35 ar electric plant at which there will be a mass layoff, relocation or
36 employment loss shall establish and operate employment retraining
37 programs for all employees, contractors and subcontractors who are
38 affected by an employment loss. Such programs shall be conducted,
39 subject to the supervision of the department, during the one-year notice
40 period provided for in subdivision one-a of section eight hundred
41 sixty-b of this article. Furthermore, training shall be provided to
42 acquire any necessary skills and certifications for employment by any
43 entity which is engaged in the closure or decommissioning of the nuclear
44 electric plant. Every person who completes training pursuant to this
45 subdivision shall be granted an employee preference.

46 § 9. Subdivision 1 of section 206 of the public health law is amended
47 by adding a new paragraph (w) to read as follows:

48 (w) by rule and regulation, establish standards and guidelines for the
49 extensive health screenings of persons working in nuclear electric
50 plants, required by subdivision one of section eight hundred sixty-j of
51 the labor law.

52 § 10. This act shall take effect immediately.