

# STATE OF NEW YORK

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8173--A

2017-2018 Regular Sessions

## IN ASSEMBLY

June 1, 2017

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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.

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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.