

STATE OF NEW YORK

8326

IN SENATE

May 1, 2018

Introduced by Sen. MURPHY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

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 § 1-a. Legislative intent. The closure of Indian Point Nuclear Power
4 Plant will have a devastating effect on the local workforce that relies
5 on this facility for employment. This act is intended to ensure that the
6 local workforce remains employed locally. This act shall not be
7 construed to conflict, interfere, circumvent, or in any manner abrogate
8 existing or future collective bargaining agreements or contracts between
9 any of the involved parties, or parties that are not subject to the
10 project labor agreement.

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

13 § 28. Nuclear electric plants; closure or sale plan. 1. Not less than
14 eighteen months prior to the closure or sale of a nuclear electric plant
15 located in Westchester county, the electric corporation owning, operat-
16 ing or managing such plant shall submit to the department a plan detail-
17 ing the process for the closure or sale of the nuclear electric plant.
18 Such plan shall include (a) details and specifics on the electric corpo-
19 ration's plan to comply with article twenty-five-A of the labor law as
20 they apply to nuclear electric plants, and (b) a workforce retention
21 component which shall utilize the existing labor force during the
22 closure and decommissioning period. The workforce retention component
23 shall include provisions that any construction work which may be
24 performed during the closure and decommissioning period, shall be
25 performed pursuant to a project labor agreement, as defined in section

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

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two hundred twenty-two of the labor law, entered into with a bona fide building and construction trades labor organization having jurisdiction over the scope of work to be performed. In addition, every plan submitted pursuant to this section shall be in such form and contain such information as the department shall determine to be necessary and proper. For purposes of this section, "construction work" shall include, but not be limited to, any demolition, reconstruction, excavation, rehabilitation, repair, installation, renovation or alteration, which is customarily performed by a building and construction trades organization.

2. No nuclear electric plant located in Westchester county shall be closed or sold unless:

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

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

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

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

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

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

1-a. "Electric corporation" shall have the same meaning as provided in subdivision thirteen of section two of the public service law, but shall only apply to an "electric corporation" located in Westchester county.

1-b. "Electric plant" shall have the same meaning as provided in subdivision twelve of section two of the public service law, but shall only apply to an "electric plant" located in Westchester county.

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

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

(a) affected employees and the representatives of the affected employees;

(b) the department; and

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

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

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

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

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

18 § 7. Section 860-h of the labor law is amended by adding a new subdi-
19 vision 5 to read as follows:

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

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

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

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

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

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

1 § 10. The New York state energy research development authority shall
2 finance the employment retraining programs required pursuant to section
3 860-j of the labor law through any funds such authority maintains,
4 including but not limited to, the market development portfolio of the
5 clean energy fund. Provided, however, such authority shall not increase
6 or collect additional fees, rentals, penalties or other charges author-
7 ized and in existence prior to the effective date of this act for the
8 financing of such programs.
9 § 11. This act shall take effect immediately.