

STATE OF NEW YORK

6161

2019-2020 Regular Sessions

IN SENATE

May 21, 2019

Introduced by Sen. HARCKHAM -- 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 § 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
21 project labor agreement, as defined in section two hundred twenty-two of
22 the labor law, entered into with a bona fide employee organization

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

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

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

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

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

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

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

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

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

32 1-a. "Electric corporation" shall have the same meaning as provided in
33 subdivision thirteen of section two of the public service law.

34 1-b. "Electric plant" shall have the same meaning as provided in
35 subdivision twelve of section two of the public service law.

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

38 1-a. Notwithstanding the provisions of subdivision one of this
39 section, in the case of an employer that is an electric corporation
40 owning, operating or maintaining a nuclear electric plant, such employer
41 shall not order a mass layoff, relocation or employment loss until its
42 plan to implement the provisions of this article shall have been
43 approved by the department of public service pursuant to section twen-
44 ty-eight of the public service law, and thereafter, at least one year
45 before the order takes effect, such employer gives written notice of the
46 order to the following:

47 (a) affected employees and the representatives of the affected employ-
48 ees;

49 (b) the department; and

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

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

55 3. Notwithstanding the requirements of subdivision one or one-a of
56 this section, an employer is not required to provide notice if a mass

1 layoff, relocation, or employment loss is necessitated by a physical
2 calamity or an act of terrorism or war.

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

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

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

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

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

21 § 860-j. Employment loss at a nuclear electric plant. 1. The electric
22 corporation owning, operating or maintaining a nuclear electric plant at
23 which there will be a mass layoff, relocation or employment loss, shall
24 within ten days of providing notice thereof pursuant to subdivision
25 one-a of section eight hundred sixty-b of this article shall cause to be
26 conducted and completed an extensive health screening, in accordance
27 with the regulations of the commissioner of health, of all employees,
28 contractors and subcontractors working at such plant. Such health
29 screening shall include general health screening, and screening for
30 diseases and conditions related to employment in a nuclear electric
31 plant.

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

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

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

50 § 10. This act shall take effect immediately.