

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

11523

I N A S S E M B L Y

June 21, 2010

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Cahill) --
read once and referred to the Committee on Energy

AN ACT to amend the economic development law; chapter 316 of the laws of 1997 amending the public authorities law and other laws relating to the provision of low cost power to foster statewide economic development; and chapter 645 of the laws of 2006 amending the economic development law and other laws relating to reauthorizing the New York power authority to make contributions to the general fund, in relation to extending the expiration of the power for jobs program and the energy cost savings benefits program

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

1 Section 1. Paragraphs 2 and 4 of subdivision (h) of section 183 of
2 the economic development law, as amended by chapter 88 of the laws of
3 2010, are amended to read as follows:
4 2. During the period commencing on November first, two thousand five
5 and ending on [June second] MAY FIFTEENTH, two thousand [ten] ELEVEN
6 eligible businesses shall only include customers served under the power
7 authority of the state of New York's high load factor, economic develop-
8 ment power and other business customers served by political subdivisions
9 of the state authorized by law to engage in the distribution of electric
10 power that were authorized to be served by the authority from the
11 authority's former James A. Fitzpatrick nuclear power plant as of the
12 effective date of this subdivision whose power prices may be subject to
13 increase before [June second] MAY FIFTEENTH, two thousand [ten] ELEVEN.
14 Provided, however, that the total amount of megawatts of replacement and
15 preservation power which, due to the extension of the energy cost
16 savings benefits, are not relinquished by or withdrawn from a recipient
17 shall be deemed to be relinquished or withdrawn for purposes of offering
18 such megawatts by the authority for reallocation pursuant to subdivision
19 thirteen of section one thousand five of the public authorities law.
20 Provided, further, that for any such reallocation, the authority shall
21 maintain the same energy cost savings benefit level for all eligible
22 businesses using any available authority resources as deemed feasible

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

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1 and advisable by the trustees pursuant to section seven of part U of
2 chapter fifty-nine of the laws of two thousand six.

3 4. Applications for an energy cost savings benefit shall be in the
4 form and contain such information, exhibits and supporting data as the
5 board may prescribe. The board shall review the applications received
6 and shall determine the applications which best meet the criteria estab-
7 lished for the benefits pursuant to this subdivision and it shall recom-
8 mend such applications to the power authority of the state of New York
9 with such terms and conditions as it deems appropriate; provided, howev-
10 er, that for energy cost savings benefits granted on or after June thir-
11 tieth, two thousand nine through [June second] MAY FIFTEENTH, two thou-
12 sand [ten] ELEVEN, the board shall expedite the awarding of such
13 benefits and shall defer the review of compliance with such criteria
14 until after the applicant has been awarded an energy cost savings bene-
15 fit. Such terms and conditions shall include reasonable provisions
16 providing for the partial or complete withdrawal of the energy cost
17 savings benefit in the event the recipient fails to maintain mutually
18 agreed upon commitments that may include, but are not limited to, levels
19 of employment, capital investment and power utilization. Recommendation
20 for approval of an energy cost savings benefit shall qualify an appli-
21 cant to receive an energy cost savings benefit from the power authority
22 of the state of New York pursuant to the terms and conditions of the
23 recommendation.

24 S 2. The opening paragraph of paragraph 5 of subdivision (a) of
25 section 189 of the economic development law, as amended by chapter 88 of
26 the laws of 2010, is amended to read as follows:

27 "Power for jobs electricity savings reimbursements" shall mean
28 payments made by the power authority of the state of New York as recom-
29 mended by the board to recipients of allocations of power under phases
30 four and five of the power for jobs program for a period of time until
31 November thirtieth, two thousand four, subsequent to the expiration of
32 their phase four or five power for jobs contract provided however that
33 any power for jobs recipient may choose to receive an electricity
34 savings reimbursement as a substitute for a contract extension for the
35 period from the date the recipient's contract expires through [June
36 second] MAY FIFTEENTH, two thousand [ten] ELEVEN. The "basic reimburse-
37 ment" is an amount that when credited against the recipient's actual
38 "unit cost of electricity" during a quarter (meaning the cost for
39 commodity and delivery per kilowatt-hour for the quantity of electricity
40 purchased and delivered under the power for jobs program during a simi-
41 lar period in the final year of the recipient's contract), results in an
42 effective unit cost of electricity during the quarter equal to the aver-
43 age unit cost of electricity such recipient paid during the final year
44 of the contract for power allocated under phase four or five of the
45 power for jobs program.

46 S 3. Subdivisions (f) and (l) of section 189 of the economic develop-
47 ment law, as amended by chapter 88 of the laws of 2010, are amended to
48 read as follows:

49 (f) Eligibility. The board shall recommend applications for allo-
50 cations of power under the power for jobs program to or for the use of
51 businesses which normally utilize a minimum peak electric demand in
52 excess of four hundred kilowatts; provided, however, that up to one
53 hundred megawatts of power available for allocation during the initial
54 three phases of the power for jobs program may be recommended for allo-
55 cations to not-for-profit corporations and to small businesses; and,
56 provided, further that up to seventy-five megawatts of power available

1 for allocation during the fourth phase of the program may be recommended
2 for allocations to not-for-profit corporations and to small businesses.
3 The board may require small businesses that normally utilize a minimum
4 peak electric demand of less than one hundred kilowatts to aggregate
5 their electric demand in amounts of no less than one hundred kilowatts,
6 for the purposes of applying to the board for an allocation of power.
7 The board shall recommend allocations of the additional three hundred
8 megawatts available during the fourth phase of the program to any such
9 eligible applicant, including any recipient of power allocated during
10 the first phase of the program. The board shall recommend allocations of
11 the additional one hundred eighty-three megawatts available during the
12 fifth phase of the program to any eligible applicant, including any
13 recipient of power allocated during the second and third phases of the
14 program; provided, however, that the term of contracts for allocations
15 under the fifth phase of the program shall in no case extend beyond
16 [June second] MAY FIFTEENTH, two thousand [ten] ELEVEN. Notwithstanding
17 any provision of law to the contrary, and, in particular, the provisions
18 of this chapter concerning the terms of contracts for allocations under
19 the power for jobs program, the terms of any contract with a recipient
20 of power allocated under phase two of the power for jobs program that
21 has expired or will expire on or before the thirty-first day of August,
22 two thousand two, may be extended by the power authority of the state of
23 New York for an additional period of three months effective on the date
24 of such expiration, pending the filing and approval of an application by
25 such recipient for an allocation under the fifth phase of the program.
26 The term of any new contract with such recipient under the fifth phase
27 of the program shall be deemed to include any three month contract
28 extension made pursuant to this subdivision and the termination date of
29 any such new contract under phase five shall be no later than if such
30 new contract had commenced upon the expiration of the recipient's
31 original phase two contract. The terms of any contract with a recipient
32 of power allocated under phase four and/or phase five of the power for
33 jobs program that has expired or will expire on or before the thirty-
34 first day of December, two thousand five, may be extended by the power
35 authority of the state of New York from a date beginning no earlier than
36 the first day of December, two thousand four and extending through [June
37 second] MAY FIFTEENTH, two thousand [ten] ELEVEN.

38 (1) The board shall solicit and review applications for the power for
39 jobs electricity savings reimbursements and contract extensions from
40 recipients of power for jobs allocations under phases four and five of
41 the program for the award of such reimbursements and/or contract exten-
42 sions. The board may prescribe a simplified form and content for an
43 application for such reimbursements or extensions. An applicant shall be
44 eligible for such reimbursements and/or extensions only if it is in
45 compliance with and agrees to continue to meet the job retention and
46 creation commitments set forth in its prior power for jobs contract, or
47 such other commitments as the board deems reasonable; provided, however,
48 that for the power for jobs electricity savings reimbursements and
49 contract extensions granted on or after June thirtieth, two thousand
50 nine through [June second] MAY FIFTEENTH, two thousand [ten] ELEVEN, the
51 board shall expedite the awarding of such reimbursements and/or exten-
52 sions and shall defer the review of compliance with such commitments
53 until after the applicant has been awarded a power for jobs electricity
54 savings reimbursement and/or contract extension. The board shall review
55 such applications and make recommendations for the award: 1. of such
56 reimbursements through the power authority of the state of New York for

1 a period of time up to November thirtieth, two thousand four, and 2. of
2 such contract extensions or reimbursements as applied for by the recipi-
3 ent for a period of time beginning December first, two thousand four and
4 ending [June second] MAY FIFTEENTH, two thousand [ten] ELEVEN. At no
5 time shall a recipient receive both a reimbursement and extension after
6 December first, two thousand four. The power authority of the state of
7 New York shall receive notification from the board regarding the award
8 of power for jobs electricity savings reimbursements and/or contract
9 extensions.

10 S 4. Section 9 of chapter 316 of the laws of 1997 amending the public
11 authorities law and other laws relating to the provision of low cost
12 power to foster statewide economic development, as amended by chapter 88
13 of the laws of 2010, is amended to read as follows:

14 S 9. This act shall take effect immediately and shall expire and be
15 deemed repealed [June 2, 2010] MAY 15, 2011.

16 S 5. Section 11 of chapter 645 of the laws of 2006 amending the
17 economic development law and other laws relating to reauthorizing the
18 New York power authority to make contributions to the general fund, as
19 amended by chapter 88 of the laws of 2010, is amended to read as
20 follows:

21 S 11. This act shall take effect immediately and shall be deemed to
22 have been in full force and effect on and after April 1, 2006; provided,
23 however, that the amendments to section 183 of the economic development
24 law and subparagraph 2 of paragraph g of the ninth undesignated para-
25 graph of section 1005 of the public authorities law made by sections two
26 and six of this act shall not affect the expiration of such section and
27 subparagraph, respectively, and shall be deemed to expire therewith;
28 provided further, however, that the amendments to section 189 of the
29 economic development law and subdivision 9 of section 186-a of the tax
30 law made by sections three, four, five and ten of this act shall not
31 affect the repeal of such section and subdivision, respectively, and
32 shall be deemed to be repealed therewith; provided further, however,
33 that section seven of this act shall expire and be deemed repealed [June
34 2, 2010] MAY 15, 2011.

35 S 6. This act shall take effect immediately and shall be deemed to
36 have been in full force and effect on and after June 2, 2010; provided
37 that the amendments to sections 183 and 189 of the economic development
38 law made by sections one, two and three of this act shall not affect the
39 expiration of such sections and shall be deemed repealed therewith.