

2056

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. O'MARA, ERRIGO, ALFANO, BURLING, WALKER, GIGLIO
-- Multi-Sponsored by -- M. of A. AMEDORE, BACALLES, BALL, BARCLAY,
BARRA, BOYLE, BUTLER, CALHOUN, CONTE, CROUCH, DUPREY, FINCH, FITZPA-
TRICK, HAWLEY, HAYES, KOLB, P. LOPEZ, McDONOUGH, McKEVITT, MILLER,
MOLINARO, OAKS, QUINN, RABBITT, RAIA, REILICH, SALADINO, SAYWARD,
SCOZZAFAVA, TEDISCO, THIELE, TOBACCO, TOWNSEND -- read once and
referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to the bulk electricity
purchasing program

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

1 Section 1. The executive law is amended by adding a new section 204 to
2 read as follows:
3 S 204. BULK ELECTRICITY PURCHASING PROGRAM. 1. THE OFFICE OF GENERAL
4 SERVICES, ACTING IN COOPERATION WITH SUCH OTHER GOVERNMENTAL AND
5 NON-GOVERNMENTAL AGENCIES AS IT MAY DEEM NECESSARY, SHALL ESTABLISH AND
6 IMPLEMENT EITHER A SINGLE STATEWIDE BULK ELECTRICITY PURCHASING PROGRAM
7 OR, UTILIZING SUCH GOVERNMENTAL OR NON-GOVERNMENTAL AGENCIES AS MAY BE
8 NECESSARY, ONE OR MORE REGIONAL BULK FUEL PURCHASING PROGRAMS AS MAY BE
9 NEEDED. SUCH PROGRAM SHALL:
10 A. BE AVAILABLE ON A VOLUNTARY BASIS TO MUNICIPALITIES AND SCHOOL
11 DISTRICTS;
12 B. PROVIDE FOR THE PURCHASE BY MAY FIRST OF EACH YEAR, AT A BULK RATE,
13 OF SUFFICIENT QUANTITIES OF ELECTRICITY FOR THE AGENCIES AND DEPARTMENTS
14 OF THE STATE AND FOR ALL PARTICIPATING MUNICIPALITIES AND SCHOOL
15 DISTRICTS IN THE AMOUNT EXPECTED TO BE NECESSARY FOR THE COVERED PERIOD;
16 C. PROVIDE FOR MAINTENANCE RELATED SERVICE, BY THE SUPPLIER OR
17 DISTRIBUTOR OF THE ELECTRICITY;
18 D. PROVIDE THAT THE SUPPLIER OR DISTRIBUTOR OF THE ELECTRICITY SHALL
19 DELIVER SAID FUELS TO THE AGENCIES AND DEPARTMENTS OF THE STATE AND TO

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

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1 THE PARTICIPATING MUNICIPALITIES AND SCHOOL DISTRICTS ON A REGULAR SCHE-
2 DULE AS WELL AS ON AN EMERGENCY BASIS.

3 2. THE OFFICE OF GENERAL SERVICES, IN ESTABLISHING AND IMPLEMENTING A
4 BULK ELECTRICITY PURCHASING PROGRAM, SHALL ENSURE THAT:

5 A. EACH CONTRACT WITH A SUPPLIER OR DISTRIBUTOR, CONSISTENT WITH THE
6 REQUIREMENTS OF FEDERAL AND STATE LAW, RULES AND REGULATIONS, BE ENTERED
7 INTO WITH THE LOWEST RESPONSIBLE BIDDER, PRICE AND OTHER FACTORS CONSID-
8 ERED. OTHER FACTORS SHALL INCLUDE, BUT NOT BE LIMITED TO, RELIABILITY,
9 FLEXIBILITY OF SERVICE, HISTORY OF SERVICE IN THE AREA, HISTORIC LEVELS
10 OF DEPENDENCY ON SOURCES OF SUPPLY, AND RELIABILITY AND MIX OF CURRENT
11 SOURCES OF SUPPLY;

12 B. EACH CONTRACT WITH A SUPPLIER OR DISTRIBUTOR SHALL INCLUDE, AT NO
13 ADDITIONAL COST, PROVISIONS FOR SERVICE AND MAINTENANCE;

14 C. EACH CONTRACT WITH A SUPPLIER OR DISTRIBUTOR SHALL PROVIDE FOR THE
15 BULK PURCHASE AND DELIVERY BY THE OFFICE WHICH MAY UTILIZE ITS CENTRAL-
16 IZED CONTRACTS FOR BULK ELECTRICITY IN ACCORDANCE WITH SECTION ONE
17 HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW;

18 D. EACH CONTRACT WITH A SUPPLIER OR DISTRIBUTOR OF ELECTRICITY SHALL
19 PROVIDE THAT ADDITIONAL AMOUNTS OF ELECTRICITY AT THE BULK RATE SHALL BE
20 AVAILABLE TO THE STATE AND TO ALL PARTICIPATING MUNICIPALITIES AND
21 SCHOOL DISTRICTS IN SUFFICIENT QUANTITIES IN THE EVENT OF SEVERE EMER-
22 GENCIES.

23 3. THE COMMISSIONER OF GENERAL SERVICES, UPON APPLICATION BY THE
24 OFFICE OF GENERAL SERVICES, MAY GRANT, FOR A YEAR, A WAIVER OF IMPLEMEN-
25 TATION OF SUBDIVISION TWO OF THIS SECTION. SUCH APPLICATION SHALL BE
26 GRANTED UPON A SUFFICIENT DEMONSTRATION BY THE OFFICE OF GENERAL
27 SERVICES THAT, FOR A SPECIFIC GEOGRAPHIC AREA:

28 A. NO BIDS WERE RECEIVED FROM A DISTRIBUTOR OR SUPPLIER OF ELECTRIC-
29 ITY;

30 B. NO BIDS WERE RECEIVED FROM A DISTRIBUTOR OR SUPPLIER OF ELECTRICITY
31 AT A BULK RATE;

32 C. INSUFFICIENT NUMBERS OF MUNICIPALITIES AND/OR SCHOOL DISTRICTS HAD
33 AGREED TO PARTICIPATE IN A BULK PURCHASING PROGRAM, AFTER HAVING BEEN
34 PROVIDED WITH NOTICE OF POTENTIAL SAVINGS AND AN OPPORTUNITY TO PARTIC-
35 IPATE; OR

36 D. THE PROGRAM WOULD NOT RESULT IN ELECTRICITY COSTS TO THE STATE AND
37 PARTICIPATING MUNICIPALITIES AND SCHOOL DISTRICTS THAT ARE LESS EXPEN-
38 SIVE THAN ELECTRICITY COSTS OTHERWISE AVAILABLE. THE COMMISSIONER OF
39 GENERAL SERVICES, UPON GRANTING A WAIVER PURSUANT TO THIS PARAGRAPH,
40 SHALL SPECIFY, IN WRITING: (I) THE GROUND OR GROUNDS FOR THE GRANTING OF
41 THE WAIVER AND (II) THE STEPS THAT SHALL BE TAKEN BY THE OFFICE OF
42 GENERAL SERVICES TO MINIMIZE THE NECESSITY OF A FUTURE APPLICATION FOR A
43 WAIVER.

44 4. WHERE FEASIBLE AND APPROPRIATE, EACH BULK ELECTRICITY PURCHASING
45 PROGRAM SHALL:

46 A. WHERE BIDDING DEMONSTRATES ITS PRACTICABILITY, INCLUDE AT LEAST TWO
47 POTENTIAL SUPPLIERS; AND

48 B. PROVIDE FOR THE BULK PURCHASE, STORAGE AND DELIVERY OF THE ELEC-
49 TRICITY BY THE OFFICE OF GENERAL SERVICES.

50 5. THE COMMISSIONER OF GENERAL SERVICES IS HEREBY AUTHORIZED AND
51 DIRECTED TO ADOPT RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF
52 THIS SECTION WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION.

53 S 2. This act shall take effect on the ninetieth day after it shall
54 have become a law.