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

527--A

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DESTITO, ENGLEBRIGHT, BRODSKY, MORELLE -- Multi-Sponsored by -- M. of A. ALFANO, AUBRY, BARRA, CANESTRARI, KOON, SWEENEY -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry -- recommitted to the Committee on Economic Development, Job Creation, Commerce and Industry in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, in relation to establishing the New York state environmental technology institute within the science and technology foundation

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

Section 1. The public authorities law is amended by adding a new section 3102-f to read as follows:

S 3102-F. NEW YORK STATE ENVIRONMENTAL TECHNOLOGY INSTITUTE. 1. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "INSTITUTE" MEANS THE NEW YORK STATE ENVIRONMENTAL TECHNOLOGY INSTITUTE ESTABLISHED PURSUANT TO THIS SECTION.

(B) "UNIVERSITY" MEANS THE ENTITIES DEFINED IN SUBDIVISION SEVENTEEN OF SECTION TWO, AS ADDED BY CHAPTER SIX HUNDRED THIRTY-FOUR OF THE LAWS OF NINETEEN HUNDRED FIFTY, SECTION FIVE THOUSAND SEVEN HUNDRED ONE, SECTION SIX THOUSAND ONE AND SUBDIVISION TWO OF SECTION SIX THOUSAND TWO HUNDRED TWO OF THE EDUCATION LAW.

(C) "POLLUTION PREVENTION" MEANS CHANGES IN PRODUCTION METHODS THAT REDUCE, AVOID, OR ELIMINATE THE UTILIZATION OF TOXIC OR HAZARDOUS SUBSTANCES OR THE GENERATION OF SUCH SUBSTANCES OR POLLUTANTS OVERALL, SO AS TO REDUCE HEALTH RISKS TO PRODUCTION EMPLOYEES, THE SURROUNDING COMMUNITY, CONSUMERS OF THE PRODUCT OR THE OVERALL ENVIRONMENT WITHOUT

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

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SHIFTING RISKS BETWEEN SUCH PARTIES. POLLUTION PREVENTION INCLUDES THE DESIGN, MANUFACTURE, OR PRODUCTION OF NEW PROCESSING TECHNIQUES, OR THE REDESIGN, MODIFICATION, UPGRADE OR REPLACEMENT OF PRODUCTION PROCESSES, EQUIPMENT OR IMPLEMENTATION OF NEW TECHNOLOGY; REFORMULATION OR REDESIGN OF PRODUCTS, SUBSTITUTION OF INPUTS OR RAW MATERIALS; IMPROVEMENTS IN HOUSEKEEPING, MAINTENANCE, TRAINING, OR INVENTORY CONTROL; OR EXTENDED USE OR REUSE OF MATERIALS THROUGH METHODS INTEGRAL TO THE PRODUCTION PROCESS; PROVIDED, THAT POLLUTION PREVENTION MAY INCLUDE OUT-OF-PRODUCTION RECYCLING, END-OF-PIPE TREATMENT OR POLLUTION CONTROL.

(D) "POLLUTANT" MEANS ANY SUBSTANCE, CONTAMINANT, WASTE OR EMISSION WHICH CONTRIBUTES TO POLLUTION AS DEFINED IN ARTICLE ONE OF THE ENVIRONMENTAL CONSERVATION LAW.

(E) "REMEDIATION" MEANS ACTIVITIES UNDERTAKEN TO ELIMINATE, REMOVE, ABATE OR CONTROL ENVIRONMENTAL HAZARDS.

(F) "SUSTAINABLE DEVELOPMENT" MEANS ACHIEVING ECONOMIC GROWTH WHILE PROTECTING AND PRESERVING THE STATE ENVIRONMENTAL RESOURCES OR MITIGATING THE DESTRUCTION OF SUCH ENVIRONMENTAL RESOURCES.

(G) "SMALL BUSINESS" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION ONE HUNDRED THIRTY-ONE OF THE ECONOMIC DEVELOPMENT LAW.

(H) "MEDIUM-SIZED BUSINESS" MEANS AN INDEPENDENTLY OWNED BUSINESS, NOT DOMINANT IN ITS FIELD, THAT EMPLOYS FEWER THAN FIVE HUNDRED PERSONS WITHIN THE STATE ON A FULL TIME BASIS.

(I) "MATERIALS EXCHANGE TRANSACTION" MEANS THE MATCHING OF MATERIALS DISCARDED BY ONE BUSINESS WITH ANOTHER BUSINESS THAT CAN USE THE DISCARDED MATERIAL AS A RESOURCE.

(J) "MATERIAL BY-PRODUCT" MEANS MATERIALS DISCARDED BY A BUSINESS.

(K) "RESEARCH INSTITUTION" MEANS A PUBLIC, QUASI-PUBLIC OR PRIVATE SCIENTIFIC RESEARCH FACILITY OR INSTITUTION OF HIGHER EDUCATION LOCATED WITHIN THE STATE THAT OPERATES A RESEARCH LABORATORY OR FACILITY.

2. THE CORPORATION SHALL CONTRACT WITH A NOT-FOR-PROFIT CORPORATION TO ESTABLISH AN INSTITUTE TO BE KNOWN AS THE NEW YORK STATE ENVIRONMENTAL TECHNOLOGY INSTITUTE. THE INSTITUTE MAY BE OPERATED COLLABORATIVELY BY A CONSORTIUM OF UNIVERSITIES AND RESEARCH INSTITUTIONS LOCATED IN THIS STATE WITH INSTITUTIONS OR ACCREDITED PROGRAMS IN ENVIRONMENTAL SCIENCE, LIFE SCIENCES, BIORESEARCH, CHEMISTRY OR TECHNOLOGY RESEARCH AND DEVELOPMENT, AND PRIVATE SECTOR INDUSTRIAL PARTNERS. THE CHIEF EXECUTIVE OFFICER OR PRESIDENT OF SUCH NOT-FOR-PROFIT CORPORATION OR HIS OR HER DESIGNEE SHALL SERVE AS THE PRESIDENT OF THE INSTITUTE.

3. THE INSTITUTE SHALL:

(A) DEVELOP AND ASSIST IN THE TRANSFER OF EXISTING AND NEW PROCESS DESIGNS FOR POLLUTION PREVENTION, REMEDIATION AND SUSTAINABLE DEVELOPMENT;

(B) CONDUCT BOTH APPLIED AND THEORETICAL RESEARCH AND DEVELOPMENT, AND SUPPORT DEMONSTRATION PROJECTS CONCERNING NEW OR MODIFIED INDUSTRIAL PROCESSES, DESIGN OF EQUIPMENT AND, PURSUE THE ADVANCEMENT OF NEW TECHNOLOGIES FOR POLLUTION PREVENTION, REMEDIATION AND SUSTAINABLE DEVELOPMENT THAT CAN BE UTILIZED BY BUSINESS, INDUSTRY AND GOVERNMENT;

(C) PROVIDE A CLEARINGHOUSE FOR THE DISSEMINATION OF INFORMATION ON EXISTING AND NEW INDUSTRIAL PROCESS DESIGN TECHNOLOGY FOR POLLUTION PREVENTION, REMEDIATION, AND SUSTAINABLE DEVELOPMENT FOR BUSINESS, INDUSTRY AND GOVERNMENT;

(D) PROVIDE A CLEARINGHOUSE FOR THE DISSEMINATION OF INFORMATION ON THE UTILIZATION OF BUSINESS MATERIAL BY-PRODUCTS IN ORDER TO COORDINATE MATERIALS EXCHANGE TRANSACTIONS AMONG IN-STATE AND OUT-OF-STATE BUSINESSES; AND

(E) PROVIDE EXPERTISE AND ASSISTANCE CONCERNING INDUSTRIAL PROCESS DESIGN AND ENVIRONMENTAL TECHNOLOGY TO SMALL AND MEDIUM-SIZED BUSINESSES AND TO PUBLIC OFFICIALS RESPONSIBLE FOR ESTABLISHING GOVERNMENT POLICY AND REGULATIONS.

4. (A) TO CARRY OUT SAID PURPOSES, THE INSTITUTE SHALL HAVE THE AUTHORITY TO:

(1) APPOINT OFFICERS, AGENTS AND EMPLOYEES, TO PRESCRIBE THEIR QUALIFICATIONS, AND TO FIX THEIR COMPENSATION AND TO PAY THE SAME OUT OF FUNDS OF THE INSTITUTE;

(2) MAKE CONTRACTS AND LEASES UPON SUCH TERMS AS THE INSTITUTE SHALL DEEM APPROPRIATE; AND

(3) ACCEPT GIFTS, GRANTS, LOANS OR CONTRIBUTIONS FROM, AND ENTER INTO CONTRACTS OR OTHER TRANSACTIONS WITH, THE UNITED STATES, THE STATE OR ITS AGENCIES, ANY OTHER STATE, ANY MUNICIPALITY, ANY PUBLIC OR PRIVATE CORPORATION OR ANY OTHER LEGAL ENTITY, AND TO USE ANY SUCH GIFTS, GRANTS, LOANS OR CONTRIBUTIONS FOR ANY OF ITS PURPOSES.

(B) IN EXERCISING THE POWERS GRANTED BY THIS SECTION, THE INSTITUTE SHALL, INSOFAR AS PRACTICABLE, COOPERATE AND ACT IN CONJUNCTION WITH INDUSTRIAL, COMMERCIAL, MEDICAL, SCIENTIFIC AND EDUCATIONAL ORGANIZATIONS WITHIN THE STATE, THE NEW YORK STATE ENERGY RESEARCH DEVELOPMENT AUTHORITY ESTABLISHED PURSUANT TO TITLE NINE OF ARTICLE EIGHT OF THIS CHAPTER AND WITH AGENCIES OF THE FEDERAL GOVERNMENT, OF THE STATE AND ITS POLITICAL SUBDIVISIONS, OF OTHER STATES AND JOINT AGENCIES THEREOF.

5. A UNIVERSITY OR RESEARCH INSTITUTION SEEKING DESIGNATION BY THE FOUNDATION TO PARTICIPATE IN THE CONSORTIUM TO OPERATE SUCH INSTITUTE SHALL:

(A) HAVE A RECORD OF CONDUCTING RESEARCH AND DEVELOPMENT RELATING TO TECHNOLOGIES FOR THE PURPOSE OF POLLUTION PREVENTION, REMEDIATION AND SUSTAINABILITY, OF LEVERAGING FEDERAL AND OTHER NON-STATE RESEARCH AND DEVELOPMENT FUNDS FOR SUCH PURPOSES, AND OF PROVIDING TECHNICAL ASSISTANCE TO PRIVATE INDUSTRY;

(B) HAVE THE DISCRETION TO ENTER INTO A FORMALIZED AGREEMENT WITH A PRIVATE SECTOR INDUSTRIAL PARTNER OR PARTNERS WHO ARE PERFORMING INNOVATIVE RESEARCH AND DEVELOPMENT FOR ENVIRONMENTAL OR DIRECTLY RELATED TECHNOLOGIES;

(C) HAVE A PRIVATE SECTOR COMMITMENT FOR ANY MATCHING RESOURCES REQUIRED BY THIS SECTION; AND

(D) COMMIT SUBSTANTIAL UNIVERSITY RESOURCES TO THE INSTITUTE.

6. THE INSTITUTE SHALL ENGAGE THE SERVICES OF CONSULTANTS FOR THE PURPOSE OF CONDUCTING A PEER REVIEW OF ALL APPLICATIONS FOR PARTICIPATION IN THE CONSORTIUM TO OPERATE THE INSTITUTE AND OF ALL INFORMATION RELATING TO THE TRANSFER OF EXISTING AND NEW PROCESS DESIGNS FOR POLLUTION PREVENTION, REMEDIATION AND SUSTAINABLE DEVELOPMENT. SUCH CONSULTANTS SHALL HAVE SUBSTANTIAL EXPERIENCE IN THE ESTABLISHMENT AND MANAGEMENT OF SUCH PEER REVIEW PROCESS AND SHALL MAKE RECOMMENDATIONS TO THE INSTITUTE ADVISORY COMMITTEE ESTABLISHED PURSUANT TO SUBDIVISION SEVEN OF THIS SECTION.

7. (A) THE INSTITUTE SHALL ESTABLISH AN ADVISORY COMMITTEE WHICH SHALL CONSIST OF THIRTEEN INDIVIDUALS OF WHICH FOUR SHALL BE APPOINTED BY THE GOVERNOR, TWO SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY, TWO SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE, ONE SHALL BE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY, ONE SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE, ONE SHALL BE APPOINTED BY THE COMMISSIONER OF HEALTH, ONE SHALL BE APPOINTED BY THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION AND ONE SHALL BE APPOINTED BY THE DIRECTORS OF THE URBAN DEVELOPMENT CORPORATION. APPOINTMENTS SHALL BE

MADE FROM REPRESENTATIVES OF THE FOLLOWING GROUPS: THE SCIENCE AND TECHNOLOGY COMMUNITY, THE ACADEMIC COMMUNITY, LABOR, INDUSTRY, SMALL BUSINESS, AND THE ENVIRONMENTAL COMMUNITY.

(B) THE MEMBERS SHALL SERVE FOR TERMS OF THREE YEARS. PROVIDED, HOWEVER, THE MEMBERS OF THE ADVISORY COMMITTEE INITIALLY APPOINTED SHALL BE APPOINTED FOR THE FOLLOWING TERMS:

(I) ONE MEMBER APPOINTED BY THE GOVERNOR, ONE MEMBER APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE, THE MEMBER APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY AND THE MEMBER APPOINTED BY THE COMMISSIONER OF HEALTH SHALL BE APPOINTED FOR TERMS OF ONE YEAR;

(II) TWO MEMBERS APPOINTED BY THE GOVERNOR, ONE MEMBER APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE, ONE MEMBER APPOINTED BY THE SPEAKER OF THE ASSEMBLY AND THE MEMBER APPOINTED BY THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION SHALL BE APPOINTED FOR TERMS OF TWO YEARS; AND

(III) ONE MEMBER APPOINTED BY THE GOVERNOR, ONE MEMBER APPOINTED BY THE SPEAKER OF THE ASSEMBLY, THE MEMBER APPOINTED BY THE MINORITY LEADER OF THE SENATE AND THE MEMBER APPOINTED BY THE DIRECTORS OF THE URBAN DEVELOPMENT CORPORATION SHALL BE APPOINTED FOR TERMS OF THREE YEARS.

THE MEMBERS SHALL CONTINUE IN OFFICE UNTIL THE EXPIRATION OF THEIR TERMS AND UNTIL THEIR SUCCESSORS ARE APPOINTED AND HAVE QUALIFIED. VACANCIES SHALL BE FILLED BY THE APPOINTING OFFICIAL WHO ORIGINALLY APPOINTED SUCH MEMBER WITHIN ONE YEAR OF THE DATE UPON WHICH SUCH VACANCIES OCCUR.

(C) THE ADVISORY COMMITTEE SHALL:

(1) RENDER ADVICE ON THE DEVELOPMENT OF THE INSTITUTE'S OVERALL RESEARCH AND DEVELOPMENT PROGRAM AND THE IDENTIFICATION OF RESEARCH AND DEVELOPMENT PRIORITIES;

(2) RENDER ADVICE ON THE SOLICITATION OF RESEARCH AND DEVELOPMENT PROJECT PROPOSALS;

(3) RENDER ADVICE ON THE TECHNICAL AND COMMERCIAL MERIT OF PROJECTS WHICH THE INSTITUTE MAY WISH TO FUND OR UNDERTAKE;

(4) ASSIST IN ESTABLISHING PROCEDURES FOR MONITORING THE PROGRESS OF FUNDED PROJECTS;

(5) ASSIST IN THE TECHNICAL REVIEW OF ONGOING PROJECTS; AND

(6) ASSIST IN FACILITATING THE DISSEMINATION OF RESEARCH RESULTS AND TECHNICAL INFORMATION.

(D) THE ADVISORY COMMITTEE SHALL MEET AS FREQUENTLY AS ITS BUSINESS MAY REQUIRE, AND AT LEAST ONCE IN EACH CALENDAR YEAR.

(E) ONE MEMBER SHALL BE APPOINTED BY THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, OR BY HIS OR HER DESIGNEE, AS CHAIRPERSON OF THE ADVISORY COMMITTEE.

(F) THE MEMBERS OF THE ADVISORY COMMITTEE SHALL SERVE WITHOUT COMPENSATION, OTHER THAN REIMBURSEMENT OF ACTUAL AND NECESSARY EXPENSES.

(G) NO MEMBER OF THE ADVISORY COMMITTEE SHALL BE DISQUALIFIED FROM HOLDING ANY PUBLIC OFFICE OR EMPLOYMENT, NOR SHALL HE OR SHE FORFEIT ANY SUCH OFFICE, BY REASON OF SUCH SERVICE WITH THE INSTITUTE, NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL, OR LOCAL LAW, ORDINANCE OR CITY CHARTER.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.