

11101

I N A S S E M B L Y

May 14, 2010

Introduced by 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 217 of the laws of
3 2009, are amended to read as follows:
4 2. During the period commencing on November first, two thousand five
5 and ending on [May fifteenth] JUNE SECOND, two thousand ten eligible
6 businesses shall only include customers served under the power authority
7 of the state of New York's high load factor, economic development power
8 and other business customers served by political subdivisions of the
9 state authorized by law to engage in the distribution of electric power
10 that were authorized to be served by the authority from the authority's
11 former James A. Fitzpatrick nuclear power plant as of the effective
12 date of this subdivision whose power prices may be subject to increase
13 before [May fifteenth] JUNE SECOND, two thousand ten. Provided, however,
14 that the total amount of megawatts of replacement and preservation power
15 which, due to the extension of the energy cost savings benefits, are not
16 relinquished by or withdrawn from a recipient shall be deemed to be
17 relinquished or withdrawn for purposes of offering such megawatts by the
18 authority for reallocation pursuant to subdivision thirteen of section
19 one thousand five of the public authorities law. Provided, further, that
20 for any such reallocation, the authority shall maintain the same energy
21 cost savings benefit level for all eligible businesses using any avail-
22 able authority resources as deemed feasible and advisable by the trus-

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

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tees pursuant to section seven of part U of chapter fifty-nine of the laws of two thousand six.

4. Applications for an energy cost savings benefit shall be in the form and contain such information, exhibits and supporting data as the board may prescribe. The board shall review the applications received and shall determine the applications which best meet the criteria established for the benefits pursuant to this subdivision and it shall recommend such applications to the power authority of the state of New York with such terms and conditions as it deems appropriate; provided, however, that for energy cost savings benefits granted on or after June thirtieth, two thousand nine through [May fifteenth] JUNE SECOND, two thousand ten, the board shall expedite the awarding of such benefits and shall defer the review of compliance with such criteria until after the applicant has been awarded an energy cost savings benefit. Such terms and conditions shall include reasonable provisions providing for the partial or complete withdrawal of the energy cost savings benefit in the event the recipient fails to maintain mutually agreed upon commitments that may include, but are not limited to, levels of employment, capital investment and power utilization. Recommendation for approval of an energy cost savings benefit shall qualify an applicant to receive an energy cost savings benefit from the power authority of the state of New York pursuant to the terms and conditions of the recommendation.

S 2. The opening paragraph of paragraph 5 of subdivision (a) of section 189 of the economic development law, as amended by chapter 217 of the laws of 2009, is amended to read as follows:

"Power for jobs electricity savings reimbursements" shall mean payments made by the power authority of the state of New York as recommended by the board to recipients of allocations of power under phases four and five of the power for jobs program for a period of time until November thirtieth, two thousand four, subsequent to the expiration of their phase four or five power for jobs contract provided however that any power for jobs recipient may choose to receive an electricity savings reimbursement as a substitute for a contract extension for the period from the date the recipient's contract expires through [May fifteenth] JUNE SECOND, two thousand ten. The "basic reimbursement" is an amount that when credited against the recipient's actual "unit cost of electricity" during a quarter (meaning the cost for commodity and delivery per kilowatt-hour for the quantity of electricity purchased and delivered under the power for jobs program during a similar period in the final year of the recipient's contract), results in an effective unit cost of electricity during the quarter equal to the average unit cost of electricity such recipient paid during the final year of the contract for power allocated under phase four or five of the power for jobs program.

S 3. Subdivisions (f) and (l) of section 189 of the economic development law, as amended by chapter 217 of the laws of 2009, are amended to read as follows:

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

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

37 (1) The board shall solicit and review applications for the power for
38 jobs electricity savings reimbursements and contract extensions from
39 recipients of power for jobs allocations under phases four and five of
40 the program for the award of such reimbursements and/or contract exten-
41 sions. The board may prescribe a simplified form and content for an
42 application for such reimbursements or extensions. An applicant shall be
43 eligible for such reimbursements and/or extensions only if it is in
44 compliance with and agrees to continue to meet the job retention and
45 creation commitments set forth in its prior power for jobs contract, or
46 such other commitments as the board deems reasonable; provided, however,
47 that for the power for jobs electricity savings reimbursements and
48 contract extensions granted on or after June thirtieth, two thousand
49 nine through [May fifteenth] JUNE SECOND, two thousand ten, the board
50 shall expedite the awarding of such reimbursements and/or extensions and
51 shall defer the review of compliance with such commitments until after
52 the applicant has been awarded a power for jobs electricity savings
53 reimbursement and/or contract extension. The board shall review such
54 applications and make recommendations for the award: 1. of such
55 reimbursements through the power authority of the state of New York for
56 a period of time up to November thirtieth, two thousand four, and 2. of

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

8 S 4. Section 9 of chapter 316 of the laws of 1997 amending the public
9 authorities law and other laws relating to the provision of low cost
10 power to foster statewide economic development, as amended by chapter
11 217 of the laws of 2009, is amended to read as follows:

12 S 9. This act shall take effect immediately and shall expire and be
13 deemed repealed [May 15] JUNE 2, 2010.

14 S 5. Section 11 of chapter 645 of the laws of 2006 amending the
15 economic development law and other laws relating to reauthorizing the
16 New York power authority to make contributions to the general fund, as
17 amended by chapter 217 of the laws of 2009, is amended to read as
18 follows:

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

33 S 6. This act shall take effect immediately and shall be deemed to
34 have been in full force and effect on and after May 15, 2010; provided
35 that the amendments to sections 183 and 189 of the economic development
36 law made by sections one, two and three of this act shall not affect the
37 expiration of such sections and shall be deemed repealed therewith.