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

2058

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. PARMENT -- read once and referred to the Committee on Energy

AN ACT to amend the general municipal law and the tax law, in relation to making municipal clean energy research and development enterprises eligible for the qualified empire zone enterprise tax credit

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

Section 1. Subdivision (a) of section 963 of the general municipal law, as amended by chapter 161 of the laws of 2005, is amended to read as follows:

(a) The local empire zone certification officer shall not serve on the local empire zone administrative board and shall, pursuant to regulations promulgated pursuant to this article, certify in conjunction with the commissioner and the commissioner of labor, those business enterprises which have been approved for certification by the zone administrative board as eligible to receive benefits referred to in section nine hundred sixty-six of this article; provided, however, that such certification shall be governed by criteria including, but not limited to, (i) whether the business enterprise, if certified, is reasonably likely to create new employment or prevent a loss of employment in the zone, (ii) whether such new employment opportunities will be for individuals who will perform a substantial part of their employment activities in the zone, (iii) whether certification will have the undesired effect of causing individuals to transfer from existing employment with another business enterprise to similar employment with the business enterprise so certified, and transferring existing employment from one or more other municipalities, towns or villages in the state, or transferring existing employment from one or more other businesses in the zone, (iv) whether such enterprise is likely to enhance the economic climate of the zone, (v) whether such business enterprise, during the three years preceding the submission of an application for certif-

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

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ication, has engaged in a substantial violation or a pattern of violations of laws regulating environmental protection, unemployment insurance, workers compensation, public work, child labor, employment of minorities and women, safety and health, or other laws for the protection of workers as determined by final judgment of a judicial or administrative proceeding; PROVIDED, HOWEVER, FOR THE PURPOSES OF SECTION FIFTEEN OF THE TAX LAW, A MUNICIPAL CORPORATION SHALL BE DEEMED A BUSINESS ENTERPRISE ELIGIBLE FOR CERTIFICATION WITH RESPECT TO A CLEAN ENERGY RESEARCH AND DEVELOPMENT ENTERPRISE; and provided further, however, that any business enterprise that applies for any tax, utility rate, or management assistance benefits provided by this article shall provide ninety days written notice to the commissioner, the local empire zone certification officer, the local empire zone administrative board and the employees of such business enterprise of any intent to close or partially close a facility within the empire zone. For the purposes of this subdivision, "closing" shall mean the permanent termination of employment at a business facility, and "partial closing" shall mean the permanent termination of a portion of the employment at a business facility that will either immediately reduce the work force by at least fifty employees or will reduce the work force by at least fifty percent over a one-year period, (vi) whether such business will meet the requirements of the cost benefit analysis as established in this article, and (vii) if the certification officer, the commissioner, and the commissioners of taxation and finance and of labor establish that the business enterprise has been found in a criminal proceeding to have violated, in the previous three years, any of the laws referred to in paragraph (v) of this subdivision or regulations promulgated pursuant to such laws, the conditions of any permit issued thereunder, or similar statute, regulation, order or permit condition of any other government agency, foreign or domestic, the certification officer in conjunction with the commissioners of taxation and finance and of labor, such business shall not be certified.

S 2. Section 14 of the tax law is amended by adding a new subdivision (a-1) to read as follows:

(A-1) MUNICIPAL CLEAN ENERGY RESEARCH AND DEVELOPMENT ENTERPRISE. FOR PURPOSES OF A CLEAN ENERGY RESEARCH AND DEVELOPMENT ENTERPRISE, WHICH IS CERTIFIED UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW AND IS OWNED AND OPERATED BY A MUNICIPAL CORPORATION, THE PROVISIONS OF THIS SECTION AND SECTION FIFTEEN OF THIS ARTICLE SHALL BE DEEMED TO ONLY APPLY TO SUCH ENTERPRISE AND SHALL NOT APPLY TO THE MUNICIPAL CORPORATION.

S 3. Subdivision (a) of section 15 of the tax law, as amended by section 5 of part A of chapter 63 of the laws of 2005, is amended to read as follows:

(a) Allowance of credit. A taxpayer which is a qualified empire zone enterprise (QEZE), or which is a sole proprietor of a QEZE or a member of a partnership which is a QEZE, and which is subject to tax under article nine-A, twenty-two, thirty-two or thirty-three of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (h) of this section, for eligible real property taxes. PROVIDED, HOWEVER, THAT FOR THE PURPOSES OF A CLEAN ENERGY RESEARCH AND DEVELOPMENT ENTERPRISE, A MUNICIPAL CORPORATION MAY QUALIFY FOR THE REFUND OF THE CREDIT PROVIDED BY THIS SECTION WITH RESPECT TO ANY REAL PROPERTY TAX EQUIVALENT PAID BY SUCH MUNICIPAL CORPORATION FOR SAID ENTERPRISE.

S 4. This act shall take effect immediately.