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

8361

2009-2010 Regular Sessions

I N A S S E M B L Y

May 15, 2009

Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the state finance law and the public authorities law, in relation to establishing the diesel emissions retrofit fund and program

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

Section 1. The state finance law is amended by adding a new section 97-tt to read as follows:

S 97-TT. DIESEL EMISSIONS RETROFIT FUND. 1. THERE IS HEREBY ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER A SPECIAL FUND TO BE KNOWN AS "DIESEL EMISSIONS RETROFIT FUND."

2. THE DIESEL EMISSIONS RETROFIT FUND MAY CONSIST OF MONIES PAID TO THE STATE:

(A) BY THE FEDERAL GOVERNMENT PURSUANT TO SECTIONS SEVEN HUNDRED NINETY-ONE THROUGH SECTION SEVEN HUNDRED NINETY-SEVEN OF THE ENERGY POLICY ACT OF TWO THOUSAND FIVE;

(B) BY THE FEDERAL GOVERNMENT PURSUANT TO SECTIONS ELEVEN HUNDRED ONE, ELEVEN HUNDRED THREE, AND EIGHTEEN HUNDRED EIGHT OF THE SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT OF TWO THOUSAND FIVE: "A LEGACY FOR USERS";

(C) BY THE FEDERAL GOVERNMENT PURSUANT TO SUBSECTION THREE OF STATE AND TRIBAL ASSISTANCE GRANTS INCLUDED IN TITLE VII OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF TWO THOUSAND NINE; AND

(D) AS A RESULT OF ANY ENFORCEMENT ACTION.

3. MONIES OF THE FUND SHALL BE AVAILABLE ONLY FOR DISTRIBUTION TO ELIGIBLE PROJECTS PURSUANT TO SECTION EIGHTEEN HUNDRED EIGHTY-FOUR OF THE PUBLIC AUTHORITIES LAW.

4. MONEYS SHALL BE PAID OUT OF THE FUND ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE BOARD OF NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, AS THE

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

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CONTRACT ADMINISTRATOR OF THE DIESEL EMISSIONS RETROFIT PROGRAM, FOR WHICH THE AUTHORITY WILL ENTER INTO CONTRACTS WITH QUALIFIED PARTIES TO CARRY OUT THE PROGRAM.

5. ANY INCOME EARNED ON MONEYS IN SHALL BE ADDED TO DIESEL EMISSIONS RETROFIT FUND AND USED FOR THE PURPOSES OF SUCH FUND.

S 2. The public authorities law is amended by adding a new section 1884 to read as follows:

S 1884. DIESEL EMISSIONS RETROFIT PROGRAM. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "HEAVY DUTY VEHICLE" OR "VEHICLE" MEANS ANY ON AND OFF-ROAD VEHICLE POWERED BY DIESEL FUEL AND HAVING A GROSS VEHICLE WEIGHT OF GREATER THAN EIGHT THOUSAND FIVE HUNDRED POUNDS, OR IN THE CASE OF A NON-ROAD VEHICLE, A VEHICLE POWERED BY DIESEL FUEL AND AN ENGINE WITH A RATING OF AT LEAST SEVENTY-FIVE HORSEPOWER.

(B) "BEST AVAILABLE RETROFIT TECHNOLOGY" MEANS TECHNOLOGY, VERIFIED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OR BY THE CALIFORNIA AIR RESOURCES BOARD (CARB) FOR REDUCING THE EMISSION OF POLLUTANTS THAT ACHIEVES REDUCTIONS IN PARTICULATE MATTER EMISSIONS AT THE HIGHEST CLASSIFICATION LEVEL FOR DIESEL EMISSION CONTROL STRATEGIES THAT IS APPLICABLE TO THE PARTICULAR ENGINE AND APPLICATION.

(C) "RETROFITTING" MEANS ADDITION OF NEW OR BETTER POLLUTION CONTROL AFTER-TREATMENT EQUIPMENT TO DIESEL ENGINES, UPGRADING A DIESEL ENGINE TO A CLEANER CONFIGURATION AND EARLY REPLACEMENT OF OLDER ENGINES WITH NEWER CLEANER ENGINES.

2. THE AUTHORITY IS HEREBY AUTHORIZED TO ADMINISTER THE FUND CREATED PURSUANT TO SECTION NINETY-SEVEN-TT OF THE STATE FINANCE LAW IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(A) NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY, THE AUTHORITY SHALL:

(I) ESTABLISH PRIORITY CRITERIA FOR DISTRIBUTION OF MONIES CONTAINED IN THE FUND CONSISTENT WITH THE PROVISIONS OF THIS SECTION; AND

(II) DISTRIBUTE MONIES CONTAINED IN THE FUND, BY WAY OF FULL OR PARTIAL GRANTS, TO PROJECTS MEETING THE GOALS OF EMISSIONS REDUCTION IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, AND IN ACCORDANCE WITH ANY APPLICABLE FEDERAL REQUIREMENTS. THE AUTHORITY SHALL, TO THE EXTENT POSSIBLE, DISTRIBUTE THE MONIES THROUGH RELEVANT PROGRAMS IN EXISTENCE PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

3. MONIES IN THE FUND SHALL BE DISTRIBUTED SOLELY FOR THE RETROFITTING OF HEAVY DUTY DIESEL ENGINE VEHICLES, OWNED AND OPERATED BY STATE MUNICIPAL, OR PRIVATE ENTITIES, WITH THE BEST AVAILABLE RETROFIT TECHNOLOGY, PROVIDED, HOWEVER, THAT AN AMOUNT OF UP TO TWO PERCENT OF THE FUND MAY BE UTILIZED ANNUALLY BY THE AUTHORITY TO PAY FOR COSTS OF ADMINISTERING THE FUND.

4. SUBJECT TO ANY APPLICABLE FEDERAL REQUIREMENTS OR STATE REQUIREMENT, PRIORITY SHALL BE GIVEN TO THOSE PROJECTS THAT:

(A) ARE SUBJECT TO THE REQUIREMENTS OF THE NEW YORK STATE DIESEL EMISSIONS REDUCTION ACT AS ESTABLISHED BY CHAPTER SIX HUNDRED TWENTY-NINE OF THE LAWS OF TWO THOUSAND SIX;

(B) MAXIMIZE PUBLIC HEALTH BENEFITS;

(C) PROVIDE THE MOST COST-EFFECTIVE EXPENDITURE OF FUNDS, INCLUDING REDUCTIONS IN DIESEL EMISSIONS PER DOLLAR EXPENDED; AND

(D) SERVE AREAS IN NEW YORK:

(I) IN NON-ATTAINMENT OF THE NATIONAL AMBIENT AIR QUALITY PRIMARY STANDARDS ESTABLISHED FOR PARTICULATE MATTER AND OZONE;

(II) TRADITIONALLY ENVIRONMENTALLY DISENFRANCHISED;

(III) THAT RECEIVE A DISPROPORTIONATE AMOUNT OF AIR POLLUTION FROM DIESEL FLEETS INCLUDING BUT NOT LIMITED TO PORTS, TRUCK STOPS, RAIL YARDS, TERMINALS AND DISTRIBUTION CENTERS.

(E) CONSIDERATION SHALL ALSO BE GIVEN FOR NON-ROAD VEHICLES DEMONSTRATING A SIGNIFICANT REDUCTION IN DIESEL EMISSIONS IN THE SHORT TERM OVER THE USE OF THE HEAVY DUTY DIESEL ENGINE.

5. PROPOSED PROJECTS MUST MEET ALL REQUIREMENTS OF APPLICABLE FEDERAL LAWS.

6. APPLICATIONS:

(A) ALL ELIGIBLE PARTIES MAY SUBMIT APPLICATIONS TO THE AUTHORITY IN SUCH MANNER AS THE AUTHORITY DIRECTS;

(B) ALL APPLICATIONS SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING INFORMATION:

(I) ANY INFORMATION REQUIRED FOR ELIGIBILITY TO RECEIVE FEDERAL FUNDS UNDER ANY APPLICABLE FEDERAL PROGRAM;

(II) CALCULATION OF THE EXTENT TO WHICH COMPLETION OF THE PROPOSED PROJECT WILL REDUCE DIESEL EMISSIONS;

(III) MEASUREMENT OF THE AIR QUALITY IN THE AREA IN WHICH VEHICLES PROPOSED TO BE RETROFITTED OPERATE;

(IV) EXTENT TO WHICH THE PROPOSED PROJECT MEETS THE PRIORITY CRITERIA OF SUBDIVISIONS FOUR AND FIVE OF THIS SECTION; AND

(V) ANY OTHER INFORMATION THAT THE AUTHORITY REQUIRES.

7. THE AUTHORITY IS AUTHORIZED TO:

(A) CONSULT WITH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THE DEPARTMENT OF TRANSPORTATION, AND ANY OTHER AGENCY OR PUBLIC AUTHORITY WHICH THE AUTHORITY DEEMS APPROPRIATE IN THE DEVELOPMENT OF DIESEL RETROFIT PROGRAM DEVELOPED PURSUANT TO THIS SECTION;

(B) PREPARE, IN CONSULTATION WITH SUCH AGENCIES AND AUTHORITIES, AND TO MAKE AVAILABLE TO THE PUBLIC, DIESEL RETROFIT PROGRAM MANUALS AND BROCHURES FOR THE PURPOSE OF ENSURING THAT THE STANDARDS AND CRITERIA APPLICABLE TO SUCH PROGRAM ARE AVAILABLE TO PERSONS WHO MAY WISH TO PARTICIPATE IN THE PROGRAM, TO FACILITATE THE GOALS OF THE PROGRAM.

8. NO LATER THAN JANUARY THIRTY-FIRST OF EACH CALENDAR YEAR, THE AUTHORITY SHALL SUBMIT TO THE GOVERNOR, THE LEGISLATURE AND THE STATE COMPTROLLER A DETAILED REPORT OF EXPENDITURES OF THE FUND. SUCH REPORT SHALL INCLUDE AT A MINIMUM:

(A) AN ACCOUNTING OF MONIES PAID INTO THE FUND FROM STATUTORY SOURCES;

(B) AN ACCOUNTING OF MONIES EXPENDED FOR PURPOSES OF ADMINISTERING THE FUND;

(C) AN ACCOUNTING OF ALL MONIES PAID OUT OF THE FUND TO PROJECTS, ARRANGED BY PROJECT, STATUTORY PRIORITY LEVEL AND AREA OF THE STATE;

(D) AN ESTIMATION OF THE AMOUNT OF DIESEL EMISSIONS REDUCED BY THE COMPLETION OF PROJECTS FINANCED BY THE FUND; AND

(E) ANY DISCERNIBLE OR ESTIMATED PUBLIC HEALTH BENEFIT BROUGHT ABOUT BY REDUCTIONS.

S 3. This act shall take effect immediately.