

4034

2009-2010 Regular Sessions

I N S E N A T E

April 7, 2009

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public service law and the public authorities law, in relation to requiring the public service commission to annually review the compensation and benefits paid to certain officers, directors and high-level employees of certain gas or electric corporations

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

1 Section 1. The legislature hereby finds and declares that the compensation and benefits provided to certain officers, directors, and high-level managerial employees of certain gas or electric corporations may be excessive and out of proportion with objective measures of performance, equity, and fairness. Some top executives of certain gas or electric corporations have inflated their compensation, even as the customers they serve continue to struggle with the burdens of wage stagnation.
2 Establishing control over levels of compensation and benefits paid to high-level managerial employees of certain gas or electric corporations is clearly in the public interest. By doing so, the state will be able to provide assurance to the ratepayer that his or her dollars are not being spent on exorbitant salaries for top executives of gas or electric corporations.

3 It is the purpose of this legislation to require the public service commission to review the proposed salary and benefits of officers, directors and high-level managerial executives of certain gas or electric corporations and, based on enumerated criteria, either approve, modify or reject such proposed salaries and benefits.

4 S 2. The public service law is amended by adding a new section 5-a to read as follows:

5 S 5-A. REVIEW OF COMPENSATION AND BENEFITS PROVIDED TO OFFICERS, DIRECTORS AND CERTAIN EMPLOYEES OF GAS OR ELECTRIC CORPORATIONS WITH

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

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1 GROSS INCOME EXCEEDING FIFTY MILLION DOLLARS ANNUALLY. 1. THE COMMISSION
2 SHALL REVIEW THE PROPOSED OR EXISTING SALARY, BENEFITS, INCLUDING
3 RETIREMENT BENEFITS, BONUSES, CONSULTING CONTRACTS AND ANY OTHER FORM OF
4 REMUNERATION PROPOSED TO BE PAID TO ANY OFFICER, DIRECTOR OR EMPLOYEE OF
5 THE GAS OR ELECTRIC CORPORATION IN A HIGH-LEVEL MANAGERIAL POSITION TO
6 DETERMINE IF SUCH PAYMENTS ARE JUST, REASONABLE AND IN THE PUBLIC INTER-
7 EST. SUCH REVIEW SHALL OCCUR EACH TIME A GAS OR ELECTRIC CORPORATION
8 RECEIVES A MAJOR RATE INCREASE BUT SHALL NOT OCCUR LESS FREQUENTLY THAN
9 ONCE EVERY THREE YEARS. IN MAKING SUCH DETERMINATION, THE COMMISSION
10 SHALL CONSIDER:

11 (A) THE COST TO THE RATEPAYER OF THE SERVICE PROVIDED BY THE GAS OR
12 ELECTRIC CORPORATION COMPARED TO THAT OF OTHER GAS OR ELECTRIC CORPO-
13 RATIONS IN THIS STATE, OTHER STATES AND OTHER REGIONS OF THE COUNTRY,
14 PROVIDING THE SAME OR SIMILAR SERVICE;

15 (B) SERVICE RELIABILITY, FREQUENCY OF INTERRUPTIONS IN SERVICE AND
16 DURATION OF TIME BEFORE RESTORATION OF SERVICE;

17 (C) RELATIVE PRODUCTIVITY OF MANAGEMENT AND LABOR;

18 (D) COST EFFECTIVENESS OF PLANT OPERATION AND MAINTENANCE;

19 (E) LEVEL OF EXPERIENCE IN THE BUSINESS OF THE OFFICER, DIRECTOR OR
20 HIGH-LEVEL MANAGERIAL EMPLOYEE IN A POLICY MAKING POSITION;

21 (F) GENERAL EFFICIENCY OF THE ORGANIZATION;

22 (G) GENERAL ECONOMIC CLIMATE OF THE REGION SERVED;

23 (H) THE NUMBER OF CONSUMER COMPLAINTS;

24 (I) THE RATE OF RETURN PROVIDED TO THE STOCKHOLDERS;

25 (J) THE COMMENTS OF ANY INTERESTED PARTY;

26 (K) THE EFFECT UPON THE MORALE OF OTHER EMPLOYEES;

27 (L) THE IMPACT UPON THE FINANCIAL HEALTH OF THE GAS OR ELECTRIC CORPO-
28 RATION; AND

29 (M) ANY OTHER FACTORS WHICH WILL FAIRLY BALANCE THE INTERESTS OF THE
30 RATEPAYERS AND THE STOCKHOLDERS.

31 2. AFTER SUCH REVIEW THE COMMISSION SHALL EITHER ACCEPT, REJECT OR
32 MODIFY THE COMPENSATION, BENEFITS AND CONSULTING CONTRACTS AND THE DECI-
33 SION OF THE COMMISSION SHALL BE BINDING UPON THE GAS OR ELECTRIC CORPO-
34 RATION, SUBJECT TO REVIEW PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL
35 PRACTICE LAW AND RULES.

36 3. THE COMMISSION SHALL PROMULGATE RULES AND REGULATIONS TO IMPLEMENT
37 THE PROVISIONS OF THIS SECTION.

38 4. FOR PURPOSES OF THIS SECTION, THE TERM "GAS OR ELECTRIC CORPO-
39 RATION" SHALL INCLUDE EITHER A GAS OR ELECTRIC CORPORATION OR BOTH SUCH
40 CORPORATIONS, WITH A TOTAL GROSS INCOME EXCEEDING FIFTY MILLION DOLLARS
41 ANNUALLY.

42 S 3. Section 1004 of the public authorities law, as amended by chapter
43 766 of the laws of 2005, is amended to read as follows:

44 S 1004. Officers and employees; expenses. The trustees shall choose
45 from among their own number a [chairman] CHAIRPERSON and [vice-chairman]
46 VICE-CHAIRPERSON. They shall from time to time select such officers and
47 employees, including a chief executive officer and such engineering,
48 marketing and legal officers and employees, as they may require for the
49 performance of their duties and shall prescribe the duties and compen-
50 sation of each officer and employee. They shall adopt by-laws and rules
51 and regulations suitable to the purposes of this title. As long as and
52 to the extent that the authority is dependent upon appropriations for
53 the payment of its expenses, it shall incur no obligations for salary,
54 office or other expenses prior to the making of appropriations adequate
55 to meet the same. NO LESS FREQUENTLY THAN ONCE EVERY THREE YEARS, THE
56 TRUSTEES SHALL CONDUCT A COMPREHENSIVE REVIEW OF THE SALARIES, BONUSES

1 AND BENEFITS, INCLUDING RETIREMENT BENEFITS, OF OFFICERS, EMPLOYEES AND
2 REPRESENTATIVES IN HIGH-LEVEL MANAGERIAL POSITIONS WITHIN THE AUTHORITY
3 TO DETERMINE IF SUCH SALARIES AND BENEFITS ARE JUST, REASONABLE, AND IN
4 THE PUBLIC'S INTEREST. THE TRUSTEES SHALL REPORT THEIR FINDINGS TO THE
5 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE
6 ASSEMBLY WITHIN NINETY DAYS IMMEDIATELY FOLLOWING COMPLETION OF SUCH
7 REVIEW.

8 S 4. Section 1020-e of the public authorities law, as added by chapter
9 517 of the laws of 1986, is amended to read as follows:

10 S 1020-e. Officers and employees; expenses. The board, or the [chair-
11 man] CHAIRPERSON pursuant to authority duly delegated to him, from time
12 to time shall hire, without regard to any personnel or civil service
13 law, rule or regulation of the state and in accordance with guidelines
14 adopted by the authority such employees and consultants, including with-
15 out limitation those in the areas of engineering, marketing, finance,
16 appraisal, accounting and law, as it may require for the performance of
17 its duties and shall prescribe the duties and compensation of each offi-
18 cer and employee, provided, however, that if any such employees are
19 hired as a consequence of an acquisition of all the stock or assets of
20 LILCO, they shall be hired subject and be entitled to all applicable
21 provisions of (i) any existing contract or contracts with labor unions
22 and (ii) all existing pension or other retirement plans. Notwithstanding
23 the provisions of any general, special or local law, the board may
24 determine that, if any pension or retirement plan becomes inapplicable
25 or is terminated, all or such class or classes of employees of the
26 authority as the board may determine may elect to become members of the
27 New York state employees' retirement system on the basis of compensation
28 payable to them by the authority. NO LESS FREQUENTLY THAN ONCE EVERY
29 THREE YEARS, THE BOARD SHALL CONDUCT A COMPREHENSIVE REVIEW OF THE SALA-
30 RIES, BONUSES AND BENEFITS, INCLUDING RETIREMENT BENEFITS, OF OFFICERS,
31 EMPLOYEES AND REPRESENTATIVES IN HIGH-LEVEL MANAGERIAL POSITIONS WITHIN
32 THE AUTHORITY TO DETERMINE IF SUCH SALARIES AND BENEFITS ARE JUST,
33 REASONABLE, AND IN THE PUBLIC'S INTEREST. THE BOARD SHALL REPORT THEIR
34 FINDINGS TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE
35 SPEAKER OF THE ASSEMBLY WITHIN NINETY DAYS IMMEDIATELY FOLLOWING
36 COMPLETION OF SUCH REVIEW.

37 S 5. This act shall take effect immediately.