

8008

I N S E N A T E

May 28, 2010

Introduced by COMMITTEE ON RULES -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

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 to amend 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 88 of the laws of
3 2010, are amended to read as follows:
4 2. During the period commencing on November first, two thousand five
5 and ending on June [second] SIXTEENTH, two thousand ten eligible busi-
6 nesses shall only include customers served under the power authority of
7 the state of New York's high load factor, economic development power and
8 other business customers served by political subdivisions of the state
9 authorized by law to engage in the distribution of electric power that
10 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 June [second] SIXTEENTH, 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16 relinquished by or withdrawn from a recipient shall be deemed to be
17 relinquished or withdrawn for purposes of offering such megawatts by the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-

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

LBD17578-01-0

1 able authority resources as deemed feasible and advisable by the trus-
2 tees pursuant to section seven of part U of chapter fifty-nine of the
3 laws of two thousand six.

4 4. Applications for an energy cost savings benefit shall be in the
5 form and contain such information, exhibits and supporting data as the
6 board may prescribe. The board shall review the applications received
7 and shall determine the applications which best meet the criteria estab-
8 lished for the benefits pursuant to this subdivision and it shall recom-
9 mend such applications to the power authority of the state of New York
10 with such terms and conditions as it deems appropriate; provided, howev-
11 er, that for energy cost savings benefits granted on or after June thir-
12 tieth, two thousand nine through June [second] SIXTEENTH, two thousand
13 ten, the board shall expedite the awarding of such benefits and shall
14 defer the review of compliance with such criteria until after the appli-
15 cant has been awarded an energy cost savings benefit. Such terms and
16 conditions shall include reasonable provisions providing for the partial
17 or complete withdrawal of the energy cost savings benefit in the event
18 the recipient fails to maintain mutually agreed upon commitments that
19 may include, but are not limited to, levels of employment, capital
20 investment and power utilization. Recommendation for approval of an
21 energy cost savings benefit shall qualify an applicant to receive an
22 energy cost savings benefit from the power authority of the state of New
23 York pursuant to the terms and conditions of the recommendation.

24 S 2. The opening paragraph of paragraph 5 of subdivision (a) of
25 section 189 of the economic development law, as amended by chapter 88 of
26 the laws of 2010, is amended to read as follows:

27 "Power for jobs electricity savings reimbursements" shall mean
28 payments made by the power authority of the state of New York as recom-
29 mended by the board to recipients of allocations of power under phases
30 four and five of the power for jobs program for a period of time until
31 November thirtieth, two thousand four, subsequent to the expiration of
32 their phase four or five power for jobs contract provided however that
33 any power for jobs recipient may choose to receive an electricity
34 savings reimbursement as a substitute for a contract extension for the
35 period from the date the recipient's contract expires through June
36 [second] SIXTEENTH, two thousand ten. The "basic reimbursement" is an
37 amount that when credited against the recipient's actual "unit cost of
38 electricity" during a quarter (meaning the cost for commodity and deliv-
39 ery per kilowatt-hour for the quantity of electricity purchased and
40 delivered under the power for jobs program during a similar period in
41 the final year of the recipient's contract), results in an effective
42 unit cost of electricity during the quarter equal to the average unit
43 cost of electricity such recipient paid during the final year of the
44 contract for power allocated under phase four or five of the power for
45 jobs program.

46 S 3. Subdivisions (f) and (l) of section 189 of the economic develop-
47 ment law, as amended by chapter 88 of the laws of 2010, are amended to
48 read as follows:

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

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

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

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

9 S 4. Section 9 of chapter 316 of the laws of 1997 amending the public
10 authorities law and other laws relating to the provision of low cost
11 power to foster statewide economic development, as amended by chapter 88
12 of the laws of 2010, is amended to read as follows:

13 S 9. This act shall take effect immediately and shall expire and be
14 deemed repealed June [2] 16, 2010.

15 S 5. Section 11 of chapter 645 of the laws of 2006 amending the
16 economic development law and other laws relating to reauthorizing the
17 New York power authority to make contributions to the general fund, as
18 amended by chapter 88 of the laws of 2010, is amended to read as
19 follows:

20 S 11. This act shall take effect immediately and shall be deemed to
21 have been in full force and effect on and after April 1, 2006; provided,
22 however, that the amendments to section 183 of the economic development
23 law and subparagraph 2 of paragraph g of the ninth undesignated para-
24 graph of section 1005 of the public authorities law made by sections two
25 and six of this act shall not affect the expiration of such section and
26 subparagraph, respectively, and shall be deemed to expire therewith;
27 provided further, however, that the amendments to section 189 of the
28 economic development law and subdivision 9 of section 186-a of the tax
29 law made by sections three, four, five and ten of this act shall not
30 affect the repeal of such section and subdivision, respectively, and
31 shall be deemed to be repealed therewith; provided further, however,
32 that section seven of this act shall expire and be deemed repealed June
33 [2] 16, 2010.

34 S 6. This act shall take effect immediately and shall be deemed to
35 have been in full force and effect on and after June 2, 2010; provided
36 that the amendments to sections 183 and 189 of the economic development
37 law made by sections one, two and three of this act shall not affect the
38 expiration of such sections and shall be deemed repealed therewith.