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

3584

2011-2012 Regular Sessions

I N A S S E M B L Y

January 26, 2011

Introduced by M. of A. CROUCH, KOLB, BURLING, BARCLAY, HAWLEY -- Multi-Sponsored by -- M. of A. FINCH, OAKS, RAIA -- read once and referred to the Committee on Agriculture

AN ACT to amend the public authorities law, in relation to providing incentives for the installation of anaerobic manure digesters on agricultural operations to convert trapped methane from manure into energy

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

Section 1. The public authorities law is amended by adding a new section 1860-b to read as follows:

S 1860-B. ANAEROBIC DIGESTERS REVOLVING FUND PROGRAM. 1. (A) NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, THE NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION SHALL UNDERTAKE TO PROVIDE FINANCIAL ASSISTANCE FOR AGRICULTURAL PURPOSES TO SUPPORT THE PLANNING, DEVELOPMENT AND CONSTRUCTION OF ANAEROBIC MANURE DIGESTERS IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(B) THERE IS HEREBY ESTABLISHED IN THE CUSTODY OF THE AUTHORITY A SPECIAL FUND TO BE KNOWN AS THE ANAEROBIC DIGESTERS REVOLVING FUND. MONEYS IN THE ANAEROBIC DIGESTERS REVOLVING FUND SHALL BE SEGREGATED FROM ALL OTHER FUNDS OF OR IN THE CUSTODY OF THE AUTHORITY SUBJECT TO ANY RIGHTS OF HOLDERS OF NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION BONDS OR NOTES ISSUED FOR THE PURPOSES OF THIS SECTION. MONEYS IN THIS FUND SHALL ONLY BE USED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. THE MONEYS IN SUCH FUND SHALL BE APPLIED TO OR PAID OUT FOR AUTHORIZED PURPOSES OF SUCH FUND ON THE DIRECTION OF THE CHAIRPERSON OF THE AUTHORITY, OR SUCH OTHER PERSON AS THE AUTHORITY SHALL AUTHORIZE TO MAKE SUCH DIRECTION, IN CONSULTATION WITH THE DIRECTOR OF THE DIVISION OF THE BUDGET AND THE COMMISSIONER OF AGRICULTURE AND MARKETS.

2. IN ORDER TO EFFECTUATE THE PURPOSES OF THIS SECTION, THE AUTHORITY MAY EXTEND CREDIT TO OR ON BEHALF OF AN AGRICULTURAL FACILITY FOR THE CONSTRUCTION OR ACQUISITION OF A PROJECT, OR FOR THE REIMBURSEMENT FOR

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

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COSTS INCURRED BY AN AGRICULTURAL FACILITY IN CONNECTION WITH A PROJECT, PROVIDED SUCH AGRICULTURAL FACILITY HAS RECEIVED A COMMITMENT TO RECEIVE FROM A LENDER A LOAN OR OTHER FINANCIAL ASSISTANCE ACCEPTABLE TO THE AUTHORITY. IN THE EXERCISE OF THE POWERS GRANTED IN THIS SECTION IN CONNECTION WITH A PROJECT FOR AN AGRICULTURAL FACILITY, THE AUTHORITY MAY REQUIRE THE INCLUSION IN ANY CONTRACT, LOAN AGREEMENT OR OTHER INSTRUMENT OF SUCH PROVISIONS FOR THE FINANCING OF SUCH PROJECT AND SUCH OTHER FINANCIAL AND OTHER COVENANTS AS MAY APPLY TO SUCH AGRICULTURAL FACILITIES AS THE AUTHORITY MAY DEEM DESIRABLE AND/OR APPROPRIATE AND TO DO ALL THINGS NECESSARY TO EXECUTE ANY INSTRUMENT IN CONNECTION AND DESIRABLE WITH SUCH FINANCING.

3. IN CONNECTION WITH THE ISSUANCE OF ANY BOND OR NOTE ISSUED IN CONNECTION WITH OR FOR THE ANAEROBIC DIGESTERS REVOLVING FUND PROGRAM, THE AUTHORITY MAY FIX AND COLLECT ANY FEES AND CHARGES, INCLUDING BUT NOT LIMITED TO REIMBURSEMENT OF ALL COSTS OF FINANCING INCURRED BY THE AUTHORITY, AS THE AUTHORITY SHALL DETERMINE TO BE REASONABLE.

4. IN CONNECTION WITH THE EXTENSION OF CREDIT AND THE ISSUANCE OF A BOND OR NOTE FOR THE CONSTRUCTION OR ACQUISITION OF A PROJECT AS PROVIDED IN THIS SECTION, AN AGRICULTURAL FACILITY SHALL SUBMIT TO THE AUTHORITY AN APPLICATION FOR THE EXTENSION OF CREDIT OR A LOAN. THE AUTHORITY MAY DENY SUCH APPLICATION FOR ANY REASON IT DEEMS APPROPRIATE IN THE PUBLIC INTEREST.

5. ANY BONDS OR NOTES ISSUED TO FINANCE THE PROVISIONS OF THIS SECTION SHALL BE SPECIAL LIMITED OBLIGATIONS OF THE AUTHORITY PAYABLE SOLELY OUT OF THE REVENUE DERIVED FROM ANY LOAN OR FINANCE AGREEMENT, DEBT OBLIGATION OR SALES CONTRACT, COLLATERAL OR OTHER PROPERTY RECEIVED IN CONNECTION WITH THE ANAEROBIC DIGESTERS REVOLVING FUND PROGRAM. ALL ASSETS AND LIABILITIES CREATED THROUGH THE ISSUANCE OF BONDS OR NOTES UNDER THIS SECTION SHALL BE SEPARATE FROM ALL OTHER ASSETS AND LIABILITIES OF THE NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION. THE NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION SHALL HAVE NO MORAL OR LEGAL OBLIGATION OR LIABILITY TO ANY AGRICULTURAL FACILITY OR OTHER PERSON UNDER THIS SECTION EXCEPT AS EXPRESSLY PROVIDED BY WRITTEN CONTRACT. NO FUNDS IN THE ANAEROBIC DIGESTERS REVOLVING FUND PROGRAM MAY BE COMMINGLED WITH ANY OTHER FUNDS OF THE AUTHORITY.

6. (A) THE AUTHORITY SHALL PROMULGATE REGULATIONS, DEVELOPED IN CONSULTATION WITH THE COMMISSIONER OF AGRICULTURE AND MARKETS, FOR THE PURPOSE OF CARRYING OUT ITS RESPONSIBILITIES UNDER THIS SECTION, INCLUDING ESTABLISHING THE CRITERIA AND STANDARDS FOR EVALUATING THE PROJECT TO BE FINANCED AND THE ELIGIBILITY OF THE AGRICULTURAL FACILITY.

(B) THE AUTHORITY SHALL CONSULT WITH THE COMMISSIONER OF AGRICULTURE AND MARKETS REGARDING PROMOTION OF THE PROGRAM AND AGRICULTURALLY RELATED QUESTIONS REGARDING THE PROGRAM OR APPLICATIONS.

S 2. Paragraph (a) of subdivision 1 of section 1290 of the public authorities law, as amended by chapter 366 of the laws of 2004, is amended to read as follows:

(a) The corporation shall have power and is hereby authorized from time to time to issue its negotiable or non-negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amount, as, in the opinion of the corporation, shall be necessary to provide sufficient funds for achieving its purposes, including the acquisition and construction, operation and maintenance of sewage treatment works, sewage collecting systems, solid waste disposal facilities, storm water collecting systems, water management facilities, air pollution control facilities, the removal, disposal and remediation of petroleum storage tanks and the remediation of the sites thereof and

any other project or projects authorized pursuant to the provisions of this title, and paying the cost thereof; the making of loans to persons and, for purposes of sections twelve hundred eighty-five-j, twelve hundred eighty-five-m and twelve hundred eighty-five-o of this title only, to any municipality or recipient for such purposes; the making of loans, providing of financing or extension of credit to or on behalf of beginning farmers for purposes of section twelve hundred eighty-five-r of this title only; THE MAKING OF LOANS, PROVIDING OF FINANCING OR EXTENSION OF CREDIT TO OR ON BEHALF OF AGRICULTURAL FACILITIES FOR PURPOSES OF SECTION EIGHTEEN HUNDRED SIXTY-B OF THIS CHAPTER ONLY; the financing of the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park, provided however, that any such bonds or notes issued to finance Riverbank Park shall only be issued in such principal amount as shall be necessary to provide sufficient funds for the repayment of amounts disbursed pursuant to appropriations or reappropriations under chapter fifty-four of the laws of nineteen hundred ninety-one including any subsequent reappropriation of the unexpended balance of such appropriations or reappropriations for the purpose of Riverbank Park, plus an amount sufficient to fund any debt service reserve fund established by the corporation for the purpose of Riverbank Park and to provide for the payment of fees and other charges and expenses of the corporation in connection with such bonds and notes, which principal amount shall constitute the statutory ceiling on the amount of bonds and notes that can be issued for such purpose; the financing of all or any portion of any state park infrastructure project or reimbursement of the state for expenditures relating thereto, plus an amount to provide for the payment of fees and other charges and expenses of the corporation in connection with such bonds and notes; the provision of funds to the state for any amounts contributed or to be contributed to the water pollution control revolving fund, the pipeline for jobs fund or the drinking water revolving fund provided, however, that any such bonds or notes issued to provide funds to the water pollution control revolving fund, the pipeline for jobs fund or the drinking water revolving fund shall only be issued in such principal amount as shall be necessary to provide sufficient funds for the repayment of amounts disbursed pursuant to any appropriation or reappropriation enacted for the pipeline for jobs fund or for the payment of the state match for federal capitalization grants for the water pollution control revolving fund or the drinking water revolving fund, plus an amount sufficient to fund any debt service reserve fund and to provide for fees, charges and other costs of issuance, which principal amount shall constitute the statutory ceiling on the amount of bonds and notes that can be issued for such purpose; the financing of any environmental infrastructure projects authorized by section twelve hundred eighty-five-p of this title; the purchase of municipal bonds and notes, and bonds and notes of a state agency, the payment of the cost of any project, the payment of interest on bonds and notes of the corporation, the establishment of reserves to secure such bonds and notes; the provision of working capital and all other expenditures of the corporation incident to and necessary or convenient to carry out its purposes and powers;

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.