

5149--B

Cal. No. 177

2011-2012 Regular Sessions

I N A S S E M B L Y

February 14, 2011

Introduced by M. of A. GABRYSZAK, FINCH, MILLMAN, SCHIMMINGER, KOLB, BENEDETTO, TITUS, CAHILL, JAFFEE, COLTON, LUPARDO, WEISENBERG, ROBERTS, P. RIVERA -- Multi-Sponsored by -- M. of A. ABBATE, BARCLAY, BOYLAND, BROOK-KRASNY, BURLING, CASTELLI, CROUCH, GUNTHER, KATZ, P. LOPEZ, MAGEE, MAISEL, MARKEY, McDONOUGH, MCENENY, McKEVITT, PEOPLES-STOKES, RAMOS, REILLY, SWEENEY, TITONE -- read once and referred to the Committee on Small Business -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the New York state urban development corporation act, in relation to creating the New York state innovative energy and environmental technology program

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

1 Section 1. Legislative intent. The legislature hereby finds and
2 declares that the success of innovative energy and environmental tech-
3 nology-oriented businesses with growth potential is essential to the
4 continued economic health and security of New York state. It is further
5 found that the development of new products to assist mature industries
6 undergoing dramatic changes or facing increasing international competi-
7 tion with reducing energy costs and complying with environmental regu-
8 lations, can serve to retain, and even increase, employment. However,
9 commercialization of these products is restrained as numerous small
10 businesses are limited by lack of early stage financing.
11 Therefore, the legislature seeks to provide early stage funds, via a
12 grants program, to stimulate the creation of a substantial number of new
13 businesses and jobs in the energy and environmental sector.
14 S 2. Section 1 of chapter 174 of the laws of 1968, constituting the
15 New York state urban development corporation act, is amended by adding a
16 new section 16-v to read as follows:

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

LBD08398-06-2

1 S 16-V. NEW YORK STATE INNOVATIVE ENERGY AND ENVIRONMENTAL TECHNOLOGY
2 PROGRAM. 1. DEFINITIONS. AS USED IN THIS SUBSECTION, THE FOLLOWING WORDS
3 AND TERMS SHALL HAVE THE FOLLOWING MEANINGS:

4 (A) "INNOVATIVE ENERGY TECHNOLOGIES" SHALL MEAN ALL METHODS USED TO
5 PRODUCE, DISTRIBUTE, CONSERVE AND STORE ENERGY BY METHODS WHICH HAVE
6 SIGNIFICANT POTENTIAL FOR COMMERCIALIZATION, WITH EMPHASIS ON RENEWABLE
7 ENERGY SOURCES INCLUDING, BUT NOT LIMITED TO, SOLAR, WIND, FUEL CELLS,
8 ADVANCED HYDROELECTRIC, AND BIOMASS POWER CONVERSION TECHNOLOGIES.

9 (B) "INNOVATIVE ENVIRONMENTAL TECHNOLOGIES" SHALL MEAN TECHNOLOGIES
10 THAT ADVANCE SUSTAINABLE DEVELOPMENT BY REDUCING RISK, ENHANCING
11 COST-EFFECTIVENESS, IMPROVING PROCESS EFFICIENCY, AND CREATING PRODUCTS
12 AND PROCESSES THAT ARE ENVIRONMENTALLY BENEFICIAL OR BENIGN AND WHICH
13 HAVE SIGNIFICANT POTENTIAL FOR COMMERCIALIZATION. EMERGING ENVIRONMENTAL
14 TECHNOLOGIES INCLUDE, BUT ARE NOT LIMITED TO: AIR, WATER, AND SOIL
15 POLLUTION CONTROL; SOLID AND TOXIC WASTE MANAGEMENT; SITE REMEDIATION;
16 AND ENVIRONMENTAL MONITORING AND RECYCLING.

17 (C) "SMALL BUSINESSES" SHALL MEAN AN INDEPENDENTLY OWNED AND OPERATED
18 BUSINESS THAT MEETS ALL OF THE FOLLOWING CONDITIONS: (I) HEADQUARTERED
19 IN THE STATE, AND PRINCIPAL BUSINESS OPERATIONS LOCATED IN THE STATE;
20 (II) EMPLOYS ONE HUNDRED OR LESS PERSONS, EIGHTY PERCENT OF WHOM ARE
21 EMPLOYED WITHIN THE STATE ON A FULL-TIME BASIS; AND (III) INVOLVED IN
22 DEVELOPING INNOVATIVE ENERGY AND ENVIRONMENTAL TECHNOLOGIES.

23 (D) "ELIGIBLE COSTS" SHALL MEAN COSTS ASSOCIATED WITH WORKING CAPITAL
24 NEEDS, THE ACQUISITION OR UPGRADING OF EQUIPMENT, OR LEASEHOLD IMPROVE-
25 MENTS NECESSARY FOR COMMERCIALIZATION OF THE PRODUCT, DEVICE, TECHNIQUE,
26 SYSTEM OR PROCESS; PROVIDED THAT NO OTHER SOURCE OF FUNDS IS AVAILABLE
27 UNDER TERMS, INTEREST RATES, OR OTHER CONDITIONS THAT WOULD ALLOW THE
28 PROJECT TO PROCEED SUCCESSFULLY. ELIGIBLE COSTS SHALL EXCLUDE ANY COSTS
29 INCURRED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

30 2. THE CORPORATION IS AUTHORIZED, WITHIN AVAILABLE APPROPRIATIONS IN
31 THE EMPIRE STATE ECONOMIC DEVELOPMENT FUND ESTABLISHED PURSUANT TO
32 SECTION SIXTEEN-M OF THIS ACT OR FROM ANY OTHER FUNDS APPROPRIATED FOR
33 THE PURPOSE SET OUT IN THIS SECTION, TO AWARD CAPITAL GRANTS OF UP TO
34 ONE HUNDRED THOUSAND DOLLARS TO SMALL BUSINESSES, FOR THE PURPOSE OF
35 ENCOURAGING AND SUPPORTING INNOVATIVE ENERGY AND ENVIRONMENTAL TECHNOLO-
36 GY DEVELOPMENT AND COMMERCIALIZATION ACROSS THE STATE. SUCH GRANTS SHALL
37 BE AWARDED ON A COMPETITIVE BASIS TO SMALL BUSINESS APPLICANTS RESPOND-
38 ING TO REQUESTS FOR PROPOSALS ISSUED BY THE CORPORATION.

39 3. GRANTS AND CONTRACTS MADE BY THE CORPORATION PURSUANT TO THIS
40 SECTION SHALL BE SUBJECT TO THE FOLLOWING:

41 (A) GRANTS SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS PER YEAR;

42 (B) THE CORPORATION MAY NOT ENTER INTO MORE THAN ONE GRANT PER YEAR TO
43 A SMALL BUSINESS; AND

44 (C) GRANTS PROVIDED BY THE CORPORATION MAY ONLY BE USED FOR ELIGIBLE
45 COSTS.

46 4. APPLICATIONS FOR GRANTS AUTHORIZED UNDER THIS SECTION SHALL
47 DESCRIBE THE PRODUCT, DEVICE, TECHNIQUE, SYSTEM OR PROCESS WHICH IS TO
48 BE DEVELOPED, INCLUDING:

49 (A) A MARKET ASSESSMENT;

50 (B) AN EXPLANATION OF ITS TECHNICAL VALUE;

51 (C) MEASURABLE OUTCOMES RESULTING FROM ITS MANUFACTURE AND SALE,
52 INCLUDING THE ESTIMATED NUMBER OF JOBS TO BE CREATED AND RETAINED AND
53 THE SALARY LEVELS OF SUCH JOBS;

54 (D) AN ESTIMATED TIMELINE FOR BRINGING IT TO MARKET, WITH PROPOSED
55 STARTING AND COMPLETION DATES AND BENCHMARKS; AND

1 (E) A BUDGET FOR ITS DEVELOPMENT AND MARKETING THAT DESCRIBES HOW THE
2 GRANT WILL BE USED, WHY THE GRANT FROM THE CORPORATION IS ESSENTIAL AND
3 CANNOT BE OBTAINED FROM OTHER SOURCES, AND SOURCES AND AMOUNTS OF OTHER
4 FUNDS TO BE USED IN ITS DEVELOPMENT, MARKETING AND DISTRIBUTION.

5 5. THE CORPORATION SHALL, IN CONSULTATION WITH THE NEW YORK STATE
6 ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AND THE DEPARTMENT OF ENVIRON-
7 MENTAL CONSERVATION, DEVELOP CRITERIA TO BE USED IN EVALUATING GRANT
8 APPLICATIONS. SUCH CRITERIA SHALL INCLUDE, BUT NOT BE LIMITED TO:

9 (A) ECONOMIC IMPACT AS MEASURED BY SUCH VARIABLES AS POTENTIAL REVEN-
10 UE, JOB CREATION, EFFECT ON THE LOCAL ECONOMY, GLOBAL COMPETITIVENESS,
11 AND, PURCHASES FROM IN-STATE SUPPLIERS;

12 (B) ABILITY OF THE APPLICANT TO LEVERAGE OTHER FUNDS;

13 (C) FINANCIAL COMMITMENT OF THE APPLICANT;

14 (D) TECHNICAL FEASIBILITY;

15 (E) LIKELIHOOD THAT THE ECONOMIC BENEFITS WILL BE MANIFEST WITHIN A
16 SIX- TO TWELVE-MONTH PERIOD, BUT AT MOST WITHIN THREE YEARS; AND

17 (F) LIKELIHOOD OF THE PRODUCT, DEVICE, TECHNIQUE, SYSTEM OR PROCESS TO
18 RESULT IN IMPROVEMENTS TO PUBLIC HEALTH, QUALITY OF LIFE, THE ENVIRON-
19 MENT, HUMAN OR BUSINESS PERFORMANCE OR ECONOMIC PRODUCTIVITY.

20 6. THE CORPORATION SHALL, ON OR BEFORE SEPTEMBER FIRST, TWO THOUSAND
21 THIRTEEN AND ANNUALLY THEREAFTER, SUBMIT A REPORT TO THE GOVERNOR, THE
22 TEMPORARY PRESIDENT OF THE SENATE AND THE SENATE MINORITY LEADER, THE
23 SPEAKER OF THE ASSEMBLY, AND THE MINORITY LEADER OF THE ASSEMBLY, THE
24 CHAIRPERSONS OF THE SENATE FINANCE COMMITTEE AND THE ASSEMBLY WAYS AND
25 MEANS COMMITTEE, AND TO ANY OTHER MEMBER OF THE LEGISLATURE REQUESTING
26 SUCH REPORTS ON THE EFFECTIVENESS AND ACCOMPLISHMENTS OF THE NEW YORK
27 STATE INNOVATIVE ENERGY AND ENVIRONMENTAL TECHNOLOGY GRANTS PROGRAM.
28 SUCH REPORT SHALL INCLUDE FOR EACH GRANT AWARDED, THE NAME AND LOCATION
29 OF THE RECIPIENT, A DESCRIPTION OF THE PRODUCT, DEVICE, TECHNIQUE,
30 SYSTEM OR PROCESS BEING COMMERCIALIZED, THE AMOUNT AND USE OF THE GRANT,
31 THE TOTAL PROJECT COST, THE IMPACT OF THE PROJECT ON THE RECIPIENT'S
32 BUSINESS, THE NUMBER OF JOBS CREATED OR RETAINED, AND SUCH OTHER INFOR-
33 MATION AS THE CORPORATION SHALL DEEM APPROPRIATE.

34 7. NOTHING IN THIS SECTION SHALL REQUIRE THE CORPORATION TO DISCLOSE
35 ANY MATTERS INVOLVING CONFIDENTIAL INTELLECTUAL PROPERTY OR WORK PROD-
36 UCT, WHETHER PATENTABLE OR NOT, INCLUDING ANY FORMULA, PLAN, PATTERN,
37 PROCESS, TOOL, MECHANISM, COMPOUND, PROCEDURE, PRODUCTION DATA OR COMPI-
38 LATION OF INFORMATION, WHICH IS NOT PATENTED, BUT WHICH IS KNOWN ONLY TO
39 CERTAIN INDIVIDUALS WHO ARE USING IT TO FABRICATE, PRODUCE OR COMPOUND
40 AN ARTICLE OF TRADE OR SERVICE HAVING COMMERCIAL VALUE AND WHICH GIVES
41 ITS USER AN OPPORTUNITY TO OBTAIN A BUSINESS ADVANTAGE OVER COMPETITORS
42 WHO DO NOT KNOW IT OR USE IT.

43 S 3. This act shall take effect immediately.