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

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2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. MAZIARZ, MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Legislative intent. The legislature hereby finds and declares that the success of innovative energy and environmental technology-oriented businesses with growth potential is essential to the continued economic health and security of New York state. It is further found that the development of new products to assist mature industries undergoing dramatic changes or facing increasing international competition with reducing energy costs and complying with environmental regulations, can serve to retain, and even increase, employment. However, commercialization of these products is restrained as numerous small businesses are limited by lack of early stage financing.

Therefore, the legislature seeks to provide early stage funds, via a grants program, to stimulate the creation of a substantial number of new businesses and jobs in the energy and environmental sectors of New York's economy.

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

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S 2. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 16-w to read as follows:

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

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

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

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

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

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

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

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

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

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

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

(A) A MARKET ASSESSMENT;

(B) AN EXPLANATION OF ITS TECHNICAL VALUE;

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

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

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

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

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

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

(C) FINANCIAL COMMITMENT OF THE APPLICANT;

(D) TECHNICAL FEASIBILITY;

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

(F) LIKELIHOOD OF THE PRODUCT, DEVICE, TECHNIQUE, SYSTEM OR PROCESS TO RESULT IN IMPROVEMENTS TO PUBLIC HEALTH, QUALITY OF LIFE, THE ENVIRONMENT, HUMAN OR BUSINESS PERFORMANCE OR ECONOMIC PRODUCTIVITY.

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

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

S 3. This act shall take effect immediately.