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

4583--A

2013-2014 Regular Sessions

I N S E N A T E

April 12, 2013

Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law and the public authorities law, in relation to certain reports of the New York state energy and research development authority

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

Section 1. Legislative intent and findings. Part of the mission of the New York state energy research and development authority (NYSERDA) is to help our state achieve its energy goals including reducing our energy consumption, promoting the use of renewable energy sources, and protecting our environment. Funding for NYSERDA is provided primarily by New York state ratepayers. NYSERDA has a commitment to public service, and its workforce reflects its public service orientation. Further, the state encourages public authorities to participate in the work of the Council of Contracting Agencies which was created to ensure systematic collection and timely exchange of information relating to responsibility and reliability of bidders. Because of NYSERDA's mission and source of funding, the legislature hereby finds and declares that access to timely and relevant information on certain NYSERDA programs is necessary to promote transparency, ensure proper use of funds, and help achieve the state's energy goals.

S 2. Section 5 of the public service law is amended by adding a new subdivision 7 to read as follows:

7. THE COMMISSION SHALL ANALYZE THE SEMI-ANNUAL REPORTS PREPARED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY PURSUANT TO SUBDIVISION SEVEN OF SECTION ONE THOUSAND EIGHT HUNDRED SIXTY-SEVEN OF

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

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THE PUBLIC AUTHORITIES LAW. BY MARCH FIRST OF EVERY CALENDAR YEAR, THE COMMISSION SHALL MAKE A DETERMINATION ON SUCH SEMI-ANNUAL REPORTS AS DESCRIBED IN SUBDIVISION SEVEN OF SECTION ONE THOUSAND EIGHT HUNDRED SIXTY-SEVEN OF THE PUBLIC AUTHORITIES LAW.

S 3. Section 1867 of the public authorities law is amended by adding a new subdivision 7 to read as follows:

7. (A) FOR THE PURPOSE OF FURNISHING THE STATE WITH SYSTEMATIC INFORMATION REGARDING THE STATUS AND THE ACTIVITIES OF THE AUTHORITY, THE AUTHORITY SHALL SUBMIT TO THE GOVERNOR, THE MEMBERS OF THE PUBLIC SERVICE COMMISSION, THE TEMPORARY PRESIDENT OF THE SENATE, THE ASSEMBLY SPEAKER, THE CHAIR OF THE SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE AND THE CHAIR OF THE ASSEMBLY ENERGY COMMITTEE, NO LATER THAN JULY FIRST AND DECEMBER THIRTY-FIRST OF EVERY CALENDAR YEAR, A COMPLETE AND DETAILED SEMI-ANNUAL REPORT SETTING FORTH THE INFORMATION DESCRIBED IN PARAGRAPH (B) OF THIS SECTION.

(B) THE SEMI-ANNUAL REPORT REQUIRED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION SHALL RELATE TO THE ENVIRONMENTAL AND RENEWABLE ENERGY PROGRAMS ADMINISTERED BY THE AUTHORITY UNDER THE RENEWABLE PORTFOLIO STANDARD PROGRAM AND SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING INFORMATION:

(I) THE AMOUNT OF MONEY COLLECTED UNDER THE RENEWABLE PORTFOLIO STANDARD PROGRAM IN THE PREVIOUS SIX MONTHS;

(II) A LIST OF REQUESTS FOR PROPOSALS OR OTHER SOLICITATIONS THAT HAVE BEEN PUT OUT TO BID IN THE PREVIOUS SIX MONTHS TOGETHER WITH A DETAILED DESCRIPTION OF EACH;

(III) THE AMOUNT OF MONEY THAT IS ENCUMBERED, UNENCUMBERED, EXPENDED, AND CONTRACTED FOR EACH REQUEST FOR PROPOSALS AND OTHER SOLICITATION THAT HAS BEEN PUT OUT TO BID IN THE PREVIOUS SIX MONTHS;

(IV) A LIST OF PROJECTS THAT COMMENCED THE PERMITTING PROCESS IN THE PREVIOUS SIX MONTHS TOGETHER WITH A DETAILED DESCRIPTION OF EACH PROJECT, INCLUDING BUT NOT LIMITED TO, THE TYPE OF RENEWABLE ENERGY INVOLVED, THE STATUS OF EACH PROJECT IN THE PERMITTING PROCESS, AND THE EXTENT TO WHICH THE AUTHORITY COMPLIED WITH THE LOWEST RESPONSIBLE BIDDER AND OTHER COMPETITIVE BIDDING REQUIREMENTS ESTABLISHED PURSUANT TO NEW YORK EXECUTIVE ORDERS NUMBERS 170 AND 170.1;

(V) A LIST OF PROJECTS THAT HAVE COMMENCED CONSTRUCTION IN THE PREVIOUS SIX MONTHS TOGETHER WITH A DETAILED DESCRIPTION OF EACH PROJECT, INCLUDING BUT NOT LIMITED TO, THE TYPE OF RENEWABLE ENERGY INVOLVED, THE STATUS OF EACH PROJECT IN THE CONSTRUCTION PROCESS, AND THE EXTENT TO WHICH THE AUTHORITY COMPLIED WITH THE LOWEST RESPONSIBLE BIDDER AND OTHER COMPETITIVE BIDDING REQUIREMENTS ESTABLISHED PURSUANT TO NEW YORK EXECUTIVE ORDERS NUMBERS 170 AND 170.1;

(VI) A LIST OF PROJECTS THAT HAVE BEEN COMPLETED IN THE PREVIOUS SIX MONTHS TOGETHER WITH A DETAILED DESCRIPTION OF EACH PROJECT, INCLUDING BUT NOT LIMITED TO, THE TYPE OF RENEWABLE ENERGY INVOLVED AND THE EXTENT TO WHICH THE AUTHORITY COMPLIED WITH THE LOWEST RESPONSIBLE BIDDER AND OTHER COMPETITIVE BIDDING REQUIREMENTS ESTABLISHED PURSUANT TO NEW YORK EXECUTIVE ORDERS NUMBERS 170 AND 170.1;

(VII) THE RESULTS OF EACH REQUEST FOR PROPOSALS OR OTHER SOLICITATION ISSUED IN THE PREVIOUS SIX MONTHS TOGETHER WITH A DESCRIPTION OF HOW EACH PROJECT WILL CONTRIBUTE TO MEETING THE STATE'S GOALS FOR RENEWABLE ENERGY PRODUCTION AND CONSUMER USAGE, AND AN INDICATION OF THE EXTENT TO WHICH THE AUTHORITY COMPLIED WITH THE LOWEST RESPONSIBLE BIDDER AND OTHER COMPETITIVE BIDDING REQUIREMENTS ESTABLISHED PURSUANT TO NEW YORK EXECUTIVE ORDERS NUMBERS 170 AND 170.1; AND

(VIII) A REGIONAL BREAKDOWN OF PROJECTS SELECTED UNDER EACH PROGRAM, INCLUDING AN INDICATION OF THE COUNTY AND UTILITY SERVICE TERRITORY IN WHICH THE PROJECT IS LOCATED.

(C) IN THE EVENT THAT THE PUBLIC SERVICE COMMISSION DETERMINES THAT THE REPORTS REQUIRED BY THIS SUBDIVISION DEMONSTRATE THAT OVER TWELVE CONSECUTIVE MONTHS THE AUTHORITY'S POLICIES AND PROCEDURES UNDER THE RENEWABLE PORTFOLIO STANDARD PROGRAM (I) DID NOT LEAD TO CONSTRUCTION AND COMPLETION OF RENEWABLE ENERGY PROJECTS THAT ARE NECESSARY FOR THE STATE TO MEET ITS MOST CURRENT GOALS FOR RENEWABLE ENERGY DEPLOYMENT, OR (II) RESULTED IN A REGIONAL OR RENEWABLE ENERGY SOURCE IMBALANCE, THEN THE PUBLIC SERVICE COMMISSION SHALL HALT AND SUSPEND ALL RENEWABLE PORTFOLIO STANDARD SOLICITATIONS PENDING OR CONTEMPLATED BY THE AUTHORITY UNTIL SUCH TIME AS A REMEDIATION PLAN IS ADOPTED TO ENSURE CORRECTIVE ACTIONS. THE AUTHORITY SHALL WORK COOPERATIVELY WITH THE COMMISSION TO DEVELOP AND IMPLEMENT A REMEDIATION PLAN. AS A PART OF ANY PLAN SO ADOPTED, A PUBLIC UTILITY COMPANY MAY PETITION THE COMMISSION FOR THE RETURN OF UP TO TWENTY PERCENT OF THE MONEY COLLECTED BY SUCH UTILITY AS A PART OF THE RENEWABLE PORTFOLIO STANDARD PROGRAM, AND SUCH MONIES WHEN RETURNED SHALL BE USED BY THE UTILITY TO DEVELOP ITS OWN RENEWABLE PORTFOLIO STANDARD COMPLIANT PROGRAMS FOR THE PURPOSE OF MEETING THE STATE'S ENERGY GOALS FOR RENEWABLE ENERGY DEVELOPMENT, HOWEVER UNDER NO CIRCUMSTANCE SHALL A UTILITY USE SUCH FUNDS TO CONSTRUCT, OWN OR OPERATE ITS OWN GENERATING SYSTEMS. ANY SUCH REMEDIATION PLAN MUST BE PROVIDED IN WRITING TO THE GOVERNOR, THE MEMBERS OF THE PUBLIC SERVICE COMMISSION, THE BOARD OF DIRECTORS OF THE AUTHORITY, THE TEMPORARY PRESIDENT OF THE SENATE, THE ASSEMBLY SPEAKER, THE CHAIRMAN OF THE SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE AND THE ASSEMBLY ENERGY COMMITTEE WITHIN SIXTY DAYS OF ITS ADOPTION.

(D) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SUBDIVISION, THE AUTHORITY SHALL JOIN, PARTICIPATE IN, AND COMPLY WITH THE ACTIVITIES AND PROCEDURES OF THE COUNCIL OF CONTRACTING AGENCIES ESTABLISHED BY EXECUTIVE ORDER NO. 125, DATED MAY 22, 1989, IN ORDER TO ENHANCE THE AVAILABILITY OF AND ACCESS TO INFORMATION RELEVANT TO THE DETERMINATIONS BY THE AUTHORITY RELATING TO THE RESPONSIBILITY AND RELIABILITY OF LOW BIDDERS FOR THE AWARD OF CONTRACTS.

S 4. This act shall take effect January 1, 2015.