

7067

I N S E N A T E

April 23, 2014

Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public authorities law, in relation to bi-annual construction audits

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

1 Section 1. Legislative intent. It is the intent of the legislature of
2 the state of New York to ensure that electric ratepayer funds are used
3 effectively by evaluating the completed work that has been funded by
4 ratepayer funds under programs overseen and operated by the New York
5 state energy research and development authority.

6 S 2. The public authorities law is amended by adding a new section
7 1874 to read as follows:

8 S 1874. BI-ANNUAL CONSTRUCTION AUDITS. 1. THE AUTHORITY SHALL AUDIT,
9 ON A BI-ANNUAL BASIS, NO LESS THAN TWENTY-FIVE PERCENT OF THE
10 CONSTRUCTION, RENOVATION, RETROFIT, RENEWABLE ENERGY, DISTRIBUTED GENER-
11 ATION, OR ENERGY EFFICIENCY PROJECTS WHICH WERE PERFORMED BY A PRIVATE
12 SECTOR CONTRACTOR AS UNDER A BENEFIT OR INCENTIVE PROGRAM WHICH IS OPER-
13 ATED BY THE AUTHORITY AND IS BACKED BY RATEPAYER FUNDS, FOR THE PURPOSE
14 OF DETERMINING WHETHER SUCH CONSTRUCTION PROJECTS ARE FUNCTIONING PROP-
15 ERLY. THE TYPE OF AUDIT WILL VARY ON A CASE-BY-CASE BASIS DEPENDING ON
16 WHICH AUTHORITY PROGRAM FUNDED THE PROJECT, THE TECHNOLOGY INVOLVED, AND
17 THE TYPE OF BENEFIT THE PROJECT IS SUPPOSED TO PROVIDE. BENEFIT AND
18 INCENTIVE PROGRAMS THAT ARE FUNDED USING RATEPAYER FUNDS INCLUDE BUT ARE
19 NOT LIMITED TO PROJECTS FUNDED BY THE RENEWABLE PORTFOLIO STANDARD
20 (RPS), THE SYSTEMS BENEFIT CHARGE (SBC), THE REGIONAL GREENHOUSE GAS
21 INITIATIVE (RGGI), AND THE ENERGY EFFICIENCY PORTFOLIO STANDARD (EEPS).

22 2. THE AUTHORITY SHALL BE REQUIRED TO ISSUE A REPORT CONTAINING ITS
23 FINDINGS NO LATER THAN SIX MONTHS AFTER IT COMPLETES AN AUDIT TO THE
24 TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE
25 CHAIR OF THE SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE, THE CHAIR
26 OF THE PUBLIC SERVICE COMMISSION, AND THE CHAIR OF THE ASSEMBLY ENERGY

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

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1 COMMITTEE. THE REPORT SHALL ALSO BE MADE AVAILABLE TO THE PUBLIC ON THE
2 AUTHORITY'S WEBSITE.

3 3. THE AUTHORITY SHALL DEVELOP A SCORING SYSTEM AND ASSIGN EACH
4 CONTRACTOR AUDITED A "SCORE" INDICATING THE RELATIVE PERFORMANCE OF
5 CONSTRUCTION WORK AS COMPARED TO ITS PURPOSE AT THE TIME OF
6 CONSTRUCTION. SUCH SCORE SHALL TAKE INTO ACCOUNT, AMONG OTHER CRITERIA
7 THAT THE AUTHORITY DEEMS RELEVANT; THE TECHNOLOGY INVOLVED AND THE TYPE
8 OF BENEFIT THE PROJECT IS SUPPOSED TO PROVIDE; THE AGE OF THE PROJECT;
9 WHETHER TECHNOLOGICAL ADVANCEMENTS ARE AVAILABLE TO IMPROVE THE
10 PROJECT'S PERFORMANCE AS IT RELATES TO ENERGY EFFICIENCY; WHETHER THE
11 PROJECT IS OPERATING SAFELY; WHETHER THE PROJECT PRESENTS A SAFETY
12 THREAT TO SUBSEQUENT OWNERS, OPERATORS, AND THIRD PARTIES; IF A STRUC-
13 TURE, THE STRUCTURAL INTEGRITY THEREOF; THE OVERALL FUNCTIONING OF THE
14 PROJECT; AND ANYTHING ELSE THAT THE AUTHORITY DEEMS NECESSARY AND APPRO-
15 PRIATE.

16 4. THE OWNERS OR OPERATORS OF EACH BUILDING, STRUCTURE, OR OTHER ENTI-
17 TY TO WHICH CONSTRUCTION OR RENOVATIONS WERE PERFORMED USING RATEPAYER
18 FUNDS IS HEREBY DIRECTED TO COOPERATE FULLY WITH THE AUDIT REQUIRED BY
19 THIS SECTION, AND TO PROVIDE ACCESS TO THE PREMISES UPON REASONABLE
20 NOTICE.

21 5. THE AUTHORITY SHALL CONSIDER THE RESULTS OF EACH AUDIT AND THE
22 RELATIVE PERFORMANCE OF EACH CONTRACTOR EXAMINED, AND SHALL USE SUCH
23 INFORMATION AS A DETERMINING FACTOR AS TO EACH CONTRACTOR'S CONTINUED
24 PARTICIPATION IN ANY RATEPAYER-FUNDED PROGRAM. IN PREPARING ITS REPORT,
25 THE AUTHORITY SHALL LIST ANY AND ALL CONTRACTORS WHO HAVE BEEN REMOVED
26 FROM ITS PROGRAM DUE TO SUB-STANDARD PERFORMANCE.

27 S 3. This act shall take effect January 1, 2015.