

2645

2013-2014 Regular Sessions

I N A S S E M B L Y

January 17, 2013

Introduced by M. of A. SIMOTAS, CAHILL -- read once and referred to the
Committee on Economic Development

AN ACT to amend the public service law, the economic development law and
the tax law, in relation to eligibility for admission to the excelsior
jobs program

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

1 Section 1. The closing paragraph of paragraph (b) of subdivision 4 of
2 section 165 of the public service law, as added by chapter 388 of the
3 laws of 2011, is amended to read as follows:
4 The applicant shall supply the details of the analysis in the applica-
5 tion and such supporting information, as may be requested by the board
6 or, in the exercise of federally delegated or approved environmental
7 permitting authority, the department of environmental conservation,
8 necessary to show compliance with the requirements of subparagraphs (i)
9 through (iv) of this paragraph. The board may extend the deadline in
10 extraordinary circumstances by no more than three months in order to
11 give consideration to specific issues necessary to develop an adequate
12 record. The board shall render a final decision on the application by
13 the aforementioned deadlines unless such deadlines are waived by the
14 applicant. If, at any time subsequent to the commencement of the hear-
15 ing, there is a material and substantial amendment to the application,
16 the deadlines may be extended by no more than three months, unless such
17 deadline is waived by the applicant, to consider such amendment. SHOULD
18 THE BOARD GRANT A CERTIFICATE OR AMENDMENT THEREOF FOR THE CONSTRUCTION
19 OR OPERATION OF A FACILITY OR IF THERE IS A PROPOSED FACILITY THAT HAD
20 BEEN GRANTED CERTIFICATION OR OTHER APPROVAL UNDER ANOTHER PROVISION OF
21 LAW PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, THE APPLICANT OR
22 PROPOSED FACILITY SHALL BE ELIGIBLE TO APPLY FOR ADMISSION TO THE
23 EXCELSIOR JOBS PROGRAM ESTABLISHED PURSUANT TO ARTICLE SEVENTEEN OF THE
24 ECONOMIC DEVELOPMENT LAW.

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

LBD02285-01-3

1 S 2. Subdivision 14 of section 352 of the economic development law, as
2 added by section 1 of part MM of chapter 59 of the laws of 2010, is
3 amended to read as follows:

4 14. "Regionally significant project" means (a) a manufacturer creating
5 at least fifty net new jobs in the state and making significant capital
6 investment in the state; (b) a business creating at least twenty net new
7 jobs in agriculture in the state and making significant capital invest-
8 ment in the state, (c) a financial services firm, distribution center,
9 or back office operation creating at least three hundred net new jobs in
10 the state and making significant capital investment in the state, [or]
11 (d) a scientific research and development firm creating at least twenty
12 net new jobs in the state, and making significant capital investment in
13 the state, OR (E) A MAJOR ELECTRIC GENERATING FACILITY AS DEFINED IN
14 SECTION ONE HUNDRED SIXTY OF THE PUBLIC SERVICE LAW THAT HAS BEEN GRANT-
15 ED A CERTIFICATE OR AMENDMENT THEREOF FOR THE CONSTRUCTION OR OPERATION
16 OF A FACILITY PURSUANT TO SUBDIVISION FOUR OF SECTION ONE HUNDRED
17 SIXTY-FIVE OF THE PUBLIC SERVICE LAW OR IF THERE IS A PROPOSED FACILITY
18 THAT HAD BEEN GRANTED CERTIFICATION OR OTHER APPROVAL UNDER ANOTHER
19 PROVISION OF LAW PRIOR TO THE EFFECTIVE DATE OF THIS SECTION. Other
20 businesses creating three hundred or more net new jobs in the state and
21 making significant capital investment in the state may be considered
22 eligible as a regionally significant project by the commissioner as
23 well. The commissioner shall promulgate regulations pursuant to section
24 three hundred fifty-six of this article to determine what constitutes
25 significant capital investment for each of the project categories indi-
26 cated in this subdivision and what additional criteria a business must
27 meet to be eligible as a regionally significant project, including, but
28 not limited to, whether a business exports a substantial portion of its
29 products or services outside of the state or outside of a metropolitan
30 statistical area or county within the state.

31 S 3. Subdivisions 1 and 5 of section 353 of the economic development
32 law, as amended by section 2 of part G of chapter 61 of the laws of
33 2011, are amended to read as follows:

34 1. To be a participant in the excelsior jobs program, a business enti-
35 ty shall operate in New York state predominantly:

36 (a) as a financial services data center or a financial services back
37 office operation;

38 (b) in manufacturing;

39 (c) in software development and new media;

40 (d) in scientific research and development;

41 (e) in agriculture;

42 (f) in the creation or expansion of back office operations in the
43 state;

44 (g) in a distribution center; [or]

45 (h) in an industry with significant potential for private-sector
46 economic growth and development in this state as established by the
47 commissioner in regulations promulgated pursuant to this article. In
48 promulgating such regulations the commissioner shall include job and
49 investment criteria; OR

50 (I) AS A MAJOR ELECTRIC GENERATING FACILITY AS DEFINED IN SECTION ONE
51 HUNDRED SIXTY OF THE PUBLIC SERVICE LAW THAT HAS BEEN GRANTED A CERTIF-
52 ICATE OR AMENDMENT THEREOF FOR THE CONSTRUCTION OR OPERATION OF A FACIL-
53 ITY PURSUANT TO SUBDIVISION FOUR OF SECTION ONE HUNDRED SIXTY-FIVE OF
54 THE PUBLIC SERVICE LAW OR IF THERE IS A PROPOSED FACILITY THAT HAD BEEN
55 GRANTED CERTIFICATION OR OTHER APPROVAL UNDER ANOTHER PROVISION OF LAW
56 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

1 5. A not-for-profit business entity, a business entity whose primary
2 function is the provision of services including personal services, busi-
3 ness services, or the provision of utilities, and a business entity
4 engaged predominantly in the retail or entertainment industry, and a
5 company engaged in the generation or distribution of electricity, the
6 distribution of natural gas, or the production of steam associated with
7 the generation of electricity, EXCEPT A MAJOR ELECTRIC GENERATING FACIL-
8 ITY AS DEFINED IN SECTION ONE HUNDRED SIXTY OF THE PUBLIC SERVICE LAW
9 THAT HAS BEEN GRANTED A CERTIFICATE OR AMENDMENT THEREOF FOR THE
10 CONSTRUCTION OR OPERATION OF A FACILITY PURSUANT TO SUBDIVISION FOUR OF
11 SECTION ONE HUNDRED SIXTY-FIVE OF THE PUBLIC SERVICE LAW OR IF THERE IS
12 A PROPOSED FACILITY THAT HAD BEEN GRANTED CERTIFICATION OR OTHER
13 APPROVAL UNDER ANOTHER PROVISION OF LAW PRIOR TO THE EFFECTIVE DATE OF
14 THIS SECTION, are not eligible to receive the tax credit described in
15 this article.

16 S 4. Subdivision (a) of section 31 of the tax law, as amended by
17 section 7 of part G of chapter 61 of the laws of 2011, is amended to
18 read as follows:

19 (a) General. A taxpayer subject to tax under section one hundred
20 eighty-five, article nine-A, twenty-two, thirty-two or thirty-three of
21 this chapter, OR A TAXPAYER SUBJECT TO SECTION ONE HUNDRED EIGHTY-SIX-A
22 OF THIS CHAPTER WHO IS A MAJOR ELECTRIC GENERATING FACILITY AS DEFINED
23 IN SECTION ONE HUNDRED SIXTY OF THE PUBLIC SERVICE LAW, THAT HAS BEEN
24 GRANTED A CERTIFICATE OR AMENDMENT THEREOF FOR THE CONSTRUCTION OR OPER-
25 ATION OF A FACILITY PURSUANT TO SUBDIVISION FOUR OF SECTION ONE HUNDRED
26 SIXTY-FIVE OF THE PUBLIC SERVICE LAW OR IF THERE IS A PROPOSED FACILITY
27 THAT HAD BEEN GRANTED CERTIFICATION OR OTHER APPROVAL UNDER ANOTHER
28 PROVISION OF LAW PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, shall be
29 allowed a credit against such tax, pursuant to the provisions referenced
30 in subdivision (g) of this section. The amount of the credit, allowable
31 for up to ten consecutive taxable years, is the sum of the following
32 four credit components:

- 33 (1) the excelsior jobs tax credit component;
34 (2) the excelsior investment tax credit component;
35 (3) the excelsior research and development tax credit component; and
36 (4) the excelsior real property tax credit component.

37 S 5. Subdivision (a) of section 187-q of the tax law, as added by
38 section 9 of part G of chapter 61 of the laws of 2011, is amended to
39 read as follows:

40 (a) Allowance of credit. A taxpayer will be allowed a credit, to be
41 computed as provided in section thirty-one of this chapter, against the
42 tax imposed by section one hundred eighty-five of this article OR
43 SECTION ONE HUNDRED HUNDRED EIGHTY-SIX-A OF THIS ARTICLE AND THE TAXPAY-
44 ER IS A MAJOR ELECTRIC GENERATING FACILITY AS DEFINED IN SECTION ONE
45 HUNDRED SIXTY OF THE PUBLIC SERVICE LAW THAT HAS BEEN GRANTED A CERTIF-
46 ICATE OR AMENDMENT THEREOF FOR THE CONSTRUCTION OR OPERATION OF A FACIL-
47 ITY PURSUANT TO SUBDIVISION FOUR OF SECTION ONE HUNDRED SIXTY-FIVE OF
48 THE PUBLIC SERVICE LAW OR IF THERE IS A PROPOSED FACILITY THAT HAD BEEN
49 GRANTED CERTIFICATION OR OTHER APPROVAL UNDER ANOTHER PROVISION OF LAW
50 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

51 S 6. This act shall take effect immediately.