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

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2013-2014 Regular Sessions

I N A S S E M B L Y

April 12, 2013

Introduced by M. of A. SANTABARBARA, OTIS -- read once and referred to the Committee on Small Business -- reported and referred to the Committee on Ways and Means -- reported and referred to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- ordered to a third reading -- committed to the Committee on Small Business -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the economic development law and the public service law, in relation to small business energy assistance and advocacy services

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

Section 1. The legislature hereby finds and declares that rising energy costs present a significant barrier to the economic viability of New York's small businesses, a crucial sector of the state's economy. Small businesses can least afford the time and cost associated with seeking opportunities to conserve energy, utilize energy efficient products and processes and gain access to renewable sources of energy. The viability of small businesses and the overall economic and environmental status of New York state will be enhanced by the development, expansion and promotion of accessible and affordable programs to assist small businesses in energy conservation, energy efficiency, and increased use of renewable resources, and by ensuring equitable treatment of small businesses in the proceedings of energy-related regulatory agencies.

The legislature hereby establishes a small business energy assistance and advocacy services program as part of the division for small business within the New York state department of economic development to assist small businesses in accessing energy conservation, energy efficiency and renewable energy programs available through public and private sources, and to advocate for the initiation and expansion of such programs and

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

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for equitable treatment of small businesses in regulatory proceedings related to energy.

S 2. The economic development law is amended by adding a new section 138-a to read as follows:

S 138-A. SMALL BUSINESS ENERGY ASSISTANCE AND ADVOCACY SERVICES PROGRAM. 1. THERE IS HEREBY ESTABLISHED WITHIN THE DIVISION A SMALL BUSINESS ENERGY ASSISTANCE AND ADVOCACY SERVICES PROGRAM.

2. THE SMALL BUSINESS ENERGY ASSISTANCE AND ADVOCACY SERVICES PROGRAM, DIRECTLY AND IN CONJUNCTION WITH OTHER DIVISIONS OF THE DEPARTMENT AND WITH OTHER AGENCIES OF THE STATE, FEDERAL AGENCIES OR LOCAL GOVERNMENTS, SHALL:

A. SOLICIT INPUT FROM SMALL BUSINESSES AND FROM ORGANIZATIONS REPRESENTING SMALL BUSINESSES, SUCH AS TRADE ASSOCIATIONS OR OTHER ENTITIES, REGARDING THE ENERGY ASSISTANCE NEEDS OF SMALL BUSINESSES;

B. WITH SUCH INPUT AND THE ASSISTANCE OF THE SMALL BUSINESS ADVISORY BOARD AND OTHER APPROPRIATE STATE AGENCIES, IDENTIFY ISSUES RELATING TO ENERGY AVAILABILITY, AFFORDABILITY AND SUSTAINABILITY AFFECTING SMALL BUSINESSES AND ASSIST THE ADVISORY BOARD AND THE DIVISION IN MAKING RECOMMENDATIONS FOR LEGISLATIVE, REGULATORY AND PROGRAMMATIC ACTIONS TO ADDRESS SUCH ISSUES;

C. COORDINATE WITH ENTITIES INCLUDING THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, THE POWER AUTHORITY OF THE STATE OF NEW YORK AND OTHER APPROPRIATE PUBLIC UTILITY AUTHORITIES ESTABLISHED PURSUANT TO ARTICLE FIVE OF THE PUBLIC AUTHORITIES LAW, THE PUBLIC SERVICE COMMISSION, INVESTOR-OWNED UTILITIES AND OTHER APPROPRIATE ENTITIES TO FACILITATE AND PROMOTE THE PARTICIPATION OF SMALL BUSINESSES AND ASSOCIATIONS REPRESENTING SMALL BUSINESSES IN THE DEVELOPMENT AND IMPLEMENTATION OF ENERGY ASSISTANCE PROGRAMS;

D. PROVIDE GUIDANCE AND RECOMMENDATIONS TO THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, THE POWER AUTHORITY OF THE STATE OF NEW YORK AND OTHER PUBLIC UTILITY AUTHORITIES ESTABLISHED PURSUANT TO ARTICLE FIVE OF THE PUBLIC AUTHORITIES LAW, THE PUBLIC SERVICE COMMISSION, INVESTOR-OWNED UTILITIES AND OTHER ENTITIES REGARDING THE DEVELOPMENT AND IMPLEMENTATION OF ENERGY ASSISTANCE PROGRAMS AND ON THE IMPACT OF STATE ENERGY POLICY ON SMALL BUSINESSES;

E. PROVIDE TO SMALL BUSINESSES INFORMATION AND MATERIALS ON ENERGY ASSISTANCE PROGRAMS, COOPERATIVE FUEL PURCHASING EFFORTS AND OTHER PROGRAMS TO MAINTAIN THE AFFORDABILITY OF ENERGY, AND PROVIDE ACCESS TO SUCH INFORMATION AND MATERIALS ON THE DEPARTMENT'S WEBSITE; AND

F. REFER SMALL BUSINESSES TO SPECIALISTS FOR INFORMATION AND ASSISTANCE ON AFFORDABLE ALTERNATIVE TECHNOLOGIES, PROCESS CHANGES, PRODUCTS AND OPERATIONAL METHODS TO ACHIEVE ENERGY SAVINGS.

3. A. THE SMALL BUSINESS ENERGY ASSISTANCE AND ADVOCACY SERVICES PROGRAM SHALL REPRESENT THE INTERESTS OF SMALL BUSINESSES BEFORE THE PUBLIC SERVICE COMMISSION PURSUANT TO SECTION TWENTY-FOUR-C, SEVENTY-ONE OR EIGHTY-FOUR OF THE PUBLIC SERVICE LAW, AND SHALL BE AUTHORIZED TO INITIATE, INTERVENE IN OR PARTICIPATE IN ANY PROCEEDINGS BEFORE THE PUBLIC SERVICE COMMISSION AND IN ANY OTHER SUCH ENERGY-RELATED PROCEEDINGS AS THE DIVISION DEEMS TO BE NECESSARY OR APPROPRIATE.

B. THE SMALL BUSINESS ENERGY ASSISTANCE AND ADVOCACY SERVICES PROGRAM SHALL ADVOCATE BEFORE THE PUBLIC SERVICE COMMISSION AND OTHER STATE AND FEDERAL REGULATORY AGENCIES FOR THE ADOPTION OF APPROPRIATE REGULATIONS PROVIDING FOR EQUITABLE TREATMENT OF SMALL BUSINESSES IN ENERGY-RELATED POLICIES, INCLUDING BUT NOT LIMITED TO EXTENDING REASONABLE CONSUMER PROTECTIONS TO SMALL BUSINESSES IN ENERGY-RELATED MATTERS.

S 3. The public service law is amended by adding a new section 24-c to read as follows:

S 24-C. NOTICE TO BE GIVEN TO DIVISION PRIOR TO RATE INCREASE. 1. NOTWITHSTANDING ANY INCONSISTENT GENERAL, SPECIAL OR LOCAL LAW OR RULE OR REGULATION TO THE CONTRARY, THE COMMISSION SHALL TO THE EXTENT THE DIVISION SHALL SO REQUEST IN ANY CASES OR CLASS OF CASES, GIVE NOTICE TO THE DIVISION OF ANY FILED STATEMENT PROPOSING TO MODIFY OR INCREASE RATES, SERVICES, SCHEDULE OF RATES OR ANY OTHER RATING RULE OR TO ADOPT OR AMEND ANY RATE OR SERVICE RULES OR REGULATIONS WITHIN FIVE DAYS AFTER THE COMMISSION SHALL HAVE RECEIVED SUCH STATEMENT FROM ANY UTILITY SUBJECT TO ITS JURISDICTION; PROVIDED, HOWEVER, THAT IN LIEU OF GIVING SUCH NOTICE, THE COMMISSION MAY DIRECT THAT THE UTILITY GIVE SUCH NOTICE TO THE DIVISION. THE COMMISSION SHALL DIRECTLY NOTIFY THE DIVISION OF ANY SUCH CASE THAT IS NOT INITIATED BY A UTILITY.

2. IN ANY SUCH CASE IN WHICH THE DIVISION SHALL FILE WITH THE COMMISSION A STATEMENT OF INTENT TO BE A PARTY, THE DIVISION SHALL HAVE AND IN ITS DISCRETION MAY EXERCISE ALL THE RIGHTS AND PRIVILEGES OF A PARTY.

3. FOR THE PURPOSES OF THIS SECTION, THE TERM "DIVISION" SHALL MEAN THE DIVISION FOR SMALL BUSINESS ESTABLISHED BY ARTICLE FOUR-B OF THE ECONOMIC DEVELOPMENT LAW, AND THE TERM "COMMISSION" SHALL MEAN THE PUBLIC SERVICE COMMISSION.

S 4. Section 71 of the public service law, as amended by chapter 521 of the laws of 2013, is amended to read as follows:

S 71. Complaints as to quality and price of gas and electricity; investigation by commission; forms of complaints. Upon the complaint in writing of the mayor of a city, the trustees of a village, the town board of a town or the chief executive officer or the legislative body of a county in which a person or corporation is authorized to manufacture, convey, transport, sell or supply gas or electricity for heat, light or power, or upon the complaint in writing of not less than twenty-five customers or purchasers of such gas or electricity, or upon the complaint in writing of the department of state OR THE DIVISION FOR SMALL BUSINESS, or upon a complaint of a gas corporation or electrical corporation supplying or transmitting said gas or electricity, as to the illuminating or heating power, purity or pressure or the rates, charges or classifications of service of gas, the efficiency of the electric incandescent lamp supply, the voltage of the current supplied for light, heat or power, or the rates charged or classification of service of electricity sold and delivered in such municipality, or as to the extent or duration of a disruption in gas or electricity service, the commission shall investigate as to the cause for such complaint. When such complaint is made, the commission may, by its agents, examiners and inspectors, inspect the works, system, plant, devices, appliances and methods used by such person or corporation in manufacturing, transmitting and supplying such gas or electricity, and may examine or cause to be examined the books and papers of such person, or corporation pertaining to the manufacture, sale, transmitting and supplying of such gas or electricity. The form and contents of complaints made as provided in this section shall be prescribed by the commission. Such complaints shall be signed by the officers, or by the customers, purchasers or subscribers making them, who must add to their signatures their places of residence, by street and number, if any. The commission shall publish the form and instructions for completing the form on the commission's website.

S 5. Section 84 of the public service law, as amended by section 49 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

S 84. Complaints as to service and price of steam heat; investigation by commission; forms of complaints. Upon the complaint in writing of the mayor of the city, the trustees of a village or the town board of a town in which a person or corporation is authorized to manufacture, sell or supply steam for heat or power, or upon the complaint in writing of not less than fifty customers or purchasers of such steam heat in cities of the first or second class, or of not less than twenty-five in cities of the third class, or of not less than ten elsewhere, or upon the complaint in writing of the department of state OR THE DIVISION FOR SMALL BUSINESS, as to the price, pressure or efficiency of steam supplied for heat or power, sold and delivered in such municipality, the commission shall investigate as to the cause for such complaint. When such complaint is made, the commission may, by its agents, examiners and inspectors, inspect the work, system, plant, devices, appliances and methods used by such person or corporation in manufacturing, transmitting and supplying such steam, and may examine or cause to be examined the books and papers of such person or corporation pertaining to the manufacture, sale, transmitting and supplying of such steam. The form and contents of complaints made as provided in this section shall be prescribed by the commission. Such complaint shall be signed by the officers, or by the customers, purchasers or subscribers making them, who must add to their signatures their place of residence, by street and number, if any.

S 6. This act shall take effect September 1, 2015. Effective immediately the department of economic development and the public service commission shall be authorized to take any and all actions necessary to fully implement the provisions of this act on such effective date.