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

1340

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

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

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The closing paragraph of paragraph (b) of subdivision 4 of section 165 of the public service law, as added by chapter 388 of the laws of 2011, is amended to read as follows:

The applicant shall supply the details of the analysis in the application and such supporting information, as may be requested by the board or, in the exercise of federally delegated or approved environmental permitting authority, the department of environmental conservation, necessary to show compliance with the requirements of subparagraphs (i) through (iv) of this paragraph. The board may extend the deadline in extraordinary circumstances by no more than three months in order to give consideration to specific issues necessary to develop an adequate record. The board shall render a final decision on the application by the aforementioned deadlines unless such deadlines are waived by the applicant. If, at any time subsequent to the commencement of the hearing, there is a material and substantial amendment to the application, the deadlines may be extended by no more than three months, unless such deadline is waived by the applicant, to consider such amendment. SHOULD THE BOARD GRANT A CERTIFICATE OR AMENDMENT THEREOF FOR THE CONSTRUCTION OR OPERATION OF A FACILITY OR IF THERE IS A PROPOSED FACILITY THAT HAD BEEN GRANTED CERTIFICATION OR OTHER APPROVAL UNDER ANOTHER PROVISION OF LAW PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, THE APPLICANT OR PROPOSED FACILITY SHALL BE ELIGIBLE TO APPLY FOR ADMISSION TO THE

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

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EXCELSIOR JOBS PROGRAM ESTABLISHED PURSUANT TO ARTICLE SEVENTEEN OF THE ECONOMIC DEVELOPMENT LAW.

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

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

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

1. To be a participant in the excelsior jobs program, a business entity shall operate in New York state predominantly:

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

(b) in manufacturing;

(c) in software development and new media;

(d) in scientific research and development;

(e) in agriculture;

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

(g) in a distribution center; [or]

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

(I) AS A MAJOR ELECTRIC GENERATING FACILITY AS DEFINED IN SECTION ONE HUNDRED SIXTY OF THE PUBLIC SERVICE LAW THAT HAS BEEN GRANTED A CERTIFICATE OR AMENDMENT THEREOF FOR THE CONSTRUCTION OR OPERATION OF A FACILITY PURSUANT TO SUBDIVISION FOUR OF SECTION ONE HUNDRED SIXTY-FIVE OF THE PUBLIC SERVICE LAW OR IF THERE IS A PROPOSED FACILITY THAT HAD BEEN

GRANTED CERTIFICATION OR OTHER APPROVAL UNDER ANOTHER PROVISION OF LAW PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

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

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

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

(1) the excelsior jobs tax credit component;

(2) the excelsior investment tax credit component;

(3) the excelsior research and development tax credit component; and

(4) the excelsior real property tax credit component.

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

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

S 6. This act shall take effect immediately.