

6499--A

Cal. No. 187

I N   S E N A T E

January 30, 2014

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Introduced by Sens. MAZIARZ, RITCHIE, GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public service law, the public authorities law, and the environmental conservation law, in relation to biomass-fired electric generating facilities subject to the regional greenhouse gas initiative and the CO2 budget trading program

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

1     Section 1. Legislative intent. The legislature hereby finds and  
2 declares that it is in the economic and environmental interests of the  
3 citizens of the state of New York to support and encourage renewable  
4 energy generation through the conversion of coal-fired electric generat-  
5 ing facilities to biomass-fired facilities. The combustion of biomass  
6 offers a sustainable and manageable carbon lifecycle since the materials  
7 included in biomass generally absorb atmospheric carbon during their  
8 lifecycle and then return it to the atmosphere during combustion. This  
9 process mimics the natural lifecycle of plant life that can fall to the  
10 forest floor, decompose and return its carbon to the atmosphere.  
11     The legislature further finds and declares that biomass production  
12 facilities support and sustain jobs, particularly in upstate New York,  
13 where more than four thousand people are employed directly or indirectly  
14 by the industry. In fact, many of the largest and most successful biom-  
15 ass facilities are located in parts of New York state that have high  
16 unemployment and are in desperate need of economic development. New York  
17 state also possesses an abundance of biomass fuel due to the large  
18 amount of untapped forest and agricultural land where biomass fuel can  
19 be collected. Biomass is the equivalent of solar energy stored in organ-  
20 ic matter and is environmentally friendly while costing around one third  
21 of the cost of fossil fuels.

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

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1 As such, to the extent that operators of electric generating facili-  
2 ties in New York state are willing to convert formerly coal-fired facil-  
3 ities (boilers, combustion turbines, or combined cycle systems) to  
4 instead be fueled by biomass, state policy should encourage and support  
5 such conversions rather than discourage them. While new biomass-fired  
6 electric generating facilities are not required to acquire CO2 allow-  
7 ances under the regulations implementing the Regional Greenhouse Gas  
8 Initiative (RGGI) in New York state, former coal-fired facilities that  
9 convert to combusting biomass are still subject to RGGI's requirements  
10 under existing regulations, which effectively discourages such conver-  
11 sions. To remedy this situation, and consistent with the intent of RGGI  
12 to encourage more renewable energy generation, the legislature declares  
13 that formerly coal-fired electric generating facilities that convert to  
14 primarily biomass-fired facilities shall be treated in the same manner  
15 as a new biomass facility under the RGGI regulations.

16 S 2. The public service law is amended by adding a new section 73 to  
17 read as follows:

18 S 73. COOPERATION WITH THE NEW YORK STATE ENERGY RESEARCH AND DEVELOP-  
19 MENT AUTHORITY AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION. THE  
20 DEPARTMENT SHALL COOPERATE WITH THE NEW YORK STATE ENERGY RESEARCH AND  
21 DEVELOPMENT AUTHORITY AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
22 IN THE IMPLEMENTATION OF SUBDIVISION FOUR OF SECTION 19-0312 OF THE  
23 ENVIRONMENTAL CONSERVATION LAW RELATING TO ELECTRIC GENERATING FACILI-  
24 TIES THAT ARE SUBJECT TO THE CO2 BUDGET TRADING PROGRAM (6 NYCRR PART  
25 242) ESTABLISHED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION IN  
26 CONNECTION WITH THE REGIONAL GREENHOUSE GAS INITIATIVE.

27 S 3. Section 1854 of the public authorities law is amended by adding a  
28 new subdivision 22 to read as follows:

29 22. COOPERATION WITH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND  
30 THE DEPARTMENT OF PUBLIC SERVICE. THE AUTHORITY SHALL COOPERATE WITH THE  
31 DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE DEPARTMENT OF PUBLIC  
32 SERVICE IN THE IMPLEMENTATION OF SUBDIVISION FOUR OF SECTION 19-0312 OF  
33 THE ENVIRONMENTAL CONSERVATION LAW RELATING TO ELECTRIC GENERATING  
34 FACILITIES THAT ARE SUBJECT TO THE CO2 BUDGET TRADING PROGRAM (6 NYCRR  
35 PART 242) ESTABLISHED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION IN  
36 CONNECTION WITH THE REGIONAL GREENHOUSE GAS INITIATIVE.

37 S 4. Section 19-0312 of the environmental conservation law is amended  
38 by adding a new subdivision 4 to read as follows:

39 4. NOTWITHSTANDING ANY LAW, RULE, REGULATION OR POLICY TO THE CONTRA-  
40 RY, AN ELECTRIC GENERATING FACILITY INCLUDING ANY BOILER, COMBUSTION  
41 TURBINE OR COMBINATION CYCLE SYSTEM, THAT A. WAS FORMERLY FOSSIL  
42 FUEL-FIRED DUE TO THE USE OF COAL AS ITS PRIMARY FUEL,

43 B. IS NO LONGER AUTHORIZED TO COMBUST COAL UNDER ITS AIR TITLE V  
44 FACILITY PERMIT ISSUED BY THE DEPARTMENT PURSUANT TO 6 NYCRR SUBPART  
45 201-6,

46 C. USES FOREST RESIDUES AND/OR MILL RESIDUES FOR MORE THAN FIFTY  
47 PERCENT OF ITS ANNUAL HEAT INPUT, AND

48 D. USES FOSSIL FUEL FOR LESS THAN FIVE PERCENT OF ITS ANNUAL HEAT  
49 INPUT, SHALL NOT BE DEFINED AS FOSSIL FUEL-FIRED UNDER THE CO2 BUDGET  
50 TRADING PROGRAM (6 NYCRR PART 242). FOR THE PURPOSES OF THIS SUBDIVI-  
51 SION:

52 "BOILER", "COMBUSTION TURBINE", "COMBINED CYCLE SYSTEM" AND "FOSSIL  
53 FUEL" SHALL HAVE THE SAME MEANINGS AS ASCRIBED TO SUCH TERMS IN 6 NYCRR  
54 S 242-1.2.

55 S 5. This act shall take effect on the ninetieth day after it shall  
56 have become a law and shall apply to all control periods commencing on

1 or after January 1, 2012; provided however, that effective immediately  
2 the department of environmental conservation is authorized and directed  
3 to amend, revise and/or repeal any rule, regulation or policy necessary  
4 for the implementation of this act on or before such effective date.