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I N   S E N A T E

April 23, 2014

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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.