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

7067

I N S E N A T E

April 23, 2014

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:

Section 1. Legislative intent. It is the intent of the legislature of the state of New York to ensure that electric ratepayer funds are used effectively by evaluating the completed work that has been funded by ratepayer funds under programs overseen and operated by the New York state energy research and development authority.

S 2. The public authorities law is amended by adding a new section 1874 to read as follows:

S 1874. BI-ANNUAL CONSTRUCTION AUDITS. 1. THE AUTHORITY SHALL AUDIT, ON A BI-ANNUAL BASIS, NO LESS THAN TWENTY-FIVE PERCENT OF THE CONSTRUCTION, RENOVATION, RETROFIT, RENEWABLE ENERGY, DISTRIBUTED GENERATION, OR ENERGY EFFICIENCY PROJECTS WHICH WERE PERFORMED BY A PRIVATE SECTOR CONTRACTOR AS UNDER A BENEFIT OR INCENTIVE PROGRAM WHICH IS OPERATED BY THE AUTHORITY AND IS BACKED BY RATEPAYER FUNDS, FOR THE PURPOSE OF DETERMINING WHETHER SUCH CONSTRUCTION PROJECTS ARE FUNCTIONING PROPERLY. THE TYPE OF AUDIT WILL VARY ON A CASE-BY-CASE BASIS DEPENDING ON WHICH AUTHORITY PROGRAM FUNDED THE PROJECT, THE TECHNOLOGY INVOLVED, AND THE TYPE OF BENEFIT THE PROJECT IS SUPPOSED TO PROVIDE. BENEFIT AND INCENTIVE PROGRAMS THAT ARE FUNDED USING RATEPAYER FUNDS INCLUDE BUT ARE NOT LIMITED TO PROJECTS FUNDED BY THE RENEWABLE PORTFOLIO STANDARD (RPS), THE SYSTEMS BENEFIT CHARGE (SBC), THE REGIONAL GREENHOUSE GAS INITIATIVE (RGGI), AND THE ENERGY EFFICIENCY PORTFOLIO STANDARD (EEPS).

2. THE AUTHORITY SHALL BE REQUIRED TO ISSUE A REPORT CONTAINING ITS FINDINGS NO LATER THAN SIX MONTHS AFTER IT COMPLETES AN AUDIT TO THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE, THE CHAIR 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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COMMITTEE. THE REPORT SHALL ALSO BE MADE AVAILABLE TO THE PUBLIC ON THE AUTHORITY'S WEBSITE.

3. THE AUTHORITY SHALL DEVELOP A SCORING SYSTEM AND ASSIGN EACH CONTRACTOR AUDITED A "SCORE" INDICATING THE RELATIVE PERFORMANCE OF CONSTRUCTION WORK AS COMPARED TO ITS PURPOSE AT THE TIME OF CONSTRUCTION. SUCH SCORE SHALL TAKE INTO ACCOUNT, AMONG OTHER CRITERIA THAT THE AUTHORITY DEEMS RELEVANT; THE TECHNOLOGY INVOLVED AND THE TYPE OF BENEFIT THE PROJECT IS SUPPOSED TO PROVIDE; THE AGE OF THE PROJECT; WHETHER TECHNOLOGICAL ADVANCEMENTS ARE AVAILABLE TO IMPROVE THE PROJECT'S PERFORMANCE AS IT RELATES TO ENERGY EFFICIENCY; WHETHER THE PROJECT IS OPERATING SAFELY; WHETHER THE PROJECT PRESENTS A SAFETY THREAT TO SUBSEQUENT OWNERS, OPERATORS, AND THIRD PARTIES; IF A STRUCTURE, THE STRUCTURAL INTEGRITY THEREOF; THE OVERALL FUNCTIONING OF THE PROJECT; AND ANYTHING ELSE THAT THE AUTHORITY DEEMS NECESSARY AND APPROPRIATE.

4. THE OWNERS OR OPERATORS OF EACH BUILDING, STRUCTURE, OR OTHER ENTITY TO WHICH CONSTRUCTION OR RENOVATIONS WERE PERFORMED USING RATEPAYER FUNDS IS HEREBY DIRECTED TO COOPERATE FULLY WITH THE AUDIT REQUIRED BY THIS SECTION, AND TO PROVIDE ACCESS TO THE PREMISES UPON REASONABLE NOTICE.

5. THE AUTHORITY SHALL CONSIDER THE RESULTS OF EACH AUDIT AND THE RELATIVE PERFORMANCE OF EACH CONTRACTOR EXAMINED, AND SHALL USE SUCH INFORMATION AS A DETERMINING FACTOR AS TO EACH CONTRACTOR'S CONTINUED PARTICIPATION IN ANY RATEPAYER-FUNDED PROGRAM. IN PREPARING ITS REPORT, THE AUTHORITY SHALL LIST ANY AND ALL CONTRACTORS WHO HAVE BEEN REMOVED FROM ITS PROGRAM DUE TO SUB-STANDARD PERFORMANCE.

S 3. This act shall take effect January 1, 2015.