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

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I N S E N A T E

February 10, 2016

Introduced by Sens. DeFRANCISCO, CROCI, FUNKE, GALLIVAN, GRIFFO, MURPHY, O'MARA, RANZENHOFER, SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law and the public authorities law, in relation to oversight by the New York state public authorities control board

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

Section 1. The public service law is amended by adding a new section 5-a to read as follows:

S 5-A. OVERSIGHT BY THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE COMMISSION SHALL APPLY TO, AND OBTAIN THE APPROVAL OF, THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD CREATED PURSUANT TO ARTICLE ONE-A OF THE PUBLIC AUTHORITIES LAW PRIOR TO TAKING ANY OF THE FOLLOWING ACTIONS:

(A) AN INCREASE IN RATES, CHARGES, SURCHARGES, ASSESSMENTS, FEES, LEVIES, OR ANY OTHER COLLECTIONS, WHICH WOULD INCREASE REVENUES OBTAINED FROM RATEPAYERS BY MORE THAN SEVEN HUNDRED THOUSAND DOLLARS AND WHICH REVENUES ARE COLLECTED SOLELY FOR AND DIRECTED TO THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AND WOULD BE EFFECTUATED THROUGH A SINGLE ORDER, DECISION, OR ADMINISTRATIVE ACTION OR THROUGH A SERIES OF SUCH ACTIVITIES; OR

(B) A TRANSFER, REPURPOSING, REPROGRAMMING, OR ANY OTHER ACTION THAT WOULD CHANGE THE USE OF MONEY DIRECTED TO THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY PREVIOUSLY DESIGNATED OR INTENDED FOR A DIFFERENT PURPOSE.

2. EACH SUCH APPLICATION BY THE COMMISSION TO THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD SHALL CONTAIN A DESCRIPTION OF ANY SUCH

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

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ACTION SET FORTH IN SUBDIVISION ONE OF THIS SECTION AND AN EXPLANATION OF WHY THE ACTION IS JUST AND REASONABLE AND IN THE PUBLIC INTEREST.

3. THE COMMISSION SHALL CONDUCT A FULL COST-BENEFIT ANALYSIS, INCLUDING PUBLIC COMMENT AND HEARINGS, AS TO THE IMPACT OF ANY SUCH ACTION AND PROVIDE A COPY OF THE ANALYSIS WITH ITS APPLICATION TO THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD.

S 2. Section 1854 of the public authorities law is amended by adding a new subdivision 22 to read as follows:

22. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY SHALL APPLY TO, AND OBTAIN THE APPROVAL OF, THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD CREATED PURSUANT TO ARTICLE ONE-A OF THIS CHAPTER PRIOR TO UNDERTAKING ANY TRANSFER, REPURPOSING, REPROGRAMMING, OR ANY OTHER ACTION THAT WOULD CHANGE THE USE OF MONEY PREVIOUSLY DESIGNATED OR INTENDED FOR A DIFFERENT PURPOSE. EACH SUCH APPLICATION BY THE AUTHORITY SHALL CONTAIN A DESCRIPTION OF ANY SUCH ACTION SET FORTH IN THIS SUBDIVISION AND AN EXPLANATION OF WHY THE ACTION IS JUST AND REASONABLE AND IN THE PUBLIC INTEREST. THE AUTHORITY SHALL CONDUCT A FULL COST-BENEFIT ANALYSIS, INCLUDING PUBLIC COMMENT AND HEARINGS, AS TO THE IMPACT OF ANY SUCH ACTION AND PROVIDE A COPY OF THE ANALYSIS WITH ITS APPLICATION TO THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD.

S 3. Subdivision 1 of section 51 of the public authorities law, as added by chapter 838 of the laws of 1983, paragraph k as added by chapter 506 of the laws of 1995, paragraph 1 as added by chapter 468 of the laws of 2004, paragraph m as added by section 10 of part E of chapter 494 of the laws of 2009, and paragraph n as added by chapter 533 of the laws of 2010, is amended to read as follows:

1. The New York state public authorities control board shall have the power and it shall be its duty to receive applications for approval of:

A. the financing and construction of any project; OR

B. AN INCREASE IN RATES, CHARGES, SURCHARGES, ASSESSMENTS, FEES, LEVIES, OR ANY OTHER COLLECTIONS, WHICH WOULD INCREASE REVENUES OBTAINED FROM RATEPAYERS OR TAXPAYERS BY MORE THAN SEVEN HUNDRED THOUSAND DOLLARS AND WHICH REVENUES ARE COLLECTED SOLELY FOR AND DIRECTED TO THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AND WOULD BE EFFECTUATED THROUGH A SINGLE ORDER, DECISION, OR ADMINISTRATIVE ACTION OR THROUGH A SERIES OF SUCH ACTIVITIES; OR

C. A TRANSFER, REPURPOSING, REPROGRAMMING, OR ANY OTHER ACTION THAT WOULD CHANGE THE USE OF MONEY DIRECTED TO THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY PREVIOUSLY DESIGNATED OR INTENDED FOR A DIFFERENT PURPOSE.

1-A. SUCH APPLICATIONS WOULD BE THOSE THAT MAY BE proposed by any of the following state public benefit corporations OR ENTITIES:

a. New York state environmental facilities corporation
b. New York state housing finance agency
c. New York state medical care facilities finance agency
d. Dormitory authority
e. New York state urban development corporation
f. Job development authority
g. Battery park city authority
h. New York state project finance agency
i. State of New York mortgage agency
j. New York state energy research and development authority
k. Long Island Power Authority
l. Albany Convention Center Authority

m. State of New York Municipal Bond Bank Agency for bonds issued pursuant to section two thousand four hundred thirty-six-b of this chapter

n. North Country Power Authority

O. PUBLIC SERVICE COMMISSION

Any application made concerning a project shall include the terms, conditions and dates of the repayment of state appropriations authorized by law pursuant to a repayment agreement. Any subsidiary of, or corporation with the same members or directors as, a public benefit corporation subject to the provisions of this section shall also be subject to the provisions of this section. All applications and submissions to the board required to be made by a subsidiary shall be made on behalf of such subsidiary by the public benefit corporation which created the subsidiary.

1-B. No public benefit corporation subject to the provisions of this section shall make any commitment, enter into any agreement or incur any indebtedness for the purpose of acquiring, constructing, or financing any project unless prior approval has been received from the board by such public benefit corporation as provided herein.

S 4. Subdivision 3 of section 51 of the public authorities law, as added by chapter 838 of the laws of 1983, is amended to read as follows:

3. The board may approve applications only upon its determination that[,]:

A. with relation to any proposed project, there are commitments of funds sufficient to finance the acquisition and construction of such project; OR

B. A FULL COST-BENEFIT ANALYSIS, INCLUDING PUBLIC COMMENT AND HEARINGS, HAS BEEN CONDUCTED AS TO THE IMPACT OF ANY OF THE FOLLOWING ACTIVITIES THAT ARE SUBJECT TO ITS JURISDICTION PURSUANT TO THIS SECTION:

(1) AN INCREASE IN RATES, CHARGES, SURCHARGES, ASSESSMENTS, FEES, LEVIES, OR ANY OTHER COLLECTIONS; OR

(2) A TRANSFER, REPURPOSING, REPROGRAMMING, OR ANY OTHER ACTION THAT WOULD CHANGE THE USE OF MONEY PREVIOUSLY DESIGNATED OR INTENDED FOR A DIFFERENT PURPOSE; AND

C. THAT SUCH COST-BENEFIT ANALYSIS SHOWS THAT THE ACTIONS DESCRIBED IN PARAGRAPH B OF THIS SUBDIVISION ARE JUST, REASONABLE, AND IN THE PUBLIC INTEREST. In determining the sufficiency of commitments of funds, the board may consider commitments of funds, projections of fees or other revenues and security, which may, in the discretion of the board, include collateral security sufficient to retire a proposed indebtedness or protect or indemnify against potential liabilities proposed to be undertaken. A copy of such determination shall be submitted to the chief executive officer of the appropriate public benefit corporation OR OTHER ENTITY SUBJECT TO THE BOARD'S JURISDICTION and SUBMITTED TO the state comptroller.

S 5. This act shall take effect immediately.