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I N   S E N A T E

February 10, 2016

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Introduced by Sen. DeFRANCISCO -- 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

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:

1     Section 1. The public service law is amended by adding a new section  
2     5-a to read as follows:

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

9     (A) AN INCREASE IN RATES, CHARGES, SURCHARGES, ASSESSMENTS, FEES,  
10     LEVIES, OR ANY OTHER COLLECTIONS, WHICH WOULD INCREASE REVENUES OBTAINED  
11     FROM RATEPAYERS BY MORE THAN SEVEN HUNDRED THOUSAND DOLLARS AND WHICH  
12     WOULD BE EFFECTUATED THROUGH A SINGLE ORDER, DECISION, OR ADMINISTRATIVE  
13     ACTION OR THROUGH A SERIES OF SUCH ACTIVITIES; OR

14     (B) A TRANSFER, REPURPOSING, REPROGRAMMING, OR ANY OTHER ACTION THAT  
15     WOULD CHANGE THE USE OF MONEY PREVIOUSLY DESIGNATED OR INTENDED FOR A  
16     DIFFERENT PURPOSE.

17     2. EACH SUCH APPLICATION BY THE COMMISSION TO THE NEW YORK STATE  
18     PUBLIC AUTHORITIES CONTROL BOARD SHALL CONTAIN A DESCRIPTION OF ANY SUCH  
19     ACTION SET FORTH IN SUBDIVISION ONE OF THIS SECTION AND AN EXPLANATION  
20     OF WHY THE ACTION IS JUST AND REASONABLE AND IN THE PUBLIC INTEREST.

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

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

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

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

15 S 3. Subdivision 1 of section 51 of the public authorities law, as  
16 added by chapter 838 of the laws of 1983, paragraph k as added by chap-  
17 ter 506 of the laws of 1995, paragraph 1 as added by chapter 468 of the  
18 laws of 2004, paragraph m as added by section 10 of part E of chapter  
19 494 of the laws of 2009, and paragraph n as added by chapter 533 of the  
20 laws of 2010, is amended to read as follows:

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

23 A. the financing and construction of any project; OR

24 B. AN INCREASE IN RATES, CHARGES, SURCHARGES, ASSESSMENTS, FEES,  
25 LEVIES, OR ANY OTHER COLLECTIONS, WHICH WOULD INCREASE REVENUES OBTAINED  
26 FROM RATEPAYERS OR TAXPAYERS BY MORE THAN SEVEN HUNDRED THOUSAND DOLLARS  
27 AND WHICH WOULD BE EFFECTUATED THROUGH A SINGLE ORDER, DECISION, OR  
28 ADMINISTRATIVE ACTION OR THROUGH A SERIES OF SUCH ACTIVITIES; OR

29 C. A TRANSFER, REPURPOSING, REPROGRAMMING, OR ANY OTHER ACTION THAT  
30 WOULD CHANGE THE USE OF MONEY PREVIOUSLY DESIGNATED OR INTENDED FOR A  
31 DIFFERENT PURPOSE.

32 1-A. SUCH APPLICATIONS WOULD BE THOSE THAT MAY BE proposed by any of  
33 the following state public benefit corporations OR ENTITIES:

34 a. New York state environmental facilities corporation

35 b. New York state housing finance agency

36 c. New York state medical care facilities finance agency

37 d. Dormitory authority

38 e. New York state urban development corporation

39 f. Job development authority

40 g. Battery park city authority

41 h. New York state project finance agency

42 i. State of New York mortgage agency

43 j. New York state energy research and development authority

44 k. Long Island Power Authority

45 l. Albany Convention Center Authority

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

49 n. North Country Power Authority

50 O. PUBLIC SERVICE COMMISSION

51 Any application made concerning a project shall include the terms,  
52 conditions and dates of the repayment of state appropriations authorized  
53 by law pursuant to a repayment agreement. Any subsidiary of, or corpo-  
54 ration with the same members or directors as, a public benefit corpo-  
55 ration subject to the provisions of this section shall also be subject  
56 to the provisions of this section. All applications and submissions to

1 the board required to be made by a subsidiary shall be made on behalf of  
2 such subsidiary by the public benefit corporation which created the  
3 subsidiary.

4 1-B. No public benefit corporation subject to the provisions of this  
5 section shall make any commitment, enter into any agreement or incur any  
6 indebtedness for the purpose of acquiring, constructing, or financing  
7 any project unless prior approval has been received from the board by  
8 such public benefit corporation as provided herein.

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

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

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

16 B. A FULL COST-BENEFIT ANALYSIS, INCLUDING PUBLIC COMMENT AND HEAR-  
17 INGS, HAS BEEN CONDUCTED AS TO THE IMPACT OF ANY OF THE FOLLOWING ACTIV-  
18 ITIES THAT ARE SUBJECT TO ITS JURISDICTION PURSUANT TO THIS SECTION:

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

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

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

35 S 5. This act shall take effect immediately.