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I N   S E N A T E

February 10, 2016

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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:

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     REVENUES ARE COLLECTED SOLELY FOR AND DIRECTED TO THE NEW YORK STATE  
13     ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AND WOULD BE EFFECTUATED  
14     THROUGH A SINGLE ORDER, DECISION, OR ADMINISTRATIVE ACTION OR THROUGH A  
15     SERIES OF SUCH ACTIVITIES; OR

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

20     2. EACH SUCH APPLICATION BY THE COMMISSION TO THE NEW YORK STATE  
21     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.

LBD14054-03-6

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

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

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

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

21 S 3. Subdivision 1 of section 51 of the public authorities law, as  
22 added by chapter 838 of the laws of 1983, paragraph k as added by chap-  
23 ter 506 of the laws of 1995, paragraph 1 as added by chapter 468 of the  
24 laws of 2004, paragraph m as added by section 10 of part E of chapter  
25 494 of the laws of 2009, and paragraph n as added by chapter 533 of the  
26 laws of 2010, is amended to read as follows:

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

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

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

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

41 1-A. SUCH APPLICATIONS WOULD BE THOSE THAT MAY BE proposed by any of  
42 the following state public benefit corporations OR ENTITIES:

43 a. New York state environmental facilities corporation

44 b. New York state housing finance agency

45 c. New York state medical care facilities finance agency

46 d. Dormitory authority

47 e. New York state urban development corporation

48 f. Job development authority

49 g. Battery park city authority

50 h. New York state project finance agency

51 i. State of New York mortgage agency

52 j. New York state energy research and development authority

53 k. Long Island Power Authority

54 l. Albany Convention Center Authority

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

4 n. North Country Power Authority

5 O. PUBLIC SERVICE COMMISSION

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

15 1-B. No public benefit corporation subject to the provisions of this  
16 section shall make any commitment, enter into any agreement or incur any  
17 indebtedness for the purpose of acquiring, constructing, or financing  
18 any project unless prior approval has been received from the board by  
19 such public benefit corporation as provided herein.

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

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

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

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

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

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

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

46 S 5. This act shall take effect immediately.