

# STATE OF NEW YORK

1327

2017-2018 Regular Sessions

## IN SENATE

January 9, 2017

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law and the environmental conservation law, in relation to establishing the state diesel emissions reduction revolving loan fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public authorities law is amended by adding a new  
2 section 1285-s to read as follows:

3 § 1285-s. Diesel emissions reduction program. 1. The corporation is  
4 authorized to undertake a program to provide financial assistance to  
5 state agencies and eligible recipients to encourage and support the  
6 purchase of new and retrofitting of existing heavy duty vehicles in  
7 accordance with the provisions of this section.

8 2. As used in this section, the following terms have the following  
9 meanings:

10 (a) "Best available retrofit technology" shall have the same meaning  
11 as such term is defined in section 19-0323 of the environmental conser-  
12 vation law and regulations promulgated thereunder.

13 (b) "Commissioner" shall mean the commissioner of environmental  
14 conservation.

15 (c) "Eligible project" shall mean a project for the purchase and  
16 installation of best available retrofit technology for heavy duty vehi-  
17 cles, including the retrofit of vehicles required pursuant to section  
18 19-0323 of the environmental conservation law, and nonroad vehicles as  
19 defined by 42 USC section 7550.

20 (d) "Eligible recipient" shall mean any person, municipality or state  
21 agency subject to section 19-0323 of the environmental conservation law  
22 and any person, municipality or state agency that is an eligible entity

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

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1 pursuant to the Energy Policy Act of 2005 Diesel Emissions Reduction  
2 Program.

3 (e) "Heavy duty vehicle" or "vehicle" shall have the same meaning as  
4 such term is defined in section 19-0323 of the environmental conserva-  
5 tion law.

6 (f) "Retrofit" shall mean the addition of new or enhanced pollution  
7 control after treatment equipment to diesel engines, upgrading a diesel  
8 engine to a cleaner configuration, and early replacement of older  
9 engines with newer cleaner engines.

10 3. (a) There is hereby established in the custody of the corporation a  
11 fund to be known as the diesel emissions reduction revolving fund.  
12 Moneys in the diesel emissions reduction revolving fund shall be segre-  
13 gated from all other funds of or in the custody of the corporation  
14 subject to any rights of holders of corporation bonds or notes issued  
15 for the purposes of this section. Moneys in the diesel emissions  
16 reduction revolving fund shall only be used in accordance with the  
17 provisions of this section provided, however, that an amount of up to  
18 four percent of the fund may be utilized annually by the corporation to  
19 pay for costs of administering the fund.

20 (b) The fund shall consist of the following:

21 (i) notwithstanding any law to the contrary, up to four million  
22 dollars from state fiscal year nineteen hundred ninety-seven--ninety-  
23 eight appropriations, or subsequent reappropriation for such project  
24 pursuant to section 56-0603 of the environmental conservation law, up to  
25 four million dollars from state fiscal year nineteen hundred ninety-sev-  
26 en--ninety-eight appropriations, or subsequent reappropriation for such  
27 project pursuant to section 56-0605 of the environmental conservation  
28 law, up to two million dollars from the state fiscal year nineteen  
29 hundred ninety-seven--ninety-eight appropriations, or subsequent reap-  
30 propriation for such project pursuant to section 56-0607 of the environ-  
31 mental conservation law;

32 (ii) all moneys appropriated for the payment of the costs of diesel  
33 emissions reduction activities and equipment pursuant to section one of  
34 chapter fifty-five of the laws of two thousand seven, as reappropriated  
35 by chapter fifty-five of the laws of two thousand nine, and as may be  
36 subsequently reappropriated;

37 (iii) all moneys appropriated by the state legislature for the purpose  
38 of the diesel emissions reduction revolving fund or otherwise trans-  
39 ferred by the state for deposit therein by the comptroller as required  
40 by law;

41 (iv) payments of principal and interest made by eligible recipients  
42 pursuant to loan or other agreements entered into pursuant to subdivi-  
43 sion six of this section; provided, however, if such loans were financed  
44 by the issuance of bonds or notes of the corporation, deposit of such  
45 payments into the fund shall be subject to the rights of the holders of  
46 such bonds or notes to receive such monies;

47 (v) investment earnings on amounts in the fund;

48 (vi) any other payments received from recipients pursuant to a loan or  
49 other agreement made pursuant to subdivision six of this section for  
50 costs of managing and administering the program; and

51 (vii) the proceeds of bonds or notes issued by the corporation for  
52 purposes of providing financial assistance to eligible recipients.

53 (c) Additionally, the following sources may be deposited into the  
54 fund, subject to appropriation or transfer:

55 (i) all or a portion of moneys paid to the state pursuant to any  
56 future reauthorization, reappropriation, extension or expansion of the

1 federal Diesel Emission Reduction Act or adoption of any federal act of  
2 substantially similar purpose;

3 (ii) all or a portion of moneys paid to the state pursuant to  
4 subsection three of State and Tribal Assistance Grants included in Title  
5 VII of the American Recovery and Reinvestment Act of 2009; and

6 (iii) any other moneys paid to the state for deposit in the fund.

7 4. Moneys in the diesel emissions reduction revolving fund may be  
8 invested as provided in subdivision four of section twelve hundred  
9 eighty-four and subdivision six of section twelve hundred eighty-five-j  
10 of this title.

11 5. Moneys of the fund shall be available only for distribution to  
12 eligible projects pursuant to this section that are approved in consul-  
13 tation with the department of environmental conservation. The department  
14 of environmental conservation shall, in consultation with the corpo-  
15 ration, develop guidance for selection of eligible projects, which shall  
16 establish eligibility criteria for distribution of moneys contained in  
17 the fund consistent with the provisions of this section. Subject to any  
18 applicable federal requirements, priority shall be given to those  
19 projects that will utilize best available retrofit technology and:

20 (a) are subject to the requirements of section 19-0323 of the environ-  
21 mental conservation law;

22 (b) maximize public health benefits;

23 (c) provide the most cost-effective expenditure of funds, including  
24 reductions in diesel emissions per dollar expended; and

25 (d) serve areas in New York that are:

26 (i) in nonattainment of the National Ambient Air Quality primary stan-  
27 dards established for particulate matter or ozone;

28 (ii) environmental justice areas as designated by the department of  
29 environmental conservation; or

30 (iii) impacted by higher levels of vehicle traffic; or industrial and  
31 commercial areas including but not limited to ports, airports, truck  
32 stops, rail yards, terminals and distribution centers.

33 6. Moneys in the fund shall be applied by the corporation to provide  
34 financial assistance to eligible recipients for eligible projects and to  
35 provide for the administrative and management costs of the program. As  
36 used in this section "financial assistance to eligible recipients" means  
37 any one or more of the following:

38 (a) making loans to eligible recipients for eligible projects,  
39 provided such loans (i) are made at market or below market rates, (ii)  
40 do not have a final maturity of more than the period of probable useful-  
41 ness as set forth in the local finance law, and (iii) have principal and  
42 interest payments which commence not later than one year after installa-  
43 tion of the eligible project;

44 (b) buying or refinancing debt obligations of eligible recipients at  
45 market or below market rates;

46 (c) guarantying, or purchasing insurance or other credit enhancement  
47 for eligible recipient obligations where such action would improve cred-  
48 it market access for or reduce interest rates on such eligible recipient  
49 obligations;

50 (d) providing a source of revenue or security for payment of principal  
51 and interest on bonds or notes issued by the corporation if the proceeds  
52 of the sale of such bonds or notes will be deposited in the fund;

53 (e) providing interest rate subsidy allocations to subsidize loans to  
54 eligible recipients made from the proceeds of the corporation's bonds or  
55 notes;

56 (f) providing grants and principal forgiveness;

1 (g) using investment earnings on moneys in the fund to pay, pursuant  
2 to subdivision seven of this section, the costs of the corporation and  
3 the department of environmental conservation of administering and manag-  
4 ing the program described in this section.

5 7. Notwithstanding any provisions of law to the contrary, the corpo-  
6 ration shall distribute moneys contained in the fund as follows:

7 (a) until March thirty-first, two thousand sixteen, twenty percent of  
8 the fund shall be used to provide grants to state agencies for the  
9 retrofitting of vehicles subject to section 19-0323 of the environmental  
10 conservation law; and

11 (b) the remainder of the fund shall be used to provide financial  
12 assistance to eligible recipients for eligible projects that meet the  
13 goal of emissions reduction in accordance with the provisions of this  
14 section and in accordance with any applicable federal requirements.

15 8. Eligible recipients may submit applications to the corporation in  
16 such manner as the corporation directs. All applications shall include,  
17 at a minimum, the following information:

18 (a) Any information required to demonstrate eligibility to receive  
19 federal assistance under any federal program listed in subdivision three  
20 of this section;

21 (b) Calculation of the extent to which installation of the proposed  
22 project will reduce diesel emissions;

23 (c) The air quality designation of the area in which vehicles proposed  
24 to be retrofitted or replaced operate;

25 (d) Extent to which the proposed project meets the priority criteria  
26 of subdivisions four and five of this section; and

27 (e) Any other information that the corporation requires.

28 9. The corporation, in consultation with the department of environ-  
29 mental conservation, is authorized to:

30 (a) consult with any other state agency or public authority which the  
31 corporation deems appropriate in the development of the diesel retrofit  
32 emissions reduction program developed pursuant to this section; and

33 (b) prepare, in consultation with such agencies and authorities, and  
34 make available to the public, diesel emissions reduction program manuals  
35 and brochures for the purpose of ensuring that the standards and crite-  
36 ria applicable to the program are available to persons who may wish to  
37 participate in the program, to facilitate the goals of the program.

38 10. In addition to the powers granted to the corporation elsewhere in  
39 this chapter, the corporation may make loans to eligible recipients for  
40 purposes of financing eligible projects for which the fund may be used,  
41 subject to the limitations of subdivision seven of this section, may  
42 accept the obligations of any municipality as security for the repayment  
43 of a loan to an eligible recipient, and may assign and pledge such  
44 eligible recipient obligations and loan agreements for the benefit of  
45 the holder of obligations of the corporation from the proceeds of which  
46 such loans are made. Loan proceeds may be disbursed to an eligible  
47 recipient in accordance with such restrictions as may be imposed by the  
48 corporation in connection with such loan or obligations of the corpo-  
49 ration from the proceeds of which such loan is made. In the event a  
50 municipality shall fail to make any payment due the corporation pursuant  
51 to any loan agreement, financing agreement, or other obligation of the  
52 municipality sold to the corporation or issued as security for the  
53 undertaking of the municipality thereunder, the corporation shall certi-  
54 fy to the comptroller, and notify the chairman of the senate finance  
55 committee, the chairman of the assembly ways and means committee, the  
56 director of the division of the budget and the governing body of the

1 municipality that such municipality has failed to make such payment.  
2 Such certificate shall be in such form as may be determined by the  
3 corporation provided such certificate shall specify the exact amount of  
4 debt service and surcharge, if applicable, required to satisfy such  
5 municipality's unpaid obligation. The comptroller, upon receipt of such  
6 certificate from the corporation, is authorized to and shall, to the  
7 extent not otherwise prohibited by law and subject to any other  
8 provision of law providing for withholding of payments to the munici-  
9 pality which take precedence over this subdivision, withhold from such  
10 municipality the next succeeding payments of state aid or local assist-  
11 ance otherwise payable to it to the extent necessary to meet the certi-  
12 fied amount of debt service and surcharge, if applicable, due the corpo-  
13 ration and shall immediately pay over to the corporation as a debt  
14 service payment on behalf of such municipality the amount so withheld.

15 11. No later than January thirty-first of each calendar year, the  
16 corporation shall submit to the governor, the legislature and the comp-  
17 troller a detailed report of expenditures of the fund. Such report  
18 shall include at a minimum:

19 (a) An accounting of moneys paid into the fund from statutory sources;  
20 (b) An accounting of moneys expended for purposes of administering the  
21 fund;

22 (c) An accounting of all moneys paid out of the fund to eligible  
23 projects, arranged by project, statutory priority level and area of the  
24 state;

25 (d) An estimation of the amount of diesel emissions reduced by the  
26 installation of eligible projects financed by the fund; and

27 (e) Any discernable or estimated public health benefit brought about  
28 by these diesel emissions reductions.

29 § 2. Section 56-0603 of the environmental conservation law, as added  
30 by chapter 413 of the laws of 1996, is amended to read as follows:

31 § 56-0603. State clean-fueled vehicle projects.

32 1. The office of general services is authorized, consistent with the  
33 strategy developed pursuant to subdivision three of section two hundred  
34 one-a of the executive law, to conduct a project to acquire clean-fueled  
35 vehicles ~~[and to develop and acquire the associated infrastructure~~  
36 ~~including depot construction]~~, and the New York state environmental  
37 facilities corporation is authorized, consistent with section twelve  
38 hundred eighty-five-s of the public authorities law, to distribute  
39 monies for the retrofitting of heavy duty diesel engine vehicles.

40 2. For the purposes of this section, the term "clean-fueled vehicle"  
41 shall mean any motor vehicle as defined in section one hundred twenty-  
42 five of the vehicle and traffic law, that uses electricity, including  
43 electricity generated from solar energy, either stored or generated  
44 on-board, as its primary motive force, or that is fueled by compressed  
45 natural gas, propane, methanol, hydrogen or ethanol.

46 § 3. Subdivision 1 of section 56-0605 of the environmental conserva-  
47 tion law, as added by chapter 413 of the laws of 1996, is amended to  
48 read as follows:

49 1. The New York state energy research and development authority in  
50 cooperation with the department of transportation or the New York state  
51 environmental facilities corporation is authorized to make state assist-  
52 ance payments to "clean-fueled buses projects" and is authorized,  
53 consistent with section twelve hundred eighty-five-s of the public  
54 authorities law, to distribute monies for the retrofitting of heavy duty  
55 diesel engine vehicles.

1     § 4. Section 56-0607 of the environmental conservation law, as added  
2 by chapter 413 of the laws of 1996, is amended to read as follows:

3     § 56-0607. Other air quality projects.

4     Of monies received by the state from the sale of bonds pursuant to the  
5 Clean Water/Clean Air Bond Act of 1996, up to twenty million dollars  
6 (\$20,000,000) shall be available for disbursements for air quality  
7 projects pursuant to this section.

8     The commissioner is authorized in consultation with other state agen-  
9 cies as may be necessary, to make state assistance payments or to enter  
10 into contracts in the name of the state for projects that will enhance  
11 the quality of the state's environment and the state's air quality,  
12 including cooperation with the New York state environmental facilities  
13 corporation, to distribute monies for the retrofitting of heavy duty  
14 diesel engine vehicles, consistent with section twelve hundred eighty-  
15 five-s of the public authorities law.

16     § 5. This act shall take effect immediately.