

# STATE OF NEW YORK

6709--A

Cal. No. 1265

2017-2018 Regular Sessions

## IN SENATE

June 14, 2017

Introduced by Sen. RITCHIE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT in relation to enacting the "biomass fired exception program" addressing the applicability of a CO2 budget trading program to biomass-fired electric generating facilities that have converted from coal-fired generation

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "biomass fired exception program".  
3 § 2. Legislative intent. The legislature hereby finds and declares  
4 that it is in the economic and environmental interests of the citizens  
5 of the state of New York to support and encourage renewable energy  
6 generation through the conversion of coal-fired electric generating  
7 facilities to biomass-fired facilities. The combustion of biomass offers  
8 a sustainable and manageable carbon lifecycle since the materials  
9 included in biomass generally absorb atmospheric carbon during their  
10 lifecycle and then return it to the atmosphere during combustion. This  
11 process mimics the natural lifecycle of plant life that can fall to the  
12 forest floor, decompose and return its carbon to the atmosphere.  
13 The legislature further finds and declares that biomass production  
14 facilities support and sustain jobs, particularly in upstate New York,  
15 where more than four thousand people are employed directly or indirectly  
16 by the industry. In fact, many of the largest and most successful biom-  
17 ass facilities are located in parts of New York state that have high  
18 unemployment and are in desperate need of economic development. New York  
19 state also possesses an abundance of biomass fuel due to the large

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

LBD11966-06-8

1 amount of untapped forest and agricultural land where biomass fuel can  
2 be collected. Biomass is the equivalent of solar energy stored in organ-  
3 ic matter and is environmentally friendly while costing around one third  
4 of the cost of fossil fuels.

5 As such, to the extent that operators of electric generating facili-  
6 ties in New York state are willing to convert formerly coal-fired facil-  
7 ities (boilers, combustion turbines, or combined cycle systems) to  
8 instead be fueled by biomass, state policy should encourage and support  
9 such conversions rather than discourage them. While new biomass-fired  
10 electric generating facilities are not required to acquire CO2 allow-  
11 ances under the regulations implementing the Regional Greenhouse Gas  
12 Initiative (RGGI) in New York state, former coal-fired facilities that  
13 convert to combusting biomass are still subject to RGGI's requirements  
14 under existing regulations, which effectively discourages such conver-  
15 sions. To remedy this situation, and consistent with the intent of RGGI  
16 to encourage more renewable energy generation, the legislature declares  
17 that formerly coal-fired electric generating facilities that convert to  
18 primarily biomass-fired facilities shall be treated in the same manner  
19 as a new biomass facility under the RGGI regulations.

20 § 3. Definitions. For the purposes of this act "boiler", "combustion  
21 turbine", "combined cycle system", "eligible biomass" and "fossil fuel"  
22 shall have the same meanings as defined in 6 NYCRR Part 242-1.2.

23 § 4. The commissioner of environmental conservation shall promulgate  
24 rules and regulations necessary to regard formerly coal-fired electric  
25 generating facilities that convert to primarily biomass-fired facilities  
26 in the same manner as a new biomass facility under the regional green-  
27 house gas initiative regulations. Such rules and regulations shall also  
28 provide that an electric generating facility, including any boiler,  
29 combustion turbine or combination cycle steam turbine, that meets the  
30 following conditions shall not be defined as fossil fuel-fired under the  
31 CO2 budget trading program (6 NYCRR Part 242):

32 (a) was formerly fossil fuel-fired due to the use of coal as its  
33 primary fuel,

34 (b) is no longer authorized to combust coal under its air title V  
35 facility permit issued by the department pursuant to 6 NYCRR subpart  
36 201-6,

37 (c) uses eligible biomass comprising not less than 75 percent of its  
38 annual fuel purchases, as measured by weight,

39 (d) uses fossil fuel for less than 5 percent of its annual heat input,  
40 and

41 (e) is located within a military installation.

42 § 5. This act shall take effect on the ninetieth day after it shall  
43 have become a law and shall apply to all control periods commencing with  
44 the control period that ended on December 31, 2017; provided however,  
45 that effective immediately the department of environmental conservation  
46 is authorized and directed to amend, revise and/or repeal any rule,  
47 regulation or policy necessary for the implementation of this act on or  
48 before such effective date.