STATE OF NEW YORK

9038

IN SENATE

June 14, 2018

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public service law, the labor law and the public health law, in relation to the protection of the health, safety and employment rights of employees suffering employment loss as the result of the sale or closure of coal electric plants

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

Section 1. Short title. This act shall be known and may be cited as the "coal electric plant closing workers' protection act".

§ 2. The public service law is amended by adding a new section 28 to read as follows:

§ 28. Coal electric plants; closure or sale plan. 1. Not less than eighteen months prior to the closure or sale of a coal electric plant, the electric corporation owning, operating or managing such plant shall submit to the department a plan detailing the process for the closure or sale of the coal electric plant. Such plan shall include (a) details and specifics on the electric corporation's plan to comply with article twenty-five-A of the labor law as they apply to coal electric plants, and (b) a workforce retention component which shall utilize the existing labor force during the closure and decommissioning period. The workforce retention component shall include provisions that any construction work which may be performed during the closure and decommissioning period, shall be performed pursuant to a project labor agreement, as defined in section two hundred twenty-two of the labor law, entered into with a bona fide building and construction trades labor organization having jurisdiction over the scope of work to be performed. In addition, every plan submitted pursuant to this section shall be in such form and contain such information as the department shall determine to be necessary and proper. For purposes of this section, "construction work" shall include, but not be limited to, any demolition, reconstruction, excavation, rehabilitation, repair, installation, renovation or alteration, which is customarily performed by a building and construction trades organization.

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

LBD16219-02-8

2. No coal electric plant shall be closed or sold unless:

(a) the plan submitted pursuant to subdivision one of this section, or an amended version of such plan as may be required by the department, shall have been approved by the department;

(b) after the approval of such plan pursuant to paragraph (a) of this subdivision, the affected employees shall have been provided notice of employment loss, as required by section eight hundred sixty-b of the labor law, not less than one year prior to such closure or sale;

(c) the plan approved pursuant to paragraph (a) of this subdivision is included as a material term of every contract and plan relating to the closure or sale of the electric plant; and

(d) the department has granted its approval of every contract or plan providing for the sale or closure of the electric plant.

3. Upon a finding of the department that an electric corporation violated any provision of this section, or that any person has violated the provisions of a plan approved pursuant to this section, all contracts and plans relating to the closure or sale of the coal electric plant by the electric corporation shall be deemed null and void, and such corporation or person, after notice and hearing, may be liable for a civil fine of not less than five million dollars to be imposed by the department.

§ 3. Section 860-a of the labor law is amended by adding two new subdivisions 1-a and 1-b to read as follows:

1-a. "Electric corporation" shall have the same meaning as provided in subdivision thirteen of section two of the public service law.

1-b. "Electric plant" shall have the same meaning as provided in subdivision twelve of section two of the public service law.

§ 4. Section 860-b of the labor law is amended by adding a new subdivision 1-a to read as follows:

1-a. Notwithstanding the provisions of subdivision one of this section, in the case of an employer that is an electric corporation owning, operating or maintaining a coal electric plant, such employer shall not order a mass layoff, relocation or employment loss until its plan to implement the provisions of this article shall have been approved by the department of public service pursuant to section twenty-eight of the public service law, and thereafter, at least one year before the order takes effect, such employer gives written notice of the order to the following:

(a) affected employees and the representatives of the affected employees;

(b) the department; and

(c) the local workforce investment boards established pursuant to the federal Workforce Investment Act (P.L. 105-220) for the locality in which the mass layoff, relocation or employment loss will occur.

§ 5. Subdivision 3 of section 860-b of the labor law, as added by chapter 475 of the laws of 2008, is amended to read as follows:

3. Notwithstanding the requirements of subdivision one or one-a of this section, an employer is not required to provide notice if a mass layoff, relocation, or employment loss is necessitated by a physical calamity or an act of terrorism or war.

§ 6. The opening paragraph of subdivision 1 of section 860-g of the labor law, as added by chapter 475 of the laws of 2008, is amended to read as follows:

An employer who fails to give notice as required by paragraph (a) of subdivision one or paragraph (a) of subdivision one-a of section eight hundred sixty-b of this article before ordering a mass layoff, relo-

cation, or employment loss is liable to each employee entitled to notice who lost his or her employment for:

§ 7. Section 860-h of the labor law is amended by adding a new subdivision 5 to read as follows:

5. Notwithstanding any other provision of this section to the contrary, if an employer that is an electric corporation owning, operating or maintaining a coal electric plant violates any provision of this article, such corporation, after notice and hearing, may be liable for a civil fine of not less than five million dollars to be imposed by the department.

§ 8. The labor law is amended by adding a new section 860-j to read as follows:

§ 860-j. Employment loss at a coal electric plant. 1. The electric corporation owning, operating or maintaining a coal electric plant at which there will be a mass layoff, relocation or employment loss, shall within ten days of providing notice thereof pursuant to subdivision one-a of section eight hundred sixty-b of this article shall cause to be conducted and completed an extensive health screening, in accordance with the regulations of the commissioner of health, of all employees, contractors and subcontractors working at such plant. Such health screening shall include general health screening, and screening for diseases and conditions related to employment in a coal electric plant.

2. Each electric corporation owning, operating or maintaining a coal electric plant at which there will be a mass layoff, relocation or employment loss shall establish and operate employment retraining programs for all employees, contractors and subcontractors who are affected by an employment loss. Such programs shall be conducted, subject to the supervision of the department, during the one-year notice period provided for in subdivision one-a of section eight hundred sixty-b of this article. Furthermore, training shall be provided to acquire any necessary skills and certifications for employment by any entity which is engaged in the closure or decommissioning of the coal electric plant. Training shall also be provided to train employees on skills necessary for employment at biomass and natural gas electric plants. Every person who completes training pursuant to this subdivision shall be granted an employee preference.

§ 9. Subdivision 1 of section 206 of the public health law is amended by adding a new paragraph (w) to read as follows:

(w) by rule and regulation, establish standards and guidelines for the extensive health screenings of persons working in coal electric plants, required by subdivision one of section eight hundred sixty-j of the labor law.

§ 10. The New York state energy research development authority shall finance the employment retraining programs required pursuant to section 860-j of the labor law through any funds such authority maintains, including but not limited to, the market development portfolio of the clean energy fund. Provided, however, such authority shall not increase or collect additional fees, rentals, penalties or other charges authorized and in existence prior to the effective date of this act for the financing of such programs.

§ 11. This act shall take effect immediately.