STATE OF NEW YORK

980

2019-2020 Regular Sessions

IN ASSEMBLY

January 14, 2019

Introduced by M. of A. L. ROSENTHAL, LIFTON, MOSLEY, COLTON, CARROLL -- read once and referred to the Committee on Environmental Conservation

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:

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

§ 1285-v. Diesel emissions reduction program. 1. The corporation is authorized to undertake a program to provide financial assistance to state agencies and eligible recipients to encourage and support the purchase of new and retrofitting of existing heavy duty vehicles in accordance with the provisions of this section. This program shall be known as the diesel emissions reduction program and hereafter shall be known as "the program".

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

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

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

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

(d) "Eligible recipient" shall mean any person, municipality or state agency subject to section 19-0323 of the environmental conservation law 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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pursuant to the Energy Policy Act of 2005 Diesel Emissions Reduction Program.

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

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

(g) "Financial assistance to eligible recipients" means any one or more of the following:

(i) making loans to eligible recipients for eligible projects, provided such loans (A) are made at market or below market rates, (B) do not have a final maturity of more than the period of probable usefulness as set forth in the local finance law, and (C) have principal and interest payments which commence not later than one year after installation of the eligible project;

(ii) buying or refinancing debt obligations of eligible recipients at market or below market rates;

(iii) guarantying, or purchasing insurance or other credit enhancement for eligible recipient obligations where such action would improve credit market access for or reduce interest rates on such eligible recipient obligations;

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

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

(vi) providing grants and principal forgiveness;

(vii) using investment earnings on moneys in the fund to pay, pursuant to subdivision seven of this section, the costs of the corporation and the department of environmental conservation of administering and managing the program described in this section.

3. (a) There is hereby established in the custody of the corporation a fund to be known as the state diesel emissions reduction revolving loan fund (hereafter known as "the fund"). Moneys in the state diesel emissions reduction revolving loan fund shall be segregated from all other funds of or in the custody of the corporation subject to any rights of holders of corporation bonds or notes issued for the purposes of this section. Moneys in the state diesel emissions reduction revolving loan fund shall only be used in accordance with the provisions of this section provided, however, that an amount of up to four percent of the fund may be utilized annually by the corporation to pay for costs of administering the fund.

(b) The fund shall consist of the following:

(i) notwithstanding any law to the contrary, up to four million dollars from state fiscal year nineteen hundred ninety-seven--ninety-eight appropriations, or subsequent reappropriation for such project pursuant to section 56-0603 of the environmental conservation law, up to four million dollars from state fiscal year nineteen hundred ninety-seven--ninety-eight appropriations, or subsequent reappropriation for such project pursuant to section 56-0605 of the environmental conservation law, up to two million dollars from the state fiscal year nineteen hundred ninety-seven--ninety-eight appropriations, or subsequent reap-

propriation for such project pursuant to section 56-0607 of the environmental conservation law;

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

(iii) all moneys appropriated by the state legislature for the purpose of the state diesel emissions reduction revolving loan fund or otherwise transferred by the state for deposit therein by the comptroller as required by law;

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

(v) investment earnings on amounts in the fund;

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

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

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

(i) all or a portion of moneys paid to the state pursuant to any future reauthorization, reappropriation, extension or expansion of the federal Diesel Emission Reduction Act or adoption of any federal act of substantially similar purpose;

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

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

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

5. Moneys of the fund shall be available only for distribution to eligible projects pursuant to this section that are approved in consultation with the department of environmental conservation. The department of environmental conservation shall, in consultation with the corporation, develop guidance for selection of eligible projects, which shall establish eligibility criteria for distribution of moneys contained in the fund consistent with the provisions of this section. Subject to any applicable federal requirements, priority shall be given to those projects that will utilize best available retrofit technology and:

(a) are subject to the requirements of section 19-0323 of the environmental conservation law;

(b) maximize public health benefits;

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

(d) serve areas in New York that are:

(i) in non attainment of the National Ambient Air Quality primary standards established for particulate matter or ozone;

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

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

6. Moneys in the fund shall be applied by the corporation to provide financial assistance to eligible recipients for eligible projects and to provide for the administrative and management costs of the program.

7. (a) Notwithstanding any provisions of law to the contrary, the corporation shall distribute moneys contained in the fund as follows:

(i) until March thirty-first, two thousand nineteen, twenty percent of the fund shall be used to provide grants to state agencies for the retrofitting of vehicles subject to section 19-0323 of the environmental conservation law;

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

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

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

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

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

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

(e) Any other information that the corporation requires.

9. The corporation, in consultation with the department of environmental conservation, is authorized to:

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

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

10. In addition to the powers granted to the corporation elsewhere in this chapter, the corporation may make loans to eligible recipients for purposes of financing eligible projects for which the fund may be used, subject to the limitations of subdivision seven of this section, may accept the obligations of any municipality as security for the repayment of a loan to an eligible recipient, and may assign and pledge such eligible recipient obligations and loan agreements for the benefit of the holder of obligations of the corporation from the proceeds of which such loans are made. Loan proceeds may be disbursed to an eligible recipient in accordance with such restrictions as may be imposed by the corporation in connection with such loan or obligations of the corporation from the proceeds of which such loan is made. In the event a municipality shall fail to make any payment due the corporation pursuant to any loan agreement, financing agreement, or other obligation of the municipality sold to the corporation or issued as security for the undertaking of the municipality thereunder, the corporation shall certify to the comptroller, and notify the chairman of the senate finance

committee, the chairman of the assembly ways and means committee, the director of the division of the budget and the governing body of the municipality that such municipality has failed to make such payment. Such certificate shall be in such form as may be determined by the corporation provided such certificate shall specify the exact amount of debt service and surcharge, if applicable, required to satisfy such municipality's unpaid obligation. The comptroller, upon receipt of such certificate from the corporation, is authorized to and shall, to the extent not otherwise prohibited by law and subject to any other provision of law providing for withholding of payments to the municipality which take precedence over this subdivision, withhold from such municipality the next succeeding payments of state aid or local assistance otherwise payable to it to the extent necessary to meet the certified amount of debt service and surcharge, if applicable, due the corporation and shall immediately pay over to the corporation as a debt service payment on behalf of such municipality the amount so withheld.

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

(a) An accounting of moneys paid into the fund from statutory sources;

(b) An accounting of moneys expended for purposes of administering the fund;

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

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

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

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

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

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

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

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

1. The New York state energy research and development authority in cooperation with the department of transportation or the New York state environmental facilities corporation is authorized to make state assistance payments to "clean-fueled buses projects" and is authorized, consistent with section twelve hundred eighty-five-v of the public

authorities law, to distribute monies for the retrofitting of heavy duty diesel engine vehicles.

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

§ 56-0607. Other air quality projects.

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

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

§ 5. This act shall take effect immediately.