

STATE OF NEW YORK

110

2019-2020 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2019

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

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:

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

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

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

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

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1 ation, which is customarily performed by a building and construction
2 trades organization.

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

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

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

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

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

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

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

26 1-a. "Electric corporation" shall have the same meaning as provided in
27 subdivision thirteen of section two of the public service law.

28 1-b. "Electric plant" shall have the same meaning as provided in
29 subdivision twelve of section two of the public service law.

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

32 1-a. Notwithstanding the provisions of subdivision one of this
33 section, in the case of an employer that is an electric corporation
34 owning, operating or maintaining a coal electric plant, such employer
35 shall not order a mass layoff, relocation or employment loss until its
36 plan to implement the provisions of this article shall have been
37 approved by the department of public service pursuant to section twen-
38 ty-eight of the public service law, and thereafter, at least one year
39 before the order takes effect, such employer gives written notice of the
40 order to the following:

41 (a) affected employees and the representatives of the affected employ-
42 ees;

43 (b) the department; and

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

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

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

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

1 An employer who fails to give notice as required by paragraph (a) of
2 subdivision one or paragraph (a) of subdivision one-a of section eight
3 hundred sixty-b of this article before ordering a mass layoff, relo-
4 cation, or employment loss is liable to each employee entitled to notice
5 who lost his or her employment for:

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

8 5. Notwithstanding any other provision of this section to the contra-
9 ry, if an employer that is an electric corporation owning, operating or
10 maintaining a coal electric plant violates any provision of this arti-
11 cle, such corporation, after notice and hearing, may be liable for a
12 civil fine of not less than five million dollars to be imposed by the
13 department.

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

16 § 860-j. Employment loss at a coal electric plant. 1. The electric
17 corporation owning, operating or maintaining a coal electric plant at
18 which there will be a mass layoff, relocation or employment loss, shall
19 within ten days of providing notice thereof pursuant to subdivision
20 one-a of section eight hundred sixty-b of this article shall cause to be
21 conducted and completed an extensive health screening, in accordance
22 with the regulations of the commissioner of health, of all employees,
23 contractors and subcontractors working at such plant. Such health
24 screening shall include general health screening, and screening for
25 diseases and conditions related to employment in a coal electric plant.

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

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

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

46 § 10. The New York state energy research development authority shall
47 finance the employment retraining programs required pursuant to section
48 860-j of the labor law through any funds such authority maintains,
49 including but not limited to, the market development portfolio of the
50 clean energy fund. Provided, however, such authority shall not increase
51 or collect additional fees, rentals, penalties or other charges author-
52 ized and in existence prior to the effective date of this act for the
53 financing of such programs.

54 § 11. This act shall take effect immediately.