

STATE OF NEW YORK

10640

IN ASSEMBLY

June 17, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Hunter) --
read once and referred to the Committee on Energy

AN ACT to amend the public service law and the energy law, in relation
to establishing energy efficiency measures by the public service
commission and the New York state energy research and development
authority

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

1 Section 1. The public service law is amended by adding a new section
2 66-q to read as follows:

3 § 66-q. Energy efficiency program. 1. As used in this section, the
4 following terms shall have the following meanings:

5 (a) "cost effective" means producing benefits that outweigh costs
6 pursuant to the commission's benefit-cost analysis, plus the social cost
7 of methane, and non-energy benefits as described in the "Rhode Island
8 Test" (RI. Test) or a subsequently identified benefit-cost analysis that
9 more completely accounts for externalized benefits of energy efficiency
10 spending;

11 (b) "energy efficiency" means the reduction in overall energy use,
12 expressed as a percentage against a prior baseline of historical use, or
13 in British thermal units (BTUs). Energy efficiency shall include envi-
14 ronmentally beneficial electrification;

15 (c) "energy efficiency measure" means a particular good or practice
16 that provides an energy efficiency benefit;

17 (d) "environmentally beneficial electrification" means a replacement
18 of direct fossil fuel use with electricity such that the replacement
19 reduces overall emissions and energy costs;

20 (e) "potential environmental justice areas of concern" means areas of
21 United States census block groups of two hundred fifty to five hundred
22 households each that, in the most recently released census, had popu-
23 lations that met or exceeded at least one of the following statistical
24 thresholds:

25 (i) at least 51.1 percent of the population in an urban area reported
26 themselves to be members of minority groups; or

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

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1 (ii) at least 33.8 percent of the population in a rural area reported
2 themselves to be members of minority groups; or

3 (iii) at least 23.59 percent of the population in an urban or rural
4 area had household incomes below the federal poverty level;

5 (f) "program" means the energy efficiency program established by the
6 commission pursuant to this section;

7 (g) "residential building" means a building having primary use as a
8 domicile;

9 (h) "rural area" means all territory, population, and housing units
10 that are not classified as an urban area, or as subsequently defined by
11 the United States census bureau;

12 (i) "small commercial building" means a building operated by a busi-
13 ness with one hundred employees or fewer; provided they (i) own their
14 building or (ii) lease or manage all or part of the building and have a
15 release from the building owner to apply for financing through the
16 program; and

17 (j) "urban area" means all territory, population, and housing units
18 located in urbanized areas, which is a continuously built-up area with a
19 population of fifty thousand or more, and in places of two thousand five
20 hundred or more inhabitants outside of an urbanized area, or as subse-
21 quently defined by the United States census bureau.

22 2. The commission shall, within forty-five days of the effective date
23 of this section, commence a proceeding to establish an energy efficiency
24 program for utilities, in order to stimulate the growth and adoption of
25 more efficient use of energy and to promote the hiring and training of
26 employees by such utilities from potential environmental justice areas
27 of concern.

28 3. The commission, in collaboration with utilities and the Long Island
29 power authority, shall develop, oversee and issue guidelines establish-
30 ing rules and regulations for the program which shall include the
31 following elements:

32 (a) cost effective energy efficiency, including environmentally bene-
33 ficial electrification, shall be the primary means for meeting new ener-
34 gy demand for residential and small commercial building sectors, includ-
35 ing demand for fossil fuel;

36 (b) any job training funding administered by utilities for energy
37 efficiency implementation shall serve trainees living in areas desig-
38 nated as potential environmental justice areas of concern, proportional
39 to these areas' share of the state housing and small commercial building
40 stock;

41 (c) employees hired for implementation of utility energy efficiency
42 programs shall be from areas designated as potential environmental
43 justice areas of concern, proportional to these areas' share of the
44 state housing and small commercial building stock, or from other areas
45 designated as potential environmental justice areas of concern within
46 seventy-five miles of target work sites; and

47 (d) require any residential and small business energy efficiency
48 program funding used directly for energy efficiency measures adminis-
49 tered by utilities shall be allocated to areas designated as potential
50 environmental justice areas of concern, proportional to these areas'
51 share of the state housing and small commercial building stock.

52 4. The commission and Long Island power authority shall establish
53 escalating penalties for non-compliance with the requirements of the
54 program.

55 § 2. The energy law is amended by adding a new section 5-123 to read
56 as follows:

1 § 5-123. New York state energy research and development authority
2 energy efficiency requirements. 1. As used in this section, the follow-
3 ing terms shall have the following meanings:

4 a. "energy efficiency" means the reduction in overall energy use,
5 expressed as a percentage against a prior baseline of historical use, or
6 in British Thermal Units (BTUs). Energy efficiency shall include envi-
7 ronmentally beneficial electrification;

8 b. "environmentally beneficial electrification" means a replacement of
9 direct fossil fuel use with electricity such that the replacement
10 reduces overall emissions and energy costs;

11 c. "office" means the New York state energy research and development
12 authority;

13 d. "potential environmental justice areas of concern" means areas of
14 United States census block groups of two hundred fifty to five hundred
15 households each that, in the most recently released census, had popu-
16 lations that met or exceeded at least one of the following statistical
17 thresholds:

18 (i) at least 51.1 percent of the population in an urban area reported
19 themselves to be members of minority groups; or

20 (ii) at least 33.8 percent of the population in a rural area reported
21 themselves to be members of minority groups; or

22 (iii) at least 23.59 percent of the population in an urban or rural
23 area had household incomes below the federal poverty level;

24 e. "rural area" means all territory, population, and housing units
25 that are not classified as an urban area, or as subsequently defined by
26 the United States census bureau;

27 f. "small commercial building" means a building operated by a business
28 with one hundred employees or fewer; provided they (i) own their build-
29 ing or (ii) lease or manage all or part of the building and have a
30 release from the building owner to apply for financing through the
31 office; and

32 g. "urban area" means all territory, population, and housing units
33 located in urbanized areas, which is a continuously built-up area with a
34 population of fifty thousand or more, and in places of two thousand five
35 hundred or more inhabitants outside of an urbanized area, or as subse-
36 quently defined by the United States census bureau.

37 2. In order to stimulate the growth and adoption of a more efficient
38 use of energy and to promote the hiring and training of employees by
39 utilities and other entities from potential environmental justice areas
40 of concern, the office:

41 a. shall require that any program funding for the installation of
42 end-use energy efficiency measures administered by the office with the
43 goal of achieving the one hundred eighty five trillion British thermal
44 units of end use energy below the two thousand twenty-five energy use
45 forecast goal shall be allocated to areas designated as potential envi-
46 ronmental justice areas of concern, proportional to these areas' share
47 of the state housing and small commercial building stock;

48 b. may allocate funds to non-energy related interventions in conjunc-
49 tion with energy interventions, including but not limited to mold, lead,
50 and asbestos remediation pursuant to the recommendations of an inte-
51 grated physical needs assessment performed by the division of housing
52 and community renewal or another qualified agency;

53 c. shall require any job training program funding administered by the
54 office for energy efficiency implementation serve trainees living in
55 areas designated as potential environmental justice areas of concern,

1 proportional to these areas' share of the state housing and small
2 commercial building stock; and

3 d. shall require employees hired for implementation of office programs
4 for efficiency implementation are from areas designated as potential
5 environmental justice areas of concern, proportional to these areas'
6 share of the state housing and small commercial building stock.

7 3. The office shall gather and publish on its website data on non-en-
8 ergy benefits (NEBs) of home and building-scale energy efficiency
9 programming as evaluated in benefit-costs analysis by the office.

10 4. Notwithstanding any provision of law to the contrary, any person
11 who has been injured by reason of a violation of this section may bring
12 an action in his or her own name to enjoin such unlawful act. The court
13 may award reasonable attorney's fees to a prevailing plaintiff.

14 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-
15 sion, section or part of this act shall be adjudged by any court of
16 competent jurisdiction to be invalid, such judgment shall not affect,
17 impair, or invalidate the remainder thereof, but shall be confined in
18 its operation to the clause, sentence, paragraph, subdivision, section
19 or part thereof directly involved in the controversy in which such judg-
20 ment shall have been rendered. It is hereby declared to be the intent of
21 the legislature that this act would have been enacted even if such
22 invalid provisions had not been included herein.

23 § 4. This act shall take effect on the ninetieth day after it shall
24 have become a law. Effective immediately, the addition, amendment and/or
25 repeal of any rule or regulation necessary for the implementation of
26 this act on its effective date are authorized to be made and completed
27 on or before such effective date.