

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:

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

3 § 1285-v. Diesel emissions reduction program. 1. The corporation is
4 authorized to undertake a program to provide financial assistance to
5 state agencies and eligible recipients to encourage and support the
6 purchase of new and retrofitting of existing heavy duty vehicles in
7 accordance with the provisions of this section. This program shall be
8 known as the diesel emissions reduction program and hereafter shall be
9 known as "the program".

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

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

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

17 (c) "Eligible project" shall mean a project for the purchase and
18 installation of best available retrofit technology for heavy duty vehi-
19 cles, including the retrofit of vehicles required pursuant to section
20 19-0323 of the environmental conservation law, and nonroad vehicles as
21 defined by 42 USC section 7550.

22 (d) "Eligible recipient" shall mean any person, municipality or state
23 agency subject to section 19-0323 of the environmental conservation law
24 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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1 pursuant to the Energy Policy Act of 2005 Diesel Emissions Reduction
2 Program.

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

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

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

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

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

20 (iii) guarantying, or purchasing insurance or other credit enhancement
21 for eligible recipient obligations where such action would improve cred-
22 it market access for or reduce interest rates on such eligible recipient
23 obligations;

24 (iv) providing a source of revenue or security for payment of princi-
25 pal and interest on bonds or notes issued by the corporation if the
26 proceeds of the sale of such bonds or notes will be deposited in the
27 fund;

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

31 (vi) providing grants and principal forgiveness;

32 (vii) using investment earnings on moneys in the fund to pay, pursuant
33 to subdivision seven of this section, the costs of the corporation and
34 the department of environmental conservation of administering and manag-
35 ing the program described in this section.

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

47 (b) The fund shall consist of the following:

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

1 appropriation for such project pursuant to section 56-0607 of the environ-
2 mental conservation law;

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

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

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

18 (v) investment earnings on amounts in the fund;

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

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

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

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

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

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

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

38 5. Moneys of the fund shall be available only for distribution to
39 eligible projects pursuant to this section that are approved in consul-
40 tation with the department of environmental conservation. The department
41 of environmental conservation shall, in consultation with the corpo-
42 ration, develop guidance for selection of eligible projects, which shall
43 establish eligibility criteria for distribution of moneys contained in
44 the fund consistent with the provisions of this section. Subject to any
45 applicable federal requirements, priority shall be given to those
46 projects that will utilize best available retrofit technology and:

47 (a) are subject to the requirements of section 19-0323 of the environ-
48 mental conservation law;

49 (b) maximize public health benefits;

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

52 (d) serve areas in New York that are:

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

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

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

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

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

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

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

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

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

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

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

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

29 (e) Any other information that the corporation requires.

30 9. The corporation, in consultation with the department of environ-
31 mental conservation, is authorized to:

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

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

40 10. In addition to the powers granted to the corporation elsewhere in
41 this chapter, the corporation may make loans to eligible recipients for
42 purposes of financing eligible projects for which the fund may be used,
43 subject to the limitations of subdivision seven of this section, may
44 accept the obligations of any municipality as security for the repayment
45 of a loan to an eligible recipient, and may assign and pledge such
46 eligible recipient obligations and loan agreements for the benefit of
47 the holder of obligations of the corporation from the proceeds of which
48 such loans are made. Loan proceeds may be disbursed to an eligible
49 recipient in accordance with such restrictions as may be imposed by the
50 corporation in connection with such loan or obligations of the corpo-
51 ration from the proceeds of which such loan is made. In the event a
52 municipality shall fail to make any payment due the corporation pursuant
53 to any loan agreement, financing agreement, or other obligation of the
54 municipality sold to the corporation or issued as security for the
55 undertaking of the municipality thereunder, the corporation shall certi-
56 fy to the comptroller, and notify the chairman of the senate finance

1 committee, the chairman of the assembly ways and means committee, the
2 director of the division of the budget and the governing body of the
3 municipality that such municipality has failed to make such payment.
4 Such certificate shall be in such form as may be determined by the
5 corporation provided such certificate shall specify the exact amount of
6 debt service and surcharge, if applicable, required to satisfy such
7 municipality's unpaid obligation. The comptroller, upon receipt of such
8 certificate from the corporation, is authorized to and shall, to the
9 extent not otherwise prohibited by law and subject to any other
10 provision of law providing for withholding of payments to the munici-
11 pality which take precedence over this subdivision, withhold from such
12 municipality the next succeeding payments of state aid or local assist-
13 ance otherwise payable to it to the extent necessary to meet the certi-
14 fied amount of debt service and surcharge, if applicable, due the corpo-
15 ration and shall immediately pay over to the corporation as a debt
16 service payment on behalf of such municipality the amount so withheld.

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

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

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

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

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

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

31 § 2. Section 56-0603 of the environmental conservation law, as added
32 by chapter 413 of the laws of 1996, is amended to read as follows:
33 § 56-0603. State clean-fueled vehicle projects.

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

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

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

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

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

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

5 § 56-0607. Other air quality projects.

6 Of monies received by the state from the sale of bonds pursuant to the
7 Clean Water/Clean Air Bond Act of 1996, up to twenty million dollars
8 (\$20,000,000) shall be available for disbursements for air quality
9 projects pursuant to this section.

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

18 § 5. This act shall take effect immediately.