STATE OF NEW YORK

2268

2019-2020 Regular Sessions

IN SENATE

January 23, 2019

Introduced by Sens. COMRIE, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend chapter 154 of the laws of 1921, relating to the Port Authority of New York and New Jersey, in relation to establishing environmental standards for the Port Authority of New York and New Jersey

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

Section 1. Chapter 154 of the laws of 1921, relating to the Port Authority of New York and New Jersey, is amended by adding a new article X-A to read as follows:

ARTICLE X-A

§ 1. Definitions. For the purposes of this article, the following words and terms shall have the following meanings:

1. "Building or facility" means a single building or facility or a group of buildings or structures at a single site that is owned, leased, operated or funded by the Port Authority of New York and New Jersey that exceeds ten thousand square feet of space. For the purposes of this title, the term "facility" shall include any highway, parkway or public road owned, operated or maintained by the Port Authority of New York and New Jersey.

2. "Cogeneration" means the simultaneous generation of two different forms of useful energy using one single primary energy source, such as the production of electricity using waste energy, such as steam; or the use of steam from electric power generation as a source of heat.

3. "Distributed generation" means electricity that is generated from small energy sources that are located near or in the building or facility where the electricity is used. Distributed energy resource systems are small-scale power generation technologies used to provide an alter-

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

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native to or enhancement of the traditional electric power system, such as solar panels or small wind turbines.

4. "Fuel cell" means a device that produces electricity directly from hydrogen or hydrocarbon fuel through a non-combustive electro-chemical process.

5. "Renewable energy" means energy produced from the following sources: solar thermal, photovoltaics, wind, hydroelectric, geo-exchange, tidal/wave energy and high-efficiency biomass.

§ 2. Energy targets. 1. All buildings or facilities or vehicles or vehicle fleets owned or leased, under which the Port Authority of New York and New Jersey pays directly for energy, or operated by the Port Authority of New York and New Jersey, shall meet the following targets and timetable to achieve reductions in greenhouse gas emissions, energy and water consumption:

(a) reduce greenhouse gas emissions that result from Port Authority of New York and New Jersey operations from the established baseline measurements by fifteen percent by the year two thousand twenty-four, twenty-five percent by the year two thousand twenty-nine and fifty percent by the year two thousand thirty-four. Emission reductions shall be measured on an absolute basis and not adjusted for facility expansion, load growth or weather;

(b) reduce overall energy consumption at buildings or facilities or vehicles or vehicle fleets owned or leased, under which the Port Authority of New York and New Jersey pays directly for energy, by the Port Authority of New York and New Jersey from the established baseline measurements by fifteen percent by the year two thousand twenty-four, twenty-five percent by the year two thousand twenty-nine and fifty percent by the year two thousand thirty-four;

(c) reduce potable water use from the established baseline measurement by ten percent by the year two thousand twenty-four, twenty percent by the year two thousand twenty-nine and thirty percent by the year two thousand thirty-four; and

(d) obtain by generation or procurement fifteen percent of annual electricity consumption from renewable sources and/or from distributed generation or cogeneration by the year two thousand twenty-four, twenty-five percent by the year two thousand twenty-nine and fifty percent by the year two thousand thirty-four.

2. The Port Authority of New York and New Jersey shall establish a baseline measurement of greenhouse gas emissions, electricity and water consumption levels for the period beginning January first, two thousand fourteen and ending December thirty-first, two thousand fifteen for such building or facility or vehicle or vehicle fleet. The baseline measurement shall be the average of the two year period.

§ 3. Energy assessments and efficiency plan. 1. Energy assessments. The Port Authority of New York and New Jersey shall conduct an annual onsite assessment and evaluation of energy and water consumption and expenses of any building or facility it owns, leases or operates. The assessment shall include the following information:

(a) the total number of buildings and facilities owned, leased or operated by the Port Authority of New York and New Jersey and the total square footage for such buildings and facilities;

(b) the total annual energy consumption, listed by energy source, for each building or facility;

(c) the total annual energy cost calculated per square foot, and listed by energy source, for each building or facility;

(d) the total annual water consumption for each building or facility;

(e) the total annual cost for fuel used by authority-owned vehicles, listed by fuel type and the average mileage efficiency of vehicles by vehicle class owned or leased by the Port Authority of New York and New Jersey; and

(f) a breakdown by percentage of the total renewable energy used by each building or facility.

2. Energy efficiency plan. (a) Based on the initial assessment conducted pursuant to subdivision one of this section, the Port Authority of New York and New Jersey shall develop an energy efficiency plan to meet the targets, goals and timetable established pursuant to subdivision one of section two of this article. Such plan shall be submitted to the governors and legislatures of both states.

(b) The plan shall describe specific measures to be taken to reduce the Port Authority of New York and New Jersey's greenhouse gas emissions, energy and water consumption in accordance with such targets and goals. The plan shall also describe any policies adopted, and projects pursued, by the Port Authority of New York and New Jersey to increase the use of renewable energy sources and other alternative sources, such as distributive generation and cogeneration.

(c) The plan shall:

(1) provide a detailed and comprehensive plan for achieving the targets and goals set forth in section two of this article; and

(2) be implemented in a cost-effective manner.

(d) The plan shall be amended to reflect any changes or updates reported in the annual assessment pursuant to subdivision one of this section.

(e) With respect to buildings and facilities that contain less than ten thousand square feet in space, the Port Authority of New York and New Jersey is encouraged to assess, develop and implement efficiency and waste management plans consistent with the targets, goals and timetables required pursuant to this article.

§ 4. Solid waste management plan. 1. For purposes of this section, "solid waste" shall mean all putrescible and non-putrescible materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including, but not limited to, garbage, refuse, industrial and commercial waste, sludges from air or water control facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris, discarded automobiles and offal but not including sewage and other highly diluted water carried materials or substances and those in gaseous form. "Solid waste" shall not include source, special nuclear or by-product material as defined in the atomic energy act of 1954, as amended.

2. (a) The Port Authority of New York and New Jersey shall prepare and submit to the commissioner of the New York state department of environmental conservation and the commissioner of the New Jersey state department of environmental protection for review and approval, a solid waste management plan for at least a ten-year period.

(b) The solid waste management plan shall, at a minimum:

(1) identify, describe and characterize the solid waste stream to be managed in the planning period;

(2) assess existing and alternate proposed solid waste management programs and facilities;

(3) identify the parties with responsibility to implement each element of the plan and the steps which must be undertaken by each; and

(4) set forth a timetable for implementing the plan, including establishing annual goals.

(c) Such plan shall strive to achieve the objectives of the state solid waste management policy set forth in section 27-0106 of the environmental conservation law, provide for or take into account management of all solid waste within the planning unit, and embody, as may be appropriate to the circumstances, sound principles of solid waste management, natural resources conservation, energy production, and employment creating opportunities.

(d) The plan shall be deemed complete if it contains all the elements set forth in paragraph (b) of this subdivision. Thereafter such plan shall become the solid waste management plan in effect for the Port Authority of New York and New Jersey. If the plan as submitted does not contain the elements set forth in paragraph (b) of this subdivision, the commissioner of the New York state department of environmental conservation or the commissioner of the New Jersey state department of environmental protection shall state the reasons for its determination and require the Port Authority of New York and New Jersey to re-submit an amended plan for approval.

§ 5. Sustainability coordinator. 1. The Port Authority of New York and New Jersey shall appoint a sustainability coordinator to organize, coordinate, oversee and report on the energy efficiency and waste management activities of the Port Authority of New York and New Jersey. The coordinator shall, among other duties and responsibilities:

(a) prepare the energy efficiency and solid waste management plans;

(b) organize, coordinate and oversee the implementation of the efficiency activities contained in the efficiency plan;

(c) organize, coordinate and oversee the implementation of the solid waste management plan;

(d) submit the progress reports required pursuant to section eight of this article; and

(e) disseminate all applicable information to authority staff, and tracking and reporting all requested energy consumption or waste management data.

2. The commissioner of the New York state department of environmental conservation and the commissioner of the New Jersey state department of environmental protection shall develop and conduct a training program for the sustainability coordinator and assist him or her with the training of appropriate staff, vendors and contractors.

§ 6. New construction, renovations and leases. 1. (a) The design and construction of any new buildings or facilities, or the substantial renovation of an existing building or facility, by the Port Authority of New York and New Jersey shall comply with the environmental and sustainability standards and regulations promulgated jointly by the commissioner of the New York state department of environmental conservation and the commissioner of the New Jersey state department of environmental protection. This subdivision shall also apply to a building or facility, fifty percent or more of the funding for the purchase, lease, design, construction or substantial renovation thereof is funded directly or indirectly by the Port Authority of New York and New Jersey.

(b) For the purposes of this section, the term "substantial renovation" shall mean: a capital project in which the scope of work involves at least two of the following primary building systems: electrical, plumbing, boiler, elevator, HVAC, roof replacement, window replacement, lighting or external masonry, painting and plastering; and

the building area in which the construction is performed will be unoccupied due to the nature of the construction for thirty days or more.

2. Any leases entered into by the Port Authority of New York and New Jersey, including the renegotiation or extension of existing leases, shall:

(a) incorporate lease provisions that encourage energy and water efficiency wherever life-cycle cost-effective. Build-to-suit lease solicitations shall contain criteria encouraging sustainable design and development, energy efficiency, and verification of facility performance;

(b) include a preference for facilities having the Energy Star building label in their selection criteria for acquiring leased facilities; and

(c) encourage lessors to apply for an Energy Star building label and to explore and implement projects that will reduce costs, including projects carried out through the lessors' energy-savings contracts.

§ 7. Procurement. 1. Procurement from specification list. (a) All purchases of commodity, equipment, services and technologies made by the Port Authority of New York and New Jersey shall be pursuant to procurement lists and specifications promulgated jointly by the New York state office of general services and the New Jersey state division of purchase and property.

(b) In addition, the Port Authority of New York and New Jersey shall procure commodities, equipment, services and technologies that meet or exceed the following minimum specifications:

(1) Recycled content. All copy paper and other paper supplies for which the United States environmental protection agency has developed recycled content recommendations pursuant to section six thousand two of the federal resource conservation and recovery act shall be required to meet or exceed the Port Authority of New York and New Jersey's minimum post-consumer material content percentages recommended in the most recent recovered materials advisory notice issued for such commodity in the federal register; provided, however, that xerographic paper shall contain no less than thirty percent post-consumer recycled content. All copy and janitorial paper shall be processed chlorine-free to the extent practicable. All state authorities shall print publications on recycled paper, and minimum percentages shall be met unless costs for such paper exceed the cost of other available commodities by more than ten percent.

(2) Waste reduction. State authorities shall seek to reduce waste in products and packaging, including the formulation of policies to promote the use of double-sided copying and printing to the greatest extent practicable. State authorities shall favor durability, repairability and reuse when purchasing supplies.

2. If a commodity or equipment is not on the procurement list, the Port Authority of New York and New Jersey shall select Energy Star and energy-efficient products when acquiring energy-using products or equipment. For products or equipment for which Energy Star labels are not yet available, the Port Authority of New York and New Jersey shall procure products and equipment with the highest energy efficiency ratings for such products or equipment as is practicable.

3. The Port Authority of New York and New Jersey may procure a commodity, equipment, service or technology through a process that does not comply with this section when the purchase of the commodity, equipment, service or technology is necessary to respond to an emergency which endangers public health or safety, provided such authority shall within seven business days file a written report with the authority's budget office and the office of the state comptroller, which shall become part

of the procurement record. The report shall contain the following information:

(a) a description of the emergency that prevented compliance with subdivisions one and two of this section;

(b) the name of the commodity or technology, or a description of the service, its use and intensity of use;

(c) a description of the steps being taken to safeguard public health and safety during the emergency; and

(d) an explanation of how such an emergency can be avoided in the future.

4. (a) Beginning one year after the effective date of this section, the Port Authority of New York and New Jersey, when procuring commodities, equipment, services or technology shall follow practices and develop solicitation specifications that meet or exceed the minimum specifications established in subdivision one of this section. All such contracts shall include a statement describing how such minimum specifications were met.

(b) In the event that the Port Authority of New York and New Jersey receives no bids or proposals that meet the specifications developed pursuant to paragraph (a) of this subdivision, such authority may withdraw the request for bids or proposals and begin a new procurement with new specifications that do not meet the specifications developed pursuant to paragraph (a) of this subdivision and award a contract in accordance with other applicable statutes; provided, however that such authority shall document the reasons why such procurement does not meet the minimum specifications established in subdivision one of this section, and submit such documentation for inclusion in the annual report required pursuant to this article and to the office of the state comptroller of the state of New York and the office of the state comptroller of the state of New Jersey for inclusion in the procurement record.

5. (a) Nothing in this section shall be construed as requiring the Port Authority of New York and New Jersey to procure a commodity, equipment, service or technology that does not meet the form, function and utility required by such authority, or as requiring the Port Authority of New York and New Jersey to procure a commodity, equipment, service or technology the cost of which exceeds the cost of an alternative available commodity or service by more than ten percent.

(b) When determining and comparing costs, the Port Authority of New York and New Jersey shall consider the following definition. "Costs" as used in this article shall be quantifiable and may include, without limitation, the price of the given good or service being purchased; the administrative, training, storage, maintenance or other overhead associated with a given good or service; the value of warranties, delivery schedules, financing costs and foregone opportunity costs associated with a given good or service; and the life span and associated life cycle costs of the given good or service being purchased. Life cycle costs may include, but shall not be limited to, costs or savings associated with construction, energy use, maintenance, operation, and salvage or disposal.

6. Training and education. The New York state office of general services and the New Jersey state division of purchase and property, with the assistance of the New York state department of environmental conservation and the New Jersey state department of environmental protection, the New York state department of health and the New Jersey state department of health and senior services, and the office of the state comptroller of the state of New York and the office of the state

comptroller of the state of New Jersey, within twelve months of the effective date of this section, shall design and begin implementation of a training program for senior managers and Port Authority of New York and New Jersey staff involved in procurement to familiarize them with their responsibilities under this section and ensure the effective and efficient implementation of the provisions of this section. Such program shall provide for new employee training and ongoing training.

§ 8. Reports. 1. The Port Authority of New York and New Jersey shall prepare and submit to the governors of the states of New York and New Jersey and the state legislatures of New York and New Jersey an annual progress report in a form or manner, containing such information or data, and on such date determined by the council. The report shall be certified as accurate and complete by the executive director of the Port Authority of New York and New Jersey.

2. At a minimum, such report shall describe:

(a) the Port Authority of New York and New Jersey's efforts regarding reduction in energy and water consumption; waste reduction and recycling activities; recycled product procurement; quantities of material recycled;

(b) the progress made toward achieving the target and goals mandated in this article;

(c) the progress made toward increasing the use of renewable energy sources; and

(d) barriers to achieving progress toward meeting the targets and goals.

§ 2. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

§ 3. This act shall take effect upon the enactment into law by the state of New Jersey of legislation having an identical effect with this act, but if the state of New Jersey shall have already enacted such legislation, this act shall take effect immediately; provided that the chairman of the port authority of New Jersey shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in section one of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.