

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.

LBD00776-01-9

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

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

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

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

15 (a) reduce greenhouse gas emissions that result from Port Authority of
16 New York and New Jersey operations from the established baseline meas-
17 urements by fifteen percent by the year two thousand twenty-four, twen-
18 ty-five percent by the year two thousand twenty-nine and fifty percent
19 by the year two thousand thirty-four. Emission reductions shall be meas-
20 ured on an absolute basis and not adjusted for facility expansion, load
21 growth or weather;

22 (b) reduce overall energy consumption at buildings or facilities or
23 vehicles or vehicle fleets owned or leased, under which the Port Author-
24 ity of New York and New Jersey pays directly for energy, by the Port
25 Authority of New York and New Jersey from the established baseline meas-
26 urements by fifteen percent by the year two thousand twenty-four, twen-
27 ty-five percent by the year two thousand twenty-nine and fifty percent
28 by the year two thousand thirty-four;

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

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

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

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

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

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

54 (c) the total annual energy cost calculated per square foot, and list-
55 ed by energy source, for each building or facility;

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

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

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

7 2. Energy efficiency plan. (a) Based on the initial assessment
8 conducted pursuant to subdivision one of this section, the Port Authori-
9 ty of New York and New Jersey shall develop an energy efficiency plan to
10 meet the targets, goals and timetable established pursuant to subdivi-
11 sion one of section two of this article. Such plan shall be submitted to
12 the governors and legislatures of both states.

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

20 (c) The plan shall:

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

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

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

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

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

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

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

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

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

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

1 (4) set forth a timetable for implementing the plan, including estab-
2 lishing annual goals.

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

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

20 § 5. Sustainability coordinator. 1. The Port Authority of New York and
21 New Jersey shall appoint a sustainability coordinator to organize, coor-
22 ordinate, oversee and report on the energy efficiency and waste management
23 activities of the Port Authority of New York and New Jersey. The coordi-
24 nator shall, among other duties and responsibilities:

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

26 (b) organize, coordinate and oversee the implementation of the effi-
27 ciency activities contained in the efficiency plan;

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

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

32 (e) disseminate all applicable information to authority staff, and
33 tracking and reporting all requested energy consumption or waste manage-
34 ment data.

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

40 § 6. New construction, renovations and leases. 1. (a) The design and
41 construction of any new buildings or facilities, or the substantial
42 renovation of an existing building or facility, by the Port Authority of
43 New York and New Jersey shall comply with the environmental and sustain-
44 ability standards and regulations promulgated jointly by the commission-
45 er of the New York state department of environmental conservation and
46 the commissioner of the New Jersey state department of environmental
47 protection. This subdivision shall also apply to a building or facility,
48 fifty percent or more of the funding for the purchase, lease, design,
49 construction or substantial renovation thereof is funded directly or
50 indirectly by the Port Authority of New York and New Jersey.

51 (b) For the purposes of this section, the term "substantial reno-
52 vation" shall mean: a capital project in which the scope of work
53 involves at least two of the following primary building systems: elec-
54 trical, plumbing, boiler, elevator, HVAC, roof replacement, window
55 replacement, lighting or external masonry, painting and plastering; and

1 the building area in which the construction is performed will be unoccu-
2 pied due to the nature of the construction for thirty days or more.

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

6 (a) incorporate lease provisions that encourage energy and water effi-
7 ciency wherever life-cycle cost-effective. Build-to-suit lease solicita-
8 tions shall contain criteria encouraging sustainable design and develop-
9 ment, energy efficiency, and verification of facility performance;

10 (b) include a preference for facilities having the Energy Star build-
11 ing label in their selection criteria for acquiring leased facilities;
12 and

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

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

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

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

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

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

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

1 of the procurement record. The report shall contain the following infor-
2 mation:

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

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

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

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

11 4. (a) Beginning one year after the effective date of this section,
12 the Port Authority of New York and New Jersey, when procuring commod-
13 ities, equipment, services or technology shall follow practices and
14 develop solicitation specifications that meet or exceed the minimum
15 specifications established in subdivision one of this section. All such
16 contracts shall include a statement describing how such minimum specifi-
17 cations were met.

18 (b) In the event that the Port Authority of New York and New Jersey
19 receives no bids or proposals that meet the specifications developed
20 pursuant to paragraph (a) of this subdivision, such authority may with-
21 draw the request for bids or proposals and begin a new procurement with
22 new specifications that do not meet the specifications developed pursu-
23 ant to paragraph (a) of this subdivision and award a contract in accord-
24 ance with other applicable statutes; provided, however that such author-
25 ity shall document the reasons why such procurement does not meet the
26 minimum specifications established in subdivision one of this section,
27 and submit such documentation for inclusion in the annual report
28 required pursuant to this article and to the office of the state comp-
29 troller of the state of New York and the office of the state comptroller
30 of the state of New Jersey for inclusion in the procurement record.

31 5. (a) Nothing in this section shall be construed as requiring the
32 Port Authority of New York and New Jersey to procure a commodity, equip-
33 ment, service or technology that does not meet the form, function and
34 utility required by such authority, or as requiring the Port Authority
35 of New York and New Jersey to procure a commodity, equipment, service or
36 technology the cost of which exceeds the cost of an alternative avail-
37 able commodity or service by more than ten percent.

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

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

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

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

15 2. At a minimum, such report shall describe:

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

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

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

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

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

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