STATE OF NEW YORK

8052

IN SENATE

March 13, 2020

Introduced by Sen. PARKER -- 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 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 Assembly, do enact as follows:

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

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

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

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

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

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

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

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

LBD15864-01-0

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

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

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

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

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

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

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

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

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

3. The commission, in collaboration with utilities and the Long Island power authority, shall develop, oversee and issue guidelines establishing rules and regulations for the program which shall include the following elements:

(a) cost effective energy efficiency, including environmentally beneficial electrification, shall be the primary means for meeting new energy demand for residential and small commercial building sectors, including demand for fossil fuel;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. may allocate funds to non-energy related interventions in conjunction with energy interventions, including but not limited to mold, lead, and asbestos remediation pursuant to the recommendations of an integrated physical needs assessment performed by the division of housing and community renewal or another qualified agency;

c. shall require any job training program funding administered by the office for energy efficiency implementation serve trainees living in

areas designated as potential environmental justice areas of concern, proportional to these areas' share of the state housing and small commercial building stock; and

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

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

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

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

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