

# STATE OF NEW YORK

3126--A

Cal. No. 256

2021-2022 Regular Sessions

## IN SENATE

January 27, 2021

Introduced by Sens. PARKER, HINCHEY, HOYLMAN, KAMINSKY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

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) "economically distressed area" means an area with a poverty rate  
6 of at least twenty percent or an unemployment rate of at least one  
7 hundred twenty-five percent of the statewide unemployment rate;

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

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

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

17 (e) "environmental justice communities" means an economically  
18 distressed or minority community bearing a disproportionate or inequita-

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

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1 ble pollution burden and includes, but is not limited to environmental  
2 justice areas identified by the department;

3 (f) "ethnic group" means the minority group members that are defined  
4 in subdivision eight of section three hundred ten of the executive law;

5 (g) "minority community" means any census tract, census block or  
6 census block group that includes twenty-five percent or more of any  
7 ethnic group;

8 (h) "residential building" means a building having primary use as a  
9 domicile;

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

13 (j) "small commercial building" means a building operated by a busi-  
14 ness or not-for-profit organization with one hundred employees or fewer;  
15 provided they (i) own their building or (ii) lease or manage all or part  
16 of the building and have a release from the building owner to apply for  
17 financing through the program; and

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

23 (l) "priority populations" means groups that include veterans, Native  
24 Americans, individuals with disabilities, low-income individuals, unem-  
25 ployed power plant workers, previously incarcerated individuals, persons  
26 aged eighteen through twenty-four participating in work preparedness  
27 training programs, or residents of potential environmental justice  
28 areas.

29 2. In order to stimulate the growth and adoption of a more efficient  
30 use of energy in environmental justice communities and to promote the  
31 hiring and training of employees from environmental justice communities  
32 and priority populations, the commission shall develop, oversee and  
33 issue guidelines to be used as part of any energy efficiency proceeding  
34 or utility program, including without limitation orders issued in  
35 commission case number 18-m-0084, which shall include the following  
36 elements:

37 (a) any job training funding administered by utilities for energy  
38 efficiency implementation shall serve individuals from priority popu-  
39 lations or trainees living in environmental justice communities, at a  
40 minimum proportional to these areas' share of the state housing and  
41 small commercial building stock;

42 (b) employees hired for implementation of utility energy efficiency  
43 programs shall be from priority populations or environmental justice  
44 communities, at a minimum proportional to these areas' share of the  
45 state housing and small commercial building stock, or from other envi-  
46 ronmental justice communities within seventy-five miles of target work  
47 sites; and

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

53 § 2. The energy law is amended by adding a new section 5-123 to read  
54 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. "economically distressed area" means an area with a poverty rate of  
5 at least twenty percent or an unemployment rate of at least one hundred  
6 twenty-five percent of the statewide unemployment rate;

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

11     c. "environmentally beneficial electrification" means a replacement of  
12 direct fossil fuel use with electricity such that the replacement  
13 reduces overall emissions;

14     d. "environmental justice communities" means an economically  
15 distressed or minority community bearing a disproportionate or inequita-  
16 ble pollution burden and includes, but is not limited to environmental  
17 justice areas identified by the department;

18     e. "ethnic group" means the minority group members that are defined  
19 in subdivision eight of section three hundred ten of the executive law;

20     f. "minority community" means any census tract, census block or census  
21 block group that includes twenty-five percent or more of any ethnic  
22 group;

23     g. "authority" means the New York state energy research and develop-  
24 ment authority;

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

28     i. "small commercial building" means a building operated by a business  
29 or not-for-profit organization with one hundred employees or fewer;  
30 provided they (i) own their building or (ii) lease or manage all or part  
31 of the building and have a release from the building owner to apply for  
32 financing through the office; and

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

38     k. "priority populations" means groups that include veterans, Native  
39 Americans, individuals with disabilities, low-income individuals, unem-  
40 ployed power plant workers, previously incarcerated individuals, persons  
41 aged eighteen through twenty-four participating in work preparedness  
42 training programs, or residents of potential environmental justice  
43 areas.

44     2. In order to stimulate the growth and adoption of a more efficient  
45 use of energy in environmental justice communities and to promote the  
46 equitable distribution of energy efficiency benefits by utilities and  
47 other entities in environmental justice communities, the authority:

48     a. shall require that any program funding for the installation of  
49 end-use energy efficiency measures administered by the authority with  
50 the goal of achieving the one hundred eighty-five trillion British ther-  
51 mal units of end use energy below the two thousand twenty-five energy  
52 use forecast goal shall be allocated to environmental justice communi-  
53 ties, at a minimum proportional to these areas' share of the state hous-  
54 ing and small commercial building stock;

55     b. may allocate funds to non-energy related interventions in conjunc-  
56 tion with energy interventions, including but not limited to mold, lead,

1 and asbestos remediation pursuant to the recommendations of an inte-  
2 grated physical needs assessment performed by the division of housing  
3 and community renewal or another qualified agency;

4 c. shall require any job training program funding administered by the  
5 authority for energy efficiency implementation serve individuals from  
6 priority populations or trainees living in environmental justice commu-  
7 nities, proportional to these areas' share of the state housing and  
8 small commercial building stock; and

9 d. shall require employees hired for implementation of authority  
10 programs for efficiency implementation are from environmental justice  
11 community, proportional to these areas' share of the state housing and  
12 small commercial building stock.

13 3. A cost-benefit analysis utilized in designing and implementing any  
14 energy efficiency program initiated, updated or revised subsequent to  
15 the effective date of this section, shall include and consider resource  
16 impacts, non-energy impacts, distribution impacts and economic develop-  
17 ment impacts when performing a cost-benefit analysis.

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

21 5. The public service commission shall have the authority to adjudi-  
22 cate complaints and conduct investigations for violation of this section  
23 in the manner provided by the provisions of this article and shall have  
24 the authority to enforce the provisions of this section in accordance  
25 with section twenty-six of the public service law.

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

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