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:

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

(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;

(e) "environmental justice communities" means an economically 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.

LBD05989-03-1

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

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

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

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

(i) "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;

(j) "small commercial building" means a building operated by a business or not-for-profit organization 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

(k) "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; and

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

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

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

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

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

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

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

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

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

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

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

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 or not-for-profit organization 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

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; and

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

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

a. shall require that any program funding for the installation of end-use energy efficiency measures administered by the authority 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 environmental justice communities, at a minimum 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 authority for energy efficiency implementation serve individuals from priority populations or trainees living in environmental justice communities, proportional to these areas' share of the state housing and small commercial building stock; and

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

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

4. The authority 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 authority.

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

§ 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.