

2015 Sess. Law News of N.Y. Ch. 58 (A. 3008-B) (McKINNEY'S)

McKINNEY'S 2015 SESSION LAW NEWS OF NEW YORK

238th LEGISLATURE

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CHAPTER 58

A. 3008-B

STATE BUDGET—IMPLEMENTATION—TRANSPORTATION,
ECONOMIC DEVELOPMENT, AND MENTAL HYGIENE

Approved and effective April 13, 2015

AN ACT to amend part U1 of chapter 62 of the laws of 2003 amending the vehicle and traffic law and other laws relating to increasing certain motor vehicle transaction fees, in relation to the effectiveness thereof; and to amend chapter 84 of the laws of 2002, amending the state finance law relating to the costs of the department of motor vehicles, in relation to extending the effectiveness thereof (Part A); intentionally omitted (Part B); to amend the transportation law, in relation to fees for motor carriers; and to repeal certain provisions of such law relating thereto (Part C); to amend chapter 413 of the laws of 1999, relating to providing for mass transportation payments, in relation to including Ontario county to the Rochester–Genesee Regional Transportation District (Part D); to amend the state finance law, in relation to creating a transit assistance for capital investments fund (Part E); authorizing the department of transportation to defer reductions in service payments for two years (Part F); to amend the public authorities law, the highway law, and the public officers law, in relation to authorizing shared services agreements between the department of transportation and the New York state thruway authority (Part G); intentionally omitted (Part H); to amend the vehicle and traffic law, the criminal procedure law and the transportation law, in relation to the issuance of commercial learner's permits and the disqualification of commercial driver's licenses and commercial learner's permits (Part I); to amend the public authorities law, in relation to decreasing state responsibility for certain costs incurred by the New York state thruway authority (Part J); intentionally omitted (Part K); intentionally omitted (Part L); to amend the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part M); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part N); to authorize and direct the New York state energy research and development authority to make a payment to the general fund of up to \$913,000 (Part O); to authorize the New York state energy research and development authority to finance a portion of its research, development and demonstration and policy and planning programs, and to finance the department of environmental conservation's climate change program, from an assessment on gas and electric corporations (Part P); to amend the executive law, in relation to extending certain provisions relating to the minority- and women-owned business enterprise disparity study; and to amend chapter 261 of the laws of 1988 amending the state finance law and other laws relating to the New York infrastructure trust fund, in relation to the effectiveness of article 15–A of the executive law (Part Q); to authorize the department of health to finance certain activities with revenues generated from an assessment on cable television companies (Part R); to amend chapter 58 of the laws of 2012 amending the public authorities law relating to authorizing the dormitory authority to enter into certain design and construction management agreements, in relation to extending certain authority of the dormitory authority of the state of New York (Part S); to amend chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit

additional levels of such expedited service, in relation to extending the expiration date thereof (Part T); to amend the real property law, in relation to eliminating certain fees charged for an apartment information vendor license (Part U); to amend the agriculture and markets law, in relation to eliminating certain license fees (Part V); to amend part B of chapter 173 of the laws of 2013 relating to the issuance of securitized restructuring bonds to refinance the outstanding debt of the Long Island power authority, in relation to the issuance of securitized restructuring bonds to refinance outstanding debt of the Long Island power authority; and to amend part A of chapter 173 of the laws of 2013, amending the public service law, the public authorities law, the executive law and the education law relating to the powers and duties of the department of public service and the Long Island power authority, in relation to repowering (Part W); to amend the navigation law and the state finance law, in relation to license fees and surcharges for the transfer of petroleum between vessels, between facilities and vessels, and between facilities, whether onshore or offshore (Part X); to amend the environmental conservation law, in relation to operating permit program fees, state air quality control fees and state pollutant discharge elimination system program fees (Part Y); intentionally omitted (Part Z); to amend the state finance law and the environmental conservation law, in relation to establishing a habitat conservation and access account; and to repeal certain provisions of the state finance law relating thereto (Part AA); to amend the local finance law, in relation to establishing a ten year period of probable usefulness for municipally owned omnibus or surface transit motor vehicles (Part BB); to amend the vehicle and traffic law, in relation to directing the city of Buffalo to adjudicate traffic infractions; and in relation to certain penalties and forfeited security collected by the city of Buffalo and granting a traffic violations agency certain powers; to amend the general municipal law, in relation to establishing the Buffalo traffic violations agency; to amend the state finance law, in relation to the justice court fund; to amend the criminal procedure law, in relation to a trial by judicial hearing officer; and requires the executive director of the Buffalo traffic violations agency to annually issue a report on the progress, development and operations of such agency (Part CC); to amend part F of chapter 58 of the laws of 2013 amending the environmental conservation law and the state finance law relating to the 'Cleaner, Greener NY Act of 2013', in relation to extending the effectiveness thereof (Part DD); to amend the soil and water conservation districts law, in relation to a farm drain tile revolving loan fund program (Part EE); to amend the New York state urban development corporation act, in relation to eligible use of the beginning farmers NY fund (Part FF); to amend chapter 495 of the laws of 2004 amending the insurance law and the public health law relating to the New York state health insurance continuation assistance demonstration project, in relation to the effectiveness thereof (Part GG); relating to term appointments for eligible, high-demand ITS positions without examination (Part HH); to amend the environmental conservation law, in relation to retrofit technology for diesel-fueled vehicles (Part II); to amend part D of chapter 111 of the laws of 2010 relating to the recovery of exempt income by the office of mental health for community residences and family-based treatment programs, in relation to the effectiveness thereof (Part JJ); to amend the education law, in relation to authorizing contracts for the provision of special education and related services for certain patients hospitalized in hospitals operated by the office of mental health; and to amend part M of chapter 56 of the laws of 2012 amending the education law, relating to authorizing contracts for the provision of special education and related services for certain patients hospitalized in hospitals operated by the office of mental health, in relation to the effectiveness thereof (Part KK); to amend part A of chapter 111 of the laws of 2010 amending the mental hygiene law relating to the receipt of federal and state benefits received by individuals receiving care in facilities operated by an office of the department of mental hygiene, in relation to the effectiveness thereof (Part LL); to amend the social services law, the executive law and the mental hygiene law, in relation to providing professional services to individuals with developmental disabilities in non-certified settings; in relation to the exemption of the nurse practice act for direct care staff in non-certified settings funded, authorized or approved by the office for people with developmental disabilities; in relation to services and needs assessments; and to repeal certain provisions of the mental hygiene law relating thereto (Part MM); to amend the mental hygiene law, in relation to clarifying the authority of the commissioners in the department of mental hygiene to design and implement time-limited demonstration programs; and providing for the repeal of such provisions upon expiration thereof (Part NN); to amend the mental hygiene law, in relation to eliminating the duplication of regulatory efforts between the department of health and the office for people with developmental disabilities associated with rates and fees received by OPWDD providers; and to repeal certain provisions of such law relating thereto (Part OO); in relation to establishing a transportation assessment for people with developmental disabilities and other populations (Part PP); relating to the office for people with developmental disabilities omnibus reporting and providing for the repeal of such provision upon expiration thereof (Part QQ); to amend the public authorities law, in relation to semi-annual reports (Part RR); and requiring

**NON LIPA-RELATED PROVISIONS
INTENTIONALLY OMITTED**

§ 9. Subdivision 5 of section 500 of the agriculture and markets law, as amended by section 3 of part II of chapter 59 of the laws of 2009, is amended to read as follows:

<< NY AGRI & MKTS § 500 >>

5. Licensure. No person shall maintain or operate a retail food store, food service establishment or food warehouse unless such establishment is licensed pursuant to the provisions of this article, provided, however, that establishments registered, permitted or licensed by the department pursuant to other provisions of this chapter, under permit and inspection by the state department of health or by a local health agency which maintains a program certified and approved by the state commissioner of health, or subject to inspection by the United States department of agriculture pursuant to the federal meat, poultry or egg inspection programs, shall be exempt from licensure under this article. Application for licensure of a retail food store, food service establishment or food warehouse shall be made, upon a form prescribed by the commissioner, on or before December first of every other year for the registration period beginning January first following. Upon submission of a completed application, together with the applicable licensing fee, the commissioner shall **issue a license to the retail food store, food service establishment or food warehouse described in the application for two years from the applicable registration commencement period set forth in this section date of issuance.** The ~~licensing~~ **license** fee shall be two hundred fifty dollars provided, however, that food warehouses shall pay a ~~licensing~~ **license** fee of four hundred dollars. **Notwithstanding the preceding sentence, the commissioner shall, upon submission of a completed application for a new license by an applicant that is a chain store, as defined by subdivision five of section two hundred fifty-one-z-two of this chapter, issue such license for a period ending on the same date as the licenses of the other chain stores that are a part of the same network.**

§ 10. Subdivision 1 of section 133-a of the agriculture and markets law is amended by adding a new paragraph (c) to read as follows:

<< NY AGRI & MKTS § 133-a >>

(c) No fee shall be paid by any person for any year in which such person distributed less than one hundred tons of feed ingredients and commercial feeds in this state.

§ 11. This act shall take effect immediately.

PART W

§ 1. Legislative findings. The legislature hereby finds and determines that the establishment of the utility debt securitization authority under part B of chapter 173 of the laws of 2013 permitted the issuance of securitized restructuring bonds on favorable terms which resulted in lower aggregate distribution, transmission and transition charges to Long Island ratepayers, compared to other available alternatives, and the purposes of such act will be further advanced by amending such act to permit the issuance of additional such bonds subject to a limit on the outstanding principal amount thereof, including the potential issuance of such bonds by a newly created restructuring bond issuer.

§ 2. Subdivision 10 of section 2 of part B of chapter 173 of the laws of 2013 relating to the issuance of securitized restructuring bonds to refinance the outstanding debt of the Long Island power authority is amended to read as follows:

10. "Restructuring bond issuer" means the corporate municipal instrumentality of the state created under **paragraph (a) or (b) of subdivision one of** section four of this act.

§ 2-a. Subdivision 11 of section 2 of part B of chapter 173 of the laws of 2013 relating to the issuance of securitized restructuring bonds to refinance the outstanding debt of the Long Island power authority is amended to read as follows:

11. "Restructuring bonds" means bonds or other evidences of indebtedness that are issued pursuant to an indenture or other agreement of the restructuring bond issuer under a restructuring cost financing order (a) the proceeds of which are used, directly or indirectly, to recover, finance, or refinance approved restructuring costs, (b) that are directly or indirectly secured by, or payable from, restructuring property, and (c) that have a term no longer than thirty years **and (d) that have a final scheduled maturity date no later than the final scheduled maturity date of the authority bonds purchased, redeemed or defeased with the proceeds of such restructuring bonds.**

§ 3. The section heading and subdivision 1 of section 4 of part B of chapter 173 of the laws of 2013 relating to the issuance of securitized restructuring bonds to refinance the outstanding debt of the Long Island power authority is amended to read as follows:

Creation of restructuring bond issuer ~~issuers~~. 1. Creation of restructuring bond issuer ~~issuers~~. (a) For the purpose of effectuating the purposes declared in section one of this act, there is hereby created a special purpose corporate municipal instrumentality of the state to be known as "utility debt securitization authority", which shall be a body corporate and politic, a political subdivision of the state, and a public benefit corporation, exercising essential governmental and public powers for the good of the public. ~~The~~ **Such** restructuring bond issuer shall not be created or organized, and its operations shall not be conducted, for the purpose of making a profit. No part of the revenues or assets of the ~~such~~ **such** restructuring bond issuer shall inure to the benefit of or be distributable to its trustees or officers or any other private persons, except as herein provided for actual services rendered. **The aggregate principal amount of restructuring bonds authorized to be issued by restructuring bond issuers created pursuant to this act shall not exceed four billion five hundred million dollars.**

(b) For the purpose of effectuating the purposes declared in section one of this act, and in contemplation of satisfaction of the conditions set forth in the last sentence of this paragraph, there is hereby created a special purpose corporate municipal instrumentality of the state to be known as "utility debt securitization authority no. 2", which shall be a body corporate and politic, a political subdivision of the state, and a public benefit corporation, exercising essential governmental and public powers for the good of the public. **Such** restructuring bond issuer shall not be created or organized, and its operations shall not be conducted, for the purpose of making a profit. No part of the revenues or assets of such restructuring bond issuer shall inure to the benefit of or be distributable to its trustees or officers or any other private persons, except as herein provided for actual services rendered. **Such** restructuring bond issuer shall issue no restructuring bonds unless and until the authority by resolution shall have found and determined that on the basis of the documents and opinions presented to it, the terms of sale of such bonds are, at such time, reasonably expected to be more favorable than such terms would be if such restructuring bonds were to be issued by the restructuring bond issuer created by paragraph (a) of this subdivision.

(c) Notwithstanding subdivision four of this section, if the authority by such resolution passed in the last sentence of paragraph (b) of this subdivision, creates the restructuring bond issuer created by paragraph (b) of this subdivision, the legislature shall have two additional appointees on such restructuring bond issuer's board, one of whom shall be appointed by the temporary president of the senate, and one of whom shall be appointed by the speaker of the assembly, these two appointees are in addition to the three trustees appointed by the governor in subdivision four of this section. The appointee of the temporary president of the senate shall serve an initial term of three years; the appointee of the speaker of the assembly shall serve an initial term of six years. Their successor shall serve for terms of six years each. The appointing officer may remove any trustee for inefficiency, neglect of duty or misconduct in office after giving him or her a copy of the charges against him or her and an opportunity to be heard, in person or by counsel, in his or her defense, upon not less than ten days notice. If any trustee shall be so removed, the appointing officer shall file in the office of the department of state a complete statement of the charges made against such trustee and his or her findings thereon, together with a complete record of the proceedings. Trustees appointed pursuant to this paragraph shall be subject to paragraphs (b), (c), (d), (e), (g) and (h) of subdivision four of this section.

§ 4. Subparagraphs (i), (ii) and (iii) of paragraph (a) of subdivision 2 of section 4 of part B of chapter 173 of the laws of 2013 relating to the issuance of securitized restructuring bonds to refinance the outstanding debt of the Long Island power authority are amended and a new subparagraph (iv) is added to read as follows:

(i) issue the restructuring bonds contemplated by a restructuring cost financing order, and use the proceeds thereof to purchase or acquire, and to own, hold and use restructuring property or to pay or fund upfront financing costs provided, however, that the restructuring bond issuer shall ~~only~~ **not** issue and ~~sell~~ restructuring bonds ~~once~~ **for the purpose of refunding other restructuring bond;**

(ii) contract for servicing of restructuring property and restructuring bonds and for administrative services; and

(iii) pledge the restructuring property to secure the restructuring bonds and the payment of ongoing financing costs, all pursuant to section seven of this act; **and**

(iv) only issue restructuring bonds of which the final scheduled maturity date of any series of restructuring bonds shall be no later than the final scheduled maturity date of the authority bonds to be purchased, redeemed or defeased with the proceeds of such restructuring bonds.

§ 5. Section 16 of part A of chapter 173 of the laws of 2013, amending the public service law, the public authorities law, the executive law and the education law relating to the powers and duties of the department of public service and the Long Island power authority, is amended to read as follows:

§ 16. Repowering. **The Long Island power authority, in cooperation with its service provider, as defined under section 3-b of the public service law, and the owner of the legacy LILCO power generating facilities will perform an engineering, environmental permitting and cost feasibility analysis and study of repowering the Port Jefferson power station located in the town of Brookhaven in the county of Suffolk, the E.F. Barrett power station located in the town of Hempstead in the county of Nassau, and the Northport power station located in the village of Northport in the county of Suffolk. Such study will focus on repowering utilizing greater efficiency and environmentally friendly technologies, and shall have been commenced no later than October 1, 2015 for the power stations in the town of Brookhaven and the town of Hempstead, and no later than October 1, 2018 for the power station in the village of Northport. These analyses shall be completed and presented to the board of the Long Island power authority and the Long Island branch of the department of public service no later than eighteen months after the analysis commencement date. If after the Long Island power authority, or its successor, determines, in accordance with the feasibility determinations resulting from the studies and analyses authorized under this section, and in accordance with the terms and conditions contained in the amended and restated power supply agreement ("A&R PSA"), dated October 10, 2012, between the authority and the owner of the legacy LILCO power generating facilities, that repowering any such generating facility is in the best interests of its ratepayers and will enhance the authority's ability to provide a more efficient, reliable and economical supply of electric energy in its service territory, consistent with the goal of improving environmental quality, the authority will exercise its rights under the A&R PSA related to repowering any such facility or facilities, and shall enter into an agreement related to payments in lieu-of-taxes for a term commensurate with any power purchase agreement entered into related to such repowered facility, consistent with other such agreements related to generating facilities under contract to the authority in the service territory.**

§ 6. This act shall take effect immediately.

PART X

**NON LIPA-RELATED PROVISIONS
INTENTIONALLY OMITTED**