STATE OF NEW YORK

6453

2021-2022 Regular Sessions

IN SENATE

April 29, 2021

Introduced by Sens. PARKER, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public authorities law and the public service law, in relation to implementing the "New York State Build Public Renewables Act"; and to repeal certain provisions of the general business law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "New York State Build Public Renewables Act".

§ 2. Section 1005 of the public authorities law is amended by adding nine new subdivisions 28, 29, 30, 31, 32, 33, 34, 35 and 36 to read as follows:

28. (a) The authority is authorized and directed to purchase, acquire, plan, design, engineer, finance, construct, operate, manage, improve and/or maintain any renewable energy project. The authority is also authorized and directed to provide energy efficiency, retrofits, high performance/sustainable building, and energy management services.

(b) For the purposes of this subdivision and subdivisions twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five and thirty-six of this section, the following terms shall have the following meanings:

(i) "renewable energy" shall be defined as renewable electricity or thermal energy that does not emit greenhouse gases or other pollutants including, but not limited to, photovoltaics (solar), land-based and offshore wind, run-of-the-river and existing New York state hydroelectric, geothermal electric, tidal energy, wave energy, battery energy storage systems, pumped hydroelectric energy storage systems, and renewable thermal energy technology such as solar thermal, air-source and ground-source heat pumps, renewable co-generation, district heating

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

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systems, systems designed to capture waste heat, or other heating or cooling technologies using renewable sources of energy that do not emit greenhouse gases or other pollutants, provided, however, that such term shall not include any form of fossil fuels or combustion-based energy which relies upon building new fossil fuel infrastructure or extending the use of fossil fuel infrastructure including, but not limited to, natural gas, green hydrogen fuel, biofuel, biogas, biomass, nuclear, carbon sequestration and renewable natural gas.

(ii) "renewable energy project" shall be defined as all infrastructure which generates, stores, distributes or transmits renewable energy or thermal energy as defined in paragraph (i) of this subdivision, and includes the construction, installation and/or operation of ancillary facilities or equipment done in connection with any such renewable energy generating projects, including, but not limited to, electric vehicle charging infrastructure and renewable offshore wind vessels.

29. (a) The authority shall have the right of first offer and first refusal to and shall coordinate with the department of state's office of renewable energy siting (ORES) to purchase, acquire, plan, design, engineer, finance, construct, operate, manage, improve and/or maintain renewable energy projects over twenty-five megawatts and to own and sell any power or energy created by such renewable energy project. The authority shall have sixty days to commit to a project. The authority shall also have the right of first offer and first refusal to purchase planned, future, and existing renewable energy projects.

(b) Where a renewable energy site appropriate for New York state falls into federal jurisdiction, the authority shall participate in lease auctions in an attempt to obtain ownership of that area.

30. Notwithstanding any other provision of law, to, on or after January first, two thousand twenty-five, only generate and transmit renewable energy and the authority shall only purchase, acquire, plan, design, engineer, finance, construct, operate, manage, improve and/or maintain generation and transmission facilities for the purpose of generating, storing, distributing and transmitting renewable energy. The authority shall phase out its use of existing non-renewable generation as quickly as possible but no later than December thirtieth, two thousand twenty-five, as it scales up renewable energy generation to meet one hundred percent of all state and municipal energy needs and the energy needs of all public and private buildings and properties powered by the authority with renewable energy by two thousand twenty-six, and it shall not purchase, plan, finance, or construct any new generation project or energy infrastructure which is not a renewable energy project or part of a renewable energy project. Renewable energy sources which prioritize projects that actively benefit environmental justice communities and ecosystems, and which have the lowest financial costs, will be prioritized through a process to be determined by local community groups and environmental experts. The authority will also convert all state and municipal properties and authority powered privately owned buildings to receive heating and cooling from renewable energy sources by two thousand thirty.

31. (a) Within two years of the effective date of this subdivision, the authority shall make public a ten-year climate and resiliency plan. Such climate and resiliency plan shall be designed to minimize the costs to ratepayers while balancing the interests of employees, grid reliability and resiliency, environmental justice communities and the environment. Such plan shall be developed in consultation with the New York state independent system operator, the New York state energy

research and development authority, and experts, environmental justice communities, ratepayers and community organizations via the New York state energy research and development authority's community energy hubs. Such resiliency plan shall outline the renewable projects the authority plans to build, how the authority plans to phase out non-renewable assets and how the authority plans to comply with the climate leadership and community protection act and the renewable energy targets outlined in this subdivision and subdivisions twenty-nine, thirty and thirty-two of this section. The authority shall also outline a plan to improve energy resiliency and if necessary to meet the authority's renewable energy targets, shall coordinate with the New York state independent system operator to re-adjust the locational capacity requirements for each region in the state. Additionally, within two years of the effective date of this subdivision, the authority shall make public a democratization plan. Such plan shall be fully funded, created in partnership and codesigned with the NY Energy Democracy Alliance and shall ensure the scale up of renewable build out across the state occurs in line with the principles of energy democracy and transparency.

(b) (i) The authority shall hold at least one annual public hearing related to such climate and resiliency plan and may update such plan annually as needed. The hearing shall be publicized in various forms of media, including but not limited to the authority's website, local newspapers and social media platforms, and shall also be accessible via livestream. In advance of such hearing, the authority shall conspicuously post written notice of such hearing in all authority facilities and New York state energy research and development authority community energy hubs on a sign posted at each facility entrance and exit used by employees, and shall provide at least two weeks advance notice of such hearing to authority customers by directly communicating such notice to customer phone, email and mailing lists. Public input shall be permitted between the hours of 6:00 PM and 9:00 PM. Each speaker shall have at least three minutes to speak, and a remote option shall be provided for submitting comments via video conference, phone, including short message services (SMS) text messages and/or written comment, which shall be read aloud. Provisions for childcare, translation services, American sign language interpretation, closed captioning, and access to accommodations provided by the Americans with Disabilities Act shall be provided upon request.

(ii) The authority shall maintain an online suggestion board where the public may submit recommendations to be voted on by other members of the public. The top five suggestions shall be discussed publicly and shall be voted on by the authority's board at the annual public hearing. Other suggestions may be taken into consideration at the board's discretion. All data, meeting minutes, recordings and documents that do not include personal customer information, including but not limited to depreciation schedules, annual financial statements of itemized spending, environmental impact statements, cost-benefit analyses, climate and resiliency plans, renewable energy project plans, and annual reports on operations, customer service, reliability, resiliency and sustainability, shall be made available on the authority's website, or otherwise made accessible by the authority upon request. All such records shall be maintained as business records for a minimum of ten years. The state comptroller shall audit the authority at least once every two years until two thousand thirty to ascertain whether the authority is in compliance with the renewable energy targets outlined in this subdivision and subdivisions twenty-nine, thirty, thirty-two and thirty-three of this section and whether the authority's spending and operations are efficient. The most recent comptroller audits shall also be made available on the authority's website, or otherwise made accessible by the authority upon request.

(c) (i) The authority shall conduct an energy efficiency and energy audit program to identify public and private buildings most in need of retrofits and efficiency measures. The authority shall hire authority employees to perform energy audits, retrofits and other efficiency programs, such as incentives for energy efficient appliances and induction stoves, as needed, to meet the climate goals outlined in the climate leadership and community protection act, the New York state energy research and development authority, environmental and energy experts, and communities via the New York state energy research and development authority's community energy hubs. The authority shall prioritize public buildings and low-income customers and tenants to receive the benefits of these efficiency programs and retrofits.

(ii) The authority or the New York state energy research and development authority shall annually post and maintain for at least one year on their website, a report evaluating the energy efficiency program, including, but not limited to, the number of customers served by the efficiency program, the customer demographics, the number of retrofits and energy audits performed, the number of jobs created and employee demographics, and the amount of energy and dollars saved as a result of the program.

The authority shall also submit an annual report to the governor and to the legislature which shall be made available to the public and shall be subject to open hearings in the legislature. Such report shall include the:

(A) Ten year climate and resiliency plan described in paragraph (a) of this subdivision;

(B) Amount of energy produced by each facility;

(C) Energy transferred between facilities within the authority;

(D) Energy transferred outside of the authority for sale;

(E) Kilowatt-hour sales by project and by customer;

(F) Revenues and costs for each project facility;

(G) Accumulated provision for depreciation of each project facility;

(H) Financial and operating information of the energy efficiency program; and

(I) Enrollment in and effectiveness of renewable energy auto-enrollment, retrofit, and energy efficient appliance programs.

32. Notwithstanding any other provision of law, to be the sole provider of electricity and power to all state and municipal owned, leased, controlled, or operated properties that use electricity, including but not limited to all buildings and transportation-related properties such as trains, subways and subway stations, vessels, electrified buses and vehicles, and public or private electric vehicle charging stations.

33. (a) To sell or provide renewable energy to end-use customers and CCA communities using the transmission or distribution system of any utility with consolidated billing.

(b) Any excess renewable energy produced by the authority and not used or stored by state or municipal owned or leased properties shall be sold directly to end-use customers or CCA's, wholesale, using the transmission or distribution system of utilities. This excess energy shall be sold on an opt-out basis, with automatic enrollment prioritizing low-income customers and environmental justice communities.

(i) There shall be no electricity rate increase for the first three years following the effective date of this subdivision. After the first three years following the effective date of this subdivision, a progressive rate structure based on income and level of energy shall be developed in consultation with the authority and communities via the New York state energy research and development authority's community energy hubs.

(ii) The authority shall discourage the shut off of any residential customer's energy for non-payment and shall discourage the charge of punitive late fees by collaborating with distribution companies. The authority shall work with the low income home energy assistance program to assist low-income customers with payment plans and to develop an emergency fund to cover instances of non-payment. Notwithstanding any other provision to the contrary, the authority may impose penalties for large energy users and may incentivize energy conservation with rebates and discounts on energy efficient products, to be determined by the authority's board in consultation with the New York state energy research and development authority.

34. (a) There shall be ten "New York state energy research and development authority community energy hubs", hereinafter community energy hubs, developed and distributed evenly throughout the state. The location and staffing level of the community energy hubs shall be determined by the New York state energy research and development authority in consultation with local communities and environmental and energy experts. The efforts of such community energy hubs shall be centrally coordinated by the authority and the New York state energy research and development authority.

(b) The purpose of the community energy hubs shall include, but not be limited to, the following:

(i) Assisting residents and businesses to adopt renewable energy and energy efficiency measures through outreach, education, enrollment, intake, referral and project management. Administering and enrolling customers into financial assistance, energy efficiency, and renewable energy programs of the authority and the New York state energy research and development authority.

(ii) Planning and using microgrids, battery storage, and decarbonization projects at the level of an individual customer meter or group of meters, where distributed energy resources might be shared locally across multiple customer meters in the same community. The community energy hubs shall also enable the authority to design, finance, procure, install, and own demand-side, behind the meter assets, sited at the customers' property or in the public right of way.

(iii) Coordinating the research needs of the New York state energy research and development authority and the authority in partnership with advocacy organizations, environmental justice organizations and universities to assist with scaling up renewable energy and efficiency technologies.

(iv) Ensuring that advocacy organizations and environmental justice organizations co-design energy programs, providing their knowledge of local communities and their insight into how energy programs have performed in their community, and receive the necessary financial and technical assistance to meaningfully participate in the co-design process.

(v) Identifying, soliciting, receiving feedback on and addressing concerns about proposals for locations for renewable energy projects in coordination with the department of state's office of renewable energy siting and local organizations that are accountable to the community, utilizing the same co-design process outlined in subparagraph (iv) of this paragraph to assess the energy needs of each community and how such needs interact with the energy needs of the state as a whole.

(vi) Performing community outreach and education on energy and climate-related initiatives, and/or supporting local community organizations to perform this outreach and education, including utility proceedings and the power authority of the state of New York's renewable energy enrollment program.

(vii) Addressing customer service issues and billing issues for services provided by the New York state energy research and development authority and the authority, including connecting low-income customers with assistance programs such as the low income home energy assistance program, and providing access to language translation services.

(c)(i) All community energy hubs shall hold at least one public meeting on the new rate design before the new rate design is implemented. Such hubs shall also hold quarterly public meetings where all stakeholders, including employees and ratepayers, may provide suggestions for improvements to the programs, investments, technologies, and renewable energy projects of the New York state energy research and development authority and the authority. New York state energy research and development staff and at least one representative of the authority shall attend such meetings and shall report key findings and recommendations to the authority's board for consideration. All records of public meetings shall be maintained as business records for a minimum of ten years.

(ii) Additional issue-based hearings may also be held at the request of any stakeholder, when such stakeholder submits a request with at least one hundred petition signatures. Every public meeting shall be accessible via livestream and shall be held between the hours of 6:00 PM and 9:00 PM. Each speaker shall have at least three minutes to speak, and a remote option shall be provided for submitting comments via video conference, phone, and/or written comment, which shall be read aloud. Provisions for childcare, translation services, American sign language interpretation, closed captioning, and access to accommodations provided by the Americans with Disabilities Act shall be provided upon request. All records of issue-based hearings shall be maintained as business records for a minimum of ten years.

(d) The community energy hubs shall be funded through a combination of bonds and revenue from the authority, a portion of rates from the top five-percent earning commercial and industrial customers or any other source of state revenue that is demonstrated to have no impact on low-to-moderate-income New Yorkers. All new renewable projects shall be financed via the following methods: state and municipal bond issuances, available funds from the New York state energy research and development authority and the authority, public banks and participatory budgeting efforts, and/or progressive electric rates.

(e) The authority and the New York state energy research and development authority shall have the power to administer and finance programs for the development, design, installation and provision of financial assistance, with respect to the replacement of refrigerators, dishwashers and other appliances with more energy efficient appliances, or the replacement of gas stoves and water heaters with electric or induction appliances, provided that no costs associated with such financial assistance shall be charged to the authority's customers. Financial assistance shall be repaid to the authority, over a period not to exceed ten years, based on projected savings in energy costs and related costs which accrue to the owner as a result of installing such measures.

35. (a) All employees who become unemployed as a result of this subdivision, subdivisions twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, or thirty-four of this section, or as a result of the transition to renewables and implementation of the climate leadership and community protection act, including but not limited to nuclear, fossil fuel, and ESCO employees, shall be provided with free retraining options to transition to another role, the opportunity to retire early where deemed appropriate by the community energy hubs in consultation with labor unions and employees, or the option for disadvantaged employees to participate in a paid direct access and training program.

(b) There shall be a hiring hall developed within the community energy hubs for the express purpose of hiring and retraining employees for green jobs. Retraining programs may prepare employees to transition to fields including, but not limited to, jobs installing and/or maintaining renewable energy infrastructure, green roofs and green walls, renewable heat pumps, bioswales, restoring wetlands, regenerative agriculture, remediating lead and mold, performing retrofits, providing customer service for the community energy hubs and the authority, and other green jobs which would allow New York to comply with climate laws including the climate mobilization act and the climate leadership and community protection act.

(c) Such hiring halls shall also create a community jobs pipeline strategy of engaging low-income communities of color and disconnected employees in the struggle to create an equitable community-controlled green economy. Such hiring halls shall: (i) act as employer of record and recruit, screen and hire employees; (ii) mediate disputes between employees and employers as needed; (iii) administer timesheets, payroll, general liability and worker's compensation insurance as needed; (iv) coordinate free training in both general and specialized credentials; and (v) provide wraparound support for employees, including transportation costs and financial literacy.

(d) All new renewable projects owned and operated by the authority and energy efficiency programs owned and operated by the authority shall pay a prevailing wage and shall be subject to project labor agreements. There shall be no emergency strike funds, nor shall there be ratepayer funded management contract negotiation funds; the authority shall at a minimum remain neutral to unionization efforts.

36. (a) A labor advisory board shall be established to determine safety and training standards, disaster response measures, guaranteed hours, staffing levels, retraining programs and other labor issues in consultation with the authority's board.

(b) The advisory board shall consist of seven members to be elected by all current rank-and-file authority employees and rank-and-file employees of community energy hubs and resulting green job programs, not including any outside private contractors. Members shall serve for a term of two years and may serve until their successors are elected. The members of the board shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties as board members.

(c) Any labor required to build, design, operate and maintain the authority's renewable energy projects will be performed by authority employees. All employees, regardless of their union, will be cross-trained and perform both new construction and maintenance work.

§ 3. Section 349-d of the general business law is REPEALED.

§ 4. Paragraph (a) of subdivision 27 of section 1005 of the public authorities law, as added by section 2 of part LL of chapter 58 of the laws of 2019, is amended to read as follows:

(a) Notwithstanding any other provision of this title, as deemed feasible and advisable by the trustees, the authority is authorized to undertake the following actions when it deems it necessary or desirable to address the energy-related needs of any (i) authority customer, (ii) public entity, or (iii) CCA community:

(1) (A) supply power and energy procured from competitive market sources to any (i) authority customer, (ii) public entity, or (iii) CCA community through the supply of such products through an [~~energy services company or other~~] entity that is authorized by the public service commission to procure and sell energy products to participants of a CCA program[~~, provided, however, that the authority shall not supply at any point more than a total of four hundred megawatts of power and energy to authority customers and public entities pursuant to the authority of this clause~~];

(B) supply renewable power[~~,~~] or energy[~~, or related credits or attributes procured through a competitive process, from competitive market sources, or through negotiation when a competitive procurement is not reasonably feasible and such products can be procured on reasonably competitive terms~~] to (i) any authority customer, (ii) any public entity, or (iii) any CCA community [~~through the supply of such products through an energy services company or other entity that is authorized by the public service commission to procure and sell energy products to participants of a CCA program; and~~];

(2) (A) alone or jointly with one or more other entities, finance the development of renewable energy generating projects that are located in the state, including its territorial waters, and/or on property or in waters under the jurisdiction or regulatory authority of the United States, (B) purchase power, energy or related credits or attributes produced from such renewable energy generating projects, and (C) allocate and sell any such products to (i) any authority customer, (ii) any public entity, and (iii) any CCA community through [~~an~~] a not-for-profit energy services company or other entity that is authorized by the public service commission to procure and sell energy products to participants of a CCA program[~~, provided that the authority shall not, pursuant to the authority in this subparagraph, finance more than six renewable energy generation projects and have a per-project electric generating capacity in excess of twenty-five megawatts.~~]; and

(3) (A) provide proof that the applicant is a tax exempt non-profit organization described in section 501(c) of the internal revenue code, (B) a corporation established by the state of New York that is wholly owned by a state, county or municipal entity within the state of New York, (C) a public authority established by the state of New York, or (D) an ESCO registered as a tax exempt non-profit organization described in section 501(c) of the internal revenue code, a corporation wholly owned by a federal, state or municipal government, or a public authority established and controlled by a federal, state or municipal government.

§ 5. Subdivision 5 of section 44 of the public service law, as added by chapter 359 of the laws of 2009, is amended to read as follows:

5. At least once a year, every utility corporation, not-for-profit energy services company or municipality shall provide its customers with a notice that billing statements are available in large print format. Upon written request by a customer, a utility corporation, not-for-profit energy services company or municipality shall provide the customer's

billing statements in the large print format commencing no later than sixty days after the date upon which the request is received by the utility corporation, **not-for-profit** energy services company or municipality. The provisions of this subdivision shall apply only to printed statements. For the purposes of this section, "large print" shall mean a printed font size of sixteen or greater to illuminate billing information. For the purposes of this section, "**not-for-profit** energy services company" or "**non-for-profit** ESCO" shall mean [~~an~~] **a not-for-profit** entity eligible to sell energy services to end-use customers using the transmission or distribution system of a utility corporation.

§ 6. Nothing in this act is intended to limit, impair, or affect the legal authority of the power authority of the state of New York under any other provision of title 1 of article 5 of the public authorities law.

§ 7. This act shall take effect immediately; provided that the amendments to subdivision 27 of section 1005 of the public authorities law made by section four of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.