

# STATE OF NEW YORK

5633

2023-2024 Regular Sessions

## IN ASSEMBLY

March 20, 2023

Introduced by M. of A. FAHY -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law and the public authorities law, in relation to the utilization of renewable energy at state-owned facilities in Albany

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

1 Section 1. This act shall be known and may be cited as the "Renewable  
2 Capitol Act".

3 § 2. The executive law is amended by adding a new section 204 to read  
4 as follows:

5 § 204. Renewable capitol project. 1. For the purpose of this section,  
6 the following terms shall have the following meanings:

7 (a) The "advisory committee" shall mean the committee established  
8 pursuant to paragraph (b) of subdivision three of this section.

9 (b) The "CLCPA" shall mean the New York state climate leadership and  
10 community protection act enacted as chapter one hundred six of the laws  
11 of two thousand nineteen, as it shall from time to time be amended.

12 (c) "Co-pollutants" shall have the same meaning as set forth in subdivi-  
13 sion three of section 75-0101 of the environmental conservation law.

14 (d) "Emergency generator" shall mean the set of diesel generators  
15 located on Sheridan Avenue in Albany, New York as of the effective date  
16 of this section, that are intended to power the empire state plaza  
17 complex during an emergency fault condition causing an interruption to  
18 normal electricity service from the grid.

19 (e) "Empire state plaza complex" or the "complex" shall mean the  
20 complex of state-owned buildings and the land thereon in Albany, New  
21 York that utilize the steam distribution network of the Sheridan Avenue  
22 steam plant, including what are popularly known as Empire State Plaza,  
23 the State Capitol Building, the State Museum, the Alfred E. Smith Build-  
24 ing, the State Education Building, the Sheridan Avenue steam plant, and

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

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1 the former Albany New York Solid Waste Energy Recovery System incinera-  
2 tor building.

3 (f) "Greenhouse gas" shall have the same meaning as set forth in  
4 subdivision seven of section 75-0101 of the environmental conservation  
5 law.

6 (g) The "local community" shall mean the portion of Albany, New York  
7 designated as the local community under the plan, which shall include,  
8 at a minimum, the Albany Sheridan Hollow, Arbor Hill, Center Square,  
9 Mansion, Washington Park, West Hill and South End neighborhoods.

10 (h) "NYSERDA" shall mean the New York state energy research and devel-  
11 opment authority created under section eighteen hundred fifty-two of the  
12 public authorities law.

13 (i) The "office of general services" or the "office" shall mean the  
14 agency created under section two hundred of this article.

15 (j) The "plan" shall mean the plan set forth in subdivision three of  
16 this section.

17 (k) The "project" shall mean the work on the empire state plaza  
18 complex mandated by this section.

19 (l) A "power purchase agreement" shall mean an agreement between two  
20 parties, the seller and the buyer, to enter into a contractual obli-  
21 gation for the purchase of electricity.

22 (m) "Renewable energy systems" means systems that entirely generate  
23 electricity or thermal energy through use of the following technologies:  
24 solar thermal, photovoltaics, on land and offshore wind, hydroelectric,  
25 geothermal electric, geothermal ground source heat, tidal energy, wave  
26 energy, ocean thermal, and fuel cells which do not utilize a fossil fuel  
27 resource in the process of generating electricity or thermal energy.

28 (n) "Sheridan Avenue steam plant" shall mean the steam plant facility  
29 owned by New York state located as of the time of the effective date of  
30 this section at 79 Sheridan Avenue in Albany, New York.

31 2. (a) Within three years after the effective date of this section,  
32 the office of general services, in consultation with the power authority  
33 of the state of New York, shall ensure that all operations that power,  
34 heat or cool the empire state plaza complex shall entirely use renewable  
35 energy systems. In satisfying this requirement, the office may demon-  
36 strate that the amount of electrical energy credited to the complex  
37 annually from renewable sources through a power purchase agreement or  
38 similar instrument is not less than the amount of electrical energy  
39 consumed annually by the complex. Notwithstanding this mandate, the  
40 emergency generator shall be permitted to utilize non-renewable energy,  
41 but the office shall be empowered to retire or convert the emergency  
42 generator to wholly or entirely utilize renewables if possible.

43 (b) The project and the empire state plaza complex shall comply with  
44 the CLCPA, and any rules and regulations issued thereunder, and, in  
45 particular, section seven of such law; the statewide greenhouse gas  
46 emissions limits set forth in section 75-0107 of the environmental  
47 conservation law; and the targets established in subdivision two of  
48 section sixty-six-p of the public service law. Nothing in this paragraph  
49 shall preclude the office from mandating lower greenhouse gas emissions  
50 limits or compliance with greenhouse gas emissions limits in a shorter  
51 timeframe than set forth in section 75-0107 of the environmental conser-  
52 vation law, or in mandating a higher percentage of renewables or in a  
53 shorter timeframe than in subdivision two of section sixty-six-p of the  
54 public service law. Except in regard to the provision regarding to the  
55 emergency generator as set forth in paragraph (a) of this subdivision,  
56 any action taken in furtherance of the project that leads to any

1 increase in the emissions of greenhouse gases shall be deemed inconsis-  
2 ent with and in interference with the attainment of the statewide green-  
3 house gas emissions limits established in article seventy-five of the  
4 environmental conservation law and therefore shall trigger the process  
5 set forth in subdivision two of section seven of the CLCPA.

6 (c) Any contractor receiving payments for work conducted pursuant to  
7 this section shall pay employees and other workers under such contract a  
8 wage not less than the prevailing rates of wages for such work in the  
9 locality where the work is performed, in conformity with prevailing  
10 wage laws.

11 3. (a) Within one year of the effective date of this section, the  
12 office shall issue a plan in conformity with this subdivision and subdivi-  
13 vision two of this section.

14 (b) Within sixty days of the effective date of this section, the  
15 office shall establish an advisory committee to advise it on the prepa-  
16 ration, design and content of the plan. The advisory committee shall  
17 consist of the commissioner of the department of environmental conserva-  
18 tion and the chief executive officer of NYSERDA, or their designees, and  
19 additional members which shall be appointed by such commissioner in  
20 consultation with such chief executive officer, as follows: three repre-  
21 sentatives of Albany community organizations, at least two of which are  
22 from organizations whose mission, in whole or in part, is to represent  
23 the interests of the Arbor Hill and/or Sheridan Hollow neighborhoods in  
24 Albany; two additional representatives of local environmental justice  
25 organizations; one individual not employed by New York state with recog-  
26 nized expertise in renewable energy; a representative of labor organiza-  
27 tions; a scientist with expertise in energy and climate policy; an engi-  
28 neer with expertise in energy (including geothermal) and climate policy;  
29 and the mayor of Albany or his or her designee. The advisory committee  
30 shall meet at least three times annually, or additional times as the  
31 committee shall by majority vote determine. At such meetings, which  
32 shall be open to the public, the office, among other things, shall  
33 report on the progress made in completing the project and otherwise  
34 implementing this section. The advisory committee members shall receive  
35 no compensation for their services but shall be reimbursed for their  
36 actual and necessary expenses incurred in the performance of their  
37 duties. All agencies of the state or subdivisions thereof may, at the  
38 request of the advisory panel or the office, provide the advisory panel  
39 with such facilities, assistance and data as will enable the advisory  
40 panel to carry out its powers and duties.

41 (c) Each member of the advisory committee shall be entitled to one  
42 vote. No action may be taken by the advisory committee unless there is  
43 a quorum, which shall at all times be a majority of the members of the  
44 committee.

45 (d) The office shall retain a third party to perform an engineering  
46 study to be completed within one hundred eighty days after the effective  
47 date of this section, which shall consider the matters set forth in  
48 paragraph (f) of this subdivision and any other matters consistent with  
49 this section that the office shall direct. For the purposes of this  
50 paragraph, the term "third party" shall mean a professional engineer,  
51 not employed by the state of New York, or an engineering firm, provided  
52 that none of the engineers employed by such firm shall also be employed  
53 by the state of New York.

54 (e) The office shall be transparent in its work to develop the plan  
55 and shall maintain a website where the draft plan and other documents  
56 relevant to its development shall be posted for public review. The advi-

sory committee shall hold at least two public hearings within thirty days after the release of the draft plan and prior to the release of the final plan, of which one shall be held in Arbor Hill or Sheridan Hollow neighborhoods and one shall be held during the evening or weekend hours. An additional public hearing shall also be held within thirty days after the creation of the advisory committee to receive public input into the development of the draft plan.

(f) The plan shall contain recommendations on regulatory measures and other state actions to ensure that the mandates in subdivision two of this section are met. The measures and actions set forth in the plan shall include:

i. a timeline for planned steps toward the completion of the project, including, but not limited to construction of the project and obtaining the necessary permits to begin operation. The timeline should maximize the potential for achieving, and if feasible making greater emissions reductions than the statewide greenhouse gas emissions limits set forth in section 75-0107 of the environmental conservation law and meeting the other mandates of the CLCPA;

ii. measures to maximize the benefits to the local community, including prioritizing the reduction of greenhouse gases and co-pollutants and improving public health in the local community;

iii. measures to optimize thermal load sharing, energy efficiency, demand response, and energy conservation;

iv. comprehensive consideration of renewable heat exchange systems or a combination of such systems to meet the heating and cooling needs of the empire state plaza complex, including but not limited to: geothermal heat exchange with the earth, geothermal heat exchange with the Hudson River, open-loop and closed-loop geothermal heat exchange with the aquifer, heat exchange with potable water supplies, heat recovery from wastewater sources, air-source heat pump technology, and thermal storage, provided that such systems do not use combustion-based or fossil fuel energy;

v. prioritization of electricity procurement from renewable sources within New York Independent System Operator (NYISO) Zone F, especially sources most capable of providing electricity serving real-time load conditions of the empire state plaza complex. This shall include, but not be limited to, consideration of projects that expand electricity generation from ecologically-responsible, run-of-the-river hydroelectric facilities within the region; and

vi. electricity service upgrades for the empire state plaza complex necessary to support measures identified in this section.

(g) In designing the plan, the office shall be guided by any recommendations contained in the engineering study mandated by paragraph (d) of this subdivision, and any comments or recommendations made by the advisory committee, including as to such engineering study. Such advisory committee shall also be entitled to reject or modify any recommendation upon a finding that such recommendation would be inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits established in article seventy-five of the environmental conservation law, the climate justice provisions of the CLCPA, any rules or regulations issued thereunder, or this section. If the advisory committee rejects or modifies any recommendation, the original version of the recommendations as set forth in the engineering study shall presumptively not be considered by the office, unless substantial evidence exists to support the study's initial recommendations.

(h) The plan shall prioritize project implementation efforts to maximize the creation of quality jobs in New York state and the local community. The plan shall also designate the geographic boundaries of the local community. In designating such boundaries, which shall include the Albany Sheridan Hollow, Arbor Hill, Center Square, Mansion, Washington Park, West Hill, and South End neighborhoods, the office shall consider including in its designation any other communities that experience impacts on their water, air quality, noise and traffic from the empire state plaza complex.

§ 3. The tenth undesignated paragraph of section 1005 of the public authorities law, as added by chapter 55 of the laws of 1992, is amended to read as follows:

The authority is further authorized, as deemed feasible and advisable by the trustees, to acquire, maintain, manage, operate, improve and reconstruct as a project or projects of the authority one or both of the steam generation facilities owned by the state known as the Sheridan ~~[avenue]~~ Avenue steam ~~[generating]~~ plant ~~[on Sheridan avenue in the city of Albany and used to supply steam to state facilities]~~, together with any properties, buildings and equipment at the sites thereof or ancillary thereto, for the generation and sale of thermal energy and the cogeneration and sale of electricity for use by facilities of the state within the county of Albany. All the authority's costs, including its acquisition, capital, operating and maintenance costs, shall be recovered fully from the customers receiving service from such project or projects. Thermal energy and electricity not required by the state may be sold by the authority to others. The authority is not authorized to use refuse or refuse-derived fuel in operating the project or projects. As of the time period specified in paragraph (a) of subdivision two of section two hundred four of the executive law, all of the energy, including but not limited to heat, cooling and electricity, produced at the Sheridan Avenue steam plant shall utilize renewable energy systems. Any agreement for such acquisition shall insure that the authority is not liable or otherwise responsible for circumstances arising from the prior operation of such facilities. The acquisition and purchase of such land, buildings and equipment by the authority, and any actions taken to effect such acquisition and purchase, are hereby exempt from the provisions of article eight of the environmental conservation law. The application of such exemption shall be strictly limited to the acquisition and purchase of such land, buildings and equipment by the authority and such agreements with the state. Nothing herein shall exempt the authority from otherwise applicable laws respecting the expansion, conversion, operation and maintenance of such land, buildings and equipment. For the purposes of this subdivision, the terms "renewable energy systems" and "Sheridan Avenue steam plant" shall have the same meanings as in subdivision one of section two hundred four of the executive law.

§ 4. This act shall take effect immediately.