

10243

I N A S S E M B L Y

March 12, 2010

Introduced by M. of A. ENGLEBRIGHT, HOOPER, BOYLAND, FIELDS, SKARTADOS, GUNTHER, DelMONTE, SCHIMEL, GIBSON, JAFFEE, AUBRY, MAISEL, CASTRO, BARRON, LIFTON, MARKEY, GORDON -- Multi-Sponsored by -- M. of A. ALESSI, BRENNAN, CRESPO, HYER-SPENCER, MAGEE, McENENY, PERRY, REILLY, THIELE -- read once and referred to the Committee on Transportation

AN ACT to amend the highway law, in relation to authorizing the leasing of land adjacent to state and local highways for the purpose of the construction and operation of solar and wind electric generating systems; and to amend the public authorities law, in relation to granting such authorization to the metropolitan transportation authority

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 10 of the highway law is amended by adding a new
2 subdivision 38-a to read as follows:
3 38-A. HAVE THE POWER TO LEASE, FOR A TERM NOT TO EXCEED NINETY-NINE
4 YEARS, THE PROPERTY RIGHTS IN AIR SPACE, AND/OR UNUSED SURFACE OR
5 SUBSURFACE SPACE IN CONNECTION WITH ANY STATE-OWNED PROPERTY UNDER HIS
6 OR HER JURISDICTION OR OTHER PROPERTY ACQUIRED FOR STATE HIGHWAY
7 PURPOSES. SUCH LEASES SHALL BE FOR THE PURPOSES OF THE CONSTRUCTION AND
8 OPERATION OF SOLAR AND/OR WIND ELECTRIC GENERATING SYSTEMS. SUCH SYSTEMS
9 MAY BE MOUNTED UPON SOUND BARRIERS, RETAINING WALLS, OPEN UNOBSTRUCTED
10 AREAS, PARKING LOTS, BRIDGES, BRIDGE STRUCTURES, SIGNS, SIGN STRUCTURES
11 AND UPON ANY OTHER AREA UPON THE LEASED REAL PROPERTY. THE CONSTRUCTION
12 AND OPERATION OF SOLAR AND WIND ELECTRIC GENERATING SYSTEMS SUBJECT TO A
13 LEASE AUTHORIZED BY THIS SUBDIVISION SHALL BE SUBJECT TO STATE AND
14 FEDERAL LAW, RULES AND REGULATIONS, BUT SHALL NOT BE SUBJECT TO ANY
15 LOCAL LAW, RESOLUTION, ORDINANCE, RULE OR REGULATION. THE TERMS OF ANY
16 SUCH LEASE SHALL BE DETERMINED BY THE COMMISSIONER AND SHALL BE SUBJECT
17 TO THE APPROVAL OF THE ATTORNEY GENERAL. IN ORDER TO CARRY ANY SUCH
18 LEASE INTO EFFECT, THE COMMISSIONER IS HEREBY AUTHORIZED TO EXECUTE AND
19 DELIVER, IN THE NAME OF THE PEOPLE OF THE STATE, A LEASE TO SUCH PROPER-
20 TY RIGHTS. EACH SUCH INSTRUMENT OF LEASE SHALL BE PREPARED BY THE ATTOR-
21 NEY GENERAL. NO SUCH LEASE BY THE COMMISSIONER SHALL DEPRIVE AN ABUTTING
22 LANDOWNER OF HIS OR HER RIGHT OF ACCESS.
23 S 2. Section 102 of the highway law is amended by adding a new subdi-
24 vision 19 to read as follows:

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

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1 19. HAVE THE POWER, SUBJECT TO THE APPROVAL OF THE COUNTY GOVERNING
2 BODY, TO LEASE, FOR A TERM NOT TO EXCEED NINETY-NINE YEARS, THE PROPERTY
3 RIGHTS IN AIR SPACE, AND/OR UNUSED SURFACE OR SUBSURFACE SPACE IN
4 CONNECTION WITH ANY COUNTY-OWNED PROPERTY UNDER HIS OR HER JURISDICTION
5 OR OTHER PROPERTY ACQUIRED FOR COUNTY ROAD PURPOSES. SUCH LEASES SHALL
6 BE FOR THE PURPOSES OF THE CONSTRUCTION AND OPERATION OF SOLAR AND/OR
7 WIND ELECTRIC GENERATING SYSTEMS. SUCH SYSTEMS MAY BE MOUNTED UPON SOUND
8 BARRIERS, RETAINING WALLS, OPEN UNOBSTRUCTED AREAS, PARKING LOTS, BRIDG-
9 ES, BRIDGE STRUCTURES, SIGNS, SIGN STRUCTURES AND UPON ANY OTHER AREA
10 UPON THE LEASED REAL PROPERTY. THE CONSTRUCTION AND OPERATION OF SOLAR
11 AND WIND ELECTRIC GENERATING SYSTEMS SUBJECT TO A LEASE AUTHORIZED BY
12 THIS SUBDIVISION SHALL BE SUBJECT TO STATE AND FEDERAL LAW, RULES AND
13 REGULATIONS, BUT SHALL NOT BE SUBJECT TO ANY LOCAL LAW, RESOLUTION,
14 ORDINANCE, RULE OR REGULATION. THE TERMS OF ANY SUCH LEASE SHALL BE
15 DETERMINED BY THE COUNTY SUPERINTENDENT, AND SHALL BE SUBJECT TO THE
16 APPROVAL OF THE COUNTY GOVERNING BODY. SUCH LEASE BY THE COUNTY SUPER-
17 INTENDENT SHALL NOT DEPRIVE AN ABUTTING LANDOWNER OF HIS OR HER RIGHT OF
18 ACCESS.

19 S 3. Section 140 of the highway law is amended by adding a new subdi-
20 vision 20 to read as follows:

21 20. HAVE THE POWER, SUBJECT TO THE APPROVAL OF THE TOWN BOARD, TO
22 LEASE, FOR A TERM NOT TO EXCEED NINETY-NINE YEARS, THE PROPERTY RIGHTS
23 IN AIR SPACE, AND/OR UNUSED SURFACE OR SUBSURFACE SPACE IN CONNECTION
24 WITH ANY TOWN-OWNED PROPERTY UNDER HIS OR HER JURISDICTION OR OTHER
25 PROPERTY ACQUIRED FOR TOWN ROAD PURPOSES. SUCH LEASES SHALL BE FOR THE
26 PURPOSES OF THE CONSTRUCTION AND OPERATION OF SOLAR AND/OR WIND ELECTRIC
27 GENERATING SYSTEMS. SUCH SYSTEMS MAY BE MOUNTED UPON SOUND BARRIERS,
28 RETAINING WALLS, OPEN UNOBSTRUCTED AREAS, PARKING LOTS, BRIDGES, BRIDGE
29 STRUCTURES, SIGNS, SIGN STRUCTURES AND UPON ANY OTHER AREA UPON THE
30 LEASED REAL PROPERTY. THE CONSTRUCTION AND OPERATION OF SOLAR AND WIND
31 ELECTRIC GENERATING SYSTEMS SUBJECT TO A LEASE AUTHORIZED BY THIS SUBDI-
32 VISION SHALL BE SUBJECT TO STATE AND FEDERAL LAW, RULES AND REGULATIONS
33 BUT SHALL NOT BE SUBJECT TO ANY LOCAL LAW, RESOLUTION, ORDINANCE, RULE
34 OR REGULATION. THE TERMS OF ANY SUCH LEASE SHALL BE DETERMINED BY THE
35 TOWN SUPERINTENDENT, AND SHALL BE SUBJECT TO THE APPROVAL OF THE TOWN
36 BOARD. SUCH LEASE BY THE TOWN SUPERINTENDENT SHALL NOT DEPRIVE AN ABUT-
37 TING LANDOWNER OF HIS OR HER RIGHT OF ACCESS.

38 S 4. Section 1265 of the public authorities law is amended by adding a
39 new subdivision 15 to read as follows:

40 15. TO LEASE, FOR A TERM NOT TO EXCEED NINETY-NINE YEARS, THE PROPERTY
41 RIGHTS IN AIR SPACE, AND/OR UNUSED SURFACE OR SUBSURFACE SPACE IN
42 CONNECTION WITH ANY AUTHORITY OWNED PROPERTY OR OTHER PROPERTY ACQUIRED
43 FOR AUTHORITY PURPOSES. SUCH LEASES SHALL BE FOR THE PURPOSES OF THE
44 CONSTRUCTION AND OPERATION OF SOLAR AND/OR WIND ELECTRIC GENERATING
45 SYSTEMS. SUCH SYSTEMS MAY BE MOUNTED UPON SOUND BARRIERS, RETAINING
46 WALLS, OPEN UNOBSTRUCTED AREAS, PARKING LOTS, BRIDGES, BRIDGE STRUC-
47 TURES, SIGNS, SIGN STRUCTURES AND UPON ANY OTHER AREA UPON THE LEASED
48 REAL PROPERTY. THE CONSTRUCTION AND OPERATION OF SOLAR AND WIND ELECTRIC
49 GENERATING SYSTEMS SUBJECT TO A LEASE AUTHORIZED BY THIS SUBDIVISION
50 SHALL BE SUBJECT TO STATE AND FEDERAL LAW, RULES AND REGULATIONS, BUT
51 SHALL NOT BE SUBJECT TO ANY LOCAL LAW, RESOLUTION, ORDINANCE, RULE OR
52 REGULATION. THE TERMS OF ANY SUCH LEASE SHALL BE DETERMINED BY THE
53 AUTHORITY. SUCH LEASE BY THE AUTHORITY SHALL NOT DEPRIVE AN ABUTTING
54 LANDOWNER OF HIS OR HER RIGHT OF ACCESS.

55 S 5. This act shall take effect immediately.