

8679--A

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I N A S S E M B L Y

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Introduced by M. of A. THIELE -- read once and referred to the Committee on Corporations, Authorities and Commissions -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the public authorities law, in relation to creating the solar feed-in tariff pilot program

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

- 1 Section 1. Legislative intent. The legislature finds and declares all
2 of the following:
- 3 (a) It is the policy of the state of New York to encourage the rapid
4 and sustainable development of electricity from renewable sources,
5 particularly from smaller, widely distributed solar photovoltaic instal-
6 lations, by the adoption of a solar feed-in tariff pilot program created
7 pursuant to this act. Such pilot program will be instituted by the Long
8 Island Power Authority within the service area of the authority.
- 9 (b) This act will create green jobs for the state. The German solar
10 energy industry created over 50,000 jobs in less than five years, with
11 the entire renewable energy industry creating as many as 200,000 jobs.
12 Spain boasts 25,000 solar energy workers. Gainesville, Florida, where a
13 solar feed-in tariff program is currently being tested, is experiencing
14 a surge of capital investment in community solar systems and local
15 contractors are hiring.
- 16 (c) The pilot program created pursuant to this act will moderate the
17 near-term impact on ratepayers, while reducing volatility and long-term
18 rates relative to other sources of power.
- 19 (d) The pilot program created pursuant to this act will encourage
20 energy conservation by requiring a separate new meter to measure the
21 amount of solar electricity produced on site, while retaining the meter
22 that measures the total amount of electricity used on site.

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

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1 (e) Distributed generation will enhance reliability while maintaining
2 utility profitability.

3 (f) Local power generation from renewable energy resources is a clear
4 pathway to energy independence and security for our future.

5 (g) Distributed solar installations bring the opportunity for renewa-
6 ble power generation to the local level, avoiding the environmental
7 costs of large-scale, carbon-based, centralized power generation, and
8 reducing a wide range of air pollutants, particularly greenhouse gases.

9 (h) This act presents a market mechanism to spur the solar industry
10 within our communities. It provides a simple and transparent means for
11 solar investments to earn reasonable and reliable returns, allowing
12 capital to flow into clean and renewable energy systems in New York
13 communities. While initially more expensive, these investments will, in
14 the near future, result in sustainable green power sources that will
15 deliver electricity to public utilities at lower energy costs than
16 conventional generation.

17 S 2. Sections 1020-hh, 1020-ii and 1020-jj of the public authorities
18 law, as renumbered by chapter 433 of the laws of 2009, are renumbered
19 sections 1020-ii, 1020-jj and 1020-kk and a new section 1020-hh is added
20 to read as follows:

21 S 1020-HH. SOLAR FEED-IN TARIFF PILOT PROGRAM. 1. FOR THE PURPOSES OF
22 THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

23 (A) "COMMISSIONED" MEANS THE FIRST TIME A SOLAR ENERGY GENERATION
24 FACILITY IS PUT INTO OPERATION FOLLOWING ESTABLISHMENT OF OPERATIONAL
25 READINESS. COMMISSIONING ALSO INCLUDES THE MODERNIZATION OF AN EXISTING
26 SOLAR ENERGY GENERATION FACILITY, IF MODERNIZATION COSTS ARE AT LEAST
27 FIFTY PERCENT OF THE TOTAL ESTIMATED COST TO BUILD A COMPLETELY NEW
28 ELECTRICAL GENERATION FACILITY AT THAT SITE, INCLUDING ALL BUILDING
29 STRUCTURES AND INSTALLATIONS REQUIRED FOR ITS OPERATION.

30 (B) "PROGRAM" MEANS THE SOLAR FEED-IN TARIFF PILOT PROGRAM CREATED
31 PURSUANT TO THIS SECTION.

32 (C) "SOLAR ENERGY GENERATION FACILITY" MEANS A FACILITY OR DEVICE THAT
33 HAS THE PRIMARY PURPOSE OF COLLECTION AND DISTRIBUTION OF SOLAR ENERGY
34 FOR THE GENERATION OF ELECTRICITY, THAT HAS THE CAPACITY TO PRODUCE AT
35 LEAST ONE KILOWATT AND NOT MORE THAN ONE MEGAWATT OF ALTERNATING CURRENT
36 RATED PEAK ELECTRICITY.

37 (D) "TAXABLE ENTITY" MEANS AN OWNER OR OPERATOR OF A SOLAR ENERGY
38 GENERATION FACILITY THAT IS NOT A TAX-EXEMPT ENTITY.

39 (E) "TAX-EXEMPT ENTITY" MEANS AN OWNER OR OPERATOR OF A SOLAR ENERGY
40 GENERATION FACILITY THAT IS LISTED UNDER SECTION 501(C) OF TITLE 26 OF
41 THE UNITED STATES CODE.

42 2. (A) THE AUTHORITY SHALL ENTER INTO AGREEMENTS TO PURCHASE ALL OF
43 THE ELECTRICITY GENERATED BY THE OWNER OR OPERATOR OF A SOLAR ENERGY
44 GENERATION FACILITY LOCATED WITHIN THE SERVICE AREA OF THE AUTHORITY AT
45 THE PRICES SET FORTH IN SUBDIVISION SIX OF THIS SECTION USING THE
46 CONTRACT DEVELOPED BY THE AUTHORITY PURSUANT TO SUBDIVISION THREE OF
47 THIS SECTION ON A FIRST-COME-FIRST-SERVED BASIS. CONTRACTS ENTERED INTO
48 PURSUANT TO THIS SUBDIVISION SHALL BE TRANSFERABLE AND MAY BE USED AS
49 SECURITY FOR LOANS. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRA-
50 RY, THERE SHALL BE NO CAP ON THE AMOUNT OF ELECTRICITY PURCHASED FROM AN
51 INDIVIDUAL OWNER OR OPERATOR OF A SOLAR ENERGY GENERATING FACILITY
52 LOCATED WITHIN THE SERVICE AREA OF THE AUTHORITY PURSUANT TO THIS
53 SECTION. THE ONLY LIMITATION ON THE AMOUNT OF ELECTRICITY PURCHASED
54 PURSUANT TO THIS SECTION SHALL BE THE AGGREGATE LIMITATION PROVIDED FOR
55 IN PARAGRAPH (C) OF SUBDIVISION THREE OF THIS SECTION.

(B) THE OWNER OR OPERATOR OF A SOLAR ENERGY GENERATION FACILITY SHALL PROVIDE THE AUTHORITY WITH NOTICE NOT LESS THAN SIXTY DAYS PRIOR TO THE SOLAR ENERGY GENERATION FACILITY BECOMING OPERATIONAL. ONCE OPERATIONAL, THE OWNER OR OPERATOR OF THE FACILITY SHALL REQUEST INTERCONNECTION WITH THE ELECTRICAL CORPORATION'S DISTRIBUTION SYSTEM.

(C) (I) THE AUTHORITY SHALL CONNECT A SOLAR ENERGY GENERATION FACILITY TO ITS DISTRIBUTION SYSTEM UPON THE TERMS AND CONDITIONS SET BY THE AUTHORITY, BUT IN NO CASE MORE THAN SIXTY DAYS AFTER THE REQUEST FOR INTERCONNECTION PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION. THE AUTHORITY SHALL APPLY, IN A NONDISCRIMINATORY MANNER, ESTABLISHED STANDARDS FOR THE INTERCONNECTION OF SOLAR ENERGY GENERATION FACILITIES THAT WILL ENSURE THE RELIABILITY OF ELECTRICAL SERVICE TO ALL CUSTOMERS, AND WILL ENSURE THE SAFETY OF CUSTOMERS, GRID OPERATOR EMPLOYEES, AND THE GENERAL PUBLIC.

(II) THE AUTHORITY SHALL PREPARE, PUBLISH, AND APPLY TRANSPARENT, OBJECTIVE, AND NONDISCRIMINATORY RULES FOR CONNECTING SOLAR ENERGY GENERATION FACILITIES TO ITS DISTRIBUTION SYSTEM.

(III) IF THE AUTHORITY DOES NOT PROVIDE INTERCONNECTION WITHIN THE SIXTY-DAY TIMEFRAME ESTABLISHED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE AUTHORITY SHALL BEGIN PAYMENTS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION ON THE SIXTY-FIRST DAY AND THEREAFTER. THE PAYMENT AMOUNTS SHALL BE BASED ON THE NAMEPLATE CAPACITY THAT THE SOLAR ENERGY GENERATION FACILITY COULD PROVIDE IF CONNECTED TO THE DISTRIBUTION SYSTEM.

(IV) ALL COSTS ASSOCIATED WITH THE INTERCONNECTION OF SOLAR ENERGY GENERATION FACILITIES, INCLUDING DIRECT INTERCONNECTION COSTS, DISTRIBUTION SYSTEM ENHANCEMENTS, AND AUTHORITY COMPLIANCE COSTS, SHALL BE PAID BY THE AUTHORITY AND INCLUDED AMONG THE COSTS THAT THE AUTHORITY SHALL CONSIDER UNDER PARAGRAPH (C) OF SUBDIVISION THREE OF THIS SECTION FOR COST RECOVERY FROM RATEPAYERS.

3. (A) THE AUTHORITY SHALL DEVELOP A STANDARD CONTRACT OF TWENTY YEARS DURATION TO BE USED FOR ALL PAYMENTS MADE PURSUANT TO SUBDIVISION TWO OF THIS SECTION. THE CONTRACT SHALL BE WRITTEN IN SIMPLE, CLEAR LANGUAGE AND SHALL SPECIFY BOTH OF THE FOLLOWING:

(I) THE PRICE TO BE PAID FOR EACH KILOWATT-HOUR GENERATED.

(II) THAT THE OWNER OR OPERATOR OF THE SOLAR ENERGY GENERATION FACILITY MUST SELL, AND THE ELECTRICAL CORPORATION MUST PURCHASE, ALL OF THE SOLAR ENERGY GENERATED BY THE SOLAR ENERGY GENERATION FACILITY.

(B) THE AUTHORITY MAY ADJUST THE AMOUNT SET FORTH IN SUBDIVISION SIX OF THIS SECTION NO MORE THAN ONCE EVERY TWO YEARS. THE AUTHORITY SHALL ANNUALLY REVIEW THE AMOUNT TAKING INTO CONSIDERATION THE ABILITY OF SUCH AMOUNT TO SUCCESSFULLY ENCOURAGE THE INSTALLATION OF SOLAR ENERGY GENERATION FACILITIES AND TAKING INTO CONSIDERATION ANY CHANGES IN ANY OF THE FOLLOWING:

(I) ACTUAL AVERAGE SYSTEM COSTS AND THE PRODUCTION OF EACH TYPE AND SIZE OF SOLAR ENERGY GENERATION FACILITY.

(II) INFLATION AND INTEREST RATES.

(III) THE RETURN ACHIEVED BY THE OWNERS OR OPERATORS OF THE SOLAR ENERGY GENERATION FACILITIES AND THE ELECTRICITY RATES PAID BY RATEPAYERS.

(C) NO MORE THAN ONE HUNDRED MEGAWATTS OF ALTERNATING CURRENT RATED PEAK ELECTRICITY IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

4. THE AUTHORITY SHALL ENSURE ALL OF THE FOLLOWING:

(A) A SIMPLE, CLEAR APPLICATION FORM FOR SOLAR ENERGY SYSTEM OPERATORS OR OWNERS REQUIRING IDENTIFICATION OF THE SOLAR ENERGY GENERATION FACIL-

1 ITY OWNER AND THE INSTALLER, AND THE PRECISE LOCATION, TYPE AND SIZE OF
2 THE FACILITY.

3 (B) APPLICATIONS ARE PROCESSED IN LESS THAN THIRTY DAYS.

4 (C) SOLAR ENERGY GENERATION FACILITIES ARE COMMISSIONED WITHIN ONE
5 YEAR AFTER THEIR APPLICATION IS APPROVED.

6 (D) NO SYSTEM INSPECTION IS REQUIRED BEYOND WHAT IS REQUIRED BY EXIST-
7 ING LAW.

8 (E) THE INSTALLATION AND USE OF A SEPARATE, DEDICATED METER TO MEASURE
9 THE PRODUCTION OF SOLAR ENERGY FACILITIES OPERATING PURSUANT TO THIS
10 SECTION, AND REQUIRING ELECTRICAL CORPORATIONS TO READ THAT METER AT NO
11 COST TO THE OWNER OR OPERATOR OF THE SOLAR ENERGY GENERATION FACILITY.

12 5.(A) THE AUTHORITY SHALL PREPARE AN ANNUAL REPORT DESCRIBING AND
13 SUMMARIZING THE PROGRAM PURSUANT TO THIS SECTION.

14 (B) THE AUTHORITY SHALL BIENNIALY SUBMIT A REPORT TO THE LEGISLATURE
15 AND THE GOVERNOR ON THE IMPLEMENTATION OF THIS SECTION THAT SHALL
16 INCLUDE, BUT NOT BE LIMITED TO, ALL OF THE FOLLOWING:

17 (I) THE GENERATION CAPACITY OF NEW SOLAR ENERGY GENERATION FACILITIES
18 INSTALLED IN THE SERVICE AREA OF THE AUTHORITY AND THE ENVIRONMENTAL
19 EFFECTS OF THE ADDITION OF SUCH FACILITIES.

20 (II) ACTIONS TAKEN BY THE AUTHORITY TO IMPLEMENT THIS SECTION.

21 (III) REVISIONS TO THE AMOUNT SET FORTH IN SUBDIVISION SIX OF THIS
22 SECTION.

23 (IV) THE IMPACT OF THE IMPLEMENTATION OF THIS SECTION ON ELECTRICAL
24 RATES.

25 (V) RECOMMENDATIONS FOR CHANGES TO THIS SECTION, IF ANY, THAT MAY BE
26 NECESSARY OR ADVISABLE, INCLUDING WHETHER THE PROVISIONS OF THIS SECTION
27 SHOULD BE EXPANDED TO OTHER CITIES OR ADOPTED STATEWIDE.

28 6. THE PRICE OF ELECTRICITY UNDER AN AGREEMENT ENTERED INTO PURSUANT
29 TO THIS SECTION SHALL BE \$0.32 PER KILOWATT HOUR.

30 S 3. Severability. If any clause, sentence, paragraph, section or part
31 of this act shall be adjudged by any court of competent jurisdiction to
32 be invalid and after exhaustion of all further judicial review, the
33 judgment shall not affect, impair or invalidate the remainder thereof,
34 but shall be confined in its operation to the clause, sentence, para-
35 graph, section or part of this act directly involved in the controversy
36 in which the judgment shall have been rendered.

37 S 4. This act shall take effect on the first of January next succeed-
38 ing the date on which it shall have become a law.