

7734

I N   S E N A T E

May 5, 2010

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Introduced by Sen. DILAN -- read twice and ordered printed, and when printed to be committed 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.