

S T A T E   O F   N E W   Y O R K

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7178--A

2011-2012 Regular Sessions

I N   A S S E M B L Y

April 14, 2011

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Introduced by M. of A. THIELE, GABRYSZAK -- read once and referred to the Committee on Corporations, Authorities and Commissions -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 amount of solar electricity produced on site, while retaining the meter  
2 that measures the total amount of electricity used on site.

3 (e) Distributed generation will enhance reliability while maintaining  
4 utility profitability.

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

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

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

19 S 2. Sections 1020-ii, 1020-jj and 1020-kk of the public authorities  
20 law, as renumbered by chapter 388 of the laws of 2011, are renumbered  
21 sections 1020-jj, 1020-kk and 1020-ll and a new section 1020-ii is added  
22 to read as follows:

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

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

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

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

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

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

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

PURSUANT TO THIS SECTION SHALL BE THE AGGREGATE LIMITATION PROVIDED FOR 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:

1 (A) A SIMPLE, CLEAR APPLICATION FORM FOR SOLAR ENERGY SYSTEM OPERATORS  
2 OR OWNERS REQUIRING IDENTIFICATION OF THE SOLAR ENERGY GENERATION FACIL-  
3 ITY OWNER AND THE INSTALLER, AND THE PRECISE LOCATION, TYPE AND SIZE OF  
4 THE FACILITY.

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

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

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

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

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

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

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

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

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

25 (IV) THE IMPACT OF THE IMPLEMENTATION OF THIS SECTION ON ELECTRICAL  
26 RATES.

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

30 6. THE PRICE OF ELECTRICITY UNDER AN AGREEMENT ENTERED INTO PURSUANT  
31 TO THIS SECTION SHALL BE \$0.22 PER KILOWATT HOUR.

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

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