S T A T E O F N E W Y O R K

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2011-2012 Regular Sessions

I N A S S E M B L Y

January 12, 2011

Introduced by M. of A. JAFFEE, SCHIMEL -- Multi-Sponsored by -- M. of A. BOYLAND, JORDAN -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, in relation to alternative energy management planning

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

Section 1. This act shall be known and may be cited as the "alternative energy management planning act".

S 2. Legislative intent. The legislature hereby finds it is in the public interest, in order to further the purposes of energy conservation, for municipalities to adopt a local law to encourage alternative energy sources to be utilized in newly constructed municipal buildings.

S 3. The general municipal law is amended by adding a new section 120-dd to read as follows:

S 120-DD. ALTERNATIVE ENERGY MANAGEMENT PLANNING. 1. PURSUANT TO THE AUTHORITY OF THIS SECTION, NO LATER THAN SEPTEMBER FIRST, TWO THOUSAND ELEVEN, A MUNICIPALITY SHALL ADOPT A LOCAL LAW TO REQUIRE THAT ALTERNATIVE ENERGY SOURCES BE USED TO PROVIDE ENERGY TO ANY NEWLY CONSTRUCTED MUNICIPAL BUILDING AND ANY REPLACEMENT OR MODIFICATIONS TO ANY ENERGY SERVICE IN AN EXISTING MUNICIPAL BUILDING WHENEVER IT IS FOUND TO BE COST EFFECTIVE. FOR THE PURPOSES OF THIS SECTION "COST EFFECTIVE" SHALL MEAN THAT THE TOTAL COST OF THE ALTERNATIVE ENERGY SOURCES IS LESS THAN THE COST OF ENERGY SOURCES OTHER THAN ALTERNATIVE ENERGY SOURCES, WHERE THE TERM "COST" SHALL MEAN ANY EXPENDITURE MADE IN THE ACQUISITION OF ALTERNATIVE ENERGY SOURCES AND SHALL ALSO INCLUDE ANY ADDITIONAL OR AVOIDED EXPENDITURES RELATED TO:

(A) FUEL COSTS;

(B) INSTALLATION, OPERATION, MAINTENANCE OR REPAIR;

(C) COSTS TO THE MUNICIPALITY, INCLUDING, BUT NOT LIMITED TO, PUBLIC HEALTH EXPENDITURES RELATED TO THE USE OF CLEAN ENERGY TECHNOLOGIES; OR

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

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(D) COSTS RELATED TO REMEDIATION OF ENERGY SOURCE FACILITIES DURING AND AFTER CLOSURE OF SUCH FACILITIES.

2. PRIOR TO THE ENACTMENT OF SUCH LOCAL LAW, THE MUNICIPALITY SHALL HOLD AT LEAST ONE PUBLIC HEARING RELATING TO THE PROPOSED PROVISIONS AND SHALL GIVE DUE CONSIDERATION TO EXISTING ENERGY CONSERVATION AND ALTERNATIVE ENERGY SOURCES, STANDARDS, TECHNOLOGIES OR TECHNIQUES, THE AVAILABILITY AND RELIABILITY OF ENERGY CONSERVATION AND ALTERNATIVE ENERGY SOURCES AND ANY ADDITIONAL EFFORT AND EXPENSE TO BE INCURRED IN MEETING THE PROPOSED REQUIREMENTS.

3. IN FULFILLMENT OF THE PROVISIONS OF THIS SECTION, MUNICIPALITIES MAY REQUEST A STATE OR FEDERAL AGENCY, AUTHORITY OR COMMISSION FOR ASSISTANCE PROVIDING INFORMATION CONCERNING ALTERNATIVE ENERGY SOURCES. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AND THE NEW YORK STATE POWER AUTHORITY SHALL PROVIDE TECHNICAL ASSISTANCE IN FURTHERANCE OF THE PROVISIONS OF THIS SECTION.

4. IN FULFILLMENT OF THE PROVISIONS OF THIS SECTION, MUNICIPALITIES ARE AUTHORIZED TO FORM ALTERNATIVE ENERGY PLANNING UNITS FOR THE PURPOSE OF JOINTLY ENTERING INTO ENERGY PERFORMANCE CONTRACTS AS DEFINED BY ARTICLE NINE OF THE ENERGY LAW FOR THE PROVISION OF ALTERNATIVE ENERGY SERVICES.

5. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING WORDS AND PHRASES HAVE THE FOLLOWING MEANINGS:

(A) "BUILDING." ANY COMBINATION OF MATERIAL, WHETHER PORTABLE OR FIXED, HAVING A ROOF TO FORM A STRUCTURE WHICH IS HEATED OR COOLED IN THE NORMAL COURSE AFFORDING SHELTER FOR PERSONS, ANIMALS OR PROPERTY, INCLUDING ANY EQUIPMENT THEREIN, PROVIDED HOWEVER THAT THE TERM BUILDING SHALL NOT INCLUDE ANY STRUCTURE WHICH IS HEATED OR COOLED WITHOUT THE USE OF ELECTRICITY OR FOSSIL FUEL.

(B) "ALTERNATIVE ENERGY SOURCES." ELECTRICITY GENERATION TECHNOLOGIES THAT PRODUCE ELECTRICITY USING SOLAR THERMAL ENERGY, PHOTOVOLTAIC, WIND, FUEL CELLS, GEOTHERMAL ENERGY, METHANE WASTE AND SUSTAINABLE MANAGED BIOMASS. IF AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, NEW ENERGY TECHNOLOGIES EMERGE THAT WERE UNFORESEEABLE AT THE TIME OF SUCH EFFECTIVE DATE THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION MAY DESIGNATE SUCH TECHNOLOGIES AS CLEAN ENERGY TECHNOLOGIES BASED UPON A FINDING THAT THE AIR, WATER, ECOSYSTEM, PUBLIC HEALTH AND WASTE DISPOSAL IMPACTS OF SUCH NEW TECHNOLOGIES ARE COMPARABLE TO THOSE OF THE RENEWABLE ENERGY TECHNOLOGIES OTHERWISE LISTED IN THIS PARAGRAPH. ANY SUCH DESIGNATION SHALL ONLY TAKE PLACE FOLLOWING A COMPLETE OPPORTUNITY FOR PUBLIC REVIEW AND COMMENT CONSISTENT WITH THE STATE ADMINISTRATIVE PROCEDURE ACT.

(C) "PLANNING UNIT." AN AREA COMPOSED OF THE GEOGRAPHIC BOUNDARIES OF ONE OR MORE MUNICIPALITIES, ESTABLISHED FOR THE PURPOSE OF ESTABLISHING A PLAN TO ENCOURAGE THE USE OF ALTERNATIVE ENERGY SOURCES WITHIN THE BOUNDARIES OF THE DISTRICT.

S 4. This act shall take effect immediately.