

5520

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 23, 2011

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Introduced by M. of A. ENGLEBRIGHT, HOOPER, BOYLAND, GUNTHER, SCHIMEL, GIBSON, JAFFEE, AUBRY, MAISEL, CASTRO, BARRON, LIFTON, MARKEY -- Multi-Sponsored by -- M. of A. BOYLE, BRENNAN, CRESPO, LAVINE, MAGEE, McENENY, PERRY, PHEFFER, REILLY, SWEENEY, 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

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

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1 DELIVER, IN THE NAME OF THE PEOPLE OF THE STATE, A LEASE TO SUCH PROPER-  
2 TY RIGHTS. EACH SUCH INSTRUMENT OF LEASE SHALL BE PREPARED BY THE ATTOR-  
3 NEY GENERAL. NO SUCH LEASE BY THE COMMISSIONER SHALL DEPRIVE AN ABUTTING  
4 LANDOWNER OF HIS OR HER RIGHT OF ACCESS.

5 S 2. Section 102 of the highway law is amended by adding a new subdi-  
6 vision 19 to read as follows:

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

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

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

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

46 15. TO LEASE, FOR A TERM NOT TO EXCEED NINETY-NINE YEARS, THE PROPERTY  
47 RIGHTS IN AIR SPACE, AND/OR UNUSED SURFACE OR SUBSURFACE SPACE IN  
48 CONNECTION WITH ANY AUTHORITY OWNED PROPERTY OR OTHER PROPERTY ACQUIRED  
49 FOR AUTHORITY PURPOSES. SUCH LEASES SHALL BE FOR THE PURPOSES OF THE  
50 CONSTRUCTION AND OPERATION OF SOLAR AND/OR WIND ELECTRIC GENERATING  
51 SYSTEMS. SUCH SYSTEMS MAY BE MOUNTED UPON SOUND BARRIERS, RETAINING  
52 WALLS, OPEN UNOBSTRUCTED AREAS, PARKING LOTS, BRIDGES, BRIDGE STRUC-  
53 TURES, SIGNS, SIGN STRUCTURES AND UPON ANY OTHER AREA UPON THE LEASED  
54 REAL PROPERTY. THE CONSTRUCTION AND OPERATION OF SOLAR AND WIND ELECTRIC  
55 GENERATING SYSTEMS SUBJECT TO A LEASE AUTHORIZED BY THIS SUBDIVISION  
56 SHALL BE SUBJECT TO STATE AND FEDERAL LAW, RULES AND REGULATIONS, BUT

1 SHALL NOT BE SUBJECT TO ANY LOCAL LAW, RESOLUTION, ORDINANCE, RULE OR  
2 REGULATION. THE TERMS OF ANY SUCH LEASE SHALL BE DETERMINED BY THE  
3 AUTHORITY. SUCH LEASE BY THE AUTHORITY SHALL NOT DEPRIVE AN ABUTTING  
4 LANDOWNER OF HIS OR HER RIGHT OF ACCESS.

5 S 5. This act shall take effect immediately.