

1278

2013-2014 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 9, 2013

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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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. This act shall be known and may be cited as the "alterna-  
2     tive energy management planning act".  
3     S 2. Legislative intent. The legislature hereby finds it is in the  
4     public interest, in order to further the purposes of energy conserva-  
5     tion, for municipalities to adopt a local law to encourage alternative  
6     energy sources to be utilized in newly constructed municipal buildings.  
7     S 3. The general municipal law is amended by adding a new section  
8     120-dd to read as follows:  
9     S 120-DD. ALTERNATIVE ENERGY MANAGEMENT PLANNING. 1. PURSUANT TO THE  
10    AUTHORITY OF THIS SECTION, NO LATER THAN SEPTEMBER FIRST, TWO THOUSAND  
11    THIRTEEN, A MUNICIPALITY SHALL ADOPT A LOCAL LAW TO REQUIRE THAT ALTER-  
12    NATIVE ENERGY SOURCES BE USED TO PROVIDE ENERGY TO ANY NEWLY CONSTRUCTED  
13    MUNICIPAL BUILDING AND ANY REPLACEMENT OR MODIFICATIONS TO ANY ENERGY  
14    SERVICE IN AN EXISTING MUNICIPAL BUILDING WHENEVER IT IS FOUND TO BE  
15    COST EFFECTIVE. FOR THE PURPOSES OF THIS SECTION "COST EFFECTIVE" SHALL  
16    MEAN THAT THE TOTAL COST OF THE ALTERNATIVE ENERGY SOURCES IS LESS THAN  
17    THE COST OF ENERGY SOURCES OTHER THAN ALTERNATIVE ENERGY SOURCES, WHERE  
18    THE TERM "COST" SHALL MEAN ANY EXPENDITURE MADE IN THE ACQUISITION OF  
19    ALTERNATIVE ENERGY SOURCES AND SHALL ALSO INCLUDE ANY ADDITIONAL OR  
20    AVOIDED EXPENDITURES RELATED TO:  
21        (A) FUEL COSTS;  
22        (B) INSTALLATION, OPERATION, MAINTENANCE OR REPAIR;

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

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

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

5 2. PRIOR TO THE ENACTMENT OF SUCH LOCAL LAW, THE MUNICIPALITY SHALL  
6 HOLD AT LEAST ONE PUBLIC HEARING RELATING TO THE PROPOSED PROVISIONS AND  
7 SHALL GIVE DUE CONSIDERATION TO EXISTING ENERGY CONSERVATION AND ALTER-  
8 NATIVE ENERGY SOURCES, STANDARDS, TECHNOLOGIES OR TECHNIQUES, THE AVAIL-  
9 ABILITY AND RELIABILITY OF ENERGY CONSERVATION AND ALTERNATIVE ENERGY  
10 SOURCES AND ANY ADDITIONAL EFFORT AND EXPENSE TO BE INCURRED IN MEETING  
11 THE PROPOSED REQUIREMENTS.

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

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

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

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

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

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

48 S 4. This act shall take effect immediately.