

1278

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

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.