

3505--A

Cal. No. 538

2015-2016 Regular Sessions

I N S E N A T E

February 11, 2015

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to authorize an easement on a portion of real property within the Boutwell Hill state forest in the county of Chautauqua for the location of electric collection or distribution facilities in connection with a wind powered electric generation project located in the towns of Charlotte and/or Cherry Creek

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

1 Section 1. Legislative intent. A proposed wind generation project, in
2 the county of Chautauqua in the towns of Charlotte and/or Cherry Creek,
3 could potentially generate up to 200 megawatts of clean renewable elec-
4 tricity from wind power with minimal impact on the environment compared
5 with other electric generation sources. To maximize the production of
6 electricity from such wind power project, an electric collection or
7 distribution line would need to pass through a portion of real property
8 immediately adjacent to or within the right of ways of public roads
9 running through the Boutwell Hill state forest. The legislature finds
10 that it will serve a useful public purpose to authorize the department
11 of environmental conservation to execute an easement agreement for real
12 property within the Boutwell Hill state forest for such collection or
13 distribution line and appropriate access, in the event that such
14 collection or distribution line proposed to be located on such easement
15 lands is certified pursuant to article 7 or 10 of the public service
16 law.

17 S 2. Notwithstanding the provisions of section 9-0501 of the environ-
18 mental conservation law and the provisions of the public lands law, the
19 department of environmental conservation is authorized to grant an ease-

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

LBD00622-03-5

ment for an electric collection or distribution line on real property within the Boutwell Hill state forest, which meets the following conditions:

(a) The easement is for an electric collection or distribution line which is part of a wind powered electric generation project located in the towns of Charlotte and/or Cherry Creek.

(b) The easement is for a portion of property within the Boutwell Hill state forest owned by the state and managed by the department of environmental conservation. The collection or distribution line shall be located within 50 feet of the center line of the road corridor within the state forest and, should a portion of the line not be located along a road corridor, the corridor for such line shall not exceed 50 feet in width and 1500 feet in length across Boutwell Hill state forest. In no event shall the location of the electric collection or distribution line require the cutting of trees greater than 50 feet from such collection or distribution line placed in or adjacent to such roads or 25 feet from the center line of any corridor which is not adjacent to a road.

(c) The easement will be conveyed by the department of environmental conservation and take effect only in the event a collection or distribution line proposed to be located on such easement lands is certified and approved as part of a wind powered electric generation facility pursuant to article 7 and/or 10 of the public service law.

(d) The easement shall terminate when the associated wind powered electric generation project ceases to operate for an extended period of time as set forth in the easement and the easement shall then revert to the state to be managed by the department of environmental conservation. Prior to reversion, any collection or distribution lines and any infrastructure related thereto shall be removed by the entity controlling the lines.

S 3. (a) In entering into the easement described in section two of this act, the department of environmental conservation is authorized to grant such easement without bid and for such reasonable consideration that such department deems proper, upon application by an authorized officer or employee of the entity proposing the wind-powered electric generation project described in section two hereof. Reasonable consideration shall take the form of the conveyance of an interest in real property to the state or restorations or improvement to state lands in region 9 of the department of environmental conservation. Special consideration shall be given to projects listed in the regional priority conservation projects list in region 9 as part of this state's open space conservation plan. The total payment shall not exceed the value of the easement to be conveyed by the state plus twenty percent of the value of such easement.

(b) Prior to executing the easement, an authorized officer or employee of the entity applying to propose a transmission or collection line route through the Boutwell Hill state forest as part of an application pursuant to article 7 or 10 of the public service law, shall provide a survey of the easement and appraisal thereon to the department of environmental conservation and shall prepare the easement, subject to review and approval by the department.

(c) The grant of the easement is conditioned on, first, the conveyance of the exchange parcel to this state, and second, compliance with the environmental, health, safety and alternative reviews and subject to the provisions of article 7 and/or 10 of the public service law.

(d) Any entity cutting forest growth on this easement shall pay a tax pursuant to subdivision 5 of section 480 of the real property tax law.

1 S 4. The applicant for the easement shall be responsible for the prep-
2 aration, filing and recording of all required easement maps or surveys
3 and related easement documents. The department of environmental conser-
4 vation shall cause any maps or surveys and related easement documents to
5 be filed in the regional office of such department wherein the Boutwell
6 Hill state forest is located and such additional locations as the
7 department deems appropriate. Such maps and easement shall also be
8 recorded by the applicant with the office of general services.

9 S 5. This act shall constitute sufficient proof of land control with
10 respect to proposed easement routes for a collection or distribution
11 line through the Boutwell Hill state forest for the purposes of compli-
12 ance with the application requirements of articles 7 and 10 of the
13 public service law, and any associated regulations.

14 S 6. This act shall take effect immediately.