

36--B

2015-2016 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2015

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Introduced by M. of A. PAULIN, BRINDISI, BARRETT, BUCHWALD, GUNTHER, LIFTON, MOSLEY, OTIS, SKARTADOS, STECK, ZEBROWSKI, GALEF, RYAN, ENGLE-BRIGHT, SKOUFIS, ROSENTHAL, SEPULVEDA, LUPARDO, SCHIMEL, QUART, FAHY -- Multi-Sponsored by -- M. of A. BRENNAN, CLARK, COOK, MAGEE, RIVERA, SIMANOWITZ, THIELE -- read once and referred to the Committee on Energy -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the energy law, in relation to energy technologies eligible for net metering

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

1     Section 1. Section 9-102 of the energy law is amended by adding a new  
2     subdivision 5 to read as follows:  
3     5. "POWER PURCHASE AGREEMENT" MEANS AN AGREEMENT IN CONNECTION WITH  
4     THE INSTALLATION, MAINTENANCE AND MANAGEMENT OF AN ENERGY TECHNOLOGY  
5     ELIGIBLE FOR NET ENERGY METERING PURSUANT TO SECTION SIXTY-SIX-J OR  
6     SIXTY-SIX-L OF THE PUBLIC SERVICE LAW, WHERE A THIRD PARTY OWNER (NON-A-  
7     GENCY OR NON-MUNICIPAL OWNER) GENERATES ELECTRICITY FROM SUCH ENERGY  
8     TECHNOLOGY (WHETHER OR NOT SUCH ENERGY TECHNOLOGY IS LOCATED AT THE  
9     POINT OF CONSUMPTION) AND SELLS THE RESULTING ELECTRICITY TO AN AGENCY  
10    OR MUNICIPALITY FOR A PRICE, VOLUME AND DURATION AS SET FORTH IN THE  
11    AGREEMENT.  
12    S 2. The energy law is amended by adding a new section 9-104 to read  
13    as follows:  
14    S 9-104. POWER PURCHASE AGREEMENTS. 1. NOTWITHSTANDING ANY OTHER  
15    PROVISION OF LAW, ANY SCHOOL DISTRICT, IN ADDITION TO EXISTING POWERS,  
16    IS AUTHORIZED TO ENTER INTO POWER PURCHASE AGREEMENTS, PROVIDED THAT THE

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

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1 DURATION OF ANY SUCH CONTRACT SHALL NOT EXCEED THE REASONABLY EXPECTED  
2 USEFUL LIFE OF THE ENERGY FACILITIES OR EQUIPMENT SUBJECT TO SUCH AGREE-  
3 MENT.

4 2. ANY PAYMENT DUE FROM A SCHOOL DISTRICT UNDER A POWER PURCHASE  
5 AGREEMENT SHALL BE AN ORDINARY CONTINGENT EXPENSE.

6 3. SCHOOL DISTRICTS ARE ENCOURAGED TO CONSULT WITH AND SEEK ADVICE AND  
7 ASSISTANCE FROM THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT  
8 AUTHORITY CONCERNING POWER PURCHASE AGREEMENTS.

9 4. IN ORDER TO CONVEY AN INTEREST IN REAL PROPERTY NECESSARY FOR THE  
10 CONSTRUCTION OF FACILITIES OR THE OPERATION OF EQUIPMENT PROVIDED FOR IN  
11 A POWER PURCHASE AGREEMENT, ANY SCHOOL DISTRICT MAY ENTER INTO A LEASE  
12 OR LICENSE OF SUCH REAL PROPERTY TO WHICH IT HOLDS TITLE OR WHICH IS  
13 UNDER ITS ADMINISTRATIVE JURISDICTION AS IS NECESSARY FOR SUCH  
14 CONSTRUCTION OR OPERATION, WITH A POWER PURCHASE AGREEMENT, FOR THE SAME  
15 LENGTH OF TIME AS THE TERM OF SUCH POWER PURCHASE AGREEMENT, ON SUCH  
16 TERMS AND CONDITIONS AS MAY BE AGREEABLE TO THE PARTIES THERETO, AND  
17 SUBJECT TO THE VOTER REFERENDUM IN SCHOOL DISTRICTS IN WHICH THE VOTERS  
18 APPROVE THE BUDGET PURSUANT TO ARTICLE FORTY-ONE OF THE EDUCATION LAW.

19 5. SECTIONS ONE HUNDRED THREE AND ONE HUNDRED NINE-B OF THE GENERAL  
20 MUNICIPAL LAW SHALL APPLY TO THE PROCUREMENT OR ACQUISITION OF A POWER  
21 PURCHASE AGREEMENT AS CONTEMPLATED BY THIS SECTION.

22 6. THE COMMISSIONER OF EDUCATION IS AUTHORIZED TO DEVELOP RULES AND  
23 REGULATIONS CONCERNING THE PROCESS FOR ISSUING BUILDING PERMITS AND  
24 OPERATIONAL SAFETY IN RELATION TO THE INSTALLATION AND OPERATION OF  
25 ENERGY TECHNOLOGIES ELIGIBLE FOR NET ENERGY METERING PURSUANT TO SECTION  
26 SIXTY-SIX-J OR SIXTY-SIX-L OF THE PUBLIC SERVICE LAW.

27 S 3. This act shall take effect immediately.