

# STATE OF NEW YORK

5748

2017-2018 Regular Sessions

## IN ASSEMBLY

February 15, 2017

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to establishing environmental standards for public authorities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article 9 of the public authorities law is amended by adding a new title 13 to read as follows:

### TITLE 13

#### ENERGY EFFICIENCY

#### Section 2990. Definitions.

2991. Applicability.

2992. Energy targets.

2993. Energy assessments and efficiency plan.

2994. Solid waste management plan.

2995. New construction, renovations and leases.

2996. Procurement.

2997. State authorities energy efficiency council.

2998. Reports.

2999. Assistance from other authorities.

§ 2990. Definitions. For the purposes of this title, the following words and terms shall have the following meanings:

1. "Building or facility" means a single building or facility or a group of buildings or structures at a single site that is owned, leased, operated or funded by a state authority that exceeds twenty thousand square feet of space. For the purposes of this title, the term "facility" shall include any highway, parkway or public road owned, operated or maintained by a state authority.

2. "Council" means the state authorities energy efficiency council established pursuant to section twenty-nine hundred ninety-seven of this title.

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

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3. "DEC" means the department of environmental conservation.

4. "Fuel cell" means a device that produces electricity directly from hydrogen or hydrocarbon fuel through a non-combustive electro-chemical process.

5. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride.

6. "NYSERDA" means the New York state energy research and development authority.

7. "OGS" means the office of general services.

8. "Renewable energy" means energy produced from the following sources: solar thermal, photovoltaics, wind, hydroelectric, geo-exchange and tidal/wave energy.

9. "State authority" shall mean the state authorities listed in section twenty-nine hundred ninety-one of this title.

10. "State interagency committee" means the state interagency committee on sustainability and green procurement established pursuant to executive order number four of two thousand eight.

§ 2991. Applicability. 1. The provisions of this title shall only apply to the following state authorities:

Battery Park City Authority

Capital District Transportation Authority

Central New York Regional Transportation Authority

Development Authority of the North Country

Dormitory Authority of the State of New York

Long Island Power Authority

Metropolitan Transportation Authority

New York Convention Center Operating Corporation

New York State Bridge Authority

New York State Energy Research and Development Authority

New York State Olympic Regional Development Authority

New York State Thruway Authority

Niagara Frontier Transportation Authority

North Country Power Authority

Power Authority of the State of New York

Rochester-Genesee Regional Transportation Authority

2. Notwithstanding the provisions of subdivision one of this section, the provisions of this title shall not apply to a building or facility owned, leased or operated by a state authority established pursuant to titles one and one-A of article five of this chapter, which building or facility or vehicle or vehicle fleet is used primarily to produce, generate, transmit or store energy and power.

§ 2992. Energy targets. 1. All buildings or facilities or vehicles or vehicle fleets owned, leased, under which the state authority pays directly for energy, or operated by a state authority shall meet the following targets and timetable to achieve reductions in greenhouse gas emissions, energy and water consumption:

(a) reduce greenhouse gas emissions that result from state authority operations from the established baseline measurements by twenty percent by the year two thousand twenty-one, thirty percent by the year two thousand twenty-six and forty percent by the year two thousand thirty-one. Emission reductions shall be measured on an absolute basis and not adjusted for facility expansion, load growth or weather;

(b) reduce overall energy consumption at buildings or facilities or vehicles or vehicle fleets owned or leased, under which the state authority pays directly for energy, by the state authority from the established baseline measurements by fifteen percent by the year two

1 thousand twenty-one, twenty percent by the year two thousand twenty-six  
2 and thirty percent by the year two thousand thirty-one;

3 (c) reduce potable water use from the established baseline measurement  
4 by ten percent by the year two thousand twenty-one, twenty percent by  
5 the year two thousand twenty-six and thirty percent by the year two  
6 thousand thirty-one; and

7 (d) obtain by generation or procurement fifteen percent of annual  
8 electricity consumption from renewable sources by the year two thousand  
9 twenty-one, twenty-five percent by the year two thousand twenty-six and  
10 fifty percent by the year two thousand thirty-one.

11 2. Each state authority that owns, leases or operates a building or  
12 facility or vehicle or vehicle fleet shall establish a baseline measure-  
13 ment of greenhouse gas emissions, electricity and water consumption  
14 levels for the period beginning January first, two thousand thirteen and  
15 ending December thirty-first, two thousand fourteen for such building or  
16 facility or vehicle or vehicle fleet. The baseline measurement shall be  
17 the average of the two year period.

18 3. The council is authorized, upon the application of a state authori-  
19 ty, to reduce or decrease one or more efficiency targets required under  
20 this section if the state authority can demonstrate to the satisfaction  
21 of the council that it has achieved substantially the overall target or  
22 goal prior to the final target year. For the purposes of this subdivi-  
23 sion, substantial achievement shall mean meeting ninety percent or more  
24 of the target or goal.

25 § 2993. Energy assessments and efficiency plan. 1. Energy assessments.  
26 (a) A state authority that owns, leases or operates a building or facil-  
27 ity shall conduct an annual onsite assessment and evaluation of energy  
28 and water consumption and expenses of such building or facility. The  
29 assessment shall include the following information:

30 (1) the total number of buildings and facilities owned, leased or  
31 operated by the state authority and the total square footage for such  
32 buildings and facilities;

33 (2) the total annual energy consumption, listed by energy source, for  
34 each building or facility;

35 (3) the total annual energy cost calculated per square foot, and list-  
36 ed by energy source, for each building or facility;

37 (4) the total annual water consumption for each building or facility;

38 (5) the total annual cost for fuel used by authority-owned vehicles,  
39 listed by fuel type and the average mileage efficiency of vehicles by  
40 vehicle class owned or leased by the state authority; and

41 (6) a breakdown by percentage of the total renewable energy used by  
42 each building or facility.

43 (b) In developing this assessment, the state authority may seek the  
44 advice and assistance of other state agencies and entities, such as DEC,  
45 NYSERDA or OGS.

46 2. Energy efficiency plan. (a) Based on the initial assessment  
47 conducted pursuant to subdivision one of this section, each state  
48 authority shall develop and submit to the council for its approval an  
49 energy efficiency plan to meet the targets, goals and timetable estab-  
50 lished pursuant to subdivision one of section twenty-nine hundred nine-  
51 ty-two of this title.

52 (b) The plan shall describe specific measures to be taken to reduce  
53 the state authority's greenhouse gas emissions, energy and water  
54 consumption in accordance with such targets and goals. The plan shall  
55 also describe any policies adopted, and projects pursued, by the state

1 authority to increase the use of renewable energy sources and other  
2 alternative sources.

3 (c) The council shall approve the plan if the plan:

4 (1) provides a detailed and comprehensive plan for achieving the  
5 targets and goals set forth in section twenty-nine hundred ninety-two of  
6 this title; and

7 (2) can be implemented in a cost-effective manner.

8 (d) The plan shall be amended to reflect any changes or updates  
9 reported in the annual assessment pursuant to subdivision one of this  
10 section.

11 (e) With respect to buildings and facilities that contain less than  
12 twenty thousand square feet in space, a state authority is encouraged to  
13 assess, develop and implement efficiency and waste management plans  
14 consistent with the targets, goals and timetables required pursuant to  
15 this title.

16 § 2994. Solid waste management plan. 1. For purposes of this section,  
17 "solid waste" shall have the same meaning as is found in subdivision one  
18 of section 27-0701 of the environmental conservation law, but shall not  
19 include source, special nuclear or by-product material as defined in the  
20 atomic energy act of 1954, as amended, or hazardous waste which appears  
21 on the list or satisfies the characteristics of hazardous waste promul-  
22 gated pursuant to section 27-0903 of the environmental conservation law,  
23 or low level radioactive waste as defined in section 29-0101 of the  
24 environmental conservation law.

25 2. (a) All state authorities shall prepare and submit to the council  
26 for its review and approval a solid waste management plan for such  
27 authority for at least a ten-year period.

28 (b) The solid waste management plan, which shall be in a form devel-  
29 oped by the council, shall, at a minimum:

30 (1) identify, describe and characterize the solid waste stream to be  
31 managed in the planning period;

32 (2) assess existing and alternate proposed solid waste management  
33 programs and facilities;

34 (3) identify the parties with responsibility to implement each element  
35 of the plan and the steps which must be undertaken by each; and

36 (4) set forth a timetable for implementing the plan, including estab-  
37 lishing annual goals.

38 (c) Such plan shall strive to achieve the objectives of the state  
39 solid waste management policy set forth in section 27-0106 of the envi-  
40 ronmental conservation law, provide for or take into account management  
41 of all solid waste within the planning unit, and embody, as may be  
42 appropriate to the circumstances, sound principles of solid waste  
43 management, natural resources conservation, energy production, and  
44 employment creating opportunities.

45 (d) The council shall approve a plan if the plan contains the elements  
46 set forth in paragraph (b) of this subdivision. Thereafter such plan  
47 shall become the solid waste management plan in effect for such authori-  
48 ty. If the plan as submitted does not contain the elements set forth in  
49 paragraph (b) of this subdivision, the council shall state the reasons  
50 for its determination and require the state authority to re-submit an  
51 amended plan for approval.

52 § 2995. New construction, renovations and leases. 1. (a) The design  
53 and construction of any new buildings or facility, or the substantial  
54 renovation of an existing building or facility, by a state authority  
55 shall comply with the standards and regulations promulgated by OGS  
56 pursuant to article four-C of the public buildings law. This subdivision

1 shall also apply to a building or facility, fifty percent or more of the  
2 funding for the purchase, lease, design, construction or substantial  
3 renovation thereof is funded directly or indirectly by a state authori-  
4 ty.

5 (b) For the purposes of this section, the term "substantial reno-  
6 vation" shall mean: a capital project in which the scope of work  
7 involves at least two of the following primary building systems: elec-  
8 trical, plumbing, boiler, elevator, HVAC, roof replacement, window  
9 replacement, lighting or external masonry, painting and plastering; and  
10 the building area in which the construction is performed will be unoccu-  
11 pied due to the nature of the construction for thirty days or more.

12 2. Any leases entered into by a state authority, including the renego-  
13 tiation or extension of existing leases, shall:

14 (a) incorporate lease provisions that encourage energy and water effi-  
15 ciency wherever life-cycle cost-effective. Build-to-suit lease solicita-  
16 tions shall contain criteria encouraging sustainable design and develop-  
17 ment, energy efficiency, and verification of facility performance;

18 (b) include a preference for facilities having the ENERGY STAR build-  
19 ing label in their selection criteria for acquiring leased facilities;  
20 and

21 (c) encourage lessors to apply for an ENERGY STAR building label and  
22 to explore and implement projects that will reduce costs, including  
23 projects carried out through the lessors' energy-savings contracts.

24 § 2996. Procurement. 1. Procurement from specification list. (a) All  
25 purchases of commodity, equipment, services and technologies made by a  
26 state authority shall be pursuant to procurement lists and specifica-  
27 tions promulgated by the state interagency committee. Such committee  
28 shall review annually newly developed or manufactured products, commod-  
29 ities, equipment, services and technologies, and shall issue updated  
30 procurement lists and specifications, if necessary.

31 (b) In addition, all state authorities shall procure commodities,  
32 equipment, services and technologies that meet or exceed the following  
33 minimum specifications:

34 (1) Recycled content. To the maximum extent possible, state authori-  
35 ties shall seek to reduce the use of copy paper and other paper  
36 products. Any purchase of copy paper and other paper supplies for which  
37 the United States environmental protection agency has developed recycled  
38 content recommendations pursuant to section six thousand two of the  
39 federal resource conservation and recovery act shall be required to meet  
40 or exceed the state authority's minimum post-consumer material content  
41 percentages recommended in the most recent recovered materials advisory  
42 notice issued for such commodity in the federal register; provided,  
43 however, that xerographic paper shall contain no less than thirty  
44 percent post-consumer recycled content. All copy and janitorial paper  
45 shall be processed chlorine-free to the extent practicable. All state  
46 authorities shall print publications on recycled paper, and minimum  
47 percentages shall be met unless costs for such paper exceed the cost of  
48 other available commodities by more than ten percent.

49 (2) Waste reduction. State authorities shall seek to reduce waste in  
50 products and packaging, including the formulation of policies to promote  
51 the use of double-sided copying and printing to the greatest extent  
52 practicable. State authorities shall favor durability, repairability and  
53 reuse when purchasing supplies.

54 2. If a commodity or equipment is not on a procurement list, the state  
55 authority shall select ENERGY STAR and energy-efficient products when  
56 acquiring energy-using products or equipment. For products or equipment



1 for which ENERGY STAR labels are not yet available, the state authority  
2 shall follow the guidelines adopted by the department of state pursuant  
3 to article sixteen of the energy law that designate target energy effi-  
4 ciency levels for such product or equipment.

5 3. A state authority may procure a commodity, equipment, service or  
6 technology through a process that does not comply with this section when  
7 the purchase of the commodity, equipment, service or technology is  
8 necessary to respond to an emergency which endangers public health or  
9 safety, provided such authority shall within seven business days file a  
10 written report with the authority's budget office and the office of the  
11 state comptroller, which shall become part of the procurement record.  
12 The report shall contain the following information:

13 (a) a description of the emergency that prevented compliance with  
14 subdivisions one and two of this section;

15 (b) the name of the commodity or technology, or a description of the  
16 service, its use and intensity of use;

17 (c) a description of the steps being taken to safeguard public health  
18 and safety during the emergency; and

19 (d) an explanation of how such an emergency can be avoided in the  
20 future.

21 4. (a) Beginning one year after the effective date of this section,  
22 all state authorities, when procuring commodities, equipment, services  
23 or technology, shall follow practices and develop solicitation specifi-  
24 cations that meet or exceed the minimum specifications established in  
25 subdivision one of this section. All such contracts shall include a  
26 statement describing how such minimum specifications were met.

27 (b) In the event that a state authority receives no bids or proposals  
28 that meet the specifications developed pursuant to paragraph (a) of this  
29 subdivision, such agency or authority may withdraw the request for bids  
30 or proposals and begin a new procurement with new specifications without  
31 such specifications and award a contract in accordance with other appli-  
32 cable statutes; provided, however that such authority shall document the  
33 reasons why such procurement does not meet the minimum specifications  
34 established in subdivision one of this section, and submit such documen-  
35 tation for inclusion in the annual report required pursuant to this  
36 title and to the office of the state comptroller for inclusion in the  
37 procurement record, provided further that the length of any such  
38 contract shall be limited to a period of two years. Prior to the termi-  
39 nation of the contract, the state authority shall issue a new request  
40 for bids or proposals with the specifications developed pursuant to  
41 paragraph (a) of this subdivision.

42 5. (a) Nothing in this section shall be construed as requiring a state  
43 authority to procure a commodity, equipment, service or technology that  
44 does not meet the form, function and utility required by such authority,  
45 or as requiring a state authority to procure a commodity, equipment,  
46 service or technology the cost of which exceeds the cost of an alterna-  
47 tive available commodity or service by more than ten percent.

48 (b) When determining and comparing costs, state agencies and authori-  
49 ties shall consider cost as defined in section one hundred sixty of the  
50 state finance law.

51 6. Training and education. OGS, with the assistance of the DEC, the  
52 department of health, and the office of the state comptroller, within  
53 twelve months of the effective date of this section, shall design and  
54 begin implementation of a training program for senior managers and state  
55 authority staff involved in procurement to familiarize them with their  
56 responsibilities under this section and ensure the effective and effi-

1 cient implementation of the provisions of this section. Such program  
2 shall provide for new employee training and ongoing training.

3 § 2997. State authorities energy efficiency council. There is hereby  
4 established within DEC a state authorities energy efficiency council.  
5 The commissioner of DEC shall determine the number of, and appoint the  
6 members to the council, provided that there shall be at least one repre-  
7 sentative each from NYSERDA and OGS. The council shall be responsible  
8 for monitoring, overseeing and reporting on the actions taken by state  
9 authorities to achieve the energy reduction targets required under this  
10 title, and shall have the following duties and responsibilities:

11 1. Develop formats for the energy efficiency plan, solid waste manage-  
12 ment plan and progress reports, and establish the dates for submission  
13 of the plans and reports;

14 2. Assist state authorities and their coordinators to prepare the  
15 energy efficiency and waste management plans, to implement the plans,  
16 and to meet the targets and goals set forth in this title;

17 3. Approve the energy efficiency plan or waste management plan submit-  
18 ted by a state authority;

19 4. Evaluate the progress of state authorities in implementing their  
20 energy efficiency and waste management plans, and meeting the targets  
21 and goals set forth in this title;

22 5. Compile the information submitted by state authorities in the  
23 progress reports and report on the progress made toward achieving the  
24 goals described in the efficiency plan;

25 6. Provide technical assistance to state authorities necessary to  
26 satisfy reporting requirements;

27 7. Develop and maintain data management systems as are necessary to  
28 document energy usage in a manner consistent with, and in support of,  
29 the development and implementation of the energy efficiency targets and  
30 goals;

31 8. Prepare an annual report to the governor and the legislature pursu-  
32 ant to section twenty-nine hundred ninety-eight of this title.

33 § 2998. Reports. 1. Progress reports. (a) Each state authority shall  
34 prepare and submit to the council an annual progress report in a form or  
35 manner, containing such information or data, and on such date determined  
36 by the council. The report shall be certified as accurate and complete  
37 by the executive director of the state authority.

38 (b) At a minimum, such report shall describe:

39 (1) the state authority's efforts regarding reduction in energy and  
40 water consumption; waste reduction and recycling activities; recycled  
41 product procurement; quantities of material recycled;

42 (2) the progress made toward achieving the targets and goals mandated  
43 in this title;

44 (3) the progress made toward increasing the use of renewable energy  
45 sources; and

46 (4) barriers to achieving progress towards meeting the targets and  
47 goals.

48 2. Annual report. The council shall prepare and submit to the governor  
49 and the legislature an annual report, which shall contain the following:

50 (a) a summary of the results from the progress reports submitted by  
51 the state authorities;

52 (b) a description of the overall progress by the state authorities  
53 towards achieving the energy consumption and water use reduction  
54 targets;

55 (c) a description of the overall progress by the state authorities  
56 towards implementing their waste management plans;

1 (d) a comparison of results of energy efficiency activities taken by  
2 the state authorities during prior years;

3 (e) identifying those state authorities that have performed poorly  
4 towards achieving the efficiency targets and goals or implementing their  
5 waste management plan;

6 (f) recommendations to improve or enhance the energy efficiency and  
7 waste management efforts of state authorities.

8 § 2999. Assistance from other authorities. Upon the request of any  
9 state authority that is subject to the provisions of this title and that  
10 is located in its service areas, NYSERDA or OGS, whichever is appropri-  
11 ate, shall provide whatever assistance necessary to help the state  
12 authority meet the energy efficiency targets and other goals established  
13 in this title. Such assistance shall include, but not be limited to:

14 1. financing and developing programs to increase the efficiency of  
15 energy use and to facilitate the development of co-generation;

16 2. financing, designing, developing and providing energy efficiency  
17 and clean energy technology projects, programs and services;

18 3. financing, designing, developing and providing programs and  
19 services related to renovation or retrofitting of buildings and facili-  
20 ties to address energy efficiency, energy conservation, the use of  
21 renewable energy and the reduction of air and other pollution.

22 § 2. Severability. If any clause, sentence, paragraph, section or part  
23 of this act shall be adjudged by any court of competent jurisdiction to  
24 be invalid, the judgment shall not affect, impair, or invalidate the  
25 remainder thereof, but shall be confined in its operation to the clause,  
26 sentence, paragraph, section or part thereof directly involved in the  
27 controversy in which the judgment shall have been rendered.

28 § 3. This act shall take effect immediately.