STATE OF NEW YORK

3206

2019-2020 Regular Sessions

IN ASSEMBLY

January 28, 2019

Introduced by M. of A. ENGLEBRIGHT, GUNTHER, JAFFEE, AUBRY, LIFTON -- Multi-Sponsored by -- M. of A. CRESPO, PERRY, THIELE -- read once and referred to the Committee on Transportation

AN ACT to amend the highway law, in relation to authorizing the leasing of land adjacent to state and local highways for the purpose of the construction and operation of solar and wind electric generating systems; and to amend the public authorities law, in relation to granting such authorization to the metropolitan transportation authority

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

Section 1. Section 10 of the highway law is amended by adding a new subdivision 38-a to read as follows:

38-a. Have the power to lease, for a term not to exceed ninety-nine years, the property rights in air space, and/or unused surface or subsurface space in connection with any state-owned property under his or her jurisdiction or other property acquired for state highway purposes. Such leases shall be for the purposes of the construction and operation of solar and/or wind electric generating systems. Such systems may be mounted upon sound barriers, retaining walls, open unobstructed areas, parking lots, bridges, bridge structures, signs, sign structures and upon any other area upon the leased real property. The construction and operation of solar and wind electric generating systems subject to a lease authorized by this subdivision shall be subject to state and federal law, rules and regulations, but shall not be subject to any local law, resolution, ordinance, rule or regulation. The terms of any such lease shall be determined by the commissioner and shall be subject to the approval of the attorney general. In order to carry any such lease into effect, the commissioner is hereby authorized to execute and deliver, in the name of the people of the state, a lease to such property rights. Each such instrument of lease shall be prepared by the attor-

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

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ney general. No such lease by the commissioner shall deprive an abutting landowner of his or her right of access.

§ 2. Section 102 of the highway law is amended by adding a new subdivision 19 to read as follows:

19. Have the power, subject to the approval of the county governing body, to lease, for a term not to exceed ninety-nine years, the property rights in air space, and/or unused surface or subsurface space in connection with any county-owned property under his or her jurisdiction or other property acquired for county road purposes. Such leases shall be for the purposes of the construction and operation of solar and/or wind electric generating systems. Such systems may be mounted upon sound barriers, retaining walls, open unobstructed areas, parking lots, bridges, bridge structures, signs, sign structures and upon any other area upon the leased real property. The construction and operation of solar and wind electric generating systems subject to a lease authorized by this subdivision shall be subject to state and federal law, rules and regulations, but shall not be subject to any local law, resolution, ordinance, rule or regulation. The terms of any such lease shall be determined by the county superintendent, and shall be subject to the approval of the county governing body. Such lease by the county superintendent shall not deprive an abutting landowner of his or her right of access.

§ 3. Section 140 of the highway law is amended by adding a new subdivision 20 to read as follows:

20. Have the power, subject to the approval of the town board, to lease, for a term not to exceed ninety-nine years, the property rights in air space, and/or unused surface or subsurface space in connection with any town-owned property under his or her jurisdiction or other property acquired for town road purposes. Such leases shall be for the purposes of the construction and operation of solar and/or wind electric generating systems. Such systems may be mounted upon sound barriers, retaining walls, open unobstructed areas, parking lots, bridges, bridge structures, signs, sign structures and upon any other area upon the leased real property. The construction and operation of solar and wind electric generating systems subject to a lease authorized by this subdivision shall be subject to state and federal law, rules and regulations but shall not be subject to any local law, resolution, ordinance, rule or regulation. The terms of any such lease shall be determined by the town superintendent, and shall be subject to the approval of the town board. Such lease by the town superintendent shall not deprive an abutting landowner of his or her right of access.

§ 4. Section 1265 of the public authorities law is amended by adding a new subdivision 15 to read as follows:

15. To lease, for a term not to exceed ninety-nine years, the property rights in air space, and/or unused surface or subsurface space in connection with any authority owned property or other property acquired for authority purposes. Such leases shall be for the purposes of the construction and operation of solar and/or wind electric generating systems. Such systems may be mounted upon sound barriers, retaining walls, open unobstructed areas, parking lots, bridges, bridge structures, signs, sign structures and upon any other area upon the leased real property. The construction and operation of solar and wind electric generating systems subject to a lease authorized by this subdivision shall be subject to state and federal law, rules and regulations, but shall not be subject to any local law, resolution, ordinance, rule or regulation. The terms of any such lease shall be determined by the

authority. Such lease by the authority shall not deprive an abutting landowner of his or her right of access.

§ 5. This act shall take effect immediately.