

STATE OF NEW YORK

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Introduced by M. of A. CARROLL, COLTON, DINOWITZ, GOTTFRIED, KIM, COOK, DICKENS, SIMON, STIRPE, BARNWELL, CRUZ, L. ROSENTHAL, WEPRIN, ROZIC, MAMDANI, FORREST, GALLAGHER, ANDERSON, EPSTEIN, GONZALEZ-ROJAS, MITAYNES, FRONTUS, JACKSON, BURDICK, WALKER, SILLITTI, ENGLEBRIGHT, J. RIVERA, LAVINE, THIELE, FERNANDEZ, STECK, QUART, CLARK, SEAWRIGHT, DAVILA, RAMOS, BURGOS, PHEFFER AMATO, KELLES, GALEF, SEPTIMO, NIOU, GLICK, EICHENSTEIN, CYMBROWITZ, BURKE, OTIS, SOLAGES, ABINANTI, DILAN, JACOBSON, GIBBS, DE LOS SANTOS, CUNNINGHAM, REYES, TAPIA -- Multi-Sponsored by -- M. of A. HEVESI, HYNDMAN -- read once and referred to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, in relation to implementing the "New York State Build Public Renewables Act"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York State Build Public Renewables Act".

3 § 2. Section 1005 of the public authorities law is amended by adding
4 twelve new subdivisions 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and
5 39 to read as follows:

6 28. (a) The authority is authorized and directed to purchase, acquire,
7 plan, design, engineer, finance, construct, operate, manage, improve
8 and/or maintain any renewable energy project.

9 (b) For the purposes of this subdivision and subdivisions twenty-nine,
10 thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five,
11 thirty-six, thirty-seven, thirty-eight, and thirty-nine of this section,
12 the following terms shall have the following meanings:

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

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1 (i) "renewable energy" shall be defined as renewable electricity or
2 thermal energy that does not emit greenhouse gases or other pollutants
3 including, but not limited to, photovoltaics (solar), land-based and
4 offshore wind, run-of-the-river and existing New York state hydroelec-
5 tric, geothermal electric, tidal energy, wave energy, battery energy
6 storage systems, pumped hydroelectric energy storage systems, and renew-
7 able thermal energy technology such as solar thermal, air-source and
8 ground-source heat pumps, renewable co-generation, district heating
9 systems, systems designed to capture waste heat, or other heating or
10 cooling technologies using renewable sources of energy that do not emit
11 greenhouse gases or other pollutants; provided, however, that such term
12 shall not include nuclear energy, carbon capture and storage technology,
13 or any form of fossil fuels or combustion-based energy which relies upon
14 building new fossil fuel infrastructure or extending the use of fossil
15 fuel infrastructure including, but not limited to, gas, propane, and
16 oil, or any form of combustion-based energy including, but not limited
17 to any type of hydrogen fuel, including brown, grey, blue, or pink
18 hydrogen, biofuel, biogas, biomass, or renewable natural gas. However,
19 the authority shall be enabled to produce, use, and sell green hydrogen,
20 defined as hydrogen produced through even electrolysis using only one
21 hundred percent renewable energy, for energy storage in a fuel cell as
22 well as hard-to-electrify industrial processes and heavy-duty transport,
23 such as shipping, aviation, and long-distance trucking. However, this
24 green hydrogen shall not be used or sold for the purpose of being
25 combusted, whether in a fossil fuel plant or any other power plant to
26 generate electricity, nor shall it be sold or used for the purpose of
27 heating buildings, cooking, or hot water, as building electrification is
28 a safer, more feasible, and more cost-effective approach to building
29 decarbonization.

30 (ii) "renewable energy project" shall be defined as all infrastructure
31 which generates, stores, distributes or transmits renewable energy or
32 thermal energy as defined in subparagraph (i) of this paragraph, and
33 includes the construction, installation and/or operation of ancillary
34 facilities or equipment done in connection with any such renewable ener-
35 gy generating projects, including, but not limited to, electric vehicle
36 charging infrastructure and renewable offshore wind vessels.

37 29. (a) The authority shall have the right of first offer and first
38 refusal to and shall coordinate with the department of state's office of
39 renewable energy siting (ORES) to purchase, acquire, plan, design, engi-
40 neer, finance, construct, operate, manage, improve and/or maintain
41 renewable energy projects over twenty-five megawatts and to own and sell
42 any power or energy created by such renewable energy project. The
43 authority shall have sixty days to commit to a project. The authority
44 shall also have the right of first offer and first refusal to purchase
45 planned, future, and existing renewable energy projects.

46 (b) Where a renewable energy site appropriate for New York state falls
47 into federal jurisdiction, the authority shall participate in lease
48 auctions in an attempt to obtain ownership of that area.

49 30. Notwithstanding any other provision of law, to, on or after Janu-
50 ary first, two thousand twenty-five, only generate and transmit renewa-
51 ble energy and the authority shall only purchase, acquire, plan, design,
52 engineer, finance, construct, operate, manage, improve and/or maintain
53 generation and transmission facilities for the purpose of generating,
54 storing, distributing and transmitting renewable energy. The authority
55 shall phase out its use of existing non-renewable generation as quickly
56 as possible but no later than December thirtieth, two thousand twenty-

1 five, as it scales up renewable energy generation to meet one hundred
2 percent of all state and municipal energy needs and the energy needs of
3 all public and private buildings and properties powered by the authority
4 with renewable energy by two thousand twenty-six, and it shall not
5 purchase, plan, finance, or construct any new generation project or
6 energy infrastructure which is not a renewable energy project or part of
7 a renewable energy project. The authority shall prioritize funding,
8 building, and owning renewable energy projects which: (a) actively bene-
9 fit disadvantaged communities as defined by the climate justice working
10 group; (b) minimize harm to wildlife, ecosystems, public health, and
11 public safety; (c) do not violate Indigenous rights or sovereignty; and
12 (d) which are the most cost-effective to the state according to the best
13 available cost modeling research. The types of renewable energy projects
14 the authority builds shall be determined and prioritized in consultation
15 with community groups, New York state energy research and development
16 authority's regional clean energy hubs, and environmental and energy
17 experts. The authority shall also convert all state and municipal prop-
18 erties and authority powered privately owned buildings to receive heat-
19 ing and cooling from renewable energy sources by two thousand thirty.

20 31. (a) Within two years of the effective date of this subdivision,
21 the authority shall make public a ten-year climate and resiliency plan.
22 Such climate and resiliency plan shall be designed to minimize the costs
23 to ratepayers while balancing the interests of employees, grid reliabil-
24 ity and resiliency, disadvantaged communities as defined by the climate
25 justice working group and the environment. Such plan shall be developed
26 in consultation with the New York state independent system operator,
27 the New York state energy research and development authority, and
28 experts, environmental justice communities, ratepayers and community
29 organizations via the New York state energy research and development
30 authority's regional clean energy hubs. Such resiliency plan shall
31 outline the renewable projects the authority plans to build, how the
32 authority plans to phase out non-renewable assets and how the authority
33 plans to comply with the climate leadership and community protection act
34 and the renewable energy targets outlined in this subdivision and subdivi-
35 sions twenty-nine, thirty and thirty-two of this section. The authori-
36 ty shall also outline a plan to improve energy resiliency and if neces-
37 sary to meet the authority's renewable energy targets, shall coordinate
38 with the New York state independent system operator to re-adjust the
39 locational capacity requirements for each region in the state. Addi-
40 tionally, within two years of the effective date of this subdivision,
41 the authority shall make public a democratization plan, with a mandate
42 to implement the plan within two years of its completion. Such plan
43 shall be created in partnership with, and codesigned with, a statewide
44 alliance of community organizations with at least five years' history of
45 working on energy democracy and implementation issues, providing funding
46 for this alliance as necessary for their participation in the completion
47 of the plan. Such plan shall ensure that the scale up of renewable build
48 out across the state occurs in line with the principles of energy democ-
49 racy and transparency.

50 (b) (i) The authority shall hold as many public hearings as is needed
51 to accommodate all who sign up to speak related to such climate and
52 resiliency plan annually, and may update such plan annually as needed.
53 The hearing shall be publicized in various forms of media, including but
54 not limited to the authority's website, local newspapers and social
55 media platforms, and shall also be accessible via livestream. In
56 advance of such hearing, the authority shall conspicuously post written

1 notice of such hearing in all authority facilities and New York state
2 energy research and development authority New York state energy research
3 and development authority's regional clean energy hubs on a sign posted
4 at each facility entrance and exit used by employees, and shall provide
5 at least two weeks advance notice of such hearing to authority customers
6 by directly communicating such notice to customer phone, email and mail-
7 ing lists. Hearings shall be permitted between 12:00 PM to 3:00 PM and
8 6:00 PM to 9:00 PM, and the authority shall provide all speakers with
9 the option to sign up to speak within those three hour windows such that
10 no speaker shall wait longer than three hours to speak. All speakers who
11 sign up shall publicly disclose whether they are being paid to speak at
12 the hearing, and if so, who they are being paid by. In addition to oral
13 testimony, written testimony from the public for such hearings shall be
14 accepted by the authority no less than two weeks after each hearing.
15 Each speaker shall have at least three minutes to speak, and a remote
16 option shall be provided for submitting comments via video conference,
17 phone, including short message services (SMS) text messages and/or writ-
18 ten comment, which shall be read aloud. Provisions for childcare, trans-
19 lation services, American sign language interpretation, closed caption-
20 ing, and access to accommodations provided by the Americans with
21 Disabilities Act shall be provided upon request.

22 (ii) The authority shall maintain an online suggestion board where the
23 public may submit recommendations to be voted on by other members of the
24 public. The top five suggestions shall be discussed publicly and shall
25 be voted on by the authority's board at the annual public hearing. Other
26 suggestions may be taken into consideration at the board's discretion.
27 All data, meeting minutes, recordings and documents that do not include
28 personal customer information, including but not limited to depreciation
29 schedules, annual financial statements of itemized spending, environ-
30 mental impact statements, cost-benefit analyses, climate and resiliency
31 plans, renewable energy project plans, and annual reports on operations,
32 customer service, reliability, resiliency and sustainability, shall be
33 made available on the authority's website, or otherwise made accessible
34 by the authority upon request. All such records shall be maintained as
35 business records for a minimum of ten years. The state comptroller
36 shall audit the authority at least once every two years until two thou-
37 sand thirty to ascertain whether the authority is in compliance with the
38 renewable energy targets outlined in this subdivision and subdivisions
39 twenty-nine, thirty, thirty-two and thirty-three of this section and
40 whether the authority's spending and operations are efficient. The most
41 recent comptroller audits shall also be made available on the authori-
42 ty's website, or otherwise made accessible by the authority upon
43 request.

44 (c) (i) The authority shall conduct an energy efficiency and energy
45 audit program to identify public and private buildings most in need of
46 retrofits and efficiency measures. The authority shall hire authority
47 employees or contractors to perform energy audits, retrofits and other
48 efficiency programs for these buildings, such as incentives for energy
49 efficient appliances and induction stoves, as needed, to meet the
50 climate goals outlined in the climate leadership and community
51 protection act. The authority shall prioritize public buildings and
52 low-income customers and tenants to receive the benefits of these effi-
53 ciency programs and retrofits. If the buildings selected for this
54 program need mold remediation measures or lead abatement measures to be
55 carried out before energy efficiency measures can be safely implemented,

1 the authority shall also hire employees or contractors to perform lead
2 abatement measures and/or mold remediation measures for these buildings.

3 (ii) The authority or the New York state energy research and develop-
4 ment authority shall annually post and maintain for at least one year on
5 their website, a report evaluating the energy efficiency program,
6 including, but not limited to, the number of customers served by the
7 efficiency program, the customer demographics, the number of retrofits
8 and energy audits performed, the number of jobs created and employee
9 demographics, and the amount of energy and dollars saved as a result of
10 the program.

11 The authority shall also submit an annual report to the governor and
12 to the legislature which shall be made available to the public and shall
13 be subject to open hearings in the legislature. Such report shall
14 include the:

15 (A) Ten year climate and resiliency plan described in paragraph (a) of
16 this subdivision;

17 (B) Amount of energy produced by each facility;

18 (C) Energy transferred between facilities within the authority;

19 (D) Energy transferred outside of the authority for sale;

20 (E) Kilowatt-hour sales by project and by customer;

21 (F) Revenues and costs for each project facility;

22 (G) Accumulated provision for depreciation of each project facility;

23 (H) Financial and operating information of the energy efficiency
24 program; and

25 (I) Enrollment in and effectiveness of renewable energy auto-enroll-
26 ment, retrofit, and energy efficient appliance programs.

27 32. Notwithstanding any other provision of law, including existing
28 electric vehicle charging stations and opt out provisions of CCAs, to be
29 the sole provider of electricity and power to all state and municipal
30 owned, leased, controlled, or operated properties that use electricity,
31 including but not limited to all buildings and transportation-related
32 properties such as trains, subways and subway stations, vessels, elec-
33 trified buses and vehicles, and public or private electric vehicle
34 charging stations.

35 33. (a) To sell or provide renewable energy to end-use customers and
36 CCA communities using the transmission or distribution system of any
37 utility with consolidated billing. Any excess renewable energy produced
38 by the authority and not used or stored by state or municipal owned or
39 leased properties shall be sold directly to end-use customers or CCA's,
40 wholesale, using utility's transmission or distribution systems. The
41 authority shall sell this energy, in order of lowest cost to highest
42 cost, with the exception of current and future ReCharge NY recipients,
43 to low-to-moderate income households or households that have an energy
44 burden greater than four percent of their annual income first; followed
45 by state or municipal owned or leased properties; followed by customers
46 who have installed electric heat pumps; followed by other residential
47 customers; followed by other commercial and industrial customers. This
48 subdivision shall not interfere with the authority's existing ReCharge
49 program. For the purposes of this paragraph, the term "low-to-moderate
50 income households" shall mean households with annual incomes at or below
51 eighty percent of the area median income of the county or metro area
52 where they reside.

53 (b) There shall be no electricity rate increase for the first three
54 years following the effective date of this subdivision. After the first
55 three years following the effective date of this subdivision, a progres-
56 sive rate structure based on income and level of energy shall be devel-

1 oped in consultation with the authority and communities via the New York
2 state energy research and development authority's regional clean energy
3 hubs.

4 (c) The authority shall discourage the shut off of any residential
5 customer's energy for non-payment and shall discourage the charge of
6 punitive late fees by collaborating with distribution companies. The
7 authority shall work with the low income home energy assistance program
8 to assist low-income customers with payment plans and to develop an
9 emergency fund to cover instances of non-payment. Notwithstanding any
10 other provision to the contrary, the authority may impose penalties for
11 large energy users and may incentivize energy conservation with rebates
12 and discounts on energy efficient products, to be determined by the
13 authority's board in consultation with the New York state energy
14 research and development authority.

15 (d) The authority is authorized to sell up to thirty percent of the
16 electricity that it provides to residential and commercial customers to
17 customers of the long island power authority, established under title
18 one-A of this article, and the long island power authority is authorized
19 to purchase this power.

20 34. All new renewable projects designed, built, owned and operated by
21 the authority and energy efficiency programs designed, built, owned and
22 operated by the authority shall pay a prevailing wage and shall be
23 subject to project labor agreements. These prevailing wage and project
24 labor agreement provisions shall apply both to the authority's employees
25 and to contractors hired for the construction and operation of these
26 projects. There shall be no emergency strike funds, nor shall there be
27 ratepayer funded management contract negotiation funds; the authority
28 and its contractors and subcontractors shall at a minimum remain neutral
29 to unionization efforts. Furthermore, the authority shall contribute to
30 a just transition fund, which shall make funding available for workers
31 who lose jobs as a result of these measures, provided that this funding
32 is used for retraining for other roles or used to contribute to the
33 retirement of these workers. This fund and a just transition plan for
34 any fossil fuel, nuclear, energy service company, or other employees who
35 lose their jobs as a result of this bill or as a result of the transi-
36 tion to renewables, shall be developed by the authority in consultation
37 with labor unions and impacted employees.

38 35. (a) The authority shall partner with both the office of renewable
39 energy siting and the New York state energy research and development
40 authority's regional clean energy hubs to determine siting of large
41 scale renewable and distributed renewable projects, prioritizing:

42 (i) the preferences of, land rights of, and benefits to indigenous
43 nations;

44 (ii) preferences of and benefits to disadvantaged communities; and

45 (iii) overall cost optimization of distributed generation resources
46 for the state overall as demonstrated by the most recent and detailed
47 available energy modeling.

48 36. The authority shall, when feasible, prioritize projects that make
49 a good faith effort to source materials manufactured within the state,
50 including, but not limited to, solar panels and batteries.

51 37. The authority shall work with existing workforce development
52 programs, union apprenticeship programs, and regional community energy
53 hubs to publish a report on the ways that the construction of renewable
54 projects can best support the development of skilled, well paid local
55 workforces in the renewable energy sector, and shall provide financial
56 support for pre-apprenticeship programs through local community based

1 organizations that work with disadvantaged communities where this
2 support is found to be necessary to the effective development of this
3 workforce according to the report.

4 38. The authority shall support the bundling of distributed renewable
5 energy projects wherever possible to exceed the five megawatt project
6 threshold that ensures prevailing wage under current law.

7 39. For energy projects that the authority builds on properties of the
8 New York city housing authority, including heat pump installations,
9 retrofits, weatherization measures, and lead, mold, and asbestos remedi-
10 ation, both the authority and its contractors shall prioritize hiring
11 residents of these properties, provided that residents meet consider-
12 ations of availability, skill level and training, and that residents
13 want those jobs. If they do, the authority must connect those residents
14 with training or union apprenticeship opportunities that would prepare
15 them for long-term careers in those industries. No provisions of this
16 subdivision shall alter the status of any Section 9 housing. The author-
17 ity shall consult the residents or occupants of all public buildings
18 where the authority is building projects to assess their needs and mini-
19 imize disruption, nuisance, public health risks, and displacement during
20 any remediation, retrofit, weatherization, heat pump installations, or
21 other construction the authority or its contractors perform.

22 § 3. Section 1003 of the public authorities law, as amended by chapter
23 766 of the laws of 2005, is amended to read as follows:

24 § 1003. Trustees. 1. The authority shall consist of [~~seven~~] seventeen
25 trustees, five of whom shall serve respectively for terms of one, two,
26 three, four and five years, to be appointed by the governor, by and with
27 the advice and consent of the senate. The sixth and seventh trustees
28 shall be appointed by the governor, by and with the advice and consent
29 of the senate, and shall serve initial terms of one and two years
30 respectively. All other trustees shall be appointed by the regional
31 clean energy hubs and community organizations from across New York
32 State, and shall include: (a) two who are representative of the labor
33 unions that represent employees of the authority; (b) two with a back-
34 ground primarily in environmental justice advocacy; (c) two with a back-
35 ground primarily in community renewable energy advocacy; (d) two with a
36 background in consumer advocacy; (e) two with building electrification
37 expertise; and (f) two with energy efficiency expertise. No person shall
38 be a trustee of the authority who has a provable conflict of interest
39 with the authority's mission to provide low cost renewable energy. Each
40 trustee shall hold office until a successor has been appointed and qual-
41 ified or until removed by a majority vote of the legislature or the
42 governor. At the expiration of the term of each trustee and of each
43 succeeding trustee [~~the governor shall, by and with the advice and~~
44 ~~consent of the senate, appoint a successor, who shall hold office for a~~
45 ~~term of five years, or until a successor has been appointed and quali-~~
46 ~~fied. In the event of a vacancy occurring in the office of the trustee~~
47 ~~by death, resignation or otherwise, the governor shall, by and with the~~
48 ~~advice and consent of the senate, appoint a successor, who shall hold~~
49 ~~office for the unexpired term. Four trustees shall constitute a quorum~~
50 ~~for the purpose of organizing the authority and conducting the business~~
51 ~~thereof.], or the event of a vacancy occurring in the office of the
52 trustee by death, resignation or otherwise, the original entities who
53 appointed that trustee shall appoint a successor, who shall hold office
54 for the unexpired term. Nine trustees shall constitute a quorum for the
55 purpose of organizing the authority and conducting the business thereof.
56 Any authority trustee or board member may be terminated by either a~~

1 majority vote of the senate or assembly, or by the governor. Reasons for
2 termination may include, but are not limited to: failure to meet the
3 renewable energy targets outlined in this bill; conflicts of interest;
4 failure to prioritize climate justice, environmental justice, or econom-
5 ic justice in the authority's operations; sexual assault or harassment;
6 or corruption.

7 2. The trustee chosen as chairman as provided in section one thousand
8 four of this title, shall receive an annual salary which shall be set by
9 the trustees of the authority, and which shall not exceed the salary
10 prescribed for the positions listed in paragraph (f) of subdivision one
11 of section one hundred sixty-nine of the executive law. [~~Each other~~
12 ~~trustee shall not receive a salary or other compensation.~~] Each trustee
13 shall receive his or her reasonable expenses in the performance of his
14 or her duties hereunder. The trustee chosen as chairman may elect to
15 become a member of the New York state and local employees' retirement
16 system on the basis of such compensation to which he or she shall be
17 entitled as herein provided notwithstanding the provisions of any gener-
18 al, special or local law, municipal charter, or ordinance.

19 § 4. The public authorities law is amended by adding a new section
20 1016 to read as follows:

21 § 1016. For-profit energy services companies. No for-profit energy
22 services company, their contractors, and/or their agents shall seek to
23 enroll or market the company's services to new residential customers.
24 The term "market" shall include any and all promotion or outreach to
25 residential customers in an attempt to get them to enroll in the compa-
26 ny's services. Within ninety days of the effective date of this section,
27 for-profit energy services companies shall unenroll any residential
28 customer that they currently serve. However, energy service companies
29 may continue selling, enrolling or marketing their services to community
30 choice aggregation customers.

31 § 5. Nothing in this act is intended to limit, impair, or affect the
32 legal authority of the power authority of the state of New York under
33 any other provision of title 1 of article 5 of the public authorities
34 law.

35 § 6. No section of this act or any action required to be taken under
36 this act shall be delayed or made contingent upon the completion of the
37 plan required by subdivision 31 of section 1005 of the public authori-
38 ties law, as added by section two of this act.

39 § 7. Severability clause. If any clause, sentence, paragraph, subdi-
40 vision, or section of this act shall be adjudged by any court of compe-
41 tent jurisdiction to be invalid, such judgment shall not affect, impair,
42 or invalidate the remainder thereof, but shall be confined in its opera-
43 tion to the clause, sentence, paragraph, subdivision, or section thereof
44 directly involved in the controversy in which such judgment shall have
45 been rendered. It is hereby declared to be the intent of the legislature
46 that this act would have been enacted even if such invalid provisions
47 had not been included herein.

48 § 8. This act shall take effect immediately.