STATE OF NEW YORK

8431--A

2021-2022 Regular Sessions

IN ASSEMBLY

November 17, 2021

Introduced by M. of A. GALLAGHER, SIMON, CARROLL, EPSTEIN, DINOWITZ, L. ROSENTHAL, SEAWRIGHT, MAMDANI, GOTTFRIED, GLICK, STECK, GONZALEZ-ROJAS, REYES, JACKSON, KIM, MITAYNES, NIOU, COLTON, BURDICK, FORREST, KELLES, GALEF, BURGOS, CRUZ, RAMOS, BICHOTTE HERMELYN, FAHY, ANDERSON, FRONTUS, STIRPE, BURKE, QUART, ENGLEBRIGHT, PAULIN, MEEKS -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations 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 executive law, in relation to enacting the "all-electric building act"

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

Section 1. Short title. This act shall be known and may be cited as the "all-electric building act".

§ 2. The executive law is amended by adding a new section 382-c to read as follows:

§ 382-c. All-electric buildings. 1. As used in this section:

a. "All-electric building or project" shall mean a building or project that uses a permanent supply of electricity as the sole source of energy to meet building energy needs. An all-electric building or project shall have no natural gas, propane, or oil heaters, boilers, piping systems, fixtures or infrastructure installed to meet building energy needs.

b. "Building energy needs" shall mean all space conditioning including heating and cooling, water heating including pools and spas, cooking appliances and clothes drying appliances.

c. "All-electric ready" shall mean a building, project, or portion thereof that contains electrical systems and designs that provide sufficient capacity for a future retrofit of a mixed-fuel building to an all-electric building, including sufficient space, drainage, electrical conductors or raceways, bus bar capacity, and overcurrent protective devices for such retrofit. The department of state shall promulgate guidelines for an electric-ready building on or before January first, two thousand twenty-three.

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

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d. "Initial application" shall mean the first site or building permit application associated with the building or project.

e. "Mixed-fuel building" shall mean a building that uses a combination of electricity and natural gas, propane, or oil to meet building energy needs. For the purposes of this section, "mixed-fuel building" shall not include buildings that use geothermal or solar energy to meet heating and/or cooling building energy needs but are otherwise all-electric buildings.

f. "Mixed-use building" shall mean a building used for both residential and commercial purposes.

2. a. No city, town or village shall issue a permit for the construction of any new commercial, residential, or mixed-use building that is not an all-electric building if the initial application for such permit was submitted after December thirty-first, two thousand twenty-three, unless the circumstances set forth in paragraph b of this subdivision apply.

b. Notwithstanding the provisions of paragraph a of this subdivision, a city, town, or village may issue a permit for construction of a new mixed-fuel building upon a finding by the permitting body of such city, town, or village that constructing an all-electric building or project is physically or technically infeasible and that a modification is warranted. Financial considerations shall not be a sufficient basis to determine physical or technical infeasibility. Modifications shall only be issued under this exception where the permitting body finds that:

(i) sufficient evidence was submitted to substantiate the infeasibility of an all-electric building or project design. Such evidence must show that either:

A. the proposed building has seven or more floors and cannot satisfy necessary building code requirements without the usage of gas or oil piping systems, fixtures and/or infrastructure and the initial application for the permitting of such building was not submitted after December thirty-first, two thousand twenty-six;

B. the building is specifically designated for occupancy by a commercial food service establishment, laboratory, laundromat, hospital, or crematorium, and such establishment cannot feasibly operate using commercially available all-electric appliances; or

C. the natural gas or oil piping systems are used solely for the generation of emergency standby power;

(ii) the installation of natural gas or oil piping systems, fixtures and/or infrastructure is strictly limited to the system and area of the building for which all-electric building or project design is infeasible;

(iii) the area or service within the project where gas or oil piping systems, fixtures and/or infrastructure are installed is all-electric ready; and

(iv) the project's modified design provides equivalent health, safety and fire-protection to all-electric building or project design.

c. If a modification is issued under paragraph b of this subdivision, the applicant shall pay or agree in writing to pay any costs related to the connection of any gas main and/or transmission system to ensure that such costs are not subsidized by other service class rate payers. Those costs include but are not limited to the material and installation of the pipe, conduit, duct, or other facilities to be installed.

3. a. No city, town or village shall issue building or construction permits that would convert an all-electric building or project into a

mixed-fuel building where the initial application was submitted after December thirty-first, two thousand twenty-two.

b. Notwithstanding the provisions of paragraph a of this subdivision, a city, town, or village may issue a permit to convert an all-electric building or project into a mixed-fuel building for the generation of emergency standby power or occupancy by a commercial food service establishment, laboratory, laundromat, hospital, or crematorium, and such establishment cannot feasibly operate using commercially available all-electric appliances, provided:

(i) sufficient evidence is presented to substantiate the physical or technical infeasibility of an all-electric building or project design, financial considerations shall not be a sufficient basis to determine physical or technical infeasibility;

(ii) the installation of natural gas or oil piping systems, fixtures and/or infrastructure is strictly limited to the system and area of the building for which all-electric building or project design is infeasible;

(iii) the area or service within the project where gas or oil piping systems, fixtures and/or infrastructure are installed is all-electric ready; and

(iv) the project's modified design provides equivalent health, safety and fire-protection to all-electric building or project design.

c. If a permit is issued under paragraph b of this subdivision, the applicant shall pay or agree in writing to pay any costs related to the connection of any gas main and/or transmission system to ensure that such costs are not subsidized by other service class rate payers. Those costs include but are not limited to the material and installation of the pipe, conduit, duct, or other facilities to be installed.

4. On or before February first, two thousand twenty-three, the department of public service, the division of housing and community renewal, the department of state, and the New York state energy research and development authority shall report jointly to the governor, the temporary president of the senate, the minority leader of the senate, the speaker of the assembly, and the minority leader of the assembly, regarding what changes to electric rate designs, new or existing subsidy programs, policies, or laws are necessary to ensure this section does not diminish the production of affordable housing or the affordability of electricity for customers in all-electric buildings. For the purpose of this subdivision, "affordability of electricity" shall mean that electricity does not cost more than six percent of a residential customer's income.

5. On or before December first, two thousand twenty-eight, the department of public service, the department of state, and the New York state energy research and development authority shall report jointly to the governor, the temporary president of the senate, the minority leader of the senate, the speaker of the assembly, and the minority leader of the assembly, regarding the continued need of waivers established under this section for commercial food establishments, laboratories, laundromats, hospitals, or crematoriums. The report shall make recommendations for the continuance or elimination of such waivers for both new construction and building conversions.

6. Nothing in this section shall be interpreted or otherwise construed as preempting a municipality from requiring all-electric buildings or otherwise prohibiting new gas service connections for new buildings and conversions.

§ 3. This act shall take effect immediately.