

# STATE OF NEW YORK

9341

## IN ASSEMBLY

February 23, 2022

Introduced by M. of A. McDONALD, FAHY -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law and the public authorities law, in relation to the utilization of renewable energy at state-owned facilities in Albany

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

1 Section 1. This act shall be known and may be cited as the "Renewable  
2 Capitol Act".

3 § 2. The executive law is amended by adding a new section 204 to read  
4 as follows:

5 § 204. Renewable capitol project. 1. For the purpose of this section,  
6 the following terms shall have the following meanings:

7 (a) The "advisory committee" shall mean the committee established  
8 pursuant to paragraph (b) of subdivision three of this section.

9 (b) The "CLCPA" shall mean the New York state climate leadership and  
10 community protection act enacted as chapter one hundred six of the laws  
11 of two thousand nineteen, as it shall from time to time be amended.

12 (c) "Co-pollutants" shall have the same meaning as set forth in subdivi-  
13 sion three of section 75-0101 of the environmental conservation law.

14 (d) "Emergency generator" shall mean the set of diesel generators  
15 located on Sheridan Avenue in Albany, New York as of the effective date  
16 of this section, that are intended to power the empire state plaza  
17 complex during an emergency fault condition causing an interruption to  
18 normal electricity service from the grid.

19 (e) "Empire state plaza complex" or the "complex" shall mean the  
20 complex of state-owned buildings and the land thereon in Albany, New  
21 York that utilize the steam distribution network of the Sheridan Avenue  
22 steam plant, including what are popularly known as Empire State Plaza,  
23 the State Capitol Building, the State Museum, the Alfred E. Smith Build-  
24 ing, the State Education Building, the Sheridan Avenue steam plant, and  
25 the former Albany New York Solid Waste Energy Recovery System incinera-  
26 tor building.

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

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1 (f) "Greenhouse gas" shall have the same meaning as set forth in  
2 subdivision seven of section 75-0101 of the environmental conservation  
3 law.

4 (g) The "local community" shall mean the portion of Albany, New York  
5 designated as the local community under the plan, which shall include,  
6 at a minimum, the Albany Sheridan Hollow, Arbor Hill, Center Square,  
7 Mansion and South End neighborhoods.

8 (h) "NYSERDA" shall mean the New York state energy research and devel-  
9 opment authority created under section eighteen hundred fifty-two of the  
10 public authorities law.

11 (i) The "office of general services" or the "office" shall mean the  
12 agency created under section two hundred of this article.

13 (j) The "plan" shall mean the plan set forth in subdivision three of  
14 this section.

15 (k) The "project" shall mean the work on the empire state plaza  
16 complex mandated by this section.

17 (l) A "power purchase agreement" shall mean an agreement between two  
18 parties, the seller and the buyer, to enter into a contractual obli-  
19 gation for the purchase of electricity.

20 (m) "Renewable energy systems" means systems that entirely generate  
21 electricity or thermal energy through use of the following technologies:  
22 solar thermal, photovoltaics, on land and offshore wind, hydroelectric,  
23 geothermal electric, geothermal ground source heat, tidal energy, wave  
24 energy, ocean thermal, and fuel cells which do not utilize a fossil fuel  
25 resource in the process of generating electricity or thermal energy.

26 (n) "Sheridan Avenue steam plant" shall mean the steam plant facility  
27 owned by New York state located as of the time of the effective date of  
28 this section at 79 Sheridan Avenue in Albany, New York.

29 2. (a) Within three years after the effective date of this section,  
30 the office of general services, in consultation with the power authority  
31 of the state of New York, shall ensure that all operations that power,  
32 heat or cool the empire state plaza complex shall entirely use renewable  
33 energy systems. In satisfying this requirement, the office may demon-  
34 strate that the amount of electrical energy credited to the complex  
35 annually from renewable sources through a power purchase agreement or  
36 similar instrument is not less than the amount of electrical energy  
37 consumed annually by the complex. Notwithstanding this mandate, the  
38 emergency generator shall be permitted to utilize non-renewable energy,  
39 but the office shall be empowered to retire or convert the emergency  
40 generator to wholly or entirely utilize renewables if possible. Further,  
41 the office shall strongly consider any recommendations made pursuant to  
42 paragraph (b) of subdivision three of this section.

43 (b) The project and the empire state plaza complex shall comply with  
44 the CLCPA, and any rules and regulations issued thereunder, and, in  
45 particular, section seven of such law; the statewide greenhouse gas  
46 emissions limits set forth in section 75-0107 of the environmental  
47 conservation law; and the targets established in subdivision two of  
48 section sixty-six-p of the public service law. Nothing in this paragraph  
49 shall preclude the office from mandating lower greenhouse gas emissions  
50 limits or compliance with greenhouse gas emissions limits in a shorter  
51 timeframe than set forth in section 75-0107 of the environmental conser-  
52 vation law, or in mandating a higher percentage of renewables or in a  
53 shorter timeframe than in subdivision two of section sixty-six-p of the  
54 public service law. Except in regard to the provision regarding to the  
55 emergency generator as set forth in paragraph (a) of this subdivision,  
56 any action taken in furtherance of the project that leads to any

1 increase in the emissions of greenhouse gases shall be deemed inconsis-  
2 ent with and in interference with the attainment of the statewide green-  
3 house gas emissions limits established in article seventy-five of the  
4 environmental conservation law and therefore shall trigger the process  
5 set forth in subdivision two of section seven of the CLCPA.

6 (c) Any contractor receiving payments for work conducted pursuant to  
7 this section shall pay employees and other workers under such contract a  
8 wage not less than the prevailing rates of wages for such work in the  
9 locality where the work is performed, in conformity with prevailing  
10 wage laws.

11 3. (a) Within one hundred eighty days of the effective date of this  
12 section, the office shall issue a plan in conformity with this subdivi-  
13 sion and subdivision two of this section.

14 (b) Within sixty days of the effective date of this section, the  
15 office shall establish an advisory committee to advise it on the prepa-  
16 ration, design and content of the plan. The advisory committee, whose  
17 members shall be appointed by the commissioner of the department of  
18 environmental conservation in consultation with the president and chief  
19 executive officer of NYSERDA, shall contain, but not be limited to: at  
20 least three representatives of Albany community organizations, at least  
21 two of which are from organizations whose mission, in whole or in part,  
22 is to represent the interests of the Arbor Hill and/or Sheridan Hollow  
23 neighborhoods in Albany; two additional representatives of local envi-  
24 ronmental justice organizations; one individual not employed by New York  
25 state with recognized expertise in renewable energy; a representative of  
26 labor organizations; at least one scientist with expertise in energy and  
27 climate policy and the mayor of Albany or his or her designee. The advi-  
28 sory committee shall meet at least three times annually, or additional  
29 times as the committee shall by majority vote determine. At such meet-  
30 ings, which shall be open to the public, the office, among other things,  
31 shall report on the progress made in completing the project and other-  
32 wise implementing this section. The advisory committee members shall  
33 receive no compensation for their services but shall be reimbursed for  
34 their actual and necessary expenses incurred in the performance of their  
35 duties. All agencies of the state or subdivisions thereof may, at the  
36 request of the advisory panel or the office, provide the advisory panel  
37 with such facilities, assistance and data as will enable the advisory  
38 panel to carry out its powers and duties.

39 (c) Each member of the advisory committee shall be entitled to one  
40 vote. No action may be taken by the advisory committee unless there is  
41 a quorum, which shall at all times be a majority of the members of the  
42 committee.

43 (d) The office shall issue a draft plan within one hundred twenty days  
44 after the effective date of this section. The office shall be transpar-  
45 ent in its work to develop the plan and shall maintain a website where  
46 the draft plan and other documents relevant to its development shall be  
47 posted for public review. The advisory committee shall hold at least two  
48 public hearings within thirty days after the release of the draft plan  
49 and prior to the release of the final plan, of which one shall be held  
50 in Arbor Hill or Sheridan Hollow neighborhoods and one shall be held  
51 during the evening or weekend hours. An additional public hearing shall  
52 also be held within thirty days after the creation of the advisory  
53 committee to receive public input into the development of the draft  
54 plan.

55 (e) The plan shall contain recommendations on regulatory measures and  
56 other state actions to ensure that the mandates in subdivision two of

1 this section are met. The measures and actions set forth in the plan  
2 shall include:

3 i. a timeline for planned steps toward the completion of the project,  
4 including, but not limited to construction of the project and obtaining  
5 the necessary permits to begin operation. The timeline should maximize  
6 the potential for achieving, and if feasible making greater emissions  
7 reductions than the statewide greenhouse gas emissions limits set forth  
8 in section 75-0107 of the environmental conservation law and meeting the  
9 other mandates of the CLCPA;

10 ii. measures to maximize the benefits to the local community, includ-  
11 ing prioritizing the reduction of greenhouse gases and co-pollutants and  
12 improving public health in the local community;

13 iii. measures to optimize thermal load sharing, energy efficiency,  
14 demand response, and energy conservation;

15 iv. comprehensive consideration of renewable heat exchange systems or  
16 a combination of such systems to meet the heating and cooling needs of  
17 the empire state plaza complex, including but not limited to: geothermal  
18 heat exchange with the earth, geothermal heat exchange with the Hudson  
19 River, open-loop and closed-loop heat exchange with the aquifer, heat  
20 exchange with potable water supplies, heat recovery from wastewater  
21 sources, air-source heat pump technology, and thermal storage;

22 v. prioritization of electricity procurement from renewable sources  
23 within New York Independent System Operator (NYISO) Zone F, especially  
24 sources most capable of providing electricity serving real-time load  
25 conditions of the empire state plaza complex. This shall include, but  
26 not be limited to, consideration of projects that expand electricity  
27 generation from ecologically-responsible, run-of-the-river hydroelectric  
28 facilities within the region; and

29 vi. prioritization of project implementation efforts to maximize the  
30 creation of quality jobs in New York state and the local community.

31 (f) The plan shall also designate the geographic boundaries of the  
32 local community. In designating such boundaries, which shall include the  
33 Albany Sheridan Hollow, Arbor Hill, Center Square, Mansion and South End  
34 neighborhoods, the office shall consider including in its designation  
35 any other communities that experience impacts on their water, air quali-  
36 ty, noise and traffic from the empire state plaza complex.

37 § 3. The tenth undesignated paragraph of section 1005 of the public  
38 authorities law, as added by chapter 55 of the laws of 1992, is amended  
39 to read as follows:

40 The authority is further authorized, as deemed feasible and advisable  
41 by the trustees, to acquire, maintain, manage, operate, improve and  
42 reconstruct as a project or projects of the authority one or both of the  
43 steam generation facilities owned by the state known as the Sheridan  
44 [~~avenue~~] Avenue steam [~~generating~~] plant [~~on Sheridan avenue in the city~~  
45 ~~of Albany and used to supply steam to state facilities~~], together with  
46 any properties, buildings and equipment at the sites thereof or ancil-  
47 lary thereto, for the generation and sale of thermal energy and the  
48 cogeneration and sale of electricity for use by facilities of the state  
49 within the county of Albany. All the authority's costs, including its  
50 acquisition, capital, operating and maintenance costs, shall be recov-  
51 ered fully from the customers receiving service from such project or  
52 projects. Thermal energy and electricity not required by the state may  
53 be sold by the authority to others. The authority is not authorized to  
54 use refuse or refuse-derived fuel in operating the project or projects.  
55 As of the time period specified in paragraph (a) of subdivision two of  
56 section two hundred four of the executive law, all of the energy,

1 including but not limited to heat, cooling and electricity, produced at  
2 the Sheridan Avenue steam plant shall utilize renewable energy systems.  
3 Any agreement for such acquisition shall insure that the authority is  
4 not liable or otherwise responsible for circumstances arising from the  
5 prior operation of such facilities. The acquisition and purchase of such  
6 land, buildings and equipment by the authority, and any actions taken to  
7 effect such acquisition and purchase, are hereby exempt from the  
8 provisions of article eight of the environmental conservation law. The  
9 application of such exemption shall be strictly limited to the acquisi-  
10 tion and purchase of such land, buildings and equipment by the authority  
11 and such agreements with the state. Nothing herein shall exempt the  
12 authority from otherwise applicable laws respecting the expansion,  
13 conversion, operation and maintenance of such land, buildings and equip-  
14 ment. For the purposes of this subdivision, the terms "renewable energy  
15 systems" and "Sheridan Avenue steam plant" shall have the same meanings  
16 as in subdivision one of section two hundred four of the executive law.

17 § 4. This act shall take effect immediately.