

# STATE OF NEW YORK

1466--B

2021-2022 Regular Sessions

## IN ASSEMBLY

January 11, 2021

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.

LBD05455-17-2

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.