

# STATE OF NEW YORK

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2021-2022 Regular Sessions

## IN ASSEMBLY

January 11, 2021

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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, ZINERMAN -- 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 -- reported and referred to the Committee on Ways and Means -- 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 thirteen new subdivisions 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41  
5 and 42 to read as follows:

6 30. (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.

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

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1 (b) For the purposes of this subdivision and subdivisions thirty-one,  
2 thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-  
3 seven, thirty-eight, thirty-nine, forty, forty-one and forty-two of this  
4 section, the following terms shall have the following meanings:

5 (i) "renewable energy" shall have the same meaning as renewable energy  
6 systems as set forth in section sixty-six-p of the public service law.

7 (ii) "renewable energy project" shall be defined as all infrastructure  
8 which generates, stores, distributes or transmits renewable energy or  
9 thermal energy as defined in subparagraph (i) of this paragraph, and  
10 includes the construction, installation and/or operation of ancillary  
11 facilities or equipment done in connection with any such renewable ener-  
12 gy generating projects, including, but not limited to, energy storage  
13 systems, electric vehicle charging infrastructure and offshore wind  
14 support and installation vessels owned by the authority, and the  
15 production, use, and sale of green hydrogen defined as hydrogen produced  
16 through electrolysis powered using one hundred percent renewable energy.

17 31. Where a renewable energy site appropriate for New York state falls  
18 into federal jurisdiction, the authority may participate in lease  
19 auctions in an attempt to obtain ownership of that area.

20 32. (a) Notwithstanding any other provision of law, the authority  
21 shall, on or after January first, two thousand thirty, only generate  
22 renewable energy and shall only purchase, acquire, plan, design, engi-  
23 neer, finance, and construct generation and transmission facilities for  
24 the purpose of generating, storing, distributing and transmitting renew-  
25 able energy. The authority shall phase out its use of existing non-re-  
26 newable generation no later than December thirtieth, two thousand thir-  
27 ty, unless the authority provides to its trustees, and makes publicly  
28 available, an attestation in writing, signed by the independent system  
29 operator and a representative of the regional clean energy hub in which  
30 the facility is located, identifying the existence of a reliability  
31 need. The authority shall work with the New York state energy research  
32 and development authority to provide any funding necessary for a  
33 regional clean energy hub to meet the needs of this subdivision. The  
34 authority, in consultation with the independent system operator, shall  
35 ensure that the phase out of its existing non-renewable generation does  
36 not lead to an increase in the delivery of out-of-state non-renewable  
37 generation into the New York state electric grid. For the purposes of  
38 this subdivision, a "reliability need" means an electricity system need,  
39 which if unmet, would result in a violation of the electric power system  
40 planning and operating policies, standards, criteria, guidelines, proce-  
41 dures, and rules promulgated by the North American Electric Reliability  
42 Corporation ("NERC"), Northeast Power Coordinating Council ("NPCC"), and  
43 the New York State Reliability Council ("NYSRC"), as they may be amended  
44 from time to time.

45 (b) The authority shall prioritize funding, siting, building, and  
46 owning renewable energy projects which: (i) actively benefit disadvan-  
47 tagged communities as defined by the climate justice working group; (ii)  
48 minimize harm to wildlife, ecosystems, public health, and public safety;  
49 (iii) do not violate Indigenous rights or sovereignty; and (iv) which  
50 are the most cost-effective to the state according to the best available  
51 cost modeling research. The types of renewable energy projects the  
52 authority builds shall be determined and prioritized in consultation  
53 with affected labor unions and community organizations via the New York  
54 state energy research and development authority's regional clean energy  
55 hubs.

33. (a) Within two years of the effective date of this subdivision, the authority shall make public a ten-year climate and resiliency plan. Such climate and resiliency plan shall be designed to minimize costs to ratepayers, while balancing the interests of employees, grid reliability and resiliency, disadvantaged communities as defined by the climate justice working group, and the environment. Such plan shall be developed in consultation with the New York state independent system operator, the New York state energy research and development authority, the New York state department of public service, and climate and resiliency experts, labor organizations, environmental justice communities, residential and small business ratepayer advocates, and community organizations via the New York state energy research and development authority's regional clean energy hubs. Such resiliency plan shall outline the renewable energy projects the authority plans to build, how the authority plans to phase out non-renewable assets and how the authority plans to comply with the climate leadership and community protection act and the renewable energy targets in subdivisions thirty-two and thirty-four of this section, and efforts to improve energy and electric grid resiliency. The authority shall update such plan annually, after public comment and a hearing. Such updated plan shall include a review of the state's progress towards the renewable energy goals of the climate leadership and community protection act. If the authority, in consultation with the New York state energy research and development authority, determines that the renewable energy goals of the climate leadership and community protection act are not likely to be met within the timeframe established by the law, the authority shall include in the updated plan the renewable energy projects it plans to build to ensure the state meets such goals, including the permit applications submitted, the stage of each project in the development process, when such projects are expected to be commissioned, and any barriers to deployment experienced by the authority. If the authority has identified a reliability need to maintain its existing non-renewable generation pursuant to subdivision thirty-two of this section, the authority shall identify in the annual report the renewable energy project, energy storage project, transmission or distribution infrastructure, demand response, or other such project or projects that the authority, or another entity, only if such entity has obtained all the necessary permits and has begun construction, plans to develop to meet the reliability need.

(b) Within two years of the effective date of this subdivision, the authority shall make public a democratization plan, with a mandate to implement the plan within two years of its completion. Such plan shall be created in partnership with, and codesigned with, a statewide alliance of community organizations with at least five years' history of working on energy democracy and implementation issues, providing funding for this alliance as necessary for their participation in the completion of the plan. Such plan shall ensure that the scale up of renewable build out across the state occurs in line with the principles of energy democracy and transparency.

(c) The authority shall hold at least eight public hearings within two years of the effective date of this subdivision related to the climate and resiliency plan. The hearing shall be publicized in various forms of media, including but not limited to the authority's website, local newspapers and social media platforms, and shall also be accessible via livestream. In advance of such hearing, the authority shall conspicuously post written notice of such hearing in all authority facilities and New York state energy research and development authority regional

1 clean energy hubs on a sign posted at each facility entrance and exit  
2 used by employees, and shall provide at least two weeks advance notice  
3 of such hearing to authority customers by directly communicating such  
4 notice to customer phone, email and mailing lists. Hearings shall be  
5 permitted between 12:00 PM to 3:00 PM and 6:00 PM to 9:00 PM, and the  
6 authority shall provide all speakers with the option to sign up to speak  
7 within those three hour windows such that no speaker shall wait longer  
8 than three hours to speak. In addition to oral testimony, written  
9 testimony from the public for such hearings shall be accepted by the  
10 authority no less than two weeks after each hearing. Each speaker shall  
11 have at least three minutes to speak, and a remote option shall be  
12 provided for submitting comments via video conference, phone, including  
13 short message services (SMS) text messages and/or written comment, which  
14 shall be read aloud. Provisions for translation services, American sign  
15 language interpretation, closed captioning, and access to accommodations  
16 provided by the Americans with Disabilities Act shall be provided upon  
17 request.

18 (d) The authority shall maintain all data, meeting minutes, recordings  
19 and documents that do not include personal customer information, includ-  
20 ing but not limited to depreciation schedules, annual financial state-  
21 ments of itemized spending, environmental impact statements, cost-bene-  
22 fit analyses, climate and resiliency plans, renewable energy project  
23 plans, and annual reports on operations, customer service, reliability,  
24 resiliency and sustainability. All such data, meeting minutes,  
25 recordings and documents shall be made available on the authority's  
26 website, or otherwise made accessible by the authority upon request.  
27 All such records shall be maintained as business records for a minimum  
28 of ten years. The state comptroller shall audit the authority at least  
29 once every two years until two thousand thirty to ascertain whether the  
30 authority is in compliance with the renewable energy targets outlined in  
31 this subdivision and subdivisions thirty-two, thirty-four and thirty-  
32 five of this section and whether the authority's spending and operations  
33 are effectively and efficiently promoting the common good. The most  
34 recent comptroller audits shall also be made available on the authori-  
35 ty's website, or otherwise made accessible by the authority upon  
36 request.

37 (e) (i) The authority, in consultation with the New York state energy  
38 research and development authority and the public service commission,  
39 shall develop and conduct an energy efficiency and energy audit program  
40 to identify public buildings most in need of retrofits and efficiency  
41 measures. Such program shall provide for the installation of renewable  
42 heating and cooling systems, and, when feasible, other green building  
43 projects as defined in section 58-0101 of the environmental conservation  
44 law, in public housing and public schools by the year two thousand thir-  
45 ty-five, prioritizing first public affordable housing and public schools  
46 in disadvantaged communities. The authority shall hire authority employ-  
47 ees or contractors to perform energy audits, retrofits and other effi-  
48 ciency programs for these buildings, and provide incentives, in conjunc-  
49 tion with the New York state energy research and development authority,  
50 for energy efficient appliances and induction stoves, as needed, to meet  
51 the climate goals outlined in the climate leadership and community  
52 protection act. If the buildings selected for this program need mold  
53 remediation measures or lead abatement measures to be carried out before  
54 energy efficiency measures can be safely implemented, the authority  
55 shall also hire employees or contractors to perform lead abatement meas-  
56 ures and/or mold remediation measures for these buildings.

(ii) The authority shall annually post on its website a report evaluating the energy efficiency program, including, but not limited to, the number of customers served by the efficiency program, the customer demographics, the number of retrofits and energy audits performed, the number of jobs created and employee demographics, and the amount of energy and dollars saved as a result of the program.

(iii) All work subject to this subdivision shall be considered public work, subject to articles eight and nine of the labor law, and shall utilize a project labor agreement. For purposes of this subdivision, "project labor agreement" shall mean a pre-hire collective bargaining agreement between the authority, or a third party on behalf of the authority, and a bona fide building and construction trade labor organization establishing the labor organization as the collective bargaining representative for all persons who will perform work on a public work project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform project work. All contractors and subcontractors associated with this work shall be required to utilize apprenticeship agreements as defined by article twenty-three of the labor law.

(f) The authority shall submit an annual report to the governor and to the legislature which shall be made available to the public. Such report shall include the:

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

(B) Amount of energy produced by each facility;

(C) Energy transferred between facilities within the authority;

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

(E) Kilowatt-hour sales by project;

(F) Revenues and costs for each project facility;

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

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

(I) Enrollment in and effectiveness of renewable energy auto-enrollment, retrofit, and energy efficient appliance programs;

(J) Any projected rate increase for the year; and

(K) An analysis of the authority's actions to ensure the state will meet the renewable energy goals of the climate leadership and community protection act.

34. Notwithstanding any other provision of law, on or after January first, two thousand thirty, the authority shall be the sole provider of electricity to all state owned, leased, controlled, or operated buildings and on or after January first, two thousand thirty-five, the authority shall be the sole provider of electricity to all municipal owned, leased, controlled, or operated buildings that use electricity, provided that the energy supply rate of such electricity is less than the energy supply rate of the utility in the municipal building's service territory.

35. (a) The authority is authorized to sell or provide renewable energy to residential end-use customers and CCA communities. Any excess renewable energy produced by the authority and not used or stored by state or municipal owned or leased buildings shall be sold directly to low-to-moderate income households first, prioritizing low-to-moderate income households in disadvantaged communities, and at a rate that is fifty percent less than the energy supply rate of the utility in the customer's service territory. Any remaining excess renewable energy produced by the authority shall be sold to residential end-use customers



1 or CCA's at the wholesale cost. This subdivision shall not interfere  
2 with the authority's existing Recharge New York power program or any  
3 other power allocation program managed by the authority as of the effec-  
4 tive date of this subdivision. For the purposes of this paragraph, the  
5 term "low-to-moderate income households" shall mean households with  
6 annual incomes at or below eighty percent of the area median income of  
7 the county or metro area where they reside.

8 (b) Within three years following the effective date of this subdivi-  
9 sion, the authority's trustees, in consultation with the New York state  
10 energy research and development authority's regional clean energy hubs,  
11 shall develop a progressive rate structure based on income and energy  
12 usage to be offered to end-use customers and CCA communities.

13 (c) The authority shall work with the office of temporary and disabil-  
14 ity assistance to assist low-income customers to access the low income  
15 home energy assistance program and other utility benefits and shall  
16 offer deferred payment agreement payment plans for customers that fall  
17 into arrears.

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

23 36. All new renewable energy projects subject to this section shall be  
24 considered public work, subject to articles eight and nine of the labor  
25 law and shall utilize a project labor agreement. For purposes of this  
26 subdivision, "project labor agreement" shall mean a pre-hire collective  
27 bargaining agreement between the authority, or a third party on behalf  
28 of the authority, and a bona fide building and construction trade labor  
29 organization establishing the labor organization as the collective  
30 bargaining representative for all persons who will perform work on a  
31 public work project, and which provides that only contractors and  
32 subcontractors who sign a pre-negotiated agreement with the labor organ-  
33 ization can perform project work. All contractors and subcontractors  
34 associated with this work shall be required to utilize apprenticeship  
35 agreements as defined by article twenty-three of the labor law.

36 37. The authority, in consultation with labor organizations, shall  
37 develop a comprehensive plan to transition, train, or retrain employees  
38 that are impacted by the New York state build public renewables act, and  
39 shall establish and contribute to a just transition fund that shall make  
40 funding available for worker transition and retraining.

41 38. The authority shall include requirements in any procurement or  
42 development of a renewable energy project, as defined in subdivision  
43 thirty of this section, that the components and parts shall be supplied  
44 with equipment produced or made in whole or substantial part in the  
45 United States, its territories or possessions. The authority's trustees,  
46 in consultation with the New York state energy research and development  
47 authority, may waive the procurement and development requirements set  
48 forth in this subdivision if the trustees determine that: the require-  
49 ments would not be in the public interest; the requirements would result  
50 in unreasonable costs; obtaining such infrastructure components and  
51 parts in the United States would increase the cost of a renewable energy  
52 project by an unreasonable amount; or such components or parts cannot be  
53 produced, made, or assembled in the United States in sufficient and  
54 reasonably available quantities or of satisfactory quality. Such deter-  
55 mination must be made on an annual basis no later than December thirty-  
56 first after providing notice and an opportunity for public comment, and

1 be made publicly available, in writing, on the authority's website with  
2 a detailed explanation of the findings leading to such determination. If  
3 the authority's trustees have issued determinations for three consec-  
4 utive years that no such waiver is warranted pursuant to this subdivi-  
5 sion, then the authority shall no longer be required to provide the  
6 annual determination required by this subdivision.

7 39. The authority shall work with existing workforce development  
8 programs, union apprenticeship programs, and regional community energy  
9 hubs to publish a report on the ways that the construction of renewable  
10 projects can best support the development of skilled, well paid local  
11 workforces in the renewable energy sector, and shall provide financial  
12 support through the just transition fund established pursuant to subdi-  
13 vision thirty-seven of this section for pre-apprenticeship programs  
14 through local community based organizations that work with disadvantaged  
15 communities and union run workforce development institutions, where  
16 this support is found to be necessary to the effective development of  
17 this workforce according to the report.

18 40. For energy projects that the authority builds on properties of the  
19 New York city housing authority, including heat pump installations,  
20 retrofits, weatherization measures, and lead, mold, and asbestos remedi-  
21 ation, both the authority and its contractors shall prioritize hiring  
22 residents of these properties, provided that residents meet consider-  
23 ations of availability, interest, skill level and training. No  
24 provisions of this subdivision shall alter the status of any Section 9  
25 housing. The authority shall consult the residents or occupants of all  
26 public buildings where the authority is building projects to assess  
27 their needs and minimize disruption, nuisance, public health risks, and  
28 displacement during any remediation, retrofit, weatherization, heat pump  
29 installations, or other construction the authority or its contractors  
30 perform. All work subject to this subdivision shall be considered  
31 public work, subject to articles eight and nine of the labor law, and  
32 shall utilize a project labor agreement. For purposes of this subdivi-  
33 sion, "project labor agreement" shall mean a pre-hire collective  
34 bargaining agreement between the authority, or a third party on behalf  
35 of the authority, and a bona fide building and construction trade labor  
36 organization establishing the labor organization as the collective  
37 bargaining representative for all persons who will perform work on a  
38 public work project, and which provides that only contractors and  
39 subcontractors who sign a pre-negotiated agreement with the labor organ-  
40 ization can perform project work. All contractors and subcontractors  
41 associated with this work shall be required to utilize apprenticeship  
42 agreements as defined by article twenty-three of the labor law.

43 41. (a) Nothing in the New York state build public renewables act  
44 shall alter the rights or benefits, and privileges, including, but not  
45 limited to terms and conditions of employment, civil service status, and  
46 collective bargaining unit membership, of any current employees of the  
47 authority.

48 (b) Nothing in the New York state build public renewables act shall  
49 result in: (i) the discharge, displacement, or loss of position, includ-  
50 ing partial displacement such as a reduction in the hours of non-over-  
51 time work, wages, or employment benefits; (ii) the impairment of exist-  
52 ing collective bargaining agreements; (iii) the transfer of existing  
53 duties and functions; or (iv) the transfer of future duties and func-  
54 tions, of any currently employed worker impacted by this act who agrees  
55 to be retrained.

42. The authority shall enter into a memorandum of understanding for the operation and maintenance of a renewable energy project developed pursuant to the New York state build public renewables act with a bona fide labor organization of jurisdiction that is actively engaged in representing transitioning employees from non-renewable generation facilities. The memorandum shall only apply to the employees necessary for the maintenance and operation of such renewable energy generation projects. Such memorandum shall contain but not be limited to safety and training standards, disaster response measures, guaranteed hours, staffing levels, pay rate protection and retraining programs. The employees eligible for these positions shall first be selected from and offered to a pool of transitioning workers who have lost their employment or will be losing their employment in the non-renewable energy generation sector. Such list of potential employees will be provided by affected unions and provided to the department of labor. The department of labor shall update and provide such list to the authority ninety days prior to purchase, acquisition, and/or construction of any project under the New York state build public renewables act.

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

§ 1003. Trustees. 1. The authority shall consist of ~~seven~~ seventeen trustees, five of whom shall serve respectively for terms of one, two, three, four and five years, to be appointed by the governor, by and with the advice and consent of the senate. The sixth and seventh trustees shall be appointed by the governor, by and with the advice and consent of the senate, and shall serve initial terms of one and two years respectively. All other trustees shall be appointed as follows: two by the governor, four by the temporary president of the senate, and four by the speaker of the assembly, and shall proportionally be selected from labor union representatives that represent both employees of the authority and employees of construction contractors of the authority, environmental justice advocates, community renewable energy advocates, consumer advocates, and building electrification and energy efficiency experts. For any appointment and vacant trustee position, the New York state energy research and development authority's clean energy hubs shall select qualified candidates that shall be given reasonable consideration for an appointment as trustee by the governor, senate, and assembly. Each trustee shall hold office until a successor has been appointed and qualified or until removed by a majority vote of the legislature or the governor. At the expiration of the term of each trustee and of each succeeding trustee ~~[the governor shall, by and with the advice and consent of the senate, appoint a successor, who shall hold office for a term of five years, or until a successor has been appointed and qualified. In the event of a vacancy occurring in the office of the trustee by death, resignation or otherwise, the governor shall, by and with the advice and consent of the senate, appoint a successor, who shall hold office for the unexpired term. Four trustees shall constitute a quorum for the purpose of organizing the authority and conducting the business thereof.]~~, or the event of a vacancy occurring in the office of the trustee by death, resignation or otherwise, the original entities who appointed that trustee shall appoint a successor, after consideration of clean energy hub candidates, who shall hold office for the unexpired term. Nine trustees shall constitute a quorum for the purpose of organizing the authority and conducting the business thereof. Any authority trustee or board member may be terminated by either a majority vote of the senate or assembly, or by the governor. Reasons for termination may



1 include, but are not limited to: failure to meet the renewable energy  
2 targets outlined in this bill; conflicts of interest; failure to prior-  
3 itize climate justice, environmental justice, or economic justice in the  
4 authority's operations; sexual assault or harassment; or corruption.

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

17 § 4. Nothing in this act is intended to limit, impair, or affect the  
18 legal authority of the power authority of the state of New York under  
19 any other provision of title 1 of article 5 of the public authorities  
20 law.

21 § 5. No section of this act or any action required to be taken under  
22 this act shall be delayed or made contingent upon the completion of the  
23 plan required by subdivision 33 of section 1005 of the public authori-  
24 ties law, as added by section two of this act.

25 § 6. Severability clause. If any clause, sentence, paragraph, subdi-  
26 vision, or section of this act shall be adjudged by any court of compe-  
27 tent jurisdiction to be invalid, such judgment shall not affect, impair,  
28 or invalidate the remainder thereof, but shall be confined in its opera-  
29 tion to the clause, sentence, paragraph, subdivision, or section thereof  
30 directly involved in the controversy in which such judgment shall have  
31 been rendered. It is hereby declared to be the intent of the legislature  
32 that this act would have been enacted even if such invalid provisions  
33 had not been included herein.

34 § 7. This act shall take effect immediately.