

STATE OF NEW YORK

6453--A

2021-2022 Regular Sessions

IN SENATE

April 29, 2021

Introduced by Sens. PARKER, SALAZAR, ADDABBO, BAILEY, BIAGGI, BRESLIN, BRISPORT, CLEARE, GIANARIS, HOYLMAN, JACKSON, KAVANAGH, MAY, MYRIE, RAMOS, RIVERA, SANDERS, SEPULVEDA, SERRANO, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- 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:

13 (i) "renewable energy" shall be defined as renewable electricity or
14 thermal energy that does not emit greenhouse gases or other pollutants
15 including, but not limited to, photovoltaics (solar), land-based and
16 offshore wind, run-of-the-river and existing New York state hydroelec-
17 tric, geothermal electric, tidal energy, wave energy, battery energy
18 storage systems, pumped hydroelectric energy storage systems, and renew-
19 able thermal energy technology such as solar thermal, air-source and

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

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ground-source heat pumps, renewable co-generation, district heating systems, systems designed to capture waste heat, or other heating or cooling technologies using renewable sources of energy that do not emit greenhouse gases or other pollutants; provided, however, that such term shall not include nuclear energy, carbon capture and storage technology, or any form of fossil fuels or combustion-based energy which relies upon building new fossil fuel infrastructure or extending the use of fossil fuel infrastructure including, but not limited to, gas, propane, and oil, or any form of combustion-based energy including, but not limited to any type of hydrogen fuel, including brown, grey, blue, or pink hydrogen, biofuel, biogas, biomass, or renewable natural gas. However, the authority shall be enabled to produce, use, and sell green hydrogen, defined as hydrogen produced through even electrolysis using only one hundred percent renewable energy, for energy storage in a fuel cell as well as hard-to-electrify industrial processes and heavy-duty transport, such as shipping, aviation, and long-distance trucking. However, this green hydrogen shall not be used or sold for the purpose of being combusted, whether in a fossil fuel plant or any other power plant to generate electricity, nor shall it be sold or used for the purpose of heating buildings, cooking, or hot water, as building electrification is a safer, more feasible, and more cost-effective approach to building decarbonization.

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

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

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

30. Notwithstanding any other provision of law, to, on or after January first, two thousand twenty-five, only generate and transmit renewable energy and the authority shall only purchase, acquire, plan, design, engineer, finance, construct, operate, manage, improve and/or maintain generation and transmission facilities for the purpose of generating, storing, distributing and transmitting renewable energy. The authority shall phase out its use of existing non-renewable generation as quickly as possible but no later than December thirtieth, two thousand twenty-five, as it scales up renewable energy generation to meet one hundred percent of all state and municipal energy needs and the energy needs of all public and private buildings and properties powered by the authority with renewable energy by two thousand twenty-six, and it shall not purchase, plan, finance, or construct any new generation project or energy infrastructure which is not a renewable energy project or part of a renewable energy project. The authority shall prioritize funding,

1 building, and owning renewable energy projects which: (a) actively bene-
2 fit disadvantaged communities as defined by the climate justice working
3 group; (b) minimize harm to wildlife, ecosystems, public health, and
4 public safety; (c) do not violate Indigenous rights or sovereignty; and
5 (d) which are the most cost-effective to the state according to the best
6 available cost modeling research. The types of renewable energy projects
7 the authority builds shall be determined and prioritized in consultation
8 with community groups, New York state energy research and development
9 authority's regional clean energy hubs, and environmental and energy
10 experts. The authority shall also convert all state and municipal prop-
11 erties and authority powered privately owned buildings to receive heat-
12 ing and cooling from renewable energy sources by two thousand thirty.

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

43 (b) (i) The authority shall hold as many public hearings as is needed
44 to accommodate all who sign up to speak related to such climate and
45 resiliency plan annually, and may update such plan annually as needed.
46 The hearing shall be publicized in various forms of media, including but
47 not limited to the authority's website, local newspapers and social
48 media platforms, and shall also be accessible via livestream. In
49 advance of such hearing, the authority shall conspicuously post written
50 notice of such hearing in all authority facilities and New York state
51 energy research and development authority New York state energy research
52 and development authority's regional clean energy hubs on a sign posted
53 at each facility entrance and exit used by employees, and shall provide
54 at least two weeks advance notice of such hearing to authority customers
55 by directly communicating such notice to customer phone, email and mail-
56 ing lists. Hearings shall be permitted between 12:00 PM to 3:00 PM and

6:00 PM to 9:00 PM, and the authority shall provide all speakers with the option to sign up to speak within those three hour windows such that no speaker shall wait longer than three hours to speak. All speakers who sign up shall publicly disclose whether they are being paid to speak at the hearing, and if so, who they are being paid by. In addition to oral testimony, written testimony from the public for such hearings shall be accepted by the authority no less than two weeks after each hearing. Each speaker shall have at least three minutes to speak, and a remote option shall be provided for submitting comments via video conference, phone, including short message services (SMS) text messages and/or written comment, which shall be read aloud. Provisions for childcare, translation services, American sign language interpretation, closed captioning, and access to accommodations provided by the Americans with Disabilities Act shall be provided upon request.

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

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

(ii) The authority or the New York state energy research and development authority shall annually post and maintain for at least one year on their 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

1 demographics, and the amount of energy and dollars saved as a result of
2 the program.

3 The authority shall also submit an annual report to the governor and
4 to the legislature which shall be made available to the public and shall
5 be subject to open hearings in the legislature. Such report shall
6 include the:

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

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

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

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

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

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

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

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

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

19 32. Notwithstanding any other provision of law, including existing
20 electric vehicle charging stations and opt out provisions of CCAs, to be
21 the sole provider of electricity and power to all state and municipal
22 owned, leased, controlled, or operated properties that use electricity,
23 including but not limited to all buildings and transportation-related
24 properties such as trains, subways and subway stations, vessels, elec-
25 trified buses and vehicles, and public or private electric vehicle
26 charging stations.

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

45 (b) There shall be no electricity rate increase for the first three
46 years following the effective date of this subdivision. After the first
47 three years following the effective date of this subdivision, a progres-
48 sive rate structure based on income and level of energy shall be devel-
49 oped in consultation with the authority and communities via the New York
50 state energy research and development authority's regional clean energy
51 hubs.

52 (c) The authority shall discourage the shut off of any residential
53 customer's energy for non-payment and shall discourage the charge of
54 punitive late fees by collaborating with distribution companies. The
55 authority shall work with the low income home energy assistance program
56 to assist low-income customers with payment plans and to develop an

1 emergency fund to cover instances of non-payment. Notwithstanding any
2 other provision to the contrary, the authority may impose penalties for
3 large energy users and may incentivize energy conservation with rebates
4 and discounts on energy efficient products, to be determined by the
5 authority's board in consultation with the New York state energy
6 research and development authority.

7 (d) The authority is authorized to sell up to thirty percent of the
8 electricity that it provides to residential and commercial customers to
9 customers of the long island power authority, established under title
10 one-A of this article, and the long island power authority is authorized
11 to purchase this power.

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

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

34 (i) the preferences of, land rights of, and benefits to indigenous
35 nations;

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

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

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

43 37. The authority shall work with existing workforce development
44 programs, union apprenticeship programs, and regional community energy
45 hubs to publish a report on the ways that the construction of renewable
46 projects can best support the development of skilled, well paid local
47 workforces in the renewable energy sector, and shall provide financial
48 support for pre-apprenticeship programs through local community based
49 organizations that work with disadvantaged communities where this
50 support is found to be necessary to the effective development of this
51 workforce according to the report.

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

55 39. For energy projects that the authority builds on properties of the
56 New York city housing authority, including heat pump installations,

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

14 § 3. Section 1003 of the public authorities law, as amended by chapter
15 766 of the laws of 2005, is amended to read as follows:

16 § 1003. Trustees. 1. The authority shall consist of [~~seven~~] seventeen
17 trustees, five of whom shall serve respectively for terms of one, two,
18 three, four and five years, to be appointed by the governor, by and with
19 the advice and consent of the senate. The sixth and seventh trustees
20 shall be appointed by the governor, by and with the advice and consent
21 of the senate, and shall serve initial terms of one and two years
22 respectively. All other trustees shall be appointed by the regional
23 clean energy hubs and community organizations from across New York
24 State, and shall include: (a) two who are representative of the labor
25 unions that represent employees of the authority; (b) two with a back-
26 ground primarily in environmental justice advocacy; (c) two with a back-
27 ground primarily in community renewable energy advocacy; (d) two with a
28 background in consumer advocacy; (e) two with building electrification
29 expertise; and (f) two with energy efficiency expertise. No person shall
30 be a trustee of the authority who has a provable conflict of interest
31 with the authority's mission to provide low cost renewable energy. Each
32 trustee shall hold office until a successor has been appointed and qual-
33 ified or until removed by a majority vote of the legislature or the
34 governor. At the expiration of the term of each trustee and of each
35 succeeding trustee [~~the governor shall, by and with the advice and~~
36 ~~consent of the senate, appoint a successor, who shall hold office for a~~
37 ~~term of five years, or until a successor has been appointed and quali-~~
38 ~~fied. In the event of a vacancy occurring in the office of the trustee~~
39 ~~by death, resignation or otherwise, the governor shall, by and with the~~
40 ~~advice and consent of the senate, appoint a successor, who shall hold~~
41 ~~office for the unexpired term. Four trustees shall constitute a quorum~~
42 ~~for the purpose of organizing the authority and conducting the business~~
43 ~~thereof.], or the event of a vacancy occurring in the office of the~~
44 trustee by death, resignation or otherwise, the original entities who
45 appointed that trustee shall appoint a successor, who shall hold office
46 for the unexpired term. Nine trustees shall constitute a quorum for the
47 purpose of organizing the authority and conducting the business thereof.
48 Any authority trustee or board member may be terminated by either a
49 majority vote of the senate or assembly, or by the governor. Reasons for
50 termination may include, but are not limited to: failure to meet the
51 renewable energy targets outlined in this bill; conflicts of interest;
52 failure to prioritize climate justice, environmental justice, or econom-
53 ic justice in the authority's operations; sexual assault or harassment;
54 or corruption.

55 2. The trustee chosen as chairman as provided in section one thousand
56 four of this title, shall receive an annual salary which shall be set by

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

11 § 4. The public authorities law is amended by adding a new section
12 1016 to read as follows:

13 § 1016. For-profit energy services companies. No for-profit energy
14 services company, their contractors, and/or their agents shall seek to
15 enroll or market the company's services to new residential customers.
16 The term "market" shall include any and all promotion or outreach to
17 residential customers in an attempt to get them to enroll in the compa-
18 ny's services. Within ninety days of the effective date of this section,
19 for-profit energy services companies shall unenroll any residential
20 customer that they currently serve. However, energy service companies
21 may continue selling, enrolling or marketing their services to community
22 choice aggregation customers.

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

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

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

40 § 8. This act shall take effect immediately.