

# STATE OF NEW YORK

2689--A

2023-2024 Regular Sessions

## IN SENATE

January 24, 2023

Introduced by Sens. BRESLIN, BRISPORT, GOUNARDES, HARCKHAM, HOYLMAN-SIGAL, KRUEGER, MAY, SALAZAR, SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts -- reported favorably from said committee and committed to the Committee on Energy and Telecommunications -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 subdi-  
13 vision 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.

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

LBD07366-03-3

1 (e) "Empire state plaza complex" or the "complex" shall mean the  
2 complex of state-owned buildings and the land thereon in Albany, New  
3 York that utilize the steam distribution network of the Sheridan Avenue  
4 steam plant, including what are popularly known as Empire State Plaza,  
5 the State Capitol Building, the State Museum, the Alfred E. Smith Build-  
6 ing, the State Education Building, the Sheridan Avenue steam plant, and  
7 the former Albany New York Solid Waste Energy Recovery System incinera-  
8 tor building.

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

12 (g) The "local community" shall mean the portion of Albany, New York  
13 designated as the local community under the plan, which shall include,  
14 at a minimum, the Albany Sheridan Hollow, Arbor Hill, Center Square,  
15 Mansion, Washington Park, West Hill and South End neighborhoods.

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

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

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

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

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

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

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

37 2. (a) Within three years after the effective date of this section,  
38 the office of general services, in consultation with the power authority  
39 of the state of New York, shall ensure that all operations that power,  
40 heat or cool the empire state plaza complex shall entirely use renewable  
41 energy systems. In satisfying this requirement, the office may demon-  
42 strate that the amount of electrical energy credited to the complex  
43 annually from renewable sources through a power purchase agreement or  
44 similar instrument is not less than the amount of electrical energy  
45 consumed annually by the complex. Notwithstanding this mandate, the  
46 emergency generator shall be permitted to utilize non-renewable energy,  
47 but the office shall be empowered to retire or convert the emergency  
48 generator to wholly or entirely utilize renewables if possible.

49 (b) The project and the empire state plaza complex shall comply with  
50 the CLCPA, and any rules and regulations issued thereunder, and, in  
51 particular, section seven of such law; the statewide greenhouse gas  
52 emissions limits set forth in section 75-0107 of the environmental  
53 conservation law; and the targets established in subdivision two of  
54 section sixty-six-p of the public service law. Nothing in this paragraph  
55 shall preclude the office from mandating lower greenhouse gas emissions  
56 limits or compliance with greenhouse gas emissions limits in a shorter

1 timeframe than set forth in section 75-0107 of the environmental conser-  
2 vation law, or in mandating a higher percentage of renewables or in a  
3 shorter timeframe than in subdivision two of section sixty-six-p of the  
4 public service law. Except in regard to the provision regarding to the  
5 emergency generator as set forth in paragraph (a) of this subdivision,  
6 any action taken in furtherance of the project that leads to any  
7 increase in the emissions of greenhouse gases shall be deemed inconsis-  
8 tent with and in interference with the attainment of the statewide green-  
9 house gas emissions limits established in article seventy-five of the  
10 environmental conservation law and therefore shall trigger the process  
11 set forth in subdivision two of section seven of the CLCPA.

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

17 3. (a) Within one year of the effective date of this section, the  
18 office shall issue a plan in conformity with this subdivision and subdivi-  
19 vision two of this section.

20 (b) Within sixty days of the effective date of this section, the  
21 office shall establish an advisory committee to advise it on the prepa-  
22 ration, design and content of the plan. The advisory committee shall  
23 consist of the commissioner of the department of environmental conserva-  
24 tion and the chief executive officer of NYSERDA, or their designees, and  
25 additional members which shall be appointed by such commissioner in  
26 consultation with such chief executive officer, as follows: three repre-  
27 sentatives of Albany community organizations, at least two of which are  
28 from organizations whose mission, in whole or in part, is to represent  
29 the interests of the Arbor Hill and/or Sheridan Hollow neighborhoods in  
30 Albany; two additional representatives of local environmental justice  
31 organizations; one individual not employed by New York state with recog-  
32 nized expertise in renewable energy; a representative of labor organiza-  
33 tions; a scientist with expertise in energy and climate policy; an engi-  
34 neer with expertise in energy (including geothermal) and climate policy;  
35 and the mayor of Albany or his or her designee. The advisory committee  
36 shall meet at least three times annually, or additional times as the  
37 committee shall by majority vote determine. At such meetings, which  
38 shall be open to the public, the office, among other things, shall  
39 report on the progress made in completing the project and otherwise  
40 implementing this section. The advisory committee members shall receive  
41 no compensation for their services but shall be reimbursed for their  
42 actual and necessary expenses incurred in the performance of their  
43 duties. All agencies of the state or subdivisions thereof may, at the  
44 request of the advisory panel or the office, provide the advisory panel  
45 with such facilities, assistance and data as will enable the advisory  
46 panel to carry out its powers and duties.

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

51 (d) The office shall retain a third party to perform an engineering  
52 study to be completed within one hundred eighty days after the effective  
53 date of this section, which shall consider the matters set forth in  
54 paragraph (f) of this subdivision and any other matters consistent with  
55 this section that the office shall direct. For the purposes of this  
56 paragraph, the term "third party" shall mean a professional engineer,

1 not employed by the state of New York, or an engineering firm, provided  
2 that none of the engineers employed by such firm shall also be employed  
3 by the state of New York.

4 (e) The office shall be transparent in its work to develop the plan  
5 and shall maintain a website where the draft plan and other documents  
6 relevant to its development shall be posted for public review. The advi-  
7 sory committee shall hold at least two public hearings within thirty  
8 days after the release of the draft plan and prior to the release of the  
9 final plan, of which one shall be held in Arbor Hill or Sheridan Hollow  
10 neighborhoods and one shall be held during the evening or weekend hours.  
11 An additional public hearing shall also be held within thirty days after  
12 the creation of the advisory committee to receive public input into the  
13 development of the draft plan.

14 (f) The plan shall contain recommendations on regulatory measures and  
15 other state actions to ensure that the mandates in subdivision two of  
16 this section are met. The measures and actions set forth in the plan  
17 shall include:

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

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

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

30 iv. comprehensive consideration of renewable heat exchange systems or  
31 a combination of such systems to meet the heating and cooling needs of  
32 the empire state plaza complex, including but not limited to: geothermal  
33 heat exchange with the earth, geothermal heat exchange with the Hudson  
34 River, open-loop and closed-loop geothermal heat exchange with the aqui-  
35 fer, heat exchange with potable water supplies, heat recovery from  
36 wastewater sources, air-source heat pump technology, and thermal stor-  
37 age, provided that such systems do not use combustion-based or fossil  
38 fuel energy;

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

46 vi. electricity service upgrades for the empire state plaza complex  
47 necessary to support measures identified in this section.

48 (g) In designing the plan, the office shall be guided by any recommen-  
49 dations contained in the engineering study mandated by paragraph (d) of  
50 this subdivision, and any comments or recommendations made by the advi-  
51 sory committee, including as to such engineering study. Such advisory  
52 committee shall also be entitled to reject or modify any recommendation  
53 upon a finding that such recommendation would be inconsistent with or  
54 will interfere with the attainment of the statewide greenhouse gas emis-  
55 sions limits established in article seventy-five of the environmental  
56 conservation law, the climate justice provisions of the CLCPA, any rules

1 or regulations issued thereunder, or this section. If the advisory  
2 committee rejects or modifies any recommendation, the original version  
3 of the recommendations as set forth in the engineering study shall  
4 presumptively not be considered by the office, unless substantial  
5 evidence exists to support the study's initial recommendations.

6 (h) The plan shall prioritize project implementation efforts to maxi-  
7 mize the creation of quality jobs in New York state and the local commu-  
8 nity. The plan shall also designate the geographic boundaries of the  
9 local community. In designating such boundaries, which shall include the  
10 Albany Sheridan Hollow, Arbor Hill, Center Square, Mansion, Washington  
11 Park, West Hill, and South End neighborhoods, the office shall consider  
12 including in its designation any other communities that experience  
13 impacts on their water, air quality, noise and traffic from the empire  
14 state plaza complex.

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

18 The authority is further authorized, as deemed feasible and advisable  
19 by the trustees, to acquire, maintain, manage, operate, improve and  
20 reconstruct as a project or projects of the authority one or both of the  
21 steam generation facilities owned by the state known as the Sheridan  
22 [~~avenue~~] Avenue steam [~~generating~~] plant [~~on Sheridan avenue in the city~~  
23 ~~of Albany and used to supply steam to state facilities~~], together with  
24 any properties, buildings and equipment at the sites thereof or ancil-  
25 lary thereto, for the generation and sale of thermal energy and the  
26 cogeneration and sale of electricity for use by facilities of the state  
27 within the county of Albany. All the authority's costs, including its  
28 acquisition, capital, operating and maintenance costs, shall be recov-  
29 ered fully from the customers receiving service from such project or  
30 projects. Thermal energy and electricity not required by the state may  
31 be sold by the authority to others. The authority is not authorized to  
32 use refuse or refuse-derived fuel in operating the project or projects.

33 As of the time period specified in paragraph (a) of subdivision two of  
34 section two hundred four of the executive law, all of the energy,  
35 including but not limited to heat, cooling and electricity, produced at  
36 the Sheridan Avenue steam plant shall utilize renewable energy systems.

37 Any agreement for such acquisition shall insure that the authority is  
38 not liable or otherwise responsible for circumstances arising from the  
39 prior operation of such facilities. The acquisition and purchase of such  
40 land, buildings and equipment by the authority, and any actions taken to  
41 effect such acquisition and purchase, are hereby exempt from the  
42 provisions of article eight of the environmental conservation law. The  
43 application of such exemption shall be strictly limited to the acquisi-  
44 tion and purchase of such land, buildings and equipment by the authority  
45 and such agreements with the state. Nothing herein shall exempt the  
46 authority from otherwise applicable laws respecting the expansion,  
47 conversion, operation and maintenance of such land, buildings and equip-  
48 ment. For the purposes of this subdivision, the terms "renewable energy  
49 systems" and "Sheridan Avenue steam plant" shall have the same meanings  
50 as in subdivision one of section two hundred four of the executive law.

51 § 4. This act shall take effect immediately.