STATE OF NEW YORK

9961

IN SENATE

December 13, 2024

Introduced by Sen. CANZONERI-FITZPATRICK -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the tax law, in relation to the solar energy system equipment credit; to amend the real property tax law, in relation to a solar STAR credit; and to amend the public service law, in relation to siting major renewable energy facilities

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

Section 1. Subsection (g-1) of section 606 of the tax law, as amended by chapter 378 of the laws of 2005, paragraphs 1 and 2 as amended by chapter 375 of the laws of 2012, paragraph 3 as amended, paragraph 5 as added, and paragraphs 6, 7 and 8 as renumbered by chapter 128 of the laws of 2007, is amended to read as follows:

(g-1) Solar energy system equipment credit. (1) General. An individual taxpayer shall be allowed a credit against the tax imposed by this article equal to [~~twenty-five~~] **forty** percent of qualified solar energy system equipment expenditures, except as provided in subparagraph (D) of paragraph two of this subsection. This credit shall not exceed three thousand seven hundred fifty dollars for qualified solar energy equipment placed in service before September first, two thousand six, [~~and~~] five thousand dollars for qualified solar energy equipment placed in service on or after September first, two thousand six **and before January first, two thousand twenty-five, and ten thousand dollars for qualified solar energy equipment placed in service on or after January first, two thousand twenty-five**.

(2) Qualified solar energy system equipment expenditures. (A) The term "qualified solar energy system equipment expenditures" means expenditures for:

(i) the purchase of solar energy system equipment which is installed in connection with residential property which is (I) located in this state and (II) which is used by the taxpayer as [~~his or her~~] **their** principal residence at the time the solar energy system equipment is placed in service;

(ii) the lease of solar energy system equipment under a written agreement that spans at least ten years where such equipment owned by a person other than the taxpayer is installed in connection with residential property which is (I) located in this state and (II) which is used

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

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by the taxpayer as [~~his or her~~] **their** principal residence at the time the solar energy system equipment is placed in service; or

(iii) the purchase of power under a written agreement that spans at least ten years whereunder the power purchased is generated by solar energy system equipment owned by a person other than the taxpayer which is installed in connection with residential property which is (I) located in this state and (II) which is used by the taxpayer as [~~his or her~~] **their** principal residence at the time the solar energy system equipment is placed in service.

(B) Such qualified expenditures shall include expenditures for materials, labor costs properly allocable to on-site preparation, assembly and original installation, architectural and engineering services, and designs and plans directly related to the construction or installation of the solar energy system equipment.

(C) Such qualified expenditures for the purchase of solar energy system equipment shall not include interest or other finance charges.

(D) Such qualified expenditures for the lease of solar energy system equipment or the purchase of power under an agreement described in clauses (ii) or (iii) of subparagraph (A) of this paragraph shall include an amount equal to all payments made during the taxable year under such agreement. Provided, however, such credits shall only be allowed for fourteen years after the first taxable year in which such credit is allowed. Provided further, however, the [~~twenty-five~~] **forty** percent limitation in paragraph one of this subsection shall only apply to the total aggregate amount of all payments to be made pursuant to an agreement referenced in clauses (ii) or (iii) of subparagraph (A) of this paragraph, and shall not apply to individual payments made during a taxable year under such agreement except to the extent such limitation on an aggregate basis has been reached.

(3) Solar energy system equipment. The term "solar energy system equipment" shall mean an arrangement or combination of components utilizing solar radiation, which, when installed in a residence, produces **and may store** energy designed to provide heating, cooling, hot water or electricity for use in such residence. Such arrangement or components **may include electric energy storage equipment but** shall not include **any other** equipment connected to solar energy system equipment that is a component of part or parts of a non-solar energy system or which uses any sort of recreational facility or equipment as a storage medium. Solar energy system equipment that generates **and stores** electricity for use in a residence must conform to applicable requirements set forth in section sixty-six-j of the public service law. Provided, however, where solar energy system equipment is purchased and installed by a condominium management association or a cooperative housing corporation, for purposes of this subsection only, the term "ten kilowatts" in such section sixty-six-j shall be read as "[~~fifty~~] **ten**" kilowatts **multiplied by the number of owner-occupied units in the cooperative or condominium management association**.

(4) Multiple taxpayers. Where solar energy system equipment is purchased and installed in a principal residence shared by two or more taxpayers, the amount of the credit allowable under this subsection for each such taxpayer shall be prorated according to the percentage of the total expenditure for such solar energy system equipment contributed by each taxpayer.

(5) Proportionate share. Where solar energy system equipment is purchased and installed by a condominium management association or a cooperative housing corporation, a taxpayer who is a member of the

condominium management association or who is a tenant-stockholder in the cooperative housing corporation may for the purpose of this subsection claim a proportionate share of the total expense as the expenditure for the purposes of the credit attributable to [~~his~~] their principal residence.

(6) Grants. For purposes of determining the amount of the expenditure incurred in purchasing and installing solar energy system equipment, the amount of any federal, state or local grant received by the taxpayer, which was used for the purchase and/or installation of such equipment and which was not included in the federal gross income of the taxpayer, shall not be included in the amount of such expenditures.

(7) When credit allowed. The credit provided for herein shall be allowed with respect to the taxable year, commencing after nineteen hundred ninety-seven, in which the solar energy system equipment is placed in service.

(8) Carryover of credit and refundability. If the amount of the credit, and carryovers of such credit, allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, such excess amount may be carried over to the five taxable years next following the taxable year with respect to which the credit is allowed and may be deducted from the taxpayer's tax for such year or years. For taxable years beginning on or after January first, two thousand twenty-five, if the amount of the credit allowable under this subsection shall exceed the taxpayer's tax liability for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

§ 2. The real property tax law is amended by adding a new section 425-b to read as follows:

§ 425-b. Solar STAR credit. 1. For the purposes of this section, a midscale solar energy project shall mean a solar powered project with at least one megawatt but no more than five megawatts of alternating nameplate capacity.

2. Homeowners in municipalities that agree to host at least two midscale solar energy projects, not including any project that has already begun substantial construction, shall be eligible for a solar STAR credit for all homeowners living in such municipality. Homeowners shall apply for and receive a solar STAR credit in the same manner and at the same time as the existing STAR credit under section four hundred twenty-five of this article and section six hundred six of the tax law. The value of the credit shall be equal to twenty-five percent of the total basic star credit available to qualified homeowners. This credit will be applied only after the conclusion of construction and interconnection of the second midscale solar project as defined. Such credit will be available to eligible homeowners for a period of ten years.

§ 3. Subdivision 1 of section 140 of the public service law, as added by section 11 of part O of chapter 58 of the laws of 2024, is amended to read as follows:

1. No person shall commence the preparation of a site for, or begin the construction of, a major renewable energy facility in the state, or increase the capacity of an existing major renewable energy facility, without having first obtained a major renewable energy facility siting permit pursuant to this article and any permit required by a municipality in which the major renewable energy facility will be located. Any major renewable energy facility subject to this article with respect to which a siting permit is issued shall not thereafter be built, main-

tained, or operated except in conformity with such major renewable energy facility siting permit and any terms, limitations, or conditions contained therein, provided that nothing in this subdivision shall exempt such facility from compliance with federal laws and regulations.

§ 4. Subdivision 1 of section 141 of the public service law, as added by section 11 of part O of chapter 58 of the laws of 2024, is amended to read as follows:

1. Except as provided in paragraph (b) of subdivision five of this section, no person shall commence the preparation of a site for, or begin the construction of, a major electric transmission facility in the state without having first obtained a siting permit pursuant to this article **and any permit required by a municipality in which the major electric transmission facility will be located**. Any major electric transmission facility subject to this article with respect to which a siting permit is issued shall not thereafter be built, maintained, or operated except in conformity with such siting [~~permit~~] **permits** and any terms, limitations, or conditions contained therein, provided that nothing in this subdivision shall exempt such facility from compliance with federal laws and regulations.

§ 5. Subdivision 5 of section 142 of the public service law, as added by section 11 of part O of chapter 58 of the laws of 2024, is amended to read as follows:

5. Following the expiration of the public comment period set forth in this section, and following the conclusion of a hearing undertaken pursuant to subdivision four of this section, ORES shall, in the case of a public comment period, issue a written summary of public comments and an assessment of comments received, and in the case of an adjudicatory hearing, the executive director or any person to whom the executive director has delegated such authority shall issue a final written hearing report. A final siting permit may only be issued if ORES makes a finding that the proposed project, together with any applicable uniform and site-specific standards and conditions, would comply with applicable laws and regulations. [~~In making a final siting permit determination with respect to a major renewable energy facility, ORES may elect not to apply, in whole or in part, any local law or ordinance that would otherwise be applicable if it makes a finding that, as applied to the proposed facility, it is unreasonably burdensome in view of the CLCPA targets, and the environmental benefits.~~]

§6. Subdivision 2 of section 144 of the public service law, as added by section 11 of part O of chapter 58 of the laws of 2024, is amended to read as follows:

2. Notwithstanding any other provision of law, [~~including without limitation article eight of the environmental conservation law and article VII of this chapter, no other state agency, department or authority, or~~] any municipality [~~or political subdivision or any agency thereof may, except as expressly authorized under this article or the rules and regulations promulgated under this article,~~] **may** require any approval, consent, permit, certificate, contract, agreement, or other condition for the development, design, construction, operation, or decommissioning of a major renewable energy facility or a major electric transmission facility with respect to which an application for a siting permit has been filed[~~, provided in the case of a municipality, political subdivision or an agency thereof, such entity has received notice of the filing of the application therefor. Notwithstanding the foregoing, the department of environmental conservation shall be the permitting agency for~~

~~permits issued pursuant to federally delegated or federally approved programs~~].

§ 7. Subdivisions 2 and 3 of section 146 of the public service law, as added by section 11 of part O of chapter 58 of the laws of 2024, are amended to read as follows:

2. A judicial proceeding shall be brought in the third department of the appellate division of the supreme court of the state of New York. Such proceeding shall be initiated by the filing of a petition in such court within ninety days after the issuance of a final decision by ORES, or a permitting authority of a municipality, political subdivision or agency thereof, together with proof of service of a demand on ORES or a permitting authority, to file with said court a copy of a written transcript of the record of the proceeding and a copy of ORES's, or a permitting authority's, decision and opinion. ORES's, or a permitting authority's, copy of said transcript, decision and opinion, shall be available at all reasonable times to all parties for examination without cost. Upon receipt of such petition and demand ORES, or a permitting authority, shall forthwith deliver to the court a copy of the record and a copy of ORES's, or a permitting authority's, decision and opinion. Thereupon, the court shall have jurisdiction of the proceeding and shall have the power to grant such relief as it deems just and proper, and to make and enter an order enforcing, modifying and enforcing as so modified, remanding for further specific evidence or findings or setting aside in whole or in part such decision. The appeal shall be heard on the record, without requirement of reproduction, and upon briefs to the court. The findings of fact on which such decision is based shall be conclusive if supported by substantial evidence on the record considered as a whole and matters of judicial notice set forth in the opinion. The jurisdiction of the appellate division of the supreme court shall be exclusive and its judgment and order shall be final, subject to review by the court of appeals in the same manner and form and with the same effect as provided for appeals in a special proceeding. All such proceedings shall be heard and determined by the appellate division of the supreme court and by the court of appeals as expeditiously as possible and with lawful precedence over all other matters.

3. The grounds for and scope of review of the court shall be limited to whether the decision and opinion of ORES, or a permitting authority, are:

(a) In conformity with the constitution, laws and regulations of the state and the United States;

(b) Supported by substantial evidence in the record and matters of judicial notice properly considered and applied in the opinion;

(c) Within the statutory jurisdiction or authority of ORES, or a permitting authority, and the department;

(d) Made in accordance with procedures set forth in this section or established by rule or regulation pursuant to this article;

(e) Arbitrary, capricious or an abuse of discretion; or

(f) Made pursuant to a process that afforded meaningful involvement of citizens affected by the facility or project regardless of age, race, color, national origin and income.

§ 8. This act shall take effect immediately; provided, however that the amendments to article 8 of the public service law made by sections three, four, five, six and seven of this act shall be subject to the expiration and repeal of such article and shall expire and be deemed repealed therewith.