

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:

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

6 (g-1) Solar energy system equipment credit. (1) General. An individual
7 taxpayer shall be allowed a credit against the tax imposed by this arti-
8 cle equal to [~~twenty-five~~] forty percent of qualified solar energy
9 system equipment expenditures, except as provided in subparagraph (D) of
10 paragraph two of this subsection. This credit shall not exceed three
11 thousand seven hundred fifty dollars for qualified solar energy equip-
12 ment placed in service before September first, two thousand six, [~~and~~]
13 five thousand dollars for qualified solar energy equipment placed in
14 service on or after September first, two thousand six and before January
15 first, two thousand twenty-five, and ten thousand dollars for qualified
16 solar energy equipment placed in service on or after January first, two
17 thousand twenty-five.

18 (2) Qualified solar energy system equipment expenditures. (A) The term
19 "qualified solar energy system equipment expenditures" means expendi-
20 tures for:

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

26 (ii) the lease of solar energy system equipment under a written agree-
27 ment that spans at least ten years where such equipment owned by a
28 person other than the taxpayer is installed in connection with residen-
29 tial 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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1 by the taxpayer as [~~his or her~~] their principal residence at the time
2 the solar energy system equipment is placed in service; or

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

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

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

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

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

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

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

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

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

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

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

28 § 2. The real property tax law is amended by adding a new section
29 425-b to read as follows:

30 § 425-b. Solar STAR credit. 1. For the purposes of this section, a
31 midscale solar energy project shall mean a solar powered project with at
32 least one megawatt but no more than five megawatts of alternating name-
33 plate capacity.

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

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

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

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

5 § 4. Subdivision 1 of section 141 of the public service law, as added
6 by section 11 of part 0 of chapter 58 of the laws of 2024, is amended to
7 read as follows:

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

20 § 5. Subdivision 5 of section 142 of the public service law, as added
21 by section 11 of part 0 of chapter 58 of the laws of 2024, is amended to
22 read as follows:

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

39 §6. Subdivision 2 of section 144 of the public service law, as added
40 by section 11 of part 0 of chapter 58 of the laws of 2024, is amended to
41 read as follows:

42 2. Notwithstanding any other provision of law, [~~including without~~
43 ~~limitation article eight of the environmental conservation law and arti-~~
44 ~~cle VII of this chapter, no other state agency, department or authority,~~
45 ~~or~~] any municipality [~~or political subdivision or any agency thereof~~
46 ~~may, except as expressly authorized under this article or the rules and~~
47 ~~regulations promulgated under this article,] may require any approval,
48 consent, permit, certificate, contract, agreement, or other condition
49 for the development, design, construction, operation, or decommissioning
50 of a major renewable energy facility or a major electric transmission
51 facility with respect to which an application for a siting permit has
52 been filed[~~, provided in the case of a municipality, political subdivi-~~
53 ~~sion or an agency thereof, such entity has received notice of the filing~~
54 ~~of the application therefor. Notwithstanding the foregoing, the depart-~~
55 ~~ment of environmental conservation shall be the permitting agency for~~~~

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

3 § 7. Subdivisions 2 and 3 of section 146 of the public service law, as
4 added by section 11 of part 0 of chapter 58 of the laws of 2024, are
5 amended to read as follows:

6 2. A judicial proceeding shall be brought in the third department of
7 the appellate division of the supreme court of the state of New York.
8 Such proceeding shall be initiated by the filing of a petition in such
9 court within ninety days after the issuance of a final decision by ORES,
10 or a permitting authority of a municipality, political subdivision or
11 agency thereof, together with proof of service of a demand on ORES or a
12 permitting authority, to file with said court a copy of a written tran-
13 script of the record of the proceeding and a copy of ORES's, or a
14 permitting authority's, decision and opinion. ORES's, or a permitting
15 authority's, copy of said transcript, decision and opinion, shall be
16 available at all reasonable times to all parties for examination without
17 cost. Upon receipt of such petition and demand ORES, or a permitting
18 authority, shall forthwith deliver to the court a copy of the record and
19 a copy of ORES's, or a permitting authority's, decision and opinion.
20 Thereupon, the court shall have jurisdiction of the proceeding and shall
21 have the power to grant such relief as it deems just and proper, and to
22 make and enter an order enforcing, modifying and enforcing as so modi-
23 fied, remanding for further specific evidence or findings or setting
24 aside in whole or in part such decision. The appeal shall be heard on
25 the record, without requirement of reproduction, and upon briefs to the
26 court. The findings of fact on which such decision is based shall be
27 conclusive if supported by substantial evidence on the record considered
28 as a whole and matters of judicial notice set forth in the opinion. The
29 jurisdiction of the appellate division of the supreme court shall be
30 exclusive and its judgment and order shall be final, subject to review
31 by the court of appeals in the same manner and form and with the same
32 effect as provided for appeals in a special proceeding. All such
33 proceedings shall be heard and determined by the appellate division of
34 the supreme court and by the court of appeals as expeditiously as possi-
35 ble and with lawful precedence over all other matters.

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

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

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

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

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

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

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

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