

STATE OF NEW YORK

313--A

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. PAULIN, STERN, TAYLOR, COLTON, ALVAREZ, BARRETT, ROSENTHAL, SIMONE, RAGA, GANDOLFO, DURSO, JACOBSON, RAJKUMAR, ANDERSON, LUNSFORD, BICHOTTE HERMELYN, SHIMSKY, RA, WOERNER, SLATER, SIMON, OTIS, LEVENBERG, HEVESI, CLARK, SEAWRIGHT, SHRESTHA, BURDICK, STECK, BLUMENCRANZ, FORREST, SCHIAVONI, GRIFFIN, McDONALD, KELLES -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, the public service law and the labor law, in relation to establishing a sales tax exemption for energy storage

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 "build NY storage act".

3 § 2. Section 1115 of the tax law is amended by adding a new subdivi-
4 sion (mm) to read as follows:

5 (mm) The following shall be exempt from tax under this article: (1)
6 Receipts from the retail sale of, and consideration given or contracted
7 to be given for, or for the use of, commercial energy storage systems
8 equipment and the costs of installing such systems. For the purposes of
9 this subdivision, "commercial energy storage systems equipment" shall
10 mean an arrangement or combination of components installed upon non-re-
11 sidential premises that stores electricity for use at a later time to
12 provide heating, cooling, hot water and/or electricity.

13 (2) Receipts from the sale of electricity by a person primarily
14 engaged in the sale of energy storage system equipment and/or electric-
15 ity generated by such equipment pursuant to a written agreement under
16 which the electricity is generated by commercial energy system equipment
17 that is: (A) owned by a person other than the purchaser of such elec-

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

LBD00319-02-6

1 tricity; (B) installed on the non-residential premises of the purchaser
2 of such electricity; and (C) used to provide heating, cooling, hot water
3 or electricity to such premises.

4 § 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
5 amended by section 5 of part J of chapter 59 of the laws of 2021, is
6 amended to read as follows:

7 (1) Either, all of the taxes described in article twenty-eight of this
8 chapter, at the same uniform rate, as to which taxes all provisions of
9 the local laws, ordinances or resolutions imposing such taxes shall be
10 identical, except as to rate and except as otherwise provided, with the
11 corresponding provisions in such article twenty-eight, including the
12 definition and exemption provisions of such article, so far as the
13 provisions of such article twenty-eight can be made applicable to the
14 taxes imposed by such city or county and with such limitations and
15 special provisions as are set forth in this article. The taxes author-
16 ized under this subdivision may not be imposed by a city or county
17 unless the local law, ordinance or resolution imposes such taxes so as
18 to include all portions and all types of receipts, charges or rents,
19 subject to state tax under sections eleven hundred five and eleven
20 hundred ten of this chapter, except as otherwise provided. Notwith-
21 standing the foregoing, a tax imposed by a city or county authorized
22 under this subdivision shall not include the tax imposed on charges for
23 admission to race tracks and simulcast facilities under subdivision (f)
24 of section eleven hundred five of this chapter. (i) Any local law, ordi-
25 nance or resolution enacted by any city of less than one million or by
26 any county or school district, imposing the taxes authorized by this
27 subdivision, shall, notwithstanding any provision of law to the contra-
28 ry, exclude from the operation of such local taxes all sales of tangible
29 personal property for use or consumption directly and predominantly in
30 the production of tangible personal property, gas, electricity, refrig-
31 eration or steam, for sale, by manufacturing, processing, generating,
32 assembly, refining, mining or extracting; and all sales of tangible
33 personal property for use or consumption predominantly either in the
34 production of tangible personal property, for sale, by farming or in a
35 commercial horse boarding operation, or in both; and all sales of fuel
36 sold for use in commercial aircraft and general aviation aircraft; and,
37 unless such city, county or school district elects otherwise, shall omit
38 the provision for credit or refund contained in clause six of subdivi-
39 sion (a) or subdivision (d) of section eleven hundred nineteen of this
40 chapter. (ii) Any local law, ordinance or resolution enacted by any
41 city, county or school district, imposing the taxes authorized by this
42 subdivision, shall omit the residential solar energy systems equipment
43 and electricity exemption provided for in subdivision (ee), the commer-
44 cial solar energy systems equipment and electricity exemption provided
45 for in subdivision (ii), the commercial fuel cell electricity generating
46 systems equipment and electricity generated by such equipment exemption
47 provided for in subdivision (kk), the commercial energy storage systems
48 equipment and electricity exemption provided for in subdivision (mm) and
49 the clothing and footwear exemption provided for in paragraph thirty of
50 subdivision (a) of section eleven hundred fifteen of this chapter,
51 unless such city, county or school district elects otherwise as to such
52 residential solar energy systems equipment and electricity exemption,
53 such commercial solar energy systems equipment and electricity
54 exemption, commercial fuel cell electricity generating systems equipment
55 and electricity generated by such equipment exemption, such commercial

1 energy storage systems equipment and electricity exemption, or such
2 clothing and footwear exemption.

3 § 4. Subdivision (d) of section 1210 of the tax law, as amended by
4 section 4 of part WW of chapter 60 of the laws of 2016, is amended to
5 read as follows:

6 (d) A local law, ordinance or resolution imposing any tax pursuant to
7 this section, increasing or decreasing the rate of such tax, repealing
8 or suspending such tax, exempting from such tax the energy sources and
9 services described in paragraph three of subdivision (a) or of subdivi-
10 sion (b) of this section or changing the rate of tax imposed on such
11 energy sources and services or providing for the credit or refund
12 described in clause six of subdivision (a) of section eleven hundred
13 nineteen of this chapter, or electing or repealing the exemption for
14 residential solar equipment and electricity in subdivision (ee) of
15 section eleven hundred fifteen of this article, or the exemption for
16 commercial solar equipment and electricity in subdivision (ii) of
17 section eleven hundred fifteen of this article, or electing or repealing
18 the exemption for commercial fuel cell electricity generating systems
19 equipment and electricity generated by such equipment in subdivision
20 (kk) of section eleven hundred fifteen of this article, or the exemption
21 for commercial energy storage equipment and electricity in subdivision
22 (mm) of section eleven hundred fifteen of this article must go into
23 effect only on one of the following dates: March first, June first,
24 September first or December first; provided, that a local law, ordinance
25 or resolution providing for the exemption described in paragraph thirty
26 of subdivision (a) of section eleven hundred fifteen of this chapter or
27 repealing any such exemption or a local law, ordinance or resolution
28 providing for a refund or credit described in subdivision (d) of section
29 eleven hundred nineteen of this chapter or repealing such provision so
30 provided must go into effect only on March first. No such local law,
31 ordinance or resolution shall be effective unless a certified copy of
32 such law, ordinance or resolution is mailed by registered or certified
33 mail to the commissioner at the commissioner's office in Albany at least
34 ninety days prior to the date it is to become effective. However, the
35 commissioner may waive and reduce such ninety-day minimum notice
36 requirement to a mailing of such certified copy by registered or certi-
37 fied mail within a period of not less than thirty days prior to such
38 effective date if the commissioner deems such action to be consistent
39 with the commissioner's duties under section twelve hundred fifty of
40 this article and the commissioner acts by resolution. Where the
41 restriction provided for in section twelve hundred twenty-three of this
42 article as to the effective date of a tax and the notice requirement
43 provided for therein are applicable and have not been waived, the
44 restriction and notice requirement in section twelve hundred twenty-
45 three of this article shall also apply.

46 § 5. Subdivision 1-a of section 66-r of the public service law, as
47 added by section 32 of part O of chapter 58 of the laws of 2024, is
48 amended to read as follows:

49 1-a. For the purposes of this section, an "other covered project"
50 means: (a) any "thermal energy network" as defined by subdivision twen-
51 ty-nine of section two of this chapter; (b) any offshore wind supply
52 chain project, including but not limited to port infrastructure, primary
53 component manufacturing, finished component manufacturing, subassembly
54 manufacturing, subcomponent manufacturing, or raw material producers, or
55 a combination thereof receiving direct funding from the New York state
56 energy research and development authority pursuant to an award under a

1 New York state energy research and development authority solicitation;
2 [~~ex~~] (c) a "major utility transmission facility" as such term is defined
3 by section one hundred twenty of this chapter or "major electric trans-
4 mission facility" as defined by article VIII of this chapter; or (d) any
5 "qualified energy storage system" as such term is defined by subdivision
6 one of section seventy-four of this article, with a nameplate capacity
7 of greater than five megawatts and interconnected to the state's elec-
8 tricity grid.

9 § 6. Subdivision 3 of section 66-r of the public service law, as
10 amended by section 32 of part 0 of chapter 58 of the laws of 2024, is
11 amended to read as follows:

12 3. The commission shall require that the owner of the covered renewa-
13 ble energy system or other covered project, or a third party acting on
14 the owner's behalf, as an ongoing condition of any renewable energy
15 credits agreement or energy storage credits agreement with a public
16 entity, shall stipulate to the fiscal officer that it will enter into
17 labor peace agreements with any bona fide labor organizations that
18 either are actively representing employees providing necessary oper-
19 ations and maintenance services for the renewable energy system at the
20 time of such agreement or provides notice that it is attempting to
21 represent any employees in any titles who provide, or who will provide,
22 necessary operations and maintenance services for the renewable energy
23 system employed in the state; provided, however, this subdivision shall
24 not apply to any covered projects defined in paragraph (c) of subdivi-
25 sion one-a of this section. The maintenance of such a labor peace
26 agreement, or agreements, which cover all classes of operations and
27 maintenance employees, shall be an ongoing material condition of any
28 continuation of payments under a renewable energy credits agreement or
29 energy storage credits agreement. For purposes of this section "labor
30 peace agreement" means an agreement between an entity and labor organ-
31 ization that, at a minimum, protects the state's proprietary interests
32 by prohibiting labor organizations and members from engaging in picket-
33 ing, work stoppages, boycotts, and any other economic interference with
34 the relevant renewable energy system. "Renewable energy credits agree-
35 ment" shall mean any public entity contract that provides production-
36 based payments to a renewable energy project as defined in this section.
37 For purposes of this subdivision, "energy storage credits agreement"
38 shall mean any public entity contract that provides index storage cred-
39 its to an energy storage project as defined in this section.

40 § 7. Subdivision 1 of section 224-d of the labor law, as amended by
41 section 31 of part 0 of chapter 58 of the laws of 2024, is amended to
42 read as follows:

43 1. For purposes of this section, a "covered renewable energy system"
44 means (a) a renewable energy system, as such term is defined in section
45 sixty-six-p of the public service law, with a capacity of one or more
46 megawatts alternating current and which involves the procurement of
47 renewable energy credits by a public entity, or a company or corporation
48 provided in subdivisions twenty-three and twenty-four of section two of
49 the public service law, or a third party acting on behalf and for the
50 benefit of a public entity; (b) any "thermal energy network" as defined
51 by subdivision twenty-nine of section two of the public service law; (c)
52 any offshore wind supply chain project, including but not limited to
53 port infrastructure, primary component manufacturing, finished component
54 manufacturing, subassembly manufacturing, subcomponent manufacturing, or
55 raw material producers, or a combination thereof receiving direct fund-
56 ing from the New York state energy research and development authority

1 pursuant to an award under a New York state energy research and develop-
2 ment authority solicitation; ~~or~~ (d) a "major utility transmission
3 facility" as such term is defined by section one hundred twenty of the
4 public service law; or (e) any "qualified energy storage system" as such
5 term is defined by subdivision one of section seventy-four of the public
6 service law, with a nameplate capacity of one or more megawatts and
7 interconnected to the state's electricity grid, and which involves
8 either (i) the procurement of energy storage credits by a public entity,
9 or a public utility company or corporation as defined by subdivisions
10 twenty-three and twenty-four of section two of the public service law,
11 or a third party acting on behalf and for the benefit of a public entity
12 through a solicitation issued after the effective date of the chapter of
13 the laws of two thousand twenty-six that amended this subdivision or
14 (ii) a financial incentive award for grid-connected energy storage
15 systems issued by a public entity after the effective date of the chap-
16 ter of the laws of two thousand twenty-six that amended this
17 subdivision.

18 § 8. Subdivision 8 of section 224-d of the labor law, as amended by
19 chapter 37 of the laws of 2026, is amended to read as follows:

20 8. A covered renewable energy system shall require all contractors and
21 subcontractors performing construction work to have apprenticeship
22 agreements, as defined by article twenty-three of this chapter, provided
23 that a covered renewable energy system will be deemed to have satisfied
24 such requirement for any given year if it has: (a) complied with the
25 apprenticeship requirements of paragraph eight of subsection (b) of
26 section forty-five of the United States internal revenue code and any
27 regulations promulgated thereunder as of January first, two thousand
28 twenty-six, or (b) requested qualified apprentices from an apprentice-
29 ship program registered with the department and (i) such request has
30 been denied, provided that such denial is not the result of a refusal by
31 the covered renewable energy system or any such contractors or subcon-
32 tractors performing construction work to comply with the established
33 standards and requirements of such registered apprenticeship program, or
34 (ii) the registered apprenticeship program fails to respond to such
35 request within five business days after the date on which such regis-
36 tered apprenticeship program received such request, and any thermal
37 energy network covered by this section shall additionally require such
38 contractors and subcontractors to have agreements with pre-apprentice-
39 ship direct entry providers registered with the department.

40 § 9. This act shall take effect immediately; provided, however, that
41 the amendments to subdivision 8 of section 224-d of the labor law made
42 by section eight of this act shall take effect on the same date and in
43 the same manner as chapter 362 of the laws of 2025, takes effect.