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:

Section 1. Short title. This act shall be known and may be cited as the "build NY storage act".

§ 2. Section 1115 of the tax law is amended by adding a new subdivision (mm) to read as follows:

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

(2) Receipts from the sale of electricity by a person primarily engaged in the sale of energy storage system equipment and/or electricity generated by such equipment pursuant to a written agreement under which the electricity is generated by commercial energy system equipment 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.

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

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

(1) Either, all of the taxes described in article twenty-eight of this chapter, at the same uniform rate, as to which taxes all provisions of the local laws, ordinances or resolutions imposing such taxes shall be identical, except as to rate and except as otherwise provided, with the corresponding provisions in such article twenty-eight, including the definition and exemption provisions of such article, so far as the provisions of such article twenty-eight can be made applicable to the taxes imposed by such city or county and with such limitations and special provisions as are set forth in this article. The taxes authorized under this subdivision may not be imposed by a city or county unless the local law, ordinance or resolution imposes such taxes so as to include all portions and all types of receipts, charges or rents, subject to state tax under sections eleven hundred five and eleven hundred ten of this chapter, except as otherwise provided. Notwithstanding the foregoing, a tax imposed by a city or county authorized under this subdivision shall not include the tax imposed on charges for admission to race tracks and simulcast facilities under subdivision (f) of section eleven hundred five of this chapter. (i) Any local law, ordinance or resolution enacted by any city of less than one million or by any county or school district, imposing the taxes authorized by this subdivision, shall, notwithstanding any provision of law to the contrary, exclude from the operation of such local taxes all sales of tangible personal property for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, generating, assembly, refining, mining or extracting; and all sales of tangible personal property for use or consumption predominantly either in the production of tangible personal property, for sale, by farming or in a commercial horse boarding operation, or in both; and all sales of fuel sold for use in commercial aircraft and general aviation aircraft; and, unless such city, county or school district elects otherwise, shall omit the provision for credit or refund contained in clause six of subdivision (a) or subdivision (d) of section eleven hundred nineteen of this chapter. (ii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee), the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii), the commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption provided for in subdivision (kk)**, the commercial energy storage systems equipment and electricity exemption provided for in subdivision (mm)** and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption, commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption**, such commercial**

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

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

(d) A local law, ordinance or resolution imposing any tax pursuant to this section, increasing or decreasing the rate of such tax, repealing or suspending such tax, exempting from such tax the energy sources and services described in paragraph three of subdivision (a) or of subdivision (b) of this section or changing the rate of tax imposed on such energy sources and services or providing for the credit or refund described in clause six of subdivision (a) of section eleven hundred nineteen of this chapter, or electing or repealing the exemption for residential solar equipment and electricity in subdivision (ee) of section eleven hundred fifteen of this article, or the exemption for commercial solar equipment and electricity in subdivision (ii) of section eleven hundred fifteen of this article, or electing or repealing the exemption for commercial fuel cell electricity generating systems equipment and electricity generated by such equipment in subdivision (kk) of section eleven hundred fifteen of this article**, or the exemption for commercial energy storage equipment and electricity in subdivision (mm) of section eleven hundred fifteen of this article** must go into effect only on one of the following dates: March first, June first, September first or December first; provided, that a local law, ordinance or resolution providing for the exemption described in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption or a local law, ordinance or resolution providing for a refund or credit described in subdivision (d) of section eleven hundred nineteen of this chapter or repealing such provision so provided must go into effect only on March first. No such local law, ordinance or resolution shall be effective unless a certified copy of such law, ordinance or resolution is mailed by registered or certified mail to the commissioner at the commissioner's office in Albany at least ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum notice requirement to a mailing of such certified copy by registered or certified mail within a period of not less than thirty days prior to such effective date if the commissioner deems such action to be consistent with the commissioner's duties under section twelve hundred fifty of this article and the commissioner acts by resolution. Where the restriction provided for in section twelve hundred twenty-three of this article as to the effective date of a tax and the notice requirement provided for therein are applicable and have not been waived, the restriction and notice requirement in section twelve hundred twenty-three of this article shall also apply.

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

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

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

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

3. The commission shall require that the owner of the covered renewable energy system or other covered project, or a third party acting on the owner's behalf, as an ongoing condition of any renewable energy credits agreement **or energy storage credits agreement** with a public entity, shall stipulate to the fiscal officer that it will enter into labor peace agreements with any bona fide labor organizations that either are actively representing employees providing necessary operations and maintenance services for the renewable energy system at the time of such agreement or provides notice that it is attempting to represent any employees in any titles who provide, or who will provide, necessary operations and maintenance services for the renewable energy system employed in the state; provided, however, this subdivision shall not apply to any covered projects defined in paragraph (c) of subdivision one-a of this section. The maintenance of such a labor peace agreement, or agreements, which cover all classes of operations and maintenance employees, shall be an ongoing material condition of any continuation of payments under a renewable energy credits agreement **or energy storage credits agreement**. For purposes of this section "labor peace agreement" means an agreement between an entity and labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the relevant renewable energy system. "Renewable energy credits agreement" shall mean any public entity contract that provides production-based payments to a renewable energy project as defined in this section. **For purposes of this subdivision, "energy storage credits agreement" shall mean any public entity contract that provides index storage credits to an energy storage project as defined in this section.**

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

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

pursuant to an award under a New York state energy research and development authority solicitation; [~~or~~] (d) a "major utility transmission facility" as such term is defined by section one hundred twenty of the public service law**; or (e) any "qualified energy storage system" as such term is defined by subdivision one of section seventy-four of the public service law, with a nameplate capacity of one or more megawatts and interconnected to the state's electricity grid, and which involves either (i) the procurement of energy storage credits by a public entity, or a public utility company or corporation as defined by subdivisions twenty-three and twenty-four of section two of the public service law, or a third party acting on behalf and for the benefit of a public entity through a solicitation issued after the effective date of the chapter of the laws of two thousand twenty-six that amended this subdivision or (ii) a financial incentive award for grid-connected energy storage systems issued by a public entity after the effective date of the chapter of the laws of two thousand twenty-six that amended this subdivision**.

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

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

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