

ANNUAL REPORT 2021



CARL E. HEASTIE, SPEAKER
MICHAEL J. CUSICK, CHAIR

NEW YORK STATE ASSEMBLY
COMMITTEE ON ENERGY



MICHAEL J. CUSICK
Assemblyman, 63rd District
Richmond County

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIR
Committee on Energy
COMMITTEES
Governmental Employees
Higher Education
Veterans' Affairs
Ways and Means

December 15, 2021

Honorable Carl E. Heastie
Speaker of the Assembly
Legislative Office Building, Room 932
Albany, NY 12248

Dear Speaker Heastie:

I am pleased to submit to you the 2021 Annual Report of the Assembly Standing Committee on Energy. This legislative session marked my fourth year as Committee Chair.

This year the Committee was actively engaged in the passage of the SFY 2021-2022 State Budget including provisions related to consumer protections and the achievement of clean energy goals.

Outside of the budget process, the Committee was involved in matters relating to the implementation of the Climate Leadership and Community Protection Act, and the ongoing provision of electric service on Long Island. Legislative matters included efforts to improve access to Community Distributed Generation and to Community Choice Aggregation programs. The year has been an eventful one, and the Committee anticipates continued engagement with the utilities and agencies of our State in the interest of maintaining the safety and wellbeing of all New Yorkers.

I have greatly enjoyed working with the Energy Committee. Under your leadership, the Assembly will continue its efforts to protect ratepayers and enhance the deployment of renewable energy systems throughout the 2022 legislative year.

Sincerely,

Michael J. Cusick
Chair, Assembly Standing Committee on Energy

2021 ANNUAL REPORT

THE NEW YORK STATE ASSEMBLY

STANDING COMMITTEE ON ENERGY

**Michael J. Cusick,
Chair**

Committee Members

Majority

Steve Englebright

Angelo Santabarbara

Charles Barron

Erik M. Dilan

Pamela J. Hunter

Robert C. Carroll

Steve Stern

Khaleel M. Anderson

William C. Conrad, III

Zohran K. Mamdani

Jonathan D. Rivera

Minority

Philip A. Palmesano

Ken Blankenbush

Doug Smith

Mark Walczyk

Michelle Milot, Assistant Secretary for Program and Policy
Thomas Roell, Legislative Analyst
Gerard Weir, Committee Clerk
Sharon Grobe, Legislative Director
Maya Wilson, Program and Counsel Secretary

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INTRODUCTION

The Assembly Energy Committee has jurisdiction over legislation relating to energy availability and sources, policy and planning, conservation, and electric, gas, and steam rate-making in New York State. The Committee considers legislation that amends Energy Law, Public Service Law, Public Authorities Law, Economic Development Law, General Municipal Law, and Rural Electric Cooperative Law. The Committee works closely with the Assembly Committee on Corporations, Authorities and Commissions, which considers legislation concerning the structure and operations of the Power Authority of the State of New York (PASNY, d/b/a NYPA), the Public Service Commission (PSC), the Long Island Power Authority (LIPA), and the New York State Energy Research and Development Authority (NYSERDA). The Committee also works with other State agencies including the Department of Economic Development (DED), the Department of Environmental Conservation (DEC), the Department of State (DOS) and the Department of Transportation (DOT).

In 2021, 73 bills introduced in the Assembly were referenced to the Committee, and 13 were reported from the Committee. The full Assembly considered and passed six of these bills. Three bills were signed into law. This report outlines the legislation that incorporates many of the Assembly's proposals developed by the Committee to address the challenges to New York State energy policy.

MAJOR ISSUES OF 2021

A. BUDGET HIGHLIGHTS

Utility Assessments

The SFY 2021-2022 Budget included provisions that:

- extended for an additional year the authorization for certain energy-siting related expenses of the Office of Parks, Recreation and Historic Preservation and the Departments of Agriculture & Markets, Health, Environmental Conservation, and State to be reimbursed by a utility assessment; and
- extended NYSERDA's authorization to receive up to \$22.7 million from an assessment on gas and electric corporations.

Office of Renewable Energy Siting Amendments

The SFY 2021-2022 Budget made technical amendments to the Office of Renewable Energy Siting, which operates within the Department of State to consolidate the environmental review and permitting processes of major renewable energy facilities. Technical amendments included:

- creation of a Farmland Protection Working Group to facilitate input from municipalities in the siting process, develop recommendations to recognize the value of farmland, and identify methods to minimize adverse impacts to farmland which may result from the siting of major renewable energy facilities;
- authorization for the New York State Energy Research and Development Authority to establish project holding companies to facilitate the operations of the Authority's Build-Ready program;
- clarification of the mechanism by which State employees are transferred into the Office of Renewable Energy Siting; and
- authorization for the Office of Renewable Energy Siting to recover costs incurred.

Cessation Mitigation Fund

The SFY 2021-2022 Budget increased the statutory cap on funds that may be awarded from the Electric Generation Facility Cessation Mitigation Fund to qualifying and eligible communities. The Fund awards payments to municipalities to offset the loss of local real property tax revenues as a result of the closure of an electric generating facility. The original funding cap of \$69 million was raised to a new maximum amount of \$140 million, which is to be disbursed contingent upon the availability of funding.

B. COMMITTEE LEGISLATION

ReCharge New York

(A.6261 Stern; Chapter 197 of the Laws of 2021)

Through the ReCharge NY Power Program, qualifying businesses and nonprofits statewide can lower their energy costs by using specially allocated power from the New York Power Authority (NYPA). The power is set aside for economic development support by the State government and the NYPA Board. Companies receiving allocated power are required to make commitments such as remaining in the State, keeping or growing employment, expanding operations, and/or making significant local investments in their businesses. This law raised the cap on the amount of ReCharge New York power that may be allocated to eligible not-for-profit corporations and small businesses.

Community Choice Aggregation

(A.6890 Thiele; Chapter 681 of the Laws of 2021)

Community Choice Aggregation programs allow participating local governments to procure energy supply, service, and distributed energy resources for eligible customers in the community. This law authorizes the formation of Community Choice Aggregation programs in the service territory of the Long Island Power Authority.

Community Distributed Generation

(A.3805-A Cusick; Veto Memo 75)

This legislation would expand customer access to community distributed solar generation by directing electric corporations to file with the Public Service Commission to establish tariffs providing for the transfer of Community Distributed Generation bill credits from solar facilities in one utility service territory to the accounts of facility subscribers in another service territory. Community Distributed Generation facilities transferring bill credits across utility service territories would be required to provide at least 35% of the credits from any resulting solar facility to disadvantaged communities.

Electric Vehicle Charging
(A.3876 Cusick; Chapter 822 of 2021)

This legislation would require the establishment of a commercial tariff to facilitate the development of faster charging stations for electric vehicles. Utilities would be required to file with the Public Service Commission to establish a commercial tariff utilizing alternatives to traditional rate structures that evaluate the relative costs and benefits associated with various fast charging rate designs.

Electric Bill Transparency
(A.7256-A Rivera, JD; Reported from Committee)

This legislation would provide increased pricing transparency of electric bills for residents and businesses and would provide customers with better predictability of future bills.

Solar Credit Donation
(A.7703 McMahan; Reported from Committee)

This legislation would authorize the donation, at the customer generator's option, of excess utility bill credits to a low-income energy assistance pool that would be created within each utility service territory. At present, customer generators are required to sell their unused credits back to the utility operating in their respective service territory.

Ride Clean Rebate
(A.516-A Carroll; Reported from Committee)

This legislation would direct the New York State Energy Research and Development Authority to establish a "Ride Clean Rebate Program" to permit certain classes of electric assist bicycles and scooters to be eligible for a 50% rebate of up to \$1,100.

State Vehicle Fleet

(A.2412-A Fahy; Reported from Committee)

This bill would direct the Office of General Services to prepare a State fleet procurement plan that would include the requirement that all passenger vehicles purchased by or for the State be zero emissions vehicles by January 1, 2030.

Fuel-Flexible Generation

(A.3768-A Cusick; Reported from Committee)

This bill would authorize net energy metering for fuel-flexible linear generator electric generating equipment and would also make provisions for the interconnection of such equipment at both the residential and non-residential level.

Critical Infrastructure Protection

(3904-A Cusick; Reported from Committee)

This legislation is intended to protect the critical energy infrastructure of the State from cyber-attacks by authorizing the Division of Homeland Security and Emergency Services to conduct critical infrastructure vulnerability assessments and develop strategies that may be used to protect such infrastructure from cyber-attacks. The Public Service Commission would be required to include an evaluation of utilities' protection of critical energy infrastructure in regular audits, and utilities would be required to include cyber-attack response plans in their annual submissions of emergency response plans.

Wind Turbine Standards

(A.6952 Glick; Reported from Committee)

This bill would require the Office of Renewable Energy Siting and the Department of Environmental Conservation to develop uniform standards and conditions for the coloring of wind turbine blades in order to minimize bird collisions.

Farmland Protection

(A.7696 Barrett; Reported from Committee)

This legislation would prohibit the New York State Energy Research and Development Authority (NYSERDA) from developing build-ready sites on viable agricultural land. By clarifying that NYSERDA would be prohibited from deeming viable agricultural land suitable for the development of such a site, this legislation would help protect farmland from being developed by the State.

Updated Repowering Standards

(A.7768-A Kelles; Reported from Committee)

This legislation would establish that an outdated Article 10 certificate may not be automatically transferred from a laid-up or out of service major electric generating facility to a newly-repowered facility. By doing so, out of service generating facilities would be prevented from repowering unless they are issued a new certificate, reviewed under present-day standards and conditions, by the Public Service Commission.

PUBLIC OVERSIGHT AND HEARINGS

Climate Leadership and Community Protection Act (CLCPA) Implementation

Chapter 106 of the Laws of 2019 established the Climate Leadership and Community Protection Act (CLCPA), historic legislation that enacted sweeping requirements and goals to address climate change. On May 13th the Assembly held a Public Hearing to examine the implementation of the CLCPA, including the steps being taken by the Climate Action Council to develop the scoping plan, the Climate Justice Working Group's development of disadvantaged community definitions, and the continued progress of the State in achieving renewable energy goals.

The public hearing was conducted by the Assembly Standing Committee on Environmental Conservation and the Assembly Standing Committee on Energy. The Committees received testimony from various State agencies, community representatives, and private citizens.

The Provision of Electric Service on Long Island

Electric service on Long Island is currently provided by the Public Service Enterprise Group (PSEG)-LI pursuant to a contract with the Long Island Power Authority (LIPA). Last summer's Tropical Storm Isaias made landfall on Long Island with heavy rains and 70 mile per hour gusts of wind. The extensive and pervasive power outages that occurred during the storm and other management failures, as identified in public statements by LIPA Management and the Isaias Task Force 90-Day Report Briefing, led to questions about the merits of the arrangement between LIPA and PSEG-LI.

On August 9th the Assembly Standing Committee on Energy held a Public Hearing on Long Island at the Brookhaven Town Hall to examine the management and provision of electric service on Long Island, both now and into the future. The Committee received testimony from representatives of LIPA and PSEG-LI, local elected officials, community representatives, and concerned citizens. The public hearing presented an opportunity to examine and provide comment on the revised contract between LIPA and PSEG-LI.

Impacts of “Proof of Work” Cryptocurrency on the Environment

Cryptocurrency is a form of currency that only exists digitally and is managed through a decentralized system for verifying and recording transactions or for issuing new coins into circulation. Operating outside of the centralized banking system, transactions are validated through a process of transaction authentication. There are several different methods of cryptocurrency authentication, but in one method called “proof of work” mining, each transaction is assigned a complex mathematical equation that users within the currency compete with each other to solve. Successfully competing in this process requires the use of increasing amounts of computational power. This has led to a rapidly growing industry of cryptocurrency “miners” who run large-consolidated operations of thousands of computers operating 24 hours a day to validate as many transactions as possible. Given the high energy demands, cryptocurrency mining companies have been reactivating shuttered power plants to-access electricity production at reduced costs.

The 2019 Climate Leadership and Community Protection Act (CLCPA) established the goal of reducing greenhouse gas emissions by 85% of 1990 levels by 2050. On October 27th the Committee, in cooperation with the Committees on Environmental Conservation, Science and Technology, and the Climate Change Work Group held a hearing to examine the impact of high-energy consuming industries like “proof of work” cryptocurrency mining on the ability of the State to meet the CLCPA greenhouse gas reduction goals, state agency responses, and existing statutory and regulatory permitting processes for cryptocurrency mining to determine what, if any, changes are needed. Witnesses from academic institutions, environmental advocates, and municipal officials testified.

CLCPA Expenditures

The State has access to a variety of funding intended to address climate change, ranging from funding in the Environmental Protection Fund (EPF) to the New York State Energy Research and Development Authority. In addition, the Climate Leadership and Community Protection Act (CLCPA) states that State agencies, authorities and entities “shall...invest or direct available and relevant programmatic resources in a manner designed to achieve a goal for disadvantaged communities to receive forty percent of overall benefits of spending on clean energy and energy efficiency programs, projects or investments in the areas of housing, workforce development, pollution

reduction, low-income energy assistance, energy, transportation and economic development.” On November 29th the Committee, in cooperation with Committee on Environmental Conservation and the Climate Change Work Group held a hearing to examine how agencies and authorities are using available climate-change funding, including whether the CLCPA allocation of forty percent for disadvantaged communities has been achieved. The Department, NYSERDA, environmental advocates and industry representatives testified.

OUTLOOK FOR 2022

During the 2022 legislative session, the Energy Committee will continue to oversee State energy policy to ensure that consumers are provided safe and reliable energy at reasonable costs. Additionally, the Committee looks forward to continued efforts to achieve the State's renewable energy, energy efficiency and energy storage goals and the State's clean energy targets outlined in the Climate Leadership and Community Protection Act.

APPENDIX A

2021 SUMMARY SHEET

Summary of Action on All Bills Referred to the Committee on ENERGY

<u>Final Action</u>	<u>Assembly Bills</u>	<u>Senate Bills</u>	<u>Total</u>
<u>Bills Reported Favorable To:</u>			
Codes	1	0	1
Judiciary	0	0	0
Ways and Means	6	0	6
Rules	3	0	3
Floor	3	0	3
Total	13	0	13
<u>Bills Held for Consideration</u>	0	0	0
<u>Bills Defeated</u>	0	0	0
<u>Bills Enacting Clause Stricken</u>	0	0	0
<u>Bills Never Reported, Remained in Committee</u>	60	13	73
TOTAL NUMBER OF COMMITTEE MEETINGS HELD			3

APPENDIX B

ENERGY BILLS THAT PASSED BOTH HOUSES

Assembly Bill	Sponsor	Description	Final Action
A.3805-A	Cusick	Relates to expanding customer access to community distributed solar generation.	Veto Memo 75
A.3876	Cusick	Requires the establishment of a commercial tariff to facilitate the development of fast charging stations for electric vehicles.	Chapter 822
A.6261	Stern	Raises the amount of Recharge New York power that may be allocated to eligible not-for-profit corporations and small businesses.	Chapter 197
A.6890	Thiele	Authorizes the formation of Community Choice Aggregation programs in the service territory of the Long Island Power Authority.	Chapter 681