

**S 8145** PADAVAN,,,,,,,,,,,, Same as [A 11202](#) Farrell  
 ON FILE: 05/06/08 Real Property Tax Law  
 TITLE....Relates to a solar electric generating system  
 tax abatement for certain properties in a city with a  
 population of one million or more  
 05/05/08 REFERRED TO CITIES  
 05/20/08 1ST REPORT CAL.1284  
 05/21/08 2ND REPORT CAL.  
 05/27/08 ADVANCED TO THIRD READING  
 06/12/08 PASSED SENATE  
 06/12/08 DELIVERED TO ASSEMBLY  
 06/12/08 referred to ways and means  
 06/17/08 substituted for a11202  
 06/17/08 ordered to third reading rules cal.352  
 06/17/08 passed assembly  
 06/17/08 returned to senate  
 07/25/08 DELIVERED TO GOVERNOR  
 08/05/08 SIGNED CHAP.473

**A11202** Farrell Same as [S 8145](#) PADAVAN  
 Real Property Tax Law  
 TITLE....Relates to a solar electric generating system  
 tax abatement for certain properties in N.Y. city  
 05/21/08 referred to real property taxation  
 06/10/08 reported referred to ways and means  
 06/16/08 reported referred to rules  
 06/16/08 reported  
 06/16/08 rules report cal.352  
 06/16/08 ordered to third reading rules cal.352  
 06/17/08 substituted by s8145  
**S08145**  
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PADAVAN, GOLDEN, LANZA, MALTESE

Amd S467-a, add Art 4 Title 4-C SS499-aaaa - 499-gggg, RPT L; amd S6509, Ed L

Establishes an economic grant program for the Second Avenue Subway construction project area.

EFF. DATE 08/05/2008

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**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S8145

**SPONSOR:** PADAVAN| | | | | | | | | | | | | | | | | | | | | |

**TITLE OF BILL:**

An act to amend the real property tax law and the education law, in relation to a solar electric generating system tax abatement for certain properties in a city of one million or more persons

**SUMMARY OF PROVISIONS:**

This bill would amend Article 4 of the Real Property Tax Law ("RPTL") by adding a new Title 4-C, which would provide for a four-year tax abatement for the construction of a solar electric generating system in connection with a class one, two or four building in the City of New York.

If the solar electric generating system is placed in service on or after the effective date of the new Title 4-C and before January 1, 2011, the amount of the tax abatement would be 8-3/4% of eligible solar electric generating system expenditures in each year of the four-year compliance period. If the solar electric generating system is placed in service on or after January 1, 2011 and before January 1, 2013, the amount of the tax abatement would be 5% of such expenditures for the four-year period. However, the benefit in each tax year would be limited to the lesser of the amount of taxes payable or \$62,500. "Eligible solar electric generating system expenditures" include reasonable 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 electric generating system.

The bill provides for a tax abatement application and approval process (proposed RPTL § 499-cccc), conditions the benefit on compliance during the four-year compliance period with applicable provisions of law, maintaining the solar electric generating system, permission to inspect the solar electric generating system and related structures and equipment,

and payment of real estate taxes, water and sewer charges, payments in lieu of taxes or other municipal charges (proposed RPTL § 499-dddd), and includes a process for revocation for noncompliance (proposed RPTL § 499-eeee).

The solar electric generating system tax abatement would be applied by the City's Department of Finance. and the tax abatement program would be administered by one or more City agencies or departments designated for such purpose by the Mayor (proposed RPTL § 499-ffff).

The bill also includes amendments to RPTL § 467-a(2)(f) and Education Law § 6509. The amendment to RPTL § 467-a(2)(f) provides that a solar electric generating system tax abatement will not serve to prevent cooperative and condominium apartments in the City from obtaining a partial tax abatement pursuant to RPTL § 467-a. The amendment to Education Law § 6509 provides for the discipline by the Board of Regents of architects and engineers reported to have engaged in any misconduct in the making certifications under Title 4-C.

### **REASONS FOR SUPPORT:**

The City of New York strongly supports the proposed amendment to Article 4 of the Real Property Tax Law, which provides an incentive to install solar electric generating systems in connection with class one, class two and class four properties in the City.

This proposed bill is aligned with Mayor Bloomberg's long-term sustainability plan, PlaNYC released in April 2007, which set a 30% greenhouse gas emission reduction target for 2030 and committed to provide cleaner, more reliable power for every New Yorker. These goals will be achieved through efforts to improve energy efficiency and clean our energy supply. In the near term, the City will still rely on conventional energy sources, such as natural gas. The cleanest energy sources, like solar and wind, are promising but they are not yet financially feasible to play a large role within New York. Therefore, in PlaNYC the City commits to work with the State to eliminate barriers that inhibit the growth of solar energy in NYC, including cost, and to provide incentives, such as a tax abatement for solar electric generating system installations, to partially offset these costs.

Of all the renewable energy sources, solar currently has the greatest potential to generate electricity within New York City. The technology is commercially available, there is ample space for solar electric generating systems, and because solar energy is greatest during the peak summer days, it is especially useful as a load management tool. Additional solar installations within New York City will also improve the reliability and security of the City's energy infrastructure, which is considered a load pocket by the New York State Independent System Operator and is therefore required to supply 80% of its electricity generating capacity needed for peak demand from sites within the city limits. New York City's tall buildings lead to high installation costs, while

extensive interconnection requirements and inspections delay implementation. For these reasons, installation costs for solar electric generating systems in the City are approximately 30% higher than in New Jersey and 50% higher than in Long Island.

The property tax abatement provided by this bill will offset some of the high cost associated with solar energy installation and enable customers to choose solar energy at their home or business, and will stimulate further economic development throughout New York City and State. The graduated structure of this incentive will grant early adopters greater benefits, thereby encouraging the creation of a cost-competitive market for solar energy in the City.

Accordingly, the Mayor urges the earliest possible favorable consideration of this proposal by the Legislature as it is part of the City's 2008 legislative agenda.

LAWS OF NEW YORK, 2008

CHAPTER 473

AN ACT to amend the real property tax law and the education law, in relation to a solar electric generating system tax abatement for certain properties in a city of one million or more persons

Became a law August 5, 2008, with the approval of the Governor.

Passed by a majority vote, three-fifths being present.

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

Section 1. Paragraph (f) of subdivision 2 of section 467-a of the real property tax law, as added by chapter 273 of the laws of 1996, is amended to read as follows:

(f) For purposes of this subdivision, a property shall be deemed not to be receiving complete or partial real property tax exemption or tax abatement if the property is, or certain dwelling units therein are, receiving benefits pursuant to section four hundred, four hundred two, four hundred four, four hundred six, four hundred eight, four hundred ten, four hundred ten-a, four hundred twelve, four hundred twelve-a, four hundred sixteen, four hundred eighteen, four hundred twenty-a, four hundred twenty-b, four hundred thirty-six, four hundred fifty-eight, four hundred fifty-eight-a, four hundred sixty-two, four hundred sixty-seven, [~~or~~] four hundred sixty-seven-b, or four hundred ninety-nine-bbbb of this article, or if the property is receiving a tax abatement but not a tax exemption pursuant to section four hundred eighty-nine of this

article.

§ 2. Article 4 of the real property tax law is amended by adding a new title 4-C to read as follows:

TITLE 4-C  
SOLAR ELECTRIC GENERATING SYSTEM TAX ABATEMENT  
FOR CERTAIN PROPERTIES IN A CITY OF ONE MILLION OR MORE PERSONS

Section 499-aaaa. Definitions.

499-bbbb. Real property tax abatement.

499-cccc. Application for tax abatement.

499-dddd. Continuing requirements.

499-eeee. Revocation of tax abatement.

499-ffff. Enforcement and administration.

499-gggg. Tax lien and interest.

§ 499-aaaa. Definitions. When used in this title, the following terms shall have the following meanings:

1. "Applicant" shall mean (a) with respect to an eligible building held in the cooperative or condominium form of ownership, the board of managers of a condominium or the board of directors of a cooperative apartment corporation, or (b) with respect to any other eligible building, the owner of such building.

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

2. "Application for tax abatement" shall mean an application for a solar electric generating system tax abatement pursuant to section four hundred ninety-nine-cccc of this title.

3. "Architect" shall mean a person licensed and registered to practice the profession of architecture under the education law.

4. "Compliance period" shall mean the tax year in which a tax abatement commences and the three tax years immediately thereafter.

5. "Department of finance" shall mean the department of finance of a city having a population of one million or more persons.

6. "Designated agency" shall mean one or more agencies or departments of a city having a population of one million or more persons that are designated by the mayor of such city to exercise the functions, powers and duties of a designated agency pursuant to this title.

7. "Eligible building" shall mean a class one, class two or class four real property, as defined in subdivision one of section eighteen hundred two of this chapter, located within a city having a population of one million or more persons. No building shall be eligible for more than one tax abatement pursuant to this title.

8. "Eligible solar electric generating system expenditures" shall mean reasonable 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 a solar electric generating system installed in connection with an eligible building. Such eligible expenditures shall not include interest or other finance charges, or any expenditures incurred using a federal, state or local grant.

9. "Engineer" shall mean a person licensed and registered to practice the profession of engineering under the education law.

10. "Solar electric generating system" shall mean a system that uses solar energy to generate electricity. Such system shall not include any equipment connected to a solar electric generating system that is a component of part or parts of a non-solar electric generating system or that uses any sort of recreational facility or equipment as a storage medium.

§ 499-bbbb. Real property tax abatement. An eligible building shall receive an abatement of real property taxes as provided in this title and the rules promulgated hereunder.

1. The amount of such tax abatement shall be as follows:

(a) if the solar electric generating system is placed in service on or after the effective date of this title and before January first, two thousand eleven, for each year of the compliance period such tax abatement shall be the lesser of (i) eight and three-fourths percent of eligible solar electric generating system expenditures, (ii) the amount

of taxes payable in such tax year, or (iii) sixty-two thousand five hundred dollars; or

(b) if the solar electric generating system is placed in service on or after January first, two thousand eleven, and before January first, two thousand thirteen, for each year of the compliance period such tax abatement shall be the lesser of (i) five percent of eligible solar electric generating system expenditures, (ii) the amount of taxes payable in such tax year, or (iii) sixty-two thousand five hundred dollars.

2. Such tax abatement shall commence on July first following the approval of an application for tax abatement by a designated agency, and may not be carried over to any subsequent tax year.

3. With respect to any eligible building held in the condominium form of ownership that receives a tax abatement pursuant to this title, such

tax abatement benefits shall be apportioned among all of the condominium tax lots within such eligible building.

4. If, as a result of application to the tax commission or a court order or action by the department of finance, the billable assessed value for any fiscal year in which the tax abatement is taken is reduced after the assessment roll becomes final, the department of finance shall recalculate the abatement so that the abatement granted shall not exceed the annual tax liability as so reduced. The amount equal to the difference between the abatement originally granted and the abatement as so recalculated shall be deducted from any refund otherwise payable or remission otherwise due as a result of such reduction in billable assessed value.

§ 499-cccc. Application for tax abatement. 1. To obtain a tax abatement pursuant to this title, an applicant must file an application for tax abatement, which may be filed on or after January first, two thousand nine, and on or before March fifteenth, two thousand thirteen.

2. Such application shall be filed with a designated agency no later than the March fifteenth before the first tax year, beginning July first, for which the tax abatement is sought.

3. Such application shall contain the following:

(a) The name and address of the applicant and the location of the solar electric generating system.

(b) Proof that the applicant received all required certifications, permits and other approvals to construct the solar electric generating system.

(c) Certifications in a form prescribed by a designated agency, from an architect, engineer or other certified or licensed professional whom a designated agency designates by rule, that (i) a solar electric generating system has been placed in service in connection with an eligible building in accordance with this title, the rules promulgated hereunder, and local construction and fire codes, and (ii) if the solar electric generating system has been placed on the roof of a building or other structure, that a structural analysis has been performed establishing that such building or structure can sustain the load of such solar electric generating system. All certifications required by this title or the rules promulgated hereunder shall set forth the specific findings upon which the certification is based, and shall include information sufficient to identify the eligible building, the certifying engineer, architect or other professional, and such other information as may be prescribed by a designated agency.

(d) An agreement to permit a designated agency or its designee to inspect the solar electric generating system and any related structures and equipment upon reasonable notice.

(e) Any other information or certifications required by a designated agency pursuant to this title and the rules promulgated hereunder.

4. An application for tax abatement shall be in any format prescribed by a designated agency, including electronic form.

5. An application for tax abatement shall be approved by a designated agency upon determining that the applicant has submitted proof acceptable to such agency that the requirements for obtaining a tax abatement pursuant to this title and the rules promulgated hereunder have been met. The burden of proof shall be on the applicant to show by clear and convincing evidence that the requirements for granting a tax abatement have been satisfied.

6. Upon notification from a designated agency that an application for tax abatement has been approved, the department of finance shall apply

the tax abatement, provided there are no outstanding real estate taxes, water and sewer charges, payments in lieu of taxes or other municipal charges with respect to the eligible building.

§ 499-dddd. Continuing requirements. The tax abatement shall be conditioned upon:

1. continuing compliance during the compliance period with all applicable provisions of law, including without limitation the local construction and fire codes, maintaining the solar electric generating system in such a manner that it continuously constitutes a solar electric generating system within the meaning of this title and the rules promulgated hereunder, and permitting a designated agency or its designee to inspect the solar electric generating system and any related structures and equipment upon reasonable notice; and

2. real estate taxes, water and sewer charges, payments in lieu of taxes or other municipal charges with respect to an eligible building not having been due and owing during the compliance period for a period of six months or more.

§ 499-eeee. Revocation of tax abatement. 1. The department of finance shall revoke, in whole or in part, any tax abatement granted pursuant to this title whenever a designated agency has determined and notified the department of finance that:

(a) an applicant has failed to comply with a requirement of this title or any rule promulgated hereunder at any time during the compliance period, including without limitation any of the continuing requirements set forth in subdivision one of section four hundred ninety-nine-dddd of this title;

(b) an eligible building has not been in compliance at any time during the compliance period with a requirement of this title or any rule promulgated hereunder;

(c) the solar electric generating system for which a tax abatement was granted has at any time during the compliance period failed to meet any requirement for a solar electric generating system pursuant to this title or any rule promulgated hereunder;

(d) the solar electric generating system has become a fire or safety hazard at any time during the compliance period; or

(e) an application, certification, report or other document submitted by the applicant contains a false or misleading statement as to a material fact or omits to state any material fact necessary in order to make the statement therein not false or misleading.

2. The department of finance may revoke, in whole or in part, any tax abatement granted pursuant to this title whenever it has determined that an applicant has failed to comply with the continuing requirement set forth in subdivision two of section four hundred ninety-nine-dddd of

this title.

3. Where it has been determined by a designated agency, after notice and an opportunity to be heard, that any of the provisions of subdivision one of this section have not been complied with, such designated agency shall so notify the department of finance no later than the ninetyeth day after the last day of the compliance period.

4. An applicant shall pay, with interest, such part of any tax abatement received pursuant to this title that represents the period of non-compliance as determined by the designated agency or the department of finance, as the case may be. In addition, a designated agency may declare any applicant ineligible for future tax abatement pursuant to this title if any application, certification, report or other document submitted by the applicant contains a false or misleading statement as

to a material fact or omits to state any material fact necessary in order to make the statement therein not false or misleading.

§ 499-ffff. Enforcement and administration. 1. The department of finance shall have, in addition to any other functions, powers and duties that have been or may be conferred on it by law, the following functions, powers and duties to be exercised in accordance with this title:

- (a) to apply a tax abatement;
- (b) to revoke all or part of any such tax abatement;
- (c) to make and promulgate rules to carry out the purposes of this title; and
- (d) any other function, power or duty necessarily implied by this title.

2. A designated agency shall have, in addition to any other functions, powers and duties that have been or may be conferred on it by law, the following functions, powers and duties to be exercised in accordance with this title:

- (a) to receive, review, approve and deny applications for tax abatement;
- (b) to inspect solar electric generating systems and any related structures and equipment;
- (c) to establish permit or certification requirements to determine when the solar electric generating system has been placed in service, such as certification by an architect, engineer or other certified or licensed professional whom a designated agency designates by rule;
- (d) to establish guidance and procedures for determining or certifying eligible solar electric generating system expenditures;
- (e) to prescribe forms and make and promulgate rules to carry out the purposes of this title;
- (f) to make the determinations provided for in sections four hundred ninety-nine-cccc and four hundred ninety-nine-eeee of this title and to notify the department of finance of such determinations; and
- (g) any other function, power or duty necessarily implied by this title.

3. If a designated agency determines that an architect or engineer or other certified or licensed professional whom a designated agency designates by rule, in making any certification under this title or any rule promulgated hereunder, engaged in professional misconduct, then such department shall so inform the education department or other appropriate certifying or licensing authority.

4. A designated agency may provide for reasonable administrative charges or fees necessary to defray expenses of administering the tax abatement program established by this title.

5. A designated agency and the department of finance shall establish procedures that are necessary or appropriate for (a) the timely notification to the department of finance by a designated agency of an approval of an application for tax abatement or of any noncompliance pursuant to section four hundred ninety-nine-eeee of this title and (b) any other interagency coordination to facilitate the purposes of this title.

§ 499-gggg. Tax lien and interest. All taxes, with interest, required to be paid retroactively pursuant to this title shall constitute a tax lien as of the date it is determined such taxes and interest are owed. All interest shall be calculated from the date the taxes would have been due but for the tax abatement granted pursuant to this title at the applicable rate or rates of interest imposed generally for non-payment

of real property tax with respect to the eligible building for the period in question.

§ 3. Section 6509 of the education law is amended by adding a new subdivision 14 to read as follows:

(14) In the event that any agency designated pursuant to title four-C of article four of the real property tax law (relating to the solar electric generating system tax abatement) has reported to the department alleged misconduct by an architect or engineer in making a certification under such title, the board of regents, upon a hearing and a finding of willful misconduct, may revoke the license of such professional or prescribe such other penalty as it determines to be appropriate.

§ 4. This act shall take effect immediately.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO

Temporary President of the Senate

SHELDON SILVER

Speaker of the Assembly

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