

Benefits of New York Payment in Lieu of Tax Agreements for Jurisdictions with Transmission or Renewable Energy Projects

New York's Payment in Lieu of Tax (PILOT) agreements provide jurisdictions with significant financial, economic, and planning benefits while supporting renewable energy development. These agreements create long-term revenue streams for communities, offer predictable funding for local services, and promote economic development through renewable energy projects. They balance the need to incentivize clean energy development with ensuring jurisdictions continue to receive essential funding for public services.

Understanding PILOT Agreements in New York

PILOT agreements allow properties with renewable energy systems or transmission projects to be exempt from standard property taxes while making alternative payments to local jurisdictions. In New York, these agreements primarily operate under two frameworks:

Legal Foundation and Structure

New York State's Real Property Tax Law § 487 provides a 15-year real property tax exemption for properties with renewable energy systems, including solar electric installations^[1]. This exemption applies specifically to the increased value that a renewable energy system adds to a property, not to the entire property value^[2]. The law serves as a cornerstone of the state's efforts to meet clean energy goals by providing essential economic incentives^[1].

Local governments maintain significant control over these arrangements. While the tax exemption automatically applies in jurisdictions that take no action, local governments can opt out by adopting a local law, ordinance, or resolution^[1]. Alternatively, jurisdictions that maintain the exemption can negotiate PILOT agreements to preserve revenue while still encouraging renewable development^[1].

Types of PILOT Agreements

Different structures exist for various types of energy projects:

1. **Solar Energy Systems:** PILOT agreements for solar projects typically establish payments based on the system's capacity, often calculated as a fixed dollar amount per megawatt^[3]^[4]. For example, the Town of Catskill established a rate of \$8,750 per MW of capacity for solar energy systems greater than 50 kW^[3].
2. **Transmission Projects:** Larger infrastructure projects like transmission lines may have longer-term PILOT agreements with payments apportioned based on geographical footprint within each jurisdiction^[5].

Financial Benefits to Jurisdictions

PILOT agreements provide numerous financial advantages to local governments hosting renewable energy and transmission projects.

Predictable Revenue Streams

One of the primary benefits of PILOT agreements is the creation of consistent, long-term revenue for local jurisdictions^[3]. Unlike traditional property tax arrangements that may fluctuate with changes in assessment values, PILOT agreements typically establish predetermined payment schedules that provide budgetary predictability for local governments.

For example, the Champlain Hudson Power Express Project, an underground transmission line delivering renewable energy from Canada to New York City, established a 30-year PILOT agreement that will provide approximately \$9.5 million to the Bethlehem Central School District alone^[5]. This revenue is apportioned based on the number of miles of pipeline installed within each jurisdiction, ensuring fair distribution of benefits^[5].

Growth-Oriented Payment Structures

Many PILOT agreements include escalation clauses that increase payments over time, ensuring jurisdictions benefit from long-term economic growth^[3]. For instance, the Town of Catskill's solar energy PILOT agreements include a 2% annual escalation starting with the second annual payment^[3]. This structure allows jurisdictions to capture increasing value while providing initial incentives for development.

Revenue Preservation Mechanisms

While PILOT agreements offer tax exemptions, they are designed to preserve a significant portion of the potential tax revenue that would have been generated without compromising project viability^{[1] [4]}. Under New York law, PILOT amounts cannot exceed what the tax amount would have been without the exemption, creating a natural ceiling that balances developer needs with jurisdictional interests^[4].

Economic Development Benefits

Beyond direct revenue, PILOT agreements support broader economic development objectives.

Job Creation and Industry Growth

New York's renewable energy sector, particularly solar, has experienced remarkable growth, creating substantial economic benefits for local communities. From 2011 to December 2017, solar installations in New York grew by almost 1,000 percent, significantly outpacing the national growth rate of 452 percent^[1].

This explosive growth has translated into job creation across the state, with more than 770 solar companies employing over 9,000 people as of 2017^[1]. The solar industry added approximately 900 new jobs throughout the state in 2017 alone, representing an 11 percent increase over

2016^[1]. These jobs pay family-supporting wages, averaging \$21 per hour, allowing workers to contribute to their local economies^[1].

Supporting the Transition to Clean Energy

PILOT agreements directly support New York's ambitious clean energy goals as established in the Climate Leadership and Community Protection Act^[4]. By providing financial incentives for renewable energy development, jurisdictions help accelerate the transition from fossil fuels to clean energy sources^[1].

Importantly, without PILOT agreements, many community solar projects would be financially unviable, and homeowners' rooftop systems would become more expensive^[4]. By balancing tax treatment, jurisdictions ensure continued renewable energy development while maintaining revenue streams.

Jurisdictional Control and Flexibility

PILOT agreements provide local governments with significant control over how renewable energy projects are incentivized and taxed.

Opt-Out Provisions and Local Decision-Making

New York's approach to PILOT agreements respects local control, allowing jurisdictions to opt out of the tax exemption entirely by adopting a local law or resolution^[1]. This option gives communities the flexibility to determine whether tax incentives align with their overall development and fiscal objectives.

However, jurisdictions that do not opt out can still benefit financially by negotiating PILOT agreements tailored to local needs^[1]. This approach allows communities to customize arrangements that balance revenue needs with development incentives.

Procedural Protections

New York law includes significant procedural protections for jurisdictions with PILOT agreements. For example, entities making payments under PILOT agreements must provide written notification at least 45 days prior to filing for any change of assessment^[6]. This requirement ensures jurisdictions have adequate time to prepare for potential changes in their revenue streams.

Additionally, PILOT agreements can include provisions requiring jurisdictional consent for assignment of payment obligations, providing further protection for local governments^[3]. However, these agreements typically allow assignment to financing parties or affiliates with notice, facilitating project financing while maintaining jurisdictional oversight^[3].

Case Studies of Successful PILOT Agreements

Examining specific instances of PILOT agreements reveals their practical benefits.

Champlain Hudson Power Express

The Champlain Hudson Power Express Project demonstrates how PILOT agreements work for large-scale transmission projects. This underground transmission line, delivering renewable energy from Canada to New York City, spans multiple jurisdictions including four towns, two villages, and four school districts^[5].

The Albany County Industrial Development Agency (IDA) structured a 30-year PILOT agreement for this project, significantly longer than typical 10-11 year terms^[5]. Payments are apportioned based on geographical coverage, with the Bethlehem Central School District receiving benefits proportional to the 2.14 miles of pipeline within its boundaries^[5].

After reviewing the proposed PILOT terms, the school district found them reasonable, highlighting how these agreements can satisfy the needs of both developers and local jurisdictions^[5].

Solar Energy PILOTs

Solar energy projects often utilize standardized PILOT structures that provide predictable benefits to jurisdictions. For example, the Town of Catskill adopted a comprehensive framework for solar energy PILOT agreements that established clear payment requirements based on system capacity^[3].

For systems greater than 50 kW, the town established a payment rate of \$8,750 per MW of capacity, with payments apportioned among all taxing authorities in the jurisdiction according to applicable tax rates^[3]. This approach provides transparency and predictability for both developers and local governments.

Conclusion

Payment in Lieu of Tax agreements offer New York jurisdictions a valuable tool to balance renewable energy and transmission infrastructure development with fiscal responsibility. By providing tax incentives that make projects financially viable while preserving revenue streams for local services, these agreements support New York's clean energy transition while protecting jurisdictional interests.

The financial benefits include predictable long-term revenue, structured growth in payments, and preservation of essential funding for local services. Economic benefits extend beyond direct revenue to include job creation, industry growth, and support for clean energy objectives. Equally important, the system maintains local control through opt-out provisions, customized agreement terms, and procedural protections.

As New York continues its transition to renewable energy, PILOT agreements will remain a critical mechanism for ensuring that communities hosting these projects receive fair compensation while facilitating development that benefits the entire state.

1. <https://www.nyserda.ny.gov/-/media/Project/Nyserda/Files/Programs/NY-Sun/2023-NYS-Real-Property-Tax-Law-487.pdf>
2. <https://www.townofmanlius.org/DocumentCenter/View/1792>
3. <https://ecode360.com/43721746>
4. <http://www.ongov.net/planning/documents/SolarEnergyRegulationHandouts.pdf>
5. <https://www.bethlehemschools.org/district-reviews-terms-of-new-proposed-pilot/>
6. <https://law.justia.com/codes/new-york/rpt/article-5/title-4/561-a/>