

# STATE OF NEW YORK

2726

2025-2026 Regular Sessions

## IN SENATE

January 22, 2025

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the public service law and the public authorities law, in relation to requiring a public referendum to approve a final siting permit

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

1 Section 1. Subdivision 5 of section 142 of the public service law, as  
2 added by section 11 of part 0 of chapter 58 of the laws of 2024, is  
3 amended and a new subdivision 5-a is added to read as follows:

4 5. Following the expiration of the public comment period set forth in  
5 this section, and following the conclusion of a hearing undertaken  
6 pursuant to subdivision four of this section, ORES shall, in the case of  
7 a public comment period, issue a written summary of public comments and  
8 an assessment of comments received, and in the case of an adjudicatory  
9 hearing, the executive director or any person to whom the executive  
10 director has delegated such authority shall issue a final written hear-  
11 ing report. A final siting permit may only be issued if ORES makes a  
12 finding that the proposed project, together with any applicable uniform  
13 and site-specific standards and conditions, would comply with applicable  
14 laws and regulations, and if such final siting permit is approved pursu-  
15 ant to a referendum held in accordance with subdivision five-a of this  
16 section. In making a final siting permit determination with respect to a  
17 major renewable energy facility, ORES may elect not to apply, in whole  
18 or in part, any local law or ordinance that would otherwise be applica-  
19 ble if it makes a finding that, as applied to the proposed facility, it  
20 is unreasonably burdensome in view of the CLCPA targets, and the envi-  
21 ronmental benefits.

22 5-a. Notwithstanding any other provision of law to the contrary,  
23 before a determination for a final siting permit may be considered  
24 final, such permit shall be subject to approval through public referen-

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

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1 dum by the municipality in which the facility applying to the office is  
2 intended to be located. Such referendum shall be held upon the question  
3 of approving an application for a certificate establishing a major  
4 renewable energy facility in the municipality where the proposed facili-  
5 ty intends to be located, and approved by fifty-one per centum of  
6 voters. Such referendum shall be held within sixty days, but not earli-  
7 er than thirty days after the office's decision. For the purposes of  
8 this subdivision, "municipality" shall mean a city or town located in  
9 this state.

10 § 2. Subdivision 3 of section 1902 of the public authorities law, as  
11 amended by section 5 of part M of chapter 58 of the laws of 2024, is  
12 amended to read as follows:

13 3. Establish procedures and protocols for the purpose of establishment  
14 and transfer of build-ready sites which shall include, at a minimum: (a)  
15 written notice at the earliest practicable time to a municipality in  
16 which a potential build-ready site has been identified, provided howev-  
17 er, that the authority shall not deem any site for qualified energy  
18 storage systems suitable without first consulting any municipalities  
19 with jurisdiction over the potential build-ready site and obtaining  
20 their approval; [~~and~~] (b) public referendum held in the municipality  
21 where a potential build-ready site has been identified, held upon the  
22 question of approving a certificate establishing or transferring such  
23 build-ready site in such municipality, and approved by fifty-one per  
24 centum of voters; and (c) a preliminary screening process to determine,  
25 in consultation with the department of environmental conservation,  
26 whether the potential build-ready site is located in or near an environ-  
27 mental justice area and whether an environmental justice area would be  
28 adversely affected by development of a build-ready site;

29 § 3. This act shall take effect immediately; provided, however, that  
30 the amendments to section 142 of the public service law made by section  
31 one of this act shall not affect the repeal of such section and shall be  
32 deemed to be repealed therewith; and provided further, however, that the  
33 amendments to subdivision 3 of section 1902 of the public authorities  
34 law made by section two of this act shall not affect the repeal of such  
35 section and shall be deemed to be repealed therewith.