

STATE OF NEW YORK

7899

2025-2026 Regular Sessions

IN SENATE

May 13, 2025

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public authorities law and the public service law, in relation to giving preference to certain sites when developing renewable energy generating projects and to the definition of agrivoltaics

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

1 Section 1. Paragraph (b) of subdivision 27-a of section 1005 of public
2 authorities law, as added by section 1 of part QQ of chapter 56 of the
3 laws of 2023, is amended to read as follows:

4 (b) (i) The authority, its subsidiaries or any entity participating in
5 a public-private agreement established in paragraph (f) of this subdivi-
6 sion or acting on behalf of the authority, when developing renewable
7 energy generating projects authorized in this subdivision, or subdivi-
8 sion twenty-seven-b of this section, shall: [~~(i)~~] (A) not develop,
9 except when necessary for generator lead lines and other equipment need-
10 ed for interconnection of projects to the electric system, on property
11 that consists of land used in agricultural production, taking into
12 consideration whether the land is within an agricultural district or
13 contains mineral soil groups 1-4, as defined by the department of agri-
14 culture and markets, unless a renewable energy generation project is in
15 furtherance of an agrivoltaics project, "agrivoltaics" as defined in
16 section eighteen hundred eighty-five of this chapter; [~~(i)~~] (B) mini-
17 mize harm to wildlife, ecosystems, public health and public safety; and
18 [~~(i)~~] (C) not build on lands located upon any Native American territo-
19 ry or reservation located wholly or partly within the state, except
20 through voluntary sale or other agreement for such use with the consent
21 of the relevant nation and any required consent of the federal govern-
22 ment.

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

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1 (ii) The authority, its subsidiaries or any entity participating in a
 2 public-private agreement established in paragraph (f) of this subdivi-
 3 sion or acting on behalf of the authority, when developing renewable
 4 energy generating projects authorized in this subdivision, or subdivi-
 5 sion twenty-seven-b of this section, shall give preference to the
 6 following sites within its primary scoring criteria:

7 (A) Parking lots as defined in section one hundred twenty-nine-b of
 8 the vehicle and traffic law;

9 (B) Warehouse distribution centers as defined in section seven hundred
 10 eighty of the labor law;

11 (C) Correctional facilities as defined in article one of the
 12 corrections law;

13 (D) Retail establishments of greater than twenty-five thousand square
 14 feet;

15 (E) Roadside rest areas pursuant to section twenty of the highway law;
 16 and

17 (F) Brownfield sites as defined in section 27-1405 of the environ-
 18 mental conservation law.

19 § 2. Paragraph (b) of subdivision 1 of section 1902 of the public
 20 authorities law, as amended by section 2 of part M of chapter 58 of the
 21 laws of 2024, is amended to read as follows:

22 (b) (i) In making such assessment the authority shall give [~~priority~~
 23 ~~to~~] preference to the following sites within its primary scoring crite-
 24 ria: previously developed sites, existing or abandoned commercial sites,
 25 including without limitation brownfields, landfills, former commercial
 26 or industrial sites, dormant electric generating sites, parking lots as
 27 defined in section one hundred twenty-nine-b of the vehicle and traffic
 28 law, warehouse distribution centers as defined in section seven hundred
 29 eighty of the labor law, correctional facilities as defined in article
 30 one of the corrections law, retail establishments of greater than twen-
 31 ty-five thousand square feet, roadside rest areas pursuant to section
 32 twenty of the highway law, or otherwise underutilized sites; and

33 (ii) the authority may establish a renewable energy generation project
 34 in furtherance of an [~~agrivoltaic~~] agrivoltaics project, [~~where "agri-~~
 35 ~~voltaic project" shall mean the simultaneous use of areas of land for~~
 36 ~~both solar power generation and agriculture, specific to the practice of~~
 37 ~~such dual use solar energy project, where any of the previously devel-~~
 38 ~~oped sites listed in subparagraph (i) of this paragraph is reclaimed as~~
 39 ~~farmland~~] "agrivoltaics" as defined in section eighteen hundred eighty-
 40 five of this article.

41 § 3. Subdivision 4 of section 138 of the public service law, as added
 42 by section 11 of part O of chapter 58 of the laws of 2024, is amended to
 43 read as follows:

44 4. (a) The uniform standards and conditions established pursuant to
 45 this section shall be designed to avoid, minimize, or mitigate to the
 46 maximum extent practicable, potential significant adverse impacts to
 47 land used in agricultural production, with additional consideration for
 48 land within an agricultural district or land that contains mineral soil
 49 groups 1-4. The provisions of this subdivision shall not apply in the
 50 consideration of any permits for siting, design, construction, or opera-
 51 tion of a major renewable energy facility for which a completed applica-
 52 tion has been received by the office of renewable energy siting and
 53 electric transmissions prior to the adoption of amended uniform stand-
 54 ards and conditions consistent with this subdivision.

1 (b) The uniform standards and conditions established pursuant to this
2 section shall give preference to the following sites within primary
3 scoring criteria:

4 (i) Parking lots as defined in section one hundred twenty-nine-b of
5 the vehicle and traffic law;

6 (ii) Warehouse distribution centers as defined in section seven
7 hundred eighty of the labor law;

8 (iii) Correctional facilities as defined in article one of the
9 corrections law;

10 (iv) Retail establishments of greater than twenty-five thousand square
11 feet;

12 (v) Roadside rest areas pursuant to section twenty of the highway law;
13 and

14 (vi) Brownfield sites as defined in section 27-1405 of the environ-
15 mental conservation law.

16 § 4. Paragraph (c) of subdivision 1 of section 139 of the public
17 service law, as added by section 11 of part 0 of chapter 58 of the laws
18 of 2024, is amended to read as follows:

19 (c) (i) The uniform standards and conditions established pursuant to
20 this section shall be designed to avoid, minimize, or mitigate to the
21 maximum extent practicable, potential significant adverse impacts to
22 land used in agricultural production, with additional consideration for
23 land within an agricultural district or land that contain mineral soil
24 groups 1-4 as defined by the department of agriculture and markets.

25 (ii) The uniform standards and conditions established pursuant to this
26 section shall give preference to the following sites within primary
27 scoring criteria:

28 (1) Parking lots as defined in section one hundred twenty-nine-b of
29 the vehicle and traffic law;

30 (2) Warehouse distribution centers as defined in section seven hundred
31 eighty of the labor law;

32 (3) Correctional facilities as defined in article one of the
33 corrections law;

34 (4) Retail establishments of greater than twenty-five thousand square
35 feet;

36 (5) Roadside rest areas pursuant to section twenty of the highway law;
37 and

38 (6) Brownfield sites as defined in section 27-1405 of the environ-
39 mental conservation law.

40 § 5. The public authorities law is amended by adding a new section
41 1885 to read as follows:

42 § 1885. Agrivoltaics. 1. Legislative intent. The legislature finds
43 that as New York progresses to utilizing clean energy, the agricultural
44 industry has an opportunity to play a substantial role in environmental
45 conservation while also protecting and maintaining viable farmland
46 through the practice of agrivoltaics. Dual-use solar energy projects
47 have the potential to keep farmland as working agricultural landscapes
48 providing economic benefits to farmers and assisting the state in reach-
49 ing its climate and environmental impact goals.

50 2. Definitions. The following terms shall have the following meanings:

51 (a) "Agricultural products and activities" shall include: (i) crop
52 production; (ii) animal husbandry; and (iii) livestock grazing or cattle
53 grazing; provided, however, that agricultural products and activities
54 shall not include sheep grazing as the sole farming activity except
55 where the land utilized is currently utilized exclusively for such
56 purpose; provided further, however, that agricultural products and

1 activities shall not include pollinator habitats, apiaries, or both as
2 the sole farming activities.

3 (b) "Agrivoltaics" or "dual-use solar energy projects" shall mean the
4 simultaneous use of areas of land for both solar power generation and
5 agriculture through a ground-mounted photovoltaic solar energy system
6 constructed, installed, and operated to achieve integrated and simul-
7 taneous production of both solar energy and marketable agricultural
8 products and activities by an agricultural producer, provided that such
9 use:

10 (i) is constructed, installed, and operated to achieve integrated and
11 simultaneous production of both solar energy and marketable agricultural
12 products consistent with commercial agricultural production, as soon as
13 agronomically feasible and continuing until decommissioning, on land
14 beneath or between rows of solar panels;

15 (ii) has been intentionally planned and designed with agricultural
16 producers or experts;

17 (iii) has provisions for decommissioning to protect the land's agri-
18 cultural resources and utility; and

19 (iv) does not significantly displace farming activity.

20 § 6. This act shall take effect immediately; provided, however, that
21 the amendments to paragraph (b) of subdivision 1 of section 1902 of the
22 public authorities law made by section two of this act shall not affect
23 the repeal of such section and shall be deemed repealed therewith;
24 provided further, however, that the amendments to subdivision 4 of
25 section 138 of the public service law made by section three of this act
26 shall not affect the repeal of such section and shall be deemed repealed
27 therewith; provided further, however, that the amendments to paragraph
28 (c) of subdivision 1 of section 139 of the public service law made by
29 section four of this act shall not affect the repeal of such section and
30 shall be deemed repealed therewith.