

# STATE OF NEW YORK

8712

## IN SENATE

January 7, 2026

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 service law, in relation to the siting, design, construction and operation of major renewable energy facilities and to applications therefor; and providing for the repeal of certain provisions upon expiration thereof

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

1 Section 1. Section 137 of the public service law is amended by adding  
2 two new subdivisions 14 and 15 to read as follows:

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

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

14 (b) has been intentionally planned and designed with agricultural  
15 producers or experts;

16 (c) has provisions for decommissioning to protect the land's agricul-  
17 tural resources and utility; and

18 (d) does not significantly displace farming activity.

19 15. "Agricultural products and activities" shall include: (a) crop  
20 production; (b) animal husbandry; and (c) livestock grazing or cattle  
21 grazing; provided, however, that agricultural products and activities  
22 shall not include sheep grazing as the sole farming activity except  
23 where the land utilized is currently utilized exclusively for such  
24 purpose; and provided further, however, that agricultural products and

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

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

3 § 2. Subdivision 1 of section 138 of the public service law is amended  
4 by adding a new paragraph (d) to read as follows:

5 (d) In its review of applications for permits pursuant to this arti-  
6 cle, ORES shall give priority to previously developed sites and existing  
7 or abandoned commercial sites, including without limitation brownfields,  
8 landfills, former commercial or industrial sites, dormant electric  
9 generating sites, parking lots as defined in section one hundred twen-  
10 ty-nine-b of the vehicle and traffic law, warehouse distribution centers  
11 as defined in section seven hundred eighty of the labor law, correction-  
12 al facilities as defined in article one of the corrections law, retail  
13 establishments of greater than twenty-five thousand square feet, road-  
14 side rest areas pursuant to section twenty of the highway law, and  
15 otherwise underutilized sites.

16 § 3. Subdivision 4 of section 138 of the public service law, as added  
17 by section 11 of part 0 of chapter 58 of the laws of 2024, is amended to  
18 read as follows:

19 4. The uniform standards and conditions established pursuant to this  
20 section shall be designed to avoid, minimize, or mitigate to the maximum  
21 extent practicable, potential significant adverse impacts to land used  
22 in agricultural production, with additional consideration for land with-  
23 in an agricultural district or land that contains mineral soil groups  
24 [~~1-4~~] 1-7. In its review of an application for a permit pursuant to this  
25 article, ORES, in consultation with the department of agriculture and  
26 markets, shall ensure that a critical mass of farmland within the desig-  
27 nated region is not threatened and ensure that solar development shall  
28 not greatly hinder the amount of farmland within New York state and/or  
29 be a potential threat to the state's food security. Two years after the  
30 effective date of the chapter of the laws of two thousand twenty-six  
31 that amended this subdivision, the office, in conjunction with the  
32 public service commission and the department of agriculture and markets,  
33 shall reevaluate the efficacy of this subdivision and propose recommen-  
34 dations to the legislature, including but not limited to, the consider-  
35 ation of new pertinent technology and/or information. The provisions of  
36 this subdivision shall not apply in the consideration of any permits for  
37 siting, design, construction, or operation of a major renewable energy  
38 facility for which a completed application has been received by the  
39 office of renewable energy siting and electric transmissions prior to  
40 the adoption of amended uniform standards and conditions consistent with  
41 this subdivision.

42 § 4. The public service law is amended by adding a new section 149 to  
43 read as follows:

44 § 149. Rules and regulations. ORES shall establish and/or amend rules  
45 and regulations pertaining to the standards related to siting major  
46 renewable energy facilities to include the following:

47 1. the definition of prime farmland as defined in part 622.04 of the  
48 USDA handbook and the definitions of unique farmland, specific charac-  
49 teristics of unique farmland, additional farmland of statewide impor-  
50 tance, and additional farmland of local importance as such terms are  
51 defined in 7 CFR § 657.5.

52 2. preapplication procedures which require applicants to:

53 (a) submit a report delineating the impacts to prime agricultural land  
54 and prime soils, unique farmland and farmland of statewide and local  
55 importance, including mineral soil groups 1-7 as defined by the depart-  
56 ment of agriculture and markets;

1 (b) submit a cumulative impact study as to how the use of farmland for  
2 solar siting will impact the regional food economy and regional overall  
3 farmland protection plan;

4 (c) ensure that a critical mass of farmland within the designated  
5 region is not threatened. Two years after the effective date of this  
6 section, the office, in conjunction with the public service commission  
7 and the department of agriculture and markets, shall reevaluate the  
8 efficacy of this subdivision and propose recommendations to the legisla-  
9 ture, including but not limited to, the consideration of new pertinent  
10 technology and/or information; and

11 (d) submit an affidavit of financial solvency, including financial  
12 statements.

13 3. application procedures for major renewable energy facility siting  
14 permits. Such procedures shall require that each application for such  
15 permits include:

16 (a) the submission of a cumulative impact statement within the study  
17 area which includes the following criteria:

18 (i) categories based on solar array size, specifying the array capaci-  
19 ty and how much power or electricity is expected to be generated,  
20 on-site or associated electric load, and the land use footprint, includ-  
21 ing the acreage of land underlying the array;

22 (ii) customer type by identifying the end-use entity consuming the  
23 electricity or receiving the electric credits generated by the project  
24 and how such end-user is classified in utilities' established electric  
25 rate structures for different customer classes, including residential,  
26 commercial, industrial, agricultural or low-income;

27 (iii) categories based on solar array location, specifying whether  
28 solar arrays are roof-mounted, and designating preferred sites for solar  
29 development and ineligible sites; and

30 (iv) categories based on solar array design, including specifying  
31 whether such solar array utilizes dual use or agrivoltaics; and

32 (b) for major renewable energy facilities sited on prime soils or  
33 farmlands, the submission by the applicant of decommissioning plans for  
34 arrays on agricultural land and decommissioning bonds for commercial-  
35 scale projects. Such application procedures shall require the applicant  
36 to:

37 (i) include a decommissioning plan in the application;

38 (ii) show substantial evidence that all structures and materials will  
39 be removed upon decommissioning of such facility and ensure that soils  
40 will be capable of agricultural production; and

41 (iii) obtain a form of insurance, including but not limited to decom-  
42 missioning surety bonds, to secure all or a part of decommissioning  
43 costs required at the conclusion of the lease and submit proof of such  
44 insurance to ORES.

45 4. the submission of a farmland conservation fee of one percent of the  
46 price per acre of prime soil or prime farmland on which solar is devel-  
47 oped. Such farmland conservation fee shall be deposited in the agricul-  
48 tural and farmland viability protection fund established pursuant to  
49 section ninety-nine-pp of the state finance law; provided, however, that  
50 if the project is an agrivoltaics project, the applicant shall not be  
51 required to submit the farmland conservation fee.

52 5. farmland protection. Such rules and regulations shall require ORES  
53 to consider the regional impacts, based on the economic development  
54 council region pursuant to section two hundred thirty of the economic  
55 development law, on farmland preservation, local food supply chains, and  
56 statewide food security; provided, however, that the office shall ensure

1 that a critical mass of farmland within the designated region is not  
2 threatened. Two years after the effective date of this section, the  
3 office, in conjunction with the public service commission and the  
4 department of agriculture and markets, shall reevaluate the efficacy of  
5 this subdivision and propose recommendations to the legislature, includ-  
6 ing but not limited to, the consideration of new pertinent technology  
7 and/or information.

8 § 5. This act shall take effect immediately; provided, however, that  
9 the amendments to article 8 of the public service law made by sections  
10 one, two, three and four of this act shall not affect the repeal of such  
11 article and shall be deemed repealed therewith.