STATE OF NEW YORK

8712--A

IN SENATE

January 7, 2026

Introduced by Sens. HINCHEY, FAHY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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

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

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

(c) has provisions for decommissioning to protect the land's agricultural resources and utility; and

(d) does not significantly displace farming activity.

15. "Agricultural products and activities" shall include: (a) crop production; (b) animal husbandry; and (c) livestock grazing or cattle grazing; provided, however, that agricultural products and activities shall not include sheep grazing as the sole farming activity except where the land utilized is currently utilized exclusively for such 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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activities shall not include pollinator habitats, apiaries, or both as the sole farming activities.

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

(d) In its review of applications for permits pursuant to this article, ORES shall give priority to previously developed sites and existing or abandoned commercial sites, including without limitation brownfields, landfills, former commercial or industrial sites, dormant electric generating sites, parking lots as defined in section one hundred twenty-nine-b of the vehicle and traffic law, warehouse distribution centers as defined in section seven hundred eighty of the labor law, correctional facilities as defined in article one of the corrections law, retail establishments of greater than twenty-five thousand square feet, roadside rest areas pursuant to section twenty of the highway law, and otherwise underutilized sites.

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

4. The uniform standards and conditions established pursuant to this section shall be designed to avoid, minimize, or mitigate to the maximum extent practicable, potential significant adverse impacts to land used in agricultural production, with additional consideration for land within an agricultural district or land that contains mineral soil groups [~~1-4~~] 1-7. In its review of an application for a permit pursuant to this article, ORES, in consultation with the department of agriculture and markets, shall ensure that a critical mass of farmland within the designated region is not threatened and ensure that solar development shall not greatly hinder the amount of farmland within New York state and/or be a potential threat to the state's food security. The department of agriculture and markets shall determine the definition of a critical mass of farmland for a given region and determine when it is threatened. Two years after the effective date of the chapter of the laws of two thousand twenty-six that amended this subdivision, the office, in conjunction with the public service commission and the department of agriculture and markets, shall reevaluate the efficacy of this subdivision and propose recommendations to the legislature, including but not limited to, the consideration of new pertinent technology and/or information. The provisions of this subdivision shall not apply in the consideration of any permits for siting, design, construction, or operation of a major renewable energy facility for which a completed application has been received by the office of renewable energy siting and electric transmissions prior to the adoption of amended uniform standards and conditions consistent with this subdivision.

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

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

1. the definition of prime farmland as defined in part 622.04 of the USDA handbook and the definitions of unique farmland, specific characteristics of unique farmland, additional farmland of statewide importance, and additional farmland of local importance as such terms are defined in 7 CFR § 657.5.

2. preapplication procedures which require applicants to:

(a) submit a report delineating the impacts to prime agricultural land and prime soils, unique farmland and farmland of statewide and local

importance, including mineral soil groups 1-7 as defined by the department of agriculture and markets;

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

(c) ensure that a critical mass of farmland within the designated region is not threatened, as determined by the department of agriculture and markets. Two years after the effective date of this section, the office, in conjunction with the public service commission and the department of agriculture and markets, shall reevaluate the efficacy of this subdivision and propose recommendations to the legislature, including but not limited to, the consideration of new pertinent technology and/or information; and

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

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

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

(i) categories based on solar array size, specifying the array capacity and how much power or electricity is expected to be generated, on-site or associated electric load, and the land use footprint, including the acreage of land underlying the array;

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

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

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

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

(i) include a decommissioning plan in the application;

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

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

4. the submission of a farmland conservation fee of one percent of the price per acre of prime soil or prime farmland on which solar is developed. Such farmland conservation fee shall be deposited in the agricultural and farmland viability protection fund established pursuant to section ninety-nine-pp of the state finance law, as added by chapter 652 of the laws of 2022; provided, however, that if the project is an agrivoltaics project, the applicant shall not be required to submit the farmland conservation fee.

5. farmland protection. Such rules and regulations shall require ORES to consider the regional impacts, based on the economic development council region pursuant to section two hundred thirty of the economic development law, on farmland preservation, local food supply chains, and statewide food security; provided, however, that the office shall ensure that a critical mass of farmland within the designated region is not threatened, as determined by the department of agriculture and markets. Two years after the effective date of this section, the office, in conjunction with the public service commission and the department of agriculture and markets, shall reevaluate the efficacy of this subdivision and propose recommendations to the legislature, including but not limited to, the consideration of new pertinent technology and/or information.

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