

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:

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.

LBD14269-03-6

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 twenty-
10 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. The department of
30 agriculture and markets shall determine the definition of a critical
31 mass of farmland for a given region and determine when it is threatened.
32 Two years after the effective date of the chapter of the laws of two
33 thousand twenty-six that amended this subdivision, the office, in
34 conjunction with the public service commission and the department of
35 agriculture and markets, shall reevaluate the efficacy of this subdivi-
36 sion and propose recommendations to the legislature, including but not
37 limited to, the consideration of new pertinent technology and/or infor-
38 mation. The provisions of this subdivision shall not apply in the
39 consideration of any permits for siting, design, construction, or opera-
40 tion of a major renewable energy facility for which a completed applica-
41 tion has been received by the office of renewable energy siting and
42 electric transmissions prior to the adoption of amended uniform stand-
43 ards and conditions consistent with this subdivision.

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

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

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

54 2. preapplication procedures which require applicants to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 4. the submission of a farmland conservation fee of one percent of the
49 price per acre of prime soil or prime farmland on which solar is devel-
50 oped. Such farmland conservation fee shall be deposited in the agricul-
51 tural and farmland viability protection fund established pursuant to
52 section ninety-nine-pp of the state finance law, as added by chapter 652
53 of the laws of 2022; provided, however, that if the project is an agri-
54 voltaics project, the applicant shall not be required to submit the
55 farmland conservation fee.

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

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