STATE OF NEW YORK

9328--A

IN ASSEMBLY

February 23, 2022

Introduced by M. of A. LUPARDO -- read once and referred to the Committee on Energy -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law and the state finance law, in relation to requiring funds received pursuant to mitigation payment requirements in furtherance of the major renewable energy development program to be used for farmland protection programs

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

Section 1. Paragraph (e) of subdivision 3 of section 94-c of the executive law, as added by section 4 of part JJJ of chapter 58 of the laws of 2020, is amended to read as follows:

(e) **(i)** To the extent that environmental impacts are not completely addressed by uniform standards and conditions and site-specific permit conditions proposed by the office, and the office determines that mitigation of such impacts may be achieved by off-site mitigation, the office may require payment of a fee by the applicant to achieve such off-site mitigation. If the office determines, in consultation with the department of environmental conservation, that mitigation of impacts to endangered or threatened species that achieves a net conservation benefit can be achieved by off-site mitigation, the amount to be paid for such off-site mitigation shall be set forth in the final siting permit. The office may require payment of funds sufficient to implement such off-site mitigation into the endangered and threatened species mitigation **bank** fund established pursuant to section ninety-nine-hh of the state finance law.

(ii) To the extent a permit to develop a major renewable energy facility involves siting such a facility on viable agricultural land as defined in section three hundred one of the agriculture and markets law, the office, in consultation with the department of agriculture and markets, shall require the payment of a fee by the applicant to be used for farmland protection conservation easements and purchase of development rights as part of the state farmland protection program established pursuant to article twenty-five-AAA of the agriculture and markets law.

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

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Such funds will be deposited in the agricultural and farmland viability protection fund pursuant to section ninety-nine-pp of the state finance law.

§ 2. The state finance law is amended by adding a new section 99-pp to read as follows:

§ 99-pp. Agricultural and farmland viability protection fund. 1. There is hereby established in the joint custody of the comptroller and the commissioner of taxation and finance a special fund to be known as the "agricultural and farmland viability protection fund".

2. Such fund shall consist of all revenues received pursuant to the provisions of paragraph (e) of section ninety-four-c of the executive law and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law.

3. All moneys deposited in the agricultural and farmland viability protection fund shall be available for agricultural and farmland protection activities pursuant to article twenty-five-AAA of the agriculture and markets law.

4. Monies shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the commissioner of agriculture and markets.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law and shall apply to all permit applications issued on and after such date; provided that the amendments to section 94-c of the executive law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.