STATE OF NEW YORK

2299--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 25, 2023

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 agriculture and markets law, in relation to establishing the agrivoltaics viability pilot program

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

Section 1. The opening paragraph of section 327 of the agriculture and markets law is designated subdivision 1 and a new subdivision 2 is added to read as follows:

2. The legislature further finds that as New York progresses to utilizing clean energy the agricultural industry has an opportunity to play a substantial role in environmental conservation while also protecting and maintaining viable farmland through the practice of agrivoltaics. Dual-use solar energy projects have the potential to keep farmland as working agricultural landscapes providing economic benefits to farmers and assisting the state in reaching its climate and environmental impact goals. The legislature hereby declares that to progress the initiatives of the farmland viability program, the department shall create an agrivoltaics viability pilot program as part of the farmland viability program.

§ 2. Section 328 of the agriculture and markets law is amended by adding two new subdivisions 5 and 6 to read as follows:

5. "Agrivoltaics" shall mean the simultaneous use of areas of land for both solar power generation and agriculture. For the purposes of this article, agrivoltaics shall be narrowed to the practices of a dual-use solar energy project.

6. "Dual-use solar energy project" means a solar installation that integrates solar arrays and farming activity on the same ground. To be considered dual-use, a solar installation cannot displace farming activity; farming activity must be maintained throughout the life of the

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

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solar facility in a manner that is consistent with commercial agricultural production as appropriate to the capacity of the land when farmed sustainably. The term "dual-use" refers to a solar installation that: (i) retains or enhances the land's agricultural productivity, both short term and long term; (ii) is built, maintained, and has provisions for decommissioning to protect the land's agricultural resources and utility; and (iii) supports the viability of a farming operation.

§ 3. Section 329 of the agriculture and markets law is amended by adding a new subdivision 3 to read as follows:

3. The commissioner shall initiate and maintain a state agrivoltaics viability pilot program within the department under the farm viability program to progress the goals of the program to ensure farm profitability and sound environmental management, pursuant to this section. The agrivoltaics viability pilot program shall provide grants to identify the best practices and strategies for dual-use solar energy projects that protect soil health during construction and decommissioning of solar arrays, utilize sustainable agricultural production practices, monitor any benefits solar energy may have on farms and to the state, track economic viability, study the commercialization of dual-use solar energy projects, and encourage equitable engagement of stakeholders.

a. The commissioner, in consultation with the office of renewable energy siting and the department of environmental conservation, shall adopt policies and procedures necessary for the implementation of the pilot program, including but not limited to: (i) the process by which a landowner may apply for the approval needed to participate in the pilot program; and (ii) provisions prescribing standards concerning impervious cover which may be permitted in connection with dual-use solar energy projects authorized to be constructed, installed, and operated on farmland pursuant to this section.

b. The office of renewable energy siting shall provide technical assistance and support to the commissioner concerning the promulgation of the pilot program and any grantees on implementing a dual-use solar energy project.

c. One year after grants are distributed for the purposes of the pilot program, the commissioner shall report to the governor, the temporary president of the senate and the speaker of the assembly on the agrivoltaics viability pilot program and its results.

§ 4. Section 330 of the agriculture and markets law is amended by adding a new subdivision 3 to read as follows:

3. Grants for the agrivoltaics viability pilot program shall be distributed pursuant to this section as a pilot program under the farm viability program. The agrivoltaics viability pilot program shall be designed to enhance the purpose of the farm viability program.

§ 5. This act shall take effect six months after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.