STATE OF NEW YORK

592--B

2023-2024 Regular Sessions

IN SENATE

January 5, 2023

Introduced by Sens. ORTT, OBERACKER -- 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to the encroachment or adverse effect upon military operations by tall energy structures, major renewable energy facilities or wind energy facilities

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

Section 1. The executive law is amended by adding a new section 719 to read as follows:

§ 719. Encroachment or adverse effect upon military operations by tall energy structures, major renewable energy facilities or wind energy facilities. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Tall energy structure" shall mean any structure that has as its primary use the generation or transmission of energy and which is two hundred or more feet in height.

(b) "Major renewable energy facility" shall mean any facility as defined under paragraph (h) of subdivision two of section ninety-four-c of this chapter.

2. The construction or operation of any tall energy structure, major renewable energy facility or wind energy facility in this state shall not encroach upon or otherwise have an adverse impact on military operations and readiness of any military installation or branch of the military.

3. A local government or the New York state board on electric generation siting and the environment (hereinafter, "the board"), prior to approving an application for the construction of a tall energy structure

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

LBD00601-08-3

shall require the applicant to provide the local government or the board with the following:

(a) a written determination of no hazard to air navigation issued by the Federal Aviation Administration pursuant to 14 C.F.R. Part 77, Subpart D; and

(b) in coordination with any affected military installation and the state division of homeland security and emergency services, a written determination resolving any adverse impact to military operations identified during the aeronautics study conducted pursuant to 14 C.F.R. Part 77, Subpart D.

A proposed tall energy structure shall be subject to the provisions of subdivision two of this section even if the local government or the board either does not require an application prior to the construction of a tall energy structure or does not require the application outlined in this subdivision.

4. The board, prior to approving an application for the construction of a major renewable energy facility shall require the applicant to file an application with the Federal Aviation Administration under 49 U.S.C. § 44718, and provide the board with the following:

(a) a written determination of no hazard to air navigation issued by the Federal Aviation Administration pursuant to 14 C.F.R. Part 77, Subpart D; and

(b) in coordination with any affected military installation and the state division of homeland security and emergency services, a written determination resolving any adverse impact to military operations identified during the aeronautics study conducted pursuant to 14 C.F.R. Part 77, Subpart D.

The major renewable energy facility shall be subject to the provisions of subdivision two of this section even if the board either does not require an application prior to the construction of the major renewable energy facility or does not require the application outlined in this subdivision.

5. Prior to any planned construction of a wind energy facility, an applicant shall provide the local government or the board considering an application with a map showing the specific location and tower hub height, with rotor diameter, for each proposed wind turbine.

6. A local government or the board may not approve an application for the construction of a wind energy facility unless the applicant provides the following documentation:

(a) a completed department of defense siting clearinghouse formal review; and

(b) a written determination of no hazard to air navigation issued by the Federal Aviation Administration pursuant to 14 C.F.R. Part 77, Subpart D.

7. Notwithstanding subdivision six of this section, a local government or the board may approve an application for the construction of a wind energy facility conditioned upon the applicant providing the documentation set out in subdivision six of this section.

8. If any dispute arises between a local government or the board and an applicant or military installation relating to the approval of any tall energy structure, major renewable energy facility or wind energy facility, the local government or the board shall provide notice to the governor or the governor's designee to facilitate resolution of the dispute.

9. A local government or the board shall not require any other formal written approval from a military installation to approve an application

for the construction of a tall energy structure, a major renewable energy facility or a wind energy facility.

§ 2. This act shall take effect immediately.