STATE OF NEW YORK

11687

IN ASSEMBLY

September 2, 2026

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Simpson) -- read once and referred to the Committee on Energy

AN ACT to amend the environmental conservation law and the public service law, in relation to requiring the office of renewable energy siting and electric transmission function in line with the state's commitment to environmental conservation

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

Section 1. Legislative findings and intent. In an effort to fulfill New York's overly ambitious environmental goals, the Office of Renewable Energy Siting was created with the intention of stream-lining the permitting of major renewable energy projects. However, it has become increasingly apparent that ORES does not function in line with the state's purported commitment to environmental conservation. The enactment of the RAPID Act in 2024 gave ORES the unchecked authority to override local control over proposed energy projects, even where such projects would adversely affect the residents, wildlife, and overall ecological value of the sited land. It is imperative that ORES is held accountable for its actions, and that the rights of small towns and municipal governments are restored.

§ 2. Section 49-0113 of the environmental conservation law is amended by adding a new subdivision 6 to read as follows:

6. The office of renewable energy siting and electric transmission, established pursuant to section three-c of the public service law, shall adhere to the goals, strategies, and methodologies stated and developed under this section.

§ 3. Section 138 of the public service law is amended by adding two new subdivisions 6 and 7 to read as follows:

6. (a) For the purposes of this subdivision, the following terms shall have the following meanings:

(i) "Thirty-by-thirty" means the thirty by thirty conservation goal established under section 49-0113 of the environmental conservation law.

(ii) "Conservation easement" means a voluntary, legal agreement that protects the natural resources of a parcel of land by restricting future

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

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land use and/or development on the property in perpetuity, that is held between a private landowner and a government agency or land trust, with the landowner maintaining ownership.

(iii) "Open space conservation plan" means the comprehensive statewide plan developed by the department of environmental conservation and the office of parks, recreation, and historic preservation that describes current open space conservation goals, actions, tools, resources and programs administered by state and federal agencies and conservation nonprofits.

(iv) "Certified agricultural district" means a district established pursuant to article twenty-five-AA of the agriculture and markets law.

(v) "Mineral soil groups one through four" means agricultural lands classified by the commissioner of agriculture and markets pursuant to section three hundred four-a of the agriculture and markets law as mineral soil groups 1A, 1B, 2A, 2B, 3A, 3B, 4A, and 4B under the state agricultural land classification system.

(vi) "Regulated wetlands" means freshwater wetlands as defined in subdivision one of section 24-0107 of the environmental conservation law.

(vii) "Grassland bird conservation center" means a geographic area designated by the department of environmental conservation as a priority area for the conservation and management of grassland bird habitat.

(viii) "Forest preserve" means those lands owned or hereafter acquired by the state within the counties of Clinton, except the towns of Altona and Dannemora, Delaware, Essex, Franklin, Fulton, Hamilton, Herkimer, Lewis, Oneida, Saratoga, Saint Lawrence, Warren, Washington, Greene, Ulster, and Sullivan, as identified in section 9-0101 of the environmental conservation law, which lands are protected as forever wild pursuant to section one of article fourteen of the constitution of the state of New York.

(ix) "State forests" means those lands owned by the state and administered by the department of environmental conservation outside the Adirondack park and the Catskill park, including reforestation areas acquired pursuant to title five of article nine of the environmental conservation law, multiple-use areas, unique areas, and state nature and historic preserves, which lands are managed for the sustainable use of natural resources, watershed protection, and public recreation.

(x) "Wildlife management areas" means those lands owned by the state and administered by the department of environmental conservation pursuant to article eleven of the environmental conservation law for the protection, conservation, and promotion of the state's fish and wildlife resources, which lands are designated and managed to provide habitat for fish and wildlife species, including game species, and are open to the public for compatible recreational uses including hunting, fishing, trapping, and wildlife observation.

(xi) "Ecological value" means the relative conservation significance of a parcel of land, as determined by the department of environmental conservation pursuant to a standardized scoring methodology established by regulation, based on the following criteria: (A) biodiversity and habitat quality, including the presence of species listed as threatened or endangered under article eleven of the environmental conservation law or the federal Endangered Species Act of 1973; (B) hydrological function, including wetland coverage, floodplain connectivity, and contribution to watershed integrity; (C) soil classification under the state agricultural land classification system; (D) contiguity with or proximity to existing protected lands, including tier one lands designated

under this subdivision; (E) carbon sequestration capacity; (F) forest interior acreage and canopy cover; and (G) landscape connectivity value as identified in the open space conservation plan.

(b) The lands of the state shall be divided into three tiers:

(i) Tier one-prohibited lands, which shall consist of forest preserve, state forests, and wildlife management areas.

(ii) Tier two-conditionally allowable lands requiring compensatory transfer, which shall consist of certified agricultural districts, land within mineral soil groups one through four, regulated wetlands, grassland bird conservation areas, land designated in the open space plan, and land within a defined proximity to tier one lands which shall be defined by the department of environmental conservation.

(iii) Tier three-all other lands, which shall consist of all lands not already in tier one or tier two.

(c) ORES shall not permit the siting, construction or operation of a major renewable energy facility which requires the use of, encroachment upon, or permanent alteration of any tier one land, regardless of proposed mitigation measures.

(d) ORES shall only permit the siting, construction or operation of a major renewable energy facility which requires the use of, encroachment upon, or permanent alteration of any tier two land where:

(i) the permittee transfers to the state, or to a land trust operating under article forty-nine of the environmental conservation law, a conservation easement meeting the requirements of such article or fee simple interest in land of equivalent or greater ecological value within the same department of environmental conservation administrative region. Such land will be identified by ORES in consultation with the department of environmental conservation and the host municipality, using criteria including, but not limited to: (A) habitat type; (B) soil classification; (C) watershed significance; (D) proximity to existing protected lands; and (E) acreage of land. Such transfer shall occur prior to the issuing of any siting permits. The ratio of land required to be transferred shall be three acres of land transferred for every one acre of tier two land which will be used, encroachment upon, or permanently altered by the siting for the operational life of the major renewable energy facility. For the purposes of calculating such acreage, only those acres directly occupied by solar infrastructure, including panels, inverters, access roads, and associated equipment, shall count toward the acreage total; provided, however, that any tier two land permanently removed from agricultural production or ecological function, regardless of direct infrastructure coverage, shall also be included in the acreage calculation. The total acreage of land to be transferred shall be determined prior to the issuance of a final siting permit and shall be incorporated as a binding condition thereof.

(ii) the site design, construction and operation adheres to any uniform standards and conditions established by ORES in consultation with the department of environmental conservation in consideration of the open space plan and thirty-by-thirty priorities.

(iii) if ORES identifies any parcels will be used, encroached upon, or permanently altered by the siting, construction or operation of the major renewable energy facility as priority conservation targets under the open space plan or thirty-by-thirty, such parcels shall require site-specific conditions addressing their conservation value prior to permit issuance.

(e) Any parcel of land that is transferred under subparagraph (i) of paragraph (d) of this subdivision shall be subject to an uncapped

payment in lieu of taxes, paid annually by the state to the host municipality, calculated at no less than the full assessed value of the transferred parcel at the time of transfer and adjusted annually thereafter to reflect changes in assessed value. Such payments shall continue for the operational life of the siting permit and any renewal thereof.

7. A final siting permit shall only be issued if ORES makes a finding that the proposed project, together with any applicable uniform and site-specific standards and conditions, would comply with applicable laws and regulations, including all local laws and ordinances of the host municipality. Where a host municipality has enacted a local law or ordinance that prohibits or restricts the siting of a major renewable energy facility within its jurisdiction, ORES shall have no authority to waive, supersede, or preempt local law or ordinance. A written determination by the governing board of the host municipality that a proposed facility does not comply with applicable local law shall be binding on ORES, and shall constitute grounds for denial of the siting permit.

§ 4. This act shall take effect immediately and shall apply to all projects under the jurisdiction of the office of renewable energy siting which have not been approved on or before such effective date; provided, however, that the amendments to section 49-0113 of the environmental conservation law made by section two of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and provided further, however, that the amendments to section 138 of the public service law made by section three of this act shall not affect the repeal of such section and shall be deemed repealed therewith.