

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:

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

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

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

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

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

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

25 (ii) "Conservation easement" means a voluntary, legal agreement that
26 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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1 land use and/or development on the property in perpetuity, that is held
2 between a private landowner and a government agency or land trust, with
3 the landowner maintaining ownership.

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

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

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

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

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

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

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

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

46 (xi) "Ecological value" means the relative conservation significance
47 of a parcel of land, as determined by the department of environmental
48 conservation pursuant to a standardized scoring methodology established
49 by regulation, based on the following criteria: (A) biodiversity and
50 habitat quality, including the presence of species listed as threatened
51 or endangered under article eleven of the environmental conservation law
52 or the federal Endangered Species Act of 1973; (B) hydrological func-
53 tion, including wetland coverage, floodplain connectivity, and contrib-
54 ution to watershed integrity; (C) soil classification under the state
55 agricultural land classification system; (D) contiguity with or proximi-
56 ty to existing protected lands, including tier one lands designated

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

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

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

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

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

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

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

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

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

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

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

1 payment in lieu of taxes, paid annually by the state to the host municipi-
2 palilty, calculated at no less than the full assessed value of the trans-
3 ferred parcel at the time of transfer and adjusted annually thereafter
4 to reflect changes in assessed value. Such payments shall continue for
5 the operational life of the siting permit and any renewal thereof.

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

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