

STATE OF NEW YORK

6955

2025-2026 Regular Sessions

IN ASSEMBLY

March 18, 2025

Introduced by M. of A. WILLIAMS -- read once and referred to the Committee on Energy

AN ACT to amend the public service law, the New York city fire code, the town law and the village law, in relation to setback and financial requirements relating to the siting of battery energy storage systems

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

1 Section 1. The public service law is amended by adding a new section
2 74-c to read as follows:

3 § 74-c. Municipal assistance. 1. The department, in coordination with
4 the office of renewable energy siting and electric transmission, the New
5 York state energy research and development authority, and the department
6 of state, shall prepare and make available to municipalities, informa-
7 tion relating to the siting of battery energy storage systems with a
8 capacity over five megawatts, including, but not limited to, model local
9 laws, regulations, or ordinances related to:

10 (a) setback requirements, which shall be at least two hundred fifty
11 feet from a dwelling house, farm building, or school building that is
12 actually occupied or used. Such setback requirements may vary based on
13 the capacity of the battery energy storage system and may set a further
14 distance appropriate to ensure the safety of any occupants against fire
15 or other potential reasonable dangers.

16 (b) financial surety requirements that may consider: any combination
17 of insurance, guarantee, surety bond, letter of credit, or qualifica-
18 tions as a self insurer; the appropriate amount of financial surety; and
19 the inclusion of provisions that specify policy or other contractual
20 terms, conditions, or defenses necessary or unacceptable in establishing
21 evidence of financial surety.

22 2. For purposes of this section, "battery energy storage system" shall
23 have the same meaning as "qualified energy storage system" as defined in
24 subdivision one of section seventy-four of this chapter, except that it

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

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1 shall not include energy storage systems that use mechanical or thermal
2 processes.

3 § 2. Section 104.1.2 of the New York city fire code, as amended by
4 local law number 47 of the city of New York for the year 2022, is
5 amended to read as follows:

6 104.1.2 Review of design and installation. The commissioner may
7 authorize the Department of Buildings to review construction documents
8 filed with that agency for compliance with the design and installation
9 requirements of this code for stationary energy storage systems, fire
10 apparatus access roads, rooftop access and obstructions, and such other
11 design and installation requirements as the commissioner, in consulta-
12 tion with the Commissioner of Buildings, may determine facilitates the
13 design and construction process. The commissioner shall require the
14 establishment of minimum setback requirements for commercial energy
15 storage systems, with a capacity of five megawatts or greater, of no
16 less than two hundred fifty feet from residential property. The manner
17 and scope of such review and the standards to be applied thereto shall
18 be established by the commissioner in consultation with the Commissioner
19 of Buildings, consistent with FC104.2.1.

20 § 3. Section 104.2 of the New York city fire code, as amended by local
21 law number 47 of the city of New York for the year 2022, is amended to
22 read as follows:

23 104.2 Applications and approvals. The department shall receive, review
24 and, if satisfactory, approve, applications for permits, certificates
25 and other approvals, and design and installation documents required to
26 be submitted to the department by this code or the construction codes,
27 issue permits, inspect buildings, structures, facilities, premises,
28 marine vessels, watercraft and motor vehicles for the purpose of enforc-
29 ing compliance with the requirements of this code, and otherwise admin-
30 ister, implement and enforce the provisions of this code. When review-
31 ing applications for commercial energy storage systems, with a capacity
32 of five megawatts or greater, the department shall ensure that prior to
33 the approval of any application for any applicable permit, request for
34 tax exemption, or commencement of any other regulatory approval process,
35 at least one public hearing has been held in the community district in
36 which such storage is proposed to be sited. The department shall also
37 develop requirements for applicants to provide evidence of financial
38 surety.

39 § 4. Section 263 of the town law, as amended by chapter 459 of the
40 laws of 2021, is amended to read as follows:

41 § 263. Purposes in view. 1. Such regulations shall be made in accord-
42 ance with a comprehensive plan and designed to lessen congestion in the
43 streets; to secure safety from fire, flood, panic and other dangers; to
44 promote health and general welfare; to provide adequate light and air;
45 to prevent the overcrowding of land; to avoid undue concentration of
46 population; to make provision for, so far as conditions may permit, the
47 accommodation of solar thermal, photovoltaics, wind, hydroelectric,
48 geothermal electric, geothermal ground source heat, tidal energy, wave
49 energy, ocean thermal, farm waste electric generating equipment as
50 defined in paragraph (e) of subdivision one of section sixty-six-j of
51 the public service law, [~~and~~] fuel cells, and battery energy storage
52 systems as defined in section seventy-four-c of the public service law;
53 to facilitate the practice of forestry; to facilitate the adequate
54 provision of transportation, water, sewerage, schools, parks and other
55 public requirements. Such regulations shall be made with reasonable
56 consideration, among other things, as to the character of the district

1 and its peculiar suitability for particular uses, and with a view to
2 conserving the value of buildings and encouraging the most appropriate
3 use of land throughout such municipality.

4 2. Regulations related to battery energy storage systems as defined in
5 section seventy-four-c of the public service law may include, but shall
6 not be limited to, minimum setback requirements from residential proper-
7 ty and financial security pursuant to section seventy-four-c of the
8 public service law.

9 § 5. Section 7-704 of the village law, as amended by chapter 459 of
10 the laws of 2021, is amended to read as follows:

11 § 7-704 Purposes in view. 1. Such regulations shall be made in accord-
12 ance with a comprehensive plan and designed to lessen congestion in the
13 streets; to secure safety from fire, panic, floods and other dangers; to
14 promote health and the general welfare; to provide adequate light and
15 air; to prevent the overcrowding of land; to avoid undue concentration
16 of population; to make provision for, so far as conditions may permit,
17 the accommodation of solar thermal, photovoltaics, wind, hydroelectric,
18 geothermal electric, geothermal ground source heat, tidal energy, wave
19 energy, ocean thermal, farm waste electric generating equipment as
20 defined in paragraph (e) of subdivision one of section sixty-six-j of
21 the public service law [~~and~~], fuel cells, and battery energy storage
22 systems as defined in section seventy-four-c of the public service law;
23 to facilitate the adequate provision of transportation, water, sewerage,
24 schools, parks and other public requirements. Such regulations shall be
25 made with reasonable consideration, among other things, as to the char-
26 acter of the district and its peculiar suitability for particular uses,
27 and with a view to conserving the value of buildings and encouraging the
28 most appropriate use of land throughout such municipality.

29 2. Regulations related to battery energy storage systems as defined in
30 section seventy-four-c of the public service law may include, but not to
31 be limited to, minimum setback requirements from residential property
32 and financial security pursuant to section seventy-four-c of the public
33 service law.

34 § 6. Notwithstanding the amendments to section 263 of the town law
35 made by section three of this act and the amendments to section 7-704 of
36 the village law made by section four of this act, nothing in this act
37 shall be construed to require any town or village to amend applicable
38 local building code or zoning regulations.

39 § 7. This act shall take effect on the one hundred eightieth day after
40 it shall have become a law and shall only apply to comprehensive plans
41 established or amended on or after such effective date.