

STATE OF NEW YORK

8119--A

2025-2026 Regular Sessions

IN SENATE

May 15, 2025

Introduced by Sens. PARKER, KAVANAGH, MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, in relation to enacting the "community solar opportunity and local approval reform (Community SOLAR) act"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "community solar opportunity and local approval reform (Community
3 SOLAR) act".

4 § 2. The general municipal law is amended by adding a new section 79
5 to read as follows:

6 § 79. Community solar opportunity and local approval reform (Community
7 SOLAR) act. 1. As used in this section:

8 (a) "distributed generation energy facility" means any solar photovol-
9 taic system or energy storage system with a nameplate capacity of five
10 thousand kilowatts AC or less;

11 (b) "facility owner" means (i) a person or corporate entity with a
12 direct ownership interest in a distributed generation energy facility,
13 regardless of whether the person is involved in acquiring the necessary
14 rights, permits, and approvals or otherwise planning for the
15 construction and operation of the facility; and (ii) at the time the
16 facility is being developed, a person who is acting as a developer of
17 the facility by acquiring the necessary rights, permits, and approvals
18 or by planning for the construction and operation of the facility,
19 regardless of whether the person will own or operate the facility;

20 (c) "non-participating property" means real property that is not a
21 participating property;

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

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1 (d) "authority having jurisdiction" means any municipal corporation
2 with authorization to adopt zoning and permitting regulations governing
3 the placement, construction, modification and/or operation of a distrib-
4 uted generation energy facility within its borders. "Authority having
5 jurisdiction" shall also include any agency of said municipal corpo-
6 ration with authorization to issue land use approvals such as, inter
7 alia, site plan approvals, special use permits, use variances, area
8 variances, and subdivision authorizations;

9 (e) "non-participating residence" means a residence that is located on
10 non-participating property and that is existing and occupied on the date
11 that an application for a permit to develop the distributed generation
12 energy facility is filed with the authority having jurisdiction;

13 (f) "occupied community building" means any one or more of the follow-
14 ing existing buildings occupied on the date that the application for a
15 permit to develop the distributed generation energy facility is filed
16 with the authority having jurisdiction: a school, place of worship, day
17 care facility, public library, or community center;

18 (g) "participating property" means real property that is the subject
19 of a written agreement between a facility owner and the owner of the
20 real property that provides the facility owner an easement, option,
21 lease, or license to use the real property for the purpose of construct-
22 ing and/or operating a distributed generation energy facility, or
23 supporting facilities. "Participating property" also includes real prop-
24 erty that is owned by a facility owner for the purpose of constructing a
25 distributed generation energy facility, or supporting facilities;

26 (h) "participating residence" means a residence that is located on
27 participating property and that is existing and occupied on the date
28 that an application for a permit to develop the distributed generation
29 energy facility is filed with the authority having jurisdiction;

30 (i) "protected lands" means real property that is:

31 (i) subject to a permanent conservation right; or

32 (ii) registered or designated as a nature preserve, buffer, or land
33 and water reserve; and

34 (j) "Supporting facilities" means the transmission lines, substations,
35 access roads, meteorological towers, storage containers, and equipment
36 associated with the generation and storage of electricity by the
37 distributed generation energy facility.

38 2. (a) Notwithstanding any other provision of law, an authority having
39 jurisdiction shall establish standards for distributed generation energy
40 facilities. The standards may include all of the requirements specified
41 in this subdivision but may not include requirements for distributed
42 generation energy facilities that are more restrictive than specified in
43 this subdivision.

44 (b) Any authority having jurisdiction that has elected to establish
45 standards under this subdivision shall hold a public hearing or hearings
46 regarding any application or applications submitted to it for land use
47 approvals to allow a distributed generation energy facility. The public
48 hearing or hearings shall be held in compliance with the state open
49 meetings law, any applicable public hearing requirements in the municip-
50 al code of authority having jurisdiction, and any other applicable
51 provisions of law. Said public hearing shall be held within ninety days
52 after the filing of the application for the distributed generation ener-
53 gy facility. The authority having jurisdiction shall make its siting and
54 permitting decisions not more than thirty days after the conclusion of
55 the public hearing or hearings.

(c) Any authority having jurisdiction that renders a siting, permitting, variance, or other land use decision regarding a distributed generation energy facility shall apply the "public utility" standards for such approvals as set forth in Consolidated Edison Co. v Hoffman, 43 N.Y.2d 598 (1978) and Matter of Cellular Tel. Co. v Rosenberg, 82 N.Y.2d 364 (1993) and as subsequently expanded and applied by the courts of the state of New York.

(d) An authority having jurisdiction with an existing zoning ordinance in conflict with this subdivision shall amend such zoning ordinance to be in compliance with this subdivision within one hundred twenty days after the effective date of this section.

(e) (i) An authority having jurisdiction may require:

(1) a distributed generation energy facility to be sited as follows, with setback distances measured from the nearest edge of any component of the facility:

| <u>Setback Description</u> | <u>Setback Distance</u> |
|---|---|
| <u>Occupied community buildings and dwellings on non-participating properties</u> | <u>150 feet from the nearest point on the outside wall of the structure</u> |
| <u>Boundary lines of participating property</u> | <u>None</u> |
| <u>Public road rights-of-way</u> | <u>50 feet from the nearest edge</u> |
| <u>Boundary lines of non-participating property</u> | <u>50 feet to the nearest point on the property line of the non-participating property</u> |
| <u>Federal jurisdictional wetlands</u> | <u>Shall be no more restrictive than United States Army Corps of Engineers' most current rules</u> |
| <u>New York state department of environmental conservation wetlands</u> | <u>Shall be no more restrictive than New York state department of environmental conservation's most current rules</u> |

(2) a distributed generation energy facility to be sited so that the facility's perimeter is enclosed by fencing having a height of at least seven feet and no more than twenty-five feet; and

(3) a distributed generation energy facility to be sited so that no component of a solar panel has a height of more than twenty feet above ground when the solar energy facility's arrays are at full tilt.

(ii) An authority having jurisdiction may not set a sound limitation for any components in a distributed generation energy facility that is more restrictive than the sound limitations established by the authority having jurisdiction for any other use or activity.

(iii) An authority having jurisdiction may not place any restriction on the installation or use of a distributed generation energy facility unless it adopts an ordinance that complies with this subdivision. An authority having jurisdiction may not establish siting standards for

1 supporting facilities that preclude development of distributed gener-
2 ation energy facilities. A request filed with an authority having juris-
3 isdiction to locate or modify any permit for a distributed generation
4 energy facility, shall be approved if the request is in compliance with
5 the standards and conditions imposed in this section, the zoning ordi-
6 nance adopted consistent with this section, and the conditions imposed
7 under state and federal statutes and regulations.

8 (iv) An authority having jurisdiction may not adopt zoning regulations
9 that limit, permanently or temporarily, the number of distributed gener-
10 ation energy facilities from being developed or operated in any district
11 zoned to allow agricultural or industrial uses.

12 (v) An authority having jurisdiction may not require permit applica-
13 tion or other fees for a distributed generation energy facility that are
14 unreasonable. All application fees imposed by the authority having
15 jurisdiction shall be consistent with fees for projects in the authority
16 having jurisdiction with similar capital value and cost.

17 (vi) Except as otherwise provided in this subdivision, an authority
18 having jurisdiction shall not require standards for construction, decom-
19 missioning, or deconstruction of a distributed generation energy facili-
20 ty or related financial assurances that are unreasonable or preclude
21 development of distributed generation energy facilities. The amount of
22 any decommissioning payment shall be limited to the cost identified in
23 the decommissioning or deconstruction plan minus the salvage value of
24 the project. Decommissioning values should be updated every five years
25 for the first twenty years of operation and every year thereafter.

26 (vii) An authority having jurisdiction may not condition approval of a
27 distributed generation energy facility on a property value guarantee,
28 may not require a facility owner to pay into a neighboring property
29 devaluation escrow account, and may not condition approval on the
30 project entering into a payment in lieu of taxes (PILOT) agreement or a
31 community benefit agreement.

32 (viii) An authority having jurisdiction may require reasonable vegeta-
33 tive screening surrounding a distributed generation energy facility but
34 may not require earthen berms or similar structures.

35 (ix) An authority having jurisdiction shall calculate lot coverage for
36 distributed generation energy facilities based only on the impervious
37 surfaces associated with the facility. Impervious surfaces include the
38 foundations of solar panels, access roads, and other structures or
39 installations that prevent the infiltration of water into the ground.
40 Solar panels themselves shall not be considered impervious surfaces for
41 the purposes of lot coverage calculation, provided that the ground
42 beneath the panels remains pervious and capable of absorbing water.

43 3. Developers of a distributed generation energy facility shall offer
44 residents of the host community the right of first refusal to subscribe
45 to and receive utility bill credits from such project at a discounted
46 rate. This right of first refusal shall be in effect for the first two
47 months after subscriptions become available, and shall be offered in all
48 cases where it does not conflict with the program rules or operating
49 procedures of utility- federal- or state-administered programs to deliv-
50 er utility bill savings to low- to moderate-income electricity custom-
51 ers.

52 4. (a) Within ninety days of the effective date of this section, the
53 department of environmental conservation shall develop and promulgate
54 rules and permit requirements specifically for the siting, construction,
55 and operation of distributed generation energy facilities on and adja-
56 cent to wetlands.

1 (b) Such rules and permit requirements shall be consistent with and no
2 more restrictive than the guidelines established by the United States
3 Army Corps of Engineers for renewable energy projects on and around
4 wetlands in Nationwide Permit 51 - Land-Based Renewable Energy Gener-
5 ation Facilities. This includes, but is not limited to, considerations
6 for wetland delineation, impact minimization, mitigation measures, and
7 monitoring requirements.

8 (c) The department of environmental conservation shall ensure that the
9 rules and permit requirements provide clear guidance on the following:

10 (i) procedures for obtaining necessary permits for solar installations
11 on and adjacent to wetlands;

12 (ii) standards for minimizing adverse impacts on wetland functions and
13 values; and

14 (iii) requirements for compensatory mitigation to offset any unavoi-
15 dable impacts to wetlands.

16 (d) The department of environmental conservation shall consult with
17 relevant federal, state, and local agencies, as well as stakeholders,
18 including environmental organizations and the solar energy industry, to
19 ensure that the rules and permit requirements are comprehensive and
20 practicable.

21 (e) The department of environmental conservation shall review and
22 update these rules and permit requirements periodically to reflect
23 advancements in technology, changes in federal guidelines, and new
24 scientific information regarding wetland conservation and solar energy
25 development.

26 5. (a) Authorities having jurisdiction with existing solar laws in
27 compliance with this section may not enact moratoria preventing distrib-
28 uted generation energy facilities.

29 (b) Authorities having jurisdiction without existing solar laws in
30 compliance with this section may enact a single moratorium in order to
31 develop such a law. The initial moratorium shall not exceed six months.
32 Authorities may extend the moratorium once for an additional period not
33 to exceed six months. No further renewals or extensions shall be permit-
34 ted. Authorities having jurisdiction may seek technical assistance from
35 the New York state energy research and development authority to ensure
36 compliance with this section.

37 6. (a) The department of state shall enforce this section. Such
38 department shall have the authority to ensure that all local laws and
39 regulations comply with the provisions of this section.

40 (b) (i) The department of state shall review local laws and regu-
41 lations related to the siting and permitting of distributed generation
42 energy facilities to ensure compliance with this section.

43 (ii) Beginning one hundred twenty days after the effective date of
44 this section, the department of state may require municipalities to
45 submit their local laws and regulations for review and approval. Muni-
46 cipalities shall provide such department with any requested documentation
47 within thirty days of such a request.

48 (c) The department of state shall have the authority to promulgate
49 regulations necessary to implement and enforce the provisions of this
50 section. Such regulations shall be adopted in accordance with the state
51 administrative procedure act.

52 § 3. This act shall take effect immediately.