STATE OF NEW YORK

10519--A

IN ASSEMBLY

March 6, 2026

Introduced by M. of A. WOERNER, LUPARDO -- read once and referred to the Committee on Energy -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, in relation to the siting, design, construction and operation of major renewable energy facilities and to applications therefor

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

Section 1. Section 137 of the public service law is amended by adding a new subdivision 14 to read as follows:

14. "Agrivoltaics project" shall mean an agrivoltaic project as defined pursuant to section nineteen hundred two of the public authorities law.

§ 2. Section 137 of the public service law is amended by adding two new subdivisions 14 and 15 to read as follows:

14. "Agrivoltaics project" shall mean the simultaneous use of areas of land for both solar power generation and agriculture through a ground-mounted photovoltaic solar energy system constructed, installed, and operated to achieve integrated and simultaneous production of both solar energy and marketable agricultural products or activities by an agricultural producer, provided that such use:

(a) is constructed, installed, and operated to achieve integrated and simultaneous production of both solar energy and marketable agricultural products or activities consistent with commercial agricultural production, as soon as agronomically feasible and continuing until decommissioning, on land beneath or between solar panels;

(b) has been intentionally planned and designed with agricultural producers or experts;

(c) has provisions for decommissioning to protect the land's agricultural resources and utility; and

(d) does not significantly displace farming activity.

15. "Agricultural products or activities" shall include: (a) crop production; (b) animal husbandry; and (c) livestock grazing or cattle grazing; provided, however, that agricultural products or activities

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

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shall not include sheep grazing as the sole farming activity except where the land utilized is currently utilized primarily or exclusively for such purpose; and provided further, however, that agricultural products or activities shall not include pollinator habitats, apiaries, or both as the sole farming activities.

§ 3. Subdivision 1 of section 138 of the public service law is amended by adding a new paragraph (d) to read as follows:

(d) In its review of applications for permits pursuant to this article, ORES shall give priority to previously developed sites and existing or abandoned commercial sites, including without limitation brownfields, landfills, former commercial or industrial sites, dormant electric generating sites, parking lots as defined in section one hundred twenty-nine-b of the vehicle and traffic law, warehouse distribution centers as defined in section seven hundred eighty of the labor law, correctional facilities as defined in article one of the correction law, retail establishments of greater than twenty-five thousand square feet, roadside rest areas pursuant to section twenty of the highway law, and otherwise underutilized sites.

§ 4. Subdivision 4 of section 138 of the public service law, as added by section 11 of part O of chapter 58 of the laws of 2024, is amended to read as follows:

4. The uniform standards and conditions established pursuant to this section shall be designed to avoid, minimize, or mitigate to the maximum extent practicable, potential significant adverse impacts to land used in agricultural production, with additional consideration for land within an agricultural district [~~or~~], land that contains mineral soil groups 1-4, and land that contains mineral soil groups 5-7 to the extent that such land is currently in commercial agricultural use. In its review of an application for a permit pursuant to this article, ORES, in consultation with the department of agriculture and markets, shall ensure that a critical mass of farmland within the designated region is not currently and/or projected to be developed with photovoltaic solar generating projects. The department of agriculture and markets shall determine what constitutes a critical mass of farmland for a given region and consider factors such as: the future security of the state and region's food supply, the growth or decrease of new or existing farms or total farmland in the state or region, and impacts of photovoltaic solar generating projects on soil quality. Two years after the effective date of the chapter of the laws of two thousand twenty-six that amended this subdivision, ORES, in conjunction with the public service commission, the New York state energy research and development authority and the department of agriculture and markets, shall reevaluate the efficacy of this subdivision and propose recommendations to the legislature, including but not limited to, the consideration of new pertinent technology and/or information. The provisions of this subdivision shall not apply in the consideration of any permits for siting, design, construction, or operation of a major renewable energy facility for which a completed application has been received by the office of renewable energy siting and electric transmissions prior to the adoption of amended uniform standards and conditions consistent with this subdivision.

§ 5. Subdivision 3 of section 138 of the public service law, as added by section 11 of part O of chapter 58 of the laws of 2024, is amended to read as follows:

3. (a) ORES, in consultation with the department, shall promulgate rules and regulations with respect to all necessary requirements to implement the siting permit program established in this article and

promulgate modifications to such rules and regulations as it deems necessary; provided that ORES shall promulgate regulations requiring the service of applications on affected municipalities and political subdivisions simultaneously with submission of an application. Any such rules and regulations, or any amendments or modifications thereto, shall be subject to the approval of the public service commission before they become effective.

(b) Such rules and regulations shall:

(i) ensure that a critical mass of farmland within the designated region is not currently and/or projected to be developed with photovoltaic solar generating projects, as determined by the department of agriculture and markets, in consultation with the New York state energy research and development authority. Within two years after the effective date of the chapter of the laws of two thousand twenty-six that amended this subdivision, the office, in conjunction with the public service commission and the department of agriculture and markets, shall reevaluate the efficacy of this subdivision and propose recommendations to the legislature, including but not limited to, the consideration of new pertinent technology and/or information;

(ii) provide that, in the event that a photovoltaic solar generation project has been previously denied a permit by ORES on two or more occasions and resubmitted, such project shall be required to submit an affidavit of financial solvency, including financial statements to ORES in the project's next application and shall be required to deliver to ORES a surety bond worth twenty percent of the total cost of such project, which shall be executed by a surety company authorized by the department of financial services to transact business in the state. If the project has been approved by ORES upon the expiration of two years following the date of resubmission, the bond shall be discontinued. If the project has not been approved by ORES upon the expiration of two years following the date of resubmission, then ORES shall be entitled to recover the full amount of the surety bond and shall remit forty percent of the full amount of the surety bond to the political subdivision in which the photovoltaic solar generation project was intended to be sited; and

(iii) require documentation for any major photovoltaic solar generation project specifying:

(1) application procedures for major photovoltaic solar generation projects. Such procedures shall require that each application for such permits include the submission of documentation which includes the following criteria:

(A) categories based on solar array size, specifying the array capacity and how much power or electricity is expected to be generated, on-site or associated electric load, including the acreage of land underlying the array;

(B) specifying whether solar arrays will be roof-mounted and/or ground mounted, and designating preferred sites for the project; and

(C) categories based on the solar project's design, including specifying whether such solar project is intended to be an agrivoltaics project; and

(2) for major photovoltaic solar generation projects sited on land required to receive additional consideration pursuant to subdivision four of this section, the submission by the applicant of draft decommissioning plans for projects on such agricultural land and a letter of intent from the applicant stating the applicant's intention to secure a decommissioning bond. Final decommissioning plans shall be filed upon completion of the project in a post construction compliance filing,

along with a record of the project securing a decommissioning bond in the amount prescribed by ORES upon approval and issuance of a project's construction permit.

§ 6. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that section one of this act shall expire and be deemed repealed two years after such date, when upon such date the provisions of section two of this act shall take effect; provided further, however, that the amendments to article 8 of the public service law made by sections one, two, three, four and five of this act shall not affect the repeal of such article and shall be deemed repealed therewith. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.