

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:

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

3 14. "Agrivoltaics project" shall mean an agrivoltaic project as
4 defined pursuant to section nineteen hundred two of the public authori-
5 ties law.

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

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

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

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

21 (c) has provisions for decommissioning to protect the land's agricul-
22 tural resources and utility; and

23 (d) does not significantly displace farming activity.

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

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

LBD14269-06-6

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

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

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

19 § 4. Subdivision 4 of section 138 of the public service law, as added
20 by section 11 of part 0 of chapter 58 of the laws of 2024, is amended to
21 read as follows:

22 4. The uniform standards and conditions established pursuant to this
23 section shall be designed to avoid, minimize, or mitigate to the maximum
24 extent practicable, potential significant adverse impacts to land used
25 in agricultural production, with additional consideration for land with-
26 in an agricultural district ~~[ex]~~, land that contains mineral soil groups
27 1-4, and land that contains mineral soil groups 5-7 to the extent that
28 such land is currently in commercial agricultural use. In its review of
29 an application for a permit pursuant to this article, ORES, in consulta-
30 tion with the department of agriculture and markets, shall ensure that a
31 critical mass of farmland within the designated region is not currently
32 and/or projected to be developed with photovoltaic solar generating
33 projects. The department of agriculture and markets shall determine
34 what constitutes a critical mass of farmland for a given region and
35 consider factors such as: the future security of the state and region's
36 food supply, the growth or decrease of new or existing farms or total
37 farmland in the state or region, and impacts of photovoltaic solar
38 generating projects on soil quality. Two years after the effective date
39 of the chapter of the laws of two thousand twenty-six that amended this
40 subdivision, ORES, in conjunction with the public service commission,
41 the New York state energy research and development authority and the
42 department of agriculture and markets, shall reevaluate the efficacy of
43 this subdivision and propose recommendations to the legislature, includ-
44 ing but not limited to, the consideration of new pertinent technology
45 and/or information. The provisions of this subdivision shall not apply
46 in the consideration of any permits for siting, design, construction, or
47 operation of a major renewable energy facility for which a completed
48 application has been received by the office of renewable energy siting
49 and electric transmissions prior to the adoption of amended uniform
50 standards and conditions consistent with this subdivision.

51 § 5. Subdivision 3 of section 138 of the public service law, as added
52 by section 11 of part 0 of chapter 58 of the laws of 2024, is amended to
53 read as follows:

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

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

8 (b) Such rules and regulations shall:

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

20 (ii) provide that, in the event that a photovoltaic solar generation
21 project has been previously denied a permit by ORES on two or more occa-
22 sions and resubmitted, such project shall be required to submit an affi-
23 davit of financial solvency, including financial statements to ORES in
24 the project's next application and shall be required to deliver to ORES
25 a surety bond worth twenty percent of the total cost of such project,
26 which shall be executed by a surety company authorized by the department
27 of financial services to transact business in the state. If the project
28 has been approved by ORES upon the expiration of two years following the
29 date of resubmission, the bond shall be discontinued. If the project has
30 not been approved by ORES upon the expiration of two years following the
31 date of resubmission, then ORES shall be entitled to recover the full
32 amount of the surety bond and shall remit forty percent of the full
33 amount of the surety bond to the political subdivision in which the
34 photovoltaic solar generation project was intended to be sited; and

35 (iii) require documentation for any major photovoltaic solar gener-
36 ation project specifying:

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

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

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

47 (C) categories based on the solar project's design, including specify-
48 ing whether such solar project is intended to be an agrivoltaics
49 project; and

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

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

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