

STATE OF NEW YORK

4682

2025-2026 Regular Sessions

IN ASSEMBLY

February 4, 2025

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

AN ACT to amend the public service law and the public authorities law, in relation to requiring a public referendum to approve a final siting permit

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. "Battery energy storage site", which, for purposes of the siting
4 of a major renewable energy facility, excludes standalone battery energy
5 storage systems and sites, shall mean a site housing a battery energy
6 storage system equipped with rechargeable batteries that can store elec-
7 tricity from the grid or renewable sources like solar and wind power, to
8 be released later when needed, helping to balance energy supply and
9 demand. "Battery energy storage system" denotes one or more devices,
10 assembled together, capable of storing energy in order to supply elec-
11 trical energy at a future time, not to include a standalone twelve-volt
12 car battery or an electric motor vehicle, and may be classified as a
13 tier one or tier two battery energy storage system as follows: (a) tier
14 one battery energy storage systems shall possess an aggregate energy
15 capacity less than or equal to six hundred kilowatt hours and, if in a
16 room or enclosed area, consist of only a single energy storage system
17 technology; and (b) tier two battery energy storage systems shall
18 possess an aggregate energy capacity greater than six hundred kilowatt
19 hours or are comprised of more than one storage battery technology in a
20 room or enclosed area.

21 § 2. Subdivision 1 of section 138 of the public service law, as added
22 by section 11 of part 0 of chapter 58 of the laws of 2024, is amended to
23 read as follows:

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

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1 1. (a) ORES shall be authorized to establish and amend, subject to the
2 approval of the commission, a set of uniform standards and conditions
3 for the siting, design, construction and operation of each type of major
4 renewable energy facility subject to this article, and accompanying
5 battery energy storage sites, relevant to issues that are common for
6 particular classes and categories of major renewable energy facilities,
7 in consultation with other offices within the department, the New York
8 state energy research and development authority, the department of envi-
9 ronmental conservation, the department of agriculture and markets, and
10 other relevant state agencies and authorities with subject matter exper-
11 tise.

12 (b) The uniform standards and conditions established pursuant to this
13 subdivision shall be designed to avoid or minimize, to the maximum
14 extent practicable, any potential significant adverse environmental
15 impacts related to the siting, design, construction and operation of a
16 major renewable energy facility and accompanying battery energy storage
17 sites. Such uniform standards and conditions shall apply to those envi-
18 ronmental impacts ORES determines are common to each type of major
19 renewable energy facility.

20 (c) In its review of an application for a permit to develop a major-
21 renewable energy facility, ORES, in consultation with the department of
22 environmental conservation, shall identify those site-specific adverse
23 environmental impacts, if any, that may be caused or contributed to by a
24 specific proposed major renewable energy facility and accompanying
25 battery energy storage sites, and are unable to be addressed by the
26 uniform standards and conditions. ORES shall draft, in consultation
27 with the department of environmental conservation, site-specific permit
28 terms and conditions for such impacts, including provisions for the
29 avoidance or mitigation thereof, taking into account the CLCPA targets
30 and the environmental benefits of the proposed major renewable energy
31 facility; provided, however, that ORES shall require that the applica-
32 tion of uniform standards and conditions and site-specific conditions
33 shall achieve a net conservation benefit to any impacted endangered and
34 threatened species.

35 § 3. Subdivision 1 of section 140 of the public service law, as added
36 by section 11 of part 0 of chapter 58 of the laws of 2024, is amended to
37 read as follows:

38 1. No person shall commence the preparation of a site for, or begin
39 the construction of, a major renewable energy facility, or a battery
40 energy storage site accompanying such facility, in the state, or
41 increase the capacity of an existing major renewable energy facility,
42 without having first obtained a major renewable energy facility siting
43 permit pursuant to this article. Any major renewable energy facility
44 subject to this article with respect to which a siting permit is issued
45 shall not thereafter be built, maintained, or operated except in
46 conformity with such major renewable energy facility siting permit and
47 any terms, limitations, or conditions contained therein, provided that
48 nothing in this subdivision shall exempt such facility from compliance
49 with federal laws and regulations.

50 § 4. Subdivision 5 of section 142 of the public service law, as added
51 by section 11 of part 0 of chapter 58 of the laws of 2024, is amended
52 and a new subdivision 5-a is added to read as follows:

53 5. Following the expiration of the public comment period set forth in
54 this section, and following the conclusion of a hearing undertaken
55 pursuant to subdivision four of this section, ORES shall, in the case of
56 a public comment period, issue a written summary of public comments and

1 an assessment of comments received, and in the case of an adjudicatory
2 hearing, the executive director or any person to whom the executive
3 director has delegated such authority shall issue a final written hear-
4 ing report. A final siting permit may only be issued if ORES makes a
5 finding that the proposed project, together with any applicable uniform
6 and site-specific standards and conditions, would comply with applicable
7 laws and regulations, and if such final siting permit is approved pursu-
8 ant to a referendum held in accordance with subdivision five-a of this
9 section. In making a final siting permit determination with respect to a
10 major renewable energy facility, ORES may elect not to apply, in whole
11 or in part, any local law or ordinance that would otherwise be applica-
12 ble if it makes a finding that, as applied to the proposed facility, it
13 is unreasonably burdensome in view of the CLCPA targets, and the envi-
14 ronmental benefits.

15 5-a. Notwithstanding any other provision of law to the contrary,
16 before a determination for a final siting permit may be considered
17 final, such permit shall be subject to approval through public referen-
18 dum by the municipality in which the facility applying to the office is
19 intended to be located. Such referendum shall be held upon the question
20 of approving an application for a certificate establishing a major
21 renewable energy facility and, if relevant, an accompanying battery
22 energy storage site, as defined in subdivision fourteen of section one
23 hundred thirty-seven of this article, in the municipality where the
24 proposed facility intends to be located, and approved by fifty-one per
25 centum of voters. Such referendum shall be held within sixty days, but
26 not earlier than thirty days after the office's decision. For the
27 purposes of this subdivision, "municipality" shall mean a city or town
28 located in this state.

29 § 5. Subdivisions 1 and 3 of section 144 of the public service law, as
30 added by section 11 of part 0 of chapter 58 of the laws of 2024, are
31 amended to read as follows:

32 1. Applicants shall, prior to filing an application, conduct meetings
33 with the respective chief executive officer of all municipalities in
34 which the proposed major renewable generation facility and accompanying
35 battery energy storage site or major electric transmission facility will
36 be located. The applicant shall provide as part of the application pres-
37 entation materials and a summary of questions raised, and responses
38 provided during such meetings with municipalities. In the event the
39 applicant is unable to secure a meeting with a relevant municipality the
40 application shall contain a detailed explanation of all of the appli-
41 cant's best efforts and reasonable attempts to secure such meeting,
42 including, but not limited to, written communications between the appli-
43 cant and the municipality.

44 3. This section shall not impair or abrogate any federal, state or
45 local labor laws or any otherwise applicable state law for the
46 protection of employees engaged in the construction and operation of a
47 major renewable energy facility and accompanying battery energy storage
48 site or major electric transmission facility.

49 § 6. Section 1901 of the public authorities law is amended by adding a
50 new subdivision 10 to read as follows:

51 10. "Battery energy storage site" shall have the same meaning as in:
52 (a) subdivision eight of this section, only with regards to paired
53 qualified energy storage systems, when accompanying a build-ready site
54 that is also considered a major renewable energy facility; and
55 (b) subdivision fourteen of section one hundred thirty-seven of the
56 public service law.

1 § 7. Subdivision 3 of section 1902 of the public authorities law, as
2 amended by section 5 of part M of chapter 58 of the laws of 2024, is
3 amended to read as follows:

4 3. Establish procedures and protocols for the purpose of establishment
5 and transfer of build-ready sites which shall include, at a minimum: (a)
6 written notice at the earliest practicable time to a municipality in
7 which a potential build-ready site has been identified, provided howev-
8 er, that the authority shall not deem any site for qualified energy
9 storage systems suitable without first consulting any municipalities
10 with jurisdiction over the potential build-ready site and obtaining
11 their approval; ~~and~~ (b) public referendum held in the municipality
12 where a potential build-ready site, including an accompanying battery
13 energy storage site, has been identified, held upon the question of
14 approving a certificate establishing or transferring such build-ready
15 site in such municipality, and approved by fifty-one per centum of
16 voters; and (c) a preliminary screening process to determine, in consul-
17 tation with the department of environmental conservation, whether the
18 potential build-ready site is located in or near an environmental
19 justice area and whether an environmental justice area would be adverse-
20 ly affected by development of a build-ready site;

21 § 8. This act shall take effect immediately; provided, however, that
22 the amendments to sections 137, 138, 140, 142 and 144 of the public
23 service law made by sections one through five of this act shall not
24 affect the repeal of such sections and shall be deemed to be repealed
25 therewith; and provided further, however, that the amendments to
26 sections 1901 and 1902 of the public authorities law made by sections
27 six and seven of this act shall not affect the repeal of such sections
28 and shall be deemed to be repealed therewith.