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:

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

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

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

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

2. For purposes of this section, "battery energy storage system" shall have the same meaning as "qualified energy storage system" as defined in 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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shall not include energy storage systems that use mechanical or thermal processes.

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

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

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

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

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

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

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

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

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

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

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

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

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