STATE OF NEW YORK

9087

2025-2026 Regular Sessions

IN ASSEMBLY

September 12, 2025

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

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:

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

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

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

(a) "distributed generation energy facility" means any solar photovoltaic system or energy storage system with a nameplate capacity of five thousand kilowatts AC or less;

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

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

(d) "authority having jurisdiction" means any municipal corporation with authorization to adopt zoning and permitting regulations governing the placement, construction, modification and/or operation of a distrib-

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

LBD13087-04-5

uted generation energy facility within its borders. "Authority having jurisdiction" shall also include any agency of said municipal corporation with authorization to issue land use approvals such as, inter alia, site plan approvals, special use permits, use variances, area variances, and subdivision authorizations;

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

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

(g) "participating property" means real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing and/or operating a distributed generation energy facility, or supporting facilities. "Participating property" also includes real property that is owned by a facility owner for the purpose of constructing a distributed generation energy facility, or supporting facilities;

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

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

(i) subject to a permanent conservation right; or

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

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

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

(b) Any authority having jurisdiction that has elected to establish standards under this subdivision shall hold a public hearing or hearings regarding any application or applications submitted to it for land use approvals to allow a distributed generation energy facility. The public hearing or hearings shall be held in compliance with the state open meetings law, any applicable public hearing requirements in the municipal code of authority having jurisdiction, and any other applicable provisions of law. Said public hearing shall be held within ninety days after the filing of the application for the distributed generation energy facility. The authority having jurisdiction shall make its siting and permitting decisions not more than thirty days after the conclusion of 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:

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

(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 supporting facilities that preclude development of distributed generation energy facilities. A request filed with an authority having jurisdiction to locate or modify any permit for a distributed generation energy facility, shall be approved if the request is in compliance with

the standards and conditions imposed in this section, the zoning ordinance adopted consistent with this section, and the conditions imposed under state and federal statutes and regulations.

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

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

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

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

(viii) An authority having jurisdiction may require reasonable vegetative screening surrounding a distributed generation energy facility but may not require earthen berms or similar structures.

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

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

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

(b) Such rules and permit requirements shall be consistent with and no more restrictive than the guidelines established by the United States Army Corps of Engineers for renewable energy projects on and around wetlands in Nationwide Permit 51 - Land-Based Renewable Energy Gener-

ation Facilities. This includes, but is not limited to, considerations for wetland delineation, impact minimization, mitigation measures, and monitoring requirements.

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

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

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

(iii) requirements for compensatory mitigation to offset any unavoidable impacts to wetlands.

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

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

5. (a) Authorities having jurisdiction with existing solar laws in compliance with this section may not enact moratoria preventing distributed generation energy facilities.

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

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

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

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

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

§ 3. This act shall take effect immediately.