

STATE OF NEW YORK

2010

2025-2026 Regular Sessions

IN SENATE

January 14, 2025

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the executive law, in relation to the encroachment or adverse effect upon military operations by tall energy structures, major renewable energy facilities or wind energy facilities

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

1 Section 1. The executive law is amended by adding a new section 720 to
2 read as follows:

3 § 720. Encroachment or adverse effect upon military operations by tall
4 energy structures, major renewable energy facilities or wind energy
5 facilities. 1. Definitions. As used in this section, the following terms
6 shall have the following meanings:

7 (a) "Tall energy structure" shall mean any structure that has as its
8 primary use the generation or transmission of energy and which is two
9 hundred or more feet in height.

10 (b) "Major renewable energy facility" shall mean any facility as
11 defined in subdivision four of section one hundred thirty-seven of the
12 public service law.

13 2. The construction or operation of any tall energy structure, major
14 renewable energy facility or wind energy facility in this state shall
15 not encroach upon or otherwise have an adverse impact on military oper-
16 ations and readiness of any military installation or branch of the mili-
17 tary.

18 3. A local government or the New York state board on electric gener-
19 ation siting and the environment (hereinafter, "the board"), prior to
20 approving an application for the construction of a tall energy structure
21 shall require the applicant to provide the local government or the board
22 with the following:

23 (a) a written determination of no hazard to air navigation issued by
24 the Federal Aviation Administration pursuant to 14 C.F.R. Part 77,
25 Subpart D; and

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

LBD00769-01-5

1 (b) in coordination with any affected military installation and the
2 state division of homeland security and emergency services, a written
3 determination resolving any adverse impact to military operations iden-
4 tified during the aeronautics study conducted pursuant to 14 C.F.R.
5 Part 77, Subpart D.

6 A proposed tall energy structure shall be subject to the provisions of
7 subdivision two of this section even if the local government or the
8 board either does not require an application prior to the construction
9 of a tall energy structure or does not require the application outlined
10 in this subdivision.

11 4. The board, prior to approving an application for the construction
12 of a major renewable energy facility shall require the applicant to file
13 an application with the Federal Aviation Administration under 49 U.S.C.
14 § 44718, and provide the board with the following:

15 (a) a written determination of no hazard to air navigation issued by
16 the Federal Aviation Administration pursuant to 14 C.F.R. Part 77,
17 Subpart D; and

18 (b) in coordination with any affected military installation and the
19 state division of homeland security and emergency services, a written
20 determination resolving any adverse impact to military operations iden-
21 tified during the aeronautics study conducted pursuant to 14 C.F.R.
22 Part 77, Subpart D.

23 The major renewable energy facility shall be subject to the provisions
24 of subdivision two of this section even if the board either does not
25 require an application prior to the construction of the major renewable
26 energy facility or does not require the application outlined in this
27 subdivision.

28 5. Prior to any planned construction of a wind energy facility, an
29 applicant shall provide the local government or the board considering an
30 application with a map showing the specific location and tower hub
31 height, with rotor diameter, for each proposed wind turbine.

32 6. A local government or the board may not approve an application for
33 the construction of a wind energy facility unless the applicant provides
34 the following documentation:

35 (a) a completed department of defense siting clearinghouse formal
36 review; and

37 (b) a written determination of no hazard to air navigation issued by
38 the Federal Aviation Administration pursuant to 14 C.F.R. Part 77,
39 Subpart D.

40 7. Notwithstanding subdivision six of this section, a local government
41 or the board may approve an application for the construction of a wind
42 energy facility conditioned upon the applicant providing the documenta-
43 tion set out in subdivision six of this section.

44 8. If any dispute arises between a local government or the board and
45 an applicant or military installation relating to the approval of any
46 tall energy structure, major renewable energy facility or wind energy
47 facility, the local government or the board shall provide notice to the
48 governor or the governor's designee to facilitate resolution of the
49 dispute.

50 9. A local government or the board shall not require any other formal
51 written approval from a military installation to approve an application
52 for the construction of a tall energy structure, a major renewable ener-
53 gy facility or a wind energy facility.

54 § 2. This act shall take effect immediately.