

STATE OF NEW YORK

2726

2025-2026 Regular Sessions

IN SENATE

January 22, 2025

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

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

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

22 5-a. Notwithstanding any other provision of law to the contrary,
23 before a determination for a final siting permit may be considered
24 final, such permit shall be subject to approval through public referen-

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

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dum by the municipality in which the facility applying to the office is intended to be located. Such referendum shall be held upon the question of approving an application for a certificate establishing a major renewable energy facility in the municipality where the proposed facility intends to be located, and approved by fifty-one per centum of voters. Such referendum shall be held within sixty days, but not earlier than thirty days after the office's decision. For the purposes of this subdivision, "municipality" shall mean a city or town located in this state.

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

3. Establish procedures and protocols for the purpose of establishment and transfer of build-ready sites which shall include, at a minimum: (a) written notice at the earliest practicable time to a municipality in which a potential build-ready site has been identified, provided however, that the authority shall not deem any site for qualified energy storage systems suitable without first consulting any municipalities with jurisdiction over the potential build-ready site and obtaining their approval; ~~and~~ (b) public referendum held in the municipality where a potential build-ready site has been identified, held upon the question of approving a certificate establishing or transferring such build-ready site in such municipality, and approved by fifty-one per centum of voters; and (c) a preliminary screening process to determine, in consultation with the department of environmental conservation, whether the potential build-ready site is located in or near an environmental justice area and whether an environmental justice area would be adversely affected by development of a build-ready site;

§ 3. This act shall take effect immediately; provided, however, that the amendments to section 142 of the public service law made by section one of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith; and provided further, however, that the amendments to subdivision 3 of section 1902 of the public authorities law made by section two of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith.