STATE OF NEW YORK

7899

2025-2026 Regular Sessions

IN SENATE

May 13, 2025

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

AN ACT to amend the public authorities law and the public service law, in relation to giving preference to certain sites when developing renewable energy generating projects and to the definition of agrivoltaics

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

Section 1. Paragraph (b) of subdivision 27-a of section 1005 of public authorities law, as added by section 1 of part QQ of chapter 56 of the laws of 2023, is amended to read as follows:

(b) **(i)** The authority, its subsidiaries or any entity participating in a public-private agreement established in paragraph (f) of this subdivision or acting on behalf of the authority, when developing renewable energy generating projects authorized in this subdivision, or subdivision twenty-seven-b of this section, shall: [~~(i)~~] **(A)** not develop, except when necessary for generator lead lines and other equipment needed for interconnection of projects to the electric system, on property that consists of land used in agricultural production, taking into consideration whether the land is within an agricultural district or contains mineral soil groups 1-4, as defined by the department of agriculture and markets, unless a renewable energy generation project is in furtherance of an agrivoltaics project**, "agrivoltaics" as defined in section eighteen hundred eighty-five of this chapter**; [~~(ii)~~] **(B)** minimize harm to wildlife, ecosystems, public health and public safety; and [~~(iii)~~] **(C)** not build on lands located upon any Native American territory or reservation located wholly or partly within the state, except through voluntary sale or other agreement for such use with the consent of the relevant nation and any required consent of the federal government.

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

LBD11834-01-5

(ii) The authority, its subsidiaries or any entity participating in a public-private agreement established in paragraph (f) of this subdivision or acting on behalf of the authority, when developing renewable energy generating projects authorized in this subdivision, or subdivision twenty-seven-b of this section, shall give preference to the following sites within its primary scoring criteria:

(A) Parking lots as defined in section one hundred twenty-nine-b of the vehicle and traffic law;

(B) Warehouse distribution centers as defined in section seven hundred eighty of the labor law;

(C) Correctional facilities as defined in article one of the corrections law;

(D) Retail establishments of greater than twenty-five thousand square feet;

(E) Roadside rest areas pursuant to section twenty of the highway law; and

(F) Brownfield sites as defined in section 27-1405 of the environmental conservation law.

§ 2. Paragraph (b) of subdivision 1 of section 1902 of the public authorities law, as amended by section 2 of part M of chapter 58 of the laws of 2024, is amended to read as follows:

(b) (i) In making such assessment the authority shall give [~~priority to~~] preference to the following sites within its primary scoring criteria: previously developed sites, existing or abandoned commercial sites, including without limitation brownfields, landfills, former commercial or industrial sites, dormant electric generating sites, parking lots as defined in section one hundred twenty-nine-b of the vehicle and traffic law, warehouse distribution centers as defined in section seven hundred eighty of the labor law, correctional facilities as defined in article one of the corrections law, retail establishments of greater than twenty-five thousand square feet, roadside rest areas pursuant to section twenty of the highway law, or otherwise underutilized sites; and

(ii) the authority may establish a renewable energy generation project in furtherance of an [~~agrivolatic~~] agrivoltaics project, [~~where "agrivoltaic project" shall mean the simultaneous use of areas of land for both solar power generation and agriculture, specific to the practice of such dual-use solar energy project, where any of the previously developed sites listed in subparagraph (i) of this paragraph is reclaimed as farmland~~] "agrivoltaics" as defined in section eighteen hundred eighty-five of this article.

§ 3. Subdivision 4 of section 138 of the public service law, as added by section 11 of part O of chapter 58 of the laws of 2024, is amended to read as follows:

4. (a) The uniform standards and conditions established pursuant to this section shall be designed to avoid, minimize, or mitigate to the maximum extent practicable, potential significant adverse impacts to land used in agricultural production, with additional consideration for land within an agricultural district or land that contains mineral soil groups 1-4. The provisions of this subdivision shall not apply in the consideration of any permits for siting, design, construction, or operation of a major renewable energy facility for which a completed application has been received by the office of renewable energy siting and electric transmissions prior to the adoption of amended uniform standards and conditions consistent with this subdivision.

(b) The uniform standards and conditions established pursuant to this section shall give preference to the following sites within primary scoring criteria:

(i) Parking lots as defined in section one hundred twenty-nine-b of the vehicle and traffic law;

(ii) Warehouse distribution centers as defined in section seven hundred eighty of the labor law;

(iii) Correctional facilities as defined in article one of the corrections law;

(iv) Retail establishments of greater than twenty-five thousand square feet;

(v) Roadside rest areas pursuant to section twenty of the highway law; and

(vi) Brownfield sites as defined in section 27-1405 of the environmental conservation law.

§ 4. Paragraph (c) of subdivision 1 of section 139 of the public service law, as added by section 11 of part O of chapter 58 of the laws of 2024, is amended to read as follows:

(c) (i) The uniform standards and conditions established pursuant to this section shall be designed to avoid, minimize, or mitigate to the maximum extent practicable, potential significant adverse impacts to land used in agricultural production, with additional consideration for land within an agricultural district or land that contain mineral soil groups 1-4 as defined by the department of agriculture and markets.

(ii) The uniform standards and conditions established pursuant to this section shall give preference to the following sites within primary scoring criteria:

(1) Parking lots as defined in section one hundred twenty-nine-b of the vehicle and traffic law;

(2) Warehouse distribution centers as defined in section seven hundred eighty of the labor law;

(3) Correctional facilities as defined in article one of the corrections law;

(4) Retail establishments of greater than twenty-five thousand square feet;

(5) Roadside rest areas pursuant to section twenty of the highway law; and

(6) Brownfield sites as defined in section 27-1405 of the environmental conservation law.

§ 5. The public authorities law is amended by adding a new section 1885 to read as follows:

§ 1885. Agrivoltaics. 1. Legislative intent. The legislature finds that as New York progresses to utilizing clean energy, the agricultural industry has an opportunity to play a substantial role in environmental conservation while also protecting and maintaining viable farmland through the practice of agrivoltaics. Dual-use solar energy projects have the potential to keep farmland as working agricultural landscapes providing economic benefits to farmers and assisting the state in reaching its climate and environmental impact goals.

2. Definitions. The following terms shall have the following meanings:

(a) "Agricultural products and activities" shall include: (i) crop production; (ii) animal husbandry; and (iii) livestock grazing or cattle grazing; provided, however, that agricultural products and activities shall not include sheep grazing as the sole farming activity except where the land utilized is currently utilized exclusively for such purpose; provided further, however, that agricultural products and

activities shall not include pollinator habitats, apiaries, or both as the sole farming activities.

(b) "Agrivoltaics" or "dual-use solar energy projects" shall mean the simultaneous use of areas of land for both solar power generation and agriculture through a ground-mounted photovoltaic solar energy system constructed, installed, and operated to achieve integrated and simultaneous production of both solar energy and marketable agricultural products and activities by an agricultural producer, provided that such use:

(i) is constructed, installed, and operated to achieve integrated and simultaneous production of both solar energy and marketable agricultural products consistent with commercial agricultural production, as soon as agronomically feasible and continuing until decommissioning, on land beneath or between rows of solar panels;

(ii) has been intentionally planned and designed with agricultural producers or experts;

(iii) has provisions for decommissioning to protect the land's agricultural resources and utility; and

(iv) does not significantly displace farming activity.

§ 6. This act shall take effect immediately; provided, however, that the amendments to paragraph (b) of subdivision 1 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 repealed therewith; provided further, however, that the amendments to subdivision 4 of section 138 of the public service law made by section three of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided further, however, that the amendments to paragraph (c) of subdivision 1 of section 139 of the public service law made by section four of this act shall not affect the repeal of such section and shall be deemed repealed therewith.