

STATE OF NEW YORK

8712--B

IN SENATE

January 7, 2026

Introduced by Sens. HINCHEY, FAHY, GONZALEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, in relation to the siting, design, construction and operation of major renewable energy facilities and to applications therefor; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. Section 137 of the public service law is amended by adding a new subdivision 14 to read as follows:

14. "Agrivoltaics project" shall mean an agrivoltaic project as defined pursuant to section nineteen hundred two of the public authorities law.

§ 2. Section 137 of the public service law is amended by adding two new subdivisions 14 and 15 to read as follows:

14. "Agrivoltaics project" 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 or activities by an agricultural producer, provided that such use:

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

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

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

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

LBD14269-05-6

1 (d) does not significantly displace farming activity.

2 15. "Agricultural products or activities" shall include: (a) crop
3 production; (b) animal husbandry; and (c) livestock grazing or cattle
4 grazing; provided, however, that agricultural products or activities
5 shall not include sheep grazing as the sole farming activity except
6 where the land utilized is currently utilized primarily or exclusively
7 for such purpose; and provided further, however, that agricultural
8 products or activities shall not include pollinator habitats, apiaries,
9 or both as the sole farming activities.

10 § 3. Subdivision 1 of section 138 of the public service law is amended
11 by adding a new paragraph (d) to read as follows:

12 (d) In its review of applications for permits pursuant to this arti-
13 cle, ORES shall give priority to previously developed sites and existing
14 or abandoned commercial sites, including without limitation brownfields,
15 landfills, former commercial or industrial sites, dormant electric
16 generating sites, parking lots as defined in section one hundred twen-
17 ty-nine-b of the vehicle and traffic law, warehouse distribution centers
18 as defined in section seven hundred eighty of the labor law, correction-
19 al facilities as defined in article one of the correction law, retail
20 establishments of greater than twenty-five thousand square feet, road-
21 side rest areas pursuant to section twenty of the highway law, and
22 otherwise underutilized sites.

23 § 4. Subdivision 4 of section 138 of the public service law, as added
24 by section 11 of part 0 of chapter 58 of the laws of 2024, is amended to
25 read as follows:

26 4. The uniform standards and conditions established pursuant to this
27 section shall be designed to avoid, minimize, or mitigate to the maximum
28 extent practicable, potential significant adverse impacts to land used
29 in agricultural production, with additional consideration for land with-
30 in an agricultural district ~~[or]~~, land that contains mineral soil groups
31 1-4, and land that contains mineral soil groups 5-7 to the extent that
32 such land is currently in commercial agricultural use. In its review of
33 an application for a permit pursuant to this article, ORES, in consulta-
34 tion with the department of agriculture and markets, shall ensure that a
35 critical mass of farmland within the designated region is not currently
36 and/or projected to be developed with photovoltaic solar generating
37 projects. The department of agriculture and markets shall determine
38 what constitutes a critical mass of farmland for a given region and
39 consider factors such as: the future security of the state and region's
40 food supply, the growth or decrease of new or existing farms or total
41 farmland in the state or region, and impacts of photovoltaic solar
42 generating projects on soil quality. Two years after the effective date
43 of the chapter of the laws of two thousand twenty-six that amended this
44 subdivision, ORES, in conjunction with the public service commission,
45 the New York state energy research and development authority and the
46 department of agriculture and markets, shall reevaluate the efficacy of
47 this subdivision and propose recommendations to the legislature, includ-
48 ing but not limited to, the consideration of new pertinent technology
49 and/or information. The provisions of this subdivision shall not apply
50 in the consideration of any permits for siting, design, construction, or
51 operation of a major renewable energy facility for which a completed
52 application has been received by the office of renewable energy siting
53 and electric transmissions prior to the adoption of amended uniform
54 standards and conditions consistent with this subdivision.

§ 5. Subdivision 3 of section 138 of the public service law, as added by section 11 of part 0 of chapter 58 of the laws of 2024, is amended to read as follows:

3. (a) ORES, in consultation with the department, shall promulgate rules and regulations with respect to all necessary requirements to implement the siting permit program established in this article and promulgate modifications to such rules and regulations as it deems necessary; provided that ORES shall promulgate regulations requiring the service of applications on affected municipalities and political subdivisions simultaneously with submission of an application. Any such rules and regulations, or any amendments or modifications thereto, shall be subject to the approval of the public service commission before they become effective.

(b) Such rules and regulations shall:

(i) ensure that a critical mass of farmland within the designated region is not currently and/or projected to be developed with photovoltaic solar generating projects, as determined by the department of agriculture and markets, in consultation with the New York state energy research and development authority. Within two years after the effective date of the chapter of the laws of two thousand twenty-six that amended this subdivision, the office, in conjunction with the public service commission and the department of agriculture and markets, shall reevaluate the efficacy of this subdivision and propose recommendations to the legislature, including but not limited to, the consideration of new pertinent technology and/or information;

(ii) provide that, in the event that a photovoltaic solar generation project has been previously denied a permit by ORES on two or more occasions and resubmitted, such project shall be required to submit an affidavit of financial solvency, including financial statements to ORES in the project's next application and shall be required to deliver to ORES a surety bond worth twenty percent of the total cost of such project, which shall be executed by a surety company authorized by the department of financial services to transact business in the state. If the project has been approved by ORES upon the expiration of two years following the date of resubmission, the bond shall be discontinued. If the project has not been approved by ORES upon the expiration of two years following the date of resubmission, then ORES shall be entitled to recover the full amount of the surety bond and shall remit forty percent of the full amount of the surety bond to the political subdivision in which the photovoltaic solar generation project was intended to be sited; and

(iii) require documentation for any major photovoltaic solar generation project specifying:

(1) application procedures for major photovoltaic solar generation projects. Such procedures shall require that each application for such permits include the submission of documentation which includes the following criteria:

(A) categories based on solar array size, specifying the array capacity and how much power or electricity is expected to be generated, on-site or associated electric load, including the acreage of land underlying the array;

(B) specifying whether solar arrays will be roof-mounted and/or ground mounted, and designating preferred sites for the project; and

(C) categories based on the solar project's design, including specifying whether such solar project is intended to be an agrivoltaics project; and

1 (2) for major photovoltaic solar generation projects sited on land
2 required to receive additional consideration pursuant to subdivision
3 four of this section, the submission by the applicant of draft decommis-
4 sioning plans for projects on such agricultural land and a letter of
5 intent from the applicant stating the applicant's intention to secure a
6 decommissioning bond. Final decommissioning plans shall be filed upon
7 completion of the project in a post construction compliance filing,
8 along with a record of the project securing a decommissioning bond in
9 the amount prescribed by ORES upon approval and issuance of a project's
10 construction permit.

11 § 6. This act shall take effect on the ninetieth day after it shall
12 have become a law; provided, however, that section one of this act shall
13 expire and be deemed repealed two years after such date, when upon such
14 date the provisions of section two of this act shall take effect;
15 provided further, however, that the amendments to article 8 of the
16 public service law made by sections one, two, three, four and five of
17 this act shall not affect the repeal of such article and shall be deemed
18 repealed therewith. Effective immediately, the addition, amendment
19 and/or repeal of any rule or regulation necessary for the implementation
20 of this act on its effective date are authorized to be made and
21 completed on or before such effective date.