STATE OF NEW YORK

S. 7508--B A. 9508--B

SENATE - ASSEMBLY

PART JJJ

Section 1. This act shall be known as the "accelerated renewable energy growth and community benefit act".

§ 2. Legislative findings and statement of purpose. The legislature hereby finds, determines and declares:

1. Chapter 106 of the laws of 2019 enacted the New York state climate leadership and community protection act (the "CLCPA") that among other things:

(a) directed the department of environmental conservation to establish a statewide greenhouse gas emissions limit as a percentage of 1990 emissions as follows: (i) 2030: 60% of 1990 emissions; and (ii) 2050: 15% of 1990 emissions;

(b) directed the public service commission ("commission") to establish programs to require that a minimum of 70% statewide electric generation be produced by renewable energy systems by 2030, and that by the year 2040 the statewide electrical demand system will generate zero emissions; and

(c) directed the commission to require the procurement by the state's jurisdictional load serving entities of at least 9 gigawatts of offshore wind electricity generation by 2035 and six gigawatts of photovoltaic solar generation by 2025, and to support three gigawatts of statewide energy storage capacity by 2030 (collectively, the "CLCPA targets").

2. In order to achieve the CLCPA targets, the state shall take appropriate action to ensure that:

(a) new renewable energy generation projects can be sited in a timely and cost-effective manner that includes consideration of local laws concerning zoning, the

environment or public health and safety and avoids or minimizes, to the maximum extent practicable, adverse environmental impacts; and

(b) renewable energy can be efficiently and cost effectively injected into the state's distribution and transmission system for delivery to regions of the state where it is needed. In particular, the state shall provide for timely and cost effective construction of new, expanded and upgraded distribution and transmission infrastructure as may be needed to access and deliver renewable energy resources, which may include alternating current transmission facilities, high voltage direct current transmission infrastructure facilities, and submarine transmission facilities needed to interconnect off-shore renewable generation resources to the state's transmission system.

3. A public policy purpose would be served and the interests of the people of the state would be advanced by directing the public service commission to make a comprehensive study of the state's power grid to identify distribution and transmission infrastructure needed to enable the state to meet the CLCPA targets, and based on such study, develop definitive plans that: (a) provide for the timely development of local transmission and distribution system upgrades by the state's regulated utilities and the Long Island power authority; (b) identify bulk transmission investments that should be undertaken, including projects that should be undertaken immediately and on an expedited basis in cooperation with the power authority of the state of New York; and (c) otherwise advance the policies of this act.

4. A public policy purpose would be served and the interests of the people of the state would be advanced by:

(a) expediting the regulatory review for the siting of major renewable energy facilities and transmission infrastructure necessary to meet the CLCPA targets, in recognition of the importance of these facilities and their ability to lower carbon emissions;

(b) making available to developers of clean generation resources build-ready sites for the construction and operation of such renewable energy facilities;

(c) developing uniform permit standards and conditions that are applicable to classes and categories of renewable energy facilities, that reflect the environmental benefits of such facilities and address common conditions necessary to minimize impacts to the surrounding community and environment;

(d) providing for workforce training, especially in disadvantaged communities;

(e) implementing one or more programs to provide benefits to owners of land and communities where renewable energy facilities and transmission infrastructure would be sited;

(f) incentivizing the re-use or adaptation of sites with existing or abandoned commercial or industrial uses, such as brownfields, landfills, dormant electric generating sites and former commercial or industrial sites, for the development of major renewable energy facilities and to restore and protect the value of taxable land and leverage existing resources; and

(g) implementing the state's policy to protect, conserve and recover endangered and threatened species while establishing additional mechanisms to facilitate the achievement of a net conservation benefit to endangered or threatened species which may be impacted by the construction or operation of major renewable energy facilities.

§ 3. Paragraphs (c) and (d) of subdivision 4 of section 162 of the public service law, as added by chapter 388 of the laws of 2011, are amended and a new subdivision (e) is added to read as follows:

(c) To a major electric generating facility (i) constructed on lands dedicated to industrial uses, (ii) the output of which shall be used solely for industrial purposes, on the premises, and (iii) the generating capacity of which does not exceed two hundred thousand kilowatts; [~~or~~]

(d) To a major electric generating facility if, on or before the effective date of the rules and regulations promulgated pursuant to this article and section 19-0312 of the environmental conservation law, an application has been made for a license, permit, certificate, consent or approval from any federal, state or local commission, agency, board or regulatory body, in which application the location of the major electric generating facility has been designated by the applicant; or if the facility is under construction at such time[~~.~~]**; or**

(e) To a major renewable energy facility as such term is defined in section ninety-four-c of the executive law; provided, however, that any person intending to construct a major renewable energy facility, that has a draft pre-application public involvement program plan pursuant to section one hundred sixty-three of this article and the regulations implementing this article, which is pending with the siting board as of the effective date of this paragraph may remain subject to the provisions of this article or, may, by written notice to the secretary of the commission, elect to become subject to the provisions of section ninety-four-c of the executive law.

§ 4. The executive law is amended by adding a new section 94-c to read as follows:

§ 94-c. Major renewable energy development program. 1. Purpose. It is the purpose of this section to consolidate the environmental review and permitting of major renewable energy facilities in this state and to provide a single forum in which the office of renewable energy siting created by this section may undertake a coordinated and timely review of proposed major renewable energy facilities to meet the state's renewable energy goals while ensuring the protection of the environment and consideration of all pertinent social, economic and environmental factors in the decision to permit such facilities as more specifically provided in this section.

2. Definitions. (a) "Executive director" or "director" shall mean the executive director of the office of renewable energy siting.

(b) "CLCPA targets" shall mean the public policies established in the climate leadership and community protection act enacted in chapter one hundred six of the laws of two thousand nineteen, including the requirement that a minimum of seventy percent of the statewide electric generation be produced by renewable energy systems by two thousand thirty, that by the year two thousand forty the statewide electrical demand system will generate zero emissions and the procurement of at least nine gigawatts of offshore wind electricity generation by two thousand thirty-five, six gigawatts of photovoltaic solar generation by two thousand twenty-five and to support three gigawatts of statewide energy storage capacity by two thousand thirty.

(c) "Local agency account" or "account" shall mean the account established by the office pursuant to subdivision seven of this section.

(d) "Local agency" means any local agency, board, district, commission or governing body, including any city, county, and other political subdivision of the state.

(e) "Municipality" shall mean a county, city, town, or village.

(f) "Office" shall mean the office of renewable energy siting established pursuant to this section.

(g) "Department" shall mean the department of state.

(h) "Major renewable energy facility" means any renewable energy system, as such term is defined in section sixty-six-p of the public service law as added by

chapter one hundred six of the laws of two thousand nineteen, with a nameplate generating capacity of twenty-five thousand kilowatts or more, and any co-located system storing energy generated from such a renewable energy system prior to delivering it to the bulk transmission system, including all associated appurtenances to electric plants as defined under section two of the public service law, including electric transmission facilities less than ten miles in length in order to provide access to load and to integrate such facilities into the state's bulk electric transmission system.

(i) "Siting permit" shall mean the major renewable energy facility siting permit established pursuant to this section and the rules and regulations promulgated by the office.

(j) "Dormant electric generating site" shall mean a site at which one or more electric generating facilities produced electricity but has permanently ceased operating.

3. Office of renewable energy siting; responsibilities. (a) There is hereby established within the department an office of renewable energy siting which is charged with accepting applications and evaluating, issuing, amending, approving the assignment and/or transfer of siting permits. The office shall exercise its authority by and through the executive director.

(b) The office shall within one year of the effective date of this section establish a set of uniform standards and conditions for the siting, design, construction and operation of each type of major renewable energy facility relevant to issues that are common for particular classes and categories of major renewable energy facilities, in consultation with the New York state energy research and development authority, the department of environmental conservation, the department of public service, the department of agriculture and markets, and other relevant state agencies and authorities with subject matter expertise. Prior to adoption of uniform standards and conditions, the office shall hold four public hearings in different regions of the state to solicit comment from municipal, or political subdivisions, and the public on proposed uniform standards and conditions to avoid, minimize or mitigate potential adverse environmental impacts from the siting, design, construction and operation of a major renewable energy facility.

(c) The uniform standards and conditions established pursuant to this section shall be designed to avoid or minimize, to the maximum extent practicable, any potential significant adverse environmental impacts related to the siting, design, construction and operation of a major renewable energy facility. Such uniform

standards and conditions shall apply to those environmental impacts the office determines are common to each type of major renewable energy facility.

(d) In its review of an application for a permit to develop a major renewable energy facility, the office, in consultation with the department of environmental conservation, shall identify those site-specific environmental impacts, if any, that may be caused or contributed to by a specific proposed major renewable energy facility and are unable to be addressed by the uniform standards and conditions. The office shall draft in consultation with the department of environmental conservation site specific permit terms and conditions for such impacts, including provisions for the avoidance or mitigation thereof, taking into account the CLCPA targets and the environmental benefits of the proposed major renewable energy facility, provided, however, that the office shall require that the application of uniform standards and conditions and site-specific conditions shall achieve a net conservation benefit to any impacted endangered and threatened species.

(e) To the extent that environmental impacts are not completely addressed by uniform standards and conditions and site-specific permit conditions proposed by the office, and the office determines that mitigation of such impacts may be achieved by off-site mitigation, the office may require payment of a fee by the applicant to achieve such off-site mitigation. If the office determines, in consultation with the department of environmental conservation, that mitigation of impacts to endangered or threatened species that achieves a net conservation benefit can be achieved by off-site mitigation, the amount to be paid for such off-site mitigation shall be set forth in the final siting permit. The office may require payment of funds sufficient to implement such off-site mitigation into the endangered and threatened species mitigation fund established pursuant to section ninety-nine-hh of the state finance law.

(f) The office, by and through the executive director, shall be authorized to conduct hearings and dispute resolution proceedings, issue permits, and adopt such rules, regulations and procedures as may be necessary, convenient, or desirable to effectuate the purposes of this section.

(g) The office shall within one year of the effective date of this section promulgate rules and regulations with respect to all necessary requirements to implement the siting permit program established in this section and promulgate modifications to such rules and regulations as it deems necessary; provided that the office shall promulgate regulations requiring the service of applications on affected municipalities and political subdivisions simultaneously with submission of the application to the office.

(h) At the request of the office, all other state agencies and authorities are hereby authorized to provide support and render services to the office within their respective functions.

(i) Notwithstanding any other provision of law, rule, or regulation to the contrary and consistent with appropriations therefor, employees of any state agency who are necessary to the functions of the office and who may be substantially engaged in the performance of its functions shall be transferred to the office in accordance with the provisions of section seventy-eight of the civil service law. Employees transferred pursuant to this section shall be transferred without further examination or qualification and shall retain their respective civil service classifications. Nothing set forth in this subdivision shall be construed to impede, infringe, or diminish the rights and benefits that accrue to employees through collective bargaining agreements, impact or change an employee's membership in a bargaining unit, or otherwise diminish the integrity of the collective bargaining relationship.

4. Applicability. (a) On and after the effective date of this section, no person shall commence the preparation of a site for, or begin the construction of, a major renewable energy facility in the state, or increase the capacity of an existing major renewable energy facility, without having first obtained a siting permit pursuant to this section. Any such major renewable energy facility with respect to which a siting permit is issued shall not thereafter be built, maintained, or operated except in conformity with such siting permit and any terms, limitations, or conditions contained therein, provided that nothing in this subdivision shall exempt such major renewable energy facility from compliance with federal laws and regulations.

(b) A siting permit issued by the office may be transferred or assigned, subject to the prior written approval of the office, to a person that agrees to comply with the terms, limitations and conditions contained in such siting permit.

(c) The office or a permittee may initiate an amendment to a siting permit under this section. An amendment initiated by the office or permittee that is likely to result in any material increase in any environmental impact or involves a substantial change to the terms or conditions of a siting permit shall comply with the public notice and hearing requirements of this section.

(d) Any hearings or dispute resolution proceedings initiated under this section or pursuant to rules or regulations promulgated pursuant to this section may be conducted by the executive director or any person to whom the executive

director shall delegate the power and authority to conduct such hearings or proceedings in the name of the office at any time and place.

(e) This section shall not apply:

(i) to a major renewable energy facility, or any portion thereof, over which any agency or department of the federal government has exclusive siting jurisdiction, or has siting jurisdiction concurrent with that of the state and has exercised such jurisdiction to the exclusion of regulation of the facility by the state; provided, however, nothing herein shall be construed to expand federal jurisdiction;

(ii) to normal repairs, maintenance, replacements, non-material modifications and improvements of a major renewable energy facility, whenever built, which are performed in the ordinary course of business and which do not constitute a violation of any applicable existing permit;

(iii) to a major renewable energy facility if, on or before the effective date of this section, an application has been made or granted for a license, permit, certificate, consent or approval from any federal, state or local commission, agency, board or regulatory body, including the submission of a pre-application public involvement program plan under article ten of the public service law and its implementing regulations, in which application the location of the major renewable energy facility has been designated by the applicant, except in the case of a person who elects to be subject to this section as authorized by paragraph e of subdivision four of section one hundred sixty-two of the public service law.

(f) Any person intending to construct a major renewable energy facility excluded from this section pursuant to paragraph (ii) or (iii) of paragraph (e) of this subdivision may elect to become subject to the provisions of this section by filing an application for a siting permit. This section shall thereafter apply to each major renewable energy facility identified in such notice from the date of its receipt by the office. With respect to such major renewable energy facilities, the rules and regulations promulgated pursuant to this section shall set forth an expedited permitting process to account for matters and issues already presented and resolved in relevant alternative permitting proceedings.

(i) With respect to a major renewable energy facility for which an application was previously reviewed pursuant to article ten of the public service law, and for which a completeness determination had already been issued at the time an application was filed pursuant to this section, such application shall be considered complete pursuant to this section upon filing.

(ii) With respect to a major renewable energy facility for which an application was previously reviewed pursuant to article ten of the public service law, and for which a completeness determination had not been issued at the time the application was filed pursuant to this section, the sixty-day time period provided in paragraph (b) of subdivision five of this section shall commence upon filing.

(g) Any person intending to construct a facility that is a renewable energy system, as such term is defined in section sixty-six-p of the public service law as added by chapter one hundred six of the laws of two thousand nineteen, with a nameplate capacity of at least twenty thousand but less than twenty-five thousand kilowatts, may apply to become subject to the provisions of this section by filing an application for a siting permit. Upon submission of such application, the subject renewable energy facility shall be treated as a "major renewable energy facility" exclusively for purposes of permitting under this section.

5. Application, municipal notice and review. (a) Until the office establishes uniform standards and conditions required by subdivision three of this section and promulgates regulations specifying the content of an application for a siting permit, an application for a siting permit submitted to the office shall conform substantially to the form and content of an application required by section one hundred sixty-four of the public service law.

(b) Notwithstanding any law to the contrary, the office shall, within sixty days of its receipt of an application for a siting permit determine whether the application is complete and notify the applicant of its determination. If the office does not deem the application complete, the office shall set forth in writing delivered to the applicant the reasons why it has determined the application to be incomplete. If the office fails to make a determination within the foregoing sixty-day time period, the application shall be deemed complete; provided, however, that the applicant may consent to an extension of the sixty-day time period for determining application completeness. Provided, further, that no application may be complete without proof of consultation with the municipality or political subdivision where the project is proposed to be located, or an agency thereof, prior to submission of an application to the office, related to procedural and substantive requirements of local law.

(c) (i) No later than sixty days following the date upon which an application has been deemed complete, and following consultation with any relevant state agency or authority, the office shall publish for public comment draft permit conditions prepared by the office, which comment period shall be for a minimum of sixty days from public notice thereof. Such public notice shall include, at a

minimum, written notice to the municipality or political subdivision in which the major renewable energy facility is proposed to be located; publication in a newspaper or in electronic form, having general circulation in such municipality or political subdivision; and posted on the office's website.

(ii) For any municipality, political subdivision or an agency thereof that has received notice of the filing of an application, pursuant to regulations promulgated in accordance with this section, the municipality or political subdivision or agency thereof shall within the timeframes established by this subdivision submit a statement to the office indicating whether the proposed facility is designed to be sited, constructed and operated in compliance with applicable local laws and regulations, if any, concerning the environment, or public health and safety. In the event that a municipality, political subdivision or an agency thereof submits a statement to the office that the proposed facility is not designed to be sited, constructed or operated in compliance with local laws and regulations and the office determines not to hold an adjudicatory hearing on the application, the department shall hold non-adjudicatory public hearing in the affected municipality or political subdivision.

(d) If public comment on a draft permit condition published by the office pursuant to this subdivision, including comments provided by a municipality or political subdivision or agency thereof, or members of the public raises a substantive and significant issue, as defined in regulations adopted pursuant to this section, that requires adjudication, the office shall promptly fix a date for an adjudicatory hearing to hear arguments and consider evidence with respect thereto.

(e) Following the expiration of the public comment period set forth in this subdivision, or following the conclusion of a hearing undertaken pursuant to this subdivision, the office shall, in the case of a public comment period, issue a written summary of public comment and an assessment of comments received, and in the case of an adjudicatory hearing, the executive officer or any person to whom the executive director has delegated such authority, shall issue a final written hearing report. A final siting permit may only be issued if the office makes a finding that the proposed project, together with any applicable uniform and site-specific standards and conditions would comply with applicable laws and regulations. In making this determination, the office may elect not to apply, in whole or in part, any local law or ordinance which would otherwise be applicable if it makes a finding that, as applied to the proposed major renewable energy facility, it is unreasonably burdensome in view of the CLCPA targets and the environmental benefits of the proposed major renewable energy facility.

(f) Notwithstanding any other deadline made applicable by this section, the office shall make a final decision on a siting permit for any major renewable energy project within one year from the date the application was deemed complete, or within six months from the date the application was deemed complete if the major renewable energy facility is proposed to be sited on an existing or abandoned commercial use, including without limitation, brownfields, landfills, former commercial or industrial sites, dormant electric generating sites, and abandoned or otherwise underutilized sites, as further defined by the regulations promulgated by this section. Unless the office and the applicant have agreed to an extension, with such extension limited to thirty days, and if a final siting permit decision has not been made by the office within such time period, then such siting permit shall be deemed to have been automatically granted for all purposes set forth in this section and all uniform conditions or site specific permit conditions issued for public comment shall constitute enforceable provisions of the siting permit. The final siting permit shall include a provision requiring the permittee to provide a host community benefit, which may be a host community benefit as determined by the public service commission pursuant to section eight of the chapter of the laws of two thousand twenty that added this section or such other project as determined by the office or as subsequently agreed to between the applicant and the host community.

(g) Any party aggrieved by the issuance or denial of a permit under this section may seek judicial review of such decision as provided in this paragraph. (i) A judicial proceeding shall be brought in the appellate division of the supreme court of the state of New York in the judicial department embracing the county wherein the facility is to be located or, if the application is denied, the county wherein the applicant has proposed to locate the facility. Such proceeding shall be initiated by the filing of a petition in such court within ninety days after the issuance of a final decision by the office together with proof of service of a demand on the office to file with said court a copy of a written transcript of the record of the proceeding and a copy of the office's decision and opinion. The office's copy of said transcript, decision and opinion, shall be available at all reasonable times to all parties for examination without cost. Upon receipt of such petition and demand the office shall forthwith deliver to the court a copy of the record and a copy of the office's decision and opinion. Thereupon, the court shall have jurisdiction of the proceeding and shall have the power to grant such relief as it deems just and proper, and to make and enter an order enforcing, modifying and enforcing as so modified, remanding for further specific evidence or findings or setting aside in whole or in part such decision. The appeal shall be heard on the record, without requirement of reproduction, and upon briefs to the

court. The findings of fact on which such decision is based shall be conclusive if supported by substantial evidence on the record considered as a whole and matters of judicial notice set forth in the opinion. The jurisdiction of the appellate division of the supreme court shall be exclusive and its judgment and order shall be final, subject to review by the court of appeals in the same manner and form and with the same effect as provided for appeals in a special proceeding. All such proceedings shall be heard and determined by the appellate division of the supreme court and by the court of appeals as expeditiously as possible and with lawful precedence over all other matters.

(ii) The grounds for and scope of review of the court shall be limited to whether the decision and opinion of the office are:

(A) In conformity with the constitution, laws and regulations of the state and the United States;

(B) Supported by substantial evidence in the record and matters of judicial notice properly considered and applied in the opinion;

(C) Within the office's statutory jurisdiction or authority;

(D) Made in accordance with procedures set forth in this section or established by rule or regulation pursuant to this section;

(E) Arbitrary, capricious or an abuse of discretion; or

(F) Made pursuant to a process that afforded meaningful involvement of citizens affected by the facility regardless of age, race, color, national origin and income.

(iii) Except as herein provided article seventy-eight of the civil practice law and rules shall apply to appeals taken hereunder.

6. Powers of municipalities and state agencies and authorities; scope of section. (a) Notwithstanding any other provision of law, including without limitation article eight of the environmental conservation law and article seven of the public service law, no other state agency, department or authority, or any municipality or political subdivision or any agency thereof may, except as expressly authorized under this section or the rules and regulations promulgated under this section, require any approval, consent, permit, certificate, contract, agreement, or other condition for the development, design, construction, operation, or decommissioning of a major renewable energy facility with respect

to which an application for a siting permit has been filed, provided in the case of a municipality, political subdivision or an agency thereof, such entity has received notice of the filing of the application therefor. Notwithstanding the foregoing, the department of environmental conservation shall be the permitting agency for permits issued pursuant to federally delegated or federally approved programs.

(b) This section shall not impair or abrogate any federal, state or local labor laws or any otherwise applicable state law for the protection of employees engaged in the construction and operation of a major renewable energy facility.

(c) The department of public service or the public service commission shall monitor, enforce and administer compliance with any terms and conditions set forth in a permit issued pursuant to this section and in doing so may use and rely on authority otherwise available under the public service law.

7. Fees; local agency account. (a) Each application for a siting permit shall be accompanied by a fee in an amount equal to one thousand dollars for each thousand kilowatts of capacity of the proposed major renewable energy facility, to be deposited in an account to be known as the local agency account established for the benefit of local agencies and community intervenors by the New York state energy research and development authority and maintained in a segregated account in the custody of the commissioner of taxation and finance. The office may update the fee periodically solely to account for inflation. The proceeds of such account shall be disbursed by the office, in accordance with eligibility and procedures established by the rules and regulations promulgated by the office pursuant to this section, for the participation of local agencies and community intervenors in public comment periods or hearing procedures established by this section, including the rules and regulations promulgated hereto; provided that fees must be disbursed for municipalities, political subdivisions or an agency thereof, to determine whether a proposed facility is designed to be sited, constructed and operated in compliance with the applicable local laws and regulations.

(b) All funds so held by the New York state energy research and development authority shall be subject to an annual independent audit as part of such authority's audited financial statements, and such authority shall prepare an annual report summarizing account balances and activities for each fiscal year ending March thirty-first and provide such report to the office no later than ninety days after commencement of such fiscal year and post on the authority's website.

(c) With respect to a person who has filed an application for a siting permit pursuant to subdivision four of this section, any amounts held in an intervenor account established pursuant to articles seven and ten of the public service law shall be applied to the intervenor account established by this subdivision.

(d) In addition to the fees established pursuant to paragraph (a) of this subdivision, the office, pursuant to regulations adopted pursuant to this section, may assess a fee for the purpose of recovering the costs the office incurs related to reviewing and processing an application submitted under this section.

§ 5. The opening paragraph of section 1854 of the public authorities law, as amended by chapter 558 of the laws of 1980, is amended to read as follows:

The purposes of the authority shall be to develop and implement new energy technologies **and invest in build-ready sites, as defined in subdivision eight of section nineteen hundred one of this article,** consistent with economic, social and environmental objectives, to develop and encourage energy conservation technologies, to promote, develop, encourage and assist in the acquiring, constructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and industrial pollution control facilities at the Saratoga Research and Development Center, and to promote, develop, encourage and assist special energy projects and thereby advance job opportunities, health, general prosperity and economic welfare of the people of the state of New York. In carrying out such purposes, the authority shall, with respect to the activities specified, have the following powers:

§ 6. Article 8 of the public authorities law is amended by adding a new title 9-B to read as follows:

Title 9-B

CLEAN ENERGY RESOURCES DEVELOPMENT AND INCENTIVES PROGRAM Section 1900. Statement of legislative intent.

1901. Definitions.

1902. Powers and duties.

1903. Eligibility.

1904. Funding.

1905. Reporting.

§ 1900. Statement of legislative intent. It is the intent of the legislature in enacting this title to empower the New York state energy research and development authority to establish effective programs and other mechanisms to: (1) foster and encourage the orderly and expedient siting and development of renewable energy facilities, particularly at sites which are difficult to develop, consistent with applicable law for the purpose of enabling the state to meet CLCPA targets as defined in subdivision two of section ninety-four-c of the executive law; (2) incentivize the re-use of previously developed sites for renewable energy facilities to protect the value of taxable land, capitalize on existing infrastructure; (3) support the provision of benefits to communities that host renewable energy facilities; and (4) protect environmental justice areas from adverse environmental impacts.

§ 1901. Definitions. As used in this title, the following terms shall have the following meanings:

1. "Authority" shall have the same meaning as in subdivision two of section eighteen hundred fifty-one of this article.

2. "Commission" shall mean the public service commission.

3. "Departments" shall mean the department of environmental conservation, the department of agriculture and markets, the department of economic development and the department of public service.

4. "Environmental justice area" shall mean a minority or low-income community that may bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

5. "Host community" shall mean any municipality within which a major renewable energy facility, or any portion thereof, has been proposed for development.

6. "Renewable energy facility" shall have the same meaning as renewable energy systems defined in section sixty-six-p of the public service law.

7. "Municipality" shall mean a county, city, town or village or political subdivision.

8. "Build-ready site" shall mean a site for which the authority has secured permits, property interests, agreements and/or other authorizations necessary to offer such site for further development, construction and operation of a renewable energy facility in accordance with the other provisions of this title.

§ 1902. Powers and duties. The authority is hereby authorized and directed to undertake such actions it deems necessary or convenient to foster and encourage the siting and development of build-ready sites throughout the state in accordance with this title, work in collaboration with the department of public service and the New York state urban development corporation and any of their affiliates, including without limitation:

1. (a) Locate, identify and assess sites within the state that appear suitable for the development of build-ready sites with a priority given to previously developed sites. Such assessment may include but need not be limited to the following considerations:

(i) natural conditions at the site that are favorable to renewable energy generation;

(ii) current land uses at or near the site;

(iii) environmental conditions at or near the site;

(iv) the availability and characteristics of any transmission or distribution facilities on or near the site that could be used to facilitate the delivery of energy from the site, including existing or potential constraints on such facilities;

(v) the potential for the development of energy storage facilities at or near the site;

(vi) potential impacts of development on environmental justice communities; and

(vii) expressions of commercial interest in the site or general location by developers of major renewable energy facilities.

(b) In making such assessment the authority shall give priority to previously developed sites, existing or abandoned commercial sites, including without limitation brownfields, landfills, former commercial or industrial sites, dormant electric generating sites, or otherwise underutilized sites;

2. Notwithstanding any provision of law to the contrary that would require the authority to locate sites through a competitive procurement, negotiate and enter into agreements with persons who own or control interests in favorable sites for the purpose of securing the rights and interests necessary to enable the authority to establish build-ready sites;

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; and (b) 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;

4. Undertake all work and secure such permits as the authority deems necessary or convenient to facilitate the process of establishing build-ready sites and for the transfer of the build-ready sites to developers selected pursuant to a publicly noticed, competitive bidding process authorized by law;

5. Notwithstanding title five-A of article nine of this chapter, establish a build-ready program, including eligibility and other criteria, pursuant to which the authority would, through a competitive and transparent bidding process, transfer rights and other interests in build-ready sites and development rights to developers for the purpose of facilitating the development of renewable energy facilities on such build-ready sites. Such transactions may include the transfer of rights, interests and obligations existing under agreements providing for host community benefits negotiated by the authority pursuant to programs established pursuant to subdivision six of this section on such terms and conditions as the authority deems appropriate;

6. Establish one or more programs pursuant to which property owners and communities would receive incentives to host major renewable energy facilities developed for the purpose of advancing the state policies embodied in this article. Such program may include without limitation, and notwithstanding any other provision of law to the contrary, provisions for the authority to negotiate and enter into agreements with property owners and host communities providing for incentives, including a payment in lieu of taxes, the transfer of the authority's interests in such agreements to developers to whom build-ready sites are transferred, and the provision of information and guidance to stakeholders concerning incentives. The authority shall maintain a record of such programs and incentives, and shall publish such record on the authority's website;

7. Procure the services of one or more service providers, including without limitation environmental consultants, engineers and attorneys, to support the authority's responsibilities under this section and perform such other functions as the authority deems appropriate;

8. In consultation with the department of economic development, the department of labor and other state agencies and authorities having experience with job training programs, assess the need for and availability of workforce training in the local area of build-ready sites to support green jobs development with special attention to environmental justice communities and, subject to available funding, establish one or more programs pursuant to which financial support can be made available for the local workforce and under-employed populations in the area;

9. Manage, allocate and spend any monies made available to the authority in furtherance of this title as the authority determines to be appropriate for the proper administration of programs created pursuant to this title. The authority shall, in identifying build-ready sites, consider the ability to recoup funds allocated or spent in furtherance of the programs created pursuant to this title. Any proceeds, less program expenses and administration, so earned by the authority pursuant to this title shall be reinvested in accordance with a plan approved by the commission;

10. Where the authority determines that it would be beneficial to the policy embodied in this title, offer financing or other incentives to eligible developers through a competitive process, including without limitation measures and activities undertaken by the authority in conjunction with its administration of the state's clean energy standard or similar program as established in commission orders, including without limitation orders issued in commission case number 15-E-0302; and

11. Request and receive the assistance of, the departments or any other state agency or authority, within their respective relevant subject matter expertise, to support the administration of the program created pursuant to this title.

§ 1903. Eligibility. The authority may establish and revise any eligibility and evaluation criteria it deems appropriate for the proper administration of the programs created pursuant to this title.

§ 1904. Funding. 1. The authority may seek funding from any authorized or other available source to administer this program.

2. Without limiting the foregoing, the authority shall submit a petition or other appropriate filing to the commission describing the activities it has taken and plans to undertake in furtherance of the policy embodied in this title. Such filing may include a request for funding to allow such activities to proceed promptly and for a period of at least five years from the date of the order responding to such petition. The commission shall, in accordance with and as promptly as authorized by existing law and regulation but in no event more than four months following the submission of the petition, issue an order responding to such petition subject to any necessary and reasonable limitations based on the public service law.

§ 1905. Reporting. 1. Effective April first, two thousand twenty-one, the authority shall issue an annual report specifying:

(a) any proceeds, less program expenses and administration, so earned by the authority pursuant to this title;

(b) the sites auctioned for development pursuant to subdivision 5 of section nineteen hundred two of this title;

(c) the identity of developers to whom rights have been transferred pursuant to section nineteen hundred two of this title; and,

(d) the resulting renewable energy production.

2. The authority shall submit such report to the governor, the temporary president of the senate, and the speaker of the assembly. A copy of the report shall also be posted on the authority's website.

§ 7. State power grid study and program to achieve CLCPA targets. 1. As used in this section:

(a) "CLCPA targets" means the public policies established in the climate leadership and community protection act enacted in chapter 106 of the laws of 2019, including the requirements that a minimum of 70% statewide electric generation be produced by renewable energy systems by 2030, by the year 2040 the statewide electrical demand system will generate zero emissions, and the state's jurisdictional load serving entities will procure at least 9 gigawatts of offshore wind electricity generation by 2035, 6 gigawatts of photovoltaic solar generation by 2025, and support 3 gigawatts of statewide energy storage capacity by 2030, as such policies may from time to time be amended.

(b) "Commission" means the public service commission.

(c) "Department" means the department of public service.

(d) "Distribution upgrade" means a new distribution facility or an improvement, enhancement, replacement, or other modification to the electric power grid at the distribution level in a utility's service territory that facilitates achievement of the CLCPA targets.

(e) "Local transmission upgrade" means a new transmission facility that is identified within a utility's local transmission capital plan, an upgrade to a local transmission facility as defined in the tariff of the state grid operator, or an improvement, enhancement, replacement, or other modification to a transmission facility in a utility's service territory that facilitates achievement of the CLCPA targets.

(f) "Major renewable energy facility" has the same meaning as in paragraph (g) of subdivision 2 of section 94-c of the executive law.

(g) "Bulk transmission investment" means a new transmission facility or an improvement, enhancement, replacement, or other modification to the state's bulk electric transmission grid that facilitates achievement of the CLCPA targets and includes without limitation alternating current facilities and high voltage direct current facilities, including submarine transmission facilities.

(h) "State grid operator" means the federally designated electric bulk system operator for New York state.

(i) "Utility" means an electric transmission or delivery utility or any other person owning or maintaining an electric transmission or delivery system, over which the commission has jurisdiction.

2. The department, in consultation with the New York state energy research and development authority, the power authority of the state of New York, the Long Island power authority, the state grid operator, and the utilities shall undertake a comprehensive study for the purpose of identifying distribution upgrades, local transmission upgrades and bulk transmission investments that are necessary or appropriate to facilitate the timely achievement of the CLCPA targets (collectively, "power grid study"). The power grid study shall identify needed distribution upgrades and local transmission upgrades for each utility service territory and separately address needed bulk transmission system investments. In performing the study, the department may consider such issues it determines to be appropriate including by way

of example system reliability; safety; cost-effectiveness of upgrades and investments in promoting development of major renewable energy facilities and relieving or avoiding constraints; and factors considered by the office of renewable energy siting in issuing and enforcing renewable energy siting permits pursuant to section 94-c of the executive law. In carrying out the study, the department shall gather input from owners and developers of competitive transmission projects, the state grid operator, and providers of transmission technology and smart grid solutions and to utilize information available to the department from other pertinent studies or research relating to modernization of the state's power grid. To enable the state to meet the CLCPA targets in an orderly and cost-effective manner, the department may issue findings and recommendations as part of the power grid study at reasonable intervals but shall make an initial report of findings and recommendations within 270 days of the effective date of this section.

3. The commission shall, within 60 days of the initial findings and recommendations required by subdivision two of this section, or at such earlier time as the commission determines to be appropriate, commence a proceeding to establish a distribution and local transmission capital plan for each utility in whose service territory the power grid study identified distribution upgrades and local transmission upgrades that the department determines are necessary or appropriate to achieve the CLCPA targets (the "state distribution and local transmission upgrade programs"). The state distribution and local transmission upgrade programs shall establish a prioritized schedule upon which each such upgrade shall be accomplished. Concurrently, the Long Island power authority shall establish a capital program to address identified distribution and local transmission upgrades in its service territory.

4. The commission shall, within 60 days of the initial findings and recommendations required by subdivision two of this section, commence a proceeding to establish a bulk transmission system investment program, consistent with the commissions siting authority in article 7 of the public service law that identifies bulk transmission investments that the commission determines are necessary or appropriate to achieve the CLCPA targets (the "state bulk transmission investment plan"). The commission shall establish a prioritized schedule for implementation of the state bulk transmission investment plan and, in particular shall identify projects which shall be completed expeditiously to meet the CLCPA targets. The state bulk transmission investment plan shall be submitted by the commission to the state grid operator for appropriate incorporation into the state grid operator's studies and plans. The commission shall utilize the state grid operator's public policy transmission planning process to select a project necessary for implementation of the state bulk transmission investment plan, and shall identify such projects no later than eight months following a notice of the state grid operator's public policy transmission planning process cycle,

except that for those projects for which the commission determines there is a need to proceed expeditiously to promote the state's public policy goals, such projects shall be designated and proceed in accordance with subdivision five of this section. The commission shall periodically review and update the state bulk transmission investment plan, and its designation of projects in that plan which shall be completed expeditiously.

5. The legislature finds and determines that timely development of the bulk transmission investments identified in the state bulk transmission investment plan is in the public interest of the people of the state of New York. The legislature further finds and determines that the power authority of the state of New York ("power authority") owns and operates backbone electric transmission assets in New York, has rights-of-way that can support in whole or in part bulk transmission investment projects, and has the financial stability, access to capital, technical expertise and experience to effectuate expeditious development of bulk transmission investments needed to help the state meet the CLCPA targets, and thus it is appropriate for the power authority as deemed feasible and advisable by its trustees, by itself or in collaboration with other parties as it determines to be appropriate, to develop those bulk transmission investments found by the commission to be needed expeditiously to achieve CLCPA targets ("priority transmission projects"). The power authority shall, through a public process, solicit interest from potential co-participants in each project it has agreed to develop and assess whether any joint development would provide for significant additional benefits in achieving the CLCPA targets. The power authority may thereafter determine to undertake the development of the project on its own, or undertake the project jointly with one or more other parties on such terms and conditions as the power authority finds to be appropriate and, notwithstanding any other law to the contrary, enter into such agreements and take such other actions the power authority determines to be necessary in order to undertake and complete timely development of the project. The intent of this act is for the power authority to develop priority transmission projects authorized in this subdivision. For priority projects that the authority determines to undertake and that are not substantially within the power authority's existing rights of way, the authority shall, as deemed feasible and advisable by its board of trustees, select private sector participants through a competitive bidding process, provided however that priority transmission projects is not intended to include generation lead lines, or repairs to, replacement of or upgrades to the power authority's own transmission assets.

6. For the state distribution and local transmission upgrade program, the commission shall address implementation of such upgrades pursuant to the existing processes under the public service law. The department shall also make

recommendations to the Long Island power authority for upgrades for purposes of assisting the state to achieve the CLCPA targets.

7. No later than January 1, 2023, and every 4 years thereafter, the commission shall, after notice and provision for the opportunity to comment, issue a comprehensive review of the actions taken pursuant to this section and their impacts on grid congestion and achievement of the CLCPA targets, and shall institute new proceedings as the commission determines to be necessary to address any deficiencies identified therewith.

8. The power authority of the state of New York and the New York state energy research and development authority, are each authorized, as deemed feasible and advisable by their respective boards, to contribute to the cost of the power grid study required by subdivision two of this section.

9. Nothing in this section is intended to:

(a) limit, impair, or affect the legal authority of the power authority that existed as of the effective date of this section; or

(b) limit the authority of the power authority to undertake any transmission project, including bulk transmission investments, and recover costs under any other process or procedure authorized by state or federal law as the authority determines to be appropriate.

§ 8. Host community benefit. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Renewable host community" shall mean any municipality within which a major renewable energy facility defined in paragraph (h) of subdivision 2 of section 94-c of the executive law, or any portion thereof, has been proposed for development.

(b) "Renewable owner" shall mean the owner of a major renewable energy facility constructed after the effective date of this section that is proposed to be located in a host community, for which the New York state energy research and development authority has executed an agreement for the acquisition of environmental attributes related to a solicitation issued by such authority after the effective date of this section.

(c) "Utility" means an electric distribution utility regulated pursuant to section 66 of the public service law and serving customers within a host community.

2. The public service commission shall, within 60 days from the effective date hereof, commence a proceeding to establish a program under which renewable owners would fund a program to provide a discount or credit on the utility bills of the utility's customers in a renewable host community, or a compensatory or environmental benefit to such customers. Such proceeding shall determine the amount of such discount, credit, compensatory or environmental benefit based on all factors deemed appropriate by the commission, including the expected average electrical output of the facility, the average number of customers within the renewable host community, and the expected aggregate annual electric consumption within such renewable host community, the potential impact on environmental justice communities, and the role of utilities, if any, in implementing any aspect of such program. The Long Island power authority shall establish a program for renewable facilities in its service territory to achieve the same objectives.

§ 9. Subdivision 3 of section 123 of the public service law, as added by chapter 252 of the laws of 2002, is amended to read as follows:

3. Unless otherwise stipulated by the applicant[~~, a final determination regarding an application for a certificate to construct transmission facilities for interconnection with a wind energy production facility located in the county of Lewis shall be rendered within six months from the date of receipt of a compliant application.~~]**:**

(a) proceedings on an application for a major utility transmission facility as defined in paragraph a of subdivision two of section one hundred twenty of this article shall be completed in all respects, including a final decision by the commission, within twelve months from the date of a determination by the secretary of the commission that an application complies with section one hundred twenty-two of this article; provided, however, the commission may extend the deadline in reasonable circumstances by no more than six months in order to give consideration to specific issues necessary to develop an adequate record, because the applicant has been unable to obtain necessary approvals and/or consents related to highway crossings or for other reasons deemed in the public interest. The commission shall render a final decision on the application by the aforementioned deadlines unless such deadlines are waived by the applicant or if the applicant notices the application for settlement, in which case the timeframes established in this paragraph are tolled until such time that settlement discussions are suspended. If, at any time subsequent to the commencement of the hearing, there is a substantive and significant amendment to the application, the commission shall promptly fix a date for commencement of a public hearing thereon, such public hearing to commence no later than sixty days after receipt of such amendment. The

commission shall issue a final decision thereon no later than six months after the conclusion of the public hearing, unless such deadline is waived by the applicant.

(b) the commission shall, for the purpose of meeting the goals of chapter one hundred six of the laws of two thousand nineteen, promulgate rules or regulations to establish an expedited process for proceedings on applications for a major utility transmission facility as defined in paragraph a of subdivision two of section one hundred twenty of this article that (i) would be constructed within existing rights-of-way, (ii) the commission determines in consultation with the department of environmental conservation would not result in any significant adverse environmental impacts considering current uses and conditions existing at the site, or (iii) would necessitate expanding the existing rights-of-way but such expansion is only for the purpose of complying with law, regulations, or industry practices relating to electromagnetic fields.

(c) for purposes of this subdivision, the following terms shall have the following meanings:

(i) "Expedited process" shall mean a process for proceedings on applications for a major electric transmission facility that is completed in all respects, including a final decision by the commission, within nine months from the date of a determination by the secretary of the commission that an application complies with section one hundred twenty-two of this article; provided, however, that if the applicant notices the application for settlement, the timeframe established in this paragraph shall be tolled until such time that settlement discussions are suspended.

(ii) "Right-of-way" shall mean (a) real property that is used or authorized to be used for electric utility purposes, or (b) real property owned or controlled by or under the jurisdiction of the state, a distribution utility, or a state public authority including by means of ownership, lease or easement, that is used or authorized to be used for transportation or canal purposes.

§ 10. Paragraphs (c) and (d) of subdivision 1 of section 126 of the public service law, paragraph (c) as amended by chapter 406 of the laws of 1987 and paragraph (d) as amended by chapter 521 of the laws of 2015, are amended to read as follows:

(c) that the facility [~~**represents the minimum**~~] **avoids or minimizes to the extent practicable any significant** adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and

other pertinent considerations including but not limited to, the effect on agricultural lands, wetlands, parklands and river corridors traversed;

(d) that the facility [~~**represents a minimum**~~] **avoids or minimizes to the extent practicable any significant** adverse impact on active farming operations that produce crops, livestock and livestock products, as defined in section three hundred one of the agriculture and markets law, considering the state of available technology and the nature and economics of various alternatives, and the ownership and easement rights of the impacted property;

§ 11. Notwithstanding section 2897 of the public authorities law, the power authority of the state of New York and the New York state energy research and development authority may each negotiate and enter into agreements with other parties providing for the conveyance of interests in real property provided that in the case of any such conveyance such entity determines that the conveyance will further the purposes of this act or provide other benefits to the entity or the state.

§ 12. The environmental conservation law is amended by adding a new section 11-0535-c to read as follows: **§ 11-0535-c. Endangered and threatened species mitigation bank fund.**

1. The department is hereby authorized to utilize funds in the endangered and threatened species mitigation bank fund, established pursuant to section ninety-nine-hh of the state finance law, for the purposes of implementing an endangered and threatened species mitigation plan approved by the department.

2. Such fund shall consist of contributions, in an amount determined by the department, deposited by an applicant granted a siting permit to construct a major renewable energy facility, where such applicant has been ordered to mitigate harm to a threatened or endangered species or its habitat.

3. In administering the provisions of this article, the commissioner:

a. May, in the name of the state, enter into contracts with not-for-profit corporations, private or public universities, and private contractors for services contemplated by this title. Such contracts shall be subject to approval by the state comptroller and, as to form, by the attorney general.

b. Shall approve vouchers for payments pursuant to an approved contract. All such payments shall be paid on the audit and warrant of the state comptroller;

c. May, in the name of the state, enter into contracts with a not-for-profit corporation to administer grants made pursuant to this title, including the approval and payment of vouchers for approved contracts; and

d. May perform such other and further acts as may be necessary, proper, or desirable to carry out the provisions of this article.

4. Nothing in this article shall be construed to limit or restrict any powers of the commissioner or any other agency pursuant to any other provision of law.

5. The commissioner is authorized and directed to promulgate any regulations deemed necessary to implement this section.

§ 13. The state finance law is amended by adding a new section 99-hh to read as follows:

§ 99-hh. Endangered and threatened species mitigation bank fund. 1. There is hereby established in the joint custody of the comptroller and the commissioner of taxation and finance a special fund to be known as the "Endangered and threatened species mitigation bank fund".

2. Such fund shall consist of all revenues received pursuant to the provisions of section 11-0535-c of the environmental conservation law and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law.

3. All moneys deposited in the endangered and threatened species mitigation bank fund shall be available for projects undertaken to facilitate a net conservation benefit to endangered and threatened species potentially impacted by a major renewable energy facility.

4. Monies shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the commissioner of environmental conservation.

§ 14. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 15. This act shall take effect immediately and shall expire December 31, 2030 when upon such date this act shall be deemed repealed; provided that such repeal shall not affect or impair any act done, any application filed, any right, permit or authorization awarded, accrued, received or acquired, or any liability incurred, prior to the time such repeal takes effect, and provided further that any project for which the New York state energy research and development authority has expended, or committed to a third party to expend, funds towards the development of a build-ready site prior to such repeal shall be permitted to continue in accordance with title 9-B of article 8 of the public authorities law notwithstanding such repeal; provided further that any bulk transmission investments the power authority of the state of New York has notified the public service commission of its intent to develop individually or jointly prior to such repeal shall be permitted to continue under this act notwithstanding such repeal, and provided further that on the effective date of this act, the office of renewable energy siting shall be authorized to promulgate any rules or regulations necessary to implement section four of this act.