

# Legislative Update

## **Clean Energy Communities Program Funding**

The Public Service Commission is currently soliciting comments on a matter that, among other things, will potentially drastically decrease funding for the Clean Energy Communities program. Members can submit comments on the proposal [here](#). Comments need not be formal or technical – we encourage members to let the PSC know how the Clean Energy Communities program has worked in your municipality and any other feedback you may have.

## **Legislation to Watch**

Members can find the full text of the legislation listed below by accessing the public Legislative Retrieval System available [here](#). Legislation may also be found on the Assembly and Senate websites.

- A8386/S7791 – “The Faith-Based Affordable Housing Act”

Creates a new section of General Municipal Law that allows places of worship such as temples, churches, mosques, and synagogues to bypass local zoning laws that restrict their ability to develop land (subject to certain requirements). In towns with less than 50,000 residents, up to 30 units per acre could be developed with a percentage dedicated to affordable housing. In towns with larger populations, 50 units could be developed with a percentage dedicated to affordable housing.

- A9587/S8915 – Municipal Deposits at Credit Unions

This legislation would give municipalities the option of using credit unions as depositories subject to certain limitations.

- RAPID Act



AOT recently submitted a memo to the Legislature outlining our concerns with parts of a proposal in the budget known as the RAPID Act (TED Part 0) that deals with the siting of major energy transmission facilities. Consistent with AOT’s 2024 Legislative Priorities, our memo addressed the fact that the proposal no longer automatically allows host municipalities to be part of the siting proceeding and eliminates holding an adjudicatory hearing on a proposed project as of right. Instead, under the new proposal, a host municipality may only become a party to the proceeding if certain standards are met, and even then a public hearing soliciting comments may be held in place of a full adjudicatory hearing that allows for a more complete vetting process. AOT also objected to a

new standard for overturning local laws. Right now, local laws may be overturned as part of the siting of major electronic transmission facilities if “as applied to the proposed facility such is unreasonably restrictive in view of the existing technology, or of factors of cost or economics, or of the needs of consumers whether located inside or outside of such municipality,” (see Public Service Law § 126). However, the proposal in the RAPID Act allows ORES to exempt an applicant from complying with municipal requirements when ORES determines the requirements are “unreasonably burdensome in view of the CLCPA targets, the environmental benefits” and “the public need for the proposed project,” (Proposed Public Service Law § 140[5]).

## Suggested Amendments to the RAPID Act – TED Part O

The Association of Towns' legislative priorities for 2024 include upholding Home Rule and requesting that the state involve town officials and their representatives in the implementation and advancement of CLCPA goals. In light of these priorities, we request that the Legislature make two amendments to the proposal known as the RAPID Act regarding the state-siting process for major electric transmission facilities (see TED Part O).

First, host municipalities should maintain the ability to participate fully in the siting process. The current siting process automatically allows host municipalities to be parties to the siting process, which allows them to submit testimony, cross-examine witnesses of other parties, and file briefs in the case (see Public Service Law § 124 [1] [i]). Under the proposed RAPID Act, a host municipality must overcome various hurdles be considered a party to the proceeding, and even then, a limited public hearing may be held rather than a full examination of the issues. Specifically, a host municipality must file a statement with the New York State Office of Renewable Energy Siting (ORES) regarding whether the proposed project complies with the municipality's applicable local laws. Where a municipality claims the proposed project does not, ORES may hold a public or an adjudicatory hearing on the issues presented. A public hearing under this process could be limited to the submission of public statements without the benefit of cross-examining witnesses. Like state legislators, town officials are elected to represent the interests of New Yorkers and must be afforded a full opportunity to meaningfully participate in proceedings that have a significant impact in their community. Although it may be slightly more work up front, we strongly believe that allowing municipalities to participate in the process as of right will not thwart CLCPA goals; rather, it will allow for better projects and more sustainable development in the long run. Therefore, we ask the Legislature to keep the full adjudicatory hearing process that exists under the current law.

Additionally, the Association of Towns would like to see the RAPID Act keep the standard used under the current siting process to determine if local laws should be overturned or maintained. Right now, local laws may be overturned as part of the siting of major electronic transmission facilities if “as applied to the proposed facility such is unreasonably restrictive in view of the existing technology, or of factors of cost or economics, or of the needs of consumers whether located inside or outside of such municipality,” (see Public Service Law § 126). However, the proposal in the RAPID Act allows ORES to exempt an applicant from complying with municipal requirements when ORES determines the requirements are “unreasonably burdensome in view of the CLCPA targets, the environmental benefits” and “the public need for the proposed project,” (Proposed Public Service Law § 140[5]). As important as CLCPA goals are, local laws are adopted with the best interest of the community overall in mind, and environmental goals should not be the primary metric for determining whether carefully crafted local legislation should be overturned. Therefore, we suggest keeping the standard articulated in the current Article 7 process and simply adding CLCPA goals as part of a comprehensive evaluation to determine if local regulations should apply.