

STATE OF NEW YORK

6488

2025-2026 Regular Sessions

IN SENATE

March 14, 2025

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to watershed mitigation

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

1 Section 1. The environmental conservation law is amended by adding a
2 new section 24-0707 to read as follows:

3 **§ 24-0707. Mitigation of impacts.**

4 **When approving proposals to enhance the existing benefits provided by**
5 **a wetland or to create and maintain new wetland benefits in order to**
6 **increase the likelihood that a proposed activity will meet the applica-**
7 **ble standard for permit issuance, the mitigation may occur within the**
8 **same watershed as the proposed project.**

9 § 2. This act shall take effect immediately.

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

LBD10935-01-5

NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1

BILL NUMBER: S6488

SPONSOR: FERNANDEZ

TITLE OF BILL:

An act to amend the environmental conservation law, in relation to watershed mitigation

PURPOSE OR GENERAL IDEA OF BILL:

To promote a watershed approach to wetland mitigation.

SUMMARY OF PROVISIONS:

Section 1 establishes section 24-0707 of the environmental conservation law to correct the State's existing mitigation approach to a watershed approach.

Section 2 sets forth the effective date.

JUSTIFICATION:

Most renewable energy projects have unavoidable impacts to state (NYSDEC) and federally (USACE) regulated wetlands. The impacts require complex state and federal wetland-impact permits, along with compensatory wetland mitigation to offset or replace the impacted wetlands. The State's existing mitigation-approach makes project permitting longer and more complex; it makes mitigation more costly than in surrounding states; and is not leading to better environmental outcomes. ORES has already adopted this watershed approach, given its potential to increase mitigation quality and ecological uplift through larger, offsite, watershed-scale mitigation. However, not all alternative energy projects go through ORES. Moreover, this uncertainty impacts critical infrastructure projects such as transportation, water, and power. New York's approach should be broadened to provide consistency between federal and state mitigation policy that uses a watershed approach.

The legislation's directive would achieve parity between DEC's wetland rules and federal and New York rules, while supporting the State's climate goals. A watershed approach provides flexibility for mitigation practitioners to meet an area's ecological needs in the most effective way possible. This bill also will lighten the burden on project cost, since there will be less competition for the same land. Additionally, this bill will reduce regulatory workload by streamlining mitigation through watershed-scale projects in place of many smaller piece-meal restoration projects carried out at impact sites and reviewed individually by the regulatory agencies. This is a win-win for New York's climate and renewable energy objectives.

PRIOR LEGISLATIVE HISTORY:

New bill

FISCAL IMPLICATIONS:

None

EFFECTIVE DATE:

This act shall take effect immediately.