

# STATE OF NEW YORK

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6761--A

2021-2022 Regular Sessions

## IN ASSEMBLY

March 29, 2021

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Introduced by M. of A. MAMDANI, FORREST, GALLAGHER, MITAYNES, BURDICK, SIMON, ANDERSON, CARROLL, CLARK, GONZALEZ-ROJAS, O'DONNELL, GOTTFRIED, ENGLEBRIGHT, EPSTEIN, DINOWITZ, GALEF, COLTON, THIELE, WALKER, BURKE, KELLES, DAVILA, SEAWRIGHT -- read once and referred to the Committee on Energy -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law and the environmental conservation law, in relation to prohibiting the development of any new major electric generating facilities that would be powered in whole or in part by any fossil fuel

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "clean futures act".

3 § 2. Section 160 of the public service law is amended by adding a new  
4 subdivision 10 to read as follows:

5 10. "Fossil fuel" means coal, petroleum products, and fuel gases.  
6 "Coal" shall include bituminous coal, anthracite coal, and lignite.  
7 "Fuel gases" shall include but not be limited to methane, natural gas,  
8 liquefied natural gas, and manufactured fuel gases. "Petroleum products"  
9 shall include all products refined or rerefined from synthetic or crude  
10 oil or oil extracted from other sources, including natural gas liquids.  
11 Provided that nothing in this subdivision shall affect the exclusion for  
12 public utility services set forth in subdivision two of this section.

13 § 3. Section 162 of the public service law is amended by adding a new  
14 subdivision 6 to read as follows:

15 6. (a) Notwithstanding any other provision of law, rule or regulation,  
16 beginning upon the effective date of this subdivision the board shall  
17 not issue a certificate for any major electric generating facility that  
18 would be powered in whole or in part by any fossil fuel.

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

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1 (b) Notwithstanding paragraph (a) of this subdivision, the board may  
2 issue a certificate for a major electric generating facility powered in  
3 whole or in part by any fossil fuel if both of the following conditions  
4 are met:

5 (i) The developer of such major electric generating facility shall  
6 provide to the board, the commission, and the commissioner of environ-  
7 mental conservation, an attestation in writing, signed by both New York  
8 independent system operator and the appropriate New York transmission  
9 owner or public authority, attesting to:

10 (1) the existence of a reliability need. For the purposes of this  
11 subdivision, a "reliability need" means an electricity system need,  
12 which if unmet would result in a violation of a North American Electric  
13 Reliability Corporation mandatory standard;

14 (2) the unavailability of either local or bulk transmission system  
15 upgrades that would address such reliability need; and

16 (3) such major electric generating facility would resolve such reli-  
17 ability need; and

18 (ii) The developer of such major electric generating facility shall  
19 demonstrate to the satisfaction of the board, the commission, and the  
20 commissioner of environmental conservation that the existing reliability  
21 need cannot be addressed within an appropriate time frame by any combi-  
22 nation of transmission, energy storage, zero carbon electric generation,  
23 demand response, and/or energy efficiency.

24 (c) Any written communication between an applicant and the board  
25 concerning a proposed major electric generating facility shall be made  
26 publicly available on the department's website.

27 § 4. Section 172 of the public service law is amended by adding two  
28 new subdivisions 3 and 4 to read as follows:

29 3. The department of environmental conservation shall not issue any  
30 permit otherwise authorized pursuant to subdivision one of this section,  
31 or issued pursuant to section 19-0311 of the environmental conservation  
32 law, for any major electric generating facility that would be powered in  
33 whole or in part by any fossil fuel, unless the developer of such major  
34 electric generating facility has satisfied the provisions of subpara-  
35 graphs (i) and (ii) of paragraph (b) of subdivision six of section one  
36 hundred sixty-two of this article.

37 4. Any written communication between an applicant for a permit pursu-  
38 ant to subdivision one of this section and the department of environ-  
39 mental conservation shall be made publicly available on the department  
40 of conservation's website.

41 § 5. Section 19-0311 of the environmental conservation law is amended  
42 by adding a new subdivision 6 to read as follows:

43 6. No permit shall be issued under this section that would be in  
44 violation of subdivision three of section one hundred seventy-two of the  
45 public service law. Any written communications between an applicant for  
46 such a permit and the department shall be made publicly available on the  
47 department's website.

48 § 6. This act shall take effect immediately.