

7284

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I N A S S E M B L Y

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Introduced by M. of A. ENGLEBRIGHT, ABINANTI, BARRON, TITONE, ROBERTS,
SCHIMEL, JAFFEE, MILLMAN, P. RIVERA, ROSENTHAL -- Multi-Sponsored by
-- M. of A. GLICK, MARKEY, ROBINSON, THIELE -- read once and referred
to the Committee on Energy

AN ACT to amend the public service law, in relation to requiring the
approval of both houses of the legislature for the construction or
extended operation of nuclear electric generating facilities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The public service law is amended by adding a new article
2 12 to read as follows:

3 ARTICLE 12

4 NUCLEAR ELECTRIC GENERATING FACILITIES

5 SECTION 250. LEGISLATIVE DECLARATION.

6 251. CONSTRUCTION OR OPERATION OF FACILITIES.

7 252. PUBLIC ENGAGEMENT PROCESS.

8 S 250. LEGISLATIVE DECLARATION. THE LEGISLATURE HEREBY DECLARES IT TO
9 BE THE POLICY OF THE STATE THAT NUCLEAR ELECTRIC GENERATING FACILITIES
10 SHALL ONLY BE OPERATED IN THE STATE WITH THE EXPLICIT APPROVAL OF THE
11 STATE LEGISLATURE AFTER FULL, OPEN AND INFORMED PUBLIC DELIBERATION AND
12 DISCUSSION WITH RESPECT TO THE PERTINENT FACTORS, INCLUDING THE STATE'S
13 NEED FOR ELECTRIC POWER, ECONOMICS AND ENVIRONMENTAL IMPACTS OF STORAGE
14 OF NUCLEAR WASTE PURSUANT TO ARTICLE EIGHTEEN OF THE ENERGY LAW, AND THE
15 AVAILABILITY OF ALTERNATIVE ELECTRIC GENERATING SOURCES.

16 IT IS APPROPRIATE THAT THE SPENT NUCLEAR FUEL ISSUE BE FRAMED AND
17 ADDRESSED AS PART OF THE LARGER SOCIETAL DISCUSSION OF BROADER ECONOMIC
18 AND ENVIRONMENTAL ISSUES RELATING TO THE OPERATION OF NUCLEAR ELECTRIC
19 GENERATING FACILITIES, INCLUDING ASSESSMENTS OF THE POTENTIAL NEED FOR
20 THE OPERATION OF SUCH FACILITIES AND THEIR ECONOMIC BENEFITS, RISKS AND
21 COSTS; AND IN ORDER TO ALLOW AN OPPORTUNITY TO ASSESS ALTERNATIVES THAT

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

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1 MAY BE MORE COST EFFECTIVE OR THAT OTHERWISE MAY BETTER PROMOTE THE
2 GENERAL WELFARE.

3 THE LEGISLATURE DECLARES THAT WHEN THE PUBLIC SERVICE COMMISSION
4 ADDRESSES THE ISSUE OF WHETHER TO AUTHORIZE THE CONSTRUCTION OR CONTIN-
5 UED OPERATION OF A NUCLEAR ELECTRIC GENERATING FACILITY, IT EVALUATES
6 THE ISSUE UNDER THE COST BENEFIT ASSUMPTIONS AND ANALYSES FORMING THE
7 BASIS OF THE CURRENT OPERATION OF SUCH FACILITY.

8 S 251. CONSTRUCTION OR OPERATION OF FACILITIES. 1. BEFORE THE COMMIS-
9 SION AUTHORIZES THE CONSTRUCTION OF A NUCLEAR ELECTRIC GENERATING FACIL-
10 ITY, SUCH COMMISSION SHALL OBTAIN THE APPROVAL OF THE LEGISLATURE AND
11 THE LEGISLATURE'S DETERMINATION THAT SUCH FACILITY WILL PROMOTE THE
12 GENERAL WELFARE, AS EXPRESSED IN A JOINT RESOLUTION DULY FILED WITH THE
13 SECRETARY OF STATE. THE COMMISSION SHALL PROVIDE NOTICE TO THE TEMPORARY
14 PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE
15 SENATE COMMITTEE ON ENERGY AND TELECOMMUNICATIONS, THE CHAIR OF THE
16 ASSEMBLY COMMITTEE ON ENERGY, THE MINORITY LEADER OF THE SENATE AND THE
17 MINORITY LEADER OF THE ASSEMBLY OF EACH APPLICATION FOR THE CONSTRUCTION
18 OF A NUCLEAR ELECTRIC GENERATING FACILITY. UPON SUBMISSION OF SUCH
19 NOTICE, THE COMMISSION SHALL PROVIDE ITS RECOMMENDATIONS ON THE PROPOSED
20 FACILITY AND PROVIDE ALL RELEVANT INFORMATION RELATING THERETO.

21 2. NO NUCLEAR ELECTRIC GENERATING FACILITY SHALL BE OPERATED IN THIS
22 STATE AFTER THE EXPIRATION DATE OF ANY OPERATING CERTIFICATE ISSUED BY
23 THE NUCLEAR REGULATORY COMMISSION TO SUCH FACILITY, UNLESS AND UNTIL THE
24 STATE LEGISLATURE APPROVES AND DETERMINES THAT THE CONTINUED OPERATION
25 OF THE NUCLEAR ELECTRIC GENERATING FACILITY WILL PROMOTE THE GENERAL
26 WELFARE, AS EXPRESSED IN A JOINT RESOLUTION DULY FILED WITH THE SECRE-
27 TARY OF STATE.

28 S 252. PUBLIC ENGAGEMENT PROCESS. 1. (A) EVERY APPLICATION FOR THE
29 CONSTRUCTION OR CONTINUED OPERATION OF A NUCLEAR ELECTRIC GENERATING
30 FACILITY SHALL BE SUBMITTED TO THE COMMISSION NOT LESS THAN FOUR YEARS
31 BEFORE THE DATE THE NECESSARY LEGISLATIVE APPROVAL IS REQUIRED TO TAKE
32 EFFECT.

33 (B) UPON RECEIPT OF AN APPLICATION PURSUANT TO PARAGRAPH (A) OF THIS
34 SUBDIVISION, THE COMMISSION SHALL PROVIDE NOTICE THEREOF TO THE LEGISLA-
35 TURE AND THEREAFTER SHALL PROVIDE ALL PERTINENT INFORMATION RELATING
36 THERETO ON A CONTINUING BASIS. FURTHERMORE, THE COMMISSION SHALL
37 PROVIDE FOR THE CONDUCTING OF SUCH STUDIES AS SHALL BE NECESSARY TO
38 ASSIST THE STATE LEGISLATURE.

39 2. (A) THE STUDIES CONDUCTED BY THE COMMISSION SHALL:

40 (I) FACILITATE PUBLIC DISCUSSION OF THE LONG-TERM ECONOMIC AND ENVI-
41 RONMENTAL ISSUES RELATING TO THE OPERATION OF THE FACILITY;

42 (II) IDENTIFY AND ASSESS THE POTENTIAL NEED FOR THE OPERATION OF THE
43 FACILITY AND ITS LONG-TERM ECONOMIC AND ENVIRONMENTAL BENEFITS, RISKS
44 AND COSTS; AND

45 (III) ASSESS ALL PRACTICAL ALTERNATIVES TO THOSE SET FORTH IN THE
46 APPLICATION THAT MAY BE MORE COST EFFECTIVE OR THAT OTHERWISE MAY BETTER
47 PROMOTE THE GENERAL WELFARE.

48 (B) THE STUDIES CONDUCTED BY THE COMMISSION AND THE PUBLIC ENGAGEMENT
49 PROCESS SHALL:

50 (I) IDENTIFY AND COLLECT INFORMATION ON, AND PROVIDE ANALYSIS OF
51 LONG-TERM ACCOUNTABILITY AND FISCAL RESPONSIBILITY ISSUES, SUCH AS:

52 (A) FUNDING PLANS FOR GUARDIANSHIP OF NUCLEAR WASTE AFTER APPROVAL BUT
53 BEFORE REMOVAL OF NUCLEAR WASTE FROM THE FACILITY;

54 (B) CLOSURE OBLIGATIONS, DATES OF COMPLETION AND ASSURANCE OF FUNDS TO
55 SECURE FULFILLMENT OF THOSE CLOSURE OBLIGATIONS;

1 (C) FEDERAL OBLIGATIONS AND ASSURANCE OF FUNDS TO PROVIDE FOR ANY
2 UNDISCHARGED FEDERAL RESPONSIBILITIES;

3 (D) FUNDING FOR EMERGENCY MANAGEMENT REQUIREMENTS AND EVACUATION PLANS
4 BEFORE AND AFTER FACILITY CLOSURE; AND

5 (E) ANY OTHER FINANCIAL RESPONSIBILITY RELATED TO ANY PERIODS IN WHICH
6 THE FACILITY IS OUT OF SERVICE;

7 (II) IDENTIFY AND COLLECT INFORMATION ON, AND PROVIDE ANALYSIS OF
8 LONG-TERM ENVIRONMENTAL, ECONOMIC AND PUBLIC HEALTH ISSUES, INCLUDING
9 ISSUES RELATING TO DRY CASK STORAGE OF NUCLEAR WASTE AND DECOMMISSIONING
10 OPTIONS; AND

11 (III) IDENTIFY AND COLLECT INFORMATION ON, AND PROVIDE ANALYSIS OF THE
12 CURRENT ECONOMIC ISSUES, IN LIGHT OF THE FACT THAT THE CONTINUED OPERA-
13 TION OF THE NUCLEAR ELECTRIC GENERATING FACILITY IS TO BE EVALUATED
14 UNDER THE CURRENT COST BENEFIT ASSUMPTIONS AND ANALYSES AND NOT AS AN
15 EXTENSION OF THE COST BENEFIT ASSUMPTIONS AND ANALYSES AT THE TIME THE
16 FACILITY COMMENCED OPERATIONS.

17 3. IN CONDUCTING A PUBLIC ENGAGEMENT PROCESS ON ANY APPLICATION, THE
18 COMMISSION SHALL CONDUCT NO LESS THAN THREE PUBLIC HEARINGS. THE HEAR-
19 INGS SHALL BE AT SEPARATE LOCATIONS WITHIN THE STATE, IN PROXIMITY TO
20 THE NUCLEAR ELECTRIC GENERATING FACILITY INVOLVED AS WELL AS IN OTHER
21 LOCATIONS AS DETERMINED BY THE COMMISSION, AND EACH SHALL BE NOTICED BY
22 AT LEAST TWO ADVERTISEMENTS, EACH OCCURRING BETWEEN ONE AND THREE WEEKS
23 PRIOR TO THE HEARING, IN NEWSPAPERS HAVING GENERAL CIRCULATION WITHIN
24 THE MUNICIPALITIES IN WHICH THE HEARING IS TO BE HELD. COPIES OF THE
25 NOTICES SHALL BE PROVIDED TO THE LEGISLATURE, THE DEPARTMENT OF HEALTH,
26 THE DEPARTMENT OF TRANSPORTATION, THE ATTORNEY GENERAL AND EACH ELECTRIC
27 CORPORATION WITHIN THE STATE. DURING SUCH PUBLIC ENGAGEMENT PROCESS THE
28 COMMISSION SHALL HAVE AUTHORITY TO RETAIN EXPERT WITNESSES, COUNSEL,
29 ADVISORS, STENOGRAPHIC AND OTHER RESEARCH ASSISTANCE IT MAY REQUIRE. THE
30 COMMISSION MAY COMPENSATE THE SAME AND ALLOCATE RELATED COSTS, AS WELL
31 AS THE COSTS OF PROCURING THE STUDIES, TO THE APPLICANT. THE COMMISSION
32 SHALL PREPARE A REPORT OF THE PROCEEDINGS CONTAINING A DISCUSSION OF THE
33 PRINCIPAL CONTENTIONS MADE BY MEMBERS OF THE PUBLIC, ANALYSES BY ANY
34 EXPERT WITNESSES OR CONSULTANTS RETAINED BY THE COMMISSION, PRESENTA-
35 TIONS BY ANY STATE AGENCY AND BY ANY PUBLIC UTILITY, AND SHALL PROVIDE
36 SUCH REPORT TO THE LEGISLATURE AND TO THE PUBLIC.

37 4. THE LEGISLATURE MAY CONDUCT SUCH PROCEEDINGS IT DEEMS APPROPRIATE
38 IN ORDER TO COMPLETE THE FACT FINDING AND PUBLIC ENGAGEMENT PROCESS.

39 S 2. This act shall take effect immediately.