S T A T E O F N E W Y O R K

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I N A S S E M B L Y

March 12, 2013

Introduced by M. of A. ENGLEBRIGHT, ABINANTI, BARRON, TITONE, ROBERTS, SCHIMEL, JAFFEE, MILLMAN, ROSENTHAL, WEPRIN, O'DONNELL, MAISEL, COOK, HOOPER -- 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 ASSEMBLY, DO ENACT AS FOLLOWS:

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

ARTICLE 12

NUCLEAR ELECTRIC GENERATING FACILITIES

SECTION 250. LEGISLATIVE DECLARATION.
251. CONSTRUCTION OR OPERATION OF FACILITIES.
252. PUBLIC ENGAGEMENT PROCESS.

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

IT IS APPROPRIATE THAT THE SPENT NUCLEAR FUEL ISSUE BE FRAMED AND ADDRESSED AS PART OF THE LARGER SOCIETAL DISCUSSION OF BROADER ECONOMIC AND ENVIRONMENTAL ISSUES RELATING TO THE OPERATION OF NUCLEAR ELECTRIC GENERATING FACILITIES, INCLUDING ASSESSMENTS OF THE POTENTIAL NEED FOR THE OPERATION OF SUCH FACILITIES AND THEIR ECONOMIC BENEFITS, RISKS AND 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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MAY BE MORE COST EFFECTIVE OR THAT OTHERWISE MAY BETTER PROMOTE THE GENERAL WELFARE.

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

S 251. CONSTRUCTION OR OPERATION OF FACILITIES. 1. BEFORE THE COMMISSION AUTHORIZES THE CONSTRUCTION OF A NUCLEAR ELECTRIC GENERATING FACILITY, SUCH COMMISSION SHALL OBTAIN THE APPROVAL OF THE LEGISLATURE AND THE LEGISLATURE'S DETERMINATION THAT SUCH FACILITY WILL PROMOTE THE GENERAL WELFARE, AS EXPRESSED IN A JOINT RESOLUTION DULY FILED WITH THE SECRETARY OF STATE. THE COMMISSION SHALL PROVIDE NOTICE TO THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE SENATE COMMITTEE ON ENERGY AND TELECOMMUNICATIONS, THE CHAIR OF THE ASSEMBLY COMMITTEE ON ENERGY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY OF EACH APPLICATION FOR THE CONSTRUCTION OF A NUCLEAR ELECTRIC GENERATING FACILITY. UPON SUBMISSION OF SUCH NOTICE, THE COMMISSION SHALL PROVIDE ITS RECOMMENDATIONS ON THE PROPOSED FACILITY AND PROVIDE ALL RELEVANT INFORMATION RELATING THERETO.

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

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

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

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

(I) FACILITATE PUBLIC DISCUSSION OF THE LONG-TERM ECONOMIC AND ENVIRONMENTAL ISSUES RELATING TO THE OPERATION OF THE FACILITY;

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

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

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

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

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

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

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

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

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

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

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

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

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

S 2. This act shall take effect immediately.