

STATE OF NEW YORK

5668

2019-2020 Regular Sessions

IN ASSEMBLY

February 14, 2019

Introduced by M. of A. ENGLEBRIGHT, ABINANTI, JAFFEE, L. ROSENTHAL,
WEPRIN, O'DONNELL, COOK -- Multi-Sponsored by -- M. of A. GLICK,
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:

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.

§ 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
may be more cost effective or that otherwise may better promote the
general welfare.

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

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1 The legislature declares that when the public service commission
2 addresses the issue of whether to authorize the construction or contin-
3 ued operation of a nuclear electric generating facility, it evaluates
4 the issue under the cost benefit assumptions and analyses forming the
5 basis of the current operation of such facility.

6 § 251. Construction or operation of facilities. 1. Before the commis-
7 sion authorizes the construction of a nuclear electric generating facil-
8 ity, such commission shall obtain the approval of the legislature and
9 the legislature's determination that such facility will promote the
10 general welfare, as expressed in a joint resolution duly filed with the
11 secretary of state. The commission shall provide notice to the temporary
12 president of the senate, the speaker of the assembly, the chair of the
13 senate committee on energy and telecommunications, the chair of the
14 assembly committee on energy, the minority leader of the senate and the
15 minority leader of the assembly of each application for the construction
16 of a nuclear electric generating facility. Upon submission of such
17 notice, the commission shall provide its recommendations on the proposed
18 facility and provide all relevant information relating thereto.

19 2. No nuclear electric generating facility shall be operated in this
20 state after the expiration date of any operating certificate issued by
21 the Nuclear Regulatory Commission to such facility, unless and until the
22 state legislature approves and determines that the continued operation
23 of the nuclear electric generating facility will promote the general
24 welfare, as expressed in a joint resolution duly filed with the secre-
25 tary of state.

26 § 252. Public engagement process. 1. (a) Every application for the
27 construction or continued operation of a nuclear electric generating
28 facility shall be submitted to the commission not less than four years
29 before the date the necessary legislative approval is required to take
30 effect.

31 (b) Upon receipt of an application pursuant to paragraph (a) of this
32 subdivision, the commission shall provide notice thereof to the legisla-
33 ture and thereafter shall provide all pertinent information relating
34 thereto on a continuing basis. Furthermore, the commission shall
35 provide for the conducting of such studies as shall be necessary to
36 assist the state legislature.

37 2. (a) The studies conducted by the commission shall:

38 (i) facilitate public discussion of the long-term economic and envi-
39 ronmental issues relating to the operation of the facility;

40 (ii) identify and assess the potential need for the operation of the
41 facility and its long-term economic and environmental benefits, risks
42 and costs; and

43 (iii) assess all practical alternatives to those set forth in the
44 application that may be more cost effective or that otherwise may better
45 promote the general welfare.

46 (b) The studies conducted by the commission and the public engagement
47 process shall:

48 (i) identify and collect information on, and provide analysis of long-
49 term accountability and fiscal responsibility issues, such as:

50 (A) funding plans for guardianship of nuclear waste after approval but
51 before removal of nuclear waste from the facility;

52 (B) closure obligations, dates of completion and assurance of funds to
53 secure fulfillment of those closure obligations;

54 (C) federal obligations and assurance of funds to provide for any
55 undischarged federal responsibilities;

1 (D) funding for emergency management requirements and evacuation plans
2 before and after facility closure; and

3 (E) any other financial responsibility related to any periods in which
4 the facility is out of service;

5 (ii) identify and collect information on, and provide analysis of
6 long-term environmental, economic and public health issues, including
7 issues relating to dry cask storage of nuclear waste and decommissioning
8 options; and

9 (iii) identify and collect information on, and provide analysis of the
10 current economic issues, in light of the fact that the continued opera-
11 tion of the nuclear electric generating facility is to be evaluated
12 under the current cost benefit assumptions and analyses and not as an
13 extension of the cost benefit assumptions and analyses at the time the
14 facility commenced operations.

15 3. In conducting a public engagement process on any application, the
16 commission shall conduct no less than three public hearings. The hear-
17 ings shall be at separate locations within the state, in proximity to
18 the nuclear electric generating facility involved as well as in other
19 locations as determined by the commission, and each shall be noticed by
20 at least two advertisements, each occurring between one and three weeks
21 prior to the hearing, in newspapers having general circulation within
22 the municipalities in which the hearing is to be held. Copies of the
23 notices shall be provided to the legislature, the department of health,
24 the department of transportation, the attorney general and each electric
25 corporation within the state. During such public engagement process the
26 commission shall have authority to retain expert witnesses, counsel,
27 advisors, stenographic and other research assistance it may require. The
28 commission may compensate the same and allocate related costs, as well
29 as the costs of procuring the studies, to the applicant. The commission
30 shall prepare a report of the proceedings containing a discussion of the
31 principal contentions made by members of the public, analyses by any
32 expert witnesses or consultants retained by the commission, presenta-
33 tions by any state agency and by any public utility, and shall provide
34 such report to the legislature and to the public.

35 4. The legislature may conduct such proceedings it deems appropriate
36 in order to complete the fact finding and public engagement process.

37 § 2. This act shall take effect immediately.