

STATE OF NEW YORK

6338

2019-2020 Regular Sessions

IN SENATE

June 5, 2019

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public service law, in relation to the need of ad hoc members to be appointed to constitute a quorum on the board of electric generating facilities

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

1 Section 1. Subdivisions 1 and 2 of section 161 of the public service
2 law, as added by chapter 388 of the laws of 2011, are amended to read as
3 follows:
4 1. The board[~~, exclusive of the ad hoc members,~~] shall have the power
5 to adopt the rules and regulations relating to the procedures to be used
6 in certifying facilities under the provisions of this article, including
7 the suspension or revocation thereof, and shall further have the power
8 to seek delegation from the federal government pursuant to federal regu-
9 latory programs applicable to the siting of major electric facilities.
10 The chairperson, after consultation with the other members of the board
11 [~~exclusive of the ad hoc members~~], shall have exclusive jurisdiction to
12 issue declaratory rulings regarding the applicability of, or any other
13 question under, this article and rules and regulations adopted hereunder
14 and to grant requests for extensions or amendments to or transfers of
15 certificate terms and conditions, provided that no party to the proceed-
16 ing opposes such request for extensions or amendments within thirty days
17 of the filing of such request. Regulations adopted by the board may
18 provide for renewal applications for pollutant control permits to be
19 submitted to and acted upon by the department of environmental conserva-
20 tion following commercial operation of a certified facility. The board
21 shall not accept any pre-application preliminary scoping statement or
22 application for a certificate, or exercise any powers or functions until
23 the department of environmental conservation has promulgated rules and
24 regulations required by paragraphs (f) and (g) of subdivision one of

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

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1 section one hundred sixty-four of this article and section 19-0312 of
2 the environmental conservation law; provided however that the board
3 shall be authorized to adopt rules and regulations required by this
4 article.

5 2. Upon receipt of a pre-application preliminary scoping statement
6 under this article, the chair shall promptly notify the governor, the
7 president pro tem of the senate, the speaker of the assembly, the chief
8 executive officers representing the municipality and the county in which
9 the facility is proposed to be located, and, if such facility is
10 proposed to be located within the city of New York, the mayor of the
11 city of New York, as well as the chairperson of the community board and
12 the borough president representing the area in which the facility is
13 proposed to be located. One ad hoc member shall be appointed by the
14 president pro tem of the senate and one ad hoc member shall be appointed
15 by the speaker of the assembly from a list of candidates submitted to
16 them, in the following manner. If such facility is proposed to be
17 located outside of the city of New York, the chief executive officer
18 representing the municipality shall nominate four candidates and the
19 chief executive officer representing the county shall nominate four
20 candidates for consideration. If such facility is proposed to be located
21 outside of the city of New York and in a village located within a town,
22 the chief executive officer representing the town shall nominate four
23 candidates, the chief executive officer representing the county shall
24 nominate four candidates, and the chief executive officer representing
25 the village shall nominate four candidates for consideration. If such
26 facility is proposed to be located in the city of New York, the chair-
27 person of the community board, the borough president, and the mayor of
28 the city of New York shall each nominate four candidates for consider-
29 ation. Nominations shall be submitted to the president pro tem of the
30 senate and the speaker of the assembly within fifteen days of receipt of
31 notification of the pre-application preliminary scoping statement. In
32 the event that the president pro tem of the senate does not appoint one
33 of the candidates within thirty days of such nominations, the governor
34 shall appoint the ad hoc member from the list of candidates. In the
35 event that the speaker of the assembly does not appoint one of the
36 candidates within thirty days of such nominations, the governor shall
37 appoint the ad hoc member from the list of candidates. [~~In the event
38 that one or both of the ad hoc public members have not been appointed
39 within forty-five days, a majority of persons named to the board shall
40 constitute a quorum~~] A majority of persons named to the board shall not
41 constitute a quorum unless both of the ad hoc public members have been
42 appointed.

43 § 2. This act shall take effect immediately.