

# STATE OF NEW YORK

3852

2021-2022 Regular Sessions

## IN ASSEMBLY

January 28, 2021

Introduced by M. of A. NORRIS, BYRNES, COLTON, HAWLEY, MORINELLO -- read once and referred to the Committee on Energy

AN ACT to amend the public service law, in relation to decisions by the state board on electric generation; and to repeal certain provisions of such law relating thereto

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

1 Section 1. Subdivisions 1 and 7 of section 168 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 shall make the final decision on an application under  
5 this article for a certificate or amendment thereof, upon the record  
6 made before the presiding examiner, including any briefs or exceptions  
7 to any recommended decision of such examiner or to any report of the  
8 associate examiner, and after hearing such oral argument as the board  
9 shall determine. [~~Except for good cause shown to the satisfaction of the~~  
10 ~~board, a determination under subdivision five of section one hundred~~  
11 ~~sixty-seven of this article that the applicant's proposal is preferable~~  
12 ~~to alternatives shall be final. Such a determination shall be subject to~~  
13 ~~rehearing and review only after the final decision on an application is~~  
14 ~~rendered.~~] Such a determination, before it shall be considered final,  
15 shall be subject to approval through public referendum by the munici-  
16 pality in which the facility applying to the board is located. For the  
17 purposes of this subdivision, "municipality" shall mean a city or town  
18 located in this state.

19 7. Following [~~any rehearing and any judicial review of the board's~~  
20 ~~decision~~] the public referendum, the board's jurisdiction over an appli-  
21 cation shall cease, provided, however, that the permanent board shall  
22 retain jurisdiction with respect to the amendment, suspension or revoca-  
23 tion of a certificate.

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

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§ 2. Section 170 of the public service law is REPEALED and a new section 170 is added to read as follows:

§ 170. Certification by the board; establishment by referendum. 1. Before the final decision by the board may become effective, a referendum must be held upon the question of approving an application for a certificate establishing a major electric generating facility in the municipality where the proposed facility intends to be located and approved by fifty-one per centum of voters. If a majority of the votes cast are in favor of establishing such a facility, it shall be mandatory upon the board to issue a certificate. Such referendum must be held within sixty days, but not earlier than thirty days after the board's decision. For the purposes of this section, "municipality" shall mean a city or town located in this state.

2. Financing of any expenditure, in whole or in part, shall be drawn from any monies remaining in the intervener account. Any further financing of this endeavor shall be financed pursuant to alternative county government law.

§ 3. This act shall take effect immediately.