STATE OF NEW YORK

3901

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

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

AN ACT to amend the executive law and the public authorities law, in relation to requiring a public referendum to approve a final siting permit

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

Section 1. Paragraph (e) of subdivision 5 of section 94-c of the executive law, as added by section 4 of part JJJ of chapter 58 of the laws of 2020, is amended and a new paragraph (f-1) is added to read as follows:

(e) Following the expiration of the public comment period set forth in this subdivision, or following the conclusion of a hearing undertaken pursuant to this subdivision, the office shall, in the case of a public comment period, issue a written summary of public comment and an assessment of comments received, and in the case of an adjudicatory hearing, the executive officer or any person to whom the executive director has delegated such authority, shall issue a final written hearing report. A final siting permit may only be issued if the office makes a finding that the proposed project, together with any applicable uniform and site-specific standards and conditions would comply with applicable laws and regulations**, and if such final siting permit is approved pursuant to a referendum held in accordance with paragraph (f-1) of this subdivision**. In making this determination, the office may elect not to apply, in whole or in part, any local law or ordinance which would otherwise be applicable if it makes a finding that, as applied to the proposed major renewable energy facility, it is unreasonably burdensome in view of the CLCPA targets and the environmental benefits of the proposed major renewable energy facility.

(f-1) Notwithstanding any other provision of law to the contrary, before a determination for a final siting permit may be considered

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

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final, such permit shall be subject to approval through public referendum by the municipality in which the facility applying to the office is intended to be located. Such referendum shall be held upon the question of approving an application for a certificate establishing a major renewable energy facility in the municipality where the proposed facility intends to be located, and approved by fifty-one per centum of voters. Such referendum shall be held within sixty days, but not earlier than thirty days after the office's decision. For the purposes of this paragraph, "municipality" shall mean a city or town located in this state.

§ 2. Subdivision 3 of section 1902 of the public authorities law, as added by section 6 of part JJJ of chapter 58 of the laws of 2020, is amended to read as follows:

3. Establish procedures and protocols for the purpose of establishment and transfer of build-ready sites which shall include, at a minimum: (a) written notice at the earliest practicable time to a municipality in which a potential build-ready site has been identified; [~~and~~] (b) **public referendum held in the municipality where a potential build-ready site has been identified, held upon the question of approving a certificate establishing or transferring such build-ready site in such municipality, and approved by fifty-one per centum of voters; and (c)** a preliminary screening process to determine, in consultation with the department of environmental conservation, whether the potential build-ready site is located in or near an environmental justice area and whether an environmental justice area would be adversely affected by development of a build-ready site;

§ 3. This act shall take effect immediately; provided, however, that the amendments to section 94-c of the executive law made by section one of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith; and provided further, however, that the amendments to subdivision 3 of section 1902 of the public authorities law made by section two of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith.