

# STATE OF NEW YORK

2352

2023-2024 Regular Sessions

## IN ASSEMBLY

January 25, 2023

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

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 Assem-  
bly, 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

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

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

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

44 § 2. This act shall take effect immediately.