STATE OF NEW YORK

1312

2023-2024 Regular Sessions

IN SENATE

January 11, 2023

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

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:

Section 1. Subdivisions 1 and 7 of section 168 of the public service law, as added by chapter 388 of the laws of 2011, are amended to read as follows:

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

7. Following [~~any rehearing and any judicial review of the board's decision~~] **the public referendum**, the board's jurisdiction over an application shall cease, provided, however, that the permanent board shall retain jurisdiction with respect to the amendment, suspension or revocation 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 Section 170 of the public service law is REPEALED and a new section 170 is added to read as follows: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.