

STATE OF NEW YORK

3059

2023-2024 Regular Sessions

IN SENATE

January 27, 2023

Introduced by Sen. HELMING -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

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

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.