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:

Section 1. Subdivisions 1 and 2 of section 161 of the public service law, as added by chapter 388 of the laws of 2011, are amended to read as follows:

1. The board[~~, exclusive of the ad hoc members,~~] shall have the power to adopt the rules and regulations relating to the procedures to be used in certifying facilities under the provisions of this article, including the suspension or revocation thereof, and shall further have the power to seek delegation from the federal government pursuant to federal regulatory programs applicable to the siting of major electric facilities. The chairperson, after consultation with the other members of the board [~~exclusive of the ad hoc members~~], shall have exclusive jurisdiction to issue declaratory rulings regarding the applicability of, or any other question under, this article and rules and regulations adopted hereunder and to grant requests for extensions or amendments to or transfers of certificate terms and conditions, provided that no party to the proceeding opposes such request for extensions or amendments within thirty days of the filing of such request. Regulations adopted by the board may provide for renewal applications for pollutant control permits to be submitted to and acted upon by the department of environmental conservation following commercial operation of a certified facility. The board shall not accept any pre-application preliminary scoping statement or application for a certificate, or exercise any powers or functions until 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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regulations required by paragraphs (f) and (g) of subdivision one of section one hundred sixty-four of this article and section 19-0312 of the environmental conservation law; provided however that the board shall be authorized to adopt rules and regulations required by this article.

2. Upon receipt of a pre-application preliminary scoping statement under this article, the chair shall promptly notify the governor, the president pro tem of the senate, the speaker of the assembly, the chief executive officers representing the municipality and the county in which the facility is proposed to be located, and, if such facility is proposed to be located within the city of New York, the mayor of the city of New York, as well as the chairperson of the community board and the borough president representing the area in which the facility is proposed to be located. One ad hoc member shall be appointed by the president pro tem of the senate and one ad hoc member shall be appointed by the speaker of the assembly from a list of candidates submitted to them, in the following manner. If such facility is proposed to be located outside of the city of New York, the chief executive officer representing the municipality shall nominate four candidates and the chief executive officer representing the county shall nominate four candidates for consideration. If such facility is proposed to be located outside of the city of New York and in a village located within a town, the chief executive officer representing the town shall nominate four candidates, the chief executive officer representing the county shall nominate four candidates, and the chief executive officer representing the village shall nominate four candidates for consideration. If such facility is proposed to be located in the city of New York, the chairperson of the community board, the borough president, and the mayor of the city of New York shall each nominate four candidates for consideration. Nominations shall be submitted to the president pro tem of the senate and the speaker of the assembly within fifteen days of receipt of notification of the pre-application preliminary scoping statement. In the event that the president pro tem of the senate does not appoint one of the candidates within thirty days of such nominations, the governor shall appoint the ad hoc member from the list of candidates. In the event that the speaker of the assembly does not appoint one of the candidates within thirty days of such nominations, the governor shall appoint the ad hoc member from the list of candidates. [~~In the event that one or both of the ad hoc public members have not been appointed within forty-five days, a majority of persons named to the board shall constitute a quorum~~] **A majority of persons named to the board shall not constitute a quorum unless both of the ad hoc public members have been appointed**.

§ 2. This act shall take effect immediately.