

5560--B

2009-2010 Regular Sessions

I N   S E N A T E

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Introduced by Sens. OPPENHEIMER, MONTGOMERY, DUANE, KLEIN, KRUEGER, MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to establishing a state smart growth public infrastructure policy act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The environmental conservation law is amended by adding a  
2     new article 6 to read as follows:

3   ARTICLE 6

4                     STATE SMART GROWTH PUBLIC INFRASTRUCTURE POLICY ACT

5     SECTION 6-0101. SHORT TITLE.

6             6-0103. DEFINITIONS.

7             6-0105. STATE SMART GROWTH PUBLIC INFRASTRUCTURE POLICY.

8             6-0107. STATE SMART GROWTH PUBLIC INFRASTRUCTURE CRITERIA.

9             6-0109. SMART GROWTH ADVISORY COMMITTEES.

10            6-0111. PRIVATE RIGHT OF ACTION.

11     S 6-0101. SHORT TITLE.

12            THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "STATE SMART  
13     GROWTH PUBLIC INFRASTRUCTURE POLICY ACT".

14     S 6-0103. DEFINITIONS.

15            AS USED IN THIS ARTICLE:

16            1. "CRITERIA" SHALL MEAN THE STATE SMART GROWTH PUBLIC INFRASTRUCTURE  
17     CRITERIA PROVIDED IN SECTION 6-0107 OF THIS ARTICLE.

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

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1 2. "STATE INFRASTRUCTURE AGENCY" SHALL MEAN THE DEPARTMENT, THE  
2 DEPARTMENT OF TRANSPORTATION, THE DEPARTMENT OF EDUCATION, THE DEPART-  
3 MENT OF HEALTH, THE DEPARTMENT OF STATE, THE NEW YORK STATE ENVIRON-  
4 MENTAL FACILITIES CORPORATION, THE NEW YORK STATE HOUSING FINANCE AGEN-  
5 CY, THE HOUSING TRUST FUND CORPORATION, THE DORMITORY AUTHORITY, THE  
6 THRUWAY AUTHORITY, THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, THE  
7 EMPIRE STATE DEVELOPMENT CORPORATION, THE NEW YORK STATE URBAN DEVELOP-  
8 MENT CORPORATION AND ALL OTHER NEW YORK AUTHORITIES. ANY SUBSIDIARY OF,  
9 OR CORPORATION WITH THE SAME MEMBERS OR DIRECTORS AS, A PUBLIC BENEFIT  
10 CORPORATION IDENTIFIED IN THIS SUBDIVISION SHALL ALSO BE DEEMED TO BE  
11 WITHIN THE DEFINITION OF STATE INFRASTRUCTURE AGENCY UNDER THIS ARTICLE.

12 3. "MUNICIPAL CENTERS" SHALL MEAN AREAS OF CONCENTRATED AND MIXED  
13 LAND USES THAT SERVE AS CENTERS FOR VARIOUS ACTIVITIES, INCLUDING, BUT  
14 NOT LIMITED TO, CENTRAL BUSINESS DISTRICTS, MAIN STREETS, DOWNTOWN  
15 AREAS, BROWNFIELD OPPORTUNITY AREAS, DOWNTOWN AREAS OF LOCAL WATERFRONT  
16 REVITALIZATION PROGRAM AREAS, TRANSIT-ORIENTED DEVELOPMENT, ENVIRON-  
17 MENTAL JUSTICE AREAS, AND HARDSHIP AREAS. MUNICIPAL CENTERS SHALL ALSO  
18 INCLUDE: AREAS ADJACENT TO MUNICIPAL CENTERS, AS DEFINED IN THIS SUBDI-  
19 VISION, WHICH HAVE CLEARLY DEFINED BORDERS, ARE DESIGNATED FOR CONCEN-  
20 TRATED DEVELOPMENT IN THE FUTURE IN A MUNICIPAL OR REGIONAL COMPREHEN-  
21 SIVE PLAN, AND EXHIBIT STRONG LAND USE, TRANSPORTATION, INFRASTRUCTURE  
22 AND ECONOMIC CONNECTIONS TO A MUNICIPAL CENTER; AND AREAS DESIGNATED IN  
23 A MUNICIPAL OR COMPREHENSIVE PLAN, AND APPROPRIATELY ZONED IN A MUNICI-  
24 PAL ZONING ORDINANCE, AS A FUTURE MUNICIPAL CENTER.

25 S 6-0105. STATE SMART GROWTH PUBLIC INFRASTRUCTURE POLICY.

26 IT IS THE PURPOSE OF THIS ARTICLE TO AUGMENT THE STATE'S ENVIRONMENTAL  
27 POLICY BY DECLARING A FISCALLY PRUDENT STATE POLICY OF MAXIMIZING THE  
28 SOCIAL, ECONOMIC AND ENVIRONMENTAL BENEFITS FROM PUBLIC INFRASTRUCTURE  
29 DEVELOPMENT THROUGH MINIMIZING UNNECESSARY COSTS OF SPRAWL DEVELOPMENT  
30 INCLUDING ENVIRONMENTAL DEGRADATION, DISINVESTMENT IN URBAN AND SUBURBAN  
31 COMMUNITIES AND LOSS OF OPEN SPACE INDUCED BY SPRAWL FACILITATED BY THE  
32 FUNDING OR DEVELOPMENT OF NEW OR EXPANDED TRANSPORTATION, SEWER AND  
33 WASTE WATER TREATMENT, WATER, EDUCATION, HOUSING AND OTHER PUBLICLY  
34 SUPPORTED INFRASTRUCTURE INCONSISTENT WITH SMART GROWTH PUBLIC INFRA-  
35 STRUCTURE CRITERIA.

36 S 6-0107. STATE SMART GROWTH PUBLIC INFRASTRUCTURE CRITERIA.

37 1. IN ADDITION TO MEETING OTHER CRITERIA AND REQUIREMENTS OF LAW  
38 GOVERNING APPROVAL, DEVELOPMENT, FINANCING AND STATE AID FOR THE  
39 CONSTRUCTION OF NEW OR EXPANDED PUBLIC INFRASTRUCTURE OR THE RECON-  
40 STRUCTION THEREOF, NO STATE INFRASTRUCTURE AGENCY SHALL APPROVE, UNDER-  
41 TAKE, SUPPORT OR FINANCE A PUBLIC INFRASTRUCTURE PROJECT, INCLUDING  
42 PROVIDING GRANTS, AWARDS, LOANS OR ASSISTANCE PROGRAMS, UNLESS, TO THE  
43 EXTENT PRACTICABLE, IT IS CONSISTENT WITH THE RELEVANT CRITERIA SPECI-  
44 FIED IN SUBDIVISION TWO OF THIS SECTION.

45 2. THE FOLLOWING ARE THE STATE SMART GROWTH PUBLIC INFRASTRUCTURE  
46 CRITERIA:

47 A. TO ADVANCE PROJECTS FOR THE USE, MAINTENANCE OR IMPROVEMENT OF  
48 EXISTING INFRASTRUCTURE;

49 B. TO ADVANCE PROJECTS LOCATED IN MUNICIPAL CENTERS;

50 C. TO ADVANCE PROJECTS IN DEVELOPED AREAS OR AREAS DESIGNATED FOR  
51 CONCENTRATED INFILL DEVELOPMENT IN A MUNICIPALLY APPROVED COMPREHENSIVE  
52 LAND USE PLAN, LOCAL WATERFRONT REVITALIZATION PLAN AND/OR BROWNFIELD  
53 OPPORTUNITY AREA PLAN;

54 D. TO PROTECT, PRESERVE AND ENHANCE THE STATE'S RESOURCES, INCLUDING  
55 AGRICULTURAL LAND, FORESTS, SURFACE AND GROUNDWATER, AIR QUALITY, RECRE-

1 ATION AND OPEN SPACE, SCENIC AREAS, AND SIGNIFICANT HISTORIC AND ARCHEO-  
2 LOGICAL RESOURCES;

3 E. TO FOSTER MIXED LAND USES AND COMPACT DEVELOPMENT, DOWNTOWN REVI-  
4 TALIZATION, BROWNFIELD REDEVELOPMENT, THE ENHANCEMENT OF BEAUTY IN  
5 PUBLIC SPACES, THE DIVERSITY AND AFFORDABILITY OF HOUSING IN PROXIMITY  
6 TO PLACES OF EMPLOYMENT, RECREATION AND COMMERCIAL DEVELOPMENT AND THE  
7 INTEGRATION OF ALL INCOME AND AGE GROUPS;

8 F. TO PROVIDE MOBILITY THROUGH TRANSPORTATION CHOICES INCLUDING  
9 IMPROVED PUBLIC TRANSPORTATION AND REDUCED AUTOMOBILE DEPENDENCY;

10 G. TO COORDINATE BETWEEN STATE AND LOCAL GOVERNMENT AND INTERMUNICIPAL  
11 AND REGIONAL PLANNING;

12 H. TO PARTICIPATE IN COMMUNITY BASED PLANNING AND COLLABORATION;

13 I. TO ENSURE PREDICTABILITY IN BUILDING AND LAND USE CODES; AND

14 J. TO PROMOTE SUSTAINABILITY BY STRENGTHENING EXISTING AND CREATING  
15 NEW COMMUNITIES WHICH REDUCE GREENHOUSE GAS EMISSIONS AND DO NOT COMPRO-  
16 MISE THE NEEDS OF FUTURE GENERATIONS, BY AMONG OTHER MEANS ENCOURAGING  
17 BROAD BASED PUBLIC INVOLVEMENT IN DEVELOPING AND IMPLEMENTING A COMMUNI-  
18 TY PLAN AND ENSURING THE GOVERNANCE STRUCTURE IS ADEQUATE TO SUSTAIN ITS  
19 IMPLEMENTATION.

20 3. BEFORE MAKING ANY COMMITMENT, INCLUDING ENTERING INTO AN AGREEMENT  
21 OR INCURRING ANY INDEBTEDNESS FOR THE PURPOSE OF ACQUIRING, CONSTRUCT-  
22 ING, OR FINANCING ANY PROJECT COVERED BY THE PROVISIONS OF THIS ARTICLE,  
23 THE CHIEF EXECUTIVE OFFICER OF A STATE INFRASTRUCTURE AGENCY SHALL  
24 ATTEST IN A WRITTEN SMART GROWTH IMPACT STATEMENT THAT THE PROJECT, TO  
25 THE EXTENT PRACTICABLE, MEETS THE RELEVANT CRITERIA SET FORTH IN SUBDI-  
26 VISION TWO OF THIS SECTION, UNLESS IN ANY RESPECT THE PROJECT DOES NOT  
27 MEET SUCH CRITERIA OR COMPLIANCE IS CONSIDERED TO BE IMPRACTICABLE,  
28 WHICH SHALL BE DETAILED IN A STATEMENT OF JUSTIFICATION.

29 4. NOTHING IN THIS SECTION SHALL CONTRAVENE ANY FEDERAL LAW GOVERNING  
30 THE EXPENDITURE OF DISBURSEMENT OF FEDERAL INFRASTRUCTURE FUNDING ADMIN-  
31 ISTERED BY THE STATE.

32 S 6-0109. SMART GROWTH ADVISORY COMMITTEES.

33 THE CHIEF EXECUTIVE OFFICER OF EACH STATE INFRASTRUCTURE AGENCY SHALL  
34 CREATE A SMART GROWTH ADVISORY COMMITTEE TO ADVISE THE AGENCY REGARDING  
35 THE AGENCIES' POLICIES, PROGRAMS AND PROJECTS WITH REGARD TO THEIR  
36 COMPLIANCE WITH THE STATE SMART GROWTH PUBLIC INFRASTRUCTURE CRITERIA.  
37 SUCH COMMITTEES SHALL CONSIST OF APPROPRIATE AGENCY PERSONNEL DESIGNATED  
38 BY THE CHIEF EXECUTIVE OFFICER TO CONDUCT THE EVALUATION REQUIRED BY  
39 SECTION 6-0107 OF THIS ARTICLE. SUCH COMMITTEES SHALL SOLICIT INPUT FROM  
40 AND CONSULT WITH VARIOUS REPRESENTATIVES OF AFFECTED COMMUNITIES AND  
41 ORGANIZATIONS WITHIN THOSE COMMUNITIES, AND SHALL GIVE CONSIDERATION TO  
42 THE LOCAL AND ENVIRONMENTAL INTERESTS AFFECTED BY THE ACTIVITIES OF THE  
43 AGENCY OR PROJECTS PLANNED, APPROVED OR FINANCED THROUGH SUCH AGENCY.

44 S 6-0111. PRIVATE RIGHT OF ACTION.

45 NOTHING CONTAINED IN THIS ARTICLE OR IN THE ADMINISTRATION OR APPLICA-  
46 TION HEREOF SHALL BE CONSTRUED TO CREATE ANY PRIVATE RIGHT OF ACTION ON  
47 THE PART OF ANY PERSON, FIRM OR CORPORATION AGAINST THE STATE OF NEW  
48 YORK OR ANY STATE INFRASTRUCTURE AGENCY AS DEFINED IN SUBDIVISION TWO OF  
49 SECTION 6-0103 OF THIS ARTICLE.

50 S 2. This act shall take effect on the thirtieth day after it shall  
51 have become a law; provided, however, that this act shall not apply to  
52 infrastructure projects undertaken or approved by the infrastructure  
53 agencies prior to the date on which this act shall have become a law.