S T A T E O F N E W Y O R K

4906--A

2011-2012 Regular Sessions

I N S E N A T E

April 29, 2011

Introduced by Sens. KLEIN, MONTGOMERY, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- recommitted to the Committee on Agriculture 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

AN ACT to amend the agriculture and markets law, in relation to expanding the powers and duties of the office of community gardens

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

Section 1. Article 2-C of the agriculture and markets law is amended by adding a new section 31-f to read as follows:

S 31-F. LEGISLATIVE FINDINGS. THE LEGISLATURE HEREBY FINDS AND DECLARES THAT COMMUNITY GARDENS PROVIDE SIGNIFICANT HEALTH, EDUCATIONAL AND SOCIAL BENEFITS TO THE GENERAL PUBLIC, ESPECIALLY FOR THOSE WHO RESIDE IN URBAN AND SUBURBAN AREAS OF THIS STATE. FURTHERMORE, IT IS THE ARTICULATED PUBLIC POLICY OF THIS STATE TO PROMOTE AND FOSTER GROWTH IN THE NUMBER OF COMMUNITY GARDENS AND THE ACREAGE OF SUCH GARDENS. THE COMMUNITY GARDEN MOVEMENT CONTINUES TO PROVIDE LOW COST FOOD THAT IS FRESH AND NUTRITIOUS FOR THOSE WHO MAY BE UNABLE TO READILY AFFORD FRESH FRUITS AND VEGETABLES FOR THEMSELVES OR THEIR FAMILIES, PROMOTES PUBLIC HEALTH AND HEALTHIER INDIVIDUAL LIFESTYLES BY ENCOURAGING BETTER EATING HABITS AND INCREASED PHYSICAL ACTIVITY BY GROWING THEIR OWN FOOD, FOSTERS THE RETENTION AND EXPANSION OF OPEN SPACES, PARTICULARLY IN URBAN ENVIRONMENTS, ENHANCES URBAN AND SUBURBAN ENVIRONMENTAL QUALITY AND COMMUNITY BEAUTIFICATION, PROVIDES INEXPENSIVE COMMUNITY BUILDING ACTIVITIES, RECREATION AND PHYSICAL EXERCISE FOR ALL AGE GROUPS, ESTABLISHES A SAFE PLACE FOR COMMUNITY INVOLVEMENT AND HELPS TO REDUCE THE INCIDENCE OF CRIME, ENGENDERS A CLOSER RELATIONSHIP BETWEEN URBAN RESIDENTS, NATURE AND THEIR LOCAL ENVIRONMENT, AND FOSTERS GREEN JOB TRAIN-

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

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ING AND ECOLOGICAL EDUCATION AT ALL LEVELS. IT IS THEREFORE THE INTENT OF THE LEGISLATURE AND THE PURPOSE OF THIS ARTICLE TO FOSTER GROWTH IN THE NUMBER, SIZE AND SCOPE OF COMMUNITY GARDENS IN THIS STATE BY ENCOURAGING STATE AGENCIES, MUNICIPALITIES AND PRIVATE PARTIES IN THEIR EFFORTS TO PROMOTE COMMUNITY GARDENS.

S 2. Subdivisions 2 and 3 of section 31-g of the agriculture and markets law, as added by chapter 862 of the laws of 1986, are amended and a new subdivision 4-a is added to read as follows:

2. "Garden" shall mean a piece OR PARCEL of land appropriate for THE cultivation of herbs, fruits, flowers, NUTS, HONEY, POULTRY FOR EGG PRODUCTION, MAPLE SYRUP, ORNAMENTAL OR VEGETABLE PLANTS, NURSERY PRODUCTS, or vegetables.

3. "Municipality" shall mean any county, town, village, city, school district [or], BOARD OF COOPERATIVE EDUCATIONAL SERVICES, other special district, OR ANY OFFICE OR AGENCY THEREOF.

4-A. "STATE AGENCY" SHALL MEAN ANY DEPARTMENT, BUREAU, COMMISSION, BOARD, PUBLIC AUTHORITY OR OTHER AGENCY OF THE STATE, INCLUDING ANY PUBLIC BENEFIT CORPORATION OF WHICH ANY MEMBER OF WHOSE BOARD IS APPOINTED BY THE GOVERNOR.

S 3. Subdivision 2 of section 31-h of the agriculture and markets law, as added by chapter 862 of the laws of 1986, is amended to read as follows:

2. The duties of the office shall include:

a. Upon request, the office shall assist in the identification of vacant public land within a given geographical location and provide information regarding agency jurisdiction and the relative suitability of such lands for community gardening purposes;

b. Serve as a coordinator on behalf of interested community groups and the appropriate state or local agencies to facilitate the use of vacant public lands for community garden use for not less than one growing season by receiving and forwarding with recommendation completed applications to the appropriate STATE OR MUNICIPAL agency. PROVIDED, FURTHER, THAT THE OFFICE MAY DEVELOP A SINGLE RECOMMENDED APPLICATION FORM TO BE USED BY COMMUNITY GROUPS WHEN APPLYING TO STATE AGENCIES OR MUNICIPALITIES FOR USE OF VACANT PUBLIC LAND FOR COMMUNITY GARDEN PURPOSES;

c. Support and encourage contact between community garden programs already in existence and those programs in the initial stages of development; [and]

d. Seek and provide such assistance, to the extent funds or grants may become available, for the purposes identified in this article[.];

E. ASSIST, SUPPORT AND ENCOURAGE CONTACT AND COOPERATION BETWEEN, AND THE COOPERATIVE SHARING OF RESOURCES BETWEEN COMMUNITY GARDEN GROUPS, SCHOOL GARDEN PROGRAMS AND LOCAL VOLUNTARY FOOD ASSISTANCE PROGRAMS, SUCH AS COMMUNITY FOOD PANTRIES, SOUP KITCHENS, AND OTHER COMMUNITY AND NOT-FOR-PROFIT ORGANIZATIONS THAT PROVIDE OR DISTRIBUTE FOOD TO THE POOR AND DISADVANTAGED. SUCH SUPPORT CAN INCLUDE THE PROVISION OF SURPLUS COMMUNITY GARDEN FOOD OR OTHER AGRICULTURAL PRODUCTS TO SUCH LOCAL VOLUNTARY FOOD ASSISTANCE PROGRAMS; AND

F. ASSIST, SUPPORT AND ENCOURAGE COMMUNICATION, AND THE SHARING OF RESOURCES BETWEEN COMMUNITY GARDEN ORGANIZATIONS AND THE NEW YORK HARVEST FOR NEW YORK KIDS WEEK PROGRAM ESTABLISHED BY THE DEPARTMENT PURSUANT TO SUBDIVISION FIVE-B OF SECTION SIXTEEN OF THIS CHAPTER, AND INDIVIDUAL FARM-TO-SCHOOL AND SCHOOL GARDEN PROGRAMS.

S 4. Section 31-i of the agriculture and markets law, as added by chapter 862 of the laws of 1986, is amended to read as follows:

S 31-i. Use of state OR MUNICIPALLY owned land for community gardens. 1. Any state agency[, department, board, public benefit corporation, public authority] or [commission] MUNICIPALITY with title IN FEE OR OF A LESSER INTEREST to vacant public land may permit community organizations to use such lands for community gardening purposes. Such use of vacant public land may be conditioned on the community organization possessing liability insurance and accepting liability for injury or damage resulting from use of the vacant public land for community gardening purposes.

2. State agencies AND MUNICIPALITIES which have received an application for use of public lands for community garden purposes shall respond to the applicant within thirty days and make a final determination within one hundred eighty days.

S 5. The agriculture and markets law is amended by adding a new section 31-j to read as follows:

S 31-J. COMMUNITY GARDENS TASK FORCE. 1. THE COMMISSIONER MAY CONVENE A COMMUNITY GARDENS TASK FORCE TO IDENTIFY AND DEVELOP WAYS TO ENCOURAGE STATE AGENCIES, MUNICIPALITIES AND PRIVATE PARTIES TO ESTABLISH AND EXPAND COMMUNITY GARDENS AND THE ACTIVITIES CONDUCTED BY SUCH GARDENS.

2. THE TASK FORCE SHALL BE CHAIRED BY THE COMMISSIONER, OR BY SUCH OFFICER OR EMPLOYEE OF THE DEPARTMENT AS SHALL BE DESIGNATED BY THE COMMISSIONER. THE MEMBERSHIP OF THE TASK FORCE MAY INCLUDE REPRESENTATION FROM APPROPRIATE STATE AGENCIES AND MEMBERS THAT REPRESENT EXISTING COMMUNITY GARDENS, COUNTIES, CITIES, TOWNS, VILLAGES, SCHOOL DISTRICTS, OTHER SPECIAL USE DISTRICTS, PUBLIC AUTHORITIES AND COOPERATIVE EXTENSION SERVICES.

3. THE COMMISSIONER, MAY REQUEST THE ASSISTANCE OF STATE AGENCIES TO CARRY OUT THE WORK OF THE TASK FORCE.

4. (A) THE GOALS OF THE TASK FORCE MAY INCLUDE, BUT ARE NOT LIMITED TO, THE STUDY, EVALUATION AND DEVELOPMENT OF RECOMMENDATIONS: (I) TO ENCOURAGE THE ESTABLISHMENT AND EXPANSION OF COMMUNITY GARDENS BY STATE AGENCIES, MUNICIPAL GOVERNMENTS AND PRIVATE PARTIES, (II) TO ENCOURAGE COOPERATION BETWEEN THE ACTIVITIES AND OPERATIONS OF COMMUNITY GARDENS AND PROVISION OF DONATED FOOD TO LOCAL VOLUNTARY FOOD ASSISTANCE PROGRAMS FOR THE POOR AND DISADVANTAGED, AND (III) TO INCREASE THE BENEFITS THAT COMMUNITY GARDENS MAY PROVIDE TO THE LOCAL COMMUNITY IN WHICH THEY ARE LOCATED.

(B) IN ACHIEVING THE GOALS OF THE TASK FORCE, THE TASK FORCE MAY CONSIDER RECOMMENDATIONS THAT: (I) ENCOURAGE THE EXECUTION OF CONSERVATION EASEMENTS BY STATE AGENCIES, MUNICIPALITIES OR PRIVATE PARTIES TO ESTABLISH OR PROTECT COMMUNITY GARDENS, (II) ENCOURAGE THE CREATION OF MECHANISMS TO TRANSFER DEVELOPMENT RIGHTS TO PROTECT COMMUNITY GARDENS OR ENCOURAGE THE DONATION OR LEASE OF LANDS FOR COMMUNITY GARDENS, (III) DEVELOPMENT OF MODEL ZONING CODES, LOCAL LAND USE LAWS OR OTHER MUNICIPAL POLICIES THAT COULD ENCOURAGE THE ESTABLISHMENT OR RETENTION OF COMMUNITY GARDENS, AND (IV) ANY OTHER ACTIVITY TO ACHIEVE THE GOALS DEEMED APPROPRIATE BY THE TASK FORCE ACCORDING TO THE PROVISIONS OF THIS ARTICLE.

S 6. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.