

745--A

2015-2016 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2015

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Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- recommitted to the Committee on Finance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the parks, recreation and historic preservation law and the state finance law, in relation to providing for the establishment of the urban open space program and establishing the urban open space program fund; and making an appropriation therefor

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

1     Section 1. The parks, recreation and historic preservation law is  
2     amended by adding a new article 18 to read as follows:

3                                   ARTICLE 18  
4                   URBAN OPEN SPACE PROGRAM

5     SECTION 18.01 URBAN OPEN SPACE PROGRAM.

6     S 18.01 URBAN OPEN SPACE PROGRAM. 1. THE COMMISSIONER SHALL ESTABLISH  
7     WITHIN THE OFFICE AN URBAN OPEN SPACE PROGRAM (HEREINAFTER REFERRED TO  
8     IN THIS SECTION AS "UOS PROGRAM" OR "PROGRAM"). THE PURPOSE OF THE UOS  
9     PROGRAM SHALL BE TO PROVIDE FOR THE ACQUISITION, CREATION, ESTABLISH-  
10    MENT, EXPANSION, IMPROVEMENT, CONSERVATION AND PROTECTION OF OPEN SPACE  
11    AREAS IN CITIES. THE PURPOSE OF SUCH OPEN SPACE AREAS SHALL BE TO  
12    ENHANCE THE URBAN ENVIRONMENT, THEREBY PROMOTING THE HEALTH, SAFETY AND  
13    WELFARE OF THE PEOPLE OF THE STATE IN A VARIETY OF WAYS, SUCH AS:  
14    REDUCTION OF AIR POLLUTION, REDUCTION OF NOISE POLLUTION, MODIFICATION  
15    OF EXTREMES OF TEMPERATURE THEREBY REDUCING THE AMOUNT OF ENERGY  
16    CONSUMED IN HEATING AND COOLING MANY URBAN BUILDINGS AND HOMES, ASSIST-  
17    ING IN WATERSHED MANAGEMENT, PROVIDING HABITATS FOR DESIRABLE URBAN

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

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1 VEGETATION AND WILDLIFE, PROVISION OF SHADE, PRESERVATION OF NATURAL  
2 RESOURCES, ENHANCEMENT OF REAL ESTATE VALUES AND BEAUTIFICATION OF URBAN  
3 AREAS THROUGHOUT THE STATE.

4 2. THE UOS PROGRAM SHALL INCLUDE, BUT NOT BE LIMITED TO:

5 (A) ACQUISITION, CREATION, ESTABLISHMENT, EXPANSION, IMPROVEMENT,  
6 CONSERVATION AND PROTECTION OF OPEN SPACE AREAS IN CITIES BY THE OFFICE  
7 FOR UOS PROGRAM PURPOSES; AND

8 (B) STATE AID TO CITIES FOR THE ACQUISITION, CREATION, ESTABLISHMENT,  
9 EXPANSION, IMPROVEMENT, CONSERVATION AND PROTECTION OF OPEN SPACE AREAS  
10 IN CITIES BY CITIES FOR UOS PROGRAM PURPOSES.

11 3. (A) REAL PROPERTY ACQUIRED BY THE OFFICE SHALL BE ACQUIRED PURSUANT  
12 TO SECTIONS 3.17 AND 3.19 OF THIS CHAPTER, AFTER CONSULTATION WITH THE  
13 STATE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL AND THE COMMISSIONER  
14 OF ENVIRONMENTAL CONSERVATION. MONEYS TO BE EXPENDED FOR THE COST OF  
15 SUCH ACQUISITION SHALL BE PAID ON THE AUDIT AND WARRANT OF THE STATE  
16 COMPTROLLER ON THE CERTIFICATE OF THE COMMISSIONER.

17 (B)(I) NO REAL PROPERTY SHALL BE ACQUIRED BY A CITY PURSUANT TO THIS  
18 SECTION UNLESS SUCH ACQUISITION SHALL HAVE BEEN APPROVED BY THE COMMIS-  
19 SIONER, AFTER CONSULTATION WITH THE STATE COMMISSIONER OF HOUSING AND  
20 COMMUNITY RENEWAL AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION.  
21 (II) THE STATE SHARE OF THE COST OF SUCH ACQUISITION SHALL BE PAID ON  
22 THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON THE CERTIFICATE OF THE  
23 COMMISSIONER. (III) IN THE EVENT THAT A CITY SHALL FAIL TO PAY ITS  
24 SHARE, AS DETERMINED BY THE COMMISSIONER, OF THE COST OF SUCH ACQUI-  
25 SITION WITHIN SIX MONTHS OF THE CERTIFICATION TO THE CITY BY THE STATE  
26 COMPTROLLER OF THE AMOUNT OF SUCH COST, THE STATE COMPTROLLER SHALL  
27 CAUSE TO BE WITHHELD FROM THE STATE ASSISTANCE FUNDS TO WHICH SUCH CITY  
28 WOULD OTHERWISE BE ENTITLED, A SUM SUFFICIENT TO REIMBURSE THE STATE FOR  
29 ANY AMOUNT REMAINING UNPAID, TOGETHER WITH INTEREST ON ANY SUCH UNPAID  
30 AMOUNT AT THE RATE OF THREE PERCENT PER ANNUM FROM THE DATE OF SUCH  
31 CERTIFICATION. MONEYS SO WITHHELD SHALL BE CREDITED AGAINST THE AMOUNT  
32 OF PRINCIPAL AND INTEREST PAYABLE BY SUCH CITY FOR ITS SHARE OF THE COST  
33 OF ACQUISITION OF SUCH REAL PROPERTY. (IV) FOR THE PURPOSE OF COMPUTING  
34 THE GRANT OF AID MADE BY THE OFFICE TO A CITY TO ASSIST IN PAYING FOR  
35 THE COST OF ACQUIRING REAL PROPERTY PURSUANT TO THIS SECTION, THE COST  
36 OF ACQUISITION SHALL NOT BE MORE THAN THE AMOUNT SET FORTH IN THE APPLI-  
37 CATION FOR STATE AID MADE BY THE CITY AND APPROVED BY THE COMMISSIONER,  
38 PLUS ANY DIRECT INCIDENTAL COSTS APPROVED BY THE COMPTROLLER. (V) A  
39 CITY WHICH ACQUIRES REAL PROPERTY WITH FUNDS MADE AVAILABLE PURSUANT TO  
40 THIS SECTION MAY ESTABLISH REASONABLE RULES AND REGULATIONS TO ENSURE  
41 PROPER ADMINISTRATION, MAINTENANCE, USE AND PROTECTION OF SUCH LANDS,  
42 PROVIDED THAT NO RULE OR REGULATION RESTRICTING THE USE OF SUCH PROPERTY  
43 TO THE RESIDENTS OF THE CITY SHALL BE EFFECTIVE WITHOUT THE EXPRESS  
44 APPROVAL OF THE COMMISSIONER.

45 (C) REAL PROPERTY ACQUIRED BY THE OFFICE PURSUANT TO THIS SECTION OR  
46 BY A CITY WITH THE AID OF FUNDS MADE AVAILABLE PURSUANT TO THIS SECTION,  
47 SHALL BE RETAINED BY THE OFFICE OR CITY, AS THE CASE MAY BE, AND SHALL  
48 NOT BE DISPOSED OF OR USED FOR OTHER THAN URBAN OPEN SPACE PURPOSES AS  
49 SET FORTH IN THIS SECTION WITHOUT THE EXPRESS AUTHORITY OF AN ACT OF THE  
50 LEGISLATURE.

51 4. IN IMPLEMENTING, MANAGING AND ADMINISTERING THE URBAN OPEN SPACE  
52 PROGRAM PURSUANT TO THE PROVISIONS OF THIS SECTION, THE COMMISSIONER MAY  
53 PERFORM SUCH ACTS AND PROMULGATE SUCH RULES AND REGULATIONS AS HE OR SHE  
54 DEEMS NECESSARY, PROPER OR DESIRABLE TO CARRY OUT THE PURPOSES OF THIS  
55 SECTION. THIS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE COMMISSIONER'S  
56 CONSULTATION WITH THE STATE COMMISSIONER OF HOUSING AND COMMUNITY

1 RENEWAL AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION. PROVIDED  
2 FURTHER THAT THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS  
3 CONCERNING THE STANDARDS FOR THE ELIGIBILITY OF A CITY FOR STATE AID  
4 PURSUANT TO THIS SECTION AND THE FORM FOR APPLICATIONS FOR SUCH STATE  
5 AID.

6 S 2. The state finance law is amended by adding a new section 97-pppp  
7 to read as follows:

8 S 97-PPPP. URBAN OPEN SPACE PROGRAM FUND. 1. THERE IS HEREBY ESTAB-  
9 LISHED IN THE JOINT CUSTODY OF THE COMPTROLLER AND THE COMMISSIONER OF  
10 THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION A SPECIAL FUND  
11 TO BE KNOWN AS THE "URBAN OPEN SPACE PROGRAM FUND".

12 2. SUCH FUND SHALL CONSIST OF ALL MONEYS CREDITED OR APPROPRIATED FOR  
13 TRANSFER THERETO FROM ANY SOURCE ACCORDING TO LAW.

14 3. MONEYS OF THE FUND SHALL BE AVAILABLE ONLY FOR THE PAYMENT OF COSTS  
15 ASSOCIATED WITH THE IMPLEMENTATION, MANAGEMENT AND ADMINISTRATION OF THE  
16 URBAN OPEN SPACE PROGRAM ESTABLISHED PURSUANT TO ARTICLE EIGHTEEN OF THE  
17 PARKS, RECREATION AND HISTORIC PRESERVATION LAW, INCLUDING THE PAYMENT  
18 OF STATE AID PURSUANT TO THE PROVISIONS OF SUCH ARTICLE.

19 4. MONEYS OF THE FUND SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMUN-  
20 GLED WITH ANY OTHER MONEYS IN THE CUSTODY OF THE COMPTROLLER. ANY SUCH  
21 MONEYS IN THE FUND MAY, IN THE DISCRETION OF THE COMPTROLLER, BE  
22 INVESTED IN OBLIGATIONS IN WHICH THE COMPTROLLER IS AUTHORIZED TO INVEST  
23 PURSUANT TO SECTION NINETY-EIGHT-A OF THIS ARTICLE. ANY INCOME OR INTER-  
24 EST FROM SUCH INVESTMENT SHALL BE CREDITED TO SUCH FUND.

25 5. ALL PAYMENTS OF MONEYS FROM THE FUND SHALL BE MADE ON THE AUDIT AND  
26 WARRANT OF THE COMPTROLLER.

27 S 3. The sum of ten million dollars (\$10,000,000), or so much thereof  
28 as may be necessary, is hereby appropriated to the urban open space  
29 program fund from any moneys in the state treasury in the general fund  
30 to the credit of the state purposes account not otherwise appropriated  
31 for services and expenses of the office of parks, recreation and historic  
32 preservation for the purposes of carrying out the provisions of this  
33 act. Such sum shall be payable on the audit and warrant of the state  
34 comptroller on vouchers certified or approved by the commissioner of the  
35 office of parks, recreation and historic preservation, or his duly  
36 designated representative in the manner provided by law. No expenditure  
37 shall be made from this appropriation until a certificate of approval of  
38 availability shall have been issued by the director of the budget and  
39 filed with the state comptroller and a copy filed with the chairman of  
40 the senate finance committee and the chairman of the assembly ways and  
41 means committee. Such certificate may be amended from time to time by  
42 the director of the budget and a copy of each such amendment shall be  
43 filed with the state comptroller, the chairman of the senate finance  
44 committee and the chairman of the assembly ways and means committee.

45 S 4. This act shall take effect immediately.