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

1322--C

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. BRENNAN, COLTON, HYER-SPENCER, SKARTADOS, LIFTON -- Multi-Sponsored by -- M. of A. GOTTFRIED, MILLMAN, PHEFFER, ROSENTHAL -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to environmental protection related to the drilling of oil and gas wells, and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. Subdivision 3 of section 23-0501 of the environmental conservation law is renumbered subdivision 5 and two new subdivisions 3 and 4 are added to read as follows:

3. COMMENCING WITH THE EFFECTIVE DATE OF THIS SUBDIVISION, THERE SHALL BE A MORATORIUM ON THE ISSUANCE OF PERMITS FOR THE DRILLING OF NEW WELLS.

4. (A) NO PERMIT TO DRILL AN OIL OR GAS WELL USING HYDRAULIC FRACTURING SHALL BE ISSUED FOR THE DRILLING OF ANY OIL OR GAS WELL WITHIN TEN MILES OF:

(I) THE NEW YORK CITY WATER SUPPLY INFRASTRUCTURE;

(II) THE NEW YORK CITY WATERSHED; OR

(III) THE AREA AROUND AND INCLUDING ANY WATER SYSTEM THAT HAS RECEIVED, AT ANY POINT IN TIME, A FILTRATION AVOIDANCE DETERMINATION FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY;

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

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(B) NO PERMIT TO DRILL AN OIL OR GAS WELL USING HYDRAULIC FRACTURING SHALL BE ISSUED FOR THE DRILLING OF ANY OIL OR GAS WELL WITHIN AN APPROPRIATE DISTANCE, TO BE DETERMINED BY RULES AND REGULATIONS OF THE DEPARTMENT, OF:

(I) ANY AREA OVERLYING A SOLE SOURCE AQUIFER;

(II) ANY OTHER AREA IDENTIFIED BY THE DEPARTMENT AS NECESSARY FOR THE PROTECTION OF DRINKING WATER RESOURCES;

(III) ANY AREA IDENTIFIED AS A CRITICAL HABITAT FOR A THREATENED OR ENDANGERED SPECIES UNDER SECTION FOUR OF THE FEDERAL ENDANGERED SPECIES ACT (42 U.S.C. S 1533) OR ANY AREA IDENTIFIED AS A "NATURAL HERITAGE AREA" UNDER SECTION 11-0539 OF THIS CHAPTER;

(IV) ANY AREA IDENTIFIED BY THE DEPARTMENT AS A BIRD CONSERVATION AREA OR ANY OTHER CRITICAL BIRD HABITAT FOR THE PROTECTION OF MIGRATORY OR NON-MIGRATORY BIRDS;

(V) ANY FLOODPLAINS; OR

(VI) ALL AREAS WITHIN ANY NEW YORK STATE PARK, FOREST PRESERVE, STATE FOREST, WILDLIFE REFUGE, WILDLIFE MANAGEMENT AREA, OR WILDERNESS AREA.

(C) THE DEPARTMENT SHALL, UPON APPLICATION BY ANY CHIEF EXECUTIVE OR LEGISLATIVE BODY OF A MUNICIPALITY, IN A MANNER AND FORM TO BE DETERMINED BY THE DEPARTMENT, STUDY THE NEED FOR A BAN ON SUCH PERMITS IN SUCH MUNICIPALITY AND REPORT THE FINDINGS OF SUCH STUDY TO SUCH MUNICIPALITY. AS THE DEPARTMENT DEEMS APPROPRIATE, IT MAY PERFORM A SINGLE STUDY AND REPORT FOR MORE THAN ONE MUNICIPALITY.

(D) FOR PURPOSES OF THIS SUBDIVISION:

(I) "NEW YORK CITY WATER SUPPLY INFRASTRUCTURE" SHALL MEAN FACILITIES, EQUIPMENT, SITES, BUILDINGS, PIPES, PUMPS, TANKS AND ANY OTHER STRUCTURES USED FOR THE SUPPLY, CONTROL, TREATMENT, DISTRIBUTION, AND TRANSPORT OF DRINKING WATER FOR THE CITY OF NEW YORK;

(II) "NEW YORK CITY WATERSHED" SHALL MEAN THE ENTIRE DRAINAGE AREA CONTRIBUTING WATER TO THE CITY OF NEW YORK WATER SUPPLY; AND

(III) "HYDRAULIC FRACTURING" SHALL MEAN FRACTURING OF ROCK BY MAN-MADE FRACTURING TECHNIQUES FOR THE PURPOSE OF STIMULATING NATURAL GAS OR OIL WELL PRODUCTION.

S 2. This act shall take effect immediately; provided that the provisions of subdivision 3 of section 23-0501 of the environmental conservation law, as added by section one of this act, shall expire and be deemed repealed two years after such date; and provided further, that the provisions of subdivision 4 of section 23-0501 of the environmental conservation law, as added by section one of this act, shall apply to any application not yet approved by the department of environmental conservation on such effective date.