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

6839

2009-2010 Regular Sessions

I N A S S E M B L Y

March 13, 2009

Introduced by M. of A. SCOZZAFAVA -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public lands law and the environmental conservation law, in relation to the acquisition of real property by the office of general services and the department of environmental conservation

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

Section 1. Subdivision 1 of section 27 of the public lands law, as added by chapter 513 of the laws of 1989, is amended to read as follows:

1. [The] SUBJECT TO THE PROVISIONS OF SECTION TWENTY-SEVEN-A OF THIS ARTICLE, THE commissioner of general services when moneys therefor have been appropriated by the legislature or are otherwise available, may acquire any real property which he deems necessary for the implementation or accomplishment of any statutory purpose, function, operation or responsibility of the commissioner of general services or the office of general services, by purchase or as provided in the eminent domain procedure law. Title to such real property shall be taken in the name of and be vested in the people of the state of New York. No real property shall be so acquired by purchase unless the title thereto is approved by the attorney general. The terms "property" or "real property" as used in this section shall mean "real property" as defined by section one hundred three of the eminent domain procedure law.

S 2. The public lands law is amended by adding a new section 27-a to read as follows:

S 27-A. ACQUISITIONS OF REAL PROPERTY; REFERENDUM. ANY ACQUISITION OF REAL PROPERTY LOCATED WITHIN THE STATE BY THE OFFICE OF GENERAL SERVICES PURSUANT TO THE PROVISIONS OF SECTION TWENTY-SEVEN OF THIS ARTICLE, SHALL BE SUBJECT TO PERMISSIVE REFERENDUM OF A MAJORITY OF THE VOTERS RESIDING IN THE JUDICIAL DEPARTMENT OR DEPARTMENTS IN WHICH SUCH PROPERTY IS LOCATED, IN WHOLE OR IN PART.

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

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1. AT LEAST ONE HUNDRED TWENTY DAYS PRIOR TO THE INITIATION OF NEGOTIATIONS FOR THE ACQUISITION OF PROPERTY BY THE STATE OR THE COMMENCEMENT BY THE STATE OF EMINENT DOMAIN PROCEEDINGS, THE STATE SHALL NOTIFY, IN WRITING, THE CHIEF EXECUTIVE OFFICER OF EACH MUNICIPALITY IN WHICH SUCH PROPERTY IS LOCATED, THAT SUCH NEGOTIATIONS OR PROCEEDINGS ARE COMMENCING.

2. AT LEAST ONE HUNDRED TWENTY DAYS AFTER THE NOTICE REQUIRED BY SUBDIVISION ONE OF THIS SECTION, THE STATE SHALL DELIVER TO THE CHIEF EXECUTIVE OFFICER OF ALL MUNICIPAL GOVERNMENT OFFICES, INCLUDING ANY AFFECTED OR LIKELY TO BE AFFECTED COUNTIES, TOWNS, VILLAGES, AND SCHOOL DISTRICTS WHEREIN SUCH PROPERTY IS LOCATED, A WRITTEN DRAFT ECONOMIC, CULTURAL AND ENVIRONMENTAL ASSESSMENT REPORT WHICH SETS FORTH THE ANTICIPATED OUTCOMES OF ALL ALTERNATIVES RELATIVE TO THE STATE'S INTEREST, AND THAT OF THE LOCALITY OR LOCALITIES IN WHICH THE PROPERTY IS LOCATED, INCLUDING THE FOLLOWING:

A. A DESCRIPTION OF THE PROPOSED ACQUISITION;

B. THE ENVIRONMENTAL, ECONOMIC, AND CULTURAL IMPACT OF THE PROPOSED ACQUISITION INCLUDING SHORT-TERM AND LONG TERM EFFECTS;

C. ANY ADVERSE ENVIRONMENTAL, ECONOMIC AND CULTURAL EFFECTS WHICH CANNOT BE AVOIDED SHOULD THE PROPOSAL BE IMPLEMENTED;

D. ALTERNATIVES TO THE PROPOSED ACQUISITION;

E. ANY IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES WHICH WOULD BE INVOLVED IN THE PROPOSED ACQUISITION SHOULD IT BE IMPLEMENTED;

F. MITIGATION MEASURES PROPOSED TO MINIMIZE THE ENVIRONMENTAL, ECONOMIC AND CULTURAL IMPACT; AND

G. THE GROWTH INDUCING ASPECTS OF THE PROPOSED ACQUISITION, WHERE APPLICABLE AND SIGNIFICANT.

3. WITHIN SIXTY DAYS OF THE DELIVERY REQUIRED BY SUBDIVISION TWO OF THIS SECTION, THE STATE SHALL CONDUCT A PUBLIC HEARING OR HEARINGS IN THE AFFECTED MUNICIPALITIES TO OUTLINE AND DISCUSS THE CRITERIA SET FORTH IN SUBDIVISION TWO OF THIS SECTION. WITHIN FORTY-FIVE DAYS OF SUCH HEARING THE STATE SHALL ISSUE TO SUCH SUBJECT MUNICIPALITIES ITS ENVIRONMENTAL, ECONOMIC AND CULTURAL IMPACT STATEMENT. SUCH STATEMENT SHALL DESCRIBE THE PROPOSED ACTION AND REASONABLE ALTERNATIVES TO SUCH ACTION AS SET FORTH IN SUBDIVISION TWO OF THIS SECTION.

4. THE DETERMINATION OF A STATE AGENCY TO ACQUIRE LANDS SHALL BE SUBJECT TO A PERMISSIVE REFERENDUM. A DETERMINATION OF AN APPROPRIATE STATE AGENCY TO ACQUIRE LAND SHALL NOT TAKE EFFECT UNTIL FORTY-FIVE DAYS AFTER THE FILING OF ITS ENVIRONMENTAL, ECONOMIC AND CULTURAL IMPACT STATEMENT; NOR UNLESS IT IS APPROVED BY AN AFFIRMATIVE VOTE OF A MAJORITY OF THE QUALIFIED ELECTORS OF THE JUDICIAL DEPARTMENTS WHERE SUCH LAND IS LOCATED, IF WITHIN FORTY-FIVE DAYS AFTER ITS FILING THERE SHALL BE FILED WITH THE COUNTY CLERK OF EACH COUNTY WHEREIN THE AFFECTED LANDS LIE A PETITION SIGNED BY QUALIFIED ELECTORS OF THE COUNTY IN NUMBER NOT LESS THAN TEN PER CENTUM OF THE TOTAL VOTE CAST FOR GOVERNOR IN SUCH COUNTY AT THE LAST GENERAL ELECTION HELD FOR THE ELECTION OF STATE OFFICERS. SUCH PETITION SHALL STATE THAT A REFERENDUM VOTE IS REQUESTED ON SUCH PROPOSED ACQUISITION. THE PETITION MAY CONSIST OF SEPARATE SHEETS AND SIGNATURES TO EACH SHEET SHALL BE AUTHENTICATED IN THE MANNER PROVIDED BY THE ELECTION LAW FOR THE AUTHENTICATION OF A DESIGNATING PETITION. THE SEVERAL SHEETS SO SIGNED AND AUTHENTICATED WHEN FASTENED TOGETHER AND OFFERED FOR FILING SHALL BE DEEMED TO CONSTITUTE ONE PETITION. THE COUNTY CLERK SHALL EXAMINE EACH SUCH PETITION SO FILED WITH SUCH COUNTY CLERK AND SHALL NOT LATER THAN THIRTY DAYS AFTER THE DATE OF ITS FILING TRANSMIT TO THE STATE A CERTIFICATE THAT HE OR SHE HAS EXAM-

INED IT AND HAS FOUND THAT IT DOES OR DOES NOT COMPLY, AS THE CASE MAY BE, WITH ALL THE REQUIREMENTS OF LAW.

5. PROCEEDINGS MAY BE INSTITUTED AND MAINTAINED TO CONTEST THE SUFFICIENCY AND VALIDITY OF ANY PETITION PROVIDED FOR IN THIS SECTION, IN THE MANNER PROVIDED FOR IN THE ELECTION LAW, AS THOUGH SUCH PETITION WERE A DESIGNATING PETITION. IF THE PETITION BE SUFFICIENT AND VALID, A PROPOSITION FOR THE APPROVAL OF SUCH RESOLUTION SHALL BE SUBMITTED AT THE NEXT GENERAL ELECTION TO THE VOTERS OF THE JUDICIAL DEPARTMENT OR DEPARTMENTS IN WHICH THE SAID LANDS ARE LOCATED.

S 3. Subdivision 1 of section 3-0305 of the environmental conservation law, as added by chapter 727 of the laws of 1978, is amended to read as follows:

1. [The] SUBJECT TO THE PROVISIONS OF SECTION 3-0308 OF THIS TITLE, THE commissioner when moneys therefor have been appropriated by the legislature or are otherwise available, may acquire any real property which he OR SHE deems necessary for any of the purposes or functions of the department, by purchase or as provided in the eminent domain procedure law. Title to such real property shall be taken in the name of and be vested in the people of the state of New York. No real property shall be so acquired by purchase unless the title thereto is approved by the attorney general. The terms "property" or "real property" as used in this section shall mean "real property" as defined by section one hundred three of the eminent domain procedure law.

S 4. The environmental conservation law is amended by adding a new section 3-0308 to read as follows:

S 3-0308. ACQUISITIONS OF REAL PROPERTY; REFERENDUM.

ANY ACQUISITION OF REAL PROPERTY LOCATED WITHIN THE STATE BY THE DEPARTMENT PURSUANT TO THE PROVISIONS OF SECTION 3-0305 OF THIS TITLE, SHALL BE SUBJECT TO PERMISSIVE REFERENDUM OF A MAJORITY OF THE VOTERS RESIDING IN THE JUDICIAL DEPARTMENT OR DEPARTMENTS IN WHICH SUCH PROPERTY IS LOCATED, IN WHOLE OR IN PART.

1. AT LEAST ONE HUNDRED TWENTY DAYS PRIOR TO THE INITIATION OF NEGOTIATIONS FOR THE ACQUISITION OF PROPERTY BY THE STATE OR THE COMMENCEMENT BY THE STATE OF EMINENT DOMAIN PROCEEDINGS, THE STATE SHALL NOTIFY, IN WRITING, THE CHIEF EXECUTIVE OFFICER OF EACH MUNICIPALITY IN WHICH SUCH PROPERTY IS LOCATED, THAT SUCH NEGOTIATIONS OR PROCEEDINGS ARE COMMENCING.

2. AT LEAST ONE HUNDRED TWENTY DAYS AFTER THE NOTICE REQUIRED BY SUBDIVISION ONE OF THIS SECTION, THE STATE SHALL DELIVER TO THE CHIEF EXECUTIVE OFFICER OF ALL MUNICIPAL GOVERNMENT OFFICES, INCLUDING ANY AFFECTED OR LIKELY TO BE AFFECTED COUNTIES, TOWNS, VILLAGES, AND SCHOOL DISTRICTS WHEREIN SUCH PROPERTY IS LOCATED, A WRITTEN DRAFT ECONOMIC, CULTURAL AND ENVIRONMENTAL ASSESSMENT REPORT WHICH SETS FORTH THE ANTICIPATED OUTCOMES OF ALL ALTERNATIVES RELATIVE TO THE STATE'S INTEREST, AND THAT OF THE LOCALITY OR LOCALITIES IN WHICH THE PROPERTY IS LOCATED, INCLUDING THE FOLLOWING:

A. A DESCRIPTION OF THE PROPOSED ACQUISITION;

B. THE ENVIRONMENTAL, ECONOMIC, AND CULTURAL IMPACT OF THE PROPOSED ACQUISITION INCLUDING SHORT-TERM AND LONG TERM EFFECTS;

C. ANY ADVERSE ENVIRONMENTAL, ECONOMIC AND CULTURAL EFFECTS WHICH CANNOT BE AVOIDED SHOULD THE PROPOSAL BE IMPLEMENTED;

D. ALTERNATIVES TO THE PROPOSED ACQUISITION;

E. ANY IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES WHICH WOULD BE INVOLVED IN THE PROPOSED ACQUISITION SHOULD IT BE IMPLEMENTED;

F. MITIGATION MEASURES PROPOSED TO MINIMIZE THE ENVIRONMENTAL, ECONOMIC AND CULTURAL IMPACT; AND

G. THE GROWTH INDUCING ASPECTS OF THE PROPOSED ACQUISITION, WHERE APPLICABLE AND SIGNIFICANT.

3. WITHIN SIXTY DAYS OF THE DELIVERY REQUIRED BY SUBDIVISION TWO OF THIS SECTION, THE STATE SHALL CONDUCT A PUBLIC HEARING OR HEARINGS IN THE AFFECTED MUNICIPALITIES TO OUTLINE AND DISCUSS THE CRITERIA SET FORTH IN SUBDIVISION TWO OF THIS SECTION. WITHIN FORTY-FIVE DAYS OF SUCH HEARING THE STATE SHALL ISSUE TO SUCH SUBJECT MUNICIPALITIES ITS ENVIRONMENTAL, ECONOMIC AND CULTURAL IMPACT STATEMENT. SUCH STATEMENT SHALL DESCRIBE THE PROPOSED ACTION AND REASONABLE ALTERNATIVES TO SUCH ACTION AS SET FORTH IN SUBDIVISION TWO OF THIS SECTION.

4. THE DETERMINATION OF A STATE AGENCY TO ACQUIRE LANDS SHALL BE SUBJECT TO A PERMISSIVE REFERENDUM. A DETERMINATION OF AN APPROPRIATE STATE AGENCY TO ACQUIRE LAND SHALL NOT TAKE EFFECT UNTIL FORTY-FIVE DAYS AFTER THE FILING OF ITS ENVIRONMENTAL, ECONOMIC AND CULTURAL IMPACT STATEMENT; NOR UNLESS IT IS APPROVED BY AN AFFIRMATIVE VOTE OF A MAJORITY OF THE QUALIFIED ELECTORS OF THE JUDICIAL DEPARTMENTS WHERE SUCH LAND IS LOCATED, IF WITHIN FORTY-FIVE DAYS AFTER ITS FILING THERE SHALL BE FILED WITH THE COUNTY CLERK OF EACH COUNTY WHEREIN THE AFFECTED LANDS LIE A PETITION SIGNED BY QUALIFIED ELECTORS OF THE COUNTY IN NUMBER NOT LESS THAN TEN PER CENTUM OF THE TOTAL VOTE CAST FOR GOVERNOR IN SUCH COUNTY AT THE LAST GENERAL ELECTION HELD FOR THE ELECTION OF STATE OFFICERS. SUCH PETITION SHALL STATE THAT A REFERENDUM VOTE IS REQUESTED ON SUCH PROPOSED ACQUISITION. THE PETITION MAY CONSIST OF SEPARATE SHEETS AND SIGNATURES TO EACH SHEET SHALL BE AUTHENTICATED IN THE MANNER PROVIDED BY THE ELECTION LAW FOR THE AUTHENTICATION OF A DESIGNATING PETITION. THE SEVERAL SHEETS SO SIGNED AND AUTHENTICATED WHEN FASTENED TOGETHER AND OFFERED FOR FILING SHALL BE DEEMED TO CONSTITUTE ONE PETITION. THE COUNTY CLERK SHALL EXAMINE EACH SUCH PETITION SO FILED WITH SUCH COUNTY CLERK AND SHALL NOT LATER THAN THIRTY DAYS AFTER THE DATE OF ITS FILING TRANSMIT TO THE STATE A CERTIFICATE THAT HE HAS EXAMINED IT AND HAS FOUND THAT IT DOES OR DOES NOT COMPLY, AS THE CASE MAY BE, WITH ALL THE REQUIREMENTS OF LAW.

5. PROCEEDINGS MAY BE INSTITUTED AND MAINTAINED TO CONTEST THE SUFFICIENCY AND VALIDITY OF ANY PETITION PROVIDED FOR IN THIS SECTION, IN THE MANNER PROVIDED FOR IN THE ELECTION LAW, AS THOUGH SUCH PETITION WERE A DESIGNATING PETITION. IF THE PETITION BE SUFFICIENT AND VALID, A PROPOSITION FOR THE APPROVAL OF SUCH RESOLUTION SHALL BE SUBMITTED AT THE NEXT GENERAL ELECTION TO THE VOTERS OF THE JUDICIAL DEPARTMENT OR DEPARTMENTS IN WHICH THE SAID LANDS ARE LOCATED.

S 5. This act shall take effect on the thirtieth day after it shall have become a law and shall apply to acquisitions of real property by the office of general services and the department of environmental conservation occurring on or after such effective date.