

7408

2009-2010 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. ENGLEBRIGHT, TITONE, CYMBROWITZ, ESPAILLAT, GABRYSZAK, COLTON, SPANO, EDDINGTON, GUNTHER, CASTRO, MILLMAN -- Multi-Sponsored by -- M. of A. BING, BRADLEY, COOK, GOTTFRIED, JOHN, McENENY, WEISENBERG -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to providing for the stewardship of ocean resources; and to amend the state finance law, in relation to establishing the ocean resources stewardship trust fund

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

1 Section 1. Section 14-0105 of the environmental conservation law is
2 amended by adding three new subdivisions 6, 7 and 8 to read as follows:
3 6. "OCEAN-BASED DEVELOPMENT" SHALL INCLUDE, BUT NOT BE LIMITED TO, THE
4 DEVELOPMENT AND INSTALLMENT OF PERMANENT OR TEMPORARY STRUCTURES AND THE
5 MINING, REMOVAL OR OTHER EXPLORATION OF MARINE RESOURCES.
6 7. "OCEAN MANAGEMENT PLANNING BOARD" OR "BOARD" MEANS THE BOARD ESTAB-
7 LISHED PURSUANT TO SUBDIVISION TWO OF SECTION 14-0115 OF THIS ARTICLE.
8 8. "OCEAN MANAGEMENT PLAN" MEANS THE PLAN PROVIDED FOR UNDER SUBDIVI-
9 SION THREE OF SECTION 14-0115 OF THIS ARTICLE.
10 S 2. The environmental conservation law is amended by adding a new
11 section 14-0115 to read as follows:
12 S 14-0115. STEWARDSHIP OF OCEAN RESOURCES.
13 1. LEGISLATIVE FINDINGS AND PURPOSE. POLLUTION FROM TERRESTRIAL LAND
14 USE, COASTAL POPULATION GROWTH AND RAPID ADVANCES IN TECHNOLOGY AND
15 COMMERCE HAVE LED TO A SIGNIFICANT INCREASE IN DEGRADATION OF THE
16 STATE'S OCEAN RESOURCES. THE NEW YORK OCEAN AND GREAT LAKES ECOSYSTEM
17 CONSERVATION ACT ENACTED BY THIS ARTICLE HAS ESTABLISHED THE ECOSYSTEM
18 BASED MANAGEMENT PRINCIPLES THAT CAN CHANGE OFTEN REACTIVE AND FRAG-
19 MENTED PUBLIC DECISIONS BASED ON PARTICULAR RESOURCES TO INTEGRATED AND
20 EFFECTIVE MANAGEMENT OF OCEAN RESOURCES.

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

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1 IT IS THE PURPOSE OF THIS SECTION TO ESTABLISH AN OCEAN STEWARDSHIP
2 POLICY FOR SOUND ECOSYSTEM BASED MANAGEMENT PRACTICES TAKING INTO
3 ACCOUNT THE EXISTING NATURAL, SOCIAL, CULTURAL, HISTORIC AND ECONOMIC
4 CHARACTERISTICS OF THE OCEAN PLANNING AREA; RECOGNITION THAT COMMERCIAL
5 AND RECREATIONAL FISHERIES ARE AN INTEGRAL AND HISTORIC PART OF OUR
6 CULTURE AND CONTRIBUTE SUBSTANTIAL ECONOMIC BENEFITS TO OUR CITIZENS,
7 PROTECTING THE PUBLIC TRUST; VALUING BIODIVERSITY AND ECOSYSTEM HEALTH;
8 PROTECTING SPECIAL, SENSITIVE OR UNIQUE ESTUARINE AND MARINE LIFE AND
9 HABITATS, ADDRESSING CLIMATE CHANGE AND SEA LEVEL RISE; RESPECTING THE
10 INTERDEPENDENCE OF ECOSYSTEMS; AND COORDINATING USES THAT INCLUDE FEDER-
11 AL, STATE AND LOCAL JURISDICTIONS.

12 2. A. THERE IS HEREBY ESTABLISHED THE OCEAN MANAGEMENT PLANNING BOARD.
13 THE BOARD SHALL CONSIST OF THE COMMISSIONER WHO SHALL CHAIR THE BOARD,
14 THE SECRETARY OF STATE, THE COMMISSIONERS OF GENERAL SERVICES AND TRANS-
15 PORTATION, THE PRESIDENT OF THE NEW YORK STATE ENERGY RESEARCH AND
16 DEVELOPMENT AUTHORITY AND THREE MEMBERS APPOINTED BY THE GOVERNOR. THE
17 APPOINTED MEMBERS SHALL INCLUDE AT LEAST ONE MEMBER REPRESENTATIVE OF
18 THE INTERESTS OF RECREATIONAL OCEAN FISHING. APPOINTED MEMBERS SHALL
19 SERVE FOR TERMS OF FOUR YEARS. MEMBERS OF THE BOARD SHALL NOT RECEIVE
20 ANY COMPENSATION, BUT APPOINTED MEMBERS SHALL BE ENTITLED TO THEIR ACTU-
21 AL AND NECESSARY EXPENSES IN PERFORMING THE DUTIES OF THEIR OFFICE.

22 B. THE BOARD SHALL ADVISE THE COMMISSIONER IN THE PREPARATION OF THE
23 OCEAN MANAGEMENT PLAN AND UPON ITS ADOPTION SHALL HAVE THE POWER TO
24 REVIEW AND ACT UPON APPLICATIONS FOR AMENDMENTS AND VARIANCES TO THE
25 PLAN.

26 3. A. THE COMMISSIONER, IN CONSULTATION WITH THE OCEAN MANAGEMENT
27 PLANNING BOARD, THE NEW YORK OCEAN AND GREAT LAKES ECOSYSTEM CONSERVA-
28 TION COUNCIL AND OTHER ADVISORY BODIES, SHALL PREPARE AND PROMULGATE AN
29 OCEAN MANAGEMENT PLAN FOR THE OCEAN WATERS OF THE STATE OF NEW YORK FROM
30 THE MONTAUK LIGHT HOUSE TO THE NEW YORK HARBOR, WHICH SHALL INCLUDE
31 MAPS, ILLUSTRATIONS AND OTHER MEDIA SETTING FORTH, AMONG OTHER THINGS,
32 THE STATE'S GOALS, POLICIES AND STANDARDS FOR ENSURING THE EFFECTIVE
33 STEWARDSHIP OF THE OCEAN WATERS HELD IN TRUST FOR THE BENEFIT OF THE
34 PUBLIC. SUCH PLAN SHALL INCLUDE A PLAN FOR OCEAN USE INCLUDING: (I) THE
35 STATE'S GOALS, SITING PRIORITIES AND STANDARDS FOR THE USE AND STEWARD-
36 SHIP OF THE OCEAN; (II) TAKING INTO ACCOUNT EXISTING NATURAL, SOCIAL,
37 CULTURAL, HISTORIC AND ECONOMIC RESOURCES; (III) PRESERVING AND PROTECT-
38 ING THE PUBLIC TRUST; (IV) REFLECTING THE IMPORTANCE OF THE WATERS TO
39 THE COMMERCIAL AND RECREATIONAL FISHERMEN; (V) IDENTIFYING AND PROTECT-
40 ING SENSITIVE AQUATIC, ESTUARINE AND MARINE LIFE AND HABITATS WHICH ARE
41 IMPORTANT FOR BIODIVERSITY AND ECOSYSTEM HEALTH THAT SUPPORT OUR FISH-
42 ERY; (VI) ADDRESSING CLIMATE CHANGE AND SEA LEVEL RISE; (VII) FOSTERING
43 SUSTAINABLE USES THAT CAPITALIZE ON ECONOMIC OPPORTUNITY WITHOUT SIGNIF-
44 ICANT ENVIRONMENTAL IMPACTS; (VIII) PRESERVING AND ENHANCING PUBLIC
45 ACCESS; (IX) SUPPORTING THE INFRASTRUCTURE NECESSARY TO SUSTAIN THE
46 ECONOMY, INCLUDING COMMERCIAL SHIPPING; (X) FOSTERING PUBLIC PARTIC-
47 IPATION IN DECISION-MAKING; AND (XI) IDENTIFYING APPROPRIATE LOCATIONS
48 AND PERFORMANCE STANDARDS FOR VARIOUS OFFSHORE ECONOMIC USES INCLUDING
49 ENERGY GENERATION FACILITIES. THE PLAN SHALL IDENTIFY MANAGEMENT MEAS-
50 URES, INCLUDING BUT NOT LIMITED TO, SETTING PERFORMANCE STANDARDS, MITI-
51 GATION REQUIREMENTS AND USE LIMITATIONS, AS MAY BE APPLICABLE TO SPECIF-
52 IC GEOGRAPHIC AREAS AND SHALL INCLUDE STANDARDS AND CRITERIA FOR SITING
53 SMALL-SCALE OFFSHORE RENEWABLE ENERGY FACILITIES, INCLUDING BUT NOT
54 LIMITED TO COMPATIBILITY WITH EXISTING USES, APPROPRIATENESS OF TECHNOL-
55 OGY AND SCALE, ENVIRONMENTAL PROTECTION, PUBLIC SAFETY AND COMMUNITY
56 BENEFIT. THE PLAN SHALL ALSO PROVIDE FOR APPLICATION OF THE REQUIRE-

1 MENTS OF THE SPATIAL PLAN INCLUDING PROCEDURES FOR APPROVAL OF USES AND
2 ACTIVITIES AND FOR VARIANCES IN CASES OF HARDSHIPS. IN PREPARING THE
3 PLAN, THE COMMISSIONER SHALL REACH OUT TO STAKEHOLDERS AND OTHER INTER-
4 ESTED PARTIES SEEKING THEIR RECOMMENDATIONS.

5 B. A DRAFT PLAN SHALL BE SUBJECT TO THREE PUBLIC HEARINGS BEFORE A
6 FINAL VERSION IS SUBMITTED FOR REVIEW AND APPROVAL OF THE GOVERNOR.
7 WITHIN NINETY DAYS OF RECEIVING THE PLAN FROM THE COMMISSIONER, THE
8 GOVERNOR SHALL APPROVE THE PLAN OR RETURN THE PLAN TO THE COMMISSIONER
9 WITH RECOMMENDED CHANGES. THIS PROCESS OF SUBMITTAL AND REVIEW BY THE
10 GOVERNOR SHALL CONTINUE UNTIL THERE IS A GOVERNOR APPROVED PLAN. UPON
11 APPROVAL BY THE GOVERNOR, THE PLAN SHALL APPLY TO USES AND ACTIVITIES IN
12 THE OCEAN PLANNING AREA AND APPLICATIONS FOR SUCH USES AND ACTIVITIES
13 SHALL BE MADE, REVIEWED AND ACTED UPON AS PROVIDED IN THE PLAN.

14 S 3. The state finance law is amended by adding a new section 91-h to
15 read as follows:

16 S 91-H. OCEAN RESOURCES STEWARDSHIP TRUST FUND. 1. THERE IS HEREBY
17 ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE
18 COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE
19 "OCEAN RESOURCES STEWARDSHIP TRUST FUND".

20 2. THE OCEAN RESOURCES STEWARDSHIP TRUST FUND SHALL CONSIST OF ALL
21 REVENUE FROM THE COMPENSATION OR MITIGATION RELATED TO OCEAN DEVELOP-
22 MENT, INCOME DERIVED FROM THE INVESTMENT OF AMOUNTS CREDITED TO THE FUND
23 AND ANY APPROPRIATION OR GRANT EXPLICITLY MADE TO THE FUND.

24 3. MONEYS OF THE FUND, FOLLOWING APPROPRIATION BY THE LEGISLATURE,
25 SHALL HAVE THE PRIORITY USE OF RESTORATION OR ENHANCEMENT OF MARINE
26 HABITAT AND RESOURCES RELATED TO THE IMPACTS OF THE SPECIFIC PROJECT
27 FROM WHICH THE COMPENSATION OR MITIGATION CAME.

28 S 4. The commissioner of environmental conservation, in consultation
29 with the New York ocean and Great Lakes ecosystem conservation council,
30 shall examine the establishment and/or modification of fees, licenses,
31 permits, rents, leases and adjustment or development of revenue sources
32 for the purposes of ocean resource enhancement and restoration. Nothing
33 in this section shall provide for new or additional saltwater fishing
34 licenses or any similar fees or user permits for saltwater fishing.
35 Recommendations from such examination shall be made to the governor and
36 the legislature.

37 S 5. This act shall take effect on the thirtieth day after it shall
38 have become a law.