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

1694

2009-2010 Regular Sessions

I N A S S E M B L Y

January 9, 2009

Introduced by M. of A. ENGLEBRIGHT -- Multi-Sponsored by -- M. of A. COLTON, CYMBROWITZ, HEASTIE -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to establishing the marine life protection task force and providing for the powers and duties thereof

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

Section 1. Article 13 of the environmental conservation law is amended by adding a new title 7 to read as follows:

TITLE 7

MARINE LIFE PROTECTION

SECTION 13-0701. LEGISLATIVE INTENT.
13-0703. DEFINITIONS.
13-0705. MARINE LIFE PROTECTION TASK FORCE.
13-0707. TASK FORCE; POWERS AND DUTIES.
13-0709. REPORTS AND RECOMMENDATIONS.

S 13-0701. LEGISLATIVE INTENT.

THE LEGISLATURE HEREBY FINDS THAT:

1. NEW YORK'S EXTRAORDINARY MARINE BIOLOGICAL DIVERSITY IS A VITAL ASSET TO THE STATE AND NATION. THE DIVERSITY OF SPECIES AND ECOSYSTEMS FOUND IN THE STATE'S MARINE AND COASTAL DISTRICT IS IMPORTANT TO PUBLIC HEALTH AND WELL-BEING, ECOLOGICAL HEALTH, AND OCEAN-DEPENDENT INDUSTRY;

2. COASTAL DEVELOPMENT, WATER POLLUTION AND OTHER HUMAN ACTIVITIES THREATEN THE HEALTH OF MARINE HABITAT AND THE BIOLOGICAL DIVERSITY FOUND IN NEW YORK'S MARINE AND COASTAL DISTRICT. NEW TECHNOLOGIES AND DEMANDS HAVE ENCOURAGED THE EXPANSION OF FISHING AND OTHER ACTIVITIES TO FORMERLY INACCESSIBLE MARINE AREAS THAT ONCE RECHARGED NEARBY FISHERIES. AS A RESULT, ECOSYSTEMS THROUGHOUT THE STATE'S MARINE AND COASTAL DISTRICT ARE BEING ALTERED, OFTEN AT A RAPID RATE;

3. FISH AND OTHER SEA LIFE ARE SUSTAINABLE RESOURCES, AND FISHING IS AN IMPORTANT STATE ASSET. MARINE PROTECTED AREAS AND SOUND FISHERY MANAGEMENT ARE COMPLEMENTARY COMPONENTS OF A COMPREHENSIVE EFFORT TO SUSTAIN MARINE HABITATS AND FISHERIES;

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

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4. UNDERSTANDING OF THE IMPACTS OF HUMAN ACTIVITIES AND THE PROCESSES REQUIRED TO SUSTAIN THE ABUNDANCE AND DIVERSITY OF MARINE LIFE IS LIMITED. THE DESIGNATION OF CERTAIN AREAS AS SEA LIFE RESERVES CAN HELP EXPAND THE LEGISLATURE'S KNOWLEDGE BY PROVIDING BASELINE INFORMATION AND IMPROVING THE UNDERSTANDING OF ECOSYSTEMS WHERE MINIMAL DISTURBANCE OCCURS;

5. MARINE LIFE RESERVES ARE ESSENTIAL TO THE PROTECTION OF HABITATS AND ECOSYSTEMS, CONSERVATION OF BIOLOGICAL DIVERSITY, PROVISION OF SANCTUARIES FOR FISH AND OTHER SEA LIFE, ENHANCEMENT OF RECREATIONAL AND EDUCATIONAL OPPORTUNITIES, PROVISION OF A REFERENCE POINT AGAINST WHICH SCIENTISTS CAN MEASURE CHANGES ELSEWHERE IN THE MARINE AND COASTAL DISTRICT, AND REBUILDING DEPLETED FISHERIES;

6. THERE IS A NEED TO EXAMINE AND AUGMENT THE STATE'S LAWS TO INCREASE THEIR COHERENCE AND EFFECTIVENESS AT PROTECTING NEW YORK'S MARINE LIFE, HABITAT AND ECOSYSTEMS; AND

7. TO IMPROVE THE MANAGEMENT AND PROTECTION OF THE STATE'S MARINE LIFE, IT IS NECESSARY TO ESTABLISH A TASK FORCE, WITHIN THE DEPARTMENT, TO PROPOSE A MARINE LIFE PROTECTION PLAN TO BE ENACTED INTO LAW BY THE LEGISLATURE.

S 13-0703. DEFINITIONS.

FOR THE PURPOSES OF THIS TITLE:

1. "MARINE LIFE RESERVE" SHALL MEAN A MARINE PROTECTED AREA IN WHICH ALL EXTRACTIVE ACTIVITIES, INCLUDING THE TAKING OF MARINE SPECIES AND, IF NECESSARY, OTHER ACTIVITIES WHICH UPSET THE NATURAL ECOLOGICAL FUNCTIONS OF THE AREA SHALL BE PROHIBITED. WHILE, TO THE EXTENT FEASIBLE, SUCH AREA SHALL BE OPEN TO THE PUBLIC FOR MANAGED ENJOYMENT AND STUDY, THE AREA IS TO BE MAINTAINED IN AN UNDISTURBED AND UNPOLLUTED STATE.

2. "TASK FORCE" SHALL MEAN THE MARINE LIFE PROTECTION TASK FORCE ESTABLISHED PURSUANT TO SECTION 13-0705 OF THIS TITLE.

S 13-0705. MARINE LIFE PROTECTION TASK FORCE.

1. THERE IS HEREBY ESTABLISHED, WITHIN THE DEPARTMENT, THE MARINE LIFE PROTECTION TASK FORCE. SUCH TASK FORCE SHALL BE COMPOSED OF THIRTEEN MEMBERS. THE DIRECTOR OF THE MARINE SCIENCES RESEARCH CENTER OF THE STATE UNIVERSITY OF NEW YORK AT STONY BROOK, OR HIS OR HER DESIGNEE, SHALL BE A MEMBER OF THE TASK FORCE AND SHALL SERVE AS THE CHAIR OF THE TASK FORCE. THE COMMISSIONER SHALL APPOINT THREE MEMBERS OF THE MARINE RESOURCES ADVISORY COUNCIL AS MEMBERS OF THE TASK FORCE. THE REMAINING NINE MEMBERS OF THE TASK FORCE SHALL BE APPOINTED BY THE COMMISSIONER AS FOLLOWS: THREE MEMBERS SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE GOVERNOR, THREE MEMBERS SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE, AND THREE MEMBERS SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY.

2. THE MEMBERS OF THE TASK FORCE APPOINTED BY THE COMMISSIONER SHALL BE PERSONS WHO HAVE DEMONSTRATED EXPERTISE IN AND CONCERN FOR THE PROTECTION OF MARINE LIFE. SUCH MEMBERS SHALL SERVE FOR A TERM OF TWO YEARS, OR UNTIL THEIR SUCCESSOR HAS BEEN APPOINTED. VACANCIES IN THE MEMBERSHIP OF THE TASK FORCE SHALL BE FILLED IN THE MANNER PROVIDED FOR ORIGINAL APPOINTMENTS.

S 13-0707. TASK FORCE; POWERS AND DUTIES.

THE TASK FORCE SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

1. TO EMPLOY AND AT PLEASURE REMOVE SUCH PERSONNEL AS IT MAY DEEM NECESSARY FOR THE PERFORMANCE OF ITS FUNCTIONS AND FIX THEIR COMPENSATION WITHIN THE AMOUNTS MADE AVAILABLE THEREFOR;

2. TO REQUEST, RECEIVE AND UTILIZE AND BE PROVIDED WITH SUCH FACILITIES, RESOURCES AND DATA OF THE DEPARTMENT, OR ANY DEPARTMENT, DIVISION, BOARD, BUREAU, COMMISSION OR AGENCY OF THE STATE OR ANY POLITICAL SUBDI-

VISION THEREOF AS MAY BE NECESSARY TO PROPERLY CARRY OUT ITS POWERS AND DUTIES;

3. TO DETERMINE WHICH LAWS, RULES AND REGULATIONS GOVERN THE PROTECTION OF MARINE LIFE IN THE MARINE AND COASTAL DISTRICT;

4. TO ASSESS THE SCOPE AND EFFECTIVENESS OF SUCH LAWS, RULES AND REGULATIONS IN PROTECTING MARINE LIFE;

5. TO INVENTORY AND MAP THE MARINE LIFE AT EACH SITE WITHIN THE MARINE AND COASTAL DISTRICT;

6. TO DETERMINE ALL THE SPECIES OF MARINE LIFE AT EACH SUCH SITE, THE APPROXIMATE NUMBER OF EACH SPECIES AT EACH SUCH SITE, AND THE LEVEL AND NATURE OF PROTECTION AFFORDED EACH SPECIES OF MARINE LIFE;

7. TO PROPOSE A MARINE LIFE PROTECTION PLAN, WHICH SHALL INCLUDE:

(A) PROTECTION OF THE NATURAL DIVERSITY AND ABUNDANCE OF MARINE LIFE, AND THE STRUCTURE, FUNCTION AND INTEGRITY OF MARINE ECOSYSTEMS,

(B) SUSTENANCE, CONSERVATION AND PROTECTION OF MARINE LIFE POPULATIONS, INCLUDING THOSE OF ECONOMIC VALUE, AND REBUILD THOSE THAT ARE DEPLETED,

(C) IMPROVEMENT OF RECREATIONAL, EDUCATIONAL AND STUDY OPPORTUNITIES PROVIDED BY MARINE ECOSYSTEMS THAT ARE SUBJECT TO MINIMAL HUMAN DISTURBANCE, AND MANAGEMENT OF SUCH USES IN A MANNER CONSISTENT WITH PROTECTING BIODIVERSITY,

(D) PROTECTION OF MARINE NATURAL HERITAGE, INCLUDING PROTECTION OF REPRESENTATIVE AND UNIQUE MARINE LIFE HABITATS IN THE MARINE AND COASTAL DISTRICT, AND

(E) PROPOSE LEGISLATION, BASED UPON SOUND SCIENTIFIC GUIDELINES, WHICH ESTABLISHES CLEARLY DEFINED OBJECTIVES, EFFECTIVE MANAGEMENT MEASURES AND ADEQUATE ENFORCEMENT FOR THE PROTECTION OF MARINE LIFE;

8. TO PROPOSE RECOMMENDATIONS AND LEGISLATION FOR THE ESTABLISHMENT AND REGULATION OF MARINE LIFE RESERVES, INCLUDING NO-TAKE RESERVES, AT SITES WITHIN THE MARINE AND COASTAL DISTRICT THAT THE TASK FORCE FINDS WOULD BENEFIT FROM SUCH DESIGNATION AS A MARINE LIFE RESERVE BASED ON THE TASK FORCE'S RESEARCH PURSUANT TO THIS SECTION;

9. TO ESTABLISH A TIMETABLE FOR THE ESTABLISHMENT OF MARINE LIFE RESERVES AT THE VARIOUS SITES WITHIN THE MARINE AND COASTAL DISTRICT; AND

10. TO INVESTIGATE AND MAKE RECOMMENDATIONS ON THE FEASIBILITY AND EFFECTIVENESS OF PROVIDING ENHANCED MUNICIPAL REGULATION OF MARINE LIFE RESERVES.

S 13-0709. REPORTS AND RECOMMENDATIONS.

ON OR BEFORE JANUARY FIRST EACH YEAR, THE TASK FORCE SHALL ISSUE A REPORT AND ITS RECOMMENDATIONS TO THE COMMISSIONER, GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY. SUCH REPORT AND RECOMMENDATION SHALL INCLUDE ALL INFORMATION DERIVED AND RECOMMENDATIONS COMPOSED PURSUANT TO SUBDIVISIONS THREE THROUGH TEN OF SECTION 13-0707 OF THIS TITLE.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided that the commissioner of environmental conservation is authorized and directed to appoint the members of the marine life protection task force pursuant to section 13-0705 of the environmental conservation law, as added by section one of this act, on or before such date.