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

3240

2009-2010 Regular Sessions

I N A S S E M B L Y

January 23, 2009

Introduced by M. of A. ENGLEBRIGHT, COLTON -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, in relation to locally generated solid waste

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

Section 1. Legislative intent. In order to further the purposes of federal and state policies on solid waste management articulated in the federal resource conservation and recovery act of 1976 ("The congress finds with respect to solid waste ... that ... the collection and disposal of solid wastes should continue to be primarily the function of state, regional, and local agencies ...."), and the New York state solid waste management act of 1988 ("A state-local partnership, in which the basic responsibility for the planning and operation of solid waste management facilities remains with local governments and the state provides necessary guidance and assistance, must be forged ..."), the legislature hereby finds that it is in the public interest to authorize municipal corporations to adopt local laws, ordinances and resolutions asserting title to all or any component of solid waste that is left for collection within their boundaries.

S 2. The general municipal law is amended by adding a new section 120-dd to read as follows:

S 120-DD. ASSERTION OF TITLE TO SOLID WASTE BY MUNICIPAL CORPORATIONS. 1. PURSUANT TO THE AUTHORITY OF THIS SECTION, A MUNICIPAL CORPORATION MAY ADOPT A LOCAL LAW, ORDINANCE OR RESOLUTION DECLARING, CLAIMING AND ASSERTING TITLE OR CONTINGENT TITLE TO ALL OR ANY COMPONENT OF SOLID WASTE WHICH HAS BEEN LEFT FOR COLLECTION WITHIN ITS BOUNDARIES. ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION MAY DISTINGUISH AMONG DIFFERENT CATEGORIES OR COMPONENTS OF SOLID WASTE, INCLUDING BUT NOT LIMITED TO RECYCLABLE OR REUSABLE MATERIALS, AND "SECONDARY MATERIALS" AS DEFINED BY SECTION 27-0401 OF THE ENVIRONMENTAL CONSERVATION LAW. FOR PURPOSES

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

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OF THIS SECTION, THE TERM "SOLID WASTE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 27-0501 OF THE ENVIRONMENTAL CONSERVATION LAW, AND THE TERM "CONTINGENT TITLE" SHALL MEAN THAT A MUNICIPAL CORPORATION MAY CLAIM OR ASSERT TITLE TO SOLID WASTE SUBJECT TO CONDITIONS ESTABLISHED BY LOCAL LAW, ORDINANCE, OR RESOLUTION OF THE MUNICIPAL CORPORATION.

2. ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION OF A MUNICIPAL CORPORATION WHICH IS A SOLID WASTE MANAGEMENT PLANNING UNIT SHALL TAKE PRECEDENCE AND SUPERSEDE THAT OF ANY OTHER MUNICIPAL CORPORATION OR MUNICIPAL CORPORATIONS LOCATED WITHIN SUCH PLANNING UNIT. IF, HOWEVER, THE PLANNING UNIT IS NOT A MUNICIPAL CORPORATION, THEN ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION ADOPTED BY A COUNTY, OTHER THAN THE COUNTIES OF NASSAU AND SUFFOLK, SHALL TAKE PRECEDENCE AND SHALL SUPERSEDE THAT OF ANY OTHER MUNICIPAL CORPORATION OR MUNICIPAL CORPORATIONS LOCATED WITHIN SAID COUNTY. IN THE COUNTIES OF NASSAU AND SUFFOLK, IF THE PLANNING UNIT IS NOT A MUNICIPAL CORPORATION, THEN ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION ADOPTED BY A TOWN SHALL TAKE PRECEDENCE AND SHALL SUPERSEDE THAT OF ANY OTHER MUNICIPAL CORPORATION OR MUNICIPAL CORPORATIONS LOCATED WITHIN SUCH TOWN. FOR PURPOSES OF THIS SECTION, THE TERM "PLANNING UNIT" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 27-0107 OF THE ENVIRONMENTAL CONSERVATION LAW.

3. PRIOR TO EXERCISING THE AUTHORITY OF THIS SECTION TO ENACT SUCH A LOCAL LAW, ORDINANCE OR RESOLUTION, THE PLANNING UNIT OR MUNICIPAL CORPORATION SHALL HOLD A PUBLIC HEARING RELATING TO ITS PROPOSED PROVISIONS, AND ANY SUCH LOCAL LAW SHALL BE ADOPTED IN ACCORDANCE WITH THE PROCEDURE PROVIDED BY THE MUNICIPAL HOME RULE LAW, EXCEPT THAT NO SUCH LOCAL LAW SHALL BE SUBJECT TO EITHER MANDATORY OR PERMISSIVE REFERENDUM.

S 3. Severability. The provisions of this act shall be severable and if any portion thereof or the applicability thereof to any person or circumstances shall be held invalid, the remainder of this act and the application thereof shall not be affected thereby.

S 4. This act shall take effect immediately.