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

3780

2009-2010 Regular Sessions

I N A S S E M B L Y

January 28, 2009

Introduced by M. of A. LENTOL, V. LOPEZ, ORTIZ, MILLMAN -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law and the highway law, in relation to certain highway and bridge construction projects located in cities with a population of one million or more

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

Section 1. The public authorities law is amended by adding a new section 2877-a to read as follows:

S 2877-A. HIGHWAY AND BRIDGE CONSTRUCTION PROJECTS; INDEPENDENT ENGINEER. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "PROJECT" SHALL MEAN THE CONSTRUCTION, MAINTENANCE, REPAIR, RECONSTRUCTION OR REHABILITATION OF ANY STATE OR LOCAL HIGHWAY OR BRIDGE LOCATED IN A CITY WITH A POPULATION OF ONE MILLION OR MORE WHERE THE INITIAL COST IS MORE THAN TEN MILLION DOLLARS OVER THE LIFE OF THE PROJECT.

(B) "TECHNICAL ASSISTANCE" SHALL INCLUDE, BUT NOT BE LIMITED TO, THE CONCEPTUALIZATION, REVIEW, ANALYSIS AND INTERPRETATION OF THE PLANNING STUDIES, CONSTRUCTION PLANS AND DESIGN SPECIFICATIONS FOR THE PROJECT, THE AUTHORITY'S PROJECTED TIME SCHEDULE FOR COMMENCEMENT AND COMPLETION FOR THE PROJECT, THE AUTHORITY'S MAINTENANCE PLANS FOR THE PROJECT, AND THE AUTHORITY'S PLAN FOR CONGESTION MITIGATION, DESIGNATION OF ALTERNATE ROUTES AND ENHANCEMENT OF PUBLIC TRANSIT ACCOMMODATIONS AS A RESULT OF THE PROJECT AND ANY OTHER QUALITY OF LIFE ISSUES AFFECTED BY THE PROJECT.

2. EVERY PUBLIC AUTHORITY THAT ENTERS INTO A CONTRACT FOR A PROJECT SHALL BE SUBJECT TO THE PROVISIONS OF THIS SECTION. SUCH PUBLIC AUTHORITY IS HEREBY AUTHORIZED AND DIRECTED TO ESTABLISH A PROJECT TASK FORCE TO PARTICIPATE MORE FULLY IN DECISIONS AFFECTING THE HEALTH, SAFETY, ENVIRONMENT AND GENERAL WELFARE. TO ACHIEVE SUCH PURPOSE, A PUBLIC

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

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AUTHORITY SHALL PROVIDE OPPORTUNITIES FOR TASK FORCE AND CITIZEN INVOLVEMENT AND ENCOURAGE CONSULTATION WITH THE PUBLIC EARLY IN THE PROCESS WHEN PROJECT PLANNING STUDIES OF ANY HIGHWAY AND BRIDGE CONSTRUCTION PROJECT COMMENCES AS WELL AS DURING THE ENTIRE PROCESS OF DESIGNING AND PLANNING OF ANY HIGHWAY AND BRIDGE PROJECT BEFORE THE AUTHORITY FORMS OR ADOPTS FINAL DESIGN PLANS FOR SUCH PROJECT AND THROUGHOUT ALL CONSTRUCTION PHASES.

3. FOR EVERY PROJECT, CONTRACTED IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, THE AUTHORITY SHALL CONTRACT FOR THE SERVICES OF A QUALIFIED, PROFESSIONAL ENGINEER, LICENSED BY THE STATE OF NEW YORK IN ACCORDANCE WITH ARTICLE ONE HUNDRED FORTY-FIVE OF THE EDUCATION LAW. SUCH ENGINEER SHALL PROVIDE TECHNICAL ASSISTANCE TO THE TASK FORCE ESTABLISHED BY THE AUTHORITY ON SUCH PROJECT. FUNDS SHALL BE MADE AVAILABLE FOR SUCH SERVICES FROM THE PROCEEDS DEDICATED OR TO BE DEDICATED FOR A SPECIFIC PROJECT AND SHALL NOT BE LESS THAN ONE PERCENT OF THE COST OF THE ENGINEERING BUDGET FOR SUCH PROJECT.

4. EVERY PUBLIC AUTHORITY SUBJECT TO THE PROVISIONS OF THIS SECTION SHALL ESTABLISH A PROJECT TASK FORCE TO CONSIST OF A REPRESENTATIVE OF THE COMMUNITY WHERE THE PROJECT IS TO BE LOCATED, A REPRESENTATIVE OF THE LOCAL COMMUNITY BOARD WHERE THE PROJECT IS TO BE LOCATED TO BE SELECTED BY THE LOCAL COMMUNITY BOARD, MEMBERS OF THE ASSEMBLY AND SENATE MEMBERS WHOSE DISTRICTS CONTAIN THE AREA WHERE THE PROJECT IS TO BE LOCATED, AND A CITY COUNCIL REPRESENTATIVE AND THE BOROUGH PRESIDENT, IF ANY. SUCH MEMBERS SHALL HAVE FULL PARTICIPATION IN THE AWARDING OF A CONTRACT TO AN INDEPENDENT ENGINEER.

5. THE WORK PRODUCT OF AN INDEPENDENT ENGINEER SHALL NOT BE USED BY ANY MEMBER OF THE TASK FORCE IN A LAWSUIT CHALLENGING A PUBLIC AUTHORITY'S AUTHORITY TO GO FORWARD WITH THE PROJECT.

6. AS PART OF ANY CONTRACT FOR SERVICES, A PUBLIC AUTHORITY MAY REQUIRE AN INDEPENDENT ENGINEER TO SUBMIT PERIODIC REPORTS TO THE AUTHORITY DETAILING THE WORK PERFORMED, MEETINGS ATTENDED, NUMBER OF HOURS WORKED AND ANY OTHER INFORMATION NECESSARY TO ENSURE THAT THE PURPOSES OF THIS SECTION ARE BEING CARRIED OUT.

S 2. The highway law is amended by adding a new section 38-a to read as follows:

S 38-A. HIGHWAY AND BRIDGE CONSTRUCTION PROJECTS; INDEPENDENT ENGINEER. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "PROJECT" SHALL MEAN THE CONSTRUCTION, MAINTENANCE, REPAIR, RECONSTRUCTION OR REHABILITATION OF ANY STATE HIGHWAYS OR STATE-OWNED BRIDGES LOCATED IN A CITY WITH A POPULATION OF ONE MILLION OR MORE WHERE THE INITIAL COST IS MORE THAN TEN MILLION DOLLARS OVER THE LIFE OF THE PROJECT.

(B) "TECHNICAL ASSISTANCE" SHALL INCLUDE, BUT NOT BE LIMITED TO, THE CONCEPTUALIZATION, REVIEW, ANALYSIS AND INTERPRETATION OF THE: PLANNING STUDIES, CONSTRUCTION PLANS AND DESIGN SPECIFICATIONS FOR THE PROJECT; THE DEPARTMENT'S PROJECTED TIME SCHEDULE FOR COMMENCEMENT AND COMPLETION FOR THE PROJECT; THE DEPARTMENT'S MAINTENANCE PLANS FOR THE PROJECT, AND THE DEPARTMENT'S PLAN FOR CONGESTION MITIGATION, DESIGNATION OF ALTERNATE ROUTES AND ENHANCEMENT OF PUBLIC TRANSIT ACCOMMODATIONS AS A RESULT OF THE PROJECT AS WELL AS OTHER QUALITY OF LIFE ISSUES AFFECTED BY THE PROJECT.

2. THE COMMISSIONER IS HEREBY AUTHORIZED AND DIRECTED TO ENCOURAGE AND ENABLE CITIZENS TO PARTICIPATE MORE FULLY IN DECISIONS THAT AFFECT THEIR HEALTH, SAFETY, ENVIRONMENT AND GENERAL WELFARE. TO ACHIEVE SUCH PURPOSE, THE COMMISSIONER SHALL ESTABLISH A PROJECT TASK FORCE TO

PROVIDE OPPORTUNITIES FOR FULL CITIZEN INVOLVEMENT AND CONSULTATION EARLY IN THE PROCESS WHEN PROJECT PLANNING STUDIES OF ANY HIGHWAY AND BRIDGE CONSTRUCTION PROJECT COMMENCES AS WELL AS DURING THE ENTIRE PROCESS OF DESIGNING AND PLANNING OF ANY HIGHWAY AND BRIDGE PROJECT BEFORE THE AUTHORITY FORMS OR ADOPTS FINAL DESIGN PLANS FOR SUCH PROJECT AND THROUGHOUT ALL CONSTRUCTION PHASES.

3. THE COMMISSIONER SHALL CONTRACT FOR THE SERVICES OF A QUALIFIED, PROFESSIONAL ENGINEER, LICENSED BY THE STATE OF NEW YORK IN ACCORDANCE WITH ARTICLE ONE HUNDRED FORTY-FIVE OF THE EDUCATION LAW. SUCH ENGINEER SHALL PROVIDE TECHNICAL ASSISTANCE TO THE RESIDENTS OF THE COMMUNITY IN WHICH THE PROJECT IS TO BE LOCATED. FUNDS SHALL BE MADE AVAILABLE FOR SUCH SERVICES FROM THE PROCEEDS DEDICATED OR TO BE DEDICATED FOR A SPECIFIC PROJECT AND SHALL NOT BE LESS THAN ONE PERCENT OF THE ENGINEERING COSTS OF SUCH PROJECT.

4. THE COMMISSIONER SHALL ESTABLISH BY RULE AND REGULATION A PROCESS FOR ESTABLISHING A PROJECT TASK FORCE CONSISTING OF A REPRESENTATIVE OF THE COMMUNITY WHERE THE PROJECT IS TO BE LOCATED, AN APPOINTED REPRESENTATIVE OF THE LOCAL COMMUNITY BOARD, AN ASSEMBLYMAN, A SENATOR, A CITY COUNCIL REPRESENTATIVE AND THE BOROUGH PRESIDENT, IF ANY. SUCH MEMBERS SHALL HAVE FULL PARTICIPATION IN THE AWARDING OF A CONTRACT TO AN INDEPENDENT ENGINEER.

5. THE WORK PRODUCT OF AN INDEPENDENT ENGINEER SHALL NOT BE USED BY ANY MEMBERS OF THE TASK FORCE IN A LAWSUIT CHALLENGING AN AGENCY'S AUTHORITY TO GO FORWARD WITH THE PROJECT.

6. AS PART OF ANY CONTRACT FOR SERVICES, THE COMMISSIONER MAY REQUIRE AN INDEPENDENT ENGINEER TO SUBMIT PERIODIC REPORTS TO THE DEPARTMENT DETAILING THE WORK PERFORMED, MEETINGS ATTENDED, NUMBER OF HOURS WORKED AND ANY OTHER INFORMATION NECESSARY TO ENSURE THAT THE PURPOSES OF THIS SECTION ARE BEING CARRIED OUT.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately any rule or regulation necessary for the timely implementation of this act may be promulgated on or before such date.