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

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2009-2010 Regular Sessions

I N A S S E M B L Y

February 6, 2009

Introduced by M. of A. COOK, PEOPLES, BRODSKY -- Multi-Sponsored by -- M. of A. AUBRY, BOYLAND, CLARK, GOTTFRIED, HOOPER, LUPARDO, SCHROEDER -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to creating the task force on environmental justice

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

Section 1. Legislative findings and declarations. The legislature hereby declares that it is the policy of the state to ensure the equitable distribution of environmental benefits and the fair and responsible avoidance of human health and environmental risks to all of New York's citizens and communities.

The legislature further finds that racial and ethnic minority populations and low income communities bear a disproportionate share of the health and environmental burdens and risks caused by polluted air and contaminated water and by solid waste landfills, hazardous waste facilities, wastewater treatment plants, waste incinerators and other projects.

The legislature finds that such disproportionate share of burdens and risks may be the result of, among other things, demographic, local zoning and siting decisions, the failure to consider fully cumulative impacts during environmental review and past invidious discrimination.

The legislature further finds that state and local government must identify and minimize to the fullest extent practicable, disproportionate adverse human health and environmental effects caused or worsened by their programs, policies and activities in order to achieve environmental justice.

S 2. The environmental conservation law is amended by adding a new article 6 to read as follows:

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

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ARTICLE 6
TASK FORCE ON ENVIRONMENTAL JUSTICE

SECTION 6-0101. DEFINITIONS.
6-0103. TASK FORCE ON ENVIRONMENTAL JUSTICE.
6-0105. ENVIRONMENTAL JUSTICE STRATEGY.
6-0107. REPORTS.

S 6-0101. DEFINITIONS.

AS USED IN THIS ARTICLE: 1. "AGENCY" SHALL MEAN ANY STATE DEPARTMENT, DIVISION, BOARD, COMMISSION, OR BUREAU OF ANY STATE DEPARTMENT, OR ANY PUBLIC BENEFIT CORPORATION OR PUBLIC AUTHORITY AT LEAST ONE OF WHOSE MEMBERS IS APPOINTED BY THE GOVERNOR.

2. "ENVIRONMENTAL JUSTICE COORDINATOR" SHALL MEAN THE AGENCY OFFICER DESIGNATED BY THE HEAD OF EACH AGENCY TO DEVELOP THE AGENCY'S ENVIRONMENTAL JUSTICE STRATEGY PURSUANT TO THIS ARTICLE AND TO ENSURE ITS EFFECTIVE AND CONSISTENT IMPLEMENTATION.

S 6-0103. TASK FORCE ON ENVIRONMENTAL JUSTICE.

1. (A) THERE IS HEREBY CREATED AN INTERAGENCY TASK FORCE ON ENVIRONMENTAL JUSTICE. THE TASK FORCE SHALL CONSIST OF TWENTY-FIVE MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS:

(1) THE COMMISSIONER, WHO SHALL SERVE AS THE CHAIRPERSON OF THE TASK FORCE;

(2) THE COMMISSIONER OF THE DEPARTMENT OF LABOR OR SUCH PERSON'S DESIGNEE;

(3) THE COMMISSIONER OF THE DEPARTMENT OF HEALTH OR SUCH PERSON'S DESIGNEE;

(4) THE COMMISSIONER OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT OR SUCH PERSON'S DESIGNEE;

(5) THE COMMISSIONER OF THE DEPARTMENT OF AGRICULTURE AND MARKETS OR SUCH PERSON'S DESIGNEE;

(6) SEVEN MEMBERS APPOINTED ON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY;

(7) SEVEN MEMBERS APPOINTED ON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE;

(8) THREE MEMBERS APPOINTED ON THE RECOMMENDATION OF THE MINORITY LEADER OF THE SENATE; AND

(9) THREE MEMBERS APPOINTED ON THE RECOMMENDATION OF THE MINORITY LEADER OF THE ASSEMBLY.

(B) OF THE MEMBERS, NOT INCLUDING THE COMMISSIONERS OR THEIR DESIGNEES, EIGHT SHALL BE REPRESENTATIVE OF RACIAL AND ETHNIC MINORITIES OR LOW-INCOME COMMUNITIES; FIVE SHALL BE REPRESENTATIVE OF ACADEMIC INSTITUTIONS WHO POSSESS SPECIALIZED KNOWLEDGE AND EXPERTISE IN ENVIRONMENTAL LAW OR ENGINEERING; THREE SHALL REPRESENT THE PUBLIC INTEREST, SPECIFICALLY THE ENVIRONMENT; AND FOUR SHALL BE REPRESENTATIVES FROM BUSINESS AND INDUSTRY.

2. THE TASK FORCE SHALL:

(A) DEVELOP CRITERIA FOR IDENTIFYING DISPROPORTIONATE ADVERSE HUMAN HEALTH OR ENVIRONMENTAL EFFECTS ON RACIAL AND ETHNIC MINORITY POPULATIONS AND LOW-INCOME COMMUNITIES;

(B) DEVELOP A COMPREHENSIVE INVENTORY OF SOLID WASTE LANDFILL HAZARDOUS WASTE FACILITIES AND SITES, WASTEWATER TREATMENT PLANTS, WASTE INCINERATORS AND OTHER SIMILAR PROJECTS IN NEW YORK STATE THAT MAY ADVERSELY AFFECT RACIAL AND ETHNIC MINORITY POPULATIONS AND LOW-INCOME COMMUNITIES;

(C) REVIEW STATE AND LOCAL ENVIRONMENTAL AND OTHER LAWS AND REGULATIONS TO DETERMINE IF THEY ADEQUATELY IDENTIFY, EVALUATE AND PREVENT THE INEQUITABLE DISTRIBUTION OF ADVERSE HUMAN HEALTH AND ENVIRONMENTAL

IMPACTS, AND DEVELOP AND RECOMMEND TO THE GOVERNOR AND THE LEGISLATURE, LEGISLATIVE, REGULATORY OR POLICY CHANGES THAT WOULD ENHANCE THE STATE'S POLICY OF ENVIRONMENTAL JUSTICE; AND

(D) COORDINATE WITH, PROVIDE GUIDANCE TO, AND SERVE AS A CLEARINGHOUSE FOR, STATE AGENCIES IN THE DEVELOPMENT OF ENVIRONMENTAL JUSTICE STRATEGIES, TO ENSURE THAT STATE AND LOCAL GOVERNMENT PROGRAMS, ACTIVITIES AND POLICIES ARE ADMINISTERED, INTERPRETED AND ENFORCED CONSISTENTLY, EFFECTIVELY AND FAIRLY.

3. MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT COMPENSATION, EXCEPT FOR EXPENSES REASONABLY INCURRED IN THE DISCHARGE OF THEIR DUTIES. STAFF ASSISTANCE SHALL BE PROVIDED BY THE DEPARTMENT, THE DEPARTMENT OF LABOR, THE DEPARTMENT OF HEALTH, AND THE DEPARTMENT OF ECONOMIC DEVELOPMENT.

S 6-0105. ENVIRONMENTAL JUSTICE STRATEGY.

1. EACH STATE AGENCY THAT CONDUCTS ANY STATE PROGRAM OR ACTIVITY THAT AFFECTS HUMAN HEALTH OR THE ENVIRONMENT, USING DATA GATHERED BY THE TASK FORCE AND THE AGENCY, AND OTHER PERTINENT INFORMATION, SHALL DETERMINE WHETHER ITS PROGRAMS, POLICIES, AND ACTIVITIES HAVE DISPROPORTIONATE ADVERSE HUMAN HEALTH OR ENVIRONMENTAL EFFECTS ON RACIAL AND ETHNIC MINORITY POPULATIONS AND LOW-INCOME COMMUNITIES.

2. EACH AGENCY SHALL DEVELOP AND IMPLEMENT AN ENVIRONMENTAL JUSTICE STRATEGY THAT ADDRESSES AND SEEKS TO ELIMINATE DISPROPORTIONATE ADVERSE HUMAN HEALTH OR ENVIRONMENTAL EFFECTS THAT SUCH AGENCY'S PROGRAMS, POLICIES AND ACTIVITIES MAY IMPOSE ON RACIAL AND ETHNIC MINORITY POPULATIONS AND LOW-INCOME POPULATIONS.

3. THE ENVIRONMENTAL JUSTICE STRATEGY SHALL IDENTIFY PROGRAMS, POLICIES, PLANNING AND PUBLIC PARTICIPATION PROCESSES, ENFORCEMENT AND RULE MAKING THAT HAVE THE POTENTIAL TO AFFECT HUMAN HEALTH OR THE ENVIRONMENT THAT MUST BE ADOPTED, REVOKED OR REVISED TO:

(A) PROMOTE FULL AND EFFECTIVE ENFORCEMENT OF ALL HUMAN HEALTH AND ENVIRONMENTAL STATUTES IN AREAS WITH RACIAL AND ETHNIC MINORITY POPULATIONS AND LOW-INCOME COMMUNITIES;

(B) ENSURE THAT THE REVIEW OF THE POSSIBLE ADVERSE ENVIRONMENTAL AND HUMAN HEALTH IMPACTS OF PROJECT SITING AND APPROVAL AND OTHER AGENCY ACTIONS, MANDATED BY THE STATE ENVIRONMENTAL QUALITY REVIEW ACT, ADEQUATELY IDENTIFIES AND ADDRESSES DISPROPORTIONATE ADVERSE HUMAN HEALTH OR ENVIRONMENTAL EFFECTS;

(C) IMPROVE RESEARCH AND DATA COLLECTION RELATING TO THE HEALTH OR ENVIRONMENT AND RACIAL AND ETHNIC MINORITY POPULATIONS AND LOW-INCOME COMMUNITIES;

(D) ENSURE THAT RACIAL AND ETHNIC MINORITY POPULATIONS AND LOW-INCOME COMMUNITIES PARTICIPATE FULLY IN THE DEVELOPMENT AND IMPLEMENTATION OF STATE POLICY AND IN REGULATORY ACTIVITIES THAT AFFECT HUMAN HEALTH OR THE ENVIRONMENT; AND

(E) ENSURE THAT ENVIRONMENTAL BENEFITS, RECREATIONAL OPPORTUNITIES AND OPEN SPACE RESOURCES ARE, TO THE FULLEST PRACTICABLE EXTENT, PROPORTIONATELY AVAILABLE FOR ENJOYMENT BY RACIAL AND ETHNIC MINORITIES AND LOW-INCOME COMMUNITIES.

4. THE HEAD OF EACH STATE AGENCY SHALL DESIGNATE A MEMBER OF SUCH AGENCY EXECUTIVE STAFF OR HIGH LEVEL MANAGEMENT AS ITS ENVIRONMENTAL JUSTICE COORDINATOR. THE ENVIRONMENTAL JUSTICE COORDINATOR SHALL DEVELOP, IN CONSULTATION WITH THE TASK FORCE, THE AGENCY'S ENVIRONMENTAL JUSTICE STRATEGY, AND SHALL HAVE PRIMARY RESPONSIBILITY FOR ITS IMPLEMENTATION.

5. EACH STATE AGENCY SHALL BY JANUARY FIRST, TWO THOUSAND ELEVEN COMPLETE THE DEVELOPMENT OF AN ENVIRONMENTAL JUSTICE STRATEGY WHICH

DESCRIBES SUCH STRATEGY, TOGETHER WITH STEPS TAKEN TO IMPLEMENT IT, TO THE TASK FORCE.

S 6-0107. REPORTS.

THE TASK FORCE SHALL REPORT ITS INITIAL FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND THE LEGISLATURE BY JANUARY FIRST, TWO THOUSAND ELEVEN AND SHALL ISSUE A REPORT NO LATER THAN JUNE THIRTIETH, TWO THOUSAND ELEVEN SETTING FORTH ITS FINDINGS AND CONCLUSIONS AND MAKING SUCH RECOMMENDATIONS AS SET FORTH IN SECTIONS 6-0103 AND 6-0105 OF THIS ARTICLE.

S 3. This act shall take effect immediately.