

2454

2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. PARKER, DIAZ, HASSELL-THOMPSON, KRUEGER, MONTGOMERY, ONORATO, SAMPSON, SCHNEIDERMAN, SERRANO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to establishing the "New York state environmental justice act"

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

1 Section 1. Short title. This act shall be known as the "New York state
2 environmental justice act".

3 S 2. Legislative findings and purpose. The legislature hereby finds
4 and declares that:

5 1. Racial and ethnic minority populations and low-income communities
6 bear a disproportionate share of the health risks caused by polluted air
7 and contaminated water, and by solid waste landfills, hazardous waste
8 facilities, waste water treatment plants, waste incinerators, and other
9 similar projects.

10 2. This disproportionate impact of environmental hazards on minority
11 and low-income communities is largely the result of past governmental
12 decisions.

13 3. The federal government underscored the importance of environmental
14 justice in executive order 12898 and created the national environmental
15 justice advisory council to promote environmental justice in the envi-
16 ronmental protection agency's policies, programs, initiatives and activ-
17 ities.

18 4. The state is committed to ensuring that communities are afforded
19 fair treatment and meaningful involvement in decision-making regardless
20 of race, color, ethnicity, religion, income or education level.

21 The purpose of this law is to establish governmental procedures in
22 order to safeguard residents' health and welfare, and achieve environ-
23 mental justice.

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

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1 S 3. The environmental conservation law is amended by adding a new
2 article 74 to read as follows:

3 ARTICLE 74

4 NEW YORK STATE ENVIRONMENTAL JUSTICE ACT

5 SECTION 74-1001. DEFINITIONS.

6 74-1002. IMPLEMENTATION OF ENVIRONMENTAL JUSTICE POLICIES.

7 74-1003. ENVIRONMENTAL JUSTICE TASK FORCE.

8 S 74-1001. DEFINITIONS.

9 FOR PURPOSES OF THIS SECTION "ENVIRONMENTAL JUSTICE" MEANS THE FAIR
10 TREATMENT OF PEOPLE OF ALL RACES, CULTURES AND INCOMES IN THE DEVELOP-
11 MENT, ADOPTION, IMPLEMENTATION AND ENFORCEMENT OF ENVIRONMENTAL LAWS AND
12 POLICIES.

13 S 74-1002. IMPLEMENTATION OF ENVIRONMENTAL JUSTICE POLICIES.

14 1. ALL STATE AGENCIES, BOARDS, COMMISSIONS AND OTHER BODIES INVOLVED
15 IN DECISIONS THAT MAY AFFECT ENVIRONMENTAL QUALITY SHALL ADOPT AND
16 IMPLEMENT ENVIRONMENTAL JUSTICE POLICIES PROVIDING MEANINGFUL OPPORTU-
17 NITIES FOR INVOLVEMENT TO ALL PEOPLE, REGARDLESS OF RACE, COLOR, ETHNIC-
18 ITY, RELIGION, INCOME OR EDUCATION LEVEL.

19 2. ALL STATE PROGRAMS AND POLICIES DESIGNED TO PROTECT THE ENVIRONMENT
20 SHALL BE REVIEWED PERIODICALLY TO ENSURE THAT PROGRAM IMPLEMENTATION AND
21 DISSEMINATION OF INFORMATION MEET THE NEEDS OF LOW-INCOME AND MINORITY
22 COMMUNITIES, AND SEEK TO ADDRESS DISPROPORTIONATE EXPOSURE TO ENVIRON-
23 MENTAL HAZARDS.

24 3. THE DEPARTMENT WILL USE AVAILABLE ENVIRONMENTAL AND PUBLIC HEALTH
25 DATA TO IDENTIFY EXISTING AND PROPOSED INDUSTRIAL AND COMMERCIAL FACILI-
26 TIES AND AREAS IN COMMUNITIES OF COLOR AND LOW-INCOME COMMUNITIES FOR
27 WHICH COMPLIANCE, ENFORCEMENT, REMEDIATION, SITING AND PERMITTING STRAT-
28 EGIES WILL BE TARGETED TO ADDRESS IMPACTS FROM THESE FACILITIES.

29 4. THE DEPARTMENT SHALL CREATE AN ENVIRONMENTAL JUSTICE ADVISORY COUN-
30 CIL TO ADVISE THE DEPARTMENT AND THE ENVIRONMENTAL JUSTICE TASK FORCE ON
31 ENVIRONMENTAL JUSTICE ISSUES. THE COUNCIL SHALL CONSIST OF FIFTEEN INDI-
32 VIDUALS AND WILL MEET AT LEAST QUARTERLY. THE COUNCIL SHALL ANNUALLY
33 SELECT A CHAIRPERSON FROM ITS MEMBERSHIP AND SHALL HAVE A COMPOSITION OF
34 ONE-THIRD MEMBERSHIP FROM GRASSROOTS OR FAITH-BASED COMMUNITY ORGANIZA-
35 TIONS, WITH ADDITIONAL MEMBERSHIP TO INCLUDE REPRESENTATIVES FROM THE
36 FOLLOWING COMMUNITIES: ACADEMIC PUBLIC HEALTH, STATEWIDE ENVIRONMENTAL,
37 CIVIL RIGHTS AND PUBLIC HEALTH ORGANIZATIONS, LARGE AND SMALL BUSINESS
38 AND INDUSTRY, MUNICIPAL AND COUNTY OFFICIALS, AND ORGANIZED LABOR.

39 S 74-1003. ENVIRONMENTAL JUSTICE TASK FORCE.

40 1. THE COMMISSIONER AND THE COMMISSIONER OF THE DEPARTMENT OF HEALTH,
41 OR THEIR APPOINTED DESIGNEES, SHALL CONVENE A MULTI-AGENCY TASK FORCE,
42 TO BE NAMED THE ENVIRONMENTAL JUSTICE TASK FORCE. THIS TASK FORCE WILL
43 INCLUDE SENIOR MANAGEMENT DESIGNEES FROM THE GOVERNOR COUNSEL'S OFFICE,
44 THE ATTORNEY GENERAL'S OFFICE, THE DEPARTMENTS OF HEALTH AND HUMAN
45 SERVICES, COMMUNITY AFFAIRS, HEALTH AND SENIOR SERVICES, AGRICULTURE AND
46 MARKETS, TRANSPORTATION, AND EDUCATION. THE TASK FORCE SHALL BE AN ADVI-
47 SORY BODY, THE PURPOSE OF WHICH IS TO MAKE RECOMMENDATIONS TO STATE
48 AGENCY HEADS REGARDING ACTIONS TO BE TAKEN TO ADDRESS ENVIRONMENTAL
49 JUSTICE ISSUES CONSISTENT WITH EACH AGENCY'S EXISTING STATUTORY AND
50 REGULATORY AUTHORITY. THE TASK FORCE IS AUTHORIZED TO CONSULT WITH, AND
51 EXPAND ITS MEMBERSHIP TO, OTHER STATE AGENCIES AS NEEDED TO ADDRESS
52 CONCERNS RAISED IN AFFECTED COMMUNITIES.

53 2. ANY COMMUNITY MAY FILE A PETITION WITH THE TASK FORCE THAT ASSERTS
54 THAT RESIDENTS AND WORKERS IN THE COMMUNITY ARE SUBJECT TO DISPROPOR-
55 TIONATE ADVERSE EXPOSURE TO ENVIRONMENTAL HEALTH RISKS, OR DISPROPOR-

1 TIONATE ADVERSE EFFECTS RESULTING FROM THE IMPLEMENTATION OF LAWS
2 AFFECTING PUBLIC HEALTH OR THE ENVIRONMENT.

3 3. THE TASK FORCE SHALL IDENTIFY A SET OF COMMUNITIES FROM THE
4 PETITIONS FILED, BASED ON SELECTION CRITERIA DEVELOPED BY THE TASK
5 FORCE, INCLUDING CONSIDERATION OF STATE AGENCY RESOURCE CONSTRAINTS. THE
6 TASK FORCE SHALL MEET DIRECTLY WITH THE SELECTED COMMUNITIES TO UNDER-
7 STAND THEIR CONCERNS.

8 4. THE TASK FORCE SHALL DEVELOP AN ACTION PLAN FOR EACH OF THE
9 SELECTED COMMUNITIES AFTER CONSULTATION WITH THE CITIZENS, AS WELL AS
10 LOCAL AND COUNTY GOVERNMENT AS RELEVANT, THAT WILL ADDRESS ENVIRONMENTAL
11 FACTORS THAT AFFECT COMMUNITY HEALTH. THE ACTION PLAN SHALL CLEARLY
12 DELINEATE THE STEPS THAT WILL BE TAKEN IN EACH OF THE SELECTED COMMUNI-
13 TIES TO REDUCE EXISTING ENVIRONMENTAL BURDENS AND AVOID OR REDUCE THE
14 IMPOSITION OF ADDITIONAL ENVIRONMENTAL BURDENS THROUGH ALLOCATIONS OF
15 RESOURCES, EXERCISE OF REGULATORY DISCRETION, AND DEVELOPMENT OF NEW
16 STANDARDS AND PROTECTIONS. THE ACTION PLAN, WHICH SHALL BE DEVELOPED IN
17 CONSULTATION WITH THE ENVIRONMENTAL JUSTICE ADVISORY COUNCIL, WILL SPEC-
18 IFY COMMUNITY DELIVERABLES, A TIMEFRAME FOR IMPLEMENTATION, AND THE
19 JUSTIFICATION AND AVAILABILITY OF FINANCIAL AND OTHER RESOURCES TO
20 IMPLEMENT THE PLAN. THE TASK FORCE SHALL PRESENT THE ACTION PLAN TO THE
21 RELEVANT DEPARTMENTS, RECOMMENDING ITS IMPLEMENTATION.

22 5. THE TASK FORCE SHALL MONITOR THE IMPLEMENTATION OF EACH ACTION PLAN
23 IN THE SELECTED COMMUNITIES, AND SHALL MAKE RECOMMENDATIONS TO STATE
24 AGENCIES AS NECESSARY TO FACILITATE IMPLEMENTATION OF THE ACTION PLANS.
25 AGENCIES SHALL IMPLEMENT THE STRATEGY TO THE FULLEST EXTENT PRACTICABLE
26 IN LIGHT OF STATUTORY AND RESOURCE CONSTRAINTS.

27 S 4. This act shall take effect July 1, 2010; provided however, that
28 the environmental justice task force and the environmental justice advi-
29 sory council shall be established and operating by October 1, 2010.