

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

2454--A

2009-2010 Regular Sessions

I N S E N A T E

February 20, 2009

Introduced by Sens. PARKER, DIAZ, HASSELL-THOMPSON, KRUEGER, MONTGOMERY, ONORATO, PERKINS, SAMPSON, SAVINO, SCHNEIDERMAN, SERRANO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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.

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

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

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

6 ARTICLE 74

7 NEW YORK STATE ENVIRONMENTAL JUSTICE ACT

8 SECTION 74-1001. DEFINITIONS.

9 74-1002. IMPLEMENTATION OF ENVIRONMENTAL JUSTICE POLICIES.

10 74-1003. ENVIRONMENTAL JUSTICE TASK FORCE.

11 S 74-1001. DEFINITIONS.

12 FOR PURPOSES OF THIS ARTICLE "ENVIRONMENTAL JUSTICE" MEANS THE FAIR
13 TREATMENT OF PEOPLE OF ALL RACES, CULTURES AND INCOMES IN THE DEVELOP-
14 MENT, ADOPTION, IMPLEMENTATION AND ENFORCEMENT OF ENVIRONMENTAL LAWS AND
15 POLICIES.

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

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

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

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

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

42 S 74-1003. ENVIRONMENTAL JUSTICE TASK FORCE.

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

55 2. ANY COMMUNITY MAY FILE A PETITION WITH THE TASK FORCE THAT ASSERTS
56 THAT RESIDENTS AND WORKERS IN THE COMMUNITY ARE SUBJECT TO DISPROPOR-

1 TIONATE ADVERSE EXPOSURE TO ENVIRONMENTAL HEALTH RISKS, OR DISPROPOR-
2 TIONATE ADVERSE EFFECTS RESULTING FROM THE IMPLEMENTATION OF LAWS
3 AFFECTING PUBLIC HEALTH OR THE ENVIRONMENT.

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

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

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

28 S 4. This act shall take effect July 1, 2011; provided however, that
29 the environmental justice task force and the environmental justice advi-
30 sory council shall be established and operating by October 1, 2011.