

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. LITTLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to the balancing of public interests for governmental projects in municipalities having zoning requirements

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

1 Section 1. Article 12-B of the general municipal law is amended by
2 adding a new section 239-n-1 to read as follows:

3 S 239-N-1. BALANCING OF PUBLIC INTERESTS FOR GOVERNMENTAL PROJECTS IN
4 MUNICIPALITIES HAVING ZONING REQUIREMENTS. UNLESS OTHERWISE PROVIDED BY
5 LAW, AN ENCROACHING GOVERNMENTAL UNIT WHICH PROPOSES TO SPONSOR A
6 PROJECT WITHIN THE BOUNDARIES OF ONE OR MORE OTHER MUNICIPALITIES WHICH
7 HAVE ADOPTED ZONING REQUIREMENTS, SHALL DETERMINE WHETHER THE PROJECT IS
8 IMMUNE FROM SUCH ZONING, BASED UPON ITS ANALYSIS OF THE FOLLOWING
9 FACTORS:

10 1. THE NATURE AND SCOPE OF THE ENCROACHING GOVERNMENTAL UNIT SEEKING
11 IMMUNITY;

12 2. THE KIND OF FUNCTION OR LAND USE INVOLVED;

13 3. THE EXTENT OF THE PUBLIC INTEREST TO BE SERVED THEREBY;

14 4. THE EFFECT LOCAL LAND USE REGULATION WOULD HAVE UPON THE PROPOSED
15 PROJECT;

16 5. THE IMPACT UPON LEGITIMATE LOCAL INTERESTS;

17 6. THE ENCROACHING GOVERNMENTAL UNIT'S LEGISLATIVE GRANT OF AUTHORITY;

18 7. ALTERNATIVE LOCATIONS FOR THE PROPOSED PROJECT IN LESS RESTRICTIVE
19 ZONING AREAS;

20 8. ALTERNATIVE METHODS OF PROVIDING THE NEEDED IMPROVEMENT; AND

21 9. INTERGOVERNMENTAL PARTICIPATION IN THE PROJECT DEVELOPMENT PROCESS
22 AND AN OPPORTUNITY TO BE HEARD.

23 S 2. This act shall take effect on the first of July next succeeding
24 the date on which it shall have become a law.

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

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