

4541

2009-2010 Regular Sessions

I N S E N A T E

April 24, 2009

Introduced by Sen. SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to establishing criteria for the location of state facilities 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:

1 Section 1. The executive law is amended by adding a new article 41-A
2 to read as follows:

3 ARTICLE 41-A

4 LOCATION OF STATE FACILITIES IN CITIES
5 WITH A POPULATION OF ONE MILLION OR MORE

6 SECTION 908-A. SHORT TITLE.

7 908-B. DEFINITIONS.

8 908-C. PROCESS FOR SITING STATE FACILITIES IN A CITY WITH A
9 POPULATION OF ONE MILLION OR MORE.

10 908-D. CRITERIA FOR SITING STATE FACILITIES IN A CITY WITH A
11 POPULATION OF ONE MILLION OR MORE.

12 908-E. STATE RESPONSE.

13 S 908-A. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
14 THE "COMMUNITY NOTIFICATION AND EMPOWERMENT ACT".

15 S 908-B. DEFINITIONS. WHEN USED IN THIS ARTICLE THE FOLLOWING TERMS
16 SHALL HAVE THE FOLLOWING MEANINGS:

17 1. "STATE FACILITY" SHALL MEAN ANY FACILITY, EXCEPT FACILITIES SUBJECT
18 TO REAL PROPERTY TAX EXEMPTION OR TAX ABATEMENTS UNDER SECTION FOUR
19 HUNDRED EIGHTY-NINE OF THE REAL PROPERTY TAX LAW, THAT MEETS THE FOLLOW-
20 ING CRITERIA:

21 (A) THE FACILITY PROVIDES STATE SERVICES; AND

22 (B) THE FACILITY CONSISTS OF PROPERTY CONTAINING TWENTY-FIVE THOUSAND
23 SQUARE FEET OR MORE; AND

24 (C) (1) THE PROPERTY IS OWNED OR LEASED BY THE STATE; OR

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

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(2) THE FACILITY RECEIVES AT LEAST FIFTY PERCENT OF ITS ANNUAL REVENUE FROM THE STATE; AND

(3) THE FACILITY TO BE SITED RECEIVES THREE HUNDRED THOUSAND DOLLARS OR MORE FROM THE STATE PER ANNUM.

HOWEVER, THE DEFINITIONS OF "STATE FACILITY" SET FORTH IN THIS SUBDIVISION SHALL NOT INCLUDE SPACE USED OR TO BE USED FOR ADMINISTRATIVE OFFICES OR DATA PROCESSING OR CLASS ROOM INSTRUCTION OR CHILD DAY CARE CENTERS OR CASE MANAGEMENT OR OUTPATIENT HEALTH CARE SERVICES OR NON-RESIDENTIAL SOCIAL SERVICES OR FACILITIES SUBJECT PURSUANT TO TAX CREDITS IN SECTION 42 OF THE INTERNAL REVENUE CODE OR THE USE OR USES CONTEMPLATED BY SECTION 41.34 OF THE MENTAL HYGIENE LAW OR THE USE OR USES CONTEMPLATED BY ARTICLE SIX-A OF THE SOCIAL SERVICES LAW OR THE USE OR USES GOVERNED BY THE LAND USE REVIEW SECTIONS OF THE CHARTER OF A CITY WITH A POPULATION OF ONE MILLION OR MORE SO THAT THE PROVISIONS OF THIS ARTICLE SHALL NOT BE DEEMED TO SUPERSEDE OTHERWISE APPLICABLE SITING PROCEDURES EXISTING BY LAW, RULE OR REGULATION.

2. "EXPANSION OF A STATE FACILITY" SHALL MEAN THE ADDITION OF REAL PROPERTY BY PURCHASE, LEASE OR OTHERWISE, OR THE CONSTRUCTION OF AN ENLARGEMENT, WHICH WOULD EXPAND THE LOT AREA OR FLOOR AREA OF A STATE FACILITY BY TWENTY-FIVE PERCENT OR MORE AND BY AT LEAST FIVE HUNDRED SQUARE FEET.

S 908-C. PROCESS FOR SITING STATE FACILITIES IN A CITY WITH A POPULATION OF ONE MILLION OR MORE. NOT LESS THAN THIRTY-FIVE DAYS PRIOR TO SIGNING A LEASE FOR AN OPENING OR THE EXPANSION OF A STATE FACILITY IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, OR NOT LESS THAN FIFTEEN DAYS PRIOR TO CONSTRUCTION FOR THE OPENING OR EXPANSION OF A STATE FACILITY IN A CITY WITH A POPULATION OR ONE MILLION OR MORE, THE ENTITY PROPOSING SUCH SHALL SUBMIT A WRITTEN NOTICE, NOT TO EXCEED TEN PAGES, REGARDING SUCH PROPOSED ACTION, CONSIDERING AND SETTING FORTH THE AVAILABILITY OF OTHER LOCATIONS FOR SUCH FACILITY TO THE COMMUNITY BOARD, THE CITY PLANNING COMMISSION, THE CITY COUNCIL MEMBER REPRESENTING THE AREA WITHIN WHICH THE FACILITY IS PROPOSED TO BE OPENED OR EXPANDED, THE PRESIDENT OF THE BOROUGH WITHIN WHICH THE FACILITY IS PROPOSED TO BE OPENED OR EXPANDED, AND THE STATE SENATOR AND ASSEMBLYPERSON REPRESENTING THE AREA WITHIN WHICH THE FACILITY IS PROPOSED TO BE OPENED OR EXPANDED. FURTHER, SUCH WRITTEN NOTICE SHALL SET FORTH INFORMATION AVAILABLE TO THE STATE AGENCY OR STATE FACILITY THAT DESCRIBES: (A) THE PURPOSE OF THE PROPOSED FACILITY; (B) THE LOCATIONS BEING CONSIDERED AS SITES FOR THE FACILITY; (C) THE SERVICES TO BE PROVIDED AT THE FACILITY; (D) THE PROPOSED HOURS OF OPERATION OF THE FACILITY; (E) THE EXPECTED IMPACT OF SUCH FACILITY ON THE AREA SURROUNDING THE FACILITY, INCLUDING BUT NOT LIMITED TO NOISE, TRAFFIC, PARKING, AND NUMBER OF PERSONS EXPECTED TO BE EMPLOYED OR HOUSED AT THE SITE OF THE FACILITY; AND SUCH OTHER INFORMATION MAY INCLUDE FOR THE CITY PLANNING COMMISSION, CITY COUNCIL MEMBER, STATE SENATOR, ASSEMBLYPERSON, BOROUGH PRESIDENT, AND COMMUNITY BOARD TO CONDUCT A REVIEW OF THE PROPOSED FACILITY PURSUANT TO THE CRITERIA SET FORTH IN SECTION NINE HUNDRED EIGHT-D OF THIS ARTICLE. SUCH COMMUNITY BOARD, CITY COUNCIL MEMBER, CITY PLANNING COMMISSION, STATE SENATOR, ASSEMBLYPERSON, AND BOROUGH PRESIDENT MAY REVIEW AND MAKE RECOMMENDATIONS NOT TO EXCEED TEN PAGES, BASED UPON SUCH WRITTEN NOTICE BY THE ENTITY PROPOSING THE OPENING, EXPANSION OR REDUCTION OF A STATE FACILITY WITHIN SIXTY DAYS OF RECEIPT THEREOF. ANY RECOMMENDATION BY SUCH COMMUNITY BOARD, CITY COUNCIL MEMBER, STATE SENATOR, ASSEMBLYPERSON, BOROUGH PRESIDENT, OR CITY PLANNING COMMISSION OF SUCH CITY MAY BE SUBMITTED TO THE ENTITY PROPOSING THE OPENING, EXPANSION OR REDUCTION OF A STATE FACILITY.

1 S 908-D. CRITERIA FOR SITING STATE FACILITIES IN A CITY WITH A POPU-
2 LATION OF ONE MILLION OR MORE. IN ADDITION TO ANY CRITERIA REQUIRED OR
3 PERMITTED BY ANY OTHER LAW, RULE OR REGULATION, THE FOLLOWING CRITERIA
4 MAY BE CONSIDERED BY THE COMMUNITY BOARD, CITY COUNCIL MEMBER, STATE
5 SENATOR, ASSEMBLYPERSON, BOROUGH PRESIDENT, AND CITY PLANNING COMMISSION
6 IN REVIEWING NOTICES FOR THE SITING OF A STATE FACILITY IN A CITY WITH A
7 POPULATION OF ONE MILLION OR MORE:

8 1. THE COMPATIBILITY OF THE PROPOSED FACILITY WITH EXISTING FACILITIES
9 AND PROGRAMS, BOTH STATE AND NON-STATE, IN THE IMMEDIATE VICINITY OF THE
10 PROPOSED SITE;

11 2. THE EXTENT TO WHICH NEIGHBORHOOD CHARACTER WOULD BE ADVERSELY
12 AFFECTED BY A CONCENTRATION OF STATE AND/OR NON-STATE FACILITIES;

13 3. THE SUITABILITY OF THE SITE TO PROVIDE COST-EFFECTIVE DELIVERY OF
14 THE INTENDED SERVICES, INCLUDING THE CONVENIENCE OF THE PROPOSED SITE
15 FOR THE POPULATION INTENDED TO BE SERVED BY THE PROPOSED SERVICE; AND

16 4. CONSISTENCY WITH ANY LAND USE PLANS ADOPTED FOR THE AFFECTED AREA.

17 S 908-E. STATE RESPONSE. IF THE ENTITY PROPOSING THE OPENING OR EXPAN-
18 SION OF A STATE FACILITY IN A CITY WITH A POPULATION OF ONE MILLION OR
19 MORE CHOOSES TO ACT IN A MANNER INCONSISTENT WITH ANY OR ALL OF THE
20 RECOMMENDATIONS GIVEN PURSUANT TO SECTION NINE HUNDRED EIGHT-C OF THIS
21 ARTICLE BY ANY OF THE PERSONS OR ENTITIES AUTHORIZED TO MAKE RECOMMENDA-
22 TIONS BY SUCH SECTION, SUCH ENTITY PROPOSING THE OPENING OR EXPANSION OF
23 A STATE FACILITY SHALL ISSUE A WRITTEN REPORT EXPLAINING SUCH ACTIONS
24 AND THE REASONS WHY THE ACTIONS WERE TAKEN INSTEAD OF THE ACTIONS RECOM-
25 MENDED PURSUANT TO SECTION NINE HUNDRED EIGHT-C OF THIS ARTICLE.

26 S 2. This act shall take effect on the one hundred twentieth day after
27 it shall have become a law.