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

3895

2011-2012 Regular Sessions

I N A S S E M B L Y

January 28, 2011

Introduced by M. of A. FINCH -- Multi-Sponsored by -- M. of A. BUTLER -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the preemption of mining regulation

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

Section 1. Subdivision 2 of section 23-2703 of the environmental conservation law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

2. [For the purposes stated herein, this title shall supersede all other state and local laws relating to the extractive mining industry; provided, however, that nothing in this] THIS title shall NOT be construed to prevent any local government from:

a. enacting or enforcing local laws or ordinances of general applicability[, except that such local laws or ordinances shall not regulate] REGULATING mining and/or reclamation activities [regulated by state statute, regulation, or permit]; or

b. enacting or enforcing local zoning ordinances or laws which determine permissible uses in zoning districts. Where mining is designated a permissible use in a zoning district and allowed by special use permit, conditions placed on such special use permits shall be limited to the following:

(i) ingress and egress to public thoroughfares controlled by the local government;

(ii) routing of mineral transport vehicles on roads controlled by the local government;

(iii) requirements and conditions as specified in the permit issued by the department under this title concerning setback from property boundaries and public thoroughfare rights-of-way natural or man-made barriers to restrict access, if required, dust control and hours of operation,

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

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when such requirements and conditions are established pursuant to subdivision three of section 23-2711 of this title;

(iv) enforcement of reclamation requirements contained in mined land reclamation permits issued by the state[; or

c. enacting or enforcing local laws or ordinances regulating mining or the reclamation of mines not required to be permitted by the state].

S 2. This act shall take effect immediately.