

4470

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 3, 2011

---

Introduced by M. of A. GABRYSZAK, COLTON, ROBINSON -- Multi-Sponsored by  
-- M. of A. LIFTON, McDONOUGH -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to environmental quality review

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

1     Section 1. Legislative findings. 1. The legislature hereby finds and  
2     declares that proposed actions may have adverse environmental impacts  
3     upon surrounding communities and that such impacts may be inconsistent  
4     with smart growth initiatives and other regional planning initiatives  
5     undertaken in these areas and may affect the long-term environmental and  
6     economic sustainability of New York.  
7     2. The legislature further finds and declares that it shall be the  
8     policy of the state of New York that the regional impacts of proposed  
9     actions shall be considered at the initial stages of the environmental  
10    review process.  
11    S 2. Subdivision 4 of section 8-0109 of the environmental conservation  
12    law, as amended by chapter 219 of the laws of 1990, the fourth undesig-  
13    nated paragraph as amended by chapter 238 of the laws of 1991 and the  
14    fifth undesignated paragraph as amended by chapter 641 of the laws of  
15    2005, is amended to read as follows:  
16    4. (A) As early as possible in the formulation of a proposal for an  
17    action, the responsible agency shall make an initial determination  
18    whether an environmental impact statement need be prepared for the  
19    action. When an action is to be carried out or approved by two or more  
20    agencies, such determination shall be made as early as possible after  
21    the designation of the lead agency.  
22    (B) IN MAKING SUCH INITIAL DETERMINATION, THE RESPONSIBLE AGENCY  
23    AND/OR APPLICANT SHALL CONSIDER WHETHER SUCH ACTION MAY HAVE A SIGNIF-  
24    ICANT EFFECT ON THE ENVIRONMENT THAT WOULD ADVERSELY IMPACT THE HEALTH,

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

LBD07809-01-1

1 SAFETY, AND PUBLIC WELFARE OF AN ADJOINING MUNICIPALITY WITHOUT JURIS-  
2 DICTION OVER THE ACTION; IF THE ACTION MAY CAUSE OR INCREASE SUCH  
3 ADVERSE ENVIRONMENTAL IMPACTS, SUCH MUNICIPALITY SHALL, UPON REQUEST, BE  
4 DESIGNATED AS A CO-LEAD AGENCY FOR THE REVIEW OF THE ACTION.

5 (C) With respect to actions involving the issuance to an applicant of  
6 a permit or other entitlement, the agency shall notify the applicant in  
7 writing of its initial determination specifying therein the basis for  
8 such determination. Notice of the initial determination along with  
9 appropriate supporting findings on agency actions shall be kept on file  
10 in the main office of the agency for public inspection.

11 (D) If the agency determines that such statement is required, the  
12 agency or the applicant at its option shall prepare or cause to be  
13 prepared a draft environmental impact statement. If the applicant does  
14 not exercise the option to prepare such statement, the agency shall  
15 prepare it, cause it to be prepared, or terminate its review of the  
16 proposed action. Such statement shall describe the proposed action and  
17 reasonable alternatives to the action, and briefly discuss, on the basis  
18 of information then available, the remaining items required to be  
19 submitted by subdivision two of this section. The purpose of a draft  
20 environmental statement is to relate environmental considerations to the  
21 inception of the planning process, to inform the public and other public  
22 agencies as early as possible about proposed actions that may signif-  
23 icantly affect the quality of the environment, and to solicit comments  
24 which will assist the agency in the decision making process in determin-  
25 ing the environmental consequences of the proposed action. The draft  
26 statement should resemble in form and content the environmental impact  
27 statement to be prepared after comments have been received and consid-  
28 ered pursuant to subdivision two of this section; however, the length  
29 and detail of the draft environmental statement will necessarily reflect  
30 the preliminary nature of the proposal and the early stage at which it  
31 is prepared.

32 (E) For any action for which the agency determines that such statement  
33 is not required and which would take place in a special groundwater  
34 protection area, as defined in section 55-0107 of this chapter, the  
35 agency shall show how such action would or would not be consistent with  
36 the comprehensive management plan of the special groundwater protection  
37 program, as implemented by the commissioner pursuant to article fifty-  
38 five of this chapter.

39 (F) The draft statement shall be filed with the department or other  
40 designated agencies and shall be circulated to federal, state, regional  
41 and local agencies having an interest in the proposed action and to  
42 interested members of the public for comment, as may be prescribed by  
43 the commissioner pursuant to section 8-0113 OF THIS ARTICLE. In addi-  
44 tion, unless impracticable, the draft statement shall be posted on a  
45 publicly-available Internet website. The website posting of such draft  
46 statement may be discontinued when the environmental impact statement is  
47 posted pursuant to subdivision six of this section.

48 (G) THE INITIAL DETERMINATION WITH RESPECT TO THE SIGNIFICANT EFFECT  
49 ON THE ENVIRONMENT OF AN ADJOINING MUNICIPALITY WITHOUT JURISDICTION  
50 OVER THE PROPOSED ACTION SHALL BE REVIEWABLE PURSUANT TO ARTICLE SEVEN-  
51 TY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

52 S 3. This act shall take effect immediately.