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

5579

2011-2012 Regular Sessions

I N A S S E M B L Y

February 23, 2011

Introduced by M. of A. ENGLEBRIGHT, SCHIMEL, GABRYSZAK, REILLY, ROSENTHAL, CAHILL, LAVINE, McENENY, MAISEL, JAFFEE, MILLMAN, ROBINSON, SPANO, WEISENBERG, J. RIVERA, GIBSON, LIFTON, CASTRO -- Multi-Sponsored by -- M. of A. DESTITO, GLICK, GOTTFRIED, MARKEY, MURRAY, PHEFFER, SWEENEY, THIELE -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development

AN ACT to amend the parks, recreation and historic preservation law, in relation to regulating the closure and diminution of state parks, recreational facilities and historic sites

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

Section 1. The parks, recreation and historic preservation law is amended by adding a new article 13-A to read as follows:

ARTICLE 13-A

CLOSURE OR REDUCTION

SECTION 13.51 PURPOSES.

13.53 PARKS INFORMATIONAL CLOSURE REPORT; PUBLIC HEARINGS.

13.55 CLOSURE OR REDUCTION.

S 13.51 PURPOSES. IT IS THE PURPOSE OF THIS ARTICLE THAT THE OFFICE BE REQUIRED TO CONSIDER THE FULL ARRAY OF CONSEQUENCES OF EVERY CLOSURE OR REDUCTION IN THE USE OF ANY STATE PARK, RECREATIONAL FACILITY OR HISTORIC SITE. THE LEGISLATURE HEREBY FINDS THAT THE CLOSURE OR REDUCTION IN THE USE OF REAL PROPERTY OWNED OR OPERATED BY THE OFFICE MAY:

1. VIOLATE THE TERMS OF COVENANTS AND DEEDS WHICH GRANT OWNERSHIP OF OR CONTROL OVER SUCH REAL PROPERTY TO THE STATE AND THE OFFICE;

2. VIOLATE THE OFFICE'S DUTY TO MAINTAIN AND PROVIDE PARKS, RECREATIONAL FACILITIES AND HISTORIC SITES FOR THE BENEFIT OF THE PEOPLE OF THE STATE;

3. HAVE A SIGNIFICANT ADVERSE IMPACT ON THE ECOLOGY AND BIODIVERSITY OF THE STATE PARK, RECREATIONAL FACILITY OR HISTORIC SITE, AS WELL AS

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

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THE REGIONAL POPULACE, ECONOMY AND POPULACE OF THE MUNICIPALITIES WITHIN WHICH SUCH REAL PROPERTY IS LOCATED;

4. HAVE A SIGNIFICANT ADVERSE IMPACT ON EACH EDUCATIONAL INSTITUTION THAT HAS UTILIZED THE STATE PARK, RECREATIONAL FACILITY OR HISTORIC SITE WITHIN THE PRIOR TWENTY-FOUR MONTHS;

5. VIOLATE THE TERMS OF A GRANT OR GRANTS PROVIDED TO THE OFFICE PURSUANT TO THE FEDERAL LAND AND WATER CONSERVATION FUND ACT OF NINETEEN HUNDRED SIXTY-FIVE, AND ACTS AMENDATORY OR SUPPLEMENTAL THERETO;

6. FAIL TO FULLY CONSIDER THE MAINTENANCE, SAFETY AND SECURITY THEREOF; AND

7. FAIL TO FULLY CONSIDER ALTERNATIVE ACTIONS WHICH WOULD FACILITATE THE CONTINUED OPERATION AND MAINTENANCE OF THE STATE PARK, RECREATIONAL FACILITY OR HISTORIC SITE.

S 13.53 PARKS INFORMATIONAL CLOSURE REPORT; PUBLIC HEARINGS. 1. NOT LESS THAN ONE HUNDRED TWENTY DAYS BEFORE THE OFFICE HAS PROPOSED TO CLOSE OR REDUCE THE USE OF ANY STATE PARK, RECREATIONAL FACILITY OR HISTORIC SITE, SUCH OFFICE SHALL PUBLISH FOR GENERAL DISTRIBUTION IN ANY PRINT OR ELECTRONIC MEDIUM A PARKS INFORMATIONAL REPORT RELATING TO SUCH PROPOSED CLOSURE OR REDUCTION. EVERY PARKS INFORMATIONAL CLOSURE REPORT SHALL BE SUBMITTED TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE SENATE COMMITTEE ON CULTURAL AFFAIRS, TOURISM, PARKS AND RECREATION, THE CHAIR OF THE ASSEMBLY COMMITTEE ON TOURISM, PARKS, ARTS AND SPORTS DEVELOPMENT, AND THE CHIEF EXECUTIVE OFFICER OF EACH COUNTY, CITY, TOWN AND/OR VILLAGE IN WHICH THE STATE PARK, RECREATIONAL FACILITY OR HISTORIC SITE IS LOCATED. IN ADDITION, SUCH REPORT SHALL BE PUBLISHED FOR NOT LESS THAN SEVEN CONSECUTIVE DAYS IN A NEWSPAPER HAVING A GENERAL CIRCULATION IN THE MUNICIPALITY IN WHICH THE PARK, FACILITY OR SITE IS LOCATED AND SHALL BE INCLUDED ON THE INTERNET WEBSITE OF THE OFFICE FOR BROADER REVIEW.

2. THE PARKS INFORMATIONAL CLOSURE REPORT FOR EACH CLOSURE OR REDUCTION IN USE SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) AN EVALUATION OF PARKS, RECREATIONAL FACILITIES AND HISTORIC SITES AVAILABLE FOR PUBLIC USE WITHIN TWENTY-FIVE MILES OF THE STATE FACILITY PROPOSED TO BE CLOSED OR REDUCED IN USE;

(B) AN EVALUATION OF AND REPORT ON THE ECONOMIC IMPACT OF THE CLOSURE OR REDUCTION IN USE OF THE STATE FACILITY ON THE STATE AND THE MUNICIPALITIES SURROUNDING SUCH FACILITY. SUCH EVALUATION SHALL INCLUDE THE COST TO THE OFFICE OF OPERATING SUCH FACILITY, THE REVENUE GENERATED BY THE OPERATION OF SUCH FACILITY, THE REVENUE PAYABLE TO SURROUNDING COUNTIES, CITIES, TOWNS AND VILLAGES GENERATED BY THE OPERATION OF SUCH FACILITY, AND THE ESTIMATED COST OF RE-OPENING SUCH FACILITY;

(C) AN EVALUATION OF AND REPORT ON THE USE OF THE STATE FACILITY BY EDUCATIONAL INSTITUTIONS;

(D) A DETERMINATION OF WHETHER ANY MONEYS FROM THE FEDERAL LAND AND WATER CONSERVATION FUND WERE EXPENDED AT THE STATE FACILITY PROPOSED TO BE CLOSED OR REDUCED IN USE AND, IF SO, A DETERMINATION BY THE FEDERAL SECRETARY OF THE INTERIOR ON THE PERMITTED USES OF SUCH STATE FACILITY;

(E) A SECURITY PLAN TO BE IMPLEMENTED UPON THE CLOSURE OR REDUCTION IN USE OF THE STATE FACILITY TO PREVENT VANDALISM AND ENSURE PUBLIC SAFETY THEREAT;

(F) A MAINTENANCE PLAN AND SCHEDULE FOR THE CONTINUED UPKEEP OF THE BUILDINGS, STRUCTURES AND LAND AT THE STATE FACILITY PROPOSED TO BE CLOSED OR REDUCED IN USE. SUCH PLAN SHALL INCLUDE, BUT NOT BE LIMITED TO, THE CONTINUED MOWING OF GRASSES AND BRUSH, AND PROVIDE FOR THE REGULAR INSPECTION OF SUCH FACILITY BY AN OFFICER OR EMPLOYEE OF THE REGIONAL PARK, RECREATION AND HISTORIC PRESERVATION COMMISSION AT LEAST

ONCE EVERY MONTH TO ASCERTAIN WHETHER SUCH FACILITY IS BEING MAINTAINED IN ACCORDANCE WITH THE MAINTENANCE PLAN;

(G) AN EVALUATION AND REPORT ON THE ADVERSE ECOLOGICAL IMPACT OF THE CLOSURE OR REDUCTION IN USE OF THE STATE FACILITY, INCLUDING ANY POTENTIAL LOSS OF NATIVE SPECIES OF PLANTS OR ANIMALS OR THE INTRODUCTION OR SPREAD OF INVASIVE NON-NATIVE SPECIES OF PLANTS OR ANIMALS; AND

(H) AN OUTLINE OF ALTERNATIVE ACTIONS THAT MAY BE TAKEN BY THE OFFICE TO ENSURE THE CONTINUED FULL USE OF THE STATE FACILITY. SUCH ALTERNATIVE ACTIONS SHALL INCLUDE THE PREPARATION OF REQUESTS FOR PROPOSALS AND AGREEMENTS WITH ANY NOT-FOR-PROFIT CORPORATION AND/OR MUNICIPALITY FOR THE PROVISION OF ANY SERVICE OR FINANCIAL SUPPORT AT THE STATE FACILITY PROPOSED TO BE CLOSED OR REDUCED IN USE. NO PROVISION OF SUCH OUTLINE SHALL PROVIDE FOR THE SURRENDER OR DIMINUTION OF THE JURISDICTION OF THE OFFICE OVER SUCH FACILITY.

3. NOT MORE THAN THIRTY DAYS AFTER THE ISSUANCE OF A PARKS INFORMATIONAL CLOSURE REPORT, THE OFFICE SHALL CONDUCT NOT LESS THAN THREE PUBLIC HEARINGS, TWO OF WHICH SHALL BE CONDUCTED WITHIN TWENTY MILES OF THE STATE FACILITY OF WHICH ONE MUST BE CONDUCTED IN THE EVENING THAT IS THE SUBJECT OF SUCH REPORT, AND ONE OF WHICH SHALL BE CONDUCTED EITHER IN THE CITY OF NEW YORK OR IN THE CITY OF ALBANY, FOR THE PURPOSE OF REVIEWING AND RECEIVING PUBLIC COMMENT UPON SUCH REPORT. AT EACH SUCH HEARING THE OFFICE SHALL EMPLOY STENOGRAPHERS TO RECORD THE TESTIMONY GIVEN. WITHIN FIVE DAYS AFTER EACH PUBLIC HEARING A COPY OF THE TRANSCRIPT OF THE HEARING SHALL BE DELIVERED TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE SENATE COMMITTEE ON CULTURAL AFFAIRS, TOURISM, PARKS AND RECREATION, THE CHAIR OF THE ASSEMBLY COMMITTEE ON TOURISM, PARKS, ARTS AND SPORTS DEVELOPMENT, AND THE CHIEF EXECUTIVE OFFICER OF EACH COUNTY, CITY, TOWN AND/OR VILLAGE IN WHICH THE STATE PARK, RECREATIONAL FACILITY OR HISTORIC SITE IS LOCATED.

4. NOT MORE THAN THIRTY DAYS AFTER NOTICE OF ANY PROPOSED CHANGE IS MADE TO EITHER THE MISSION OF THE OFFICE, OR WITH REGARD TO THE ENTITY CHARGED WITH OVERSIGHT RESPONSIBILITY FOR STATE PARKS, RECREATIONAL FACILITIES OR HISTORIC SITES, THE OFFICE SHALL CONDUCT THREE PUBLIC HEARINGS OF WHICH: ONE SHALL BE HELD IN THE CITY OF NEW YORK, ONE SHALL BE HELD IN THE CITY OF ALBANY AND ONE SHALL BE HELD IN THE CITY OF BUFFALO. SUCH HEARINGS SHALL BE HELD FOR THE PURPOSES OF RECEIVING AND EVALUATING PUBLIC COMMENT ON THE IMPLICATIONS OF THE PROPOSED CHANGE TO SUCH PARK'S, FACILITY'S OR SITE'S VIABILITY AND PUBLIC ACCESS THERETO.

S 13.55 CLOSURE OR REDUCTION. NO STATE PARK, RECREATIONAL FACILITY OR HISTORIC SITE SHALL BE CLOSED OR REDUCED IN USE UNTIL THE STATE LEGISLATURE SHALL HAVE BEEN IN RECEIPT OF THE APPROPRIATE PARKS INFORMATIONAL CLOSURE REPORT AND THE TRANSCRIPT OF THE PUBLIC HEARINGS HELD THEREON FOR NOT LESS THAN FORTY-FIVE DAYS AND THE LEGISLATURE SHALL HAVE APPROVED A CONCURRENT RESOLUTION AUTHORIZING SUCH CLOSURE OR REDUCTION IN USE.

S 2. This act shall take effect immediately.