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

5841

2011-2012 Regular Sessions

I N A S S E M B L Y

March 2, 2011

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Local Governments

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:

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

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

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

2. THE KIND OF FUNCTION OR LAND USE INVOLVED;

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

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

5. THE IMPACT UPON LEGITIMATE LOCAL INTERESTS;

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

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

8. ALTERNATIVE METHODS OF PROVIDING THE NEEDED IMPROVEMENT; AND

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

S 2. This act shall take effect on the first of July next succeeding 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.

LBD09875-01-1