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

6342--B

2011-2012 Regular Sessions

I N A S S E M B L Y

March 15, 2011

Introduced by M. of A. ENGLEBRIGHT, SCHIMEL, BARRON -- Multi-Sponsored by -- M. of A. GOTTFRIED -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to enacting the "bird-friendly building council act"

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

Section 1. Short title. This act shall be known and may be cited as the "bird-friendly building council act".

S 2. Legislative findings. The legislature finds that:

(a) a federal multi-agency report issued in 2009, entitled "The State of the Birds, United States of America", provides the most comprehensive assessment to date on the status of bird populations;

(b) the multi-agency report concludes that nearly one-third of this nation's 800 bird species are endangered, threatened or in significant decline;

(c) daytime and nighttime collisions with man-made structures is the most significant quantifiable cause of avian mortality and is increasing with adverse effects being seen at a population level with estimates ranging from several hundred million to one billion birds dying from collisions annually in the United States;

(d) not only are birds beautiful, interesting and fascinating creatures that are eagerly welcomed by millions of Americans into their backyards every year, but birds also have significant positive impacts on the economies of the United States and New York state;

(e) the United States Fish and Wildlife Service has reported that birdwatchers contribute thirty-six billion dollars annually to the econ-

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

LBD09911-08-1

omy, and birds naturally provide billions of dollars worth of pest control, benefitting farmers, forestry owners and consumers alike;

(f) bird-safe design features can be incorporated into new construction and major renovation projects at no to minimal extra cost; and existing buildings may be made bird-safe through the use of simple, relatively low-cost adaptations;

(g) these design features have already been implemented in buildings constructed and renovated both in New York state and throughout the country;

(h) numerous municipalities and political subdivisions throughout the country have developed guidelines and standards promoting bird-friendly building design; and

(i) under the aegis of the department of environmental conservation there is merit and value to the establishment of a bird-friendly building council whose mission is to undertake a comprehensive analysis and develop a set of recommended responses to this significant wildlife issue.

S 3. The environmental conservation law is amended by adding a new section 3-0121 to read as follows:

S 3-0121. BIRD-FRIENDLY BUILDING COUNCIL.

1. THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT A BIRD-FRIENDLY BUILDING COUNCIL. SUCH COUNCIL SHALL BE COMPOSED OF NOT LESS THAN ELEVEN MEMBERS AND NO MORE THAN FIFTEEN MEMBERS, WHICH SHALL INCLUDE THE COMMISSIONER, WHO SHALL BE THE CHAIR OF THE COUNCIL AND A MINIMUM OF TEN MEMBERS AND A MAXIMUM OF FOURTEEN MEMBERS APPOINTED BY THE COMMISSIONER. THE MEMBERS APPOINTED BY THE COMMISSIONER SHALL INCLUDE PERSONS REPRESENTING THE FOLLOWING INTERESTS: WILDLIFE CONSERVATION ORGANIZATIONS, STATE AND FEDERAL WILDLIFE AGENCIES, ARCHITECTS, LANDSCAPE ARCHITECTS, WINDOW MANUFACTURERS AND DISTRIBUTORS, COMMERCIAL BUILDING MANAGERS, AND ACADEMIA. THE WILDLIFE CONSERVATION ORGANIZATIONS REPRESENTED ON THE COUNCIL SHALL INCLUDE THE AMERICAN BIRD CONSERVANCY, NEW YORK CITY AUDUBON, NEW YORK STATE AUDUBON AND THE LONG ISLAND AUDUBON COUNCIL. THE FEDERAL WILDLIFE AGENCY REPRESENTATION SHALL INCLUDE THE DIVISION OF MIGRATORY BIRD MANAGEMENT OF THE U.S. FISH AND WILDLIFE SERVICE. THE MEMBERSHIP OF THE COUNCIL SHALL BE BROADLY REPRESENTATIVE OF THE GEOGRAPHIC AREAS OF THE STATE. FURTHERMORE, THE MEMBERS OF THE COUNCIL SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION. IN ADDITION, THE COMMISSIONER OF GENERAL SERVICES SHALL SERVE AS AN EX-OFFICIO MEMBER OF THE COUNCIL.

2. THE BIRD-FRIENDLY BUILDING COUNCIL SHALL:

A. DEVELOP SUCH RULES, REGULATIONS AND PROCEDURES AS NECESSARY FOR IT TO EFFECTIVELY ADMINISTER ITS RESPONSIBILITIES;

B. ATTEMPT TO ASSESS AND QUANTIFY THE EXTENT AND MAGNITUDE OF THE PROBLEM STATEWIDE CAUSED BY DIURNAL AND NOCTURNAL BIRDS COLLIDING WITH BUILDINGS. THIS EFFORT SHALL IDENTIFY THOSE SPECIES MOST COMMONLY KILLED DURING DAYTIME COLLISIONS, THOSE SPECIES MORE COMMONLY KILLED DURING NIGHTTIME COLLISIONS AND SHALL INCLUDE AN ASSESSMENT ON SPECIES AT RISK DUE TO RARITY AND ENDANGERMENT;

C. DEVELOP CRITERIA AND GUIDELINES FOR IDENTIFYING AND PRIORITIZING EXISTING BUILDINGS WHICH POSE A DANGER TO BIRD SPECIES DUE TO THE THREAT OF COLLISIONS;

D. IDENTIFY EXISTING AND EMERGING PRODUCTS, TECHNOLOGIES, STRATEGIES AND CONCEPTS WHICH CAN REDUCE OR ELIMINATE BIRD MORTALITY FROM BUILDING COLLISIONS;

E. IDENTIFY POTENTIAL FUNDING SOURCES, TO FUND THE RETROFITTING AND/OR REPLACEMENT OF WINDOWS OF EXISTING PROBLEMATIC BUILDINGS WHICH POSE A THREAT TO BIRDS AND THE IMPLEMENTATION OF OTHER MITIGATIVE STRATEGIES;

F. PROMOTE PUBLIC AWARENESS OF THIS ISSUE AND WHAT MEMBERS OF THE PUBLIC CAN DO TO MITIGATE IMPACTS;

G. SUPPORT AND FUND ADDITIONAL RESEARCH TO BETTER UNDERSTAND PARTICULAR ASPECTS OF THE BUILDING-BIRD COLLISION ISSUE;

H. CONSULT WITH OTHER SUSTAINABLE BUILDING DESIGN ORGANIZATIONS; AND

I. IN COOPERATION WITH THE DEPARTMENT AND THE OFFICE OF GENERAL SERVICES, DEVELOP A SET OF PROPOSED STANDARDS GOVERNING BIRD-FRIENDLY BUILDING DESIGNS WHICH INCLUDE FEATURES, MATERIALS, TECHNOLOGIES, STRATEGIES, AND CONCEPTS TO REDUCE, MINIMIZE, AND/OR ELIMINATE BIRD MORTALITY INVOLVING BUILDING COLLISIONS. THE COUNCIL SHALL DEVELOP THESE PROPOSED STANDARDS WITHIN EIGHTEEN MONTHS OF ITS ESTABLISHMENT AND MAKE A COPY OF THEM AVAILABLE TO THE GOVERNOR, SENATE MAJORITY LEADER, AND SPEAKER OF THE ASSEMBLY FOR THEIR CONSIDERATION OF BEING CODIFIED IN STATE LAW.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.