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

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I N A S S E M B L Y

February 3, 2012

Introduced by M. of A. GRAF, SALADINO, MONTESANO, RAIA, CALHOUN -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to establishing a set-aside for power generated through the process of hydraulic fracturing

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

Section 1. The environmental conservation law is amended by adding a new section 23-0505 to read as follows:

S 23-0505. HYDRAULIC FRACTURING RESERVE.

1. FOR PURPOSES OF THIS SECTION, "HYDRAULIC FRACTURING" MEANS A PROCESS USED TO CREATE FRACTURES IN ROCK BY MAN-MADE FRACTURING TECHNIQUES FOR THE PURPOSES OF STIMULATING NATURAL GAS OR OIL WELL PRODUCTION.

2. FOR ALL HYDRAULIC FRACTURING PERMITS ISSUED UNDER THIS TITLE, TEN PERCENT OF NATURAL GAS OR WELL OIL PRODUCED AS THE RESULT OF SUCH PROCESS SHALL BE DIVERTED TO THE HYDRAULIC FRACTURING RESERVE, ESTABLISHED IN SUBDIVISION THREE OF THIS SECTION. THE CONTRIBUTION OF GAS OR WELL OIL MANDATED BY THIS SECTION SHALL BE AT NO COST TO THE STATE AND SHALL NOT BE REIMBURSED EXCEPT IN THE INCIDENTAL EXPENSES INCURRED IN TRANSPORTATION OF SUCH GAS OR OIL IN ACCORDANCE WITH THIS SECTION.

3. THE COMMISSIONER SHALL ESTABLISH A RESERVE TO RECEIVE AND STORE NATURAL GAS AND WELL OIL PRODUCED AS A RESULT OF HYDRAULIC FRACTURING. SUCH RESERVE SHALL BE FOR THE EXCLUSIVE USE OF THE VARIOUS POWER AUTHORITIES OF THE STATE. THE COMMISSIONER, IN HIS OR HER SOLE DISCRETION, SHALL DISTRIBUTE THE CONTENTS OF SUCH RESERVE PROVIDED:

A. THE NATURAL GAS OR WELL OIL DISTRIBUTED UNDER THIS SECTION SHALL BE USED EXCLUSIVELY BY POWER AUTHORITIES FOR THE PRODUCTION OF ELECTRICITY; AND

B. THE COMMISSIONER SHALL IMPLEMENT RULES AND REGULATIONS REGARDING THE DISTRIBUTION OF THE RESERVE AND SHALL DISTRIBUTE THE CONTENTS OF SUCH IN A FAIR AND EQUITABLE MANNER.

4. ALL CONTRACTS AND PERMITS ISSUED FOR THE EXTRACTION OF NATURAL GAS AND WELL OIL THROUGH THE PROCESS OF HYDRAULIC FRACTURING SHALL INCLUDE A CLAUSE THAT EXPLICITLY DETAILS THE OBLIGATION OF THE PRODUCER TO

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

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CONTRIBUTE TEN PERCENT OF SUCH PRODUCTION AND EXTRACTION TO THE RESERVE AT NO COST TO THE STATE.

5. THE ATTORNEY GENERAL SHALL BE RESPONSIBLE FOR THE ENFORCEMENT OF THIS SECTION.

S 2. This act shall take effect immediately.