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

2851--B

2011-2012 Regular Sessions

I N S E N A T E

February 2, 2011

Introduced by Sens. PARKER, KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to the requirements for lead agency

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

Section 1. Subdivision 6 of section 8-0111 of the environmental conservation law, as added by chapter 612 of the laws of 1975, is amended to read as follows:

6. Lead Agency. (A) When an action is to be carried out or approved by two or more agencies, the determination of whether the action may have a significant effect on the environment shall be made by the lead agency having principal responsibility for carrying out or approving such action and such agency shall prepare, or cause to be prepared by contract or otherwise, the environmental impact statement for the action if such a statement is required by this article. In the event that there is a question as to which is the lead agency, any agency may submit the question to the commissioner and the commissioner shall designate the lead agency, giving due consideration to the capacity of such agency to fulfill adequately the requirements of this article.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE OR ANY OTHER LAW TO THE CONTRARY, IN ANY CIRCUMSTANCE WHEN AN ACTION TO BE CARRIED OUT OR APPROVED BY TWO OR MORE AGENCIES INVOLVES THE RELIGIOUS EXERCISE OF A PERSON, AS SUCH IS DEFINED BY THE RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000 (RLUIPA), 42 U.S.C. SS 2000CC, ET SEQ., ONLY A COUNTY OR STATE AGENCY MAY ACT AS THE LEAD AGENCY. IN THE EVENT THE COUNTY OR STATE AGENCY DOES NOT HAVE THE ABILITY TO BE THE LEAD

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

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AGENCY, THE MUNICIPALITY SHALL GIVE A FINAL DETERMINATION WITHIN TWELVE CALENDAR MONTHS FROM THE DATE OF THE APPLICATION. IF THE APPLICANT DISAGREES WITH SUCH DETERMINATION, THE DISAGREEMENT SHALL BE SETTLED BY BINDING ARBITRATION. IN THE EVENT A MUNICIPALITY CHARGES THE APPLICANT A FEE FOR AN ENGINEER OR PLANNER IN RELATION TO MAKING SUCH A DETERMINATION, THE MUNICIPALITY SHALL PROVIDE THE APPLICANT WITH A REASONABLE ESTIMATE OF THE TOTAL FEE OR CHARGE OF SUCH ENGINEER OR PLANNER. SUCH FEE OR CHARGE SHALL NOT EXCEED FIFTY THOUSAND DOLLARS. THE PROVISIONS OF THIS SUBDIVISION SHALL ONLY APPLY TO MUNICIPALITIES WITH A POPULATION OF FIFTY THOUSAND OR LESS.

S 2. This act shall take effect immediately.