

4906

2011-2012 Regular Sessions

I N S E N A T E

April 29, 2011

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to establishing a community gardens task force

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

1 Section 1. Article 2-C of the agriculture and markets law is amended
2 by adding a new section 31-f to read as follows:
3 S 31-F. LEGISLATIVE FINDINGS. THE LEGISLATURE HEREBY FINDS AND
4 DECLARES THAT COMMUNITY GARDENS PROVIDE SIGNIFICANT HEALTH, EDUCATIONAL
5 AND SOCIAL BENEFITS TO THE GENERAL PUBLIC, ESPECIALLY FOR THOSE WHO
6 RESIDE IN URBAN AND SUBURBAN AREAS OF THIS STATE. FURTHERMORE, IT IS THE
7 ARTICULATED PUBLIC POLICY OF THIS STATE TO PROMOTE AND FOSTER GROWTH IN
8 THE NUMBER OF COMMUNITY GARDENS AND THE ACREAGE OF SUCH GARDENS. THE
9 COMMUNITY GARDEN MOVEMENT CONTINUES TO PROVIDE LOW COST FOOD THAT IS
10 FRESH AND NUTRITIOUS FOR THOSE WHO MAY BE UNABLE TO READILY AFFORD FRESH
11 FRUITS AND VEGETABLES FOR THEMSELVES OR THEIR FAMILIES, PROMOTES PUBLIC
12 HEALTH AND HEALTHIER INDIVIDUAL LIFESTYLES BY ENCOURAGING BETTER EATING
13 HABITS AND INCREASED PHYSICAL ACTIVITY BY GROWING THEIR OWN FOOD,
14 FOSTERS THE RETENTION AND EXPANSION OF OPEN SPACES, PARTICULARLY IN
15 URBAN ENVIRONMENTS, ENHANCES URBAN AND SUBURBAN ENVIRONMENTAL QUALITY
16 AND COMMUNITY BEAUTIFICATION, PROVIDES INEXPENSIVE COMMUNITY BUILDING
17 ACTIVITIES, RECREATION AND PHYSICAL EXERCISE FOR ALL AGE GROUPS, ESTAB-
18 LISHES A SAFE PLACE FOR COMMUNITY INVOLVEMENT AND HELPS TO REDUCE THE
19 INCIDENCE OF CRIME, ENGENDERS A CLOSER RELATIONSHIP BETWEEN URBAN RESI-
20 DENTS, NATURE AND THEIR LOCAL ENVIRONMENT, AND FOSTERS GREEN JOB TRAIN-
21 ING AND ECOLOGICAL EDUCATION AT ALL LEVELS. IT IS THEREFORE THE INTENT
22 OF THE LEGISLATURE AND THE PURPOSE OF THIS ARTICLE TO FOSTER GROWTH IN
23 THE NUMBER, SIZE AND SCOPE OF COMMUNITY GARDENS IN THIS STATE BY ENCOUR-
24 AGING STATE AGENCIES, MUNICIPALITIES AND PRIVATE PARTIES IN THEIR
25 EFFORTS TO PROMOTE COMMUNITY GARDENS.
26 S 2. Subdivisions 2 and 3 of section 31-g of the agriculture and
27 markets law, as added by chapter 862 of the laws of 1986, are amended
28 and a new subdivision 4-a is added to read as follows:

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

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1 2. "Garden" shall mean a piece OR PARCEL of land appropriate for THE
2 cultivation of herbs, fruits, flowers, NUTS, HONEY, POULTRY FOR EGG
3 PRODUCTION, MAPLE SYRUP, ORNAMENTAL OR VEGETABLE PLANTS, NURSERY
4 PRODUCTS, or vegetables.

5 3. "Municipality" shall mean any county, town, village, city, school
6 district [or], BOARD OF COOPERATIVE EDUCATIONAL SERVICES, other special
7 district, OR ANY OFFICE OR AGENCY THEREOF.

8 4-A. "STATE AGENCY" SHALL MEAN ANY DEPARTMENT, BUREAU, COMMISSION,
9 BOARD, PUBLIC AUTHORITY OR OTHER AGENCY OF THE STATE, INCLUDING ANY
10 PUBLIC BENEFIT CORPORATION OF WHICH ANY MEMBER OF WHOSE BOARD IS
11 APPOINTED BY THE GOVERNOR.

12 S 3. Subdivision 2 of section 31-h of the agriculture and markets law,
13 as added by chapter 862 of the laws of 1986, is amended to read as
14 follows:

15 2. The duties of the office shall include:

16 a. Upon request, the office shall assist in the identification of
17 vacant public land within a given geographical location and provide
18 information regarding agency jurisdiction and the relative suitability
19 of such lands for community gardening purposes;

20 b. Serve as a coordinator on behalf of interested community groups and
21 the appropriate state or local agencies to facilitate the use of vacant
22 public lands for community garden use for not less than one growing
23 season by receiving and forwarding with recommendation completed appli-
24 cations to the appropriate STATE OR MUNICIPAL agency. PROVIDED, FURTHER,
25 THAT THE OFFICE MAY DEVELOP A SINGLE RECOMMENDED APPLICATION FORM TO BE
26 USED BY COMMUNITY GROUPS WHEN APPLYING TO STATE AGENCIES OR MUNICI-
27 PALITIES FOR USE OF VACANT PUBLIC LAND FOR COMMUNITY GARDEN PURPOSES;

28 c. Support and encourage contact between community garden programs
29 already in existence and those programs in the initial stages of devel-
30 opment; [and]

31 d. Seek and provide such assistance, to the extent funds or grants may
32 become available, for the purposes identified in this article[.];

33 E. ASSIST, SUPPORT AND ENCOURAGE CONTACT AND COOPERATION BETWEEN, AND
34 THE COOPERATIVE SHARING OF RESOURCES BETWEEN COMMUNITY GARDEN GROUPS,
35 SCHOOL GARDEN PROGRAMS AND LOCAL VOLUNTARY FOOD ASSISTANCE PROGRAMS,
36 SUCH AS COMMUNITY FOOD PANTRIES, SOUP KITCHENS, AND OTHER COMMUNITY AND
37 NOT-FOR-PROFIT ORGANIZATIONS THAT PROVIDE OR DISTRIBUTE FOOD TO THE POOR
38 AND DISADVANTAGED. SUCH SUPPORT CAN INCLUDE THE PROVISION OF SURPLUS
39 COMMUNITY GARDEN FOOD OR OTHER AGRICULTURAL PRODUCTS TO SUCH LOCAL
40 VOLUNTARY FOOD ASSISTANCE PROGRAMS;

41 F. ASSIST, SUPPORT AND ENCOURAGE COMMUNICATION, AND THE SHARING OF
42 RESOURCES BETWEEN COMMUNITY GARDEN ORGANIZATIONS AND THE NEW YORK
43 HARVEST FOR NEW YORK KIDS WEEK PROGRAM ESTABLISHED BY THE DEPARTMENT
44 PURSUANT TO SUBDIVISION FIVE-B OF SECTION SIXTEEN OF THIS CHAPTER, AND
45 INDIVIDUAL FARM-TO-SCHOOL AND SCHOOL GARDEN PROGRAMS; AND

46 G. ESTABLISH A COMMUNITY GARDENS TASK FORCE PURSUANT TO SECTION THIR-
47 TY-ONE-J OF THIS ARTICLE.

48 S 4. Section 31-i of the agriculture and markets law, as added by
49 chapter 862 of the laws of 1986, is amended to read as follows:

50 S 31-i. Use of state OR MUNICIPALLY owned land for community gardens.
51 1. Any state agency[, department, board, public benefit corporation,
52 public authority] or [commission] MUNICIPALITY with title to vacant
53 public land may permit community organizations to use such lands for
54 community gardening purposes. Such use of vacant public land may be
55 conditioned on the community organization possessing liability insurance

1 and accepting liability for injury or damage resulting from use of the
2 vacant public land for community gardening purposes.

3 2. State agencies AND MUNICIPALITIES which have received an applica-
4 tion for use of public lands for community garden purposes shall respond
5 to the applicant within thirty days and make a final determination with-
6 in one hundred eighty days.

7 S 5. The agriculture and markets law is amended by adding a new
8 section 31-j to read as follows:

9 S 31-J. COMMUNITY GARDENS TASK FORCE. 1. THE OFFICE MAY CONVENE A
10 COMMUNITY GARDENS TASK FORCE TO IDENTIFY AND DEVELOP WAYS TO ENCOURAGE
11 STATE AGENCIES, MUNICIPALITIES AND PRIVATE PARTIES TO ESTABLISH AND
12 EXPAND COMMUNITY GARDENS AND THE ACTIVITIES CONDUCTED BY SUCH GARDENS.

13 2. THE TASK FORCE SHALL BE CHAIRED BY THE COMMISSIONER, OR BY SUCH
14 OFFICER OR EMPLOYEE OF THE DEPARTMENT AS SHALL BE DESIGNATED BY THE
15 COMMISSIONER. THE MEMBERSHIP OF THE TASK FORCE MAY INCLUDE REPRESENTA-
16 TION FROM THE EDUCATION DEPARTMENT, DEPARTMENT OF ENVIRONMENTAL
17 CONSERVATION, DEPARTMENT OF HEALTH, DEPARTMENT OF STATE, OFFICE OF
18 PARKS, RECREATION AND HISTORIC PRESERVATION, AND OFFICE OF GENERAL
19 SERVICES. SUCH TASK FORCE SHALL INCLUDE MEMBERS THAT REPRESENT COUNTIES,
20 CITIES, TOWNS, VILLAGES, SCHOOL DISTRICTS, OTHER SPECIAL USE DISTRICTS,
21 PUBLIC AUTHORITIES AND COOPERATIVE EXTENSION SERVICES.

22 3. THE TASK FORCE SHALL HAVE NOT MORE THAN TWENTY-FIVE MEMBERS.

23 4. THE OFFICE, MAY REQUEST THE ASSISTANCE OF STATE AGENCIES INCLUDING,
24 BUT NOT LIMITED TO THE EDUCATION DEPARTMENT, DEPARTMENT OF ENVIRONMENTAL
25 CONSERVATION, DEPARTMENT OF HEALTH, DEPARTMENT OF STATE, DEPARTMENT OF
26 CORRECTIONS AND COMMUNITY SUPERVISION, OFFICE OF STATE PARKS, RECREATION
27 AND HISTORIC PRESERVATION, AND OFFICE OF GENERAL SERVICES TO CARRY OUT
28 THE WORK OF THE TASK FORCE.

29 5. THE TASK FORCE MAY ONLY ACT WHEN THREE-FIFTHS OF ITS MEMBERSHIP ARE
30 PRESENT. ALL ACTION OF THE TASK FORCE SHALL REQUIRE AN AFFIRMATIVE VOTE
31 OF ITS MEMBERSHIP. THE TASK FORCE SHALL CONVENE AT THE CALL OF THE
32 OFFICE.

33 6. THE MEMBERS OF THE TASK FORCE SHALL RECEIVE NO COMPENSATION FOR
34 THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES
35 INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION.

36 7. (A) THE GOALS OF THE TASK FORCE MAY INCLUDE, BUT ARE NOT LIMITED
37 TO, THE STUDY, EVALUATION AND DEVELOPMENT OF RECOMMENDATIONS: (I) TO
38 ENCOURAGE THE ESTABLISHMENT AND EXPANSION OF COMMUNITY GARDENS BY STATE
39 AGENCIES, MUNICIPAL GOVERNMENTS AND PRIVATE PARTIES, (II) TO ENCOURAGE
40 COOPERATION BETWEEN THE ACTIVITIES AND OPERATIONS OF COMMUNITY GARDENS
41 AND PROVISION OF DONATED FOOD TO LOCAL VOLUNTARY FOOD ASSISTANCE
42 PROGRAMS FOR THE POOR AND DISADVANTAGED, AND (III) TO INCREASE THE BENE-
43 FITS THAT COMMUNITY GARDENS MAY PROVIDE TO THE LOCAL COMMUNITY IN WHICH
44 THEY ARE LOCATED.

45 (B) IN ACHIEVING THE GOALS OF THE TASK FORCE, THE TASK FORCE MAY
46 CONSIDER RECOMMENDATIONS THAT: (I) ENCOURAGE THE EXECUTION OF CONSERVA-
47 TION EASEMENTS BY STATE AGENCIES, MUNICIPALITIES OR PRIVATE PARTIES TO
48 ESTABLISH OR PROTECT COMMUNITY GARDENS, (II) ENCOURAGE THE CREATION OF
49 MECHANISMS TO TRANSFER DEVELOPMENT RIGHTS TO PROTECT COMMUNITY GARDENS
50 OR ENCOURAGE THE DONATION OR LEASE OF LANDS FOR COMMUNITY GARDENS, (III)
51 DEVELOPMENT OF MODEL ZONING CODES, LOCAL LAND USE LAWS OR OTHER MUNICI-
52 PAL POLICIES THAT COULD ENCOURAGE THE ESTABLISHMENT OR RETENTION OF
53 COMMUNITY GARDENS, AND (IV) ANY OTHER ACTIVITY TO ACHIEVE THE GOALS
54 DEEMED APPROPRIATE BY THE TASK FORCE ACCORDING TO THE PROVISIONS OF THIS
55 ARTICLE.

56 S 6. This act shall take effect immediately.