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

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I N S E N A T E

March 9, 2012

Introduced by Sens. STEWART-COUSINS, GIANARIS, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the location of environmental facilities

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

Section 1. Legislative intent. The legislature finds and declares that each community in the state should equitably share the responsibilities, burdens, and benefits of managing and solving the state's environmental problems and the facilities necessary to accomplish such ends. The legislature further declares that there has been an inequitable pattern in the siting of environmental facilities in minority and economically distressed communities, which have borne a disproportionate and inequitable share of such facilities. Consistent with its commitment to providing equal justice for its citizens, the state has a responsibility to establish requirements for the consideration of such decisions by state and local governments in order to insure equality of treatment for all communities.

S 2. Section 1-0303 of the environmental conservation law is amended by adding three new subdivisions 26, 27, and 28 to read as follows:

26. "ECONOMICALLY DISTRESSED AREA" SHALL MEAN AN AREA CHARACTERIZED BY A POVERTY RATE OF AT LEAST TWENTY PERCENT; OR AN UNEMPLOYMENT RATE OF AT LEAST ONE HUNDRED TWENTY-FIVE PERCENT OF THE STATEWIDE UNEMPLOYMENT RATE.

27. "MINORITY COMMUNITY" SHALL MEAN ANY CENSUS TRACT OR SUBDIVISION THEREOF THAT INCLUDES TWENTY-FIVE PERCENT OR MORE OF ANY ETHNIC GROUP.

28. "ETHNIC GROUP" SHALL MEAN THOSE GROUPS IDENTIFIED IN THE DEFINITION OF MINORITY GROUP MEMBER PURSUANT TO SUBDIVISION EIGHT OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW.

S 3. Subdivision 2 of section 8-0109 of the environmental conservation law is amended by adding a new paragraph (h-1) to read as follows:

(H-1) WHETHER SUCH ACTION MAY CAUSE OR INCREASE A DISPROPORTIONATE OR INEQUITABLE OR BOTH DISPROPORTIONATE AND INEQUITABLE BURDEN ON THOSE

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

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MINORITY COMMUNITIES OR ECONOMICALLY DISTRESSED AREAS OR MINORITY COMMUNITIES AND ECONOMICALLY DISTRESSED AREAS THAT ARE DIRECTLY OR SIGNIFICANTLY INDIRECTLY AFFECTED BY THE ACTION;

S 4. The opening paragraph of subdivision 4 of section 8-0109 of the environmental conservation law, as amended by chapter 219 of the laws of 1990, is amended to read as follows:

As early as possible in the formulation of a proposal for an action, the responsible agency shall make an initial determination AS TO whether OR NOT an environmental impact statement need be prepared for the action. IN MAKING SUCH DETERMINATION, THE RESPONSIBLE AGENCY OR APPLICANT SHALL CONSIDER WHETHER SUCH ACTION MAY CAUSE OR INCREASE A DISPROPORTIONATE OR INEQUITABLE OR BOTH DISPROPORTIONATE AND INEQUITABLE BURDEN ON THOSE MINORITY COMMUNITIES OR ECONOMICALLY DISTRESSED AREAS OR MINORITY COMMUNITIES AND ECONOMICALLY DISTRESSED AREAS THAT ARE DIRECTLY OR SIGNIFICANTLY INDIRECTLY AFFECTED BY THE ACTION. When an action is to be carried out or approved by two or more agencies, such determination shall be made as early as possible after the designation of the lead agency.

S 5. The opening paragraph of paragraph (b) of subdivision 2 of section 8-0113 of the environmental conservation law is designated subparagraph (i) and a new subparagraph (ii) is added to read as follows:

(II) SUCH CRITERIA SHALL INCLUDE CONSIDERATION OF THE EXTENT TO WHICH A PROPOSED ACTION MAY REASONABLY BE EXPECTED TO CAUSE OR INCREASE A DISPROPORTIONATE OR INEQUITABLE OR BOTH DISPROPORTIONATE AND INEQUITABLE BURDEN ON THOSE MINORITY COMMUNITIES OR ECONOMICALLY DISTRESSED AREAS OR MINORITY COMMUNITIES AND ECONOMICALLY DISTRESSED AREAS THAT ARE DIRECTLY OR SIGNIFICANTLY INDIRECTLY AFFECTED BY THE ACTION;

S 6. This act shall take effect on the thirtieth day after it shall have become a law; provided that section three of this act shall not apply to any person who has received an initial determination pursuant to subdivision 4 of section 8-0109 of the environmental conservation law prior to such date and provided further that section five of this act shall not apply to any determination of significance made prior to such date.