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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:

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

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

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

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

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

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

26 (H-1) WHETHER SUCH ACTION MAY CAUSE OR INCREASE A DISPROPORTIONATE OR
27 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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1 MINORITY COMMUNITIES OR ECONOMICALLY DISTRESSED AREAS OR MINORITY COMMU-
2 NITIES AND ECONOMICALLY DISTRESSED AREAS THAT ARE DIRECTLY OR SIGNIF-
3 ICANTLY INDIRECTLY AFFECTED BY THE ACTION;

4 S 4. The opening paragraph of subdivision 4 of section 8-0109 of the
5 environmental conservation law, as amended by chapter 219 of the laws of
6 1990, is amended to read as follows:

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

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

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

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