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

4143

2011-2012 Regular Sessions

I N A S S E M B L Y

February 1, 2011

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the preparation of a comprehensive land use plan for the South Fork Morainal Forest and Hither Hills special groundwater protection areas, and instituting a moratorium on development in such areas until the adoption of such plan

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

Section 1. Legislative findings. The legislature hereby finds that the protection of groundwater on the South Fork of Long Island has been a policy long enunciated by the state of New York.

In 1987, the legislature adopted article 55 of the environmental conservation law. This article recognized the value of preparing and implementing a groundwater watershed protection plan in special groundwater protection areas within federally designated sole source aquifers, such as the South Fork Morainal Forest special groundwater protection area and the Hither Hills special groundwater protection area.

In 1993, this legislature adopted the Long Island Pine Barrens Protection Act. This act provided for the preparation and implementation of a comprehensive land use plan for the Central Pine Barrens area. The implementation of the Central Pine Barrens Plan has been an overwhelming success and has been nationally recognized for its innovative approach to environmental and drinking water protection.

The Long Island Pine Barrens Protection Act also contained provisions to extend the benefits of its provisions to the South Fork. The towns of Southampton and East Hampton, after initially passing resolutions in 1999 to participate in such a planning process, have now abandoned such an effort. Further, no comparable planning effort has been completed and implemented by the two towns to protect the special drinking water protection areas on the South Fork.

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

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While no plan has been completed and implemented, historic increases in development activity are overwhelming the special groundwater protection areas and threatening the quality of these vital groundwater resources.

It is the purpose of this act to stop development within these special groundwater protection areas until a comprehensive land use plan has been completed and implemented. This act shall also set standards for such a plan and set a timetable for the completion of such a plan.

S 2. The environmental conservation law is amended by adding a new section 57-0126 to read as follows:

S 57-0126. SOUTH FORK COMPREHENSIVE LAND USE PLAN; MORATORIUM.

1. THE TOWNS OF EAST HAMPTON AND SOUTHAMPTON ARE HEREBY AUTHORIZED AND DIRECTED TO PREPARE A SOUTH FORK COMPREHENSIVE LAND USE PLAN FOR THE SOUTH FORK MORAINAL FOREST OF THE TOWNS OF SOUTHAMPTON AND EAST HAMPTON, SUFFOLK COUNTY, AND THE HITHER HILLS AREA OF THE TOWN OF EAST HAMPTON, SUFFOLK COUNTY. THE BOUNDARIES OF SUCH AREA SHALL BE ESTABLISHED PURSUANT TO THE COMPREHENSIVE MANAGEMENT PLAN PREPARED PURSUANT TO ARTICLE FIFTY-FIVE OF THIS CHAPTER.

2. THE GOALS OF THE SOUTH FORK COMPREHENSIVE LAND USE PLAN SHALL BE CONSISTENT WITH THE GOALS SET FORTH IN SUBDIVISION TWO OF SECTION 57-0121 OF THIS ARTICLE FOR THE CENTRAL PINE BARRENS AREA. THE CONTENTS OF THE PLAN SHALL BE CONSISTENT WITH THE PROVISIONS OF SUBDIVISION SIX OF SECTION 57-0121 OF THIS ARTICLE. THE TOWNS SHALL COMPLY WITH THE PROVISIONS OF ARTICLE EIGHT OF THIS CHAPTER BEFORE THE PLAN IS APPROVED AND IMPLEMENTED.

3. THE SOUTH FORK COMPREHENSIVE LAND USE PLAN SHALL BE COMPLETED AND APPROVED BY THE TOWN BOARDS OF THE TOWNS OF EAST HAMPTON AND SOUTHAMPTON ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN. THE NOTICE, PUBLIC HEARING, CONSULTATION AND REVIEW PROCEDURES UTILIZED TO PREPARE THE PLAN SHALL BE WITHIN THE DISCRETION OF SUCH TOWNS, PROVIDED THAT AT LEAST ONE PUBLIC HEARING IS HELD IN EACH TOWN ON THE DRAFT PLAN BEFORE ITS FINAL ADOPTION. THE FINAL LAND USE PLAN SHALL INCLUDE ANY LOCAL LAWS REQUIRED TO IMPLEMENT THE PLAN.

4. AFTER ADOPTION OF THE FINAL PLAN BY THE TOWNS, THE COMMISSIONER SHALL, ON OR BEFORE MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, CERTIFY THAT THE FINAL PLAN MEETS THE REQUIREMENTS OF THIS SECTION. IF THE PLAN IS NOT IN COMPLIANCE WITH SUCH REQUIREMENTS, THE TOWNS SHALL REVISE THE PLAN AND RETURN IT TO THE COMMISSIONER NO LATER THAN THIRTY DAYS AFTER RECEIPT BY THE COMMISSIONER. THE COMMISSIONER SHALL CERTIFY THE RE-SUBMITTED PLAN WITHIN THIRTY DAYS OF ITS RECEIPT.

5. THE TOWNS OF EAST HAMPTON AND SOUTHAMPTON SHALL IMPLEMENT THE FINAL PLAN WITHIN SIXTY DAYS OF CERTIFICATION BY THE COMMISSIONER.

6. NO DEVELOPMENT SHALL BE PERMITTED WITHIN THE SOUTH FORK MORAINAL FOREST OR HITHER HILLS SPECIAL GROUNDWATER PROTECTION AREAS UNTIL THE IMPLEMENTATION OF THE COMPREHENSIVE LAND USE PLAN HAS BEEN COMPLETED BY THE TOWNS. ANY PERSON, UPON A SHOWING OF HARDSHIPS CAUSED BY SUCH MORATORIUM ON DEVELOPMENT, MAY PETITION THE COMMISSIONER FOR A REVIEW OF THE APPLICATION OF SUCH MORATORIUM. WITHIN THIRTY DAYS AFTER THE PETITION IS RECEIVED, THE COMMISSIONER SHALL PROVIDE THE PETITIONER AND ANY OTHER PERSON AN OPPORTUNITY TO BE HEARD. NOTICE OF SUCH HEARING SHALL BE PUBLISHED IN AT LEAST TWO NEWSPAPERS HAVING A GENERAL CIRCULATION IN THE AREA WHERE THE PROPERTY IS LOCATED, AND NOTICE OF THE HEARING SHALL BE GIVEN BY REGISTERED MAIL TO THE TOWN SUPERVISOR WITHIN WHOSE TOWN THE ACTION IS LOCATED.

7. FOR PURPOSES OF THIS SECTION, THE TERM "DEVELOPMENT" SHALL BE DEFINED AS PROVIDED IN PARAGRAPHS (A) THROUGH (F) AND SUBPARAGRAPHS (I)

THROUGH (IX) OF THE SECOND UNDESIGNATED PARAGRAPH OF SUBDIVISION THIRTEEN OF SECTION 57-0107 OF THIS ARTICLE.

S 3. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 4. This act shall take effect immediately.