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

4539

2011-2012 Regular Sessions

I N A S S E M B L Y

February 4, 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 providing for the stewardship of ocean resources; and to amend the state finance law, in relation to establishing the ocean resources stewardship trust fund

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

Section 1. Section 14-0105 of the environmental conservation law is amended by adding three new subdivisions 6, 7 and 8 to read as follows:

6. "OCEAN-BASED DEVELOPMENT" SHALL INCLUDE, BUT NOT BE LIMITED TO, THE DEVELOPMENT AND INSTALLMENT OF PERMANENT OR TEMPORARY STRUCTURES AND THE MINING, REMOVAL OR OTHER EXPLORATION OF MARINE RESOURCES.

7. "OCEAN MANAGEMENT PLANNING BOARD" OR "BOARD" MEANS THE BOARD ESTABLISHED PURSUANT TO SUBDIVISION TWO OF SECTION 14-0115 OF THIS ARTICLE.

8. "OCEAN MANAGEMENT PLAN" MEANS THE PLAN PROVIDED FOR UNDER SUBDIVISION THREE OF SECTION 14-0115 OF THIS ARTICLE.

S 2. The environmental conservation law is amended by adding a new section 14-0115 to read as follows:

S 14-0115. STEWARDSHIP OF OCEAN RESOURCES.

1. LEGISLATIVE FINDINGS AND PURPOSE. POLLUTION FROM TERRESTRIAL LAND USE, COASTAL POPULATION GROWTH AND RAPID ADVANCES IN TECHNOLOGY AND COMMERCE HAVE LED TO A SIGNIFICANT INCREASE IN DEGRADATION OF THE STATE'S OCEAN RESOURCES. THE NEW YORK OCEAN AND GREAT LAKES ECOSYSTEM CONSERVATION ACT ENACTED BY THIS ARTICLE HAS ESTABLISHED THE ECOSYSTEM BASED MANAGEMENT PRINCIPLES THAT CAN CHANGE OFTEN REACTIVE AND FRAGMENTED PUBLIC DECISIONS BASED ON PARTICULAR RESOURCES TO INTEGRATED AND EFFECTIVE MANAGEMENT OF OCEAN RESOURCES.

IT IS THE PURPOSE OF THIS SECTION TO ESTABLISH AN OCEAN STEWARDSHIP POLICY FOR SOUND ECOSYSTEM BASED MANAGEMENT PRACTICES TAKING INTO ACCOUNT THE EXISTING NATURAL, SOCIAL, CULTURAL, HISTORIC AND ECONOMIC

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

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CHARACTERISTICS OF THE OCEAN PLANNING AREA; RECOGNITION THAT COMMERCIAL AND RECREATIONAL FISHERIES ARE AN INTEGRAL AND HISTORIC PART OF OUR CULTURE AND CONTRIBUTE SUBSTANTIAL ECONOMIC BENEFITS TO OUR CITIZENS, PROTECTING THE PUBLIC TRUST; VALUING BIODIVERSITY AND ECOSYSTEM HEALTH; PROTECTING SPECIAL, SENSITIVE OR UNIQUE ESTUARINE AND MARINE LIFE AND HABITATS, ADDRESSING CLIMATE CHANGE AND SEA LEVEL RISE; RESPECTING THE INTERDEPENDENCE OF ECOSYSTEMS; AND COORDINATING USES THAT INCLUDE FEDERAL, STATE AND LOCAL JURISDICTIONS.

2. A. THERE IS HEREBY ESTABLISHED THE OCEAN MANAGEMENT PLANNING BOARD. THE BOARD SHALL CONSIST OF THE COMMISSIONER WHO SHALL CHAIR THE BOARD, THE SECRETARY OF STATE, THE COMMISSIONERS OF GENERAL SERVICES AND TRANSPORTATION, THE PRESIDENT OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AND THREE MEMBERS APPOINTED BY THE GOVERNOR. THE APPOINTED MEMBERS SHALL INCLUDE AT LEAST ONE MEMBER REPRESENTATIVE OF THE INTERESTS OF RECREATIONAL OCEAN FISHING. APPOINTED MEMBERS SHALL SERVE FOR TERMS OF FOUR YEARS. MEMBERS OF THE BOARD SHALL NOT RECEIVE ANY COMPENSATION, BUT APPOINTED MEMBERS SHALL BE ENTITLED TO THEIR ACTUAL AND NECESSARY EXPENSES IN PERFORMING THE DUTIES OF THEIR OFFICE.

B. THE BOARD SHALL ADVISE THE COMMISSIONER IN THE PREPARATION OF THE OCEAN MANAGEMENT PLAN AND UPON ITS ADOPTION SHALL HAVE THE POWER TO REVIEW AND ACT UPON APPLICATIONS FOR AMENDMENTS AND VARIANCES TO THE PLAN.

3. A. THE COMMISSIONER, IN CONSULTATION WITH THE OCEAN MANAGEMENT PLANNING BOARD, THE NEW YORK OCEAN AND GREAT LAKES ECOSYSTEM CONSERVATION COUNCIL AND OTHER ADVISORY BODIES, SHALL PREPARE AND PROMULGATE AN OCEAN MANAGEMENT PLAN FOR THE OCEAN WATERS OF THE STATE OF NEW YORK FROM THE MONTAUK LIGHT HOUSE TO THE NEW YORK HARBOR, WHICH SHALL INCLUDE MAPS, ILLUSTRATIONS AND OTHER MEDIA SETTING FORTH, AMONG OTHER THINGS, THE STATE'S GOALS, POLICIES AND STANDARDS FOR ENSURING THE EFFECTIVE STEWARDSHIP OF THE OCEAN WATERS HELD IN TRUST FOR THE BENEFIT OF THE PUBLIC. SUCH PLAN SHALL INCLUDE A PLAN FOR OCEAN USE INCLUDING: (I) THE STATE'S GOALS, SITING PRIORITIES AND STANDARDS FOR THE USE AND STEWARDSHIP OF THE OCEAN; (II) TAKING INTO ACCOUNT EXISTING NATURAL, SOCIAL, CULTURAL, HISTORIC AND ECONOMIC RESOURCES; (III) PRESERVING AND PROTECTING THE PUBLIC TRUST; (IV) REFLECTING THE IMPORTANCE OF THE WATERS TO THE COMMERCIAL AND RECREATIONAL FISHERMEN; (V) IDENTIFYING AND PROTECTING SENSITIVE AQUATIC, ESTUARINE AND MARINE LIFE AND HABITATS WHICH ARE IMPORTANT FOR BIODIVERSITY AND ECOSYSTEM HEALTH THAT SUPPORT OUR FISHERY; (VI) ADDRESSING CLIMATE CHANGE AND SEA LEVEL RISE; (VII) FOSTERING SUSTAINABLE USES THAT CAPITALIZE ON ECONOMIC OPPORTUNITY WITHOUT SIGNIFICANT ENVIRONMENTAL IMPACTS; (VIII) PRESERVING AND ENHANCING PUBLIC ACCESS; (IX) SUPPORTING THE INFRASTRUCTURE NECESSARY TO SUSTAIN THE ECONOMY, INCLUDING COMMERCIAL SHIPPING; (X) FOSTERING PUBLIC PARTICIPATION IN DECISION-MAKING; AND (XI) IDENTIFYING APPROPRIATE LOCATIONS AND PERFORMANCE STANDARDS FOR VARIOUS OFFSHORE ECONOMIC USES INCLUDING ENERGY GENERATION FACILITIES. THE PLAN SHALL IDENTIFY MANAGEMENT MEASURES, INCLUDING BUT NOT LIMITED TO, SETTING PERFORMANCE STANDARDS, MITIGATION REQUIREMENTS AND USE LIMITATIONS, AS MAY BE APPLICABLE TO SPECIFIC GEOGRAPHIC AREAS AND SHALL INCLUDE STANDARDS AND CRITERIA FOR SITING SMALL-SCALE OFFSHORE RENEWABLE ENERGY FACILITIES, INCLUDING BUT NOT LIMITED TO COMPATIBILITY WITH EXISTING USES, APPROPRIATENESS OF TECHNOLOGY AND SCALE, ENVIRONMENTAL PROTECTION, PUBLIC SAFETY AND COMMUNITY BENEFIT. THE PLAN SHALL ALSO PROVIDE FOR APPLICATION OF THE REQUIREMENTS OF THE SPATIAL PLAN INCLUDING PROCEDURES FOR APPROVAL OF USES AND ACTIVITIES AND FOR VARIANCES IN CASES OF HARDSHIPS. IN PREPARING THE

PLAN, THE COMMISSIONER SHALL REACH OUT TO STAKEHOLDERS AND OTHER INTERESTED PARTIES SEEKING THEIR RECOMMENDATIONS.

B. A DRAFT PLAN SHALL BE SUBJECT TO THREE PUBLIC HEARINGS BEFORE A FINAL VERSION IS SUBMITTED FOR REVIEW AND APPROVAL OF THE GOVERNOR. WITHIN NINETY DAYS OF RECEIVING THE PLAN FROM THE COMMISSIONER, THE GOVERNOR SHALL APPROVE THE PLAN OR RETURN THE PLAN TO THE COMMISSIONER WITH RECOMMENDED CHANGES. THIS PROCESS OF SUBMITTAL AND REVIEW BY THE GOVERNOR SHALL CONTINUE UNTIL THERE IS A GOVERNOR APPROVED PLAN. UPON APPROVAL BY THE GOVERNOR, THE PLAN SHALL APPLY TO USES AND ACTIVITIES IN THE OCEAN PLANNING AREA AND APPLICATIONS FOR SUCH USES AND ACTIVITIES SHALL BE MADE, REVIEWED AND ACTED UPON AS PROVIDED IN THE PLAN.

S 3. The state finance law is amended by adding a new section 91-h to read as follows:

S 91-H. OCEAN RESOURCES STEWARDSHIP TRUST FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE "OCEAN RESOURCES STEWARDSHIP TRUST FUND".

2. THE OCEAN RESOURCES STEWARDSHIP TRUST FUND SHALL CONSIST OF ALL REVENUE FROM THE COMPENSATION OR MITIGATION RELATED TO OCEAN DEVELOPMENT, INCOME DERIVED FROM THE INVESTMENT OF AMOUNTS CREDITED TO THE FUND AND ANY APPROPRIATION OR GRANT EXPLICITLY MADE TO THE FUND.

3. MONEYS OF THE FUND, FOLLOWING APPROPRIATION BY THE LEGISLATURE, SHALL HAVE THE PRIORITY USE OF RESTORATION OR ENHANCEMENT OF MARINE HABITAT AND RESOURCES RELATED TO THE IMPACTS OF THE SPECIFIC PROJECT FROM WHICH THE COMPENSATION OR MITIGATION CAME.

S 4. The commissioner of environmental conservation, in consultation with the New York ocean and Great Lakes ecosystem conservation council, shall examine the establishment and/or modification of fees, licenses, permits, rents, leases and adjustment or development of revenue sources for the purposes of ocean resource enhancement and restoration. Nothing in this section shall provide for new or additional saltwater fishing licenses or any similar fees or user permits for saltwater fishing. Recommendations from such examination shall be made to the governor and the legislature.

S 5. This act shall take effect on the thirtieth day after it shall have become a law.