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

5152

2011-2012 Regular Sessions

I N A S S E M B L Y

February 14, 2011

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

AN ACT to amend the environmental conservation law, in relation to wet weather discharges from sanitary sewers

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

Section 1. The environmental conservation law is amended by adding a new section 17-0700 to read as follows:

S 17-0700. FACTORS FOR THE COMMISSIONER TO CONSIDER WHEN ISSUING PERMITS.

1. THE COMMISSIONER OR HIS OR HER DESIGNATED REPRESENTATIVE SHALL CONSIDER THE FOLLOWING, TO THE EXTENT ALLOWABLE UNDER THIS CHAPTER AND THE FEDERAL WATER POLLUTION CONTROL ACT FOR ALL PERMITS ISSUED PURSUANT TO THIS CHAPTER FOR ANY DISCHARGES CONSISTING OF COMBINED SEWER OVERFLOWS, REQUIRING AND APPROVING LONG-TERM CONTROL PLANS FOR WET WEATHER DISCHARGES FROM COMBINED OR SEPARATE SANITARY SEWER SYSTEMS, OR ENFORCING PROVISIONS OF THE FEDERAL WATER POLLUTION CONTROL ACT, 33 U.S.C. SECS. 1251 ET SEQ:

A. LIMITATIONS ON A COMMUNITY'S FINANCIAL CAPABILITIES AND ABILITY TO RAISE OR SECURE NECESSARY FUNDING;

B. AFFORDABILITY OF CONTROL OPTIONS;

C. AN EVALUATION OF THE EFFECTIVENESS AND AFFORDABILITY OF CONTROL TECHNOLOGIES;

D. PROMOTION OF GREEN INFRASTRUCTURE;

E. REDUCING ECONOMIC IMPACTS ON REGULATED ENTITIES, OTHER STATE AND LOCAL GOVERNMENTAL ENTITIES, AND RESIDENTS;

F. ALLOWING FOR REASONABLE ACCOMMODATIONS FOR REGULATED ENTITIES AND OTHER STATE AND LOCAL GOVERNMENTAL ENTITIES WHEN INFLEXIBLE STANDARDS AND FINES WOULD IMPOSE A DISPROPORTIONATE FINANCIAL HARDSHIP IN LIGHT OF THE ENVIRONMENTAL BENEFITS TO BE GAINED;

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

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G. GIVING PREFERENCE, WHERE PROPOSED BY A PERMITTEE, TO CONTROL OPTIONS THAT MEET PRESUMPTION APPROACH PERFORMANCE CRITERIA AND DEMONSTRATE SIGNIFICANT POLLUTION REDUCTION RATHER THAN MANDATING SPECIFIC DESIGNS;

H. ALLOWING ADEQUATE TIME AND FLEXIBILITY FOR IMPLEMENTATION SCHEDULES WHEN JUSTIFIED BY A CLEAR ENVIRONMENTAL BENEFIT, A COMMUNITY'S ABILITY TO RAISE OR SECURE ADEQUATE FUNDS, AN ANALYSIS CONCLUDING THAT THE COSTS OF A SHORTER IMPLEMENTATION SCHEDULE OUTWEIGH THE BENEFITS OF FASTER IMPLEMENTATION, OR OTHER FACTORS; AND

I. FACTORS SET FORTH IN THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S "COMBINED SEWER OVERFLOW CONTROL POLICY" THAT MAY EASE THE COST BURDENS OF IMPLEMENTING LONG-TERM CONTROL PLANS, INCLUDING BUT NOT LIMITED TO SMALL SYSTEM CONSIDERATIONS, THE ATTAINABILITY OF WATER QUALITY STANDARDS, AND THE DEVELOPMENT OF WET WEATHER STANDARDS.

S 2. This act shall take effect immediately.