

5579

2011-2012 Regular Sessions

I N A S S E M B L Y

February 23, 2011

Introduced by M. of A. ENGLEBRIGHT, SCHIMEL, GABRYSZAK, REILLY, ROSEN-
THAL, CAHILL, LAVINE, McENENY, MAISEL, JAFFEE, MILLMAN, ROBINSON,
SPANO, WEISENBERG, J. RIVERA, GIBSON, LIFTON, CASTRO -- Multi-Spon-
sored by -- M. of A. DESTITO, GLICK, GOTTFRIED, MARKEY, MURRAY, PHEF-
FER, SWEENEY, THIELE -- read once and referred to the Committee on
Tourism, Parks, Arts and Sports Development

AN ACT to amend the parks, recreation and historic preservation law, in
relation to regulating the closure and diminution of state parks,
recreational facilities and historic sites

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

1 Section 1. The parks, recreation and historic preservation law is
2 amended by adding a new article 13-A to read as follows:

3 ARTICLE 13-A

4 CLOSURE OR REDUCTION

5 SECTION 13.51 PURPOSES.

6 13.53 PARKS INFORMATIONAL CLOSURE REPORT; PUBLIC HEARINGS.

7 13.55 CLOSURE OR REDUCTION.

8 S 13.51 PURPOSES. IT IS THE PURPOSE OF THIS ARTICLE THAT THE OFFICE BE
9 REQUIRED TO CONSIDER THE FULL ARRAY OF CONSEQUENCES OF EVERY CLOSURE OR
10 REDUCTION IN THE USE OF ANY STATE PARK, RECREATIONAL FACILITY OR HISTOR-
11 IC SITE. THE LEGISLATURE HEREBY FINDS THAT THE CLOSURE OR REDUCTION IN
12 THE USE OF REAL PROPERTY OWNED OR OPERATED BY THE OFFICE MAY:

13 1. VIOLATE THE TERMS OF COVENANTS AND DEEDS WHICH GRANT OWNERSHIP OF
14 OR CONTROL OVER SUCH REAL PROPERTY TO THE STATE AND THE OFFICE;

15 2. VIOLATE THE OFFICE'S DUTY TO MAINTAIN AND PROVIDE PARKS, RECRE-
16 ATIONAL FACILITIES AND HISTORIC SITES FOR THE BENEFIT OF THE PEOPLE OF
17 THE STATE;

18 3. HAVE A SIGNIFICANT ADVERSE IMPACT ON THE ECOLOGY AND BIODIVERSITY
19 OF THE STATE PARK, RECREATIONAL FACILITY OR HISTORIC SITE, AS WELL AS

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

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1 THE REGIONAL POPULACE, ECONOMY AND POPULACE OF THE MUNICIPALITIES WITHIN
2 WHICH SUCH REAL PROPERTY IS LOCATED;

3 4. HAVE A SIGNIFICANT ADVERSE IMPACT ON EACH EDUCATIONAL INSTITUTION
4 THAT HAS UTILIZED THE STATE PARK, RECREATIONAL FACILITY OR HISTORIC SITE
5 WITHIN THE PRIOR TWENTY-FOUR MONTHS;

6 5. VIOLATE THE TERMS OF A GRANT OR GRANTS PROVIDED TO THE OFFICE
7 PURSUANT TO THE FEDERAL LAND AND WATER CONSERVATION FUND ACT OF NINETEEN
8 HUNDRED SIXTY-FIVE, AND ACTS AMENDATORY OR SUPPLEMENTAL THERETO;

9 6. FAIL TO FULLY CONSIDER THE MAINTENANCE, SAFETY AND SECURITY THERE-
10 OF; AND

11 7. FAIL TO FULLY CONSIDER ALTERNATIVE ACTIONS WHICH WOULD FACILITATE
12 THE CONTINUED OPERATION AND MAINTENANCE OF THE STATE PARK, RECREATIONAL
13 FACILITY OR HISTORIC SITE.

14 S 13.53 PARKS INFORMATIONAL CLOSURE REPORT; PUBLIC HEARINGS. 1. NOT
15 LESS THAN ONE HUNDRED TWENTY DAYS BEFORE THE OFFICE HAS PROPOSED TO
16 CLOSE OR REDUCE THE USE OF ANY STATE PARK, RECREATIONAL FACILITY OR
17 HISTORIC SITE, SUCH OFFICE SHALL PUBLISH FOR GENERAL DISTRIBUTION IN ANY
18 PRINT OR ELECTRONIC MEDIUM A PARKS INFORMATIONAL REPORT RELATING TO SUCH
19 PROPOSED CLOSURE OR REDUCTION. EVERY PARKS INFORMATIONAL CLOSURE REPORT
20 SHALL BE SUBMITTED TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE
21 SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE SENATE COMMITTEE
22 ON CULTURAL AFFAIRS, TOURISM, PARKS AND RECREATION, THE CHAIR OF THE
23 ASSEMBLY COMMITTEE ON TOURISM, PARKS, ARTS AND SPORTS DEVELOPMENT, AND
24 THE CHIEF EXECUTIVE OFFICER OF EACH COUNTY, CITY, TOWN AND/OR VILLAGE IN
25 WHICH THE STATE PARK, RECREATIONAL FACILITY OR HISTORIC SITE IS LOCATED.
26 IN ADDITION, SUCH REPORT SHALL BE PUBLISHED FOR NOT LESS THAN SEVEN
27 CONSECUTIVE DAYS IN A NEWSPAPER HAVING A GENERAL CIRCULATION IN THE
28 MUNICIPALITY IN WHICH THE PARK, FACILITY OR SITE IS LOCATED AND SHALL BE
29 INCLUDED ON THE INTERNET WEBSITE OF THE OFFICE FOR BROADER REVIEW.

30 2. THE PARKS INFORMATIONAL CLOSURE REPORT FOR EACH CLOSURE OR
31 REDUCTION IN USE SHALL INCLUDE, BUT NOT BE LIMITED TO:

32 (A) AN EVALUATION OF PARKS, RECREATIONAL FACILITIES AND HISTORIC SITES
33 AVAILABLE FOR PUBLIC USE WITHIN TWENTY-FIVE MILES OF THE STATE FACILITY
34 PROPOSED TO BE CLOSED OR REDUCED IN USE;

35 (B) AN EVALUATION OF AND REPORT ON THE ECONOMIC IMPACT OF THE CLOSURE
36 OR REDUCTION IN USE OF THE STATE FACILITY ON THE STATE AND THE MUNICI-
37 PALITIES SURROUNDING SUCH FACILITY. SUCH EVALUATION SHALL INCLUDE THE
38 COST TO THE OFFICE OF OPERATING SUCH FACILITY, THE REVENUE GENERATED BY
39 THE OPERATION OF SUCH FACILITY, THE REVENUE PAYABLE TO SURROUNDING COUN-
40 TIES, CITIES, TOWNS AND VILLAGES GENERATED BY THE OPERATION OF SUCH
41 FACILITY, AND THE ESTIMATED COST OF RE-OPENING SUCH FACILITY;

42 (C) AN EVALUATION OF AND REPORT ON THE USE OF THE STATE FACILITY BY
43 EDUCATIONAL INSTITUTIONS;

44 (D) A DETERMINATION OF WHETHER ANY MONEYS FROM THE FEDERAL LAND AND
45 WATER CONSERVATION FUND WERE EXPENDED AT THE STATE FACILITY PROPOSED TO
46 BE CLOSED OR REDUCED IN USE AND, IF SO, A DETERMINATION BY THE FEDERAL
47 SECRETARY OF THE INTERIOR ON THE PERMITTED USES OF SUCH STATE FACILITY;

48 (E) A SECURITY PLAN TO BE IMPLEMENTED UPON THE CLOSURE OR REDUCTION IN
49 USE OF THE STATE FACILITY TO PREVENT VANDALISM AND ENSURE PUBLIC SAFETY
50 THEREAT;

51 (F) A MAINTENANCE PLAN AND SCHEDULE FOR THE CONTINUED UPKEEP OF THE
52 BUILDINGS, STRUCTURES AND LAND AT THE STATE FACILITY PROPOSED TO BE
53 CLOSED OR REDUCED IN USE. SUCH PLAN SHALL INCLUDE, BUT NOT BE LIMITED
54 TO, THE CONTINUED MOWING OF GRASSES AND BRUSH, AND PROVIDE FOR THE REGU-
55 LAR INSPECTION OF SUCH FACILITY BY AN OFFICER OR EMPLOYEE OF THE
56 REGIONAL PARK, RECREATION AND HISTORIC PRESERVATION COMMISSION AT LEAST

1 ONCE EVERY MONTH TO ASCERTAIN WHETHER SUCH FACILITY IS BEING MAINTAINED
2 IN ACCORDANCE WITH THE MAINTENANCE PLAN;

3 (G) AN EVALUATION AND REPORT ON THE ADVERSE ECOLOGICAL IMPACT OF THE
4 CLOSURE OR REDUCTION IN USE OF THE STATE FACILITY, INCLUDING ANY POTEN-
5 TIAL LOSS OF NATIVE SPECIES OF PLANTS OR ANIMALS OR THE INTRODUCTION OR
6 SPREAD OF INVASIVE NON-NATIVE SPECIES OF PLANTS OR ANIMALS; AND

7 (H) AN OUTLINE OF ALTERNATIVE ACTIONS THAT MAY BE TAKEN BY THE OFFICE
8 TO ENSURE THE CONTINUED FULL USE OF THE STATE FACILITY. SUCH ALTERNATIVE
9 ACTIONS SHALL INCLUDE THE PREPARATION OF REQUESTS FOR PROPOSALS AND
10 AGREEMENTS WITH ANY NOT-FOR-PROFIT CORPORATION AND/OR MUNICIPALITY FOR
11 THE PROVISION OF ANY SERVICE OR FINANCIAL SUPPORT AT THE STATE FACILITY
12 PROPOSED TO BE CLOSED OR REDUCED IN USE. NO PROVISION OF SUCH OUTLINE
13 SHALL PROVIDE FOR THE SURRENDER OR DIMINUTION OF THE JURISDICTION OF THE
14 OFFICE OVER SUCH FACILITY.

15 3. NOT MORE THAN THIRTY DAYS AFTER THE ISSUANCE OF A PARKS INFORMA-
16 TIONAL CLOSURE REPORT, THE OFFICE SHALL CONDUCT NOT LESS THAN THREE
17 PUBLIC HEARINGS, TWO OF WHICH SHALL BE CONDUCTED WITHIN TWENTY MILES OF
18 THE STATE FACILITY OF WHICH ONE MUST BE CONDUCTED IN THE EVENING THAT IS
19 THE SUBJECT OF SUCH REPORT, AND ONE OF WHICH SHALL BE CONDUCTED EITHER
20 IN THE CITY OF NEW YORK OR IN THE CITY OF ALBANY, FOR THE PURPOSE OF
21 REVIEWING AND RECEIVING PUBLIC COMMENT UPON SUCH REPORT. AT EACH SUCH
22 HEARING THE OFFICE SHALL EMPLOY STENOGRAPHERS TO RECORD THE TESTIMONY
23 GIVEN. WITHIN FIVE DAYS AFTER EACH PUBLIC HEARING A COPY OF THE TRAN-
24 SCRIPT OF THE HEARING SHALL BE DELIVERED TO THE GOVERNOR, THE TEMPORARY
25 PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE
26 SENATE COMMITTEE ON CULTURAL AFFAIRS, TOURISM, PARKS AND RECREATION, THE
27 CHAIR OF THE ASSEMBLY COMMITTEE ON TOURISM, PARKS, ARTS AND SPORTS
28 DEVELOPMENT, AND THE CHIEF EXECUTIVE OFFICER OF EACH COUNTY, CITY, TOWN
29 AND/OR VILLAGE IN WHICH THE STATE PARK, RECREATIONAL FACILITY OR HISTOR-
30 IC SITE IS LOCATED.

31 4. NOT MORE THAN THIRTY DAYS AFTER NOTICE OF ANY PROPOSED CHANGE IS
32 MADE TO EITHER THE MISSION OF THE OFFICE, OR WITH REGARD TO THE ENTITY
33 CHARGED WITH OVERSIGHT RESPONSIBILITY FOR STATE PARKS, RECREATIONAL
34 FACILITIES OR HISTORIC SITES, THE OFFICE SHALL CONDUCT THREE PUBLIC
35 HEARINGS OF WHICH: ONE SHALL BE HELD IN THE CITY OF NEW YORK, ONE SHALL
36 BE HELD IN THE CITY OF ALBANY AND ONE SHALL BE HELD IN THE CITY OF
37 BUFFALO. SUCH HEARINGS SHALL BE HELD FOR THE PURPOSES OF RECEIVING AND
38 EVALUATING PUBLIC COMMENT ON THE IMPLICATIONS OF THE PROPOSED CHANGE TO
39 SUCH PARK'S, FACILITY'S OR SITE'S VIABILITY AND PUBLIC ACCESS THERETO.

40 S 13.55 CLOSURE OR REDUCTION. NO STATE PARK, RECREATIONAL FACILITY OR
41 HISTORIC SITE SHALL BE CLOSED OR REDUCED IN USE UNTIL THE STATE LEGISLA-
42 TURE SHALL HAVE BEEN IN RECEIPT OF THE APPROPRIATE PARKS INFORMATIONAL
43 CLOSURE REPORT AND THE TRANSCRIPT OF THE PUBLIC HEARINGS HELD THEREON
44 FOR NOT LESS THAN FORTY-FIVE DAYS AND THE LEGISLATURE SHALL HAVE
45 APPROVED A CONCURRENT RESOLUTION AUTHORIZING SUCH CLOSURE OR REDUCTION
46 IN USE.

47 S 2. This act shall take effect immediately.