

1146

2011-2012 Regular Sessions

I N   S E N A T E

January 5, 2011

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Introduced by Sen. 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 establishing the "New York state environmental justice act"

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

- 1     Section 1. Short title. This act shall be known as the "New York state  
2 environmental justice act".
- 3     S 2. Legislative findings and purpose. The legislature hereby finds  
4 and declares that:
- 5     1. Racial and ethnic minority populations and low-income communities  
6 bear a disproportionate share of the health risks caused by polluted air  
7 and contaminated water, and by solid waste landfills, hazardous waste  
8 facilities, waste water treatment plants, waste incinerators, and other  
9 similar projects.
- 10    2. This disproportionate impact of environmental hazards on minority  
11 and low-income communities is largely the result of past governmental  
12 decisions.
- 13    3. The federal government underscored the importance of environmental  
14 justice in executive order 12898 and created the national environmental  
15 justice advisory council to promote environmental justice in the envi-  
16 ronmental protection agency's policies, programs, initiatives and activ-  
17 ities.
- 18    4. The state is committed to ensuring that communities are afforded  
19 fair treatment and meaningful involvement in decision-making regardless  
20 of race, color, ethnicity, religion, income or education level.
- 21    The purpose of this law is to establish governmental procedures in  
22 order to safeguard residents' health and welfare, and achieve environ-  
23 mental justice.
- 24    S 3. The environmental conservation law is amended by adding a new  
25 article 74 to read as follows:

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

LBD01741-01-1

## ARTICLE 74

## NEW YORK STATE ENVIRONMENTAL JUSTICE ACT

SECTION 74-1001. DEFINITIONS.

74-1002. IMPLEMENTATION OF ENVIRONMENTAL JUSTICE POLICIES.

74-1003. ENVIRONMENTAL JUSTICE TASK FORCE.

S 74-1001. DEFINITIONS.

FOR PURPOSES OF THIS ARTICLE "ENVIRONMENTAL JUSTICE" MEANS THE FAIR TREATMENT OF PEOPLE OF ALL RACES, CULTURES AND INCOMES IN THE DEVELOPMENT, ADOPTION, IMPLEMENTATION AND ENFORCEMENT OF ENVIRONMENTAL LAWS AND POLICIES.

S 74-1002. IMPLEMENTATION OF ENVIRONMENTAL JUSTICE POLICIES.

1. ALL STATE AGENCIES, BOARDS, COMMISSIONS AND OTHER BODIES INVOLVED IN DECISIONS THAT MAY AFFECT ENVIRONMENTAL QUALITY SHALL ADOPT AND IMPLEMENT ENVIRONMENTAL JUSTICE POLICIES PROVIDING MEANINGFUL OPPORTUNITIES FOR INVOLVEMENT TO ALL PEOPLE, REGARDLESS OF RACE, COLOR, ETHNICITY, RELIGION, INCOME OR EDUCATION LEVEL.

2. ALL STATE PROGRAMS AND POLICIES DESIGNED TO PROTECT THE ENVIRONMENT SHALL BE REVIEWED PERIODICALLY TO ENSURE THAT PROGRAM IMPLEMENTATION AND DISSEMINATION OF INFORMATION MEET THE NEEDS OF LOW-INCOME AND MINORITY COMMUNITIES, AND SEEK TO ADDRESS DISPROPORTIONATE EXPOSURE TO ENVIRONMENTAL HAZARDS.

3. THE DEPARTMENT WILL USE AVAILABLE ENVIRONMENTAL AND PUBLIC HEALTH DATA TO IDENTIFY EXISTING AND PROPOSED INDUSTRIAL AND COMMERCIAL FACILITIES AND AREAS IN COMMUNITIES OF COLOR AND LOW-INCOME COMMUNITIES FOR WHICH COMPLIANCE, ENFORCEMENT, REMEDIATION, SITING AND PERMITTING STRATEGIES WILL BE TARGETED TO ADDRESS IMPACTS FROM THESE FACILITIES.

4. THE DEPARTMENT SHALL CREATE AN ENVIRONMENTAL JUSTICE ADVISORY COUNCIL TO ADVISE THE DEPARTMENT AND THE ENVIRONMENTAL JUSTICE TASK FORCE ON ENVIRONMENTAL JUSTICE ISSUES. THE COUNCIL SHALL CONSIST OF FIFTEEN INDIVIDUALS AND WILL MEET AT LEAST QUARTERLY. THE COUNCIL SHALL ANNUALLY SELECT A CHAIRPERSON FROM ITS MEMBERSHIP AND SHALL HAVE A COMPOSITION OF ONE-THIRD MEMBERSHIP FROM GRASSROOTS OR FAITH-BASED COMMUNITY ORGANIZATIONS, WITH ADDITIONAL MEMBERSHIP TO INCLUDE REPRESENTATIVES FROM THE FOLLOWING COMMUNITIES: ACADEMIC PUBLIC HEALTH, STATEWIDE ENVIRONMENTAL, CIVIL RIGHTS AND PUBLIC HEALTH ORGANIZATIONS, LARGE AND SMALL BUSINESS AND INDUSTRY, MUNICIPAL AND COUNTY OFFICIALS, AND ORGANIZED LABOR.

S 74-1003. ENVIRONMENTAL JUSTICE TASK FORCE.

1. THE COMMISSIONER AND THE COMMISSIONER OF THE DEPARTMENT OF HEALTH, OR THEIR APPOINTED DESIGNEES, SHALL CONVENE A MULTI-AGENCY TASK FORCE, TO BE NAMED THE ENVIRONMENTAL JUSTICE TASK FORCE. THIS TASK FORCE WILL INCLUDE SENIOR MANAGEMENT DESIGNEES FROM THE GOVERNOR COUNSEL'S OFFICE, THE ATTORNEY GENERAL'S OFFICE, THE DEPARTMENTS OF HEALTH, AGRICULTURE AND MARKETS, TRANSPORTATION, AND EDUCATION. THE TASK FORCE SHALL BE AN ADVISORY BODY, THE PURPOSE OF WHICH IS TO MAKE RECOMMENDATIONS TO STATE AGENCY HEADS REGARDING ACTIONS TO BE TAKEN TO ADDRESS ENVIRONMENTAL JUSTICE ISSUES CONSISTENT WITH EACH AGENCY'S EXISTING STATUTORY AND REGULATORY AUTHORITY. THE TASK FORCE IS AUTHORIZED TO CONSULT WITH, AND EXPAND ITS MEMBERSHIP TO, OTHER STATE AGENCIES AS NEEDED TO ADDRESS CONCERNS RAISED IN AFFECTED COMMUNITIES.

2. ANY COMMUNITY MAY FILE A PETITION WITH THE TASK FORCE THAT ASSERTS THAT RESIDENTS AND WORKERS IN THE COMMUNITY ARE SUBJECT TO DISPROPORTIONATE ADVERSE EXPOSURE TO ENVIRONMENTAL HEALTH RISKS, OR DISPROPORTIONATE ADVERSE EFFECTS RESULTING FROM THE IMPLEMENTATION OF LAWS AFFECTING PUBLIC HEALTH OR THE ENVIRONMENT.

3. THE TASK FORCE SHALL IDENTIFY A SET OF COMMUNITIES FROM THE PETITIONS FILED, BASED ON SELECTION CRITERIA DEVELOPED BY THE TASK

1 FORCE, INCLUDING CONSIDERATION OF STATE AGENCY RESOURCE CONSTRAINTS. THE  
2 TASK FORCE SHALL MEET DIRECTLY WITH THE SELECTED COMMUNITIES TO UNDER-  
3 STAND THEIR CONCERNS.

4 4. THE TASK FORCE SHALL DEVELOP AN ACTION PLAN FOR EACH OF THE  
5 SELECTED COMMUNITIES AFTER CONSULTATION WITH THE CITIZENS, AS WELL AS  
6 LOCAL AND COUNTY GOVERNMENT AS RELEVANT, THAT WILL ADDRESS ENVIRONMENTAL  
7 FACTORS THAT AFFECT COMMUNITY HEALTH. THE ACTION PLAN SHALL CLEARLY  
8 DELINEATE THE STEPS THAT WILL BE TAKEN IN EACH OF THE SELECTED COMMUNI-  
9 TIES TO REDUCE EXISTING ENVIRONMENTAL BURDENS AND AVOID OR REDUCE THE  
10 IMPOSITION OF ADDITIONAL ENVIRONMENTAL BURDENS THROUGH ALLOCATIONS OF  
11 RESOURCES, EXERCISE OF REGULATORY DISCRETION, AND DEVELOPMENT OF NEW  
12 STANDARDS AND PROTECTIONS. THE ACTION PLAN, WHICH SHALL BE DEVELOPED IN  
13 CONSULTATION WITH THE ENVIRONMENTAL JUSTICE ADVISORY COUNCIL, WILL SPEC-  
14 IFY COMMUNITY DELIVERABLES, A TIMEFRAME FOR IMPLEMENTATION, AND THE  
15 JUSTIFICATION AND AVAILABILITY OF FINANCIAL AND OTHER RESOURCES TO  
16 IMPLEMENT THE PLAN. THE TASK FORCE SHALL PRESENT THE ACTION PLAN TO THE  
17 RELEVANT DEPARTMENTS, RECOMMENDING ITS IMPLEMENTATION.

18 5. THE TASK FORCE SHALL MONITOR THE IMPLEMENTATION OF EACH ACTION PLAN  
19 IN THE SELECTED COMMUNITIES, AND SHALL MAKE RECOMMENDATIONS TO STATE  
20 AGENCIES AS NECESSARY TO FACILITATE IMPLEMENTATION OF THE ACTION PLANS.  
21 AGENCIES SHALL IMPLEMENT THE STRATEGY TO THE FULLEST EXTENT PRACTICABLE  
22 IN LIGHT OF STATUTORY AND RESOURCE CONSTRAINTS.

23 S 4. This act shall take effect July 1, 2012; provided however, that  
24 the environmental justice task force and the environmental justice advi-  
25 sory council shall be established and operating by October 1, 2012.