

6173

I N S E N A T E

January 9, 2012

Introduced by Sen. GRISANTI -- 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, the state finance law and the town law, in relation to making technical corrections; to repeal section 27-2109 of the environmental conservation law relating to the advisory committee on mercury pollution; to repeal section 11-2003 of the environmental conservation law relating to the New York state bird conservation area program advisory committee; to repeal section 11-1005 of the environmental conservation law relating to the falconry advisory board; to repeal title 11 of article 24 and subdivision 7 of section 24-0107 of the environmental conservation law relating to the freshwater wetlands appeals board; to repeal section 9-0705 of the environmental conservation law relating to the regional forest practice boards; to repeal section 9-0707 of the environmental conservation law relating to the state forest practice board; to repeal section 27-0702 of the environmental conservation law relating to the solid waste management board; and to repeal article 5 and section 19-0917 of the environmental conservation law relating to the state environmental board

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

1 Section 1. Section 27-2109 of the environmental conservation law is
2 REPEALED.
3 S 2. Section 11-2003 of the environmental conservation law is
4 REPEALED.
5 S 3. Section 11-1005 of the environmental conservation law is
6 REPEALED.
7 S 4. Title 11 of article 24 of the environmental conservation law is
8 REPEALED.
9 S 5. Subdivision 7 of section 24-0107 of the environmental conserva-
10 tion law is REPEALED and subdivision 8 is renumbered subdivision 7.
11 S 6. Subdivision 1 of section 24-0301 of the environmental conserva-
12 tion law, as amended by chapter 654 of the laws of 1977, is amended to
13 read as follows:

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

LBD13930-01-2

1 1. The commissioner shall, as soon as practicable, conduct a study to
2 identify and map those individual freshwater wetlands in the state of
3 New York which shall have an area of at least twelve and four-tenths
4 acres or more, or if less than twelve and four-tenths acres, (a) have,
5 in the discretion of the commissioner[, and subject to review of his
6 action by the board created pursuant to title eleven of this article],
7 unusual local importance for one or more of the specific benefits set
8 forth in subdivision seven of section 24-0105 or (b) are located within
9 the Adirondack park and meet the definition of wetlands contained in
10 subdivision sixty-eight of section eight hundred two of article twenty-
11 seven of the executive law, and shall determine their characteristics.
12 This study shall, in addition to such other data as the commissioner may
13 determine to be included, consist of the freshwater wetlands inventory
14 of the department [of environmental conservation], currently being made,
15 together with other available data on freshwater wetlands, whether
16 assisted by the state of New York under the tidal wetlands act or other-
17 wise, or assembled by federal or local governmental or private agencies,
18 all of which information shall be assembled and integrated, as applica-
19 ble, into a map of freshwater wetlands of the state of New York. Such
20 study may, in the discretion of the commissioner, be carried out on a
21 sectional or regional basis, as indicated by need, subject to overall
22 completion in an expeditious fashion subject to the terms of this chap-
23 ter. This map, and any orders issued pursuant to the provisions of this
24 article, shall comprise a part of the statewide environmental plan as
25 provided for in section 3-0303 of this chapter. As soon as practicable
26 the commissioner shall file with the secretary of state a detailed
27 description of the technical methods and requirements to be utilized in
28 compiling the inventory, and he shall afford the public an opportunity
29 to submit comments thereon.

30 S 7. Any matters pending before the freshwater wetlands appeals board
31 shall be transferred and continued in the department of environmental
32 conservation in accordance with article 3 of the state administrative
33 procedure act.

34 S 8. Section 24-0507 of the environmental conservation law, as amended
35 by chapter 654 of the laws of 1977, is amended to read as follows:
36 S 24-0507. Reservation of local jurisdiction.

37 Except as provided in this article, jurisdiction over all areas which
38 would qualify as freshwater wetlands except that they are not designated
39 as such on the freshwater wetlands map pursuant to section 24-0301 of
40 this article because they are less than twelve and four-tenths acres in
41 size and are not of unusual local importance is reserved to the city,
42 town or village in which they are wholly or partially located, and the
43 implementation of this article with respect thereto is the responsibil-
44 ity of said city, town or village, in accordance with section 24-0501
45 and title twenty-three of article seventy-one of this chapter, except
46 that a city, town or village in the exercise of its powers under this
47 section, shall not be subject to the provisions of subdivision four of
48 section 24-0501, subdivisions two and three of section 24-0503, or
49 section 24-0505[, but shall be subject to judicial review under subdivi-
50 sion two of section 24-1105 of this article].

51 S 9. Subdivision 5 of section 24-0703 of the environmental conserva-
52 tion law, as amended by chapter 233 of the laws of 1979, is amended to
53 read as follows:

54 5. Prior to the promulgation of the final freshwater wetlands map in a
55 particular area and the implementation of a freshwater wetlands
56 protection law or ordinance, no person shall conduct, or cause to be

1 conducted, any activity for which a permit is required under section
2 24-0701 of this article on any freshwater wetland unless he has obtained
3 a permit from the commissioner under this section. Any person may
4 inquire of the department as to whether or not a given parcel of land
5 will be designated a freshwater wetland subject to regulation. The
6 department shall give a definite answer in writing within thirty days of
7 such request as to whether such parcel will or will not be so desig-
8 nated. Provided that, in the event that weather or ground conditions
9 prevent the department from making a determination within thirty days,
10 it may extend such period until a determination can be made. Such answer
11 in the affirmative shall be reviewable pursuant to [title eleven of
12 this] article SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES; such an
13 answer in the negative shall be a complete defense to the enforcement of
14 this article PURSUANT TO ARTICLE SEVENTY-ONE OF THIS CHAPTER as to such
15 parcel of land. The commissioner may by regulation adopted after public
16 hearing exempt categories or classes of wetlands or individual wetlands
17 which he determines not to be critical to the furtherance of the poli-
18 cies and purposes of this article.

19 S 10. Subdivision 6 of section 24-0705 of the environmental conserva-
20 tion law, as amended by chapter 654 of the laws of 1977, is amended to
21 read as follows:

22 6. Review of the determination of the local government or of the
23 commissioner shall be, within a period of thirty days after the filing
24 thereof, pursuant to the provisions of [title eleven of this article or]
25 article seventy-eight of the civil practice law and rules. Any owner of
26 the wetland affected and any resident or citizen of the local government
27 shall be deemed to have the requisite standing to seek review.

28 S 11. Subdivision 2 of section 24-0801 of the environmental conserva-
29 tion law, as added by chapter 654 of the laws of 1977, is amended to
30 read as follows:

31 2. Where the activities otherwise subject to regulation under this
32 article involve freshwater wetlands located within the boundaries of the
33 Adirondack park, the inquiries referred to and the applications provided
34 for in section 24-0703 of this article shall be made to and filed with
35 the Adirondack park agency at its headquarters office, under such regu-
36 lations and procedures as the Adirondack park agency may promulgate. The
37 Adirondack park agency shall review the application in place of the
38 commissioner or local government as provided in section 24-0705 of this
39 article, having due regard for the declaration of policy and statement
40 of findings set forth in this article and for the considerations set
41 forth in subdivision one of section 24-0705 of this article. The agency
42 shall in addition determine prior to the granting of any permit that the
43 proposed activity will be consistent with the Adirondack park land use
44 and development plan and would not have an undue adverse impact upon the
45 natural, scenic, aesthetic, ecological, wildlife, historic, recreational
46 or open space resources of the park, taking into account the economic
47 and social or other benefits to be derived from the activity. Any person
48 may seek review of a ruling made solely pursuant to the provisions of
49 this article by the Adirondack park agency pursuant to [the provisions
50 of title eleven of this article or] article seventy-eight of the civil
51 practice law and rules.

52 S 12. Subdivision 7 of section 24-0903 of the environmental conserva-
53 tion law, as added by chapter 614 of the laws of 1975, is amended to
54 read as follows:

55 7. Any person aggrieved by any such order or regulation may seek
56 [review pursuant to the provisions of title eleven of this article or]

1 judicial review pursuant to article seventy-eight of the civil practice
2 law and rules in the supreme court for the county in which the freshwa-
3 ter wetland is located, within thirty days after the date of the filing
4 of the order with the clerk of the county in which the wetland is
5 located.

6 S 13. Section 9-0705 of the environmental conservation law is
7 REPEALED.

8 S 14. Section 9-0707 of the environmental conservation law is
9 REPEALED.

10 S 15. Section 27-0702 of the environmental conservation law is
11 REPEALED.

12 S 16. The opening paragraph of subdivision 2 of section 27-0103 of the
13 environmental conservation law, as amended by chapter 55 of the laws of
14 1992, is amended to read as follows:

15 The commissioner shall[, with the advice of the state solid waste
16 management board established pursuant to section 27-0702 of this arti-
17 cle,] biennially review the status of programs and information contained
18 within the plan and make recommendations for legislation or other state
19 action related to:

20 S 17. Paragraph g of subdivision 3 of section 165 of the state finance
21 law, as amended by chapter 95 of the laws of 2000, is amended to read as
22 follows:

23 g. In addition to carrying out the provisions of paragraphs e and f of
24 this subdivision, the commissioner shall identify and implement specific
25 steps which will reduce, to the maximum extent practicable, waste gener-
26 ated in state facilities and maximize the recovery and reuse of second-
27 ary materials from such facilities. Such steps and their implementation
28 shall be reviewed from time to time but no less frequently than annually
29 or upon receiving recommendations for additional steps from [the solid
30 waste management board,] the department of environmental conservation or
31 the environmental facilities corporation.

32 S 18. Article 5 of the environmental conservation law is REPEALED.

33 S 19. Section 19-0917 of the environmental conservation law is
34 REPEALED.

35 S 20. Subdivision 11 of section 341 of the town law, as amended by
36 chapter 792 of the laws of 1934, is amended to read as follows:

37 11. Nothing in this act shall affect or impair the provisions and
38 requirements of articles [five] SIX to fourteen, both inclusive, of the
39 ENVIRONMENTAL conservation law, nor affect, impair nor repeal chapter
40 five hundred sixteen of the laws of nineteen hundred twenty-eight, as
41 amended.

42 S 21. This act shall take effect immediately.