

STATE OF NEW YORK

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IN SENATE

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Introduced by Sens. PARKER, ADDABBO, AVELLA, BAILEY, CARLUCCI, HOYLMAN, LATIMER, MONTGOMERY, PERKINS, SERRANO, STAVISKY -- 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 a permanent environmental justice advisory group and an environmental justice interagency coordinating council

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The environmental conservation law is amended by adding a
2 new article 48 to read as follows:

ARTICLE 48

ENVIRONMENTAL JUSTICE

Section 48-0101. Declaration of policy.

48-0103. Definitions.

48-0105. Permanent environmental justice advisory group.

48-0107. Powers and duties.

48-0109. Agency responsibilities.

48-0111. Environmental justice interagency coordinating council.

48-0113. Separability.

§ 48-0101. Declaration of policy.

13 1. It is hereby declared to be the policy of this state that all
14 people, regardless of race, color, religion, national origin or income,
15 have a right to fair treatment and meaningful involvement in the devel-
16 opment, implementation and enforcement of laws, regulations and policies
17 that affect the quality of the environment.

18 2. It shall further be the policy of the state that no group of
19 people, including a racial, ethnic or socioeconomic group, should be
20 disproportionately exposed to pollution or bear a disproportionate share
21 of the negative environmental consequences resulting from industrial,

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

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1 municipal or commercial operations, or the execution of federal, state,
2 local or tribal programs and policies.

3 3. It shall further be the policy of the state that no group of
4 people, including a racial, ethnic or socioeconomic group, should suffer
5 from inequitable allocation of public resources or financial assistance
6 for environmental protection and stewardship, including environmental
7 remediation, pollution prevention, open space acquisition and/or other
8 protection and stewardship activities.

9 4. It shall further be the policy of the state that opportunities for
10 citizen involvement in the development, implementation and enforcement
11 of laws, regulations and policies that affect the quality of the envi-
12 ronment be as reflective of the diversity of interests and perspective
13 found within the affected community as possible, including those of
14 racial, ethnic and socioeconomic groups; that they be provided as early
15 as possible in the decision making process prior to the selection of a
16 preferred course of action by federal, state, local or tribal agencies;
17 that they provide full, timely and accessible disclosure and sharing of
18 information by the government agency or agencies involved, including the
19 provision of technical data and the assumptions upon which any analyses
20 are based; and that they allow all people, regardless of race, color,
21 religion, national origin or income, the opportunity to have their views
22 heard and considered, including opportunities for two-way dialogue.

23 § 48-0103. Definitions.

24 As used in this article:

25 1. "Advisory group" means the permanent environmental justice advisory
26 group established by section 48-0105 of this article.

27 2. "Agency" means any department, board, bureau, commission, division,
28 office, council, committee or officer of the state, or any public
29 authority or public benefit corporation at least one of whose members is
30 appointed by the governor.

31 3. "Environmental justice" means the fair treatment and meaningful
32 involvement of all people regardless of race, color, religion, national
33 origin or income with respect to the development, implementation and
34 enforcement of laws, regulations and policies affecting the quality of
35 the environment.

36 4. "Fair treatment" means that no group of people, including a racial,
37 ethnic or socioeconomic group, should be disproportionately exposed to
38 pollution or bear a disproportionate share of the negative environmental
39 consequences resulting from industrial, municipal and commercial oper-
40 ations or the execution of federal, state, local and tribal programs and
41 policies, and further means that no such group of people should suffer
42 from inequitable allocation of public resources or financial assistance
43 for environmental protection and stewardship, including environmental
44 remediation, pollution prevention, open space acquisition and other
45 protection and stewardship activities.

46 5. "Meaningful involvement" means the provision of opportunities for
47 citizen participation in decision making that are as reflective of the
48 diversity of interests and perspective found within the affected commu-
49 nity as possible, including those of racial, ethnic and socioeconomic
50 groups; that are provided as early as possible in the decision making
51 process prior to the selection of a preferred course of action by a
52 decision making agency or agencies; that provide full, timely and acces-
53 sible disclosure and sharing of information by the government agency or
54 agencies involved, including the provision of technical data and the
55 assumptions upon which any analyses are based; and that allow all
56 people, regardless of race, color, religion, national origin or income,

1 the opportunity to have their views heard and considered, including
2 opportunities for two-way dialogue.

3 § 48-0105. Permanent environmental justice advisory group.

4 1. The permanent environmental justice advisory group is hereby estab-
5 lished in the department to consist of seventeen members, as follows:

6 (a) Five members shall be representatives of community-based organiza-
7 tions that advise or assist minority and low-income communities on envi-
8 ronmental matters.

9 (b) Four members shall be representatives of businesses that hold
10 permits or otherwise operate subject to this chapter.

11 (c) Two members shall be representatives of environmental conservation
12 offices of local government.

13 (d) The remaining members shall be representatives of state or
14 national organizations promoting environmental conservation, research-
15 ers, educators and members of the general public.

16 (e) One of the members appointed pursuant to each of paragraphs (a),
17 (b), (c) and (d) of this subdivision shall be appointed by the temporary
18 president of the senate, and one of the members appointed pursuant to
19 each of paragraphs (a), (b), (c) and (d) of this subdivision shall be
20 appointed by the speaker of the assembly. One member shall be appointed
21 by the minority leader of the senate and one member shall be appointed
22 by the minority leader of the assembly. The remaining members appointed
23 pursuant to this subdivision shall be appointed by the governor. The
24 replacement of any member shall be in accordance with the provisions
25 contained in this section for appointment of members.

26 2. (a) Each member of the advisory group shall serve for a term of
27 four years or until his or her successor is appointed. A member
28 appointed to fill a vacancy shall serve the remainder of the term of the
29 member he or she is appointed to succeed. The members of the advisory
30 group shall receive no compensation for their services but shall be
31 reimbursed for their expenses actually and necessarily incurred in the
32 performance of their duties hereunder.

33 (b) The advisory group shall select a chair from among the members.
34 The advisory group shall meet as frequently as necessary, but not less
35 than three times per year. Such meetings shall be held at such locations
36 as the advisory group may determine. All such meetings shall be subject
37 to the open meetings law. At least one meeting annually shall be held
38 jointly with the environmental justice interagency coordinating council
39 established pursuant to section 48-0111 of this article. Each member of
40 the advisory group shall be entitled to designate in writing a represen-
41 tative to attend meetings in his or her place and to vote or otherwise
42 act on his or her behalf in his or her absence.

43 (c) Staff services for the advisory group shall be performed, insofar
44 as practicable, by personnel of the department. The advisory group may
45 request and shall receive from any state agency such assistance and data
46 as will enable it properly to carry out its activities hereunder and
47 effectuate the purposes set forth herein.

48 § 48-0107. Powers and duties.

49 The advisory group shall have the power and duty to:

50 1. adopt a model environmental justice policy applicable generally to
51 state agencies that engage in activities or operations that may have a
52 significant effect on the environment, including but not limited to
53 through the adoption of rules and regulations, issuance of permits,
54 acquisition or maintenance of property, or approval, funding or under-
55 taking of projects. Such policy shall be adopted not later than one year
56 after the effective date of this article. The advisory group shall

1 develop the model policy in consultation with representatives of minori-
2 ty and low-income communities, regulated parties, the environmental
3 justice interagency coordinating council and other state agencies and
4 the public and shall hold a public hearing thereon in each judicial
5 department. Notice of such hearings and notice of the adoption of the
6 model policy shall be published in the state register;

7 2. advise state agencies of their responsibilities under section
8 48-0109 of this article;

9 3. monitor compliance with the environmental justice policies of state
10 agencies, make recommendations to the governor, legislature and state
11 agencies on measures to improve such policies, and report not less than
12 annually on the extent to which agencies are in compliance with the
13 requirements of this article and other state laws and Federal laws and
14 regulations relating to environmental justice;

15 4. provide comments on any proposed rule, regulation or policy of a
16 state or federal agency related to environmental justice;

17 5. accept, as agent of the state, any grant including federal grants
18 or any gift for the purposes of this article. Any monies so received may
19 be expended by the advisory group to effectuate any purpose of this
20 article, subject to the applicable provisions of the state finance law;

21 6. conduct public hearings with respect to any matter within the scope
22 of its functions, powers and duties;

23 7. adopt, amend and repeal by-laws governing its organization and
24 operation and such rules and regulations, consistent with this article,
25 as it deems necessary to administer this article; and

26 8. do any and all things necessary or convenient to carry out its
27 functions, powers and duties under this article.

28 § 48-0109. Agency responsibilities.

29 1. Each state agency that engages in activities or operations that
30 have a significant effect on the environment, including but not limited
31 to through the adoption of rules and regulations, issuance of permits,
32 acquisition or maintenance of property, or approval, funding or under-
33 taking of projects, shall be guided in its decision making on such
34 activities or operations by an environmental justice policy. Each such
35 agency shall adopt rules and regulations setting forth its environmental
36 justice policy not later than six months after the adoption of a model
37 environmental justice policy pursuant to section 48-0107 of this arti-
38 cle. The agency thereafter shall comply in all respects with the envi-
39 ronmental justice policy set forth in its rules and regulations;
40 provided, however, that in the absence of such rules and regulations,
41 the agency shall comply in all respects with the model environmental
42 justice policy.

43 2. Each state agency subject to the requirements of subdivision one of
44 this section shall:

45 (a) appoint a staff member of the agency to serve as environmental
46 justice coordinator, to provide information to the public on the poli-
47 cies, activities and operations of the agency related to environmental
48 justice and to act as liaison to the environmental justice advisory
49 group;

50 (b) notify the advisory group of the appointment of an environmental
51 justice coordinator; and

52 (c) develop an environmental justice training plan which includes the
53 provision of workshops and written materials to appropriate staff
54 regarding environmental justice and implementation of the agency's envi-
55 ronmental justice policy.

1 3. This section shall apply to any state agency notwithstanding any
2 exemption such agency may have from other laws, including but not limit-
3 ed to any exemption from article eight of this chapter.

4 § 48-0111. Environmental justice interagency coordinating council.

5 1. There is hereby established an environmental justice interagency
6 coordinating council which shall have the power and duty to:

7 (a) coordinate the activities of agencies required to adopt an envi-
8 ronmental justice policy pursuant to section 48-0109 of this article in
9 development and implementation of such policies;

10 (b) make annual reports to the governor and the legislature concerning
11 the implementation and effectiveness of agency environmental justice
12 policies, including the adequacy of funding available and difficulties
13 encountered; and

14 (c) serve as a clearinghouse for state agencies and the public for
15 information on environmental justice policies, environmental justice
16 coordinators in state agencies and related activities of state agencies,
17 and maintain information services, including but not limited to an
18 Internet site and a toll-free telephone number, to inform the public on
19 environmental justice.

20 2. The environmental justice coordinating council shall include the
21 commissioner; the commissioner of the department of economic develop-
22 ment; the commissioner of the department of transportation; the presi-
23 dent of the environmental facilities corporation; the president of the
24 New York State energy research and development authority; the chairman
25 of the public service commission; the chairman of the power authority of
26 the State of New York; the executive director of the New York State
27 office of science, technology and academic research; or their designees;
28 and every staff member chosen by an agency to serve as environmental
29 justice coordinator pursuant to section 48-0109 of this article. The
30 council shall consult with the permanent environmental justice advisory
31 group; representatives of minority and low-income communities, including
32 community-based organizations that advise or assist minority and low-in-
33 come communities on environmental matters; representatives of businesses
34 that hold permits or otherwise operate subject to this chapter; repre-
35 sentatives of local governments; representatives of local, state, or
36 national organizations promoting environmental conservation; researchers
37 and educators; and any other parties the council deems appropriate.

38 3. The coordinating council shall meet at least quarterly and shall
39 designate one of its members to serve as chairperson and one of its
40 members to serve as secretary for the development and dissemination of
41 minutes and reports. All such meetings shall be subject to the open
42 meetings law. At least one meeting annually shall be held jointly with
43 the permanent environmental justice advisory group established pursuant
44 to section 48-0105 of this article. Each member shall be entitled to
45 designate in writing a representative to attend meetings in his or her
46 place and to vote or otherwise act on his or her behalf in his or her
47 absence.

48 § 48-0113. Separability.

49 If any clause, sentence, paragraph, section or part of this article
50 shall be adjudged by any court of competent jurisdiction to be invalid,
51 the judgment shall not affect, impair or invalidate the remainder there-
52 of, but shall be confined in its operation to the clause, sentence,
53 paragraph, section or part thereof directly involved in the controversy
54 in which the judgment shall have been rendered.

55 § 2. This act shall take effect on the first of January next succeed-
56 ing the date on which it shall have become a law.