STATE OF NEW YORK

5029--A

2019-2020 Regular Sessions

IN ASSEMBLY

February 6, 2019

Introduced by M. of A. CUSICK, LIFTON, PALMESANO, KOLB, WOERNER, LUPARDO, THIELE, GLICK, FINCH -- read once and referred to the Committee on Energy -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT in relation to creating the "Finger Lakes community preservation act"

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

Section 1. Legislative intent. It is the intent of this Legislature to protect the Finger Lakes region from the adverse effects of the siting of newly constructed incineration facilities, including but not limited to: air and ash pollution, the additional traffic on the public roads and damage to local tourism, winery and agriculture industries as well as the lakes and farmland throughout the area. In an area where three of the largest landfills in New York State are located, over three million tons of trash per year are imported into the Finger Lakes and the cumulative impact of adding more imported waste for incineration would have an extremely negative effect on the public health and safety of the community, the local businesses and the lakes. The Finger Lakes region is a thriving agriculture-tourism region in the state serving as an economic engine with over one billion dollars ($1,000,000,000) of investment in the region and has created over 25,000 jobs.

The Legislature hereby determines that the public interest requires a prohibition on the siting of newly constructed incineration facilities in the Finger Lakes region.

§ 2. Short title. This act shall be known and may be cited as the "Finger Lakes community preservation act".

§ 3. Definitions. For the purposes of this act, the following terms shall have the following meanings:

a. "Incineration facility" shall mean a facility which generates electricity from the combustion, gasification or pyrolysis of solid waste or

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

LBD04980-02-9

from fuel from solid waste, provided that such term shall not include any facility constructed or in operation prior to the effective date of this act.

b. "Solid waste management facility" has the meaning set forth for such term in subdivision 2 of section 27-0701 of the environmental conservation law.

§ 4. Permits and certificates. Notwithstanding any other law, rule or regulation to the contrary, no certificate of environmental compatibility and public need shall be issued for the construction or operation of a new incineration facility, and no application for such certificate shall proceed for such a facility, and no permit or any other certificate shall be issued or granted by the state to such a facility if all of the following criteria exist or are met:

a. The incineration facility is within the Oswego River/Finger Lakes Watershed.

b. There is at least one landfill or other solid waste management facility permitted by the department of environmental conservation and operating or located within a fifty mile radius of the incineration facility.

c. The incineration facility is within 10 miles of a priority waterbody as designated by the department of environmental conservation, pursuant to section 17-1407 of the environmental conservation law.

§ 5. Severability. The provisions of this act shall be severable, and if any clause, sentence, paragraph, subdivision or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 6. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after February 1, 2018, and shall not apply to any facility in operation as of such date.