STATE OF NEW YORK

3604--B

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. BURKE -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to creating the Great Lakes bill of rights

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

Section 1. Article 17 of the environmental conservation law is amended by adding a new title 23 to read as follows:

TITLE 23

GREAT LAKES BILL OF RIGHTS

Section 17-2301. Declaration of rights.

17-2303. Violations.

§ 17-2301. Declaration of rights.

1. Rights of the Great Lakes ecosystem. The Great Lakes, and the watersheds that drain into the Great Lakes and their connecting channels, shall possess the unalienable and fundamental rights to exist, persist, flourish, naturally evolve, regenerate and be restored by culpable parties, free from human violations of these rights and unencumbered by legal privileges vested in property, including corporate property. The Great Lakes ecosystem shall include all natural water features, communities of organisms, soil as well as terrestrial and aquatic sub ecosystems that are part of the Great Lakes and their watersheds and connecting channels.

2. Right to a clean and healthy environment. The people and the natural environment, including each ecosystem of the state of New York shall possess the right to a clean and healthy environment, which shall include the right to clean and healthy Great Lakes and the Great Lakes ecosystem.

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

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3. Right to freedom from toxic trespass. The people of the state of New York, as well as the Great Lakes ecosystem, and the watersheds that drain into the Great Lakes and their connecting channels, shall possess a fundamental and unalienable right to the integrity of their bodies, ecosystems and physical aspects, and to be free from toxic trespass upon or within them; therefore, the right to be free from toxic trespass shall not be violated. As used herein, the term "toxic trespass" shall mean the intentional, unwitting, involuntary or neglectful deposition of toxic or potentially toxic substances within a human or non-human body or ecosystem.

4. Right to freedom from monetization. The Great Lakes ecosystem shall possess the unalienable and fundamental rights not be owned, privatized or monetized. These rights shall include emancipation from all claims of vested property rights to the extent that such rights purport to allow the violation of the rights of the Great Lakes ecosystem or the people of the state of New York. Prohibited monetization of the Great Lakes ecosystem shall include but not be limited to, carbon trading, natural asset companies, ecosystem services, and patenting of life forms.

5. Rights as self-executing. All rights secured by this title shall be inherent, fundamental, and unalienable, and shall be self-executing and enforceable against both private and public sectors.

§ 17-2303. Violations.

1. It shall be unlawful for any person to violate the rights recognized and secured by this title.

2. No permit, license, privilege, charter, or other authorization issued to a person or business entity by any governmental entity that would violate the prohibitions of this title or any rights secured by this title shall be deemed valid within the state.

§ 2. The environmental conservation law is amended by adding a new section 71-1947 to read as follows:

§ 71-1947. Enforcement of title 23 of article 17.

1. Any person, business entity or government agency that violates any provision of title 23 of article 17 of this chapter shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of no more than five hundred dollars for each such violation. Each day or portion thereof where a violation occurs shall count as a separate violation.

2. The commissioner shall enforce the rights and prohibitions of title 23 of article 17 of this chapter.

3. Any person, business entity or government agency engaged in activities that violate the rights of the Great Lakes ecosystem, regardless of the jurisdiction in which such activity takes place, shall be strictly liable for all harms and rights violations resulting from those activities. Damages shall be measured by the cost of restoring the Great Lakes ecosystem and its constituent parts at least to their status immediately before the commencement of the acts resulting in injury, and shall be paid to the state to be used exclusively and without exception for the full and complete restoration of the Great Lakes ecosystem and its constituent parts to that status.

4. The municipalities and counties of the state of New York shall possess legal authority to enact and enforce laws that protect the rights and other provisions of title 23 of article 17 of this chapter, including but not limited to, regulations and prohibitions, free from state preemption or challenge by the assertion of competing rights of corporations.

§ 3. This act shall take effect immediately.