STATE OF NEW YORK

8153

2023-2024 Regular Sessions

IN ASSEMBLY

October 13, 2023

Introduced by M. of A. KELLES -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to establishing the New York native plants program

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

Section 1. Legislative intent. The legislature finds that native plants and ecology are under threat due to habitat destruction, modification, and curtailment. The state's ecology is likewise facing increased competition from invasive species and additional stress due to climate change. The state has a responsibility to conserve and enhance the native ecological health of the state which directly influences public health, agricultural efficacy, economic activity, and recreational enjoyment.

§ 2. The environmental conservation law is amended by adding a new section 9-0114 to read as follows:

§ 9-0114. Native plant program.

1. Definitions. For the purposes of this section:

(a) "Native plants" shall mean plants whose known native range includes all or part of New York state and its proximate ecoregion.

(b) "Native range" shall mean an ecoregion which a plant has historically been found in or which has adapted to in the context of climate change and which is non-invasive to North America, such as plants native to the mid-Atlantic ecoregion.

(c) "Political subdivision" shall mean a county, town, city, district, or village of the state.

(d) "Soil ecology restoration practices" shall mean land management that improves soils through actions that:

(i) follow the principles of: minimizing soil disturbance from soil preparation; maximizing soil vegetation cover; maximizing the diversity of beneficial soil organisms; increasing soil carbon content and seques-

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

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tration capacity; maximizing the presence of living roots; and integrating native animals into land management; and

(ii) include such practices as: conservation tillage or no-till; precision nitrogen and phosphorus application; land management through grazing; integrated pest management; nutrient best management practices; and those practices recommended by the United States department of agriculture natural resources conservation services and that are supported by the state soil and water conservation committee.

(e) "Xeriscape" shall mean landscapes that conserve water, minimize use of pesticides and fertilizers, protect the natural environment, are adaptable to local conditions, and which are drought tolerant through actions that follow the principles of the environmental planning and design of landscapes with appropriate choice of native plants, topographic features, soil analysis and care which may include the use of waste compost, practical use of turf, efficient natural irrigation features, selective use of mulches, and appropriately limited maintenance as designed for cost and resource saving.

(f) "Ecoregion" shall mean areas of general similarity in ecosystems and in the type, quality, and quantity of environmental resources, and that are defined by distinctive geography and similar climate.

(g) "Seed or plant provenance" shall mean the specified area in which the seed or plants produced from the seed were located or were derived.

(h) "Greenspace" shall mean public land including state or municipally owned, managed, or administered recreational spaces, parks, preserves, medians and verges, and gardens that are designated for non-commercial, non-residential, or non-agricultural use with the purpose of public recreation, ecological conservation or scientific study, and natural or cultivated aesthetics. Greenspace shall not include zoos, arboretums, botanical gardens, aquaria, or other similar institutions whose express purpose is to educate and engage the public or engage in scientific research.

2. (a) The commissioner shall develop and implement a "New York native plants program" to identify and promulgate a list of New York native plants appropriate for each ecoregion in the state which shall be labeled as such and eligible for rebate. The purpose of the program shall be to encourage and promote the sale of New York native plants and seeds at retail garden centers and nurseries. The program shall increase consumer awareness of the important role of native plants in the ecosystem through advertising campaigns, marketing programs, and publicly available information about New York native plants. Eligible plants shall be labeled as "New York Native Plants".

(b) The commissioner may offer rebates at the point-of-sale for eligible New York native plants.

3. New York native plants shall be used in greenspaces except as authorized pursuant to paragraphs (g) and (h) of this subdivision, and the commissioner shall encourage the use of such plants.

(a) Plans and specifications for any greenspace, where practicable and appropriate as determined by the commissioner, shall require the use of native plants.

(b) Appropriate site and soil analyses, as determined by the commissioner, shall be performed to best match native plant preferences with site and soil conditions.

(c) Site design and construction, as well as plant selection, conducted, financed, or contracted with the state shall incorporate considerations such as biological needs, minimal maintenance and water usage, benefits to native pollinators and animals, the composition of

plant communities at project sites, provenance and ecoregion, recreational capacity, and the minimal use of fertilizers and pesticides.

(d) The commissioner shall provide to the public, through the internet and by other means as appropriate, public engagement events, signage, or other relevant information, as determined by the commissioner, on the importance and role of native plants to native ecological habitats and local communities.

(e) Outdoor demonstration projects exhibiting and promoting the benefits of native species and environmentally sound landscaping practices shall be created and maintained in state parks, conservation sites, recreation areas, historic locations, tourist attractions, areas of local importance, and at SUNY schools.

(f) Public-private partnerships with educational institutions, zoos, botanical gardens, aquaria, arboreta, commercial nurseries, community gardens, and garden clubs shall be encouraged to increase the availability of native plants and share knowledge about their use, provenance maintenance, and propagation.

(g) The commissioner may determine that no native plant may adequately fit a certain environment or landscape in which case plants that are non-competitive and neutral, as determined by the commissioner, to native plants and animals may be permitted.

(h) This section shall not apply to community gardens and state funded or sponsored agricultural activities for the purpose of growing food or other crops which may not be native to the state.

(i) Non-native species that are utilized as a cover crop to establish native plants and are temporary in nature, as determined by the commissioner, may be permitted.

§ 3. This act shall take effect immediately.