STATE OF NEW YORK

8351

IN SENATE

January 19, 2024

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the executive law, in relation to establishing a Native nation consultation policy

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

Section 1. The executive law is amended by adding a new article 15-D to read as follows:

ARTICLE 15-D

NATIVE NATIONS CONSULTATION POLICY

Section 328-d. Native nations consultation policy.

§ 328-d. Native nations consultation policy. 1. As used in this section, the following terms shall have the following meanings:

(a) "Native nation" shall mean one of the following New York state sovereign Indian nations or tribes: Cayuga Nation, Oneida Nation of New York, Onondaga Nation, Poospatuck or Unkechauge Nation, Saint Regis Mohawk Tribe, Seneca Nation of Indians, Shinnecock Indian Nation, Tonawanda Band of Seneca and Tuscarora Nation.

(b) "State agency" shall mean (i) any state department, or (ii) any division, board, commission or bureau of any state department, or (iii) the state university of New York and the city university of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the state, (iv) a board, a majority of whose members are appointed by the governor or who serve by virtue of being state officers or employees as defined in subparagraph (i), (ii) or (iii) of paragraph (i) of subdivision one of section seventy-three of the public officers law, or (v) a state authority, as defined in subdivision one of section two of the public authorities law.

2. The secretary of state shall promulgate a Native nation consultation policy to be used by state agencies in instances where a proposal by such agency that would affect indigenous communities is under consideration.

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

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3. Such Native nation consultation policy shall at a minimum include:

(a) Meaningful consultation sessions which allow for discussion between members of the directly affected Native nation and state agency personnel;

(b) Notice to the affected Native nation provided at least thirty days in advance of the first scheduled consultation session, containing sufficient detail of the topic to allow Nation leaders an opportunity to fully engage in the consultation;

(c) A requirement that the key state agency personnel applicable to such proposal participate in the consultation sessions;

(d) Recording of the proceedings of consultation sessions, which may include, but are not limited to, transcripts or meeting notes; and

(e) A final response from the state agency regarding how input was incorporated into the final decision of the agency following the conclusion of the consultation sessions.

4. The Native nation consultation policy promulgated pursuant to this section shall be utilized when any state agency action would have substantial direct effects on:

(a) One or more Native nation;

(b) Indigenous communities living outside of a Nation's territory;

(c) The relationship between state government and Native nations; or

(d) The distribution of power and responsibilities between state government and Native nations.

§ 2. This act shall take effect immediately.