



Wednesday, February 4, 2009

## Bill Text - A01985

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### STATE OF NEW YORK

1985

2009-2010 Regular Sessions

I N A S S E M B L Y

January 14, 2009

Introduced by M. of A. PEOPLES, DELMONTE, CAMARA, JAFFEE, CAHILL, COOK  
 -- Multi-Sponsored by -- M. of A. BOYLAND, BRENNAN, CHRISTENSEN,  
 COLTON, DIAZ, JEFFRIES, LUPARDO, ROBINSON, TOWNS -- 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 state environmental justice act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
 BLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Short title. This act shall be known as the "New York state  
 2 environmental justice act".
- 3 S 2. Legislative findings and purpose. The legislature hereby finds  
 4 and declares that:
- 5 1. Racial and ethnic minority populations and low-income communities  
 6 bear a disproportionate share of the health risks caused by polluted air  
 7 and contaminated water, and by solid waste landfills, hazardous waste  
 8 facilities, waste water treatment plants, waste incinerators, and other  
 9 similar projects.
- 10 2. This disproportionate impact of environmental hazards on minority  
 11 and low-income communities is largely the result of past governmental  
 12 decisions.
- 13 3. The federal government underscored the importance of environmental  
 14 justice in executive order 12898 and created the national environmental  
 15 justice advisory council to promote environmental justice in the envi-  
 16 ronmental protection agency's policies, programs, initiatives and activ-  
 17 ities.
- 18 4. The state is committed to ensuring that communities are afforded  
 19 fair treatment and meaningful involvement in decision-making regardless  
 20 of race, color, ethnicity, religion, income or education level.
- 21 The purpose of this law is to establish governmental procedures in  
 22 order to safeguard residents' health and welfare, and achieve environ-  
 23 mental justice.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
{ } is old law to be omitted.

LBD02371-01-9

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1 S 3. The environmental conservation law is amended by adding a new  
2 article 74 to read as follows:

3 ARTICLE 74

4 NEW YORK STATE ENVIRONMENTAL JUSTICE ACT

5 SECTION 74-1001. DEFINITIONS.

6 74-1002. IMPLEMENTATION OF ENVIRONMENTAL JUSTICE POLICIES.

7 74-1003. ENVIRONMENTAL JUSTICE TASK FORCE.

8 S 74-1001. DEFINITIONS.

9 FOR PURPOSES OF THIS SECTION "ENVIRONMENTAL JUSTICE" MEANS THE FAIR  
10 TREATMENT OF PEOPLE OF ALL RACES, CULTURES AND INCOMES IN THE DEVELOP-  
11 MENT, ADOPTION, IMPLEMENTATION AND ENFORCEMENT OF ENVIRONMENTAL LAWS AND  
12 POLICIES.

13 S 74-1002. IMPLEMENTATION OF ENVIRONMENTAL JUSTICE POLICIES.

14 1. ALL STATE AGENCIES, BOARDS, COMMISSIONS AND OTHER BODIES INVOLVED  
15 IN DECISIONS THAT MAY AFFECT ENVIRONMENTAL QUALITY SHALL ADOPT AND  
16 IMPLEMENT ENVIRONMENTAL JUSTICE POLICIES PROVIDING MEANINGFUL OPPORTU-  
17 NITIES FOR INVOLVEMENT TO ALL PEOPLE, REGARDLESS OF RACE, COLOR, ETHNIC-  
18 ITY, RELIGION, INCOME OR EDUCATION LEVEL.

19 2. ALL STATE PROGRAMS AND POLICIES DESIGNED TO PROTECT THE ENVIRONMENT  
20 SHALL BE REVIEWED PERIODICALLY TO ENSURE THAT PROGRAM IMPLEMENTATION AND  
21 DISSEMINATION OF INFORMATION MEET THE NEEDS OF LOW-INCOME AND MINORITY  
22 COMMUNITIES, AND SEEK TO ADDRESS DISPROPORTIONATE EXPOSURE TO ENVIRON-  
23 MENTAL HAZARDS.

24 3. THE DEPARTMENT WILL USE AVAILABLE ENVIRONMENTAL AND PUBLIC HEALTH  
25 DATA TO IDENTIFY EXISTING AND PROPOSED INDUSTRIAL AND COMMERCIAL FACILI-  
26 TIES AND AREAS IN COMMUNITIES OF COLOR AND LOW-INCOME COMMUNITIES FOR  
27 WHICH COMPLIANCE, ENFORCEMENT, REMEDIATION, SITING AND PERMITTING STRAT-  
28 EGIES WILL BE TARGETED TO ADDRESS IMPACTS FROM THESE FACILITIES.

29 4. THE DEPARTMENT SHALL CREATE AN ENVIRONMENTAL JUSTICE ADVISORY COUN-  
30 CIL TO ADVISE THE DEPARTMENT AND THE ENVIRONMENTAL JUSTICE TASK FORCE ON  
31 ENVIRONMENTAL JUSTICE ISSUES. THE COUNCIL SHALL CONSIST OF FIFTEEN INDI-  
32 VIDUALS AND WILL MEET AT LEAST QUARTERLY. THE COUNCIL SHALL ANNUALLY  
33 SELECT A CHAIRPERSON FROM ITS MEMBERSHIP AND SHALL HAVE A COMPOSITION OF  
34 ONE-THIRD MEMBERSHIP FROM GRASSROOTS OR FAITH-BASED COMMUNITY ORGANIZA-  
35 TIONS, WITH ADDITIONAL MEMBERSHIP TO INCLUDE REPRESENTATIVES FROM THE  
36 FOLLOWING COMMUNITIES: ACADEMIC PUBLIC HEALTH, STATEWIDE ENVIRONMENTAL,  
37 CIVIL RIGHTS AND PUBLIC HEALTH ORGANIZATIONS, LARGE AND SMALL BUSINESS  
38 AND INDUSTRY, MUNICIPAL AND COUNTY OFFICIALS, AND ORGANIZED LABOR.

39 S 74-1003. ENVIRONMENTAL JUSTICE TASK FORCE.

40 1. THE COMMISSIONER AND THE COMMISSIONER OF THE DEPARTMENT OF HEALTH,  
41 OR THEIR APPOINTED DESIGNEES, SHALL CONVENE A MULTI-AGENCY TASK FORCE,  
42 TO BE NAMED THE ENVIRONMENTAL JUSTICE TASK FORCE. THIS TASK FORCE WILL  
43 INCLUDE SENIOR MANAGEMENT DESIGNEES FROM THE GOVERNOR COUNSEL'S OFFICE,  
44 THE ATTORNEY GENERAL'S OFFICE, THE DEPARTMENTS OF HEALTH AND HUMAN  
45 SERVICES, COMMUNITY AFFAIRS, HEALTH AND SENIOR SERVICES, AGRICULTURE AND  
46 MARKETS, TRANSPORTATION, AND EDUCATION. THE TASK FORCE SHALL BE AN ADVI-  
47 SORY BODY, THE PURPOSE OF WHICH IS TO MAKE RECOMMENDATIONS TO STATE  
48 AGENCY HEADS REGARDING ACTIONS TO BE TAKEN TO ADDRESS ENVIRONMENTAL  
49 JUSTICE ISSUES CONSISTENT WITH EACH AGENCY'S EXISTING STATUTORY AND  
50 REGULATORY AUTHORITY. THE TASK FORCE IS AUTHORIZED TO CONSULT WITH, AND  
51 EXPAND ITS MEMBERSHIP TO, OTHER STATE AGENCIES AS NEEDED TO ADDRESS  
52 CONCERNS RAISED IN AFFECTED COMMUNITIES.

53 2. ANY COMMUNITY MAY FILE A PETITION WITH THE TASK FORCE THAT ASSERTS  
54 THAT RESIDENTS AND WORKERS IN THE COMMUNITY ARE SUBJECT TO DISPROPOR-  
55 TIONATE ADVERSE EXPOSURE TO ENVIRONMENTAL HEALTH RISKS, OR DISPROPOR-

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1 TIONATE ADVERSE EFFECTS RESULTING FROM THE IMPLEMENTATION OF LAWS  
2 AFFECTING PUBLIC HEALTH OR THE ENVIRONMENT.

3 3. THE TASK FORCE SHALL IDENTIFY A SET OF COMMUNITIES FROM THE  
4 PETITIONS FILED, BASED ON SELECTION CRITERIA DEVELOPED BY THE TASK  
5 FORCE, INCLUDING CONSIDERATION OF STATE AGENCY RESOURCE CONSTRAINTS. THE  
6 TASK FORCE SHALL MEET DIRECTLY WITH THE SELECTED COMMUNITIES TO UNDER-  
7 STAND THEIR CONCERNS.

8 4. THE TASK FORCE SHALL DEVELOP AN ACTION PLAN FOR EACH OF THE  
9 SELECTED COMMUNITIES AFTER CONSULTATION WITH THE CITIZENS, AS WELL AS  
10 LOCAL AND COUNTY GOVERNMENT AS RELEVANT, THAT WILL ADDRESS ENVIRONMENTAL  
11 FACTORS THAT AFFECT COMMUNITY HEALTH. THE ACTION PLAN SHALL CLEARLY  
12 DELINEATE THE STEPS THAT WILL BE TAKEN IN EACH OF THE SELECTED COMMUNI-  
13 TIES TO REDUCE EXISTING ENVIRONMENTAL BURDENS AND AVOID OR REDUCE THE  
14 IMPOSITION OF ADDITIONAL ENVIRONMENTAL BURDENS THROUGH ALLOCATIONS OF  
15 RESOURCES, EXERCISE OF REGULATORY DISCRETION, AND DEVELOPMENT OF NEW  
16 STANDARDS AND PROTECTIONS. THE ACTION PLAN, WHICH SHALL BE DEVELOPED IN  
17 CONSULTATION WITH THE ENVIRONMENTAL JUSTICE ADVISORY COUNCIL, WILL SPEC-  
18 IFY COMMUNITY DELIVERABLES, A TIMEFRAME FOR IMPLEMENTATION, AND THE  
19 JUSTIFICATION AND AVAILABILITY OF FINANCIAL AND OTHER RESOURCES TO  
20 IMPLEMENT THE PLAN. THE TASK FORCE SHALL PRESENT THE ACTION PLAN TO THE  
21 RELEVANT DEPARTMENTS, RECOMMENDING ITS IMPLEMENTATION.

22 5. THE TASK FORCE SHALL MONITOR THE IMPLEMENTATION OF EACH ACTION PLAN  
23 IN THE SELECTED COMMUNITIES, AND SHALL MAKE RECOMMENDATIONS TO STATE  
24 AGENCIES AS NECESSARY TO FACILITATE IMPLEMENTATION OF THE ACTION PLANS.  
25 AGENCIES SHALL IMPLEMENT THE STRATEGY TO THE FULLEST EXTENT PRACTICABLE  
26 IN LIGHT OF STATUTORY AND RESOURCE CONSTRAINTS.

27 S 4. This act shall take effect July 1, 2010; provided however, that  
28 the environmental justice task force and the environmental justice advi-  
29 sory council shall be established and operating by October 1, 2010.

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### A01985 Summary:

BILL NO      A01985  
SAME AS      No same as  
SPONSOR      Peoples  
COSPNSR      DelMonte, Camara, Jaffee, Cahill, Cook  
MLTSPNSR      Boyland, Brennan, Christensen, Colton, Diaz, Jeffries, Lupardo,  
                  Robinson, Towns

Add Art 74 SS74-1001 - 74-1003, En Con L

Establishes the "environmental justice act" to establish governmental procedures to safeguard residents health and welfare, and achieve environmental justice; definitions; creates the environmental justice task force; makes related provisions.

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### A01985 Actions:

BILL NO      A01985  
01/14/2009 referred to environmental conservation

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### A01985 Votes:

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### A01985 Memo:

BILL NUMBER:A1985

TITLE OF BILL:    An act to amend the environmental conservation law, in relation to establishing the "New York state environmental justice act"

PURPOSE:

The purpose of the legislation is to develop and implement a procedure within the State's agencies, boards and commission to insure that all New York's communities are afforded fair treatment and meaningful involvement in environmental decision-making.

SUMMARY OF PROVISIONS:

Section one entitles the act as The New York State Environmental Justice Act.

Section two declares the findings that racial and ethnic minority populations and low-income communities bear a disproportionate share of health risks caused by polluted air and contaminated water, solid waste landfills, hazardous waste facilities, waste water treatment plants, waste incinerators, and other similar projects.

Section three defines environmental justice, requires all agencies to adopt and implement environmental justice policies, requires all state environmental protection programs and policies to be periodically reviewed, requires the Department of Environmental Conservation to create an Environmental Justice Advisory Council and an Environmental Justice Task Force.

Section 4 is the effective date, providing that the Environmental Justice Advisory Council and the Environmental Justice Task Force will be established and operating by October 1, 2008.

JUSTIFICATION:

Environmental justice efforts focus on improving the environment in under-served communities, specifically minority and low-income communities, and addressing disproportionate adverse environmental impacts that may exist in those communities.

This legislation seeks to establish a way for the environmental treatment of New York's diverse communities to be fair and equitable, meaning that no group of people, including a racial, ethnic, or socioeconomic group bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of state programs and policies.

By establishing in law both an Environmental Justice Advisory Council and an Environmental Justice Task Force, the State of New York will be committed to ensuring that communities are afforded fair treatment and meaningful involvement in decision-making through governmental procedures which will safeguard residents' health and welfare, and achieve environmental justice.

LEGISLATIVE HISTORY:

A8229

FISCAL IMPLICATIONS:

None to state. The SFY 2005-06 enacted budget contains \$500,000 to DEC for environmental justice programs.

## LOCAL FISCAL IMPLICATIONS:

None to localities

## EFFECTIVE DATE:

The act shall take effect July 1, 2008; however, the Environmental Justice Task Force and the Environmental Justice Advisory Council will be established and operating by October 1, 2008.

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