

STATUS:**S448 SALAND**

Environmental Conservation Law

TITLE....Prohibits application for a permit to mine if a local law prohibits the proposed mining use within the area proposed to be mined

01/03/07 REFERRED TO ENVIRONMENTAL CONSERVATION

BILL TEXT:**STATE OF NEW YORK**

448

2007-2008 Regular Sessions

IN SENATE(Prefiled)

January 3, 2007

Introduced by Sen. SALAND -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the granting of permits to mine

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

- 1 Section 1. Subdivision 3 of section 23-2703 of the environmental
 2 conservation law, as added by chapter 166 of the laws of 1991, is
 3 amended to read as follows:
 4 3. No agency of this state shall consider an application for a permit
 5 to mine as complete or process such application for a permit to mine
 6 pursuant to this title[~~, within counties with a population of one~~
 7 ~~million or more which draws its primary source of drinking water for a~~
 8 ~~majority of county residents from a designated sole source aquifer,~~ if
 9 local [~~zoning~~] laws or ordinances prohibit the proposed mining use or
 10 uses within the area proposed to be mined at the time of application, as
 11 determined by the chief administrative officer of such local government
 12 pursuant to paragraph (a) of subdivision three of section 23-2711 of
 13 this title.
 14 § 2. This act shall take effect immediately.

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

LBD00735-01-7

SPONSORS MEMO:**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S448

SPONSOR: SALAND

TITLE OF BILL:

An act to amend the environmental conservation law, in relation to the granting of permits to mine

PURPOSE:

To prohibit the Department of Environmental Conservation from approving an application or granting a permit to mine mineral resources if the locality within which such mining is proposed to take place has an effective local law or ordinance prohibiting such activity at the location at which such mining is proposed to take place.

SUMMARY OF PROVISIONS:

Section 1 amends subdivision 3 of section 23-2703 of the Environmental Conservation Law to provide that if mining is prohibited by local law or ordinance at the proposed location, the Department of Environmental Conservation (nor any other agency in the State) may neither consider an application for a permit to mine as complete, nor process an application for a permit to mine, if local laws or ordinances prohibit the proposed mining use or uses within the area proposed to be mined.

EXISTING LAW:

Currently, Article 23 of the Environmental Conservation Law (Mineral Resources) provides for a local government to be notified when an application has been made to the Department to mine within such locality. It also provides a process by which the chief officer of the locality can inform the Department as to whether or not mining is prohibited at the location by the local government. The current statute, however, allows the Department to ignore the local land use controls and approve an application and grant a permit to mine irrespective of such local controls, except within counties with a population of one million or more which draws its primary source of drinking water for the majority of the county residents from a designated sole source aquifer (i.e.- Long Island).

JUSTIFICATION:

New York State has a strong tradition of municipal home rule. Particularly in the area of land use control, New York statutes cedes virtually all control to local governments, which are better suited to respond to the needs of its inhabitants with respect to the character of their community.

In the area of mining mineral resources, the state should not abrogate this philosophy and, moreover, the Department of Environmental Conservation should not expend the taxpayer's resources to review and grant a

permit for an activity which is prohibited by local regulation.

LEGISLATIVE HISTORY:

2005-2006: S.315 -referred to Environmental Conservation
2003-2004: S.477 -referred to Environmental Conservation
2001-2002: S.4576 -referred to Environmental Conservation
1999-2000: S.4967 -referred to Environmental Conservation
1997-1998: S.1727 -referred to Environmental Conservation
1995-1996: S.5582-A-referred to Environmental Conservation

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

Immediately.
