



EANY SUPPORTS Environmental Access to Justice



S.2798 (Kavanagh, et al.)

A.3510 (O'Donnell, et al.)

Explanation:

The State Environmental Quality Review Act (SEQRA) is a foundational and crucial environmental law that sets out the rules for environmental analysis when a government entity undertakes, approves, or funds a project that might have a significant impact on the environment. The law allows for citizens affected by a project to petition the courts to review an agency's compliance with environmental review requirements. Allowing individuals to bring proceedings under SEQRA, giving New Yorkers the ability to weigh in on projects affecting the environment as well as challenge violations in the law, is a fundamental tool to ensuring individuals have access to environmental justice.

This bill restores the legislative intent of SEQRA by ensuring individuals will not be denied standing when bringing proceedings because the injury alleged by the individual is not different to any injury suffered by the public at large. This bill codifies standing for SEQRA proceedings to reverse a 1991 Court of Appeals decision, which held that for a person to be granted standing to challenge a SEQRA determination the individual must not only show injury, but show the injury differs from that experienced by the community at large.

This "special harm" test for standing is nearly impossible to meet and this bill will greatly improve upon not having to show that the harm they will suffer is different than that suffered by the public at large. While in October, 2009, the NYS Court of Appeals removed some barriers to groups seeking to challenge SEQRA determinations in the landmark decision (*Save the Pine Bush Inc. v. Common Council of the City of Albany*), standing is still not automatic. Then, in 2012, standing was denied by the *Suffolk County Supreme Court in Long Island Pine Barrens Society v. Suffolk County* – in direct contravention of the 2009 NYS Court of Appeals decision.

Summary:

This bill amends the environmental conservation law to provide that an individual will not be denied standing on the grounds the injury alleged does not differ in kind or degree from any injury suffered by the public at large.