



Empire State Forest Products Association

The people behind New York's healthy forests and quality wood products

www.esfpa.org

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Memorandum of Opposition

A 1368/S 528

Honorable Steven Englebright
Member of Assembly
621 LOB
Albany, NY 12248

Honorable Robert Jackson
Senator
306 LOB
Albany, NY 12247

January 11, 2021

Dear Assemblymember Englebright and Senator Jackson:

The Empire State Forest Products Association has concerns with **A. 1368/S. 528** relating to the right to clean air and water and a healthful environment.

The Empire State Forest Products Association (ESFPA) represents over 350 member businesses, industries and landowners engaged in forest resource production and stewardship of New York's 19 million acres of forest. In total, \$22.9 billion dollars in annual industry production and nearly 100,000 jobs are attributable to operations of various industries within the forest related sectors.

This legislation is a Concurrent Resolution of the Senate and Assembly to amend Article I of the State Constitution (Bill of Rights) to include a right to clean air and water and a healthful environment. The sponsors claim that several other states including Pennsylvania, Hawaii, Massachusetts and Montana have constitutional protections in place to ensure access to clean air and water. This proposed constitutional amendment would follow those models and ensure that clean air and water are treated as fundamental rights for New Yorkers and to protect the overall health of the people and the environment.

Article XIV of the NYS Constitution (Conservation) already declares:

§ 4. The policy of the state shall be to conserve and protect its natural resources and scenic beauty and encourage the development and improvement of its agricultural lands for the production of food and other agricultural products. The legislature, in implementing this policy, shall include adequate provision for the abatement of air and water pollution and of excessive and unnecessary noise, the protection of agricultural lands, wetlands and shorelines, and the development and regulation of water resources. The legislature shall further provide for the acquisition of lands and waters, including improvements thereon and any interest therein, outside the forest preserve counties, and the dedication of properties so acquired or now owned, which because of their natural beauty, wilderness character, or geological, ecological

or historical significance, shall be preserved and administered for the use and enjoyment of the people. Properties so dedicated shall constitute the state nature and historical preserve and they shall not be taken or otherwise disposed of except by law enacted by two successive regular sessions of the legislature.

It seems redundant to make this change to the “Bill of Rights” in Article I. In addition, this amendment would establish a “self-executing right” in the New York State Constitution providing the each person shall have the right to clean air and water, and a healthful environment. A self-executing provision creates a legally enforceable right and standing to every citizen of the State.

Finally, there are a number of abstract goals that this legislation raises. The terms clean air, clean water and healthful environment sound positive but leave into question just how those are defined. New York has many laws which set numerical standards on environmental quality but they are not required under this provision. In addition, how does one define a “healthful environment”? How does one ensure due process and equal protection when such terms are not clearly defined or constrained in law?

New York has a robust set of statutes on environmental protection and administrative procedures that ensure New Yorkers are afforded a clean and productive environment. We already have State Constitutional protection of our environment as spelled out in Article 14. We do not need duplicative and potentially vague rights and unwarranted thresholds of standing to ensure that our environment is protected.

For these reasons ESFPA cannot support this Concurrent Resolution and potential Constitutional amendment.

cc: Assembly Environmental Conservation Committee Members
Senate Environmental Conservation Committee Members

For More Information Contact:

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