

Memorandum in Strong Opposition S.5528 / A.7816

May 21, 2007

S.5528 (LaValle) / A.7816 (Englebright) - AN ACT to amend the environmental conservation law and the public lands law, in relation to leases, easements, permits and conveyances of other interests for certain state-owned lands underwater

The Independent Power Producers of New York, Inc. (IPPNY) is a trade association representing companies involved in the development of electric generating facilities, the generation, sale, and marketing of electric power, and the development of natural gas facilities in the State of New York. IPPNY represents almost 75 percent of the electric generating capacity in New York.

IPPNY strongly opposes the passage of S.5528 / A.7816. The bill would require the Office of General Services (OGS) to develop an Environmental Impact Statement (EIS) for any state-owned lands under water, over one mile from shore related to commercial use. This new EIS requirement establishes decision-making criteria inconsistent with the State Environmental Quality Review Act (SEQRA).

Under current law, projects that would be covered by this bill - those that may have an environmental impact and are located on New York's water bodies - require a comprehensive review conducted by many state agencies through the SEQRA process. The Department of Environmental Conservation (DEC) is the state agency best equipped to undertake an EIS review of projects. It is not clear how this newly required OGS review will impact the current SEQRA process.

Unlike existing laws which balance environmental, coastal, energy and commerce concerns, this bill does not require OGS to consider energy needs and other economic factors in its review and approval of leases for underwater lands. SEQRA requires mitigation of all adverse environmental impacts **to the extent practicable**, and it requires government decisions to balance potential environmental impacts with social, economic and other benefits. However, this bill directs OGS only to consider the impact on the environment or natural resources. As a result, many projects that would otherwise likely be deemed in the public interest potentially could be stopped.

For the reasons stated above, IPPNY opposes S.5528 / A.7816.