

THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK
42 WEST 44TH STREET
NEW YORK, NY 10036-6689

COMMITTEE ON ENVIRONMENTAL LAW

EILEEN D. MILLETT
CHAIR
311 W. 43RD STREET, ROOM 201
NEW YORK, NY 10036
(212) 582-0380
FAX # (212) 581-5719
emillett@iec-nynjct.org

CHRISTINE A. FAZIO
SECRETARY
2 WALL STREET
NEW YORK, NY 10005
(212) 238-8754
FAX # (212) 732-3232
fazio@clm.com

July 28, 2005

The Honorable George Pataki
Governor
State of New York
Office of the Governor
Albany, New York

Re: S. 5786, A. 7603-A

Dear Governor Pataki:

This letter is submitted on behalf of the Committee on Environmental Law of the Association of the Bar of the City of New York (hereinafter "Committee") in support of certain proposed bills to modify Article 8 of the Environmental Conservation Law currently awaiting your signature, concerning the electronic posting of environmental impact statements on the web. Members of the Committee are drawn from the private, government and public sectors and represent diverse viewpoints with respect to environmental matters in the City and State and most have significant experience with the substantive and procedural requirements in preparing environmental impact statements.

Environmental impact statements and the public review process inherent in such statements are an essential underpinning of New York State's environmental quality review process. Any requirement that further eases or facilitates the public's ability to be made aware of and understand the environmental impacts of a proposal is unquestionably a worthy goal. The more information that can be made easily accessible to the public, the easier it will be to encourage public comment and enable agencies to make decisions about projects that best minimize adverse impacts to the New York environment. Because most, if not all, environmental impact statements are produced on word processing equipment, there is little reason that state and local agencies should spend dollars or employee resources to produce hard copy documents. Moreover, electronic storage and retrieval of documents is simpler and saves space. Thus, S. 5786 and A. 7603-A would save the state money. Finally, for these reasons, the bills would make life easier for busy environmental professionals and the public at large.

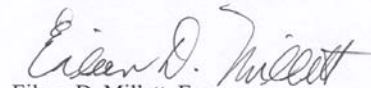
However, the Committee also asks that you direct the New York State Department of Environmental Conservation (NYSDEC) to devise and solicit public comment on specific procedures for posting environmental impact statements online. In particular, the "unless impracticable" exception in the legislative language should be clarified through agency guidance or regulation to address at least two matters. First, NYSDEC should adopt guidelines for screening certain environmental impact statements for potential national security concerns. While the vast majority of environmental impact statements do not include sensitive information and largely pool publicly-available data, some projects may present such concerns. Second, for some lead agencies, such as small municipalities, the online posting of environmental impact statements may be technically infeasible due to technological or resource limitations. For such circumstances, NYSDEC should adopt procedures for providing technical assistance or posting such environmental impact statements on its own website.

The Committee takes this opportunity to commend the New York State Senate and Assembly on their fine work in adopting the recommendations of the New York State Attorney General. Accordingly, the Committee on Environmental Law of the Association of the Bar of the City of New York endorses these bills and urges you to sign them without delay.

Respectfully,

The Association of the Bar of the
City of New York

Environmental Law Committee



Eileen D. Millett, Esq.
Chair

cc. Richard M. Platkin, Counsel to the Governor

bcc. Honorable Denise M. Sheehan
Acting Commissioner Sheehan
New York State Department of
Environmental Conservation

Peter Lehner, Esq.
New York State Department of Law

James H. Ferreira, Deputy Commissioner & General Counsel
New York State Department of
Environmental Conservation