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VETO # 4

CHAPTER _____

LAWS OF 2001

MEMORANDUM NO. _____

SENATE BILL _____

ASSEMBLY BILL 6145

S. 3180

A. 6145

2001-2002 Regular Sessions

SENATE - ASSEMBLY

March 5, 2001

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to the designation of peace officers in the town of East Hampton

DATE RECEIVED BY GOVERNOR:

7/25/01

ACTION MUST BE TAKEN BY:

8/6/01

DATE GOVERNOR'S ACTION TAKEN:

AUG 6 2001

SENATE VOTE Y N

HOME RULE MESSAGE Y N

DATE _____

BILL IS DISAPPROVED

ASSEMBLY VOTE Y N

DATE _____



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 6145, entitled:

AUG 6 2001

VETO #4

“AN ACT to amend the criminal procedure law, in relation to designation of peace officers in the town of East Hampton“

NOT APPROVED

The bill would add a new subdivision 74 to section 2.10 of the Criminal Procedure Law to extend peace officer status, and the significant powers and privileges attendant to that status, to code enforcement officers in the town of East Hampton.

As I stated in my veto message of an identical bill last session (Veto Message #21), I recognize that code enforcement officers provide a valuable function by enforcing state and local code provisions relative to building, fire, environmental and other violations. Conferring peace officer status, however, is a serious matter with substantial legal, practical and public policy consequences. I remain unconvinced that granting the enormous powers associated with peace officer status to code enforcement officers is necessary to enhance their effectiveness. Notably, other code enforcement officers throughout the state performing similar functions do not have peace officer status.

The bill is disapproved.

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(e)**

BILL NUMBER: A6145

SPONSOR: Thiele

TITLE OF BILL: An act to amend the criminal procedure law, in relation to the designation of peace officers in the town of East Hampton

PURPOSE: To designate code enforcement officers as peace officers under the criminal procedure law.

SUMMARY OF PROVISIONS: Adds a new subdivision 74 to 10.□ of the Criminal Procedure Law.

JUSTIFICATION: This legislation would designate code enforcement officers in the town of East Hampton as peace officers. Such a designation would permit the code enforcement officers to issue tickets. In particular this legislation is aimed at enforcement of recycling and solid waste provisions of the Town Code. With these types of violations, serving a ticket at the time of the violation is far more practical than locating the violator at a later date to serve a ticket. This bill would also benefit zoning, building, and environmental enforcement.

LEGISLATIVE HISTORY: 1999-00, S.1620-A; 1997-98, S.2662

FISCAL IMPLICATIONS: None.

EFFECTIVE DATE: This act shall take effect immediately.

A 6145



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

FRED W. THIELE, JR.
Assemblyman 2nd District

RANKING MINORITY MEMBER
Racing and Wagering

COMMITTEES
Ways and Means
Environmental Conservation
Local Governments

July 5, 2001

Governor George Pataki
State Capitol
Executive Chamber
Albany, New York 12224

Dear Governor Pataki:

I am writing to request that you sign two bills that have each passed the New York State Senate and Assembly. They are bill A.6145 and A.6146.

These bills would designate code enforcement officers and animal control supervisors of the Town of East Hampton as peace officers. By designating each position as a peace officer, more authorization is given to local municipalities for the enforcement of their own laws. A code enforcement officer in East Hampton Town would be permitted to issue tickets primarily for recycling and sold waste violations. Animal control supervisors in East Hampton Town would be allowed to issue tickets for violations of the Agriculture and Markets Law. To issue a ticket at the time of an offense is far more sensible than trying to find an offender at a later date and time.

I wish to take the time to thank you for your consideration to this very important legislative matter. I remain,

Sincerely yours,

Fred W. Thiele, Jr.
Member of Assembly

FWT:rm

010615

A 6145

TO: COUNSEL TO THE GOVERNOR

Re: SENATE

ASSEMBLY 6145

Inasmuch as this bill does not appear to relate to the functions of the Department of Law, I am not commenting thereon. However, if there is a particular aspect of the bill upon which you wish comment, please advise me.

**ELIOT SPITZER
ATTORNEY GENERAL**

Date: July 2, 2001

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A 6145

B-203

BUDGET REPORT ON BILLS

Session Year 2001

SENATE
No.

NO RECOMMENDATION
Thiele

ASSEMBLY
No. 6145

Title: AN ACT to amend the criminal procedure law, in relation to the designation of peace officers in the town of East Hampton

The above bill has been referred to the Division of the Budget for comment. After careful review, we find that the bill has no appreciable effect on State finances or programs, and/or this office does not have the technical expertise to make a recommendation on the bill.

We therefore make no recommendation.

CS



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

RANDY A. DANIELS
SECRETARY OF STATE

JOSHUA B. TOAS
ASSISTANT SECRETARY OF STATE
AND DEPUTY COUNSEL

MEMORANDUM

July 9, 2001

TO: Honorable James M. McGuire, Esq.
Counsel to the Governor

FROM: Joshua B. Toas, Esq. JBX

SUBJECT: A. 6145 (M. of A. Thiele)
Recommendation: No Objection

This bill would amend § 2.10 of the Criminal Procedure Law to provide that employees of the Town of East Hampton serving as code enforcement officers shall be peace officers. The new subdivision to be added to § 2.10 would contain the proviso, however, that nothing in the subdivision shall be deemed to authorize such an officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to Penal Law § 400.00.

The sponsor's memorandum in support of the bill states that it is aimed at enforcement of the Town's recycling and solid waste provisions. Designation as a peace officer would permit the Town code enforcement officers to issue tickets. Criminal Procedure Law § 2.20 grants the following powers to peace officers:

- 1) the power to make warrantless arrests pursuant to Criminal Procedure Law §140.25;
- 2) the power to use physical force and deadly physical force in making an arrest or preventing an escape pursuant to Penal Law § 35.30;
- 3) the power to carry out warrantless searches whenever such searches are constitutionally permissible and acting pursuant to their special duties;
- 4) the power to issue appearance tickets pursuant to Criminal Procedure Law §150.20 when acting pursuant to their special duties;
- 5) the power to issue uniform appearance tickets pursuant to Article 27 of the Parks, Recreation and Historic Preservation Law and to issue simplified traffic informations pursuant to Criminal Procedure Law §100.25 and Vehicle and Traffic Law § 207 whenever acting pursuant to their special duties.

- 6) the power to issue a uniform navigation summons and/or complaint pursuant to Navigation Law §19 whenever acting pursuant to their special duties;
- 7) the power to issue uniform appearance tickets pursuant to Article 71 of the Environmental Conservation law whenever acting pursuant to their special duties;
- 8) the power to possess and take custody of firearms not owned by the peace officer, for the purpose of disposing, guarding, or any other lawful purpose, consistent with his duties as a peace officer; and
- 9) any other power which a particular peace officer is otherwise authorized to exercise by any general, special, or local law or charter whenever acting pursuant to his special duties, provided such power is not inconsistent with provisions of the Penal law or the Criminal Procedure Law.

Criminal Procedure Law § 2.10 currently designates dozens of state and local officials as peace officers. Although many of the offices so designated perform investigative functions or more generalized policing functions than would fall within the jurisdiction of the code enforcement officers of the Town of East Hampton, some of the officials designated as peace officers perform functions whose scope is comparable to the functions performed by the Town code enforcement officers. For instance, the dog control officers of the Towns of Brookhaven and Arcadia have been designated as peace officers (see subdivisions 56 and 68 of Criminal Procedure Law § 2.10).

The Department of State does not object to the approval of this bill.

JBT/RD/sm

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