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I N   S E N A T E

May 14, 2014

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Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, the agriculture and markets law and the public health law, in relation to the consideration of future climate risk including sea level rise projections and other weather-related data; and in relation to requiring the preparation of model local zoning laws relating to climate risk

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 2 of section 6-0107 of the environmental  
2     conservation law is amended by adding a new paragraph k to read as  
3     follows:  
4     K. TO MITIGATE FUTURE CLIMATE CHANGE IMPACTS BY INCLUDING CONSIDER-  
5     ATION OF SEA LEVEL RISE PROJECTIONS AND AVAILABLE WEATHER-RELATED DATA  
6     PREDICTING THE LIKELIHOOD OF FUTURE SEVERE WEATHER EVENTS.  
7     S 2. Item (e) of subparagraph (ii) of paragraph d of subdivision 1 of  
8     section 17-1909 of the environmental conservation law, as added by chap-  
9     ter 565 of the laws of 1989, is amended to read as follows:  
10    (e) conforms with applicable rules and regulations of the department,  
11    INCLUDING A DEMONSTRATION THAT FUTURE CLIMATE RISK INCLUDING SEA LEVEL  
12    RISE PROJECTIONS AND AVAILABLE WEATHER-RELATED DATA PREDICTING THE LIKE-  
13    LIHOOD OF FUTURE SEVERE WEATHER EVENTS HAS BEEN CONSIDERED.  
14    S 3. Paragraphs g and h of subdivision 2 of section 27-1103 of the  
15    environmental conservation law, as amended by chapter 618 of the laws of  
16    1987, are amended and a new paragraph i is added to read as follows:  
17    g. The impact on the municipality where the facility is to be sited in  
18    terms of health, safety, cost and consistency with local planning,  
19    zoning or land use laws and ordinances, [and]  
20    h. The nature of the probable environmental impact, including specifi-  
21    cation of the predictable adverse effects on the natural environment and  
22    ecology, public health and safety, scenic, historic, cultural and recre-  
23    ational value, water and air quality, wildlife and an evaluation of  
24    measures to mitigate adverse effects[.], AND

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 I. THE FUTURE CLIMATE RISK INCLUDING SEA LEVEL RISE PROJECTIONS AND  
2 AVAILABLE WEATHER-RELATED DATA PREDICTING THE LIKELIHOOD OF FUTURE  
3 SEVERE WEATHER EVENTS.

4 S 4. Subdivision 1 of section 40-0113 of the environmental conserva-  
5 tion law is amended by adding a new paragraph i to read as follows:

6 I. REQUIREMENTS FOR CONSIDERATION OF FUTURE CLIMATE RISK INCLUDING SEA  
7 LEVEL RISE PROJECTIONS AND AVAILABLE WEATHER-RELATED DATA PREDICTING THE  
8 LIKELIHOOD OF FUTURE SEVERE WEATHER EVENTS.

9 S 5. Subdivision 3 of section 49-0203 of the environmental conserva-  
10 tion law is renumbered subdivision 4 and a new subdivision 3 is added to  
11 read as follows:

12 3. THE DEPARTMENT AND THE OFFICE SHALL CONSIDER THE FUTURE CLIMATE  
13 RISK INCLUDING SEA LEVEL RISE PROJECTIONS AND AVAILABLE WEATHER-RELATED  
14 DATA PREDICTING THE LIKELIHOOD OF FUTURE SEVERE WEATHER EVENTS.

15 S 6. Paragraph a of subdivision 2 of section 54-0303 of the environ-  
16 mental conservation law, as added by chapter 610 of the laws of 1993 and  
17 as designated by chapter 170 of the laws of 1994, is amended to read as  
18 follows:

19 a. The commissioner of the office of parks, recreation and historic  
20 preservation may enter into an agreement for the maintenance and opera-  
21 tion of open space land conservation projects in urban areas or metro-  
22 politan park projects by a municipality, or a not-for-profit corporation  
23 or unincorporated association which demonstrates to the commissioner's  
24 satisfaction that [it] THE FUTURE CLIMATE RISK INCLUDING SEA LEVEL RISE  
25 PROJECTIONS AND AVAILABLE WEATHER-RELATED DATA PREDICTING THE LIKELIHOOD  
26 OF FUTURE SEVERE WEATHER EVENTS HAS BEEN CONSIDERED AND THE MUNICIPALITY  
27 is financially or otherwise capable of operating and maintaining the  
28 project for the benefit of the public and of maximizing public access to  
29 such project. Any such agreement shall contain such provisions as shall  
30 be necessary to ensure that its operation and maintenance are consistent  
31 with and in furtherance of this article and shall be subject to the  
32 approval of the director of the budget, the comptroller and, as to form,  
33 the attorney general.

34 S 7. Subdivision 3 of section 54-0503 of the environmental conserva-  
35 tion law, as added by chapter 610 of the laws of 1993, is amended to  
36 read as follows:

37 3. A closure investigation report which complies with the requirements  
38 of applicable regulations of the department, INCLUDING A DEMONSTRATION  
39 THAT FUTURE CLIMATE RISK INCLUDING SEA LEVEL RISE PROJECTIONS AND AVAIL-  
40 ABLE WEATHER-RELATED DATA PREDICTING THE LIKELIHOOD OF FUTURE SEVERE  
41 WEATHER EVENTS HAS BEEN CONSIDERED, shall have been submitted.

42 S 8. Section 54-0504 of the environmental conservation law, as added  
43 by section 4 of part L of chapter 59 of the laws of 2005, is amended to  
44 read as follows:

45 S 54-0504. Eligibility to receive state assistance payments for munici-  
46 pal landfill gas management projects.

47 Any municipality which is the owner or operator of a landfill may  
48 apply for state assistance payments toward the cost of a municipal land-  
49 fill gas management project. Any application for a municipal landfill  
50 gas management project must comply with all applicable rules and regu-  
51 lations promulgated by the department, INCLUDING A DEMONSTRATION THAT  
52 FUTURE CLIMATE RISK INCLUDING SEA LEVEL RISE PROJECTIONS AND AVAILABLE  
53 WEATHER-RELATED DATA PREDICTING THE LIKELIHOOD OF FUTURE SEVERE WEATHER  
54 EVENTS HAS BEEN CONSIDERED.

1 S 9. Subdivisions 1 and 5 of section 54-1101 of the environmental  
2 conservation law, as amended by chapter 309 of the laws of 1996, are  
3 amended to read as follows:

4 1. The secretary is authorized to provide on a competitive basis,  
5 within amounts appropriated, state assistance payments to municipalities  
6 toward the cost of any local waterfront revitalization program, INCLUD-  
7 ING PLANNING PROJECTS TO MITIGATE FUTURE CLIMATE RISKS. Eligible costs  
8 include planning, studies, preparation of local laws, and construction  
9 projects.

10 5. The secretary shall impose such contractual requirements and condi-  
11 tions upon any municipality which receives state assistance payments  
12 pursuant to this article as may be necessary and appropriate to ensure  
13 that a public benefit shall accrue from the use of such funds by the  
14 municipality INCLUDING BUT NOT LIMITED TO, A DEMONSTRATION THAT FUTURE  
15 CLIMATE RISK INCLUDING SEA LEVEL RISE PROJECTIONS AND AVAILABLE WEATH-  
16 ER-RELATED DATA PREDICTING THE LIKELIHOOD OF FUTURE SEVERE WEATHER  
17 EVENTS HAS BEEN CONSIDERED.

18 S 10. Subdivision 1 of section 54-1105 of the environmental conserva-  
19 tion law, as added by chapter 610 of the laws of 1993, is amended to  
20 read as follows:

21 1. The commissioner is authorized to provide on a competitive basis,  
22 within amounts appropriated, state assistance payments to a municipality  
23 or a not-for-profit corporation toward the cost of any coastal rehabili-  
24 tation project approved by the commissioner PROVIDED THAT THE COMMIS-  
25 SIONER DETERMINES THAT FUTURE CLIMATE RISK INCLUDING SEA LEVEL RISE  
26 PROJECTIONS AND AVAILABLE WEATHER-RELATED DATA PREDICTING THE LIKELIHOOD  
27 OF FUTURE SEVERE WEATHER EVENTS HAS BEEN CONSIDERED.

28 S 11. Subdivision 2 of section 325 of the agriculture and markets law  
29 is amended by adding a new paragraph (f) to read as follows:

30 (F) IN EVALUATING APPLICATIONS FOR FUNDING, THE COMMISSIONER SHALL  
31 CONSIDER THE FUTURE CLIMATE RISK INCLUDING SEA LEVEL RISE PROJECTIONS  
32 AND AVAILABLE WEATHER-RELATED DATA PREDICTING THE LIKELIHOOD OF FUTURE  
33 SEVERE WEATHER.

34 S 12. Section 1161 of the public health law, as added by chapter 413  
35 of the laws of 1996, is amended to read as follows:

36 S 1161. Eligible projects; priority ranking. Subject to the  
37 provisions of section thirty-two of the chapter of the laws of 1996  
38 which added this section, in consultation with the commissioner of envi-  
39 ronmental conservation, the commissioner shall establish and maintain a  
40 list of potentially eligible projects and shall establish, pursuant to  
41 rules and regulations, a process for listing potentially eligible  
42 projects identified by potential recipients and a priority ranking  
43 system for the purpose of providing financial assistance to recipients  
44 for such projects under this title. In establishing such system, the  
45 commissioner shall take into account the public health significance of  
46 such potentially eligible projects which shall include, but need not be  
47 limited to, an assessment of (i) public health and safety; (ii) popu-  
48 lation affected; (iii) attainment of state drinking water quality goals  
49 and standards; (iv) taking into consideration the water resources  
50 management strategy pursuant to title twenty-nine of article fifteen of  
51 the environmental conservation law; (V) TAKING INTO CONSIDERATION FUTURE  
52 CLIMATE RISK INCLUDING SEA LEVEL RISE PROJECTIONS AND AVAILABLE WEATH-  
53 ER-RELATED DATA PREDICTING THE LIKELIHOOD OF FUTURE SEVERE WEATHER; and  
54 [(v)] (VI) compliance with state and federal law, rules and regulations.

55 S 13. The department of state, in cooperation with the department of  
56 environmental conservation, shall prepare model local laws that include

1 consideration of climate risk including sea level rise projections and  
2 available weather-related data predicting the likelihood of future  
3 severe weather events and shall make such laws available to munici-  
4 palities.

5 S 14. Major permits for the regulatory programs of paragraphs  
6 (f),(h),(i),(j),(k) and (m) of subdivision 3 of section 70-0107 of the  
7 environmental conservation law and article 23, article 40 and title 10  
8 of article 17 of the environmental conservation law shall require appli-  
9 cants to demonstrate that future climate risk including sea level rise  
10 projections and available weather-related data predicting the likelihood  
11 of future severe weather events has been considered.

12 S 15. This act shall take effect on the one hundred eightieth day  
13 after it shall have become a law and shall apply to all applications  
14 and/or permits received after such date.