

# STATE OF NEW YORK

2044

2021-2022 Regular Sessions

## IN ASSEMBLY

January 14, 2021

Introduced by M. of A. ABINANTI, SCHMITT -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the water resources planning council

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 15-2901 of the environmental conservation law, as  
2 amended by chapter 83 of the laws of 1995, is amended to read as  
3 follows:

4 § 15-2901. Water resources planning council; organization.

5 1. There is hereby established [~~within the department of environmental~~  
6 ~~conservation~~] a water resources planning council. [~~It~~] The head of the  
7 council shall be the water commissioner, who shall be appointed by the  
8 governor, by and with the advice and consent of the senate, and hold  
9 office at the pleasure of the governor by whom he or she was appointed  
10 and until a successor is appointed and qualified. The water commissioner  
11 shall hold no other public office, and shall be the chief administrative  
12 officer of and in sole charge of the administration of the water  
13 resources planning council and shall chair the council. The water  
14 commissioner shall receive an annual salary to be fixed by the governor  
15 within the amount available therefor by appropriation, and shall be  
16 entitled to receive reimbursement for expenses actually and necessarily  
17 incurred in the performance of his or her duties. The commissioner's  
18 duties shall include management and oversight of the water resources of  
19 the state. The water resources planning council shall consist of  
20 [~~fifteen~~] seventeen voting members [~~, including~~] and eight non-voting  
21 members. (a) Voting members shall include the chair, the commissioners  
22 of agriculture and markets, economic development, environmental conser-  
23 vation, health, transportation, human rights, the chair of the public  
24 service commission, president of the New York state energy research and  
25 development authority, secretary of state and seven members to be

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

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1 appointed by the governor including at least [~~one member~~] two members  
2 who shall have expertise in the science of water resources planning  
3 [~~and~~], at least two members who shall have expertise in environmental  
4 science and/or engineering and one member [~~selected from a list proposed~~  
5 ~~by public interest or environmental citizens organizations~~] who shall  
6 have expertise in environmental justice. These seven members appointed  
7 by the governor shall serve terms of [~~four~~] five years each. Two of the  
8 members appointed by the governor shall be appointed upon the recommen-  
9 dation of the majority leader of the senate and two of the members  
10 appointed by the governor shall be appointed upon the recommendation of  
11 the speaker of the assembly. [~~The governor shall select a chair from~~  
12 ~~among the members.~~] (b) Non-voting members shall represent each of the  
13 following regions: (a) New York City; (b) Long Island; (c) Lower Hudson  
14 Valley; (d) Capitol Region; (e) Upper Hudson and St. Lawrence River  
15 Watershed; (f) Central New York; (g) Southern Tier River basins; and (h)  
16 Great Lakes Regional Watersheds. Meetings of the council shall be called  
17 by the chair. [~~Members~~] Except for the chair, members shall receive  
18 reimbursement for expenses only.

19 2. The water commissioner may request and receive from any department,  
20 division, board, bureau, commission or other agency of the state or any  
21 political subdivision thereof or any public authority, staff and other  
22 assistance, information, and resources as will enable the water  
23 resources planning council to properly carry out its functions, powers  
24 and duties.

25 § 2. Section 15-2903 of the environmental conservation law, as amended  
26 by chapter 307 of the laws of 1986, is amended to read as follows:

27 § 15-2903. Water resources planning council; quorum, bylaws.

28 A majority of the voting members of the council shall constitute a  
29 quorum for the transaction of any business or the exercise of any power  
30 of the council. The commissioners of agriculture and markets, [~~commerce~~]  
31 economic development, energy, environmental conservation, health, trans-  
32 portation, human rights, the [~~chairman~~] chair of the public service  
33 commission and secretary of state may, by official authority filed in  
34 their respective agencies, and with the water resources planning coun-  
35 cil, designate a deputy or other officer to exercise his or her powers  
36 and perform his or her duties, including the right to vote, on the coun-  
37 cil. The council may also establish for itself bylaws for the conduct of  
38 its affairs.

39 § 3. The environmental conservation law is amended by adding a new  
40 section 15-2904 to read as follows:

41 § 15-2904. Water resources planning council; duties and purpose.

42 1. The council shall manage and oversee the water resources of the  
43 state including facilitating cooperative and sustainable management of  
44 water resources to ensure that all residents have access to adequate,  
45 affordable, safe drinking water in perpetuity. When appropriate, the  
46 council shall consider opportunities for economic development in manag-  
47 ing the water resources of the state. The council shall ensure the fair  
48 and equitable distribution of public water resources and shall ensure  
49 that every agency considers environmental justice standards in its deci-  
50 sion making process and actions. The council shall create interstate  
51 partnerships for sharing resources and best practices for water manage-  
52 ment.

53 2. The council shall review and examine all state and federal laws and  
54 regulations concerning the management, use, protection, conservation and  
55 provision of water which may affect the state. The council may issue  
56 comments on any proposed state and federal legislation or regulations

1 affecting water. The council shall review and may issue comments on any  
2 recommendations of the drinking water quality council established pursu-  
3 ant to section eleven hundred thirteen of the public health law. The  
4 council shall review the list of contaminants which are tested in waters  
5 of the state and make necessary recommendations to the department of  
6 environmental conservation, the department of health, or the United  
7 States environmental protection agency.

8 § 4. Section 15-2905 of the environmental conservation law, as added  
9 by chapter 509 of the laws of 1984, is amended to read as follows:

10 § 15-2905. Statewide inventory of existing significant deficiencies in  
11 water supply systems.

12 The [~~commissioner, in consultation with the commissioner of health~~  
13 ~~and~~] chair, utilizing information requested from the responsible local  
14 officials as well as relevant information developed through titles elev-  
15 en and thirteen of this article, shall cause to be prepared an inventory  
16 of existing significant deficiencies in water supply availability  
17 throughout the state, including specific needs for improvement, rehabil-  
18 itation and establishment of water supply, distribution and transmission  
19 facilities. Such inventory shall also identify those water supply  
20 systems affected or threatened by intrusions of hazardous materials or  
21 wastes and the nature of remediation required. Such inventory shall be  
22 completed and transmitted to the governor, legislature and the council  
23 by July first, [~~nineteen hundred eighty-five~~] two thousand twenty-two.

24 The [~~commissioner~~] chair in consultation with the secretary of state,  
25 shall also cause to be prepared a review and summary of existing statu-  
26 tory and constitutional provisions relating to the provision and financ-  
27 ing of water supply facilities by local governments, including such  
28 provision and financing through inter-local cooperation. Such review and  
29 summary shall also identify any existing statutory and constitutional  
30 constraints against the effective and efficient provision of sound  
31 financing, on a revenue or general obligation basis, of such facilities.  
32 Such review and summary shall be completed and transmitted to the gover-  
33 nor, legislature and the council by January first, [~~nineteen hundred~~  
34 ~~eighty-six~~] two thousand twenty-three. At such time and based upon the  
35 above inventory and review and summary, the [~~commissioner~~] chair shall  
36 also cause to be prepared a compilation of those instances in which  
37 correction of existing significant deficiencies appears to be beyond the  
38 reasonable financial capabilities of the affected communities.

39 § 5. Section 15-2907 of the environmental conservation law, as amended  
40 by chapter 214 of the laws of 1991, is amended to read as follows:

41 § 15-2907. Water resources management strategy; development purpose.

42 Not later than January first, [~~nineteen hundred eighty-seven, the~~  
43 ~~department of environmental conservation, with the participation of the~~  
44 ~~department of health~~] two thousand twenty-four, the water resources  
45 planning council, with the participation of all voting members and when-  
46 ever possible, [~~regional planning and development boards~~] non-voting  
47 regional members, shall develop and [~~submit~~] adopt a [~~complete~~] compre-  
48 hensive statewide water resources management strategy [~~to the water~~  
49 ~~resources planning council for its review and adoption~~]. [~~This~~] The  
50 water resources management strategy shall be composed of substate water  
51 resources management strategies which recognize the natural boundaries  
52 of the water resource basins, watersheds, and aquifers and existing  
53 significant deficiencies of water supply, and which organize these in  
54 the most practical and manageable manner. Each substate management stra-  
55 tegy shall analyze the present and future demographic, natural resource,  
56 economic development, water quality, and conservation requirements of

1 public and private water systems and develop regional management strate-  
2 gies to meet the water resources requirements of residential, agricul-  
3 tural, industrial and commercial users as well as assure the highest  
4 possible quality and quantity of these resources.

5 Strategies shall analyze the efficiency and capacity of existing water  
6 supply sources and facilities and shall contain recommendations for  
7 appropriate modifications, restoration, and expansion or development of  
8 new sources or facilities. Such strategies shall also include evalu-  
9 ations and recommendations as to the feasibility of including or remov-  
10 ing hydroelectric energy generation facilities as part of the modifica-  
11 tions, restoration, and expansion or development of new or existing  
12 resources or facilities and/or returning rivers and streams to their  
13 natural flow. The strategy shall also contain recommendations regarding  
14 implementation of these strategies by the department of health, the  
15 department of environmental conservation, other appropriate state agen-  
16 cies, local governments and special districts. Where necessary, the  
17 strategy shall include review and assessment of all interstate water  
18 management agreements or agreements with municipalities. In addition,  
19 the departments shall submit to the council substate water resources  
20 management strategies as soon as such strategies are developed. The  
21 departments shall also report regularly to the council on the develop-  
22 ment of the strategies and receive the council's recommendations and  
23 directions. ~~[Such substate]~~ The statewide water resources management  
24 strategy shall be made available to the public on the council's website  
25 and submitted to the legislature within two weeks of its adoption.  
26 Substate strategies shall also be available ~~[for public inspection as~~  
27 ~~seen as]~~ to the public on each department's and the council's website  
28 within two weeks of the submission of such strategies ~~[are developed]~~ to  
29 the council.

30 § 6. Section 15-2909 of the environmental conservation law, as added  
31 by chapter 509 of the laws of 1984, is amended to read as follows:

32 § 15-2909. Water resources management strategy; hearings.

33 Upon ~~[receipt]~~ adoption of the comprehensive statewide water resources  
34 management strategy ~~[from the department of environmental conservation]~~  
35 by the water resources planning council, the council shall promptly  
36 publish once a week for three consecutive weeks in newspapers of general  
37 circulation and post on the council's website notice of public hearings  
38 thereon. Public hearings shall be conducted in each of the ~~[substate~~  
39 ~~areas]~~ regions represented ~~[in the statewide strategy]~~ by a non-voting  
40 member of the council, and shall be in accordance with regulations  
41 adopted by the ~~[department, subject to modification by the]~~ council.  
42 Such regulations shall, at a minimum, require a hearing on the record  
43 with sworn witnesses and shall afford interested parties a reasonable  
44 opportunity to sponsor witnesses and to question witnesses sponsored by  
45 others, including department staff, consistent with the need to conclude  
46 the hearings expeditiously so that a state water resources management  
47 strategy can be adopted in a timely manner. The hearings shall not be  
48 considered part of an adjudicatory proceeding, as defined in subdivision  
49 three of section one hundred two of the state administrative procedure  
50 act, or as part of a rule-making proceeding held under subdivision one  
51 of section two hundred two of such act.

52 § 7. Section 15-2911 of the environmental conservation law, as added  
53 by chapter 509 of the laws of 1984, is amended to read as follows:

54 § 15-2911. Water resources management strategy; approval.

55 The water resources planning council shall, as expeditiously as prac-  
56 ticable following the conclusion of its hearings, but in no case later

1 than January first, [~~nineteen hundred eighty eight~~] two thousand twen-  
2 ty-four, [~~determine~~] adopt, based on the record, [~~whether~~] the statewide  
3 water resources management strategy [~~should be approved~~] with modifica-  
4 tions [~~or disapproved, and shall state in writing the reasons for its~~  
5 ~~determination~~], if any, based on the testimony and public hearing  
6 record. [~~If the council has determined approval of the~~] The strategy [~~7~~  
7 ~~it~~] adopted by the council shall be adopted by the departments of health  
8 and environmental conservation and other appropriate state agencies [~~in~~  
9 ~~the form determined by the council. If the council has determined disap-~~  
10 ~~proval of the strategy, the department of environmental conservation, in~~  
11 ~~conjunction with the department of health, shall modify the strategy in~~  
12 ~~accordance with the determination issued by the council and resubmit the~~  
13 ~~strategy to the council for its action~~].

14 § 8. Section 15-2913 of the environmental conservation law, as added  
15 by chapter 509 of the laws of 1984, is amended to read as follows:

16 § 15-2913. Water resources management strategy; revision.

17 From time to time and at least once every [~~two years~~] year, [~~the~~  
18 ~~department of environmental conservation, with the participation of the~~  
19 ~~department of health~~] the water resources planning council, with partic-  
20 ipation of all voting members and whenever possible, [~~regional planning~~  
21 ~~and development boards~~] non-voting regional members, shall review the  
22 strategy and shall either (a) prepare any amendments necessary to update  
23 the strategy, or (b) issue a determination that no amendments are neces-  
24 sary and the reasons supporting the determination. Any interested person  
25 may seek such a review upon written application to the [~~department of~~  
26 ~~environmental conservation~~] council for an amendment to the statewide  
27 water resources management strategy. [~~Any statement issued by the~~  
28 ~~departments that no amendments are necessary shall be submitted to the~~  
29 ~~council for approval, modification or disapproval.~~] Amendments shall be  
30 adopted in the same manner as the strategy itself. Every four years, a  
31 new comprehensive statewide resources management strategy shall be  
32 developed and adopted by the water resources planning council as set  
33 forth herein.

34 § 9. The environmental conservation law is amended by adding a new  
35 section 15-2915 to read as follows:

36 § 15-2915. Report to legislature and governor.

37 From time to time, but not less than once each year, the water  
38 resources planning council shall submit a report to the governor, the  
39 majority leader of the senate and the speaker of the assembly on the  
40 status and quality of the water resources of the state. When requested,  
41 the water commissioner shall represent and provide testimony on behalf  
42 of the water resources planning council before the senate and assembly.

43 § 10. This act shall take effect immediately.