S T A T E O F N E W Y O R K

S. 3931 A. 7428

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

April 6, 2009

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

IN ASSEMBLY -- Introduced by M. of A. ZEBROWSKI, JAFFEE, CALHOUN, RABBITT -- read once and referred to the Committee on Environmental Conservation

AN ACT enacting the "Rockland Bergen Bi-state watershed flood prevention and protection act" and creating the Rockland Bergen Bi-state River Commission

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

Section 1. This act shall be known and may be cited as the "Rockland Bergen Bi-state watershed flood prevention and protection act".

S 2. The legislature finds and declares that the states of New York and New Jersey and their respective citizens share a common concern to protect their personal safety and property through the identification and remediation of potential flood hazards along the tributaries and watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle River, and Sparkill Brook/Creek that cross the interstate border region. The identification and remediation of potential flood hazards requires a bi-state comprehensive approach. A bi-state comprehensive flood prevention approach will also help ensure the preservation and maintenance of the environmentally beneficial impacts of the tributaries and watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle River, and Sparkill Brook/Creek. A bi-state approach will encourage open space and recreational opportunities along the tributaries and watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle River, and Sparkill Brook/Creek. The legislature further finds that there has been a long history of cooperation among state and local governmental entities and various private organizations and individuals

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

LBD09571-02-9

in the vicinity of the tributaries and watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle River, and Sparkill Brook/Creek.

The legislature therefore determines that there is a need to endorse and formalize that bi-state cooperative effort to identify and remediate potential flood hazards and to protect the natural, scenic and recreational opportunities of the tributaries and watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle River, and Sparkill Brook/Creek. The legislature further determines that the creation of a bi-state commission is an appropriate means to accomplish these very important goals.

S 3. As used in this act, "Bi-state region" shall mean the tributaries and watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle River, and Sparkill Brook/Creek, within the counties of Rockland in New York and Bergen in New Jersey. "Resident voter" shall mean an individual registered to vote and who actually votes in an election district within the county of Rockland in New York or the county of Bergen in New Jersey.

S 4. a. There is hereby created the Rockland Bergen Bi-state river commission, which shall be comprised of twelve voting members. Six members of New York shall be appointed as follows: one each, by the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, and the minority leader of the assembly, of New York, all of whom shall be resident voters of the county of Rockland, New York; and the commissioner of the New York state department of environmental conservation or a designee thereof, who shall serve ex officio. Six members of New Jersey shall be appointed as follows: one each, by the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, and the minority leader of the assembly, of New Jersey, all of whom shall be resident voters from either the county of Bergen, Essex, or Hudson; and the commissioner of the New Jersey department of environmental protection or a designee thereof, who shall serve ex officio. Additionally, the commission shall include six non voting members, as follows: the commissioner of the New York state department of transportation or a designee thereof, who shall serve ex officio; the commissioner of the New Jersey department of transportation or a designee thereof, who shall serve ex officio; the county executive of the county of Rockland in New York or a designee thereof who shall serve ex officio; the county executive of the county of Bergen in New Jersey, or a designee thereof, who shall serve ex officio; a representative of United Water Inc. or its successor; and a representative of the United States army corps of engineers.

b. Vacancies in the appointed positions on the commission shall be filled in the same manner as the original appointments were made.

c. Members of the commission shall serve without compensation, but the commission may, within the limits of funds appropriated or otherwise made available to it, reimburse members for actual expenses necessarily incurred in the discharge of their official duties.

d. Members of the commission shall serve at the pleasure of the relevant appointing authority.

S 5. a. The commission shall organize as soon as may be practicable after the appointment of its members, and shall select two co-chairpersons from its members, one from each state, and a secretary who need not be a member.

b. The commission shall meet regularly as it may determine. Meetings of the commission shall be at such times and places as the co-chairpersons of the commission deem appropriate, but to the maximum extent practicable and feasible, shall be rotated between the two states on an alternating basis. Meetings held in New Jersey shall be subject to the provisions and requirements of the "Senator Byron M. Baer Open Public Meetings Act," P.L. 1975, c. 231 (C.10:4-6 et seq). Meetings held in New York shall be subject to the provisions and requirements of that state's open meetings law, article 7 of the public officers law. The commission shall also meet at the call of either co-chairperson.

c. A majority of the voting membership of the commission shall constitute a quorum for the transaction of commission business. Action may be taken and motions and resolutions adopted by the commission at any meeting thereof by the affirmative vote of seven members of the commission.

d. The commission shall request assistance, and the services of, such employees of the two states, or any political subdivisions, instrumentalities, entities, agencies, or authorities thereof, as it may require and as may be made available to it for the purpose of carrying out its duties under this act. If requested by the commission, the New Jersey department of environmental protection and the New York state department of environmental conservation shall provide primary staff support.

e. The commission may, within the limits of funds appropriated or otherwise made available to it for those purposes, employ such professional, technical, and clerical staff and incur such traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties.

S 6. The duties of the commission shall be to:

a. assess present and projected development, land use, and land management practices and patterns, and identify actual and potential environmental threats and problems, around the bi-state region, and determine the effects of those practices and patterns, threats, and problems upon the natural, scenic, and recreational resources of the bi-state region;

b. develop recommended regulations, procedures, policies, planning strategies, and model ordinances and resolutions pertaining to the protection, preservation, maintenance, management, and enhancement of the bi-state region which would be implemented as appropriate on a voluntary basis by those municipalities within the bi-state region;

c. coordinate environmental cleanup, maintenance, and protection efforts undertaken, for the benefit of the bi-state region by municipalities within the bi-state region;

d. coordinate with the New York State department of environmental conservation and the New Jersey department of environmental protection, including but not limited to, their watershed management programs, the United States Army Corps of Engineers and all municipalities within the bi-state region.

e. recommend appropriate state legislation and administrative action pertaining to the protection, preservation, maintenance, management, and enhancement of the bi-state region;

f. advocate, and where appropriate, act as a coordinating, distributing, or recipient agency for, federal, state, or private funding of environmental cleanup, maintenance, protection projects, flood prevention projects and flood hazard remediation for the bi-state region, which projects may include the work of the commission;

g. identify existing and projected flood hazards in the bi-state region;

h. recommend, propose and coordinate a bi-state comprehensive plan to remediate existing and projected flood hazards in the bi-state region; and

i. take such other action as may be appropriate or necessary to further the purpose of this act.

S 7. The commission shall, within 18 months of the date it organizes, and annually thereafter, prepare a progress report on its activities, and submit it, together with any recommendations for legislation, administrative action, or action by local governments, to the governors and legislatures of the states of New Jersey and New York.

S 8. The comptroller of the state of New Jersey and the comptroller of the state of New York are hereby authorized and empowered from time to time to examine the accounts and books of the commission, including its receipts, disbursements, and such other items referring to its financial standing as such comptrollers may deem proper and to report the results of such examination to their respective governor and legislature.

S 9. This act shall take effect upon the enactment into law by the state of New Jersey of legislation having substantially similar effect with this act, but if the state of New Jersey shall have already enacted such legislation, this act shall take effect immediately; provided that the Rockland Bergen bi-state river commission shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in this act in order that the legislative bill drafting commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.