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

6004

2013-2014 Regular Sessions

I N S E N A T E

December 6, 2013

Introduced by Sens. VALESKY, FARLEY, GRIFFO, O'MARA, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the canal law, in relation to the upstate flood mitigation task force and to amend the state finance law, in relation to creating the upstate flood mitigation fund; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. The canal law is amended by adding a new article 13-b to read as follows:

ARTICLE 13-B

UPSTATE FLOOD MITIGATION TASK FORCE

SECTION 139. UPSTATE FLOOD MITIGATION TASK FORCE.

139-A. DEFINITIONS.

139-B. TASK FORCE COMPOSITION.

139-C. TASK FORCE DUTIES AND POWERS.

139-D. UPSTATE FLOOD MITIGATION GRANT PROGRAM.

S 139. UPSTATE FLOOD MITIGATION TASK FORCE. THE UPSTATE FLOOD MITIGATION TASK FORCE, REFERRED TO IN THIS ARTICLE AS THE "TASK FORCE", IS HEREBY ESTABLISHED TO IDENTIFY REASONABLE MEASURES THAT CAN BE TAKEN TO ENHANCE FLOOD MANAGEMENT AND MITIGATION IN THE UPSTATE FLOOD MITIGATION REGION AND TO MAKE RECOMMENDATIONS AND PROVIDE GRANT ASSISTANCE WITH RESPECT TO SUCH MEASURES.

S 139-A. DEFINITIONS. WHEN USED IN THIS ARTICLE:

1. "ADAPTIVE MEASURES" MEANS ANY ADJUSTMENT, WHETHER PASSIVE, REACTIVE OR ANTICIPATORY, THAT MAY BE TAKEN TO AMELIORATE THE ANTICIPATED ADVERSE CONSEQUENCES ASSOCIATED WITH FLOOD EVENTS.

2. "FLOOD CONTROL STUDY SECTOR" MEANS A PARTICULAR ASPECT OF THE NATURAL OR BUILT ENVIRONMENT, ECONOMY, OR SOCIETY THAT COULD POTENTIALLY BE ADVERSELY IMPACTED BY FLOOD EVENTS. SUCH TERM INCLUDES, BUT IS NOT

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

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LIMITED TO, STREAM AND RIVER BANKS, LOCKS AND DAMS, WETLANDS AND WATERFRONT AREAS, WATER RESOURCES, TRANSPORTATION INFRASTRUCTURE, WATER SUPPLY AND WASTEWATER INFRASTRUCTURE, HUMAN HEALTH, RECREATION, TOURISM, POWER GENERATION AND BUSINESS, RESIDENTIAL, FARM AND MUNICIPAL SECTORS.

3. "FLOOD EVENT" MEANS AN OVERFLOW OR INUNDATION THAT COMES FROM A RIVER OR OTHER BODY OF WATER, WHETHER CAUSED BY RAINFALL, WATERWAY OPERATION, DAM BREAK, WATER RUNOFF OR OTHER MEANS, AND CAUSES OR THREATENS DAMAGE.

4. "CANAL SYSTEM" SHALL MEAN THE CANAL WATERWAYS, LANDS AND INFRASTRUCTURE AS SET OUT IN SECTION TWO OF THIS CHAPTER.

5. "UPSTATE FLOOD MITIGATION REGION" SHALL INCLUDE A COUNTY, EXCEPT A COUNTY WHOLLY ENCOMPASSED BY A CITY AND ANY COUNTY WITH A POPULATION OF ONE MILLION OR MORE.

S 139-B. TASK FORCE COMPOSITION. 1. THE TASK FORCE SHALL CONSIST OF THE DIRECTOR OF THE CANAL CORPORATION, THE COMMISSIONER OF TRANSPORTATION, THE DIRECTOR OF THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES; AND FIVE ADDITIONAL MEMBERS WHO SHALL BE FROM OUTSIDE THE PUBLIC OFFICES LISTED IN THIS SECTION AND WHO SHALL HAVE PROFESSIONAL EXPERIENCE IN THE FIELDS OF HYDROLOGY, CIVIL ENGINEERING, CLIMATOLOGY, EMERGENCY MANAGEMENT AND SOIL AND WATER CONSERVATION. THE GOVERNOR SHALL APPOINT THREE OF THE FIVE ADDITIONAL MEMBERS AND THE TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY SHALL EACH APPOINT ONE OF EACH OF THE FIVE ADDITIONAL MEMBERS.

2. THE TASK FORCE SHALL APPOINT A CHAIRPERSON FROM AMONG ITS MEMBERS.

3. THE MEMBERS OF THE TASK FORCE SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

4. TO HELP ENSURE THE TASK FORCE'S RECEIPT OF A COMPREHENSIVE AND DIVERSE ARRAY OF VIEWS, THE TASK FORCE SHALL HOLD PUBLIC HEARINGS AS IT DEEMS NECESSARY TO SOLICIT RELEVANT INFORMATION AND GATHER CURRENT RESEARCH AND DATA RELATED TO FLOODING AND FLOOD MITIGATION IN THE REGION AS WELL AS RECOMMENDATIONS TO FULFILL THE PURPOSES OF THIS ARTICLE. THE TASK FORCE SHALL CONSULT WITH THE COUNTY OFFICES OF EMERGENCY MANAGEMENT. IN DETERMINING THE NUMBER OF PUBLIC HEARINGS TO BE HELD THE TASK FORCE SHALL REMAIN COGNIZANT OF ITS DUTY TO MEET THE TIMEFRAME FOR FIRST CYCLE AWARDS UNDER THE UPSTATE FLOOD MITIGATION PROGRAM ESTABLISHED WITHIN SECTION ONE HUNDRED THIRTY-NINE-D OF THIS ARTICLE.

S 139-C. TASK FORCE DUTIES AND POWERS. THE ROLE OF THE TASK FORCE INCLUDES, BUT IS NOT LIMITED TO:

1. CONDUCTING AN IN-DEPTH EXAMINATION, PRESENTED AS A PUBLIC REPORT NO LATER THAN SIX MONTHS FROM THE DATE THE TASK FORCE IS ESTABLISHED, OF FLOOD CONTROL STUDY SECTORS AND ISSUES RELATED TO FLOODPLAIN MANAGEMENT, DEBRIS MANAGEMENT, FLOOD CONTROL AND FLOOD MITIGATION IN THE UPSTATE FLOOD MITIGATION REGION INCLUDING:

(A) THE COST IMPACT OF FLOODING OVER THE LAST FIVE YEARS ON AGRICULTURE; TRANSPORTATION; LAND USE; HEALTH; INSURANCE; ECONOMIC SECTORS SUCH AS TOURISM, RECREATION AND POWER GENERATION; AS WELL AS IMPACTS ON INFRASTRUCTURE INCLUDING BRIDGES, LOW LYING ROADS, DAMS, LOCKS, CAUSEWAYS, WATER AND WASTEWATER TREATMENT PLANTS AND DOCKS;

(B) AN ASSESSMENT OF CANAL OPERATION PROCEDURES AND PLANS WHICH MAY HAVE A DIRECT OR INDIRECT IMPACT ON FLOOD MITIGATION AND FLOOD MANAGEMENT INCLUDING, BUT NOT LIMITED TO DEBRIS MANAGEMENT, COMMUNICATION, WATER MANAGEMENT AND FLOOD RESPONSE; AND

(C) A LISTING OF ADAPTIVE MEASURES, WITH ASSOCIATED COSTS, THAT CAN BE TAKEN TO MITIGATE FLOOD DAMAGES, INCLUDING BUT NOT LIMITED TO FEASIBLE FLOODPLAIN MANAGEMENT ACTIVITIES, DEBRIS MANAGEMENT, FLOOD CONTROL

STRUCTURES, COMMUNICATION SYSTEMS AND FLOOD MITIGATION EDUCATION FOR PUBLIC AND PRIVATE LANDOWNERS.

2. ESTABLISHING AN UPSTATE FLOOD MITIGATION GRANT PROGRAM BASED ON THE TASK FORCE'S EVALUATION PURSUANT TO SECTION ONE HUNDRED THIRTY-NINE-D OF THIS ARTICLE WHICH UTILIZES EXISTING AVAILABLE FEDERAL AND STATE MONIES TO FUND GRANTS WITHIN THE UPSTATE FLOOD MITIGATION REGION TO PREVENT AND MITIGATE FLOOD DAMAGE WITHIN THE REGION. SUCH PROGRAM SHALL WORK IN CONJUNCTION WITH EXISTING FLOOD ASSISTANCE GRANT PROGRAMS AND SUPPLEMENT EXISTING EFFORTS BY PROVIDING FUNDS FOR ADAPTIVE MEASURES TO MITIGATE OR ELIMINATE A FLOOD EVENT.

3. THE TASK FORCE SHALL HAVE THE POWER TO: (A) CONTRACT FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE; (B) CONTRACT FOR AND ACCEPT ASSISTANCE INCLUDING, BUT NOT LIMITED TO GIFTS, GRANTS, EASEMENTS, AND LOANS OF FUNDS, REAL PROPERTY AND PERSONAL PROPERTY FROM THE FEDERAL GOVERNMENT OR ANY AGENCY OR INSTRUMENTALITY OF THE STATE, OR FROM ANY OTHER PUBLIC OR PRIVATE SOURCE TO COMPLY, SUBJECT TO THE PROVISIONS OF THIS ARTICLE, WITH THE TERMS AND CONDITIONS THEREOF, SUBJECT TO THE APPROVAL OF THE DIVISION OF BUDGET. NOTWITHSTANDING THE PROVISIONS OF SECTION ELEVEN OF THE STATE FINANCE LAW, THE TASK FORCE MAY ACCEPT GIFTS, GRANTS, DEVISES AND BEQUESTS, WHETHER CONDITIONAL OR UNCONDITIONAL WITH THE APPROVAL OF THE DIRECTOR OF THE BUDGET; (C) HOLD PUBLIC HEARINGS; AND (D) ESTABLISH AN UPSTATE FLOOD MITIGATION GRANT PROGRAM TO BE ADMINISTERED BY THE CANAL CORPORATION AND BASED ON THE TASK FORCE'S EVALUATION WHICH UTILIZES EXISTING AVAILABLE FEDERAL AND STATE MONIES TO FUND GRANTS WITHIN THE UPSTATE FLOOD MITIGATION REGION TO PREVENT AND MITIGATE FLOOD DAMAGE WITHIN THE REGION.

4. ALL EXECUTIVE DEPARTMENTS OF THE STATE AND THE CANAL CORPORATION SHALL PROVIDE THE TASK FORCE WITH SUCH FACILITIES, ASSISTANCE AND DATA AS WILL ENABLE THE TASK FORCE TO CARRY OUT ITS POWERS AND DUTIES. ADDITIONALLY, ALL OTHER AGENCIES OF THE STATE OR SUBDIVISIONS THEREOF SHALL, AT THE REQUEST OF THE CHAIR, PROVIDE THE TASK FORCE WITH SUCH FACILITIES, ASSISTANCE, AND DATA AS WILL ENABLE THE TASK FORCE TO CARRY OUT ITS POWERS AND DUTIES.

S 139-D. UPSTATE FLOOD MITIGATION GRANT PROGRAM. 1. THE TASK FORCE SHALL ESTABLISH AN UPSTATE FLOOD MITIGATION GRANT PROGRAM TO BE ADMINISTERED BY THE CANAL CORPORATION BASED ON THE TASK FORCE'S IN-DEPTH EXAMINATION OF FLOOD CONTROL STUDY SECTORS AND ISSUES RELATED TO FLOODPLAIN MANAGEMENT, DEBRIS MANAGEMENT, FLOOD CONTROL AND FLOOD MITIGATION IN THE UPSTATE FLOOD MITIGATION REGION.

2. THE TASK FORCE SHALL ESTABLISH THE UPSTATE FLOOD MITIGATION GRANT PROGRAM STRUCTURE THAT SHALL BE ADMINISTERED BY THE CANAL CORPORATION. SUCH PROGRAM STRUCTURE SHALL INCLUDE, BUT NOT BE LIMITED TO, THE DEFINITION OF ELIGIBLE RECIPIENTS, PROJECT APPLICATION PROCESS, PROGRAM MAXIMUM PROJECT AWARD AMOUNTS, PROJECT COST SHARING PARAMETERS AND PROGRAM FUNDING CYCLES. IT IS FURTHER PROVIDED, HOWEVER, THAT THE FIRST FUNDING CYCLE UNDER THIS PROGRAM SHALL BE AVAILABLE FOR AWARD TO GRANT RECIPIENTS DURING THE TWO THOUSAND FOURTEEN-FIFTEEN STATE FISCAL YEAR.

S 2. The state finance law is amended by adding a new section 99-v to read as follows:

S 99-V. UPSTATE FLOOD MITIGATION FUND. 1. THERE IS HEREBY CREATED IN THE JOINT CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE AND THE STATE COMPTROLLER A FUND TO BE KNOWN AS THE "UPSTATE FLOOD MITIGATION FUND".

2. THE UPSTATE FLOOD MITIGATION FUND SHALL CONSIST OF MONIES TRANSFERRED ANNUALLY BY THE DIRECTOR OF THE BUDGET FROM EXISTING AVAILABLE

FEDERAL AND STATE FUNDS PURSUANT TO A FIVE-YEAR SCHEDULE ESTABLISHED WITHIN THE TWO THOUSAND FOURTEEN-FIFTEEN EXECUTIVE BUDGET.

3. MONEYS IN THE FUND SHALL BE KEPT SEPARATE FROM AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE AND THE STATE COMPTROLLER. ALL DEPOSITS OF SUCH MONEY SHALL, IF REQUIRED BY THE COMPTROLLER, BE SECURED BY OBLIGATIONS OF THE UNITED STATES OR OF THE STATE OF MARKET VALUE EQUAL AT ALL TIMES TO THE AMOUNT OF THE DEPOSIT AND ALL BANKS AND TRUST COMPANIES ARE AUTHORIZED TO GIVE SUCH SECURITIES FOR DEPOSIT.

4. MONEYS OF THE FUND SHALL BE AVAILABLE FOR THE FINANCING OF GRANTS MADE UNDER THE UPSTATE FLOOD MITIGATION PROGRAM AS ESTABLISHED IN SECTION ONE HUNDRED THIRTY-NINE-D OF THE CANAL LAW.

S 3. 1. The appointment of upstate flood mitigation task force members shall be completed within one month of the effective date of this act.

2. The task force shall complete the duties required under sections 139-c and 139-d of the canal law, within six months of the appointment of task force members.

S 4. This act shall take effect immediately; provided that sections 139, 139-b and 139-c of the canal law, as added by section one of this act, shall expire and be deemed repealed on March 31, 2015.