

5138

2013-2014 Regular Sessions

I N   S E N A T E

May 10, 2013

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Introduced by Sens. FUSCHILLO, GRISANTI -- 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

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

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ecology, public health and safety, scenic, historic, cultural and recreational value, water and air quality, wildlife and an evaluation of measures to mitigate adverse effects[.], AND

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

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

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

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

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

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

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

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

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

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

S 54-0504. Eligibility to receive state assistance payments for municipal landfill gas management projects.

Any municipality which is the owner or operator of a landfill may apply for state assistance payments toward the cost of a municipal landfill gas management project. Any application for a municipal landfill gas management project must comply with all applicable rules and regulations promulgated by the department, INCLUDING A DEMONSTRATION THAT FUTURE CLIMATE RISK INCLUDING SEA LEVEL RISE PROJECTIONS AND AVAILABLE

1 WEATHER-RELATED DATA PREDICTING THE LIKELIHOOD OF FUTURE SEVERE WEATHER  
2 EVENTS HAS BEEN CONSIDERED.

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

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

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

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

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

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

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

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

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

1 S 13. The department of state, in cooperation with the department of  
2 environmental conservation, shall prepare model local laws that include  
3 consideration of climate risk including sea level rise projections and  
4 available weather-related data predicting the likelihood of future  
5 severe weather events and shall make such laws available to munici-  
6 palities.

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

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