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

5138

2013-2014 Regular Sessions

I N S E N A T E

May 10, 2013

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:

Section 1. Subdivision 2 of section 6-0107 of the environmental conservation law is amended by adding a new paragraph k to read as follows:

K. TO MITIGATE FUTURE CLIMATE CHANGE IMPACTS BY INCLUDING CONSIDERATION OF SEA LEVEL RISE PROJECTIONS AND AVAILABLE WEATHER-RELATED DATA PREDICTING THE LIKELIHOOD OF FUTURE SEVERE WEATHER EVENTS.

S 2. Item (e) of subparagraph (ii) of paragraph d of subdivision 1 of section 17-1909 of the environmental conservation law, as added by chapter 565 of the laws of 1989, is amended to read as follows:

(e) conforms with applicable rules and 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.

S 3. Paragraphs g and h of subdivision 2 of section 27-1103 of the environmental conservation law, as amended by chapter 618 of the laws of 1987, are amended and a new paragraph i is added to read as follows:

g. The impact on the municipality where the facility is to be sited in terms of health, safety, cost and consistency with local planning, zoning or land use laws and ordinances, [and]

h. The nature of the probable environmental impact, including specification 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

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

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

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

5. The secretary shall impose such contractual requirements and conditions upon any municipality which receives state assistance payments pursuant to this article as may be necessary and appropriate to ensure that a public benefit shall accrue from the use of such funds by the municipality INCLUDING BUT NOT LIMITED TO, 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.

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

1. The commissioner is authorized to provide on a competitive basis, within amounts appropriated, state assistance payments to a municipality or a not-for-profit corporation toward the cost of any coastal rehabilitation project approved by the commissioner PROVIDED THAT THE COMMISSIONER DETERMINES 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.

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

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

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

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

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

S 14. Major permits for the regulatory programs of paragraphs (f),(h),(i),(j),(k) and (m) of subdivision 3 of section 70-0107 of the environmental conservation law and article 23, article 40 and title 10 of article 17 of the environmental conservation law shall require applicants to demonstrate 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.

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