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I N   A S S E M B L Y

May 12, 2016

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Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, the public health law and the environmental conservation law, in relation to the protection of water supplies

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

1     Section 1. The executive law is amended by adding a new section 711-b  
2 to read as follows:

3     S 711-B. REVIEW OF WATER SUPPLIER VULNERABILITY ANALYSIS ASSESSMENTS.  
4 THE COMMISSIONER SHALL REVIEW EACH VULNERABILITY ANALYSIS ASSESSMENT  
5 FROM A WATER SUPPLIER TRANSMITTED TO THE DIVISION FROM THE DEPARTMENT OF  
6 HEALTH PURSUANT TO SECTION ELEVEN HUNDRED TWENTY-FIVE OF THE PUBLIC  
7 HEALTH LAW. THE COMMISSIONER MAY ISSUE RECOMMENDATIONS OR GENERAL GUID-  
8 ANCE TO THE WATER SUPPLIER BASED ON THE ASSESSMENT TO ENHANCE  
9 PROTECTIONS AGAINST A TERRORIST ATTACK OR CYBER ATTACK. SUCH RECOMMENDA-  
10 TIONS AND GUIDANCE SHALL BE KEPT CONFIDENTIAL AND SHALL BE EXEMPT FROM  
11 DISCLOSURE UNDER ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

12     S 2. Paragraph (a) of subdivision 1 of section 1125 of the public  
13 health law, as amended by chapter 405 of the laws of 2002, is amended to  
14 read as follows:

15     (a) "Water supply emergency plan" shall mean a plan REVIEWED AND  
16 approved by the commissioner and filed with the department. The plan  
17 shall follow a form which shall be specified by the department and which  
18 shall include, but not be limited to, those items enumerated in this  
19 section, and shall address those actions to be taken by a water supplier  
20 to anticipate emergencies and respond responsibly to emergency situ-  
21 ations. THE DEPARTMENT SHALL MAINTAIN A LIST OF ALL WATER SUPPLIERS  
22 REQUIRED TO FILE A WATER SUPPLY EMERGENCY PLAN PURSUANT TO THIS SECTION.

23     S 3. Paragraph (k) of subdivision 2 of section 1125 of the public  
24 health law, as amended by chapter 405 of the laws of 2002, is amended to  
25 read as follows:

26     (k) a vulnerability analysis assessment, including an analysis of  
27 vulnerability to terrorist attack, INCLUDING CYBER ATTACK, which shall

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

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1 be made after consultation with local and state law enforcement agen-  
2 cies.

3 S 4. Subdivisions 5 and 8 of section 1125 of the public health law,  
4 subdivision 5 as amended and subdivision 8 as added by chapter 317 of  
5 the laws of 2007, are amended to read as follows:

6 5. Every water supplier shall review, and if necessary, revise its  
7 water supply emergency plan and report its findings to the commissioner  
8 by December thirty-first, nineteen hundred ninety-five. Any water  
9 supplier whose water supply emergency plan does not include an analysis  
10 of vulnerability to terrorist attack, INCLUDING CYBER ATTACK, shall  
11 revise its emergency plan and report its findings to the commissioner by  
12 January first, two thousand [three] SEVENTEEN. Every water supplier  
13 shall keep its water supply emergency plan up to date, shall provide  
14 updated communication and notification information to the commissioner  
15 by December thirty-first of every year, and shall submit its water  
16 supply emergency plan to the commissioner for review at least once every  
17 five years and within thirty days after major water facility infrastruc-  
18 ture changes have been made. THE COMMISSIONER SHALL TRANSMIT A COPY OF  
19 EACH VULNERABILITY ANALYSIS ASSESSMENT FROM A WATER SUPPLIER TO THE  
20 SUPERINTENDENT OF STATE POLICE, COMMISSIONER OF THE DIVISION OF HOMELAND  
21 SECURITY AND EMERGENCY SERVICES, AND CHIEF TECHNOLOGY OFFICER.

22 8. The commissioner, SUPERINTENDENT OF STATE POLICE, COMMISSIONER OF  
23 THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES, AND CHIEF  
24 TECHNOLOGY OFFICER shall keep confidential: (a) all vulnerability analy-  
25 sis assessments and all information derived therefrom; and (b) all  
26 information determined by a water supplier to pose a security risk to  
27 the operation of a water supply system. Such assessments and information  
28 shall be exempt from disclosure under article six of the public officers  
29 law. A person who, without authorization, discloses any such assessment  
30 or information to another person who has not been authorized to receive  
31 such assessment or information is guilty of a class A misdemeanor.

32 S 5. Subdivisions 6, 7 and 8 of section 1125 of the public health law  
33 are renumbered subdivisions 7, 8 and 9 and a new subdivision 6 is added  
34 to read as follows:

35 6. (A) THE COMMISSIONER OR A COUNTY HEALTH DEPARTMENT MAY PROVIDE  
36 GUIDANCE AND ASSISTANCE TO COMMUNITY WATER SYSTEMS ON CONDUCTING VULNER-  
37 ABILITY ASSESSMENTS, PREPARING WATER SUPPLY EMERGENCY PLANS AND ADDRESS-  
38 ING THREATS FROM TERRORIST ATTACKS, INCLUDING CYBER ATTACKS, DESIGNED TO  
39 DISRUPT THE PROVISION OF SAFE DRINKING WATER OR SIGNIFICANTLY AFFECT THE  
40 PUBLIC HEALTH, OR SIGNIFICANTLY AFFECT THE SAFETY OR SUPPLY OF DRINKING  
41 WATER PROVIDED TO COMMUNITIES OR INDIVIDUALS.

42 (B) A COMMUNITY WATER SYSTEM, THAT IS NOT A WATER SUPPLIER, MAY ELECT  
43 TO COMPLETE A WATER SUPPLY EMERGENCY PLAN. SUCH COMMUNITY WATER SYSTEM  
44 MAY ELECT TO SUBMIT THE PLAN TO THE COMMISSIONER FOR APPROVAL. IN SUCH A  
45 CASE, THE COMMISSIONER SHALL SUBJECT THE PLAN TO SUCH APPROVAL PROCESS  
46 AS DESCRIBED IN PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION.

47 S 6. Subdivision 1 of section 15-0507 of the environmental conserva-  
48 tion law, as amended by chapter 364 of the laws of 1999, is amended to  
49 read as follows:

50 1. Any owner of a dam or other structure which impounds waters shall  
51 at all times operate and maintain said structure and all appurtenant  
52 structures in a safe condition. As used in this section and section  
53 71-1109 of this chapter, "owner" means any person or local public corpo-  
54 ration who owns, erects, reconstructs, repairs, maintains or uses a dam  
55 or other structure which impounds waters. The commissioner may promul-  
56 gate regulations requiring any owner to prepare and implement a safety

1 program for such dam or structure as necessary to safeguard life, prop-  
2 erty or natural resources. Regulations governing the safety program may  
3 include requirements for inspections, monitoring, maintenance and opera-  
4 tion, emergency action planning, RESPONSE AND PREVENTION OF TERRORISM  
5 AND CYBER TERRORISM, financial security, recordkeeping and reporting or  
6 any other requirement the commissioner deems necessary to safeguard  
7 life, property or natural resources. Such requirement shall only apply  
8 to those dams or other structures that impound waters which pose, in the  
9 event of failure, a threat of personal injury, substantial property  
10 damage or substantial natural resource damage.  
11 S 7. This act shall take effect immediately.