

622--A

2015-2016 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2015

---

Introduced by Sens. VALESKY, DeFRANCISCO, GALLIVAN, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the canal law, in relation to the upstate flood mitigation task force; 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:

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

3                                 ARTICLE XIII-B

4                                 UPSTATE FLOOD MITIGATION TASK FORCE

5     SECTION 139. UPSTATE FLOOD MITIGATION TASK FORCE.

6             139-A. DEFINITIONS.

7             139-B. TASK FORCE COMPOSITION.

8             139-C. TASK FORCE DUTIES AND POWERS.

9             139-D. UPSTATE FLOOD MITIGATION GRANT PROGRAM.

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

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

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

LBD01975-02-6

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

4 2. "FLOOD CONTROL STUDY SECTOR" MEANS A PARTICULAR ASPECT OF THE  
5 NATURAL OR BUILT ENVIRONMENT, ECONOMY, OR SOCIETY THAT COULD POTENTIALLY  
6 BE ADVERSELY IMPACTED BY FLOOD EVENTS. SUCH TERM INCLUDES, BUT IS NOT  
7 LIMITED TO, STREAM AND RIVER BANKS, LOCKS AND DAMS, WETLANDS AND WATER-  
8 FRONT AREAS, WATER RESOURCES, TRANSPORTATION INFRASTRUCTURE, WATER  
9 SUPPLY AND WASTEWATER INFRASTRUCTURE, HUMAN HEALTH, RECREATION, TOURISM,  
10 POWER GENERATION AND BUSINESS, RESIDENTIAL, FARM AND MUNICIPAL SECTORS.

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

15 4. "CANAL SYSTEM" SHALL MEAN THE CANAL WATERWAYS, LANDS AND INFRAS-  
16 TRUCTURE AS SET OUT IN SECTION TWO OF THIS CHAPTER.

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

20 S 139-B. TASK FORCE COMPOSITION. 1. THE TASK FORCE SHALL CONSIST OF  
21 THE DIRECTOR OF THE CANAL CORPORATION, THE COMMISSIONER OF TRANSPORTA-  
22 TION, THE DIRECTOR OF THE DIVISION OF HOMELAND SECURITY AND EMERGENCY  
23 SERVICES AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION; AND FIVE  
24 ADDITIONAL MEMBERS WHO SHALL BE FROM OUTSIDE THE PUBLIC OFFICES LISTED  
25 IN THIS SECTION AND WHO SHALL HAVE PROFESSIONAL EXPERIENCE IN THE FIELDS  
26 OF HYDROLOGY, CIVIL ENGINEERING, CLIMATOLOGY, EMERGENCY MANAGEMENT AND  
27 SOIL AND WATER CONSERVATION. THE GOVERNOR SHALL APPOINT THREE OF THE  
28 FIVE ADDITIONAL MEMBERS AND THE TEMPORARY PRESIDENT OF THE SENATE AND  
29 SPEAKER OF THE ASSEMBLY SHALL EACH APPOINT ONE OF EACH OF THE FIVE ADDI-  
30 TIONAL MEMBERS.

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

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

35 4. TO HELP ENSURE THE TASK FORCE'S RECEIPT OF A COMPREHENSIVE AND  
36 DIVERSE ARRAY OF VIEWS, THE TASK FORCE SHALL HOLD PUBLIC HEARINGS AS IT  
37 DEEMS NECESSARY TO SOLICIT RELEVANT INFORMATION AND GATHER CURRENT  
38 RESEARCH AND DATA RELATED TO FLOODING AND FLOOD MITIGATION IN THE REGION  
39 AS WELL AS RECOMMENDATIONS TO FULFILL THE PURPOSES OF THIS ARTICLE. THE  
40 TASK FORCE SHALL CONSULT WITH THE COUNTY OFFICES OF EMERGENCY MANAGE-  
41 MENT, COUNTY SOIL AND WATER CONSERVATION DISTRICTS AND ALL OTHER FEDER-  
42 AL, STATE AND LOCAL ENTITIES IT DEEMS NECESSARY TO FULFILL THE PURPOSES  
43 OF THIS ARTICLE. IN DETERMINING THE NUMBER OF PUBLIC HEARINGS TO BE  
44 HELD THE TASK FORCE SHALL REMAIN COGNIZANT OF ITS DUTY TO MEET THE TIME-  
45 FRAME FOR FIRST CYCLE AWARDS UNDER THE UPSTATE FLOOD MITIGATION PROGRAM  
46 ESTABLISHED WITHIN SECTION ONE HUNDRED THIRTY-NINE-D OF THIS ARTICLE.

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

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

54 (A) THE COST IMPACT OF FLOODING OVER THE LAST FIVE YEARS ON AGRICUL-  
55 TURE; TRANSPORTATION; LAND USE; HEALTH; INSURANCE; ECONOMIC SECTORS SUCH  
56 AS TOURISM, RECREATION AND POWER GENERATION; AS WELL AS IMPACTS ON

1 INFRASTRUCTURE INCLUDING BRIDGES, LOW LYING ROADS, DAMS, LOCKS, CAUSE-  
2 WAYS, WATER AND WASTEWATER TREATMENT PLANTS AND DOCKS;

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

7 (C) A LISTING OF ADAPTIVE MEASURES, WITH ASSOCIATED COSTS, THAT CAN BE  
8 TAKEN TO MITIGATE FLOOD DAMAGES, INCLUDING BUT NOT LIMITED TO FEASIBLE  
9 FLOODPLAIN MANAGEMENT ACTIVITIES, DEBRIS MANAGEMENT, FLOOD CONTROL  
10 STRUCTURES, COMMUNICATION SYSTEMS AND FLOOD MITIGATION EDUCATION FOR  
11 PUBLIC AND PRIVATE LANDOWNERS.

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

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

36 4. ALL EXECUTIVE DEPARTMENTS OF THE STATE AND THE CANAL CORPORATION  
37 SHALL PROVIDE THE TASK FORCE WITH SUCH FACILITIES, ASSISTANCE AND DATA  
38 AS WILL ENABLE THE TASK FORCE TO CARRY OUT ITS POWERS AND DUTIES. ADDI-  
39 TIONALLY, ALL OTHER AGENCIES OF THE STATE OR SUBDIVISIONS THEREOF SHALL,  
40 AT THE REQUEST OF THE CHAIR, PROVIDE THE TASK FORCE WITH SUCH FACILI-  
41 TIES, ASSISTANCE, AND DATA AS WILL ENABLE THE TASK FORCE TO CARRY OUT  
42 ITS POWERS AND DUTIES.

43 S 139-D. UPSTATE FLOOD MITIGATION GRANT PROGRAM. 1. THE TASK FORCE  
44 SHALL ESTABLISH AN UPSTATE FLOOD MITIGATION GRANT PROGRAM TO BE ADMINIS-  
45 TERED BY THE CANAL CORPORATION BASED ON THE TASK FORCE'S IN-DEPTH EXAM-  
46 INATION OF FLOOD CONTROL STUDY SECTORS AND ISSUES RELATED TO FLOODPLAIN  
47 MANAGEMENT, DEBRIS MANAGEMENT, FLOOD CONTROL AND FLOOD MITIGATION IN THE  
48 UPSTATE FLOOD MITIGATION REGION.

49 2. THE TASK FORCE SHALL ESTABLISH THE UPSTATE FLOOD MITIGATION GRANT  
50 PROGRAM STRUCTURE THAT SHALL BE ADMINISTERED BY THE CANAL CORPORATION.  
51 SUCH PROGRAM STRUCTURE SHALL INCLUDE, BUT NOT BE LIMITED TO, THE DEFINI-  
52 TION OF ELIGIBLE RECIPIENTS, PROJECT APPLICATION PROCESS, PROGRAM  
53 MAXIMUM PROJECT AWARD AMOUNTS, PROJECT COST SHARING PARAMETERS AND  
54 PROGRAM FUNDING CYCLES. IT IS FURTHER PROVIDED, HOWEVER, THAT THE FIRST  
55 FUNDING CYCLE UNDER THIS PROGRAM SHALL BE AVAILABLE FOR AWARD TO GRANT  
56 RECIPIENTS DURING THE TWO THOUSAND SIXTEEN-SEVENTEEN STATE FISCAL YEAR.

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

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

7 2. THE UPSTATE FLOOD MITIGATION FUND SHALL CONSIST OF MONIES TRANS-  
8 FERRED ANNUALLY BY THE DIRECTOR OF THE BUDGET FROM EXISTING AVAILABLE  
9 FEDERAL AND STATE FUNDS PURSUANT TO A FIVE-YEAR SCHEDULE ESTABLISHED  
10 WITHIN THE TWO THOUSAND SIXTEEN-SEVENTEEN EXECUTIVE BUDGET.

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

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

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

23 2. The task force shall complete the duties required under sections  
24 139-c and 139-d of the canal law, within six months of the appointment  
25 of task force members.

26 S 4. This act shall take effect immediately; provided that sections  
27 139, 139-b and 139-c of the canal law, as added by section one of this  
28 act, shall expire and be deemed repealed on March 31, 2017.