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

10129

I N A S S E M B L Y

May 12, 2016

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:

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

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

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

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

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

(k) a vulnerability analysis assessment, including an analysis of 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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be made after consultation with local and state law enforcement agencies.

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

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

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

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

6. (A) THE COMMISSIONER OR A COUNTY HEALTH DEPARTMENT MAY PROVIDE GUIDANCE AND ASSISTANCE TO COMMUNITY WATER SYSTEMS ON CONDUCTING VULNERABILITY ASSESSMENTS, PREPARING WATER SUPPLY EMERGENCY PLANS AND ADDRESSING THREATS FROM TERRORIST ATTACKS, INCLUDING CYBER ATTACKS, DESIGNED TO DISRUPT THE PROVISION OF SAFE DRINKING WATER OR SIGNIFICANTLY AFFECT THE PUBLIC HEALTH, OR SIGNIFICANTLY AFFECT THE SAFETY OR SUPPLY OF DRINKING WATER PROVIDED TO COMMUNITIES OR INDIVIDUALS.

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

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

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

program for such dam or structure as necessary to safeguard life, property or natural resources. Regulations governing the safety program may include requirements for inspections, monitoring, maintenance and operation, emergency action planning, RESPONSE AND PREVENTION OF TERRORISM AND CYBER TERRORISM, financial security, recordkeeping and reporting or any other requirement the commissioner deems necessary to safeguard life, property or natural resources. Such requirement shall only apply to those dams or other structures that impound waters which pose, in the event of failure, a threat of personal injury, substantial property damage or substantial natural resource damage.

S 7. This act shall take effect immediately.