

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

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 13-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:

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

20 2. "FLOOD CONTROL STUDY SECTOR" MEANS A PARTICULAR ASPECT OF THE
21 NATURAL OR BUILT ENVIRONMENT, ECONOMY, OR SOCIETY THAT COULD POTENTIALLY
22 BE ADVERSELY IMPACTED BY FLOOD EVENTS. SUCH TERM INCLUDES, BUT IS NOT

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

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1 LIMITED TO, STREAM AND RIVER BANKS, LOCKS AND DAMS, WETLANDS AND WATER-
2 FRONT AREAS, WATER RESOURCES, TRANSPORTATION INFRASTRUCTURE, WATER
3 SUPPLY AND WASTEWATER INFRASTRUCTURE, HUMAN HEALTH, RECREATION, TOURISM,
4 POWER GENERATION AND BUSINESS, RESIDENTIAL, FARM AND MUNICIPAL SECTORS.

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

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

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

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

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

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

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

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

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

48 (A) THE COST IMPACT OF FLOODING OVER THE LAST FIVE YEARS ON AGRICUL-
49 TURE; TRANSPORTATION; LAND USE; HEALTH; INSURANCE; ECONOMIC SECTORS SUCH
50 AS TOURISM, RECREATION AND POWER GENERATION; AS WELL AS IMPACTS ON
51 INFRASTRUCTURE INCLUDING BRIDGES, LOW LYING ROADS, DAMS, LOCKS, CAUSE-
52 WAYS, WATER AND WASTEWATER TREATMENT PLANTS AND DOCKS;

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

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

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

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

30 4. ALL EXECUTIVE DEPARTMENTS OF THE STATE AND THE CANAL CORPORATION
31 SHALL PROVIDE THE TASK FORCE WITH SUCH FACILITIES, ASSISTANCE AND DATA
32 AS WILL ENABLE THE TASK FORCE TO CARRY OUT ITS POWERS AND DUTIES. ADDI-
33 TIONALLY, ALL OTHER AGENCIES OF THE STATE OR SUBDIVISIONS THEREOF SHALL,
34 AT THE REQUEST OF THE CHAIR, PROVIDE THE TASK FORCE WITH SUCH FACILI-
35 TIES, ASSISTANCE, AND DATA AS WILL ENABLE THE TASK FORCE TO CARRY OUT
36 ITS POWERS AND DUTIES.

37 S 139-D. UPSTATE FLOOD MITIGATION GRANT PROGRAM. 1. THE TASK FORCE
38 SHALL ESTABLISH AN UPSTATE FLOOD MITIGATION GRANT PROGRAM TO BE ADMINIS-
39 TERED BY THE CANAL CORPORATION BASED ON THE TASK FORCE'S IN-DEPTH EXAM-
40 INATION OF FLOOD CONTROL STUDY SECTORS AND ISSUES RELATED TO FLOODPLAIN
41 MANAGEMENT, DEBRIS MANAGEMENT, FLOOD CONTROL AND FLOOD MITIGATION IN THE
42 UPSTATE FLOOD MITIGATION REGION.

43 2. THE TASK FORCE SHALL ESTABLISH THE UPSTATE FLOOD MITIGATION GRANT
44 PROGRAM STRUCTURE THAT SHALL BE ADMINISTERED BY THE CANAL CORPORATION.
45 SUCH PROGRAM STRUCTURE SHALL INCLUDE, BUT NOT BE LIMITED TO, THE DEFI-
46 NITION OF ELIGIBLE RECIPIENTS, PROJECT APPLICATION PROCESS, PROGRAM
47 MAXIMUM PROJECT AWARD AMOUNTS, PROJECT COST SHARING PARAMETERS AND
48 PROGRAM FUNDING CYCLES. IT IS FURTHER PROVIDED, HOWEVER, THAT THE FIRST
49 FUNDING CYCLE UNDER THIS PROGRAM SHALL BE AVAILABLE FOR AWARD TO GRANT
50 RECIPIENTS DURING THE TWO THOUSAND FIFTEEN-SIXTEEN STATE FISCAL YEAR.

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

53 S 99-w. UPSTATE FLOOD MITIGATION FUND. 1. THERE IS HEREBY CREATED IN
54 THE JOINT CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE AND THE
55 STATE COMPTROLLER A FUND TO BE KNOWN AS THE "UPSTATE FLOOD MITIGATION
56 FUND".

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

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

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

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

17 2. The task force shall complete the duties required under sections
18 139-c and 139-d of the canal law, within six months of the appointment
19 of task force members.

20 S 4. This act shall take effect immediately; provided that sections
21 139, 139-b and 139-c of the canal law, as added by section one of this
22 act, shall expire and be deemed repealed on March 31, 2016.