

# STATE OF NEW YORK

10994

## IN ASSEMBLY

May 29, 2018

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the  
Committee on Environmental Conservation

AN ACT to amend the legislative law, in relation to authorizing the legislative commission on the development of rural resources to study the effectiveness of pond and lake management programs; to amend the executive law, the soil and water conservation districts law, the environmental conservation law, the public health law, the education law and the public authorities law, in relation to the mitigation and control of harmful algal blooms; 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. Subdivision 2 of section 83-i of the legislative law, as  
2 added by chapter 141 of the laws of 1994, is amended to read as follows:  
3 2. A legislative commission on the development of rural resources is  
4 hereby established (a) to examine the impact of rural resources upon the  
5 state's economy; (b) to review existing laws and regulations as they  
6 pertain to rural resources; (c) to assess the effect of state policies  
7 generally on rural areas; (d) to reassess the effectiveness of programs  
8 specifically addressed to rural resource needs and problems, such as  
9 agricultural districting, agricultural product promotion, maintenance of  
10 agricultural land, forest management, pond and lake management, tax  
11 exemptions for agricultural and forest land, oil and gas regulation, and  
12 tourism and recreation; and (e) to make such recommendations to the  
13 legislature for action as it determines necessary for the enhancement  
14 and protection of the state's rural resources.  
15 § 2. Paragraph a of subdivision 2 of section 20 of the executive law,  
16 as amended by section 1 of part B of chapter 56 of the laws of 2010, is  
17 amended to read as follows:  
18 a. "disaster" means occurrence or imminent threat of wide spread or  
19 severe damage, injury, or loss of life or property resulting from any  
20 natural or man-made causes, including, but not limited to, fire, flood,  
21 earthquake, hurricane, tornado, high water, landslide, mudslide, wind,  
22 storm, wave action, volcanic activity, epidemic, air contamination,

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

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1 terrorism, cyber event, blight, drought, infestation, explosion, radio-  
2 logical accident, nuclear, chemical, biological, or bacteriological  
3 release, water contamination (including by harmful algal bloom or hypo-  
4 xia), bridge failure or bridge collapse.

5 § 3. Subparagraph 3 of paragraph i and paragraph j of subdivision 3 of  
6 section 21 of the executive law, as amended by section 2 of part B of  
7 chapter 56 of the laws of 2010, are amended and a new paragraph k is  
8 added to read as follows:

9 (3) the status of the state and local plans for disaster preparedness  
10 and response, including the name of any locality which has failed or  
11 refused to develop and implement its own disaster preparedness plan and  
12 program; and the extent to which all forms of local emergency response  
13 assets have been included, and accounted for in planning and preparation  
14 for disaster preparedness and response; [~~and~~]

15 j. develop public service announcements to be distributed to tele-  
16 vision and radio stations and other media throughout the state informing  
17 the public how to prepare and respond to disasters. Such public service  
18 announcements shall be distributed in English and such other languages  
19 as such commission deems appropriate[~~-~~]; and

20 k. establish and provide for the deployment of emergency response  
21 teams in the event of a suspected contamination of a potable water  
22 source by harmful algal bloom or hypoxia. Each such response team shall  
23 include qualified technicians from the departments of health and envi-  
24 ronmental conservation to gather and test water samples; and such  
25 personnel as the commission shall determine to be necessary to provide  
26 assistance to the communities affected by such contamination including,  
27 but not limited to, the provision of potable water.

28 § 4. Section 912 of the executive law is amended by adding a new  
29 subdivision 17 to read as follows:

30 17. To understand, detect, monitor, predict, control, mitigate and  
31 respond to harmful marine and freshwater algal bloom and hypoxia events.

32 § 5. Subdivision 16 of section 9 of the soil and water conservation  
33 districts law, as added by chapter 293 of the laws of 2014, is renum-  
34 bered subdivision 17 and a new subdivision 18 is added to read as  
35 follows:

36 (18) Within the limits of appropriations made available for such  
37 purposes, to undertake a program for the monitoring of and event  
38 response to harmful freshwater algal blooms in ponds, lakes, rivers,  
39 estuaries (including their tributaries), and reservoirs; and mitigation  
40 and control of harmful freshwater algal blooms.

41 § 6. Article 17 of the environmental conservation law is amended by  
42 adding a new title 23 to read as follows:

#### 43 TITLE 23

#### 44 HARMFUL ALGAL BLOOMS

#### 45 Section 17-2301. Definitions.

46 17-2303. New York harmful algal bloom and hypoxia commission.

47 17-2305. New York harmful algal bloom and hypoxia advisory  
48 committee.

49 17-2307. General powers and duties of the department.

50 17-2309. Local and regional assessments.

#### 51 § 17-2301. Definitions.

52 As used in this title:

53 1. "Advisory committee" means the New York harmful algal bloom advi-  
54 sory committee established by section 17-2305 of this title.

55 2. "Commission" means the New York harmful algal bloom and hypoxia  
56 commission established by section 17-2303 of this title.

1 3. "Harmful algal bloom" means the occurrence of hypoxia or a harmful  
2 algal bloom as a result of a natural, anthropogenic or undetermined  
3 cause.

4 § 17-2303. New York harmful algal bloom and hypoxia commission.

5 1. There is hereby established, within the department, the New York  
6 harmful algal bloom and hypoxia commission. Such commission shall  
7 consist of ten members and shall include the commissioner; the commis-  
8 sioners of agriculture and markets, health, and parks, recreation and  
9 historic preservation; the secretary of state; the directors of the  
10 state soil and water conservation committee and state canal corporation,  
11 and the chairman of the Adirondack park agency; or a designee of such  
12 commissioner, director or chairman; and the senate chairman and assembly  
13 chairman of the legislative commission on the development of rural  
14 resources or his or her designee.

15 2. The director of the state soil and water conservation committee and  
16 the commissioner, or their designee shall serve as joint chairs of the  
17 commission.

18 3. The commission shall meet at least quarterly and shall regularly  
19 consult with the advisory committee.

20 4. The commission may consult with any organization, educational  
21 institution or governmental agency including, but not limited to, the  
22 college of environmental science and forestry of the state university,  
23 the Army Corps of Engineers, the Natural Resources Conservation Service,  
24 the United States Department of Commerce, the National Inter-Agency Task  
25 Force on Harmful Algal Blooms and Hypoxia, and the New York Ocean and  
26 Great Lakes Ecosystem Conservation Council.

27 5. The duties of the commission shall include, but are not limited to:

28 (a) from time to time assessing the nature, scope and magnitude of the  
29 environmental, ecological, agricultural, economic, recreational, and  
30 social impacts caused by harmful algal blooms in the state;

31 (b) from time to time identifying actions taken by members of the  
32 commission, state and local governments and the public to: understand,  
33 detect, monitor, predict, control, mitigate, and respond to harmful  
34 marine and freshwater algal bloom and hypoxia events; assist and coordi-  
35 nate, where appropriate, with other government agencies, programs, and  
36 regional efforts that address harmful marine and freshwater algal blooms  
37 and hypoxia, including the development and implementation of appropriate  
38 response plans, strategies, and tools; detect and respond rapidly to  
39 harmful algal blooms in a cost-effective and environmentally sound  
40 manner; monitor harmful algal blooms accurately and reliably; provide  
41 for restoration of native species and habitat conditions in ecosystems  
42 that have been affected; conduct research on harmful algal blooms and  
43 develop technologies to prevent introduction; provide for environ-  
44 mentally sound control of harmful algal blooms; promote public education  
45 programs to improve public understanding and awareness of the causes,  
46 impacts, and mitigation efforts for harmful marine and freshwater algal  
47 blooms and hypoxia; and provide resources to assist in the training of  
48 local water and coastal resource managers in the methods and technolo-  
49 gies for detecting, monitoring, controlling, mitigating, and responding  
50 to the effects of harmful marine and freshwater algal bloom and hypoxia  
51 events;

52 (c) the development of a comprehensive plan for harmful algal blooms  
53 and hypoxia. Such comprehensive plan should, at a minimum: recommend  
54 interagency responsibilities; describe coordination among different  
55 agencies and organizations; address prevention, early detection and  
56 rapid response; identify opportunities for control and restoration,

1 including research needs; and describe effective outreach and education.  
2 Such plan shall recommend responsibilities for different agencies with  
3 the goal of reducing or eliminating, where practicable, contradictory or  
4 conflicting policies or programs. Such plan should identify needs for  
5 additional staff positions at state agencies and recommend necessary  
6 state or federal legislation or regulation. Such plan shall place an  
7 emphasis on both prevention and early detection and rapid response to  
8 prevent future damage.

9 (d) providing input on funding priorities and grant applications  
10 regarding monies made available for the implementation of this title and  
11 grants for projects related to the control and management of harmful  
12 algal blooms and hypoxia, education and outreach efforts, and for  
13 projects aimed at the early detection and prevention of invasive  
14 species;

15 (e) developing recommendations on statutory actions to manage and  
16 control harmful algal blooms.

17 § 17-2305. New York harmful algal bloom and hypoxia advisory committee.

18 1. There shall be established, within the department, a New York harm-  
19 ful algal bloom and hypoxia advisory committee which shall provide  
20 information, advice and guidance to the commission.

21 2. The commissioner and the director of the soil and water conserva-  
22 tion committee shall appoint not more than twenty-five at-large members  
23 of the committee with at least one member from each of the following:  
24 the New York biodiversity research institute, New York state's Hudson  
25 River National Estuarine Research Reserve, the Long Island South Shore  
26 Estuary Reserve, the Great Lakes-St. Lawrence River Basin Water  
27 Resources Council, a statewide land conservation organization, a state-  
28 wide agricultural organization, a nursery business, a boating organiza-  
29 tion, the Darrin Fresh Water Institute, the soil and water conservation  
30 districts, the natural heritage program, a state forestry school, a lake  
31 association, the New York city department of environmental protection,  
32 and a statewide local government organization.

33 3. The members of the advisory committee shall serve without compen-  
34 sation, except members shall be allowed their necessary and actual  
35 expenses incurred in the performance of their duties under this section.

36 § 17-2307. General powers and duties of the department.

37 1. The department, after receipt and analysis of the report compiled  
38 pursuant to section six thousand four-a of the education law, and in  
39 cooperation with the soil and water conservation committee and in  
40 consultation with the commission, shall, after a public hearing, promul-  
41 gate joint regulations to develop: standards for nutrients as necessary  
42 to protect, maintain and/or improve the ecological functions of the  
43 marine and aquatic resources of the state; and to prepare, adopt, and  
44 implement plans as necessary and appropriate to accomplish the purposes  
45 of managing nutrient loadings and preventing, abating, and/or eliminat-  
46 ing the deleterious effects of nutrients, including, but not limited to,  
47 eutrophication, harmful algal blooms, hypoxia, anoxia, oxygen-stress-in-  
48 duced population shifts, and/or fish kills.

49 2. For the purpose of carrying out the provisions of this title, the  
50 department in cooperation with the soil and water conservation commit-  
51 tee, shall have the authority, within funds available, to:

52 (a) establish, operate and maintain state wide databases and clearing-  
53 houses that incorporate existing data from agencies and organizations in  
54 the state, as well as from nearby states, provinces, Canada, and the  
55 federal government. Such databases and clearinghouses may provide the  
56 aggregate data on-line in a geographic information system;

1 (b) research the ecology of harmful algal blooms to provide informa-  
2 tion about harmful marine and freshwater algal blooms and hypoxia,  
3 including:

4 (i) the agencies involved in research and development on understand-  
5 ing, detection, monitoring, prediction, prevention, control, mitigation,  
6 and response activities;

7 (ii) tools available to predict and model events; and

8 (iii) current or developing technologies for detection, monitoring,  
9 prediction, prevention, control, mitigation, and response, including  
10 remediation;

11 (c) coordinate state agency and public authority actions to control,  
12 mitigate, and respond to harmful marine and freshwater algal bloom and  
13 hypoxia events;

14 (d) perform research on the ecology of harmful marine and freshwater  
15 algal blooms; and

16 (e) in collaboration with the commission, aid in the review and reform  
17 of relevant regulatory processes to remove unnecessary impediments to  
18 the restoration of ponds and lakes affected by harmful algal blooms and  
19 hypoxia.

20 § 17-2309. Local and regional assessments.

21 Within the limits of appropriations made available for such purposes,  
22 the department may from time to time undertake local and regional scien-  
23 tific assessments of hypoxia and harmful algal blooms. The commissioner  
24 shall ensure, to the extent practicable, that assessments under this  
25 section cover geographically and ecologically diverse locations with  
26 significant ecological and economic impacts from hypoxia or harmful  
27 algal blooms and promulgate rules for reviewing requests for local and  
28 regional assessments.

29 § 7. Section 225 of the public health law is amended by adding a new  
30 subdivision 13 to read as follows:

31 13. The sanitary code, after receipt and analysis by the council of  
32 the report compiled pursuant to section six thousand four-a of the  
33 education law, shall delineate specific procedures for the management of  
34 harmful algal blooms in ponds, lakes, rivers, estuaries (including their  
35 tributaries), water systems used by public water suppliers, and surf  
36 beaches owned or operated by homeowner associations. Such procedures  
37 shall include notification of the municipality wherein the pond, lake,  
38 river, estuary, water system, or surf beach is located.

39 § 8. The education law is amended by adding a new section 6004-a to  
40 read as follows:

41 § 6004-a. Peer review study of harmful algal blooms. 1. The board of  
42 trustees of the college shall establish a peer review panel composed of  
43 nationally recognized experts in the detection, monitoring, prediction,  
44 control, mitigation and means for responding to harmful marine and  
45 freshwater algal blooms and hypoxia. Such panel shall examine, evaluate  
46 and make recommendations concerning the nature, scope, causes and magni-  
47 tude of harmful algal blooms in the state; and the detection, means for  
48 monitoring, control, mitigation, elimination and response to harmful  
49 algal blooms and hypoxia events.

50 2. The members of the panel shall receive no compensation for their  
51 services, but shall be allowed their actual and necessary expenses  
52 incurred in the performance of their duties pursuant to this section.

53 3. Such panel shall, within six months of the effective date of this  
54 section, submit a report to the governor, the legislature, the depart-  
55 ment of environmental conservation, the soil and water conservation  
56 committee, the New York harmful algal bloom and hypoxia commission, the

1 department of health and the public health and health planning council,  
2 of its findings, conclusions and recommendations.

3 § 9. Section 1285 of the public authorities law is amended by adding a  
4 new subdivision 9 to read as follows:

5 9. The corporation shall provide funding to the state office of emer-  
6 gency management for all costs of providing potable water during a water  
7 contamination disaster resulting from harmful algal bloom or hypoxia.

8 § 10. This act shall take effect on the one hundred eightieth day  
9 after it shall have become a law; provided, however that section eight  
10 of this act shall take effect immediately and shall expire and be deemed  
11 repealed one year after this act shall have become a law; and provided,  
12 further that the amendments to subdivision 2 of section 83-i of the  
13 legislative law made by section one of this act shall not affect the  
14 repeal of such section and shall be deemed repealed therewith.