STATE OF NEW YORK

3130

2019-2020 Regular Sessions

IN SENATE

February 4, 2019

Introduced by Sens. HELMING, ORTT, RITCHIE, ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the New York state Lake Ontario-St. Lawrence River flood prevention, response, recovery and mitigation task force; to establish reporting and public hearing requirements for the New York state Lake Ontario-St. Lawrence River flood prevention, response, recovery and mitigation task force; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The environmental conservation law is amended by adding a new article 74 to read as follows:

ARTICLE 74

TITLE 2

NEW YORK STATE LAKE ONTARIO - ST. LAWRENCE RIVER FLOOD PREVENTION, RESPONSE, RECOVERY AND MITIGATION TASK FORCE

Section 74-0101. Flood prevention, response, recovery and mitigation task force.
74-0103. Definitions.
74-0105. Task force composition.
74-0107. Task force duties.

§ 74-0101. Flood prevention, response, recovery and mitigation task force.

The New York state Lake Ontario-St. Lawrence River flood prevention, response, recovery and mitigation task force, referred to in this article as the task force, is hereby established to determine what measures should be taken to enhance flood prevention, recovery, response, management and mitigation in and along the shoreline and adjoining waterways

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

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of Lake Ontario and the St. Lawrence River, and to develop recommendations to accomplish such goal.

§ 74-0103. Definitions.

When used in this article:

1. "Adaptive measures" means any adjustment, whether passive, reactive or anticipatory, that may be taken to ameliorate the anticipated adverse consequences associated with flood events.

2. "Flood control study sector" means a particular aspect of the natural or built environment, economy, or society that could potentially be adversely impacted by flood events. Such term includes, but is not limited to, lake, stream and river banks, locks and dams, wetlands and waterfront areas, water resources, transportation infrastructure, water supply and wastewater infrastructure, human health, recreation, tourism, power generation and business, residential, farm and municipal sectors.

3. "Flood event" means an overflow or inundation that comes from a lake, river or other body of water, whether caused by rainfall, waterway operation, dam operation, waterflow management, dam break, water runoff or other means, and causes or threatens damage.

4. "Lake Ontario" and "St. Lawrence River" shall mean the lake, river shoreline, lands and infrastructure of Lake Ontario and the St. Lawrence River, or its adjoining or affected communities of Niagara, Orleans, Monroe, Wayne, Cayuga, Onondaga, Oswego, Jefferson, St. Lawrence, and Franklin Counties.

§ 74-0105. Task force composition.

1. The task force shall consist of thirteen members; eight of whom shall be the adjutant general of the state division of military and naval affairs, the commissioner of the division of homeland security and emergency services, the commissioner of the department of environmental conservation, the secretary of state, the commissioner of transportation, the commissioner of the department of parks, recreation and historic preservation, the commissioner of the department of agriculture and markets and the chairman of the state economic development office or designee; and five additional members who shall be from outside the public offices listed in this section and one of each of whom shall be a hydrologist, civil engineer, climatologist, county emergency manager and soil and water conservation professional. The governor shall appoint three of the five additional members and the temporary president of the senate and speaker of the assembly shall each appoint one of each of the five additional members.

2. The task force shall appoint a chairperson from among its members.

3. The members of the task force shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

4. The task force shall consult with each of the emergency management officers, or appropriate county officer, from Niagara, Orleans, Monroe, Wayne, Cayuga, Onondaga, Oswego, Jefferson, St. Lawrence, and Franklin counties, and each said officer shall provide to the task force a document listing their concerns and recommendations related to flooding along Lake Ontario and/or the St. Lawrence River. The task force shall consider such concerns and recommendations in its deliberations and in the formulation of its determinations and recommendations.

5. The task force shall meet at least six times over an eighteen month period at the call of the chairperson.

§ 74-0107. Task force duties.

The role of the task force includes, but is not limited to:

1. Conducting an in-depth examination of flood prevention, response and recovery issues, and flood control study sectors and issues, related to flood prevention, response and recovery, water management, flood control and flood mitigation in and along the shoreline and adjoining waterways of Lake Ontario and the St. Lawrence River, including:

(a) Adaptive measures that can be taken to effectuate flood prevention, response and recovery programs, and mitigate flood damages, including but not limited to feasible flood prevention, response and recovery measures, flood management activities, wetland restoration, flood control infrastructure, communication systems and related public safety and flood control structures and associated costs;

(b) Evaluation which should include impacts on agriculture, transportation, land use, health, insurance and economic sectors such as shipping, fisheries, power generation, tourism, and recreation. Impacts on infrastructure, including bridges, low-lying roads, dams, locks, causeways, water and wastewater treatment plants and docks shall be included in the evaluation; and

(c) Evaluation of Lake Ontario and St. Lawrence River operation and management, and plans or agreements or treaties which may have a direct or indirect impact on flood control, prevention, response, recovery or mitigation and flood management including, but not limited to, debris management, communication, and water management and water level manipulation.

2. Evaluating and assessing of any flood prevention, response and recovery measures, flood control or flood mitigation measures, or water management procedures, agreements or treaties, identified in terms of feasibility, economic and public health impacts, and effectiveness, as well as identifying impediments to implementing effective flood prevention, response and recovery, flood control and flood mitigation measures, and where possible, actions that could be taken to resolve flooding issues.

3. Arranging through the department and the division of military and naval affairs, for the provision of such facilities, assistance and data as will enable the task force to carry out its powers and duties. Additionally, all other agencies of the state or subdivisions thereof shall, at the request of the chair provide the task force with such facilities, assistance, and data as will enable the task force to carry out its powers and duties.

§ 2. Report to the governor and legislature. 1. Within 18 months of the effective date of this act, the New York state flood prevention, response, recovery and mitigation task force shall issue a draft report, which shall be submitted to the governor, the temporary president of the senate, and the speaker of the assembly assessing flood mitigation and control in New York state with particular focus on Lake Ontario and the St. Lawrence River; including, but not limited to, recommendations on how such impacts should be addressed. At least three public hearings shall be held by the task force to provide the public with the opportunity to comment on the report. Notice of such hearings shall be provided on the department of environmental conservation website, and in the environmental notice bulletin.

2. Within 90 days of the date of the last public hearing, the New York state flood prevention, response, recovery and mitigation task force shall submit a final report to the governor, the temporary president of the senate, and the speaker of the assembly. Copies of such report shall also be made available to the public and posted on the websites of the

department of environmental conservation and the division of naval and military affairs.

§ 3. This act shall take effect immediately and shall expire and be deemed repealed one hundred twenty days after the New York state flood prevention, response, recovery and mitigation task force has submitted its final, completed report; provided that the department of environmental conservation shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in section one of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.