STATE OF NEW YORK

2261

2019-2020 Regular Sessions

IN ASSEMBLY

January 22, 2019

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

AN ACT to amend the environmental conservation law, in relation to the water resources planning council

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

Section 1. Section 15-2901 of the environmental conservation law, as amended by chapter 83 of the laws of 1995, is amended to read as follows:

§ 15-2901. Water resources planning council; organization.

1. There is hereby established [~~within the department of environmental conservation~~] a water resources planning council. [~~It~~] **The head of the council shall be the water commissioner, who shall be appointed by the governor, by and with the advice and consent of the senate, and hold office at the pleasure of the governor by whom he or she was appointed and until a successor is appointed and qualified. The water commissioner shall hold no other public office, and shall be the chief administrative officer of and in sole charge of the administration of the water resources planning council and shall chair the council. The water commissioner shall receive an annual salary to be fixed by the governor within the amount available therefor by appropriation, and shall be entitled to receive reimbursement for expenses actually and necessarily incurred in the performance of his or her duties. The commissioner's duties shall include management and oversight of the water resources of the state. The water resources planning council** shall consist of [~~fifteen~~] **seventeen voting** members[~~, including~~] **and eight non-voting members. (a) Voting members shall include the chair,** the commissioners of agriculture and markets, economic development, environmental conservation, health, transportation, **human rights,** the chair of the public service commission, president of the New York state energy research and development authority, secretary of state and seven members to be

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

LBD05139-01-9

appointed by the governor including at least [~~one member~~] two members who shall have expertise in the science of water resources planning [~~and~~], at least two members who shall have expertise in environmental science and/or engineering and one member [~~selected from a list proposed by public interest or environmental citizens organizations~~] who shall have expertise in environmental justice. These seven members appointed by the governor shall serve terms of [~~four~~] five years each. Two of the members appointed by the governor shall be appointed upon the recommendation of the majority leader of the senate and two of the members appointed by the governor shall be appointed upon the recommendation of the speaker of the assembly. [~~The governor shall select a chair from among the members.~~] (b) Non-voting members shall represent each of the following regions: (a) New York City; (b) Long Island; (c) Lower Hudson Valley; (d) Capitol Region; (e) Upper Hudson and St. Lawrence River Watershed; (f) Central New York; (g) Southern Tier River basins; and (h) Great Lakes Regional Watersheds. Meetings of the council shall be called by the chair. [~~Members~~] Except for the chair, members shall receive reimbursement for expenses only.

2. The water commissioner may request and receive from any department, division, board, bureau, commission or other agency of the state or any political subdivision thereof or any public authority, staff and other assistance, information, and resources as will enable the water resources planning council to properly carry out its functions, powers and duties.

§ 2. Section 15-2903 of the environmental conservation law, as amended by chapter 307 of the laws of 1986, is amended to read as follows:

§ 15-2903. Water resources planning council; quorum, bylaws.

A majority of the voting members of the council shall constitute a quorum for the transaction of any business or the exercise of any power of the council. The commissioners of agriculture and markets, [~~commerce~~] economic development, energy, environmental conservation, health, transportation, human rights, the [~~chairman~~] chair of the public service commission and secretary of state may, by official authority filed in their respective agencies, and with the water resources planning council, designate a deputy or other officer to exercise his or her powers and perform his or her duties, including the right to vote, on the council. The council may also establish for itself bylaws for the conduct of its affairs.

§ 3. The environmental conservation law is amended by adding a new section 15-2904 to read as follows:

§ 15-2904. Water resources planning council; duties and purpose.

1. The council shall manage and oversee the water resources of the state including facilitating cooperative and sustainable management of water resources to ensure that all residents have access to adequate, affordable, safe drinking water in perpetuity. When appropriate, the council shall consider opportunities for economic development in managing the water resources of the state. The council shall ensure the fair and equitable distribution of public water resources and shall ensure that every agency considers environmental justice standards in its decision making process and actions. The council shall create interstate partnerships for sharing resources and best practices for water management.

2. The council shall review and examine all state and federal laws and regulations concerning the management, use, protection, conservation and provision of water which may affect the state. The council may issue comments on any proposed state and federal legislation or regulations

affecting water. The council shall review and may issue comments on any recommendations of the drinking water quality council established pursuant to section eleven hundred thirteen of the public health law. The council shall review the list of contaminants which are tested in waters of the state and make necessary recommendations to the department of environmental conservation, the department of health, or the United States environmental protection agency.

§ 4. Section 15-2905 of the environmental conservation law, as added by chapter 509 of the laws of 1984, is amended to read as follows:

§ 15-2905. Statewide inventory of existing significant deficiencies in water supply systems.

The [~~commissioner, in consultation with the commissioner of health and~~] chair, utilizing information requested from the responsible local officials as well as relevant information developed through titles eleven and thirteen of this article, shall cause to be prepared an inventory of existing significant deficiencies in water supply availability throughout the state, including specific needs for improvement, rehabilitation and establishment of water supply, distribution and transmission facilities. Such inventory shall also identify those water supply systems affected or threatened by intrusions of hazardous materials or wastes and the nature of remediation required. Such inventory shall be completed and transmitted to the governor, legislature and the council by July first, [~~nineteen hundred eighty-five~~] two thousand twenty.

The [~~commissioner~~] chair in consultation with the secretary of state, shall also cause to be prepared a review and summary of existing statutory and constitutional provisions relating to the provision and financing of water supply facilities by local governments, including such provision and financing through inter-local cooperation. Such review and summary shall also identify any existing statutory and constitutional constraints against the effective and efficient provision of sound financing, on a revenue or general obligation basis, of such facilities. Such review and summary shall be completed and transmitted to the governor, legislature and the council by January first, [~~nineteen hundred eighty-six~~] two thousand twenty-one. At such time and based upon the above inventory and review and summary, the [~~commissioner~~] chair shall also cause to be prepared a compilation of those instances in which correction of existing significant deficiencies appears to be beyond the reasonable financial capabilities of the affected communities.

§ 5. Section 15-2907 of the environmental conservation law, as amended by chapter 214 of the laws of 1991, is amended to read as follows:

§ 15-2907. Water resources management strategy; development purpose.

Not later than January first, [~~nineteen hundred eighty-seven, the department of environmental conservation, with the participation of the department of health~~] two thousand twenty-two, the water resources planning council, with the participation of all voting members and whenever possible, [~~regional planning and development boards~~] non-voting regional members, shall develop and [~~submit~~] adopt a [~~complete~~] comprehensive statewide water resources management strategy [~~to the water resources planning council for its review and adoption~~]. [~~This~~] The water resources management strategy shall be composed of substate water resources management strategies which recognize the natural boundaries of the water resource basins, watersheds, and aquifers and existing significant deficiencies of water supply, and which organize these in the most practical and manageable manner. Each substate management strategy shall analyze the present and future demographic, natural resource, economic development, water quality, and conservation requirements of

public and private water systems and develop regional management strategies to meet the water resources requirements of residential, agricultural, industrial and commercial users as well as assure the highest possible quality and quantity of these resources.

Strategies shall analyze the efficiency and capacity of existing water supply sources and facilities and shall contain recommendations for appropriate modifications, restoration, and expansion or development of new sources or facilities. Such strategies shall also include evaluations and recommendations as to the feasibility of including **or removing** hydroelectric energy generation facilities as part of the modifications, restoration, and expansion or development of new or existing resources or facilities **and/or returning rivers and streams to their natural flow**. The strategy shall also contain recommendations regarding implementation of these strategies by the department of health, the department of environmental conservation, other appropriate state agencies, local governments and special districts. **Where necessary, the strategy shall include review and assessment of all interstate water management agreements or agreements with municipalities.** In addition, the departments shall submit to the council substate water resources management strategies as soon as such strategies are developed. The departments shall also report regularly to the council on the development of the strategies and receive the council's recommendations and directions. [~~Such substate~~] **The statewide water resources management strategy shall be made available to the public on the council's website and submitted to the legislature within two weeks of its adoption. Substate** strategies shall also be available [~~for public inspection as soon as~~] **to the public on each department's and the council's website within two weeks of the submission of** such strategies [~~are developed~~] **to the council**.

§ 6. Section 15-2909 of the environmental conservation law, as added by chapter 509 of the laws of 1984, is amended to read as follows:

§ 15-2909. Water resources management strategy; hearings.

Upon [~~receipt~~] **adoption** of the **comprehensive** statewide water resources management strategy [~~from the department of environmental conservation~~] **by the water resources planning council**, the council shall promptly publish once a week for three consecutive weeks in newspapers of general circulation **and post on the council's website** notice of public hearings thereon. Public hearings shall be conducted in each of the [~~substate areas~~] **regions** represented [~~in the statewide strategy~~] **by a non-voting member of the council**, and shall be in accordance with regulations adopted by the [~~department, subject to modification by the~~] council. Such regulations shall, at a minimum, require a hearing on the record with sworn witnesses and shall afford interested parties a reasonable opportunity to sponsor witnesses and to question witnesses sponsored by others, including department staff, consistent with the need to conclude the hearings expeditiously so that a state water resources management strategy can be adopted in a timely manner. The hearings shall not be considered part of an adjudicatory proceeding, as defined in subdivision three of section one hundred two of the state administrative procedure act, or as part of a rule-making proceeding held under subdivision one of section two hundred two of such act.

§ 7. Section 15-2911 of the environmental conservation law, as added by chapter 509 of the laws of 1984, is amended to read as follows:

§ 15-2911. Water resources management strategy; approval.

The water resources planning council shall, as expeditiously as practicable following the conclusion of its hearings, but in no case later

than January first, [~~nineteen hundred eighty-eight~~] two thousand twenty-two, [~~determine~~] adopt, based on the record, [~~whether~~] the statewide water resources management strategy [~~should be approved~~] with modifications [~~or disapproved, and shall state in writing the reasons for its determination~~], if any, based on the testimony and public hearing record. [~~If the council has determined approval of the~~] The strategy [~~, it~~] adopted by the council shall be adopted by the departments of health and environmental conservation and other appropriate state agencies [~~in the form determined by the council. If the council has determined disapproval of the strategy, the department of environmental conservation, in conjunction with the department of health, shall modify the strategy in accordance with the determination issued by the council and resubmit the strategy to the council for its action~~].

§ 8. Section 15-2913 of the environmental conservation law, as added by chapter 509 of the laws of 1984, is amended to read as follows:

§ 15-2913. Water resources management strategy; revision.

From time to time and at least once every [~~two years~~] year, [~~the department of environmental conservation, with the participation of the department of health~~] the water resources planning council, with participation of all voting members and whenever possible, [~~regional planning and development boards~~] non-voting regional members, shall review the strategy and shall either (a) prepare any amendments necessary to update the strategy, or (b) issue a determination that no amendments are necessary and the reasons supporting the determination. Any interested person may seek such a review upon written application to the [~~department of environmental conservation~~] council for an amendment to the statewide water resources management strategy. [~~Any statement issued by the departments that no amendments are necessary shall be submitted to the council for approval, modification or disapproval.~~] Amendments shall be adopted in the same manner as the strategy itself. Every four years, a new comprehensive statewide resources management strategy shall be developed and adopted by the water resources planning council as set forth herein.

§ 9. The environmental conservation law is amended by adding a new section 15-2915 to read as follows:

§ 15-2915. Report to legislature and governor.

From time to time, but not less than once each year, the water resources planning council shall submit a report to the governor, the majority leader of the senate and the speaker of the assembly on the status and quality of the water resources of the state. When requested, the water commissioner shall represent and provide testimony on behalf of the water resources planning council before the senate and assembly.

§ 10. This act shall take effect immediately.