

STATE OF NEW YORK

9190

IN ASSEMBLY

February 9, 2022

Introduced by M. of A. CRUZ, OTIS -- read once and referred to the
Committee on Governmental Operations

AN ACT to amend the executive law, in relation to establishing the
office of flooding prevention and mitigation

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

1 Section 1. The executive law is amended by adding a new article 26-A
2 to read as follows:

ARTICLE 26-A

OFFICE OF FLOODING PREVENTION AND MITIGATION

5 Section 730. Declaration of findings and legislative intent.

6 731. Office of flooding prevention and mitigation.

7 732. Functions and duties of the office.

8 733. Support for counties and municipalities.

9 734. Government entity coordination; intragovernmental meetings.

10 735. Public availability of information; reporting.

11 736. Flooding resiliency.

12 § 730. Declaration of findings and legislative intent. 1. The legisla-
13 ture finds that flooding events constitute a significant and ongoing
14 threat to people and property in the state and that the threats of
15 flooding are expected to be exacerbated by the increasing effects of
16 climate change. The legislature further finds that there is a need for
17 better coordination and direction of state and local efforts to prevent
18 and mitigate flooding.

19 2. The legislature determines that there is a need for a new executive
20 office to manage and coordinate the work of various existing task forc-
21 es, commissions, and other bodies and programs tasked with examining
22 issues related to flooding, to review and assess best practices and make
23 recommendations regarding flood prevention and mitigation, and to assist
24 municipalities in developing strategies and policies to combat flooding.
25 Accordingly, it is the legislature's intent that a new office of flood-
26 ing prevention and mitigation be created to accomplish these purposes.

27 § 731. Office of flooding prevention and mitigation. There is hereby
28 created an office of flooding prevention and mitigation in the executive

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

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department. For the purposes of this article, "the office" shall mean the office of flooding prevention and mitigation. The office shall be headed by a director, who shall be appointed by the governor by and with the advice and consent of the senate and shall hold office during the pleasure of the governor. The director shall have significant professional experience in flooding planning, prevention, mitigation, and resiliency. The director shall receive a salary to be fixed by the governor within the amount appropriated therefor. The director shall appoint staff and perform such other functions to ensure the efficient operation of the office within the amounts made available therefor by appropriation.

§ 732. Functions and duties of the office. The office shall have the following functions and duties:

1. To establish and maintain a principal office and such other offices within the state as it may deem necessary.

2. To appoint a secretary, counsel, clerks and such other employees and agents as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

3. To require that state agencies and any other state or municipal department, agency, public authority, task force, commission, or other state or municipal government body, provide and the same are hereby authorized to provide, such assistance, documents, and data as will enable the office to carry out its functions and duties.

4. To establish and maintain a website which shall facilitate the satisfaction of the functions and duties of the office.

5. To advise and assist the governor in developing policies designed to prevent and mitigate flooding.

6. To coordinate state programs and activities relating to flooding, including, without limitation, resilient NY, the disaster preparedness commission, the flood mitigation task force within the canal corporation, the Rockland-Bergen flood mitigation council, the New York state 2100 commission, the sea level rise task force, the Delaware river basin commission, the New York rising community construction program and the upstate flood mitigation task force, and to require that such entities or programs provide documents to the office.

7. To cooperate with, coordinate, encourage and assist counties and municipalities in the development of local plans and policies for flooding preparedness, prevention, and mitigation, to refer municipalities to the appropriate departments and agencies of the state and federal governments for advice, assistance and available services with respect to flooding, and to advise municipalities in the solution of flooding-related problems.

8. To study the operation of laws and procedures affecting flooding and recommend to the governor and legislature proposals to improve the administration and effectiveness of such laws.

9. To consult with and cooperate with municipalities and officers, organizations, groups and individuals representing them, to the end of more effectively carrying out the functions and duties of the office.

10. To undertake, promote and conduct studies, inquiries, surveys and analyses of issues related to flooding and as necessary for performance of the functions and duties of the office through the personnel of the office or consultants, or in cooperation with any public or private agencies, national associations, academic institutions, and not-for-profit organizations.

11. To serve as a clearinghouse for the benefit of municipalities regarding information relating to flooding prevention and mitigation.

1 including flooding prevention and mitigation project funding programs,
2 and other information relating to their common problems with respect to
3 flooding and the state and federal services available to assist in
4 solution of those problems.

5 12. To render every third year to the governor and to the legislature,
6 on or before December first of each such year, a written report on the
7 office's activities including, but not limited to, specific information
8 on each of the subdivisions of this section. Such report shall also
9 include but not be limited to information regarding significant flooding
10 events during the intervening years and an assessment of the adequacy of
11 current flooding-related programs, policies, and state and local govern-
12 ment bodies.

13 13. To make publicly available information regarding the progress and
14 effectiveness of government-supported flood prevention and mitigation
15 efforts in the state.

16 14. To do all other things necessary or convenient to carry out the
17 functions and duties expressly set forth in this article or as may from
18 time to time be confirmed upon the secretary by the legislature of the
19 state.

20 § 733. Support for counties and municipalities. In furtherance of the
21 provisions of subdivision nine of section seven hundred thirty-two of
22 this article, the office shall encourage and assist local governments in
23 the development of plans and policies for flood prevention and miti-
24 gation. Such assistance shall be available upon request by the local
25 government. In furtherance thereof, the director shall:

26 1. Establish such programs and processes as are convenient or neces-
27 sary for:

28 (a) proactively engaging counties and municipalities in developing
29 flood prevention and mitigation strategies,

30 (b) providing flooding-related resources, including information
31 regarding financial assistance for flooding projects,

32 (c) coordinating and facilitating consultation and coordination among
33 local, county, regional, state and federal governmental bodies and
34 community-based groups, and

35 (d) soliciting input from counties and municipalities regarding flood-
36 ing-related concerns.

37 2. Develop and maintain forms of intermunicipal agreements and other
38 documents as may assist in facilitating cooperation between munici-
39 palities in addressing flooding issues that involve more than one muni-
40 cipality.

41 3. Promote flooding prevention and mitigation strategies, including,
42 without limitation, use of living shorelines and other nature-based
43 solutions, permeable surfaces, rain gardens, wetland restoration, waste-
44 water and stormwater infrastructure upgrades, alteration of flood-prone
45 structures, and other flood prevention, mitigation and resiliency
46 projects encompassed by subdivision one of section 58-0303 and subdivi-
47 sion one of section 54-1523 of the environmental conservation law.

48 § 734. Government entity coordination; intragovernmental meetings. 1.
49 The office shall regularly consult and coordinate its efforts with such
50 other state government bodies and other state, regional, or local
51 programs as is necessary or convenient to successfully fulfill its func-
52 tions and duties.

53 2. The office shall, on a biannual basis, convene a meeting of the
54 executive officers or similar officials or their representatives of the
55 department of environmental conservation, the office of emergency
56 management, the department of state, resilient NY, the disaster

1 preparedness commission, the flood mitigation task force within the
2 canal corporation, the Rockland-Bergen flood mitigation council, the New
3 York state 2100 commission, the sea level rise task force, the Delaware
4 river basin commission, the New York rising community construction
5 program and the upstate flood mitigation task force to evaluate the
6 effectiveness of flooding prevention and mitigation throughout the
7 state, to review and assess the respective contributions of such enti-
8 ties and programs to flooding prevention and mitigation, and to facili-
9 tate cooperation amongst such entities and programs.

10 § 735. Public availability of information; reporting. 1. In further-
11 ance of the provisions of subdivision thirteen of section seven hundred
12 thirty-two of this article, the office shall collect and make publicly
13 available on its website reports, resources, descriptions of processes
14 and responsibilities of the office and other state governmental entities
15 and programs tasked with addressing flooding-related issues, analyses
16 regarding the effectiveness of such various governmental entities and
17 programs and other related and relevant information from such govern-
18 mental entities and programs. Such government entities and programs
19 shall include, without limitation, resilient NY, the disaster prepared-
20 ness commission, the flood mitigation task force within the canal corpo-
21 ration, the Rockland-Bergen flood mitigation council, the New York state
22 2100 commission, the sea level rise task force, the Delaware river basin
23 commission, the New York rising community construction program and the
24 upstate flood mitigation task force.

25 2. No later than December first, two thousand twenty-three, and by
26 November thirtieth of every third year thereafter, the office shall
27 transmit to the governor, the temporary president of the senate and the
28 speaker of the assembly a report containing:

29 (a) an assessment of the extent and magnitude of flooding risks,
30 including identifying those regions and populations most affected by
31 flooding;

32 (b) criteria and guidelines for identifying and prioritizing regions
33 and projects most in need of mitigation;

34 (c) identification of existing and emerging technologies, strategies
35 and policies which can mitigate the impact of flooding on populations
36 and infrastructure;

37 (d) identification of potential funding sources to support residen-
38 tial, commercial and public mitigation efforts;

39 (e) research projects or studies to better understand how flooding
40 affects the geography and the population of this state; and

41 (f) recommendations to the governor and the state legislature as to
42 the best use of state resources to assist flood-prone counties and muni-
43 cipalities to prevent or mitigate the effects of flooding.

44 § 736. Flooding resiliency. In fulfilling the provisions of this arti-
45 cle, the office shall incorporate into its policies, processes and deci-
46 sions consideration for the increased likelihood of flooding due to
47 climate change as compared to historic indicators and the need for long-
48 term resiliency against such increase in flooding. The office is author-
49 ized to and shall take actions and make recommendations which exceed
50 current best practices for flooding prevention and mitigation when such
51 current best practices do not sufficiently account for the likelihood of
52 increased flooding due to climate change.

53 § 2. Severability. If any clause, sentence, paragraph, subdivision,
54 section or part of this act shall be adjudged by any court of competent
55 jurisdiction to be invalid, such judgment shall not affect, impair, or
56 invalidate the remainder thereof, but shall be confined in its operation

1 to the clause, sentence, paragraph, subdivision, section or part thereof
2 directly involved in the controversy in which such judgment shall have
3 been rendered. It is hereby declared to be the intent of the legislature
4 that this act would have been enacted even if such invalid provisions
5 had not been included herein.

6 § 3. This act shall take effect immediately.