

# STATE OF NEW YORK

2044--A

2021-2022 Regular Sessions

## IN ASSEMBLY

January 14, 2021

Introduced by M. of A. ABINANTI, SCHMITT -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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.

There is hereby established within the department of environmental conservation a water resources planning council. It shall consist of ~~[fifteen]~~ seventeen voting members~~[, including] and eight non-voting members.~~ 1. 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 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

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

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1 the speaker of the assembly. [~~The governor shall select a chair from~~  
2 ~~among the members.~~] 2. Non-voting members shall represent each of the  
3 following regions: (a) New York City; (b) Long Island; (c) Lower Hudson  
4 Valley; (d) Capitol Region; (e) Upper Hudson and St. Lawrence River  
5 Watershed; (f) Central New York; (g) Southern Tier River basins; and (h)  
6 Great Lakes Regional Watersheds. Meetings of the council shall be called  
7 by the chair. Members shall receive reimbursement for expenses only.

8 § 2. Section 15-2903 of the environmental conservation law, as amended  
9 by chapter 307 of the laws of 1986, is amended to read as follows:  
10 § 15-2903. Water resources planning council; quorum, bylaws.

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

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

24 § 15-2904. Water resources planning council; duties and purpose.

25 1. The council shall make recommendations regarding the management and  
26 oversight of the water resources of the state including facilitating  
27 cooperative and sustainable management of water resources to ensure that  
28 all residents have access to adequate, affordable, safe drinking water  
29 in perpetuity. The council shall also make recommendations to help  
30 ensure the fair and equitable distribution of public water resources and  
31 shall help ensure that every agency considers environmental justice  
32 standards in its water-related decision making process and actions. The  
33 council shall create interstate partnerships for sharing resources and  
34 best practices for water management.

35 2. The council shall review and examine all state and federal laws and  
36 regulations concerning the management, use, protection, conservation and  
37 provision of water which may affect the state. The council may issue  
38 comments on any proposed state and federal legislation or regulations  
39 affecting water. The council shall review and may issue comments on any  
40 recommendations of the drinking water quality council established pursu-  
41 ant to section eleven hundred thirteen of the public health law. The  
42 council shall review the list of contaminants which are tested in waters  
43 of the state, including in remedial programs, and may make recommenda-  
44 tions to the department of environmental conservation, the department of  
45 health, or the United States environmental protection agency.

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

48 § 15-2905. Statewide inventory of existing significant deficiencies in  
49 water supply systems.

50 The commissioner, in consultation with the commissioner of health and  
51 the chair, utilizing information requested from the responsible local  
52 officials as well as relevant information developed through titles elev-  
53 en and thirteen of this article, shall cause to be prepared an inventory  
54 of existing significant deficiencies in water supply availability  
55 throughout the state, including specific needs for improvement, rehabil-  
56 itation and establishment of water supply, distribution and transmission

1 facilities. Such inventory shall also identify those water supply  
2 systems affected or threatened by intrusions of hazardous materials or  
3 wastes and the nature of remediation required. Such inventory shall be  
4 completed and transmitted to the governor, legislature and the council  
5 by July first, [~~nineteen hundred eighty-five~~] two thousand twenty-four.

6 The commissioner in consultation with the secretary of state[~~7~~] and  
7 the chair, shall also cause to be prepared a review and summary of  
8 existing statutory and constitutional provisions relating to the  
9 provision and financing of water supply facilities by local governments,  
10 including such provision and financing through inter-local cooperation.  
11 Such review and summary shall also identify any existing statutory and  
12 constitutional constraints against the effective and efficient provision  
13 of sound financing, on a revenue or general obligation basis, of such  
14 facilities. Such review and summary shall be completed and transmitted  
15 to the governor, legislature and the council by January first, [~~nineteen~~  
16 ~~hundred eighty-six~~] two thousand twenty-four. At such time and based  
17 upon the above inventory and review and summary, the commissioner, in  
18 consultation with the chair, shall also cause to be prepared a compila-  
19 tion of those instances in which correction of existing significant  
20 deficiencies appears to be beyond the reasonable financial capabilities  
21 of the affected communities.

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

24 § 15-2907. Water resources management strategy; development purpose.

25 Not later than January first, [~~nineteen hundred eighty-seven~~] two  
26 thousand twenty-five, and every five years thereafter, the department of  
27 environmental conservation, with the participation of the department of  
28 health and whenever possible, [~~regional planning and development boards~~]  
29 non-voting regional members, shall develop and submit a [~~complete~~]  
30 comprehensive statewide water resources management strategy to the water  
31 resources planning council for its review and adoption following public  
32 hearings. [~~This~~] The water resources management strategy shall be  
33 composed of substate water resources management strategies which recog-  
34 nize the natural boundaries of the water resource basins, watersheds,  
35 and aquifers and existing significant deficiencies of water supply, and  
36 which organize these in the most practical and manageable manner. Each  
37 substate management strategy shall analyze the present and future demo-  
38 graphic, natural resource, economic development, water quality, and  
39 conservation requirements of public and private water systems and devel-  
40 op regional management strategies to meet the water resources require-  
41 ments of residential, agricultural, industrial and commercial users as  
42 well as assure the highest possible quality and quantity of these  
43 resources.

44 Strategies shall analyze the efficiency and capacity of existing water  
45 supply sources and facilities and shall contain recommendations for  
46 appropriate modifications, restoration, and expansion or development of  
47 new sources or facilities. Such strategies shall also include evalu-  
48 ations and recommendations as to the feasibility of including or remov-  
49 ing hydroelectric energy generation facilities as part of the modifica-  
50 tions, restoration, and expansion or development of new or existing  
51 resources or facilities and/or returning rivers and streams to their  
52 natural flow. The strategy shall also contain recommendations regarding  
53 implementation of these strategies by the department of health, the  
54 department of environmental conservation, other appropriate state agen-  
55 cies, local governments and special districts. Where appropriate, the  
56 strategy shall include review and assessment of all interstate water

1 management agreements or agreements with municipalities. In addition,  
2 the departments shall submit to the council substate water resources  
3 management strategies as soon as such strategies are developed. The  
4 departments shall also report regularly to the council on the develop-  
5 ment of the strategies and receive the council's recommendations and  
6 directions. [~~Such substate~~] The statewide water resources management  
7 strategy shall be made available to the public on the council's website  
8 and submitted to the legislature within two weeks of its adoption.  
9 Substate strategies shall also be available [~~for public inspection as~~  
10 ~~seen as~~] to the public on each department's and the council's website  
11 within two weeks of the submission of such strategies [~~are developed~~] to  
12 the council.

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

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

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

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

37 § 15-2911. Water resources management strategy; approval.

38 The water resources planning council shall, as expeditiously as prac-  
39 ticable following the conclusion of its hearings, but in no case later  
40 than January first, [~~nineteen hundred eighty-eight~~] two thousand twen-  
41 ty-five, determine, based on the record, including public comments and  
42 hearing testimony, whether the statewide water resources management  
43 strategy should be approved with modifications or disapproved, and shall  
44 state in writing the reasons for its determination. If the council has  
45 determined approval of the strategy, it shall be adopted by the depart-  
46 ments of health and environmental conservation and other appropriate  
47 state agencies in the form determined by the council. If the council has  
48 determined disapproval of the strategy, the department of environmental  
49 conservation, in conjunction with the department of health, shall modify  
50 the strategy in accordance with the determination issued by the council  
51 and resubmit the strategy to the council for its action.

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

54 § 15-2913. Water resources management strategy; revision.

55 From time to time and at least once every [~~two years~~] year, [~~the~~  
56 ~~department of environmental conservation, with the participation of the~~

1 ~~department of health~~ the water resources planning council, with partic-  
2 ipation of all voting members and whenever possible, [~~regional planning~~  
3 ~~and development boards~~] non-voting regional members, shall review the  
4 strategy and shall either (a) [~~prepare any~~] recommend amendments neces-  
5 sary to update the strategy, or (b) issue a determination that no amend-  
6 ments are necessary and the reasons supporting the determination. Any  
7 interested person may seek such a review upon written application to the  
8 department of environmental conservation for an amendment to the state-  
9 wide water resources management strategy. [~~Any statement issued by the~~  
10 ~~departments that no amendments are necessary shall be submitted to the~~  
11 ~~council for approval, modification or disapproval.~~] Amendments shall be  
12 adopted in the same manner as the strategy itself. Every five years, a  
13 new comprehensive statewide resources management strategy shall be  
14 developed and adopted by the water resources planning council as set  
15 forth herein.

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

18 § 15-2915. Report to legislature and governor.

19 The water resources planning council shall annually submit a report to  
20 the governor and the legislature on the status and quality of the water  
21 resources of the state.

22 § 10. This act shall take effect on the ninetieth day after it shall  
23 have become a law. Effective immediately, the addition, amendment  
24 and/or repeal of any rule or regulation necessary for the implementation  
25 of this act on its effective date are authorized to be made and  
26 completed on or before such effective date.