STATE OF NEW YORK

9187

IN ASSEMBLY

February 9, 2022

Introduced by M. of A. McDONALD -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the canal law, in relation to the membership and work of the canal recreationway commission

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

Section 1. Paragraphs a and b of subdivision 1 and subdivisions 2, 6 and 7 of section 138-a of the canal law, paragraph a of subdivision 1 as amended by chapter 243 of the laws of 1993, paragraph b of subdivision 1 as amended by chapter 149 of the laws of 1994, subdivisions 2 and 6 as added by chapter 766 of the laws of 1992, and subdivision 7 as amended by chapter 671 of the laws of 2021, are amended to read as follows:

a. [~~the chairman of the authority,~~] the commissioner of transportation, the commissioner of the office of parks, recreation and historic preservation**, the chairman of the authority, the commissioner of the division of homeland security and emergency services, the chairman of the Erie Canalway National Heritage Corridor Commission** and the commissioner of environmental conservation, or their representatives;

b. ten individuals involved in canal use, development, preservation or enhancement and local governments from counties adjacent to or intersected by the canal system appointed by the governor of whom three shall be appointed at the recommendation of the temporary president of the senate and three shall be appointed at the recommendation of the speaker of the assembly. In appointing such members, the governor shall ensure geographic representation from each of the canal sections encompassing the canal system, including at least one representative from counties in which the Erie, Champlain, Cayuga-Seneca, and Oswego canals are located. In addition, individuals appointed to the commission shall be broadly representative of the following areas of interest: preservation of the environment, the operation of tour boats on the canal, the operation of marinas on the canal, recreational trail users, hunting and fishing, tourism promotion agencies as defined in section one hundred sixty-two of the economic development law, historic preservation, the commercial farming industry and the commercial shipping industry, provided that

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

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with respect to appointment of an individual representative of historic preservation or the commercial farming industry or commercial shipping industry, such an individual may reside outside of a county adjacent to or intersected by the canal system [~~if such person holds~~]; provided, further, such an individual representative of the commercial farming industry or the commercial shipping industry living outside of a county adjacent to or intersected by the canal system shall also hold an ownership interest or senior managerial position in a commercial farming firm or commercial shipping firm, respectively, which regularly uses the canal system in furtherance of its business; and

2. The chairperson of the commission shall be [~~the chairman of the authority~~] appointed by the governor and serve a three-year term. The members of the commission may elect a secretary and other necessary officers to serve for such a period as the members shall decide.

6. A majority of the [~~voting members of the commission~~] ten individuals involved in canal use, development, preservation or enhancement and local governments from counties adjacent to or intersected by the canal system appointed by the governor then in office, [~~at least five of whom are not appointed pursuant to paragraph a of subdivision one of this section,~~] shall constitute a quorum for the transaction of any business or the exercise of any power or function of the commission. An act, determination or decision of the majority of the members present and entitled to vote during the presence of a quorum shall be held to be the act, determination or decision of the commission.

7. The commission shall meet monthly, generally, but at least [~~quarterly~~] ten times each year. Special meetings may be called by its chairperson and shall be called by the chairperson at the request of a majority of the members of the commission then in office.

§ 2. Section 138-b of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

§ 138-b. Functions, powers and duties. The commission shall:

1. [~~Develop, maintain and periodically~~] Exercise the general powers and duties relating to canals set forth in section ten of this chapter.

2. No later than May first, two thousand twenty-five, revise [~~a~~] the statewide canal recreationway plan (hereinafter referred to as the "plan") for the canal system. [~~Such plan shall be developed in accordance with the provisions of section one hundred thirty-eight-c of this article and shall be submitted to the authority for its consideration no later than the first day of June, nineteen hundred ninety-four.~~

~~2. Solicit input from counties intersecting or bordering the canal system and incorporate it to the greatest degree practicable in the development of the plan. In order to facilitate such incorporation commission members representing each of the regional planning boards shall request from and provide assistance to each county it represents in the preparation of a county canal plan. Multi-county canal plans may be requested by the regional planning board representative, as deemed appropriate, in lieu of individual county canal plans. In a region where a regional planning board does not exist, the commission shall solicit county canal plans from each of the chief executive officers of those counties outside the jurisdiction of a regional planning board. The commission shall prescribe uniform guidelines concerning the format of plans to be used by the regional planning board representatives to assist counties in the preparation of county canal plans. The regional planning board representative shall encourage the development of county canal plans that reflect participation by diverse local interests by seeking advice, to the extent possible, from individuals and organiza-~~

~~tions from such counties with an interest in recreation, hunting and fishing, the environment, canal related tourism businesses, historic preservation and commercial development along the canal. In order to be considered in the formulation of the plan, county canal plans must be submitted to the commission not later than the first day of June, nineteen hundred ninety-three.~~

~~3. Ensure public comment on the plan, including at least three public hearings on the plan prior to submission of the plan to the authority. The commission may also hold hearings on other matters it deems appropriate.~~

~~4. If deemed appropriate, request that studies, surveys or analyses be performed by the corporation, the departments of transportation, economic development and environmental conservation and/or the office of parks, recreation and historic preservation to assist in the development, promotion, marketing and/or preservation of the canal system or the preparation of the plan. At the request of the commission, state agencies and public authorities shall cooperate fully and shall provide requested information in a timely manner.~~

~~5. Advise and assist the corporation in carrying~~] 3. Develop and submit, in cooperation with the state and the Erie Canalway National Heritage Corridor Commission, no later than May first, two thousand twenty-five, an application for United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List designation.

4. Carry out its duties and obligations related to the canal in the following manner:

a. evaluate and make recommendations for new operational, maintenance and capital initiatives or projects to enhance the canal;

b. establish criteria and procedures for the review by the commission for consistency with the canal recreationway plan of abandonments of canal lands, canal terminals and canal terminal lands, and leases of canal lands, canal terminals, and canal terminal lands proposed by the corporation pursuant to article six-A of this chapter; provided, however, that where local zoning laws and zoning ordinances are in effect on lands proposed to be leased or on lands adjacent to those lands proposed to be leased such review shall include, to the extent practicable, the consideration of the compatibility of such leases with the requirements of such local zoning laws and zoning ordinances; and provided further that the commission may determine that certain categories of leases do not require review;

c. submit to the [~~corporation, the~~] director of the budget and the chairpersons of the senate finance committee and the assembly ways and means committee, on the first day of October, nineteen hundred ninety-two, and on or before the first day of [~~August~~] January in each year thereafter, a budget request for the operations of the commission, including all relevant annual costs for the operation, maintenance, repair, development, and oversight of the canal system pursuant to article two of this chapter. Such request shall include provisions for staff services and other administrative assistance as deemed necessary by the commission to perform its functions and meet its responsibilities during the next calendar year[~~. The corporation shall provide staff services to the commission and such other administrative assistance as may be necessary for the commission to carry out its functions, powers and duties~~]; and

d. submit annually to [~~the corporation,~~] the director of the budget and the chairpersons of the senate finance committee and the assembly ways and means committee, on the first day of [~~October, nineteen hundred~~

~~ninety-two, and on or before the first day of August in~~] December [~~each year thereafter~~], a budget request for the expenditure of funds available from the canal fund, for the purposes established by section ninety-two-u of the state finance law. [~~Submissions made during the initial years shall give funding priority for expenditures related to the development and/or promotion of the canal system;~~

~~e. undertake a comprehensive study of alternative waterway and canal toll and fee structures, including but not limited to, a comparative analysis of other existing waterway and canal systems, the impact of various toll and fee structures on recreational use, tourism, and commercial activity; and the revenue implications for each of these alternatives. The commission shall make recommendations to the authority by the first day of April, nineteen hundred ninety-three, on appropriate tolls and fees to be charged for the use of the canal system and shall provide an update on the implementation of such recommendations by the first day of April, nineteen hundred ninety-five; and~~

~~f. utilize information provided by the authority and other state agencies and departments, pursuant to section ten of this chapter, surveying canal lands within the Adirondack park and studying current land uses, to make recommendations to the authority, no later than the first day of June, nineteen hundred ninety-four, concerning the future use of canal lands within the Adirondack park, including but not limited to the utilization of existing properties under revocable permits; and the identification of any property not needed for canal purposes that may be transferred to the department of environmental conservation.~~

~~6.~~] 5. Establish committees as it deems appropriate on matters relating to the commission's functions, powers and duties; such committees shall be chaired by a commission member but may include persons not members of the commission who provide expertise of interest specific to the charge of such committee.

a. the commission shall create a temporary committee which shall include the commissioner of the department of economic development and the commissioner of the office of parks, recreation and historic preservation or their representatives and others with appropriate expertise to identify opportunities for achieving the economic development potential of the recreationway and to make recommendations for specific implementation of these opportunities, including recommendations for marketing and promotion designed to attract tourists.

b. the commission shall create a temporary committee, which may include appropriately accredited professionals, to assess and report to the authority on issues associated with managing the waters of the canal system, including issues relating to recreational use, habitats and flood prone areas.

[~~7.~~] 6. Report on or before March thirty-first of each year commencing nineteen hundred ninety-four to the corporation, the governor, the temporary president of the senate and the speaker of the assembly on the activities of the commission with respect to the functions, powers and duties established in this section.

§ 3. This act shall take effect on ninetieth day after it shall have become a law.