

STATE OF NEW YORK

1738--A

2021-2022 Regular Sessions

IN SENATE

January 14, 2021

Introduced by Sens. SKOUFIS, ADDABBO, BIAGGI, GAUGHRAN -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- 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:

1 Section 1. Section 15-2901 of the environmental conservation law, as
2 amended by chapter 83 of the laws of 1995, is amended to read as
3 follows:
4 § 15-2901. Water resources planning council; organization.
5 There is hereby established within the department of environmental
6 conservation a water resources planning council. It shall consist of
7 [~~fifteen~~] seventeen voting members [~~, including~~] and eight non-voting
8 members. 1. Voting members shall include the chair, the commissioners of
9 agriculture and markets, economic development, environmental conserva-
10 tion, health, transportation, human rights, the chair of the public
11 service commission, president of the New York state energy research and
12 development authority, secretary of state and seven members to be
13 appointed by the governor including at least [~~one member~~] two members
14 who shall have expertise in the science of water resources planning
15 [~~and~~], at least two members who shall have expertise in environmental
16 science and/or engineering and one member [~~selected from a list proposed~~
17 ~~by public interest or environmental citizens organizations~~] who shall
18 have expertise in environmental justice. These seven members appointed
19 by the governor shall serve terms of [~~four~~] five years each. Two of the
20 members appointed by the governor shall be appointed upon the recommen-
21 dation of the majority leader of the senate and two of the members

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

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

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

11 § 15-2903. Water resources planning council; quorum, bylaws.

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

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

25 § 15-2904. Water resources planning council; duties and purpose.

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

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

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

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

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

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

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

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

25 § 15-2907. Water resources management strategy; development purpose.

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

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

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

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

16 § 15-2909. Water resources management strategy; hearings.

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

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

38 § 15-2911. Water resources management strategy; approval.

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

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

55 § 15-2913. Water resources management strategy; revision.

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

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

20 § 15-2915. Report to legislature and governor.

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

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