

# STATE OF NEW YORK

132

2023-2024 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 4, 2023

Introduced by M. of A. CRUZ, OTIS, SIMON, JEAN-PIERRE -- 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 Assembly, do enact as follows:

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

### ARTICLE 26-A

#### OFFICE OF FLOODING PREVENTION AND MITIGATION

#### Section 730. Declaration of findings and legislative intent.

731. Office of flooding prevention and mitigation.

732. Functions and duties of the office.

733. Support for counties and municipalities.

734. Government entity coordination; intragovernmental meetings.

735. Public availability of information; reporting.

736. Flooding resiliency.

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

2. The legislature determines that there is a need for a new executive office to manage and coordinate the work of various existing task forces, commissions, and other bodies and programs tasked with examining issues related to flooding, to review and assess best practices and make recommendations regarding flood prevention and mitigation, and to assist municipalities in developing strategies and policies to combat flooding.

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

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1 Accordingly, it is the legislature's intent that a new office of flood-  
2 ing prevention and mitigation be created to accomplish these purposes.

3 § 731. Office of flooding prevention and mitigation. There is hereby  
4 created an office of flooding prevention and mitigation in the executive  
5 department. For the purposes of this article, "the office" shall mean  
6 the office of flooding prevention and mitigation. The office shall be  
7 headed by a director, who shall be appointed by the governor by and with  
8 the advice and consent of the senate and shall hold office during the  
9 pleasure of the governor. The director shall have significant profes-  
10 sional experience in flooding planning, prevention, mitigation, and  
11 resiliency. The director shall receive a salary to be fixed by the  
12 governor within the amount appropriated therefor. The director shall  
13 appoint staff and perform such other functions to ensure the efficient  
14 operation of the office within the amounts made available therefor by  
15 appropriation.

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

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

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

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

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

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

32 6. To coordinate state programs and activities relating to flooding,  
33 including, without limitation, resilient NY, the disaster preparedness  
34 commission, the flood mitigation task force within the canal corpo-  
35 ration, the Rockland-Bergen flood mitigation council, the New York state  
36 2100 commission, the sea level rise task force, the Delaware river basin  
37 commission, the New York rising community construction program and the  
38 upstate flood mitigation task force, and to require that such entities  
39 or programs provide documents to the office.

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

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

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

53 10. To undertake, promote and conduct studies, inquiries, surveys and  
54 analyses of issues related to flooding and as necessary for performance  
55 of the functions and duties of the office through the personnel of the  
56 office or consultants, or in cooperation with any public or private

1 agencies, national associations, academic institutions, and not-for-pro-  
2 fit organizations.

3 11. To serve as a clearinghouse for the benefit of municipalities  
4 regarding information relating to flooding prevention and mitigation,  
5 including flooding prevention and mitigation project funding programs,  
6 and other information relating to their common problems with respect to  
7 flooding and the state and federal services available to assist in  
8 solution of those problems.

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

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

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

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

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

32 (a) proactively engaging counties and municipalities in developing  
33 flood prevention and mitigation strategies,

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

36 (c) coordinating and facilitating consultation and coordination among  
37 local, county, regional, state and federal governmental bodies and  
38 community-based groups, and

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

41 2. Develop and maintain forms of intermunicipal agreements and other  
42 documents as may assist in facilitating cooperation between munici-  
43 palities in addressing flooding issues that involve more than one muni-  
44 cipality.

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

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

2. The office shall, on a biannual basis, convene a meeting of the executive officers or similar officials or their representatives of the department of environmental conservation, the office of emergency management, the department of state, 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 to evaluate the effectiveness of flooding prevention and mitigation throughout the state, to review and assess the respective contributions of such entities and programs to flooding prevention and mitigation, and to facilitate cooperation amongst such entities and programs.

§ 735. Public availability of information; reporting. 1. In furtherance of the provisions of subdivision thirteen of section seven hundred thirty-two of this article, the office shall collect and make publicly available on its website reports, resources, descriptions of processes and responsibilities of the office and other state governmental entities and programs tasked with addressing flooding-related issues, analyses regarding the effectiveness of such various governmental entities and programs and other related and relevant information from such governmental entities and programs. Such government entities and programs shall include, 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.

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

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

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

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

(d) identification of potential funding sources to support residential, commercial and public mitigation efforts;

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

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

§ 736. Flooding resiliency. In fulfilling the provisions of this article, the office shall incorporate into its policies, processes and decisions consideration for the increased likelihood of flooding due to climate change as compared to historic indicators and the need for long-term resiliency against such increase in flooding. The office is authorized to and shall take actions and make recommendations which exceed current best practices for flooding prevention and mitigation when such current best practices do not sufficiently account for the likelihood of increased flooding due to climate change.

1     § 2. Severability. If any clause, sentence, paragraph, subdivision,  
2 section or part of this act shall be adjudged by any court of competent  
3 jurisdiction to be invalid, such judgment shall not affect, impair, or  
4 invalidate the remainder thereof, but shall be confined in its operation  
5 to the clause, sentence, paragraph, subdivision, section or part thereof  
6 directly involved in the controversy in which such judgment shall have  
7 been rendered. It is hereby declared to be the intent of the legislature  
8 that this act would have been enacted even if such invalid provisions  
9 had not been included herein.

10    § 3. This act shall take effect immediately.