

STATE OF NEW YORK

132--A

2023-2024 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2023

Introduced by M. of A. CRUZ, OTIS, SIMON, JEAN-PIERRE, EACHUS, SHIMSKY, PHEFFER AMATO -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations 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 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 forc-

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

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1 es, commissions, and other bodies and programs tasked with examining
2 issues related to flooding, to review and assess best practices and make
3 recommendations regarding flood prevention and mitigation, and to assist
4 municipalities in developing strategies and policies to combat flooding.
5 Accordingly, it is the legislature's intent that a new office of flood-
6 ing prevention and mitigation be created to accomplish these purposes.

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

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

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

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

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

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

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

36 6. To coordinate state agencies, programs and activities responsible
37 for or relating to flooding, including, without limitation, the depart-
38 ment of environmental conservation, the department of financial
39 services, the division of homeland security and emergency services, the
40 department of state, resilient NY, the disaster preparedness commission,
41 the Rockland-Bergen flood mitigation council, the New York state 2100
42 commission, the sea level rise task force, the Delaware river basin
43 commission, the New York rising community construction program and the
44 upstate flood mitigation task force, to the extent such entity exists or
45 is presently convened, as applicable, and to require that such entities
46 or programs provide documents to the office.

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

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

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

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

10 11. To serve as a clearinghouse for the benefit of municipalities
11 regarding information relating to flooding prevention and mitigation,
12 including flooding prevention and mitigation project funding programs,
13 and other information relating to their common problems with respect to
14 flooding and the state and federal services available to assist in solv-
15 ing such problems.

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

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

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

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

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

39 (a) proactively engaging counties and municipalities in developing
40 flood prevention and mitigation strategies,

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

43 (c) coordinating and facilitating consultation and coordination among
44 local, county, regional, state and federal governmental bodies and
45 community-based groups, and

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

48 2. Develop and maintain forms of intermunicipal agreements and other
49 documents as may assist in facilitating cooperation between munici-
50 palities in addressing flooding issues that involve more than one muni-
51 cipality.

52 3. Promote flooding prevention and mitigation strategies, including,
53 without limitation, use of living shorelines and other nature-based
54 solutions, permeable surfaces, rain gardens, wetland restoration, waste-
55 water and stormwater infrastructure upgrades, alteration of flood-prone
56 structures, and other flood prevention, mitigation and resiliency

1 projects encompassed by subdivision one of section 54-1523 and subdivi-
2 sion one of section 58-0303 of the environmental conservation law.

3 4. Communicate and coordinate with the department of financial
4 services regarding flood insurance-related matters affecting munici-
5 palities to improve municipal participation and compliance with respect
6 to such relevant flood insurance programs.

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

12 2. The office shall, on a biannual basis, convene a meeting of the
13 executive officers or similar officials or their representatives of the
14 department of environmental conservation, the department of financial
15 services, the division of homeland security and emergency services, the
16 department of state, resilient NY, the disaster preparedness commission,
17 the Rockland-Bergen flood mitigation council, the New York state 2100
18 commission, the sea level rise task force, the Delaware river basin
19 commission, the New York rising community construction program and the
20 upstate flood mitigation task force, to the extent such entity exists or
21 is presently convened, as applicable, to evaluate the effectiveness of
22 floodings prevention and mitigation throughout the state, to review and
23 assess the respective contributions of such entities and programs to
24 floodings prevention and mitigation, and to facilitate cooperation
25 amongst such entities and programs.

26 § 735. Public availability of information; reporting. 1. In further-
27 ance of the provisions of subdivision thirteen of section seven hundred
28 thirty-two of this article, the office shall collect and make publicly
29 available on its website reports, resources, descriptions of processes
30 and responsibilities of the office and other state governmental agen-
31 cies, entities and programs tasked with addressing flooding-related
32 issues, analyses regarding the effectiveness of such various govern-
33 mental entities and programs and other related and relevant information
34 from such governmental agencies, entities and programs. Such govern-
35 mental agencies, entities and programs shall include, without limita-
36 tion, the department of environmental conservation, the department of
37 financial services, the division of homeland security and emergency
38 services, the department of state, resilient NY, the disaster prepared-
39 ness commission, the Rockland-Bergen flood mitigation council, the New
40 York state 2100 commission, the sea level rise task force, the Delaware
41 river basin commission, the New York rising community construction
42 program and the upstate flood mitigation task force, to the extent such
43 entity exists or is presently convened, as applicable.

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

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

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

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

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

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

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

8 § 736. Flooding resiliency. In fulfilling the provisions of this arti-
9 cle, the office shall incorporate into its policies, processes and deci-
10 sions consideration for the increased likelihood of flooding due to
11 climate change as compared to historic indicators and the need for long-
12 term resiliency against such increase in flooding. The office is author-
13 ized to and shall take actions and make recommendations which exceed
14 current best practices for flooding prevention and mitigation when such
15 current best practices do not sufficiently account for the likelihood of
16 increased flooding due to climate change.

17 § 2. Severability. If any clause, sentence, paragraph, subdivision,
18 section or part of this act shall be adjudged by any court of competent
19 jurisdiction to be invalid, such judgment shall not affect, impair, or
20 invalidate the remainder thereof, but shall be confined in its operation
21 to the clause, sentence, paragraph, subdivision, section or part thereof
22 directly involved in the controversy in which such judgment shall have
23 been rendered. It is hereby declared to be the intent of the legislature
24 that this act would have been enacted even if such invalid provisions
25 had not been included herein.

26 § 3. This act shall take effect immediately.