STATE OF NEW YORK

6266

2023-2024 Regular Sessions

IN ASSEMBLY

April 3, 2023

Introduced by M. of A. SLATER -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the legislative law, in relation to authorizing the legislative commission on the development of rural resources to study the effectiveness of pond and lake management programs; to amend the executive law, the soil and water conservation districts law, the environmental conservation law, the public health law, the education law and the public authorities law, in relation to the mitigation and control of harmful algal blooms; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. Subdivision 2 of section 83-i of the legislative law, as added by chapter 141 of the laws of 1994, is amended to read as follows:

2. A legislative commission on the development of rural resources is hereby established (a) to examine the impact of rural resources upon the state's economy; (b) to review existing laws and regulations as they pertain to rural resources; (c) to assess the effect of state policies generally on rural areas; (d) to reassess the effectiveness of programs specifically addressed to rural resource needs and problems, such as agricultural districting, agricultural product promotion, maintenance of agricultural land, forest management, **pond and lake management,** tax exemptions for agricultural and forest land, oil and gas regulation, and tourism and recreation; and (e) to make such recommendations to the legislature for action as it determines necessary for the enhancement and protection of the state's rural resources.

§ 2. Paragraph a of subdivision 2 of section 20 of the executive law, as amended by chapter 23 of the laws of 2020, is amended to read as follows:

a. "disaster" means occurrence or imminent, impending or urgent threat of wide spread or severe damage, injury, or loss of life or property

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

LBD09808-01-3

resulting from any natural or man-made causes, including, but not limited to, fire, flood, earthquake, hurricane, tornado, high water, landslide, mudslide, wind, storm, wave action, volcanic activity, epidemic, disease outbreak, air contamination, terrorism, cyber event, blight, drought, infestation, explosion, radiological accident, nuclear, chemical, biological, or bacteriological release, water contamination **(including by harmful algal bloom or hypoxia)**, bridge failure or bridge collapse.

§ 3. Subparagraph 3 of paragraph i and paragraph j of subdivision 3 of section 21 of the executive law, as amended by section 2 of part B of chapter 56 of the laws of 2010, are amended and a new paragraph k is added to read as follows:

(3) the status of the state and local plans for disaster preparedness and response, including the name of any locality which has failed or refused to develop and implement its own disaster preparedness plan and program; and the extent to which all forms of local emergency response assets have been included, and accounted for in planning and preparation for disaster preparedness and response; [~~and~~]

j. develop public service announcements to be distributed to television and radio stations and other media throughout the state informing the public how to prepare and respond to disasters. Such public service announcements shall be distributed in English and such other languages as such commission deems appropriate[~~.~~]**; and**

k. establish and provide for the deployment of emergency response teams in the event of a suspected contamination of a potable water source by harmful algal bloom or hypoxia. Each such response team shall include qualified technicians from the departments of health and environmental conservation to gather and test water samples; and such personnel as the commission shall determine to be necessary to provide assistance to the communities affected by such contamination including, but not limited to, the provision of potable water.

§ 4. Section 912 of the executive law is amended by adding a new subdivision 17 to read as follows:

17. To understand, detect, monitor, predict, control, mitigate and respond to harmful marine and freshwater algal bloom and hypoxia events.

§ 5. Subdivision 16 of section 9 of the soil and water conservation districts law, as added by chapter 293 of the laws of 2014, is renumbered subdivision 17 and a new subdivision 18 is added to read as follows:

(18) Within the limits of appropriations made available for such purposes, to undertake a program for the monitoring of and event response to harmful freshwater algal blooms in ponds, lakes, rivers, estuaries (including their tributaries), and reservoirs; and mitigation and control of harmful freshwater algal blooms.

§ 6. Article 17 of the environmental conservation law is amended by adding a new title 23 to read as follows:

TITLE 23

HARMFUL ALGAL BLOOMS

Section 17-2301. Definitions.
17-2303. New York harmful algal bloom and hypoxia commission.
17-2305. New York harmful algal bloom and hypoxia advisory committee.
17-2307. General powers and duties of the department.
17-2309. Local and regional assessments.

§ 17-2301. Definitions.

As used in this title:

1. "Advisory committee" means the New York harmful algal bloom advisory committee established by section 17-2305 of this title.

2. "Commission" means the New York harmful algal bloom and hypoxia commission established by section 17-2303 of this title.

3. "Harmful algal bloom" means the occurrence of hypoxia or a harmful algal bloom as a result of a natural, anthropogenic or undetermined cause.

§ 17-2303. New York harmful algal bloom and hypoxia commission.

1. There is hereby established, within the department, the New York harmful algal bloom and hypoxia commission. Such commission shall consist of ten members and shall include the commissioner; the commissioners of agriculture and markets, health, and parks, recreation and historic preservation; the secretary of state; the directors of the state soil and water conservation committee and state canal corporation, and the chairman of the Adirondack park agency; or a designee of such commissioner, director or chairman; and the senate chairman and assembly chairman of the legislative commission on the development of rural resources or his or her designee.

2. The director of the state soil and water conservation committee and the commissioner, or their designee shall serve as joint chairs of the commission.

3. The commission shall meet at least quarterly and shall regularly consult with the advisory committee.

4. The commission may consult with any organization, educational institution or governmental agency including, but not limited to, the college of environmental science and forestry of the state university, the Army Corps of Engineers, the Natural Resources Conservation Service, the United States Department of Commerce, the National Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia, and the New York Ocean and Great Lakes Ecosystem Conservation Council.

5. The duties of the commission shall include, but are not limited to:

(a) from time to time assessing the nature, scope and magnitude of the environmental, ecological, agricultural, economic, recreational, and social impacts caused by harmful algal blooms in the state;

(b) from time to time identifying actions taken by members of the commission, state and local governments and the public to: understand, detect, monitor, predict, control, mitigate, and respond to harmful marine and freshwater algal bloom and hypoxia events; assist and coordinate, where appropriate, with other government agencies, programs, and regional efforts that address harmful marine and freshwater algal blooms and hypoxia, including the development and implementation of appropriate response plans, strategies, and tools; detect and respond rapidly to harmful algal blooms in a cost-effective and environmentally sound manner; monitor harmful algal blooms accurately and reliably; provide for restoration of native species and habitat conditions in ecosystems that have been affected; conduct research on harmful algal blooms and develop technologies to prevent introduction; provide for environmentally sound control of harmful algal blooms; promote public education programs to improve public understanding and awareness of the causes, impacts, and mitigation efforts for harmful marine and freshwater algal blooms and hypoxia; and provide resources to assist in the training of local water and coastal resource managers in the methods and technologies for detecting, monitoring, controlling, mitigating, and responding to the effects of harmful marine and freshwater algal bloom and hypoxia events;

(c) the development of a comprehensive plan for harmful algal blooms and hypoxia. Such comprehensive plan should, at a minimum: recommend interagency responsibilities; describe coordination among different agencies and organizations; address prevention, early detection and rapid response; identify opportunities for control and restoration, including research needs; and describe effective outreach and education. Such plan shall recommend responsibilities for different agencies with the goal of reducing or eliminating, where practicable, contradictory or conflicting policies or programs. Such plan should identify needs for additional staff positions at state agencies and recommend necessary state or federal legislation or regulation. Such plan shall place an emphasis on both prevention and early detection and rapid response to prevent future damage;

(d) providing input on funding priorities and grant applications regarding monies made available for the implementation of this title and grants for projects related to the control and management of harmful algal blooms and hypoxia, education and outreach efforts, and for projects aimed at the early detection and prevention of invasive species; and

(e) developing recommendations on statutory actions to manage and control harmful algal blooms.

§ 17-2305. New York harmful algal bloom and hypoxia advisory committee.

1. There shall be established, within the department, a New York harmful algal bloom and hypoxia advisory committee which shall provide information, advice and guidance to the commission.

2. The commissioner and the director of the soil and water conservation committee shall appoint not more than twenty-five at-large members of the committee with at least one member from each of the following: the New York biodiversity research institute, New York state's Hudson River National Estuarine Research Reserve, the Long Island South Shore Estuary Reserve, the Great Lakes-St. Lawrence River Basin Water Resources Council, a statewide land conservation organization, a statewide agricultural organization, a nursery business, a boating organization, the Darrin Fresh Water Institute, the soil and water conservation districts, the natural heritage program, a state forestry school, a lake association, the New York city department of environmental protection, and a statewide local government organization.

3. The members of the advisory committee shall serve without compensation, except members shall be allowed their necessary and actual expenses incurred in the performance of their duties under this section.

§ 17-2307. General powers and duties of the department.

1. The department, after receipt and analysis of the report compiled pursuant to section six thousand four-a of the education law, and in cooperation with the soil and water conservation committee and in consultation with the commission, shall, after a public hearing, promulgate joint regulations to develop: standards for nutrients as necessary to protect, maintain and/or improve the ecological functions of the marine and aquatic resources of the state; and to prepare, adopt, and implement plans as necessary and appropriate to accomplish the purposes of managing nutrient loadings and preventing, abating, and/or eliminating the deleterious effects of nutrients, including, but not limited to, eutrophication, harmful algal blooms, hypoxia, anoxia, oxygen-stress-induced population shifts, and/or fish kills.

2. For the purpose of carrying out the provisions of this title, the department in cooperation with the soil and water conservation committee, shall have the authority, within funds available, to:

(a) establish, operate and maintain state wide databases and clearinghouses that incorporate existing data from agencies and organizations in the state, as well as from nearby states, provinces, Canada, and the federal government. Such databases and clearinghouses may provide the aggregate data on-line in a geographic information system;

(b) research the ecology of harmful algal blooms to provide information about harmful marine and freshwater algal blooms and hypoxia, including:

(i) the agencies involved in research and development on understanding, detection, monitoring, prediction, prevention, control, mitigation, and response activities;

(ii) tools available to predict and model events; and

(iii) current or developing technologies for detection, monitoring, prediction, prevention, control, mitigation, and response, including remediation;

(c) coordinate state agency and public authority actions to control, mitigate, and respond to harmful marine and freshwater algal bloom and hypoxia events;

(d) perform research on the ecology of harmful marine and freshwater algal blooms; and

(e) in collaboration with the commission, aid in the review and reform of relevant regulatory processes to remove unnecessary impediments to the restoration of ponds and lakes affected by harmful algal blooms and hypoxia.

§ 17-2309. Local and regional assessments.

Within the limits of appropriations made available for such purposes, the department may from time to time undertake local and regional scientific assessments of hypoxia and harmful algal blooms. The commissioner shall ensure, to the extent practicable, that assessments under this section cover geographically and ecologically diverse locations with significant ecological and economic impacts from hypoxia or harmful algal blooms and promulgate rules for reviewing requests for local and regional assessments.

§ 7. Section 225 of the public health law is amended by adding a new subdivision 13 to read as follows:

13. The sanitary code, after receipt and analysis by the council of the report compiled pursuant to section six thousand four-a of the education law, shall delineate specific procedures for the management of harmful algal blooms in ponds, lakes, rivers, estuaries (including their tributaries), water systems used by public water suppliers, and surf beaches owned or operated by homeowner associations. Such procedures shall include notification of the municipality wherein the pond, lake, river, estuary, water system, or surf beach is located.

§ 8. The education law is amended by adding a new section 6004-a to read as follows:

§ 6004-a. Peer review study of harmful algal blooms. 1. The board of trustees of the college shall establish a peer review panel composed of nationally recognized experts in the detection, monitoring, prediction, control, mitigation and means for responding to harmful marine and freshwater algal blooms and hypoxia. Such panel shall examine, evaluate and make recommendations concerning the nature, scope, causes and magnitude of harmful algal blooms in the state; and the detection, means for monitoring, control, mitigation, elimination and response to harmful algal blooms and hypoxia events.

2. The members of the panel shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties pursuant to this section.

3. Such panel shall, within six months of the effective date of this section, submit a report to the governor, the legislature, the department of environmental conservation, the soil and water conservation committee, the New York harmful algal bloom and hypoxia commission, the department of health and the public health and health planning council, of its findings, conclusions and recommendations.

§ 9. Section 1285 of the public authorities law is amended by adding a new subdivision 9 to read as follows:

9. The corporation shall provide funding to the state office of emergency management for all costs of providing potable water during a water contamination disaster resulting from harmful algal bloom or hypoxia.

§ 10. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however that section eight of this act shall take effect immediately and shall expire and be deemed repealed one year after this act shall have become a law; and provided, further that the amendments to subdivision 2 of section 83-i of the legislative law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.