

# 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:

1 Section 1. Subdivision 2 of section 83-i of the legislative law, as  
2 added by chapter 141 of the laws of 1994, is amended to read as follows:  
3 2. A legislative commission on the development of rural resources is  
4 hereby established (a) to examine the impact of rural resources upon the  
5 state's economy; (b) to review existing laws and regulations as they  
6 pertain to rural resources; (c) to assess the effect of state policies  
7 generally on rural areas; (d) to reassess the effectiveness of programs  
8 specifically addressed to rural resource needs and problems, such as  
9 agricultural districting, agricultural product promotion, maintenance of  
10 agricultural land, forest management, pond and lake management, tax  
11 exemptions for agricultural and forest land, oil and gas regulation, and  
12 tourism and recreation; and (e) to make such recommendations to the  
13 legislature for action as it determines necessary for the enhancement  
14 and protection of the state's rural resources.  
15 § 2. Paragraph a of subdivision 2 of section 20 of the executive law,  
16 as amended by chapter 23 of the laws of 2020, is amended to read as  
17 follows:  
18 a. "disaster" means occurrence or imminent, impending or urgent threat  
19 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.

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1 resulting from any natural or man-made causes, including, but not limit-  
2 ed to, fire, flood, earthquake, hurricane, tornado, high water, land-  
3 slide, mudslide, wind, storm, wave action, volcanic activity, epidemic,  
4 disease outbreak, air contamination, terrorism, cyber event, blight,  
5 drought, infestation, explosion, radiological accident, nuclear, chemi-  
6 cal, biological, or bacteriological release, water contamination  
7 (including by harmful algal bloom or hypoxia), bridge failure or bridge  
8 collapse.

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

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

19 j. develop public service announcements to be distributed to tele-  
20 vision and radio stations and other media throughout the state informing  
21 the public how to prepare and respond to disasters. Such public service  
22 announcements shall be distributed in English and such other languages  
23 as such commission deems appropriate[~~+~~]; and

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

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

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

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

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

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

#### 47 TITLE 23

#### 48 HARMFUL ALGAL BLOOMS

#### 49 Section 17-2301. Definitions.

50 17-2303. New York harmful algal bloom and hypoxia commission.

51 17-2305. New York harmful algal bloom and hypoxia advisory  
52 committee.

53 17-2307. General powers and duties of the department.

54 17-2309. Local and regional assessments.

#### 55 § 17-2301. Definitions.

56 As used in this title:

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

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

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

8 § 17-2303. New York harmful algal bloom and hypoxia commission.

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

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

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

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

31 5. The duties of the commission shall include, but are not limited to:  
32 (a) from time to time assessing the nature, scope and magnitude of the  
33 environmental, ecological, agricultural, economic, recreational, and  
34 social impacts caused by harmful algal blooms in the state;

35 (b) from time to time identifying actions taken by members of the  
36 commission, state and local governments and the public to: understand,  
37 detect, monitor, predict, control, mitigate, and respond to harmful  
38 marine and freshwater algal bloom and hypoxia events; assist and coordi-  
39 nate, where appropriate, with other government agencies, programs, and  
40 regional efforts that address harmful marine and freshwater algal blooms  
41 and hypoxia, including the development and implementation of appropriate  
42 response plans, strategies, and tools; detect and respond rapidly to  
43 harmful algal blooms in a cost-effective and environmentally sound  
44 manner; monitor harmful algal blooms accurately and reliably; provide  
45 for restoration of native species and habitat conditions in ecosystems  
46 that have been affected; conduct research on harmful algal blooms and  
47 develop technologies to prevent introduction; provide for environ-  
48 mentally sound control of harmful algal blooms; promote public education  
49 programs to improve public understanding and awareness of the causes,  
50 impacts, and mitigation efforts for harmful marine and freshwater algal  
51 blooms and hypoxia; and provide resources to assist in the training of  
52 local water and coastal resource managers in the methods and technolo-  
53 gies for detecting, monitoring, controlling, mitigating, and responding  
54 to the effects of harmful marine and freshwater algal bloom and hypoxia  
55 events;

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

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

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

22 § 17-2305. New York harmful algal bloom and hypoxia advisory committee.

23 1. There shall be established, within the department, a New York harm-  
24 ful algal bloom and hypoxia advisory committee which shall provide  
25 information, advice and guidance to the commission.

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

38 3. The members of the advisory committee shall serve without compen-  
39 sation, except members shall be allowed their necessary and actual  
40 expenses incurred in the performance of their duties under this section.

41 § 17-2307. General powers and duties of the department.

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

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

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

6 (b) research the ecology of harmful algal blooms to provide informa-  
7 tion about harmful marine and freshwater algal blooms and hypoxia,  
8 including:

9 (i) the agencies involved in research and development on understand-  
10 ing, detection, monitoring, prediction, prevention, control, mitigation,  
11 and response activities;

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

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

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

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

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

25 § 17-2309. Local and regional assessments.

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

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

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

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

46 § 6004-a. Peer review study of harmful algal blooms. 1. The board of  
47 trustees of the college shall establish a peer review panel composed of  
48 nationally recognized experts in the detection, monitoring, prediction,  
49 control, mitigation and means for responding to harmful marine and  
50 freshwater algal blooms and hypoxia. Such panel shall examine, evaluate  
51 and make recommendations concerning the nature, scope, causes and magni-  
52 tude of harmful algal blooms in the state; and the detection, means for  
53 monitoring, control, mitigation, elimination and response to harmful  
54 algal blooms and hypoxia events.

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

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

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

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

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