STATE OF NEW YORK

4526

2023-2024 Regular Sessions

IN SENATE

February 9, 2023

Introduced by Sen. HELMING -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the military law, in relation to the Lake Ontario-St. Lawrence River flood prevention, response and recovery program; and to amend the New York state urban development corporation act and the state finance law, in relation to financing the Lake Ontario-St. Lawrence River flood prevention, response and recovery program

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

Section 1. Section 6 of the military law is amended by adding a new subdivision 3 to read as follows:

3. Upon the request of the sheriff of an impacted county, or upon the request of any county legislature or county board of supervisors in any impacted county, or upon the request of a mayor of any city or village in any impacted county, or upon the request of a supervisor of any town in any impacted county, the governor may order into the active service of the state, for such period, to such extent and in such manner as he may deem necessary, all or any part of the organized militia, in accordance with the provisions and purposes of the Lake Ontario-St. Lawrence River Flood Prevention, Response and Recovery Program as set forth in article five of this chapter. The compensation of all officers and enlisted men, while on duty or assembled pursuant to this subdivision, and all expenses incurred in connection with such duty or as a result thereof shall be paid in the manner prescribed by section two hundred twelve-a of this chapter. For purposes of this section, the term "impacted county" shall mean Niagara County, Orleans County, Monroe County, Wayne County, Cayuga County, Onondaga County, Oswego County, Jefferson County, St. Lawrence County, and/or Franklin County, if and when such county or counties have sustained an impact due to flooding

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

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caused at least in part by the rising levels of Lake Ontario or the St. Lawrence River, or their adjoining waterways.

§ 2. The military law is amended by adding a new article 5 to read as follows:

ARTICLE V

LAKE ONTARIO-ST. LAWRENCE RIVER FLOOD PREVENTION, RESPONSE AND RECOVERY PROGRAM

Section 100. Lake Ontario-St. Lawrence River Flood Prevention, Response and Recovery Program

§ 100. Lake Ontario-St. Lawrence River Flood Prevention, Response and Recovery Program. There is hereby established within the division, under the command, control and direction of the adjutant general, a Lake Ontario-St. Lawrence River Flood Prevention, Response and Recovery Program. It shall be the purpose of this program to provide flood prevention, response and recovery services to the persons, homeowners, business owners, employees and localities of an impacted county, in the event of flooding caused at least in part by the rising levels or Lake Ontario or the St. Lawrence River, or their adjoining waterways. For purposes of this section, the term "impacted county" shall mean Niagara County, Orleans County, Monroe County, Wayne County, Cayuga County, Onondaga County, Oswego County, Jefferson County, St. Lawrence County, and/or Franklin County, if and when such county or counties have sustained an impact due to flooding caused at least in part by the rising levels of Lake Ontario or the St. Lawrence River, or their adjoining waterways.

1. In accordance with a call by the governor pursuant to subdivision three of section six of this chapter, the adjutant general shall respond to a request for, and shall provide, flood prevention, response and recovery services in any impacted county. Such services shall include:

a. Prevention services. The adjutant general shall direct the performance of any services that would assist in the prevention or mitigation of the impact of flooding caused at least in part by the rising levels of Lake Ontario or the St. Lawrence River, or their adjoining waterways. Such services shall include, but not be limited to:

(i) Providing personnel, material and logistical support in deploying measures to prevent or mitigate any effects of flooding, including but not limited to, the procurement, filing and placement of sand bags; procurement and deployment of flood booms; and the construction and placement of levies, seawalls, flood barriers, water diversion channels, or other emergency or permanent flood arresting, controlling or protection measures;

(ii) The development, in consultation with the state department of environmental conservation, the state division of homeland security and emergency services, the division of state police, and all the local governments of Niagara County, Orleans County, Monroe County, Wayne County, Cayuga County, Onondaga County, Oswego County, Jefferson County, St. Lawrence County, and Franklin County, of a Lake/River Flooding Prevention Action Plan, that identifies potential flooding hazards and conditions and makes recommendations concerning actions that will prevent and/or mitigate such hazards and effectively execute such prevention plan; and

(iii) Such other and further prevention services as the adjutant general, in consultation with the local governments of Niagara, Orleans, Monroe, Wayne, Cayuga, Onondaga, Oswego, Jefferson, St. Lawrence, and Franklin Counties may deem necessary, effective, prudent and/or expedi-

ent to effectively accomplish the purposes of this program and provide meaningful prevention services.

b. Response services. The adjutant general shall direct the performance of any services that would assist in the response to flooding caused at least in part by the rising levels of Lake Ontario or the St. Lawrence River, or their adjoining waterways. Such services shall include, but not be limited to:

(i) Providing personnel, material and logistical support in deploying measures to immediately respond to any effects of flooding, including but not limited to, the procurement, filing and placement of sand bags; procurement and deployment of flood booms; the construction and placement of levies, seawalls, flood barriers, water diversion channels, or other emergency flood arresting or controlling measures; and the provision of rescue, support and emergency relief services for those persons in an impacted county whose home, business, life or property are endangered by flooding;

(ii) The development, in consultation with the state department of environmental conservation, the state division of homeland security and emergency services, the division of state police, and all the local governments of Niagara County, Orleans County, Monroe County, Wayne County, Cayuga County, Onondaga County, Oswego County, Jefferson County, St. Lawrence County, and Franklin County, of a Lake/River Flooding Response Action Plan, that identifies potential required responses and makes recommendations concerning action steps to effectively execute such response plan; and

(iii) Such other and further response services as the adjutant general, in consultation with the local governments of Niagara, Orleans, Monroe, Wayne, Cayuga, Onondaga, Oswego, Jefferson, St. Lawrence, and Franklin Counties may deem necessary, effective, prudent and/or expedient to effectively accomplish the purposes of this program and provide meaningful response services.

c. Recovery services. The adjutant general shall direct the performance of any services that would assist in the recovery from the impact of flooding caused at least in part by the rising levels of Lake Ontario or the St. Lawrence River, or their adjoining waterways. Such services shall include, but not be limited to:

(i) Providing personnel, material and logistical support in deploying measures to immediately assist persons, businesses and localities to recover from any adverse effects of flooding, including but not limited to, the construction or reconstruction of infrastructure, transportation systems, levies, seawalls, flood barriers, water diversion channels, or other flood arresting or controlling measures; and the provision of recovery, support and relief services for those persons in an impacted county whose home, business, life or property are endangered by flooding, and the stabilization and mitigation of damage caused by such flooding;

(ii) The development, in consultation with the state department of environmental conservation, the state division of homeland security and emergency services, the division of state police, and all the local governments of Niagara County, Orleans County, Monroe County, Wayne County, Cayuga County, Onondaga County, Oswego County, Jefferson County, St. Lawrence County, and Franklin County, of a Lake/River Flooding Recovery Action Plan, that identifies potential required recovery measures and makes recommendations concerning actions to effectively execute such recovery plan; and

(iii) Such other and further recovery services as the adjutant general, in consultation with the local governments of Niagara, Orleans, Monroe, Wayne, Cayuga, Onondaga, Oswego, Jefferson, St. Lawrence, and Franklin Counties may deem necessary, effective, prudent and/or expedient to effectively accomplish the purposes of this program and provide meaningful recovery services.

2. In executing the provision of flood prevention, response and recovery services under this program, the adjutant general may call upon assistance from any department, agency, division, office, commission or public authority in the state government, and shall further coordinate such services with all local governments within the impacted county receiving such services. The adjutant, in his discretion and judgment, may also invite the participation of federal or out of state entities to assist him in accomplishing the purposes of this program, including but not limited to, the army corps of engineers, the United States department of homeland security, the United States department of state, the United States department of defense, or any of its component commands thereof, and any such other federal or out of state entities as he or she may deem necessary, effective, prudent and/or expedient.

3. The adjutant general may make requests for financing support for any of the construction projects performed in accordance with the program established by this section from the New York state urban development corporation. The principal and interest for any bonds or notes issued for such financing by the New York state urban development corporation shall be paid from the state operations special emergency appropriation through a transfer by the governor to the general, special revenue, capital projects, proprietary or fiduciary funds to meet unanticipated emergencies pursuant to section fifty-three of the state finance law.

§ 3. The military law is amended by adding a new section 212-a to read as follows:

§ 212-a. Pay of troops when used for the Lake Ontario-St. Lawrence River Flood Prevention, Response and Recovery Program. All officers and enlisted men while on duty, or assembled therefor, by order of the governor, upon a request made in accordance with subdivision three of section six of this chapter, shall receive the pay set forth in subdivision one of section two hundred ten of this article. One hundred percent of such compensation and expenses incurred in connection with such duty or as a result thereof including quartering, caring for, transporting and subsisting the troops, and other expenses including the expense incurred for pay, care, and subsistence of officers and enlisted men temporarily disabled in the line of duty, while on such duty, as set forth in section two hundred sixteen of this article, shall be paid by the state.

§ 4. Section 2 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act is amended by adding a new fifth undesignated paragraph to read as follows:

It is further found and declared that there continues to exist an ongoing and repeated threat of flooding and flood related damage along the shoreline of Lake Ontario and the St. Lawrence River. This condition is contrary to the public interest and threatens the safety, security, health, welfare, well-being and repose of the people of the localities adjoining the shoreline as well as the people of the entire state. The ordinary operations of public and private funding, as well as the support of private enterprise, has proven inadequate to provide sufficient prevention against, response to and recovery from this flooding,

and cannot support and provide the infrastructure projects that are necessary to achieve the level of prevention, response and recovery that the state's residents deserve, need and expect, and that the state requires. It is further declared to be the policy of the state to provide a means and mechanism to support and provide the adequate infrastructure that is necessary to achieve this level of prevention, response and recovery that the state's residents deserve, need and expect, and that the state requires.

§ 5. The opening paragraph of subdivision 6 of section 3 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 603 of the laws of 2003, is amended and a new paragraph (i) is added to read as follows:

PROJECT: A specific work or improvement including lands, buildings, improvements, real and personal properties or any interest therein, acquired, owned, constructed, reconstructed, rehabilitated or improved by the corporation or any subsidiary thereof, whether or not still owned or financed by the corporation or any subsidiary thereof, including a residential project, an industrial project, a land use improvement project, a civic project, an industrial effectiveness project, a small and medium-sized business assistance project, a fruit growing, fruit processing, or winery business project, a school safety infrastructure project or an economic development project, all as defined herein, or any combination thereof, which combination shall hereinafter be called and known as a "multi-purpose project". The term "project" as used herein shall include projects, or any portion of a project.

(i) "flooding prevention, response and recovery infrastructure project". A project or that portion of a multi-purpose project designed and intended for the purpose of bolstering and improving infrastructure, in order to provide sufficient prevention against, response to and recovery from flooding events, or effects therefrom, and such other and further infrastructure and facilities as may be incidental or appurtenant thereto.

§ 6. The opening paragraph of section 18 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 839 of the laws of 1987, is amended to read as follows:

The corporation shall not issue bonds and notes in an aggregate principal amount exceeding one billion two hundred ninety-five million dollars, excluding (1) bonds and notes issued to refund or otherwise repay outstanding bonds and notes of the corporation or of the New York state project finance agency, (2) notes issued by the corporation to evidence eligible loans made to the corporation pursuant to the New York state project finance agency act, [~~and~~] (3) bonds and notes issued by the corporation to perform a flooding prevention, response and recovery infrastructure project in accordance with paragraph (i) of subdivision (6) of section three of this act, and (4) bonds and notes issued with the approval of the state director of the budget and the New York state public authorities control board which are secured by and payable solely out of a specific project, other than a residential project, undertaken by the corporation subsequent to June first, nineteen hundred seventy-seven, and the revenues and receipts derived therefrom, without recourse against other assets of the corporation or against a debt service reserve fund to which state funds are apportionable pursuant to subdivision three of section twenty of this act, provided that the corporation shall not issue bonds or notes pursuant to this clause [~~(3)~~] if (a) (i) the arrangements under which the project is undertaken do not provide

for annual real property taxes, or payments in lieu of real property taxes, on the real property included in the project securing such bonds or notes which together at least equal the average annual real property taxes which were paid with respect to such real property for three years prior to the acquisition of such project or any portion thereof by the corporation or a subsidiary thereof, and (ii) after a public hearing, the local legislative body of the city, town or village in which such project is to be located has not consented to such arrangements, provided, however, that in a city having a population of one million or more such consent shall be given by the board of estimate of such city, or (b) the aggregate principal amount of any such bonds and notes is less than twice the amount of any moneys appropriated by the state and made available by the corporation to the project securing such bonds and notes, or (c) the aggregate principal amount of the bonds and notes issued pursuant to this clause [~~(3)~~] will thereby exceed three hundred seventy-nine million dollars, excluding bonds and notes issued to refund or otherwise repay outstanding bonds and notes issued pursuant to this clause [~~(3)~~], provided, however, that the corporation may provide for a pooled financing arrangement with regard to bonds issued for the purposes of financing the construction of the Center for Computers, Microelectronics and Telecommunications at Columbia University, the Center for Science and Technology at Syracuse University, the Cornell Super Computer Center at Cornell University, the Onondaga County Convention Center Complex, the Center for Advanced Materials Processing at Clarkson University, the Center for Electro-Optic Imaging at University of Rochester, the Center for Neural Science at New York University, the Alfred University Incubator Facilities in Allegany County and Steuben County, the Broadway Redevelopment Project, and the Sematech Semiconductor facility, and, that the aggregate amount of bonds which may be issued pursuant to this clause [~~(3)~~] shall be increased above the amounts in the following schedule for the purposes of providing for the costs of issuance including any debt service reserve requirements that may be necessary in accordance with the following schedule:

§ 7. The state finance law is amended by adding a new article 17 to read as follows:

ARTICLE 17

FINANCING OF SPECIAL INFRASTRUCTURE PROJECTS RELATED TO FLOODING

Section 250. Infrastructure projects financed by the urban development corporation in accordance with the Lake Ontario-St. Lawrence River flood prevention, response and recovery program.

§ 250. Infrastructure projects financed by the urban development corporation in accordance with the Lake Ontario-St. Lawrence River flood prevention, response and recovery program. Principal and interest debt service on bonds or notes issued by the urban development corporation in accordance with a flooding prevention, response and recovery infrastructure project performed pursuant to with paragraph (i) of subdivision six of section three of the New York state urban development corporation act, shall be paid from the state operations special emergency appropriation through a transfer by the governor to the general, special revenue, capital projects, proprietary or fiduciary funds to meet unanticipated emergencies pursuant to section fifty-three of this chapter.

§ 8. This act shall take effect immediately.