

STATE OF NEW YORK

9220--A

IN SENATE

May 6, 2024

Introduced by Sen. HARKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to enacting the "Great Swamp protection act"

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

1 Section 1. The environmental conservation law is amended by adding a
2 new article 59 to read as follows:

ARTICLE 59

GREAT SWAMP PROTECTION ACT

Section 59-0101. Short title.

6 59-0103. Legislative declaration.

7 59-0105. Legislative findings and intent.

8 59-0107. Definitions.

9 59-0109. Great Swamp reserve commission.

10 59-0111. Duties of the commission.

11 59-0113. Great Swamp protection land use and management plan.

12 59-0115. Dedications to the Great Swamp preserve; legislative
13 protection.

14 59-0117. Great Swamp advisory committee.

15 59-0119. Limitations on regulation of hunting, fishing and
16 recreational activities; nonregulation of federal
17 conservation activities.

18 59-0121. Effect on other laws.

19 59-0123. Severability.

§ 59-0101. Short title.

21 This article shall be known and may be cited as the "Great Swamp
22 protection act".

§ 59-0103. Legislative declaration.

24 The legislature hereby declares it to be in the public interest to
25 protect and manage the Great Swamp, in the counties of Dutchess and
26 Putnam, by establishing the Great Swamp reserve. It is further in the

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

LBD09985-05-4

public interest to establish a commission made up of representatives of state, county, and local governments to prepare a Great Swamp protection land use and management plan and make recommendations to preserve, protect and enhance the natural, recreational, economic and educational values of the region, which the state and local governments may adopt.

§ 59-0105. Legislative findings and intent.

The legislature hereby finds that the counties of Dutchess and Putnam contain a wetland ecosystem of statewide importance known as the Great Swamp.

The legislature finds that within the Great Swamp the federal, state, county and local governments own and manage significant properties in the form of parks, preserves, historic sites and protected open space, where there is an interdependent and reciprocal relationship between human activities and natural processes, and where fishing, agriculture and tourism have been the dominant industries for more than three hundred fifty years.

The legislature finds that the Great Swamp, an area encompassing over six thousand acres in the counties of Dutchess and Putnam, is of critical importance to the state because it is a wetland comprised of two critical watersheds. The Great Swamp is interconnected by the Swamp River and the East Branch Croton River, and the ecologic and hydrologic integrity of this system must be protected.

The legislature also finds that the Great Swamp contains one of the greatest concentrations and diversities of endangered, threatened and special concern species of plants and animals to be found in the state, and that protection of their habitats is in the best interest of the people of New York. The legislature further finds that the Great Swamp contains many other unique natural, agricultural, historical, cultural and recreational resources that are mutually supportive and ultimately dependent upon maintenance of the hydrologic and ecologic integrity of this region.

Therefore, the legislature finds that the purpose of this article is to authorize and direct the state and local governments to protect, preserve and properly manage the unique natural resources of the Great Swamp and to encourage coordination of existing programs and studies affecting land and water resources in the region and to protect the value of the existing public and private investment that has already been made to acquire land in the region.

The legislature further finds that a portion of the system known as the Great Swamp area requires the preparation and implementation of a state supported Great Swap protection land use and management plan that will assist in the preservation of the core preservation area, protection of the Great Swamp area and for the designation of compatible growth areas to accommodate appropriate patterns of regional growth with recognition of the rights of private land owners and the purpose of preservation of the core area.

§ 59-0107. Definitions.

As used in this article, the following terms shall mean and include:

1. "Commission" shall mean the Great Swamp reserve commission created by section 59-0109 of this article.

2. "Great Swamp preserve" or "preserve" shall mean lands within the Great Swamp reserve that are critical to the protection of the hydrologic and ecologic integrity of the region including land characterized by a group of threatened species which are dedicated for protection and beneficial public use pursuant to section 59-0115 of this article. Lands which are not deemed critical may be dedicated pursuant to section

1 59-0115 of this article as a protective or buffer zone for other dedi-
2 cated lands, or to otherwise support the management of the preserve.

3 3. "Plan" shall mean the Great Swamp protection land use and manage-
4 ment plan created pursuant to section 59-0113 of this article.

5 4. "Reserve" shall mean a region in which there is a combination of
6 publicly and privately owned lands and land uses, within a defined area
7 where there are traditional cultural patterns including agriculture,
8 tourism and general commercial and residential uses which due to their
9 pattern and configuration, and because of the need for sustained produc-
10 tivity could best be protected and managed through the development of a
11 Great Swamp protection management plan around a preserve of protected,
12 publicly owned lands and/or privately owned land dedicated for such
13 purposes.

14 5. "Advisory committee" shall mean the Great Swamp advisory committee
15 to the commission established pursuant to section 59-0117 of this arti-
16 cle.

17 6. "Agriculture" or "horticulture" shall mean any production of plants
18 or animals useful to man, including but not limited to: forage or sod
19 crops; grains and feed crops; dairy animals and dairy products; poultry
20 and poultry products; livestock, including beef cattle, sheep, swine,
21 horses, ponies, mules or goats, and including the breeding and grazing
22 of any or all of such animals; bees and apiary products; fur animals;
23 trees and forest products; fruits of all kinds including wineries; vege-
24 tables; nursery, floral, ornamental and greenhouse products and farm-
25 stands for selling products raised or produced on site and other associ-
26 ated structures required for their production.

27 § 59-0109. Great Swamp reserve commission.

28 1. The Great Swamp reserve commission shall be established within the
29 department to help local governments and the state coordinate the
30 efforts of all municipal, county, state and federal agencies involved in
31 the management of the preserve and to oversee the Great Swamp protection
32 land use and management plan for the Great Swamp reserve that state and
33 local governments may adopt.

34 2. The commission shall be composed of thirteen voting members. The
35 governor shall appoint two members. The county executive of the county
36 of Putnam, with the advice and consent of the county legislature, shall
37 appoint two members and the county executive of the county of Dutchess
38 with the advice and consent of the county legislature shall appoint two
39 members. The town supervisors of the towns of Dover, Pawling, Patterson
40 and Southeast or such town supervisors' designees shall serve as
41 members. The commissioner or their designee, the secretary of state or
42 their designee, and the commissioner of economic development or their
43 designee for purposes of tourism shall serve as ex-officio members. All
44 members, except ex-officio members shall be residents of the counties of
45 Dutchess and Putnam and shall have demonstrated expertise in the func-
46 tional areas to be addressed by the commission. All initial appointments
47 shall be made within sixty days of the effective date of this article.
48 The chief executive officer of any other state agency may be called to
49 serve as an ex-officio member if deemed necessary by the department.

50 3. Members of the commission shall serve for a term of two years or
51 thereafter until a successor is appointed. A chairperson shall be desig-
52 nated by the governor. The commission shall elect a vice-chairperson and
53 such other officers as it may determine are necessary for the conduct of
54 its duties.

1 4. Ten members of the commission shall constitute a quorum. An affir-
2 mative vote of seven or more members shall be required to pass a resol-
3 ution or otherwise exercise any functions or powers of the commission.

4 5. The members of the commission shall serve without compensation.

5 6. Every local or regional agency with activities relating to the
6 Great Swamp area may offer assistance to the commission in carrying out
7 the provisions of this article.

8 § 59-0111. Duties of the commission.

9 The commission shall have the following powers and duties:

10 1. to enforce and ensure implementation of the Great Swamp protection
11 land use and management plan, with the advice of the advisory committee;

12 2. to conduct scientific and environmental studies;

13 3. to make and execute contracts and all other instruments necessary
14 or convenient for the exercise of its powers and functions under this
15 article;

16 4. to establish and maintain such facilities as may be necessary for
17 the transacting of its business;

18 5. to appoint an executive officer, officers, agents, employees, and
19 prescribe their duties and qualifications and fix their compensation;

20 6. if any appointed member position becomes vacant, another member
21 shall be appointed to fill the unexpired term within ninety days of the
22 date of the vacancy;

23 7. to review and approve proposed dedications of lands to the Great
24 Swamp preserve and recommend additional dedications to such preserve;

25 8. to utilize to the fullest extent practicable, the staff and facili-
26 ties of state agencies, subject to the approval of the director of the
27 budget, and local agencies to carry out the provisions of this article;

28 9. to hold public hearings in the exercise of its powers, functions,
29 and duties provided for by this article;

30 10. to contract within amounts appropriated for or otherwise available
31 for professional and technical assistance or advice;

32 11. to meet no less than quarterly beginning thirty days after the
33 enactment of this section, following public notice by the counties of
34 Dutchess and Putnam, and to encourage the attendance at such meetings of
35 representatives of local governments and interested parties affected by
36 the deliberations of the commission. After the adoption of the Great
37 Swamp protection and land use plan, the commission shall meet no less
38 than twice annually;

39 12. to send copies of the minutes of each meeting to each town and
40 village within the Great Swamp reserve, the members of the assembly and
41 senators representing such area and any other interested party upon
42 request;

43 13. to establish and maintain an education and outreach program, in
44 partnership with the advisory committee, and including but not limited
45 to maintaining a public website relating to the commission's work;

46 14. to encourage individuals, corporations, associations and public
47 entities to protect and preserve the unique resources of the reserve
48 including the preserve;

49 15. to contract for and to accept assistance, including but not limit-
50 ed to gifts, easements or loans of funds or real property or personal
51 property from the federal government or any agency or instrumentality
52 thereof, or from any agency or instrumentality of the state, or from any
53 other public or private source and to comply, subject to the provisions
54 of this article, with the terms and conditions thereof, subject to the
55 approval of the division of the budget. Notwithstanding the provisions
56 of section eleven of the state finance law, the commission may accept

1 gifts, grants, devises and bequests, whether conditional or uncondi-
2 tional, with the approval of the director of the budget;

3 16. to sue and be sued;

4 17. to assist local, county, and state government in prioritization
5 and negotiation with private landowners whose property is affected by
6 the land use plan, to evaluate the impact of any restrictions and devel-
7 op a package of benefits;

8 18. to adopt, amend and repeal, after public hearing, except in the
9 case of rules and regulations that relate to the organization or inter-
10 nal management of the commission, such rules and regulations, consistent
11 with this article, as it deems necessary to administer this article and
12 exercise powers granted by law;

13 19. to provide scientific and technical assistance or to make grants
14 to municipalities, towns, and counties for revisions of local plans, or
15 the relevant ordinances designed to bring such plans into conformance
16 with the Great Swamp protection land use and management plan. The
17 commission may make such grants from any funds which may be appropriated
18 or otherwise made available to it for such purpose;

19 20. to convene conferences, seminars, meetings, and technical sessions
20 on its own or in coordination with federal, state, county, town, or
21 private organizations as deemed necessary relative to its responsibil-
22 ities;

23 21. to report periodically to the governor and the legislature on the
24 conduct of its activities not less than once a year, furnishing a copy
25 of each such report to the legislative bodies of Dutchess and Putnam
26 counties and the towns and villages in whole or in part within the Great
27 Swamp area; and

28 22. to have and exercise such other incidental and usual powers as are
29 necessary and appropriate to carry out its duties.

30 § 59-0113. Great Swamp protection land use and management plan.

31 1. The department shall, after holding public hearings, prepare and
32 adopt a Great Swamp protection land use and management plan for the
33 Great Swamp reserve, which the state and local governments may adopt.
34 Such plan shall be drafted in consultation with appropriate officials of
35 any regional, state, or federal agency which has jurisdiction over lands
36 and waters within the Great Swamp area, and any additional interested
37 professional, scientific, and citizens' organizations. Such plan shall
38 include, but not be limited to:

39 (a) a statement of the public values of the area, including their
40 educational, ecological and hydrological values, together with the
41 general goals and policies which will best protect and enhance such
42 values;

43 (b) a map of the area, delineating the boundaries of the Great Swamp
44 reserve;

45 (c) a brief and general historical overview regarding the lands of the
46 Great Swamp reserve;

47 (d) an inventory of all public lands and lands available for public
48 use within the Great Swamp reserve specifying use, facilities for public
49 use, and the management agency with jurisdiction over the property;

50 (e) management guidelines for the preservation, recreational and
51 educational use of resources of the Great Swamp reserve;

52 (f) management guidelines for protecting and supporting indigenous
53 economic activities like agriculture, recreation and tourism;

54 (g) a plan for protection and management for dedicated land in the
55 Great Swamp preserve including:

1 (1) A survey or inventory of the following, together with the estab-
2 lishment of management priorities therefor:

3 (i) natural plant and wildlife resources;

4 (ii) historic resources;

5 (iii) erosion control needs, stream and wetlands protection;

6 (iv) trails, trail development and use; and

7 (v) other recreational uses.

8 (2) Recommendations for incentives pertaining to public use activ-
9 ities, which can be implemented by rules and regulations for the admin-
10 istration and use of lands dedicated to the preserve.

11 (3) Recommendations for acquisition of open space suitable for dedi-
12 cation in the preserve.

13 (4) Recommendations for institutional arrangements to coordinate
14 management of dedicated land held by separate owners;

15 (h) a local participation plan, which describes how local citizens,
16 officials and members of the tourism and agricultural industries will
17 participate in the planning and implementation of the management program
18 and which contains a statement identifying support for such program by
19 the participating local governments; and

20 (i) a financial statement estimating the necessary costs and potential
21 funding sources to carry out recommendations in the study over a five-
22 year period and the benefits therefrom.

23 2. A draft plan shall be prepared and made available to the public
24 digitally and upon request and the local governments within the Great
25 Swamp reserve within twelve months of the effective date of this section
26 and prior to adopting the plan, the department shall hold public meet-
27 ings in the towns of Dover, Pawling, Patterson, and Southeast and at
28 least one meeting within the Great Swamp reserve. Within two months of
29 the department recommending the plan to the respective town boards, the
30 town boards shall perform a comprehensive review of the plan and shall
31 provide final comments to the department. The department at its
32 discretion may modify the plan as requested by the town representatives.
33 After modifying the plan as necessary, the department shall prepare a
34 draft supplemental generic environmental impact statement and a final
35 generic environmental impact statement, and the towns and department
36 shall adopt the necessary statement of findings pursuant to article 8 of
37 this chapter. Ratification and adoption of the plan by the town boards
38 of Dover, Pawling, Patterson, and Southeast shall represent commitment
39 to implementation of the provisions contained therein. Upon ratification
40 and adoption by such four towns, the department itself will formally
41 adopt the plan and its provisions shall be in full force.

42 3. Not less than once every five years after the land use plan has
43 become effective, the commission, in consultation with the department,
44 shall review and, if appropriate, make amendments to the land use plan
45 and update the generic impact statement. Within each such period, the
46 commission shall hold a public hearing and shall receive comments on the
47 effectiveness of implementation of the plan. Not less than thirty days
48 before voting on an amendment to the land use plan, the commission shall
49 publish notice thereof in a newspaper of general circulation in the
50 Great Swamp area.

51 § 59-0115. Dedications to the Great Swamp preserve; legislative
52 protection.

53 1. The commissioner shall maintain a record of the boundaries of the
54 lands which have been dedicated to the Great Swamp preserve in text and
55 depicted on a map.

1 2. Land owned by the state within the Great Swamp reserve may be dedi-
2 cated to be part of the Great Swamp preserve by the action of the
3 commissioner or the commissioner of parks, recreation and historic pres-
4 ervation, or by action of the legislature.

5 3. Land owned by a local government within the Great Swamp reserve may
6 be dedicated to the Great Swamp preserve by the action of its local
7 legislative body.

8 4. Land owned by private individuals within the Great Swamp reserve
9 may be dedicated to be part of the Great Swamp preserve by the execution
10 of a conservation easement.

11 5. Land in the core preservation area which come in the public domain
12 shall be deemed to be dedicated to the Great Swamp preserve.

13 6. Except for the core preservation area which shall be deemed to be
14 dedicated to the preserve, the commission shall review and must approve
15 each dedication of land to the preserve.

16 7. No publicly owned real property, dedicated to the Great Swamp
17 preserve, shall be alienated except by law enacted by two successive
18 regular sessions of the legislature, but easements for public water
19 supply purposes may be maintained consistent with local ordinances.

20 8. The commission shall have no authority to manage any private land
21 unless such land has been voluntarily dedicated pursuant to this article
22 or the owner has executed a voluntary written agreement with the commis-
23 sion authorizing the specific management actions taken.

24 9. Nothing contained in this article shall affect any previous dedi-
25 cation of state land to the State Nature and Historic preserve. Any
26 state land dedicated to the Great Swamp preserve may also be dedicated
27 to the State Nature and Historic preserve.

28 § 59-0117. Great Swamp advisory committee.

29 Upon the adoption of the Great Swamp land use and management plan the
30 Great Swamp advisory committee shall be created. The advisory committee
31 shall actively assist and advise the commission in the implementation of
32 the Great Swamp land use and management plan. The advisory committee
33 shall consist of not more than twenty-eight members which shall include
34 representatives of environmental groups, economic development and real
35 estate interests, farmers, water suppliers, civic groups, planners,
36 biologists, water quality scientists and recreational interests. The
37 members of the committee shall serve without compensation. The initial
38 members of the advisory committee shall include a civic representative
39 from each of the towns of Pawling, Patterson, Dover and Southeast desig-
40 nated by the supervisor thereof. The committee may be expanded as neces-
41 sary by the commission to incorporate other interests in the development
42 and preservation of the Great Swamp preserve. Each member shall serve at
43 the pleasure of the entity which designated it. The committee by a
44 majority vote shall elect a chairperson. The commission shall meet bian-
45 nually with the advisory committee, make available working drafts and
46 other documents, and shall provide services to the commission as are
47 necessary and appropriate to carry out its functions under this article.

48 § 59-0119. Limitations on regulation of hunting, fishing and recreation-
49 al activities; nonregulation of federal conservation activ-
50 ities.

51 Nothing in this article shall be interpreted to authorize the regu-
52 lation of hunting, fishing, trapping, possession of wildlife or other
53 recreational activities in the Great Swamp reserve, except as otherwise
54 provided by law. This article shall not apply to any action undertaken
55 by any federal agency or federal department in fulfillment of its obli-
56 gations or duties pursuant to any federal law, federal regulation,

federal agency policy, or federal management activity relating to wild-life, game or nongame species management, habitat protection, or migratory species protection.

§ 59-0121. Effect on other laws.

Except as otherwise provided in the provisions of this article, this article shall not affect:

1. the police powers, local planning powers, zoning powers or authority to regulate land uses by villages and towns within the Great Swamp reserve; or

2. the police power of the state to regulate any activity carried out upon any lands, in the Great Swamp reserve; or

3. the authority of any state or public agency in the management of any state or public lands in the Great Swamp reserve.

§ 59-0123. Severability.

The provisions of this article shall be severable and if any portion thereof or the applicability thereof to any person or circumstances shall be held invalid, the remainder of this article and the application thereof shall not be affected thereby.

§ 2. This act shall take effect immediately.