STATE OF NEW YORK

9220--B

IN SENATE

May 6, 2024

Introduced by Sen. HARCKHAM -- 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 -- reported favorably from said committee and committed to the Committee on Finance -- 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:

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

ARTICLE 59

GREAT SWAMP PROTECTION ACT

Section 59-0101. Short title.
59-0103. Legislative declaration.
59-0105. Legislative findings and intent.
59-0107. Definitions.
59-0109. Great Swamp reserve commission.
59-0111. Duties of the commission.
59-0113. Great Swamp protection land use and management plan.
59-0115. Dedications to the Great Swamp preserve; legislative protection.
59-0117. Limitations on regulation of hunting, fishing and recreational activities; nonregulation of federal conservation activities.
59-0119. Effect on other laws.
59-0121. Severability.

§ 59-0101. Short title.

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

§ 59-0103. Legislative declaration.

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

LBD09985-08-4

The legislature hereby declares it to be in the public interest to protect and manage the Great Swamp, in the counties of Dutchess and Putnam, by establishing the Great Swamp reserve. It is further in the 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 59-0115 of this article as a protective or buffer zone for other dedicated lands, or to otherwise support the management of the preserve.

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

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

5. "Agriculture" or "horticulture" shall mean any production of plants or animals useful to man, including but not limited to: forage or sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, and including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds including wineries; vegetables; nursery, floral, ornamental and greenhouse products and farmstands for selling products raised or produced on site and other associated structures required for their production.

§ 59-0109. Great Swamp reserve commission.

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

2. The commission shall be composed of thirteen voting members. The governor shall appoint two members. The county executive of the county of Putnam, with the advice and consent of the county legislature, shall appoint two members and the county executive of the county of Dutchess with the advice and consent of the county legislature shall appoint two members. All aforementioned appointed members shall have demonstrated expertise in at least one of the fields of biology, ecology, and water quality science. Expertise in such fields shall be evidenced by, but not limited to, participation in academic conferences, participation in scientific research, lecturing, or receipt of awards in these fields. Preference shall be given to members of Friends of the Great Swamp, Putnam County Land Trust, the Nature Conservancy, and Dutchess Land Conservancy. The town supervisors of the towns of Dover, Pawling, Patterson and Southeast or such town supervisors' designees shall serve as members. The commissioner or their designee, the secretary of state or their designee, and the commissioner of economic development or their designee for purposes of tourism shall serve as ex-officio members. All members, except ex-officio members shall be residents of the counties of Dutchess and Putnam and shall have demonstrated expertise in the functional areas to be addressed by the commission. All initial appointments shall be made within sixty days of the effective date of this article. The chief executive officer of any other state agency may be called to serve as an ex-officio member if deemed necessary by the department.

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

4. Ten members of the commission shall constitute a quorum. An affirmative vote of seven or more members shall be required to pass a resolution or otherwise exercise any functions or powers of the commission.

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

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

§ 59-0111. Duties of the commission.

The commission shall have the following powers and duties:

1. to enforce and ensure implementation of the Great Swamp protection land use and management plan;

2. to conduct scientific and environmental studies;

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

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

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

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

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

8. to utilize to the fullest extent practicable, the staff and facilities of state agencies, subject to the approval of the director of the budget, and local agencies to carry out the provisions of this article;

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

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

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

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

13. to establish and maintain an education and outreach program, and including but not limited to maintaining a public website relating to the commission's work;

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

15. to contract for and to accept assistance, including but not limited to gifts, easements or loans of funds or real property or personal property from the federal government or any agency or instrumentality

thereof, or from any agency or instrumentality of the state, or from any other public or private source and to comply, subject to the provisions of this article, with the terms and conditions thereof, subject to the approval of the division of the budget. Notwithstanding the provisions of section eleven of the state finance law, the commission may accept gifts, grants, devises and bequests, whether conditional or unconditional, with the approval of the director of the budget;

16. to sue and be sued;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A survey or inventory of the following, together with the establishment of management priorities therefor:

(i) natural plant and wildlife resources;

(ii) historic resources;

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

(iv) trails, trail development and use; and

(v) other recreational uses.

(2) Recommendations for incentives pertaining to public use activities, which can be implemented by rules and regulations for the administration and use of lands dedicated to the preserve.

(3) Recommendations for acquisition of open space suitable for dedication in the preserve.

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

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

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

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

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

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

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

2. Land owned by the state within the Great Swamp reserve may be dedicated to be part of the Great Swamp preserve by the action of the commissioner or the commissioner of parks, recreation and historic preservation, or by action of the legislature.

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

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

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

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

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

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

9. Nothing contained in this article shall affect any previous dedication of state land to the State Nature and Historic preserve. Any state land dedicated to the Great Swamp preserve may also be dedicated to the State Nature and Historic preserve.

§ 59-0117. Limitations on regulation of hunting, fishing and recreational activities; nonregulation of federal conservation activities.

Nothing in this article shall be interpreted to authorize the regulation of hunting, fishing, trapping, possession of wildlife or other recreational activities in the Great Swamp reserve, except as otherwise provided by law. This article shall not apply to any action undertaken by any federal agency or federal department in fulfillment of its obligations or duties pursuant to any federal law, federal regulation, federal agency policy, or federal management activity relating to wildlife, game or nongame species management, habitat protection, or migratory species protection.

§ 59-0119. 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.

§ 59-0121. 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.