STATE OF NEW YORK

3335--A

2023-2024 Regular Sessions

IN SENATE

January 30, 2023

Introduced by Sens. MAYER, ADDABBO, BRISPORT, GOUNARDES, HARCKHAM, MANNION, MYRIE, RAMOS, SANDERS, SKOUFIS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to establishing the office of flooding prevention and mitigation

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

Section 1. The executive law is amended by adding a new article 26-A to read as follows:

ARTICLE 26-A

OFFICE OF FLOODING PREVENTION AND MITIGATION

Section 730. Declaration of findings and legislative intent.
731. Office of flooding prevention and mitigation.
732. Functions and duties of the office.
733. Support for counties and municipalities.
734. Government entity coordination; intragovernmental meetings.
735. Public availability of information; reporting.
736. Flooding resiliency.

§ 730. Declaration of findings and legislative intent. 1. The legislature finds that flooding events constitute a significant and ongoing threat to people and property in the state and that the threats of flooding are expected to be exacerbated by the increasing effects of climate change. The legislature further finds that there is a need for better coordination and direction of state and local efforts to prevent and mitigate flooding.

2. The legislature determines that there is a need for a new executive office to manage and coordinate the work of various existing task forc-

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

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es, commissions, and other bodies and programs tasked with examining issues related to flooding, to review and assess best practices and make recommendations regarding flood prevention and mitigation, and to assist municipalities in developing strategies and policies to combat flooding. Accordingly, it is the legislature's intent that a new office of flooding prevention and mitigation be created to accomplish these purposes.

§ 731. Office of flooding prevention and mitigation. There is hereby created an office of flooding prevention and mitigation in the executive department. For the purposes of this article, "the office" shall mean the office of flooding prevention and mitigation. The office shall be headed by a director, who shall be appointed by the governor by and with the advice and consent of the senate and shall hold office during the pleasure of the governor. The director shall have significant professional experience in flooding planning, prevention, mitigation, and resiliency. The director shall receive a salary to be fixed by the governor within the amount appropriated therefor. The director shall appoint staff and perform such other functions to ensure the efficient operation of the office within the amounts made available therefor by appropriation.

§ 732. Functions and duties of the office. The office shall have the following functions and duties:

1. To establish and maintain a principal office and such other offices within the state as it may deem necessary.

2. To appoint a secretary, counsel, clerks and such other employees and agents as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

3. To require that state agencies and any other state or municipal department, agency, public authority, task force, commission, or other state or municipal government body, provide and the same are hereby authorized to provide, such assistance, documents, and data as will enable the office to carry out its functions and duties.

4. To establish and maintain a website which shall facilitate the satisfaction of the functions and duties of the office.

5. To advise and assist the governor in developing policies designed to prevent and mitigate flooding.

6. To coordinate state agencies, programs and activities responsible for or relating to flooding, including, without limitation, the department of environmental conservation, the department of financial services, the division of homeland security and emergency services, the department of state, resilient NY, the disaster preparedness commission, the Rockland-Bergen flood mitigation council, the New York state 2100 commission, the sea level rise task force, the Delaware river basin commission, the New York rising community construction program and the upstate flood mitigation task force, to the extent such entity exists or is presently convened, as applicable, and to require that such entities or programs provide documents to the office.

7. To cooperate with, coordinate, encourage and assist counties and municipalities in the development of local plans and policies for flooding preparedness, prevention, and mitigation, to refer municipalities to the appropriate departments and agencies of the state and federal governments for advice, assistance and available services with respect to flooding, and to advise municipalities in the solution of flooding-related problems.

8. To study the operation of laws and procedures affecting flooding and recommend to the governor and legislature proposals to improve the administration and effectiveness of such laws.

9. To consult with and cooperate with municipalities and officers, organizations, groups and individuals representing them, to the end of more effectively carrying out the functions and duties of the office.

10. To undertake, promote and conduct studies, inquiries, surveys and analyses of issues related to flooding and as necessary for performance of the functions and duties of the office through the personnel of the office or consultants, or in cooperation with any public or private agencies, national associations, academic institutions, and not-for-profit organizations.

11. To serve as a clearinghouse for the benefit of municipalities regarding information relating to flooding prevention and mitigation, including flooding prevention and mitigation project funding programs, and other information relating to their common problems with respect to flooding and the state and federal services available to assist in solving such problems.

12. To render every third year to the governor and to the legislature, on or before December first of each such year, a written report on the office's activities including, but not limited to, specific information on each of the subdivisions of this section. Such report shall also include but not be limited to information regarding significant flooding events during the intervening years and an assessment of the adequacy of current flooding-related programs, policies, and state and local government bodies.

13. To make publicly available information regarding the progress and effectiveness of government-supported flood prevention and mitigation efforts in the state.

14. To do all other things necessary or convenient to carry out the functions and duties expressly set forth in this article or as may from time to time be confirmed upon the secretary by the legislature of the state.

§ 733. Support for counties and municipalities. In furtherance of the provisions of subdivision nine of section seven hundred thirty-two of this article, the office shall encourage and assist local governments in the development of plans and policies for flood prevention and mitigation. Such assistance shall be available upon request by the local government. In furtherance thereof, the director shall:

1. Establish such programs and processes as are convenient or necessary for:

(a) proactively engaging counties and municipalities in developing flood prevention and mitigation strategies,

(b) providing flooding-related resources, including information regarding financial assistance for flooding projects,

(c) coordinating and facilitating consultation and coordination among local, county, regional, state and federal governmental bodies and community-based groups, and

(d) soliciting input from counties and municipalities regarding flooding-related concerns.

2. Develop and maintain forms of intermunicipal agreements and other documents as may assist in facilitating cooperation between municipalities in addressing flooding issues that involve more than one municipality.

3. Promote flooding prevention and mitigation strategies, including, without limitation, use of living shorelines and other nature-based solutions, permeable surfaces, rain gardens, wetland restoration, wastewater and stormwater infrastructure upgrades, alteration of flood-prone structures, and other flood prevention, mitigation and resiliency

projects encompassed by subdivision one of section 54-1523 and subdivision one of section 58-0303 of the environmental conservation law.

4. Communicate and coordinate with the department of financial services regarding flood insurance-related matters affecting municipalities to improve municipal participation and compliance with respect to such relevant flood insurance programs.

§ 734. Government entity coordination; intragovernmental meetings. 1. The office shall regularly consult and coordinate its efforts with such other state government bodies and other state, regional, or local programs as is necessary or convenient to successfully fulfill its functions and duties.

2. The office shall, on a biannual basis, convene a meeting of the executive officers or similar officials or their representatives of the department of environmental conservation, the department of financial services, the division of homeland security and emergency services, the department of state, resilient NY, the disaster preparedness commission, the Rockland-Bergen flood mitigation council, the New York state 2100 commission, the sea level rise task force, the Delaware river basin commission, the New York rising community construction program and the upstate flood mitigation task force, to the extent such entity exists or is presently convened, as applicable, to evaluate the effectiveness of flooding prevention and mitigation throughout the state, to review and assess the respective contributions of such entities and programs to flooding prevention and mitigation, and to facilitate cooperation amongst such entities and programs.

§ 735. Public availability of information; reporting. 1. In furtherance of the provisions of subdivision thirteen of section seven hundred thirty-two of this article, the office shall collect and make publicly available on its website reports, resources, descriptions of processes and responsibilities of the office and other state governmental agencies, entities and programs tasked with addressing flooding-related issues, analyses regarding the effectiveness of such various governmental entities and programs and other related and relevant information from such governmental agencies, entities and programs. Such governmental agencies, entities and programs shall include, without limitation, the department of environmental conservation, the department of financial services, the division of homeland security and emergency services, the department of state, resilient NY, the disaster preparedness commission, the Rockland-Bergen flood mitigation council, the New York state 2100 commission, the sea level rise task force, the Delaware river basin commission, the New York rising community construction program and the upstate flood mitigation task force, to the extent such entity exists or is presently convened, as applicable.

2. No later than December first, two thousand twenty-five, and by November thirtieth of every third year thereafter, the office shall transmit to the governor, the temporary president of the senate and the speaker of the assembly a report containing:

(a) an assessment of the extent and magnitude of flooding risks, including identifying those regions and populations most affected by flooding;

(b) criteria and guidelines for identifying and prioritizing regions and projects most in need of mitigation;

(c) identification of existing and emerging technologies, strategies and policies which can mitigate the impact of flooding on populations and infrastructure;

(d) identification of potential funding sources to support residential, commercial and public mitigation efforts;

(e) research projects or studies to better understand how flooding affects the geography and the population of this state; and

(f) recommendations to the governor and the state legislature as to the best use of state resources to assist flood-prone counties and municipalities to prevent or mitigate the effects of flooding.

§ 736. Flooding resiliency. In fulfilling the provisions of this article, the office shall incorporate into its policies, processes and decisions consideration for the increased likelihood of flooding due to climate change as compared to historic indicators and the need for long-term resiliency against such increase in flooding. The office is authorized to and shall take actions and make recommendations which exceed current best practices for flooding prevention and mitigation when such current best practices do not sufficiently account for the likelihood of increased flooding due to climate change.

§ 2. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately.