

# 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:

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

3 Section 59-0101. Short title.

4 59-0103. Legislative declaration.

5 59-0105. Legislative findings and intent.

6 59-0107. Definitions.

7 59-0109. Great Swamp reserve commission.

8 59-0111. Duties of the commission.

9 59-0113. Great Swamp protection land use and management plan.

10 59-0115. Dedications to the Great Swamp preserve; legislative  
11 protection.

12 59-0117. Limitations on regulation of hunting, fishing and  
13 recreational activities; nonregulation of federal  
14 conservation activities.

15 59-0119. Effect on other laws.

16 59-0121. Severability.

17 § 59-0101. Short title.

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

20 § 59-0103. Legislative declaration.  
21  
22

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

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1 The legislature hereby declares it to be in the public interest to  
2 protect and manage the Great Swamp, in the counties of Dutchess and  
3 Putnam, by establishing the Great Swamp reserve. It is further in the  
4 public interest to establish a commission made up of representatives of  
5 state, county, and local governments to prepare a Great Swamp protection  
6 land use and management plan and make recommendations to preserve,  
7 protect and enhance the natural, recreational, economic and educational  
8 values of the region, which the state and local governments may adopt.  
9 § 59-0105. Legislative findings and intent.

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

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

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

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

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

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

50 § 59-0107. Definitions.

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

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

54 2. "Great Swamp preserve" or "preserve" shall mean lands within the  
55 Great Swamp reserve that are critical to the protection of the hydrolog-  
56 ic and ecologic integrity of the region including land characterized by

1 a group of threatened species which are dedicated for protection and  
2 beneficial public use pursuant to section 59-0115 of this article. Lands  
3 which are not deemed critical may be dedicated pursuant to section  
4 59-0115 of this article as a protective or buffer zone for other dedi-  
5 cated lands, or to otherwise support the management of the preserve.

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

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

17 5. "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. All aforementioned appointed members shall have demonstrated  
40 expertise in at least one of the fields of biology, ecology, and water  
41 quality science. Expertise in such fields shall be evidenced by, but not  
42 limited to, participation in academic conferences, participation in  
43 scientific research, lecturing, or receipt of awards in these fields.  
44 Preference shall be given to members of Friends of the Great Swamp,  
45 Putnam County Land Trust, the Nature Conservancy, and Dutchess Land  
46 Conservancy. The town supervisors of the towns of Dover, Pawling,  
47 Patterson and Southeast or such town supervisors' designees shall serve  
48 as members. The commissioner or their designee, the secretary of state  
49 or their designee, and the commissioner of economic development or their  
50 designee for purposes of tourism shall serve as ex-officio members. All  
51 members, except ex-officio members shall be residents of the counties of  
52 Dutchess and Putnam and shall have demonstrated expertise in the func-  
53 tional areas to be addressed by the commission. All initial appointments  
54 shall be made within sixty days of the effective date of this article.  
55 The chief executive officer of any other state agency may be called to  
56 serve as an ex-officio member if deemed necessary by the department.

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

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

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

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

13 § 59-0111. Duties of the commission.

14 The commission shall have the following powers and duties:

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

17 2. to conduct scientific and environmental studies;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 16. to sue and be sued;

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

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

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

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

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

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

35 § 59-0113. Great Swamp protection land use and management plan.

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

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

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

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

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

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

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

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

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

7 (i) natural plant and wildlife resources;

8 (ii) historic resources;

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

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

11 (v) other recreational uses.

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

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

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

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

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

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

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

55 § 59-0115. Dedications to the Great Swamp preserve; legislative  
56 protection.

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

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

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

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

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

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

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

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

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

31 § 59-0117. Limitations on regulation of hunting, fishing and recreation-  
32 al activities; nonregulation of federal conservation activ-  
33 ities.

34 Nothing in this article shall be interpreted to authorize the regu-  
35 lation of hunting, fishing, trapping, possession of wildlife or other  
36 recreational activities in the Great Swamp reserve, except as otherwise  
37 provided by law. This article shall not apply to any action undertaken  
38 by any federal agency or federal department in fulfillment of its obli-  
39 gations or duties pursuant to any federal law, federal regulation,  
40 federal agency policy, or federal management activity relating to wild-  
41 life, game or nongame species management, habitat protection, or migra-  
42 tory species protection.

43 § 59-0119. Effect on other laws.

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

46 1. the police powers, local planning powers, zoning powers or authori-  
47 ty to regulate land uses by villages and towns within the Great Swamp  
48 reserve; or

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

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

53 § 59-0121. Severability.

54 The provisions of this article shall be severable and if any portion  
55 thereof or the applicability thereof to any person or circumstances

1 shall be held invalid, the remainder of this article and the application  
2 thereof shall not be affected thereby.  
3 § 2. This act shall take effect immediately.