

Community Risk and Resiliency Act (CRRA) Statute

http://assembly.state.ny.us/leg/?default_fld=&bn=A06558&term=2013&Summary=Y&Actions=Y&Memo=Y&Text=Y

A06558 Summary:

BILL NO A06558B

SAME AS SAME AS [S06617-B](#)

SPONSOR Sweeney (MS)

COSPNSR Weisenberg, Glick, Lifton, Jaffee, Thiele, Abinanti, Otis, Englebright, Rosenthal, Rozic, Schimel, Mosley, Gottfried, Barrett, Lupardo, Goldfeder, Colton, Jacobs, Buchwald, Titone, Ortiz, Mayer, Skoufis, O'Donnell, Kavanagh

MLTSPNSR Bronson, Cusick, Fahy, Galef, Kearns, Malliotakis, McDonald, Millman, Rivera, Skartados, Weinstein

Amd En Con L, generally; amd S325, Ag & Mkts L; amd S1161, Pub Health L

Relates to future climate risk and/or sea level rise projections and other weather-related data.

[Go to top](#)

A06558 Actions:

BILL NO A06558B

04/09/2013 referred to environmental conservation
04/16/2013 reported referred to ways and means
04/16/2013 reported
04/18/2013 advanced to third reading cal.174
04/23/2013 passed assembly
04/23/2013 delivered to senate
04/23/2013 REFERRED TO ENVIRONMENTAL CONSERVATION
01/08/2014 DIED IN SENATE
01/08/2014 RETURNED TO ASSEMBLY
01/08/2014 ordered to third reading cal.306
04/29/2014 amended on third reading 6558a
05/05/2014 passed assembly
05/05/2014 delivered to senate
05/05/2014 REFERRED TO ENVIRONMENTAL CONSERVATION
06/16/2014 recalled from senate
06/16/2014 RETURNED TO ASSEMBLY
06/16/2014 vote reconsidered - restored to third reading
06/16/2014 amended on third reading 6558b
06/19/2014 substituted by s6617b
S06617 AMEND=B SAVINO
02/14/2014 REFERRED TO ENVIRONMENTAL CONSERVATION
05/07/2014 AMEND AND RECOMMIT TO ENVIRONMENTAL CONSERVATION

05/07/2014 PRINT NUMBER 6617A
05/13/2014 1ST REPORT CAL.623
05/14/2014 2ND REPORT CAL.
05/19/2014 ADVANCED TO THIRD READING
06/16/2014 AMENDED ON THIRD READING 6617B
06/19/2014 PASSED SENATE
06/19/2014 DELIVERED TO ASSEMBLY
06/19/2014 referred to ways and means
06/19/2014 substituted for a6558b
06/19/2014 ordered to third reading cal.306
06/19/2014 passed assembly
06/19/2014 returned to senate
09/19/2014 DELIVERED TO GOVERNOR
09/22/2014 SIGNED CHAP.355

[Go to top](#)

A06558 Memo:

BILL NUMBER:A6558B

TITLE OF BILL: An act to amend the environmental conservation law, the agriculture and markets law and the public health law, in relation to the consideration of future climate risk including sea level rise projections and other weather-related data; and in relation to requiring the preparation of model local zoning laws relating to climate risk

PURPOSE OR GENERAL IDEA OF BILL: The purpose of this bill is to ensure that state monies and permits include consideration of the effects of climate risk and extreme weather events.

SUMMARY OF SPECIFIC PROVISIONS: This bill would establish the "Community Risk and Resiliency Act" that would:

*require consideration of climate risk including sea level rise, storm surges and flooding, based on available data predicting the likelihood of future extreme weather events in the following:

- o State Smart Growth Infrastructure Policy Act;
- o Water Pollution and Drinking Water Revolving funds
- o Environmental Protection Fund (including municipal landfill gas management projects, municipal parks, local waterfront revitalization programs, coastal rehabilitation projects, and farmland protection);
- o major permits issued pursuant to the Uniform Procedures Act;

*require the Department of State (DOS), in consultation with the Department of Environmental Conservation (DEC) to prepare model local laws concerning climate risk including sea level rise, storm surges and flooding, based on available data predicting the likelihood of future extreme weather events, including hazard risk analysis data if applicable and to make such model laws available to municipalities;

*require DEC and DOS to develop additional-guidance 'on the use of resiliency measures that utilize natural resources and natural

processes to reduce risk; and,

*require DEC, no later than January 1, 2016 to adopt regulations establishing science-based state sea level rise projections.

JUSTIFICATION: Extreme weather events and climate changes are becoming more common. According to the National Oceanic and Atmospheric Administration, March marked the 349th consecutive month with above-average temperatures. This means that people 28 years old or younger have never lived through a month that was colder than average. In addition, the National Climate Assessment and Development Advisory Committee report indicates "The Northeast has experienced a greater increase in extreme precipitation over the past few decades than any other region in the United States. Since 1958, the Northeast has seen a 74 percent increase in the amount of precipitation falling in very heavy events."

Future extreme weather events will also be compounded by sea level rise. Sea level rise in the Northeast is expected to exceed the global average. As a result, the chance of what is now a 1-in-10-year coastal flood event in the Northeast could triple by 2100, occurring roughly once every three years, simply in response to higher sea levels. This means that between one-half million and 2.3 million people will be at risk from flooding due only to sea level rise. These statistics have been illustrated most recently by the devastating impacts of Hurricane Sandy. In addition to the tragic loss of life, property and environmental damage, there is also an economic cost of extreme weather events. The financial toll of Hurricane Sandy on New York is estimated to be at least \$42 billion dollars.

This legislation is intended to encourage advance planning for extreme weather events and to encourage the consideration of the effects of climate change. For example, the water and sewage treatment plants within the State sustained extensive damage as a result of Hurricane Sandy. As funding and permitting decisions are made regarding such plants in the future, decisions about the potential for damage from other extreme weather events should be considered. The same is true for programs funded by the Environmental Protection Fund such as the Local Waterfront Revitalization Program. It is appropriate and necessary for climate risk to be an eligible component of funding and permitting and also for applicants to demonstrate that they have considered climate change and extreme weather impacts on their proposed projects.

PRIOR LEGISLATIVE HISTORY: 2014- A. 6558 - Passed Assembly.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS: None to the State.

EFFECTIVE DATE: This act shall take effect on the 180th day and shall apply to all applications and/or permits received after such date.

[Go to top](#)

A06558 Text:

S T A T E O F N E W Y O R K

2013-2014 Regular Sessions

I N A S S E M B L Y

April 9, 2013

Introduced by M. of A. SWEENEY, WEISENBERG, GLICK, LIFTON, JAFFEE, THIELE, ABINANTI, OTIS, ENGLEBRIGHT, ROSENTHAL, ROZIC, SCHIMEL, MOSLEY, GOTTFRIED, BARRETT, LUPARDO, GOLDFEDER, COLTON, JACOBS, BUCHWALD, TITONE, ORTIZ, MAYER, SKOUFIS -- Multi-Sponsored by -- M. of A. BRONSON, FAHY, GALEF, MALLIOTAKIS, McDONALD, MILLMAN, RIVERA, SKAR-TADOS, WEINSTEIN -- read once and referred to the Committee on Environmental Conservation -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the environmental conservation law, the agriculture and markets law and the public health law, in relation to the consideration of future climate risk including sea level rise projections and other weather-related data; and in relation to requiring the preparation of model local zoning laws relating to climate risk

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known as and may be cited as the "commu-
2 nity risk and resiliency act".

3 S 2. Subdivision 2 of section 6-0107 of the environmental
4 conservation law is amended by adding a new paragraph k to read as follows:

5 K. TO MITIGATE FUTURE PHYSICAL CLIMATE RISK DUE TO SEA LEVEL
RISE,

6 AND/OR STORM SURGES AND/OR FLOODING, BASED ON AVAILABLE DATA
PREDICTING
7 THE LIKELIHOOD OF FUTURE EXTREME WEATHER EVENTS, INCLUDING HAZARD
RISK
8 ANALYSIS DATA IF APPLICABLE.
9 S 3. Item (e) of subparagraph (ii) of paragraph d of subdivision 1
of
10 section 17-1909 of the environmental conservation law, as added by
chap-
11 ter 565 of the laws of 1989, is amended to read as follows:
12 (e) conforms with applicable rules and regulations of the
department,
13 INCLUDING A DEMONSTRATION THAT DESIGN AND CONSTRUCTION CONSIDER
FUTURE

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

LBD10228-

20-4

A. 6558--B

2

1 PHYSICAL CLIMATE RISK DUE TO SEA LEVEL RISE, AND/OR STORM SURGES
AND/OR
2 FLOODING, BASED ON AVAILABLE DATA PREDICTING THE LIKELIHOOD OF
FUTURE
3 EXTREME WEATHER EVENTS, INCLUDING HAZARD RISK ANALYSIS DATA IF
APPLICA-
4 BLE.
5 S 4. Paragraphs g and h of subdivision 2 of section 27-1103 of
the
6 environmental conservation law, as amended by chapter 618 of the laws
of
7 1987, are amended and a new paragraph i is added to read as follows:
8 g. The impact on the municipality where the facility is to be cited
in
9 terms of health, safety, cost and consistency with local
planning,
10 zoning or land use laws and ordinances, [and]
11 h. The nature of the probable environmental impact, including
specifi-
12 cation of the predictable adverse effects on the natural environment
and
13 ecology, public health and safety, scenic, historic, cultural and
recre-
14 ational value, water and air quality, wildlife and an evaluation
of
15 measures to mitigate adverse effects[.], AND
16 I. THE FUTURE PHYSICAL CLIMATE RISK DUE TO SEA LEVEL RISE,
AND/OR
17 STORM SURGES AND/OR FLOODING, BASED ON AVAILABLE DATA PREDICTING
THE
18 LIKELIHOOD OF FUTURE EXTREME WEATHER EVENTS, INCLUDING HAZARD RISK
ANAL-
19 YSIS DATA IF APPLICABLE.
20 S 5. Paragraph b of subdivision 1 of section 40-0113 of the environ-

21 mental conservation law, as added by chapter 672 of the laws of 1986,
is

22 amended to read as follows:

23 b. Minimum standards and schedules for design, construction,
installa-

24 tion, operation, maintenance, repair, monitoring, testing and
inspection

25 of facilities. Schedules shall be based on factors such as type
of

26 facility, type and quantity of hazardous substances stored,
facility

27 age, condition and construction type, soil conditions, location
of

28 facility relative to water supplies, surrounding population, and
other

29 environmental factors INCLUDING BUT NOT LIMITED TO FUTURE
PHYSICAL

30 CLIMATE RISK DUE TO SEA LEVEL RISE, AND/OR STORM SURGES AND/OR
FLOODING,

31 BASED ON AVAILABLE DATA PREDICTING THE LIKELIHOOD OF FUTURE
EXTREME

32 WEATHER EVENTS, INCLUDING HAZARD RISK ANALYSIS DATA IF AVAILABLE.

33 S 6. Subdivision 3 of section 49-0203 of the environmental
conserva-

34 tion law is renumbered subdivision 4 and a new subdivision 3 is added
to

35 read as follows:

36 3. THE DEPARTMENT AND THE OFFICE SHALL CONSIDER FUTURE
PHYSICAL

37 CLIMATE RISK DUE TO SEA LEVEL RISE, AND/OR STORM SURGES AND/OR
FLOODING,

38 BASED ON AVAILABLE DATA PREDICTING THE LIKELIHOOD OF FUTURE
EXTREME

39 WEATHER EVENTS, INCLUDING HAZARD RISK ANALYSIS DATA IF APPLICABLE.

40 S 7. Paragraph a of subdivision 2 of section 54-0303 of the
environ-

41 mental conservation law, as added by chapter 610 of the laws of 1993
and

42 as designated by chapter 170 of the laws of 1994, is amended to read
as

43 follows:

44 a. The commissioner of the office of parks, recreation and
historic

45 preservation may enter into an agreement for the maintenance and
opera-

46 tion of open space land conservation projects in urban areas or
metro-

47 politan park projects by a municipality, or a not-for-profit
corporation

48 or unincorporated association which demonstrates to the
commissioner's

49 satisfaction that [it] THE FUTURE PHYSICAL CLIMATE RISK DUE TO SEA
LEVEL

50 RISE, AND/OR STORM SURGES AND/OR FLOODING, BASED ON AVAILABLE
DATA

51 PREDICTING THE LIKELIHOOD OF FUTURE EXTREME WEATHER EVENTS,
INCLUDING

52 HAZARD RISK ANALYSIS DATA IF APPLICABLE, HAS BEEN CONSIDERED AND
THE
53 MUNICIPALITY, NOT-FOR-PROFIT CORPORATION OR UNINCORPORATED
ASSOCIATION
54 is financially or otherwise capable of operating and maintaining
the
55 project for the benefit of the public and of maximizing public access
to
56 such project. Any such agreement shall contain such provisions as
shall

A. 6558--B

3

1 be necessary to ensure that its operation and maintenance are
consistent
2 with and in furtherance of this article and shall be subject to
the
3 approval of the director of the budget, the comptroller and, as to
form,
4 the attorney general.

5 S 8. Subdivision 3 of section 54-0503 of the environmental
conserva-
6 tion law, as added by chapter 610 of the laws of 1993, is amended
to

7 read as follows:

8 3. A closure investigation report which complies with the
requirements

9 of applicable regulations of the department, INCLUDING A
DEMONSTRATION

10 THAT FUTURE PHYSICAL CLIMATE RISK DUE TO SEA LEVEL RISE, AND/OR
STORM

11 SURGES AND/OR FLOODING, BASED ON AVAILABLE DATA PREDICTING THE
LIKELI-

12 HOOD OF FUTURE EXTREME WEATHER EVENTS, INCLUDING HAZARD RISK
ANALYSIS

13 DATA IF APPLICABLE, HAS BEEN CONSIDERED, shall have been submitted.

14 S 9. Subdivision 1 of section 17-1015 of the environmental
conserva-

15 tion law, as amended by chapter 334 of the laws of 2008, is amended
to

16 read as follows:

17 1. The department shall, pursuant to section 17-0303 of this
article,

18 promulgate rules and regulations establishing standards for existing
and

19 new petroleum bulk storage facilities which shall include, but not
be

20 limited to, design, equipment requirements, construction,
installation

21 and maintenance. In proposing, preparing and compiling such rules
and

22 regulations, the department shall INCLUDE CONSIDERATION OF THE
FUTURE

23 PHYSICAL CLIMATE RISK DUE TO SEA LEVEL RISE, AND/OR STORM SURGES
AND/OR

24 FLOODING, BASED ON AVAILABLE DATA PREDICTING THE LIKELIHOOD OF
FUTURE

25 EXTREME WEATHER EVENTS, INCLUDING HAZARD RISK ANALYSIS DATA IF
APPLICA-
26 BLE. THE DEPARTMENT SHALL consult with the state petroleum bulk
storage
27 code advisory council IN PROPOSING, PREPARING AND COMPILING SUCH
RULES
28 AND REGULATIONS. In addition, the department shall consult with
the
29 state fire prevention and building code council to assure that
such
30 rules and regulations are consistent with the uniform fire
prevention
31 and building code.
32 S 10. Subdivisions 1 and 5 of section 54-1101 of the
environmental
33 conservation law, as amended by chapter 309 of the laws of 1996,
are
34 amended to read as follows:
35 1. The secretary is authorized to provide on a competitive
basis,
36 within amounts appropriated, state assistance payments to
municipalities
37 toward the cost of any local waterfront revitalization program,
INCLUD-
38 ING PLANNING PROJECTS TO MITIGATE FUTURE PHYSICAL CLIMATE RISKS.
Eligi-
39 ble costs include planning, studies, preparation of local laws,
and
40 construction projects.
41 5. The secretary shall impose such contractual requirements and
condi-
42 tions upon any municipality which receives state assistance
payments
43 pursuant to this article as may be necessary and appropriate to
ensure
44 that a public benefit shall accrue from the use of such funds by
the
45 municipality INCLUDING BUT NOT LIMITED TO, A DEMONSTRATION THAT
FUTURE
46 PHYSICAL CLIMATE RISK DUE TO SEA LEVEL RISE, AND/OR STORM SURGES
AND/OR
47 FLOODING, BASED ON AVAILABLE DATA PREDICTING THE LIKELIHOOD OF
FUTURE
48 EXTREME WEATHER EVENTS, INCLUDING HAZARD RISK ANALYSIS DATA IF
APPLICA-
49 BLE, HAS BEEN CONSIDERED.
50 S 11. Subdivision 1 of section 54-1105 of the environmental
conserva-
51 tion law, as added by chapter 610 of the laws of 1993, is amended
to
52 read as follows:
53 1. The commissioner is authorized to provide on a competitive
basis,
54 within amounts appropriated, state assistance payments to a
municipality
55 or a not-for-profit corporation toward the cost of any coastal
rehabili-

56 tation project approved by the commissioner PROVIDED THAT THE
COMMISS-

A. 6558--B

4

1 SIONER DETERMINES THAT FUTURE PHYSICAL CLIMATE RISK DUE TO SEA
LEVEL
2 RISE, AND/OR STORM SURGES AND/OR FLOODING, BASED ON AVAILABLE
DATA
3 PREDICTING THE LIKELIHOOD OF FUTURE EXTREME WEATHER EVENTS,
INCLUDING
4 HAZARD RISK ANALYSIS DATA IF APPLICABLE, HAS BEEN CONSIDERED.

5 S 12. Subdivision 2 of section 325 of the agriculture and markets
law

6 is amended by adding a new paragraph (f) to read as follows:

7 (F) IN EVALUATING APPLICATIONS FOR FUNDING, THE COMMISSIONER
SHALL

8 CONSIDER WHETHER FUTURE PHYSICAL CLIMATE RISK DUE TO SEA LEVEL
RISE,

9 AND/OR STORM SURGES AND/OR FLOODING, BASED ON AVAILABLE DATA
PREDICTING

10 THE LIKELIHOOD OF FUTURE EXTREME WEATHER EVENTS, INCLUDING HAZARD
RISK

11 ANALYSIS DATA IF APPLICABLE, HAS BEEN CONSIDERED.

12 S 13. Section 1161 of the public health law, as added by chapter
413

13 of the laws of 1996, is amended to read as follows:

14 S 1161. Eligible projects; priority ranking. Subject to
the

15 provisions of section thirty-two of the chapter of the laws of
1996

16 which added this section, in consultation with the commissioner of
envi-

17 ronmental conservation, the commissioner shall establish and maintain
a

18 list of potentially eligible projects and shall establish, pursuant
to

19 rules and regulations, a process for listing potentially
eligible

20 projects identified by potential recipients and a priority
ranking

21 system for the purpose of providing financial assistance to
recipients

22 for such projects under this title. In establishing such system,
the

23 commissioner shall take into account the public health significance
of

24 such potentially eligible projects which shall include, but need not
be

25 limited to, an assessment of (i) public health and safety; (ii)
popu-

26 lation affected; (iii) attainment of state drinking water quality
goals

27 and standards; (iv) taking into consideration the water
resources

28 management strategy pursuant to title twenty-nine of article fifteen
of

29 the environmental conservation law; (V) TAKING INTO CONSIDERATION
FUTURE
30 PHYSICAL CLIMATE RISK DUE TO SEA LEVEL RISE, AND/OR STORM SURGES
AND/OR
31 FLOODING, BASED ON AVAILABLE DATA PREDICTING THE LIKELIHOOD OF
FUTURE
32 EXTREME WEATHER EVENTS, INCLUDING HAZARD RISK ANALYSIS DATA IF
APPLICA-
33 BLE; and [(v)] (VI) compliance with state and federal law, rules
and
34 regulations.

35 S 14. The department of state, in cooperation with the department
of
36 environmental conservation, shall prepare model local laws that
include
37 consideration of future physical climate risk due to sea level
rise,
38 and/or storm surges and/or flooding, based on available data
predicting
39 the likelihood of future extreme weather events including hazard
risk
40 analysis and shall make such laws available to municipalities.

41 S 14-a. Section 23-0305 of the environmental conservation law
is
42 amended by adding a new subdivision 8-a to read as follows:

43 8-A. THE DEPARTMENT SHALL INCLUDE CONSIDERATION OF FUTURE
PHYSICAL
44 CLIMATE RISK DUE TO SEA LEVEL RISE, AND/OR STORM SURGES AND/OR
FLOODING,
45 BASED ON AVAILABLE DATA PREDICTING THE LIKELIHOOD OF EXTREME
WEATHER
46 EVENTS, INCLUDING HAZARD RISK ANALYSIS DATA IF APPLICABLE, TO
PERMITS
47 ISSUED PURSUANT TO TITLE FIVE OF THIS ARTICLE.

48 S 15. Section 70-0117 of the environmental conservation law is
amended
49 by adding a new subdivision 9 to read as follows:

50 9. APPLICANTS FOR MAJOR PROJECTS. APPLICANTS FOR MAJOR PROJECTS
FOR
51 THE REGULATORY PROGRAMS OF PARAGRAPHS (A), (F), (H), (I), (J), (K)
AND
52 (M) OF SUBDIVISION 3 OF SECTION 70-0107 OF THIS ARTICLE SHALL
BE
53 REQUIRED TO DEMONSTRATE THAT FUTURE PHYSICAL CLIMATE RISK DUE TO
SEA
54 LEVEL RISE, AND/OR STORM SURGES AND/OR FLOODING, BASED ON AVAILABLE
DATA
55 PREDICTING THE LIKELIHOOD OF FUTURE EXTREME WEATHER EVENTS,
INCLUDING
56 HAZARD RISK ANALYSIS DATA IF APPLICABLE, HAS BEEN CONSIDERED.

A. 6558--B 5

1 S 16. The department of environmental conservation, in
consultation
2 with the department of state, no later than January 1, 2017
shall

3 prepare guidance on the implementation of this act, including but
not
4 limited to available and relevant data sets and risk analysis tools
and
5 available data predicting the likelihood of future extreme
weather
6 events. In addition, the department of environmental conservation
and
7 the department of state shall develop additional guidance on the use
of
8 resiliency measures that utilize natural resources and natural
processes
9 to reduce risk.

10 S 17. The environmental conservation law is amended by adding a
new

11 section 3-0319 to read as follows:

12 S 3-0319. SEA LEVEL RISE PROJECTIONS.

13 THE DEPARTMENT SHALL, NO LATER THAN JANUARY FIRST, TWO
THOUSAND

14 SIXTEEN, ADOPT REGULATIONS ESTABLISHING SCIENCE-BASED STATE SEA
LEVEL

15 RISE PROJECTIONS. IN ADOPTING SUCH REGULATIONS, THE DEPARTMENT
SHALL

16 CONSIDER INFORMATION INCLUDING, BUT NOT LIMITED TO, REPORTS OF
THE

17 INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, THE NATIONAL OCEANIC
ATMO-

18 SPHERIC ADMINISTRATION CLIMATE ASSESSMENT, THE SEA LEVEL RISE TASK
FORCE

19 REPORT CREATED PURSUANT TO CHAPTER SIX HUNDRED THIRTEEN OF THE LAWS
OF

20 TWO THOUSAND SEVEN, PROJECTIONS PREPARED BY THE NEW YORK CITY PANEL
ON

21 CLIMATE CHANGE AND ANY OTHER RELEVANT REGIONAL, STATE AND LOCAL
REPORTS.

22 THE DEPARTMENT SHALL UPDATE SUCH REGULATIONS NO LESS THAN EVERY
FIVE

23 YEARS.

24 S 18. Nothing in this act shall limit the existing authority of
the

25 department of environmental conservation to address climate risk due
to

26 sea level rise, storm surges, and flooding.

27 S 19. This act shall take effect on the one hundred eightieth
day

28 after it shall have become a law and shall apply to all
applications

29 and/or permits received after the adoption of guidance on the
implemen-

30 tation of this act but no later than January 1, 2017.

[Go to top](#)