

NEW YORK STATE EXECUTIVE LAW
ARTICLE 46 LONG ISLAND SOUTH SHORE ESTUARY RESERVE

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S 960. Short title. This article shall be known and may be cited as the "Long Island South Shore Estuary Reserve Act."

S 961. Legislative declaration. The legislature hereby declares it to be in the public interest to protect and manage the South Shore Estuary System as a single integrated estuary. It is further in the public interest to establish a council made up of representatives of state and local governments and private citizens to create a South Shore Estuary Reserve, prepare a comprehensive management plan and make recommendations to preserve, protect and enhance the natural, recreational, economic and educational resources of the reserve, which the state and local governments may incorporate into policy, laws or regulations.

S 961-a. Legislative findings and intent. The legislature hereby finds that the tidal waters located between the southern shore of Long Island and the coastal barrier beaches constitute a maritime region of statewide importance, referred to as the South Shore Estuary.

The legislature finds that within the South Shore Estuary and the associated lands and water bodies that discharge into or affect the South Shore Estuary, that the federal, state and local governments own and manage significant interdependent properties in the form of parks, preserves, historic sites, open space and underwater lands, which help to sustain biological productivity and diversity, economic viability and recreational enjoyment.

The legislature also finds that the South Shore Estuary System contains and supports many unique marine habitats and locally significant populations and a diversity of rare, threatened and endangered species of plants and animals and the protection of their habitats is in the best interest of the people of New York.

The legislature further finds that the South Shore Estuary system contains numerous streams that flow

into the bays; freshwater and tidal wetlands that serve as a breeding ground, source of primary production for the food chain and a natural filter media; and productive clam fisheries that are mutually supportive and ultimately dependent upon the maintenance of the hydrologic and ecologic integrity of the region.

The legislature, in addition, finds that the South Shore Estuary is of tremendous economic and social importance to the state, containing the largest concentration of recreational and commercial vessels, marinas and other water dependent businesses, supporting hundreds of baymen with a livelihood harvesting clams, finfish and other marine organisms and providing recreation opportunities to millions of residents and tourists each year.

The legislature finds that there is a multitude of governmental entities and agencies that share responsibility for the regulation, management, and protection of the Estuary and its resources and which govern private and public land use and activities; and despite existing programs, the water quality and productivity of the South Shore Estuary have declined due to the intensity and variety of land uses in a highly developed suburban setting which produce point and nonpoint source of pollution.

The legislature finds that this region, in which there are private and public water and land uses which depend upon the health and productivity of the South Shore Estuary, could better be protected and managed through the development of a comprehensive management plan.

Therefore, the legislature finds that the purpose of this article is to provide a means for public and private interests to act collectively and pool resources and expertise to: integrate and coordinate existing programs and studies; identify and make recommendations to mitigate pollution sources in order to maintain or enhance water quality, maximize natural productivity and improve management of shellfish harvest areas to insure economic viability and minimize health risk; make recommendations on policies designed to balance the preservation of natural resources while providing adequate access and use of resources for the public as well as stability for water dependent businesses and tourism; make recommendations on methods to protect the value of existing public and private investment that has already been made in the region; and provide direction for state and local governments to protect, preserve and properly manage the unique natural resources of the South Shore estuary for the benefit of existing and future generations.

However, it is not the legislature's intent for this article or the management plan created pursuant to this article to be construed to require or to be used as a basis for requiring a cumulative analysis or a generic environmental impact statement pursuant to article eight of the environmental conservation law from any applicant, owner of property, the state, its political subdivision or any agencies thereof as a precondition for the approval of any proposed development, action or alteration of the same proposed to be undertaken within the geographic area designated as the Long Island South Shore Estuary Reserve, unless otherwise required by law.

S 962. Definitions. As used in this article, the following terms shall mean and include:

1. "Council" shall mean the Long Island South Shore Estuary reserve council created by section nine hundred sixty-four of this article.
2. "Department" shall mean the secretary of state or his or her designee.
3. "Estuary" shall mean all or part of the mouth of a river or stream or any body of water having an unimpaired natural connection with the open sea and within which sea water is measurably diluted with fresh-water derived from land drainage, including associated aquatic ecosystems and those portions of

tributaries draining into the estuary up to the historic height of migration of anadromous fish or the historic head of tidal influence, whichever is higher.

4. "Long Island South Shore Estuary Reserve" or "Reserve" shall mean all the water and underwater lands comprising the South Shore Estuary and the lands which gather and transmit precipitation as either groundwater or run-off into such system and which are designated on a map prepared by a designated planning entity and adopted by the council.

5. "South Shore Estuary" shall mean the Estuary located on the South Shore of Long Island between the western boundary of the Town of Hempstead and the Eastern Boundary of Shinnecock Bay. 6. "Plan" shall mean the comprehensive management plan created pursuant to section nine hundred sixty-six of this article.

S 963. Designation of planning entity or entities. The secretary of state, after consultation with the council, shall designate a planning entity or entities for the purposes of assisting the council in conducting research and developing the plan.

S 964. Long Island South Shore Estuary reserve council.

1. There is hereby established a Long Island South Shore Estuary reserve council to assist in the development, advise in the implementation, and review the effectiveness of a comprehensive management plan for the Long Island South Shore Estuary Reserve that the state and local governments may implement.

2. The council shall consist of twenty-three voting members: the secretary of state, who shall be the chair; the county executive of the county of Nassau; the county executive of the county of Suffolk; the supervisor of the city of Long Beach, the supervisors of the towns of Hempstead, Oyster Bay, Babylon, Islip, Brookhaven and Southampton; a mayor, appointed by the conference of mayors, from a village bordering the South Shore Estuary to represent the villages within the South Shore Estuary Reserve, all of the aforementioned whom may appoint a designee; the chair of the citizens advisory committee; the chair of the technical advisory committee; a member of the Great South Bay Audubon Society, the dean of the Marine Sciences Research Center at Stony Brook or his or her designee, a member of the New York Sportsfishing Federation, a representative of the Long Island Association, and a representative of the Long Island Builders Institute, Incorporated, however, if any of the previous five member organizations decline to serve on the council, a replacement organization which represents the same interests as the organization that is vacating shall be nominated by a majority of the remaining voting members of the council and appointed by the secretary of state; the secretary of state shall appoint one member who shall be a representative of a property owner association from a community or communities bordering the South Shore Estuary to represent the interests of property owners within the South Shore Estuary Reserve; the county executive of the county of Nassau shall appoint two members, one of whom shall be a representative of the marina industry and one of whom shall be a representative of a regional environmental organization; the county executive of the county of Suffolk shall appoint two members, one of whom shall be a representative of a local baymen`s association and one of whom shall be a representative of the charter or party boat industry. All members shall reside in Nassau or Suffolk county and shall have demonstrated expertise in the functional areas to be addressed by the council.

3. The department shall convene and conduct the council`s meetings and record and prepare minutes.

4. Terms of appointment. The terms of all members who are elected public officials shall be concurrent with their terms of office. All other members shall serve for a term of four years or thereafter until a

successor is appointed. An appointment to fill a vacancy shall be made for the remainder of the affected term in the same manner as the original appointment was made. Such appointment shall be made within sixty days of the date the position becomes vacant.

5. Thirteen voting members shall constitute a quorum. Any action requiring a vote or any adoption by the council shall require an affirmative vote of at least a majority of all the voting members.

6. If any member of the council fails to attend at least sixty percent of the meetings during a period of twelve consecutive months, the department shall notify the designating authority.

7. The members of the council shall serve without compensation and shall not be reimbursed for personal expenses.

S 964-a. Powers of the council. The council shall have the following powers:

1. To conduct or contract for necessary planning, scientific and environmental studies pertaining to the reserve, where insufficient data exists;

2. To utilize, to the extent feasible, the staff and facilities of state and local agencies subject to the approval of such agencies to carry out the provisions of this article; and

3. To contract within amounts appropriated for services deemed necessary for the performance of the council's functions.

S 964-b. Duties of the council. The council shall have the following duties:

1. To meet not less than once every two months until the adoption of the plan and to encourage attendance at such meeting of representatives of local governments and interested parties affected by the deliberations of the council;

2. To send copies of the minutes of each meeting to each town and village within the reserve, the county executive of the county of Nassau, the county executive of the county of Suffolk, the members of the Assembly and Senate representing areas within the reserve, and any other interested party upon request;

3. To hold public hearings pursuant to section nine hundred sixty-six of this article;

4. To designate land and water bodies to be included in the reserve as defined in subdivision four of section nine hundred sixty-two of this article and to adopt and publish a map and written description delineating the boundary of the reserve;

5. To make appointments to the advisory committees authorized pursuant to section nine hundred sixty-five of this article, and to create other advisory committees as necessary;

6. To review and evaluate existing studies, modeling, methodologies, data and recommendations for their application to the plan;

7. To adopt a comprehensive management plan for the Long Island South Shore Estuary Reserve which the state and local governments may implement. Estuary segmentation or partitioning of the estuary into spatial units may be necessary at times for summarizing data for geographic areas, for the development of certain scientific models, or for interim management measures. The council shall prioritize problems and opportunities within the estuary based upon use impairments, resource management needs and areas experiencing intense recreational use;

8. To identify funding mechanisms for the preparation and implementation of the plan;

9. To identify specific tasks or studies and the amount of funding necessary to carry out the provisions of this article and report such findings to the governor and the legislature;
10. To prepare interim reports and recommendations;
11. To prepare or cause to be prepared educational materials designed to inform the public about the value of the Estuary, its appropriate uses and methods to protect it;
12. To consider designation of the South Shore Estuary into the Federal National Estuary program pursuant to section three hundred twenty of the Federal Clean Water Act. Development of a nomination application for federal designation of the South Shore Estuary may be concurrent with the development of the comprehensive management plan;
13. To encourage, and where feasible, facilitate implementation of the recommendations of the plan;
14. To encourage individuals, corporations, associations, and public entities to protect and preserve the unique resources of the reserve; and
15. To biannually review the plan and the effectiveness of its implementation, and where necessary, revise the plan and submit such revision to each town and village within the reserve, the governor, the legislature and any other interested party upon request.

S 965. Advisory committees to the council. The council shall establish advisory committees to make recommendations and provide guidance to the council for the preparation and implementation of the comprehensive management plan. A citizens advisory committee, technical advisory committee, management advisory committee, and a local government advisory committee shall be formed. The committees may prepare reports, recommend studies and submit findings and recommendations to the council. The council shall make the initial appointments to the advisory committees. Each appointed member shall be a voting member of the advisory committee. The advisory committees shall meet and elect a chair. Once a chair is elected, the committee can appoint other voting members with expertise related to the function of the committee.

1. The citizens advisory committee shall be comprised of representatives of citizens or civic groups, environmental groups, user groups, and business organizations. The purpose of the committee shall be to integrate citizens' and user groups' concerns in the planning and decision-making process and to encourage public education and involvement. The committee membership shall include but not be limited to a representative of the Fire Island Association, a representative of Bluepoints Company Incorporated, a representative of a recreational boating association, a member of the Tribal council of the Shinnecock Indian Reservation, and a member of the Long Island Farm Bureau.

2. The technical advisory committee shall be comprised of individuals with technical expertise, including but not limited to scientists, engineers and planners. The purpose of the committee shall be to review and oversee studies, interpret and evaluate existing and new data to determine causes and effects of environmental problems, and provide technical support for the development of management measures and policies. The committee membership shall include but not be limited to the director of the Marine Science Center at the Long Island University at Southampton; the executive director of the Long Island Regional Planning Board; the director of the New York Sea Grant Institute and the director of the Long Island Maritime Museum, all of the aforementioned whom may appoint a designee.

3. The management advisory committee shall be comprised of representatives of government agencies associated with developing policy, regulating activities or enforcing laws and regulations affecting the South Shore Estuary Reserve. The purpose of the committee shall be to analyze existing laws,

regulations and management programs and to make recommendations for improvements thereof. The committee membership shall include but not be limited to the secretary of state, the director of region one of the department of environmental conservation, the director of the Long Island region office of parks, recreation and historic preservation, the commissioner of the department of economic development, the commissioner of the Suffolk county department of health services and the commissioner of the Nassau county department of health, all of the aforementioned whom may appoint a designee. The council shall request the participation of the director of region two of the federal environmental protection agency, the secretary of the United States department of the interior, and the director of the Fire Island National Seashore, all of whom may appoint a designee.

4. The local government advisory committee shall be comprised of representatives of towns, cities and villages. The purpose of the committee is to provide input regarding land use issues, zoning, planning and local implementation.

S 966. Comprehensive management plan.

1. The purpose of the plan is to make recommendations to integrate and coordinate existing programs and studies; mitigate pollution; balance preservation, recreation and economic development; protect appropriate existing investment; and protect the natural resources. The plan shall include but not be limited to the following, to the extent possible, considering financial resources and technological limitations:

- (a) A statement of the public value of the reserve, including its ecological, economic, social, hydrologic and educational values, together with the general goals and objectives of the plan;
- (b) A map and written description delineating the boundary of the reserve;
- (c) An estimate of the economic value of the commercial and recreational industry and the tourism industry dependent upon the reserve;
- (d) An inventory of all public lands and lands available for public use within the reserve specifying use, facilities and trails for public use, and the management agency with jurisdiction over the property;
- (e) Identification of inventories compiled by the department pursuant to section nine hundred twenty of article forty-two of this chapter, including significant natural areas, historic sites, agricultural lands and water dependent areas;
- (f) An identification and evaluation of existing regulatory and management programs, as well as all agencies having any jurisdiction within the reserve which affect land use and activities within the reserve;
- (g) An evaluation of land use and zoning within the reserve and their actual or potential effects on water quality and productivity of the reserve;
- (h) An inventory of point sources of pollution and an assessment of nonpoint sources of pollution, including suggested strategies for mitigation;
- (i) An identification of areas containing contaminated sediments and sources that are contributing significantly to the decline of water quality and that need special attention;
- (j) An assessment of trends in water quality within the reserve;
- (k) An assessment of dredging and navigation needs in the South Shore Estuary taking into

account environmental impact and public safety;

(l) Management recommendations for the preservation of plant, fish and wildlife and their habitats;

(m) Management recommendations for protection and management of dedicated public land;

(n) Management recommendations for protecting and supporting indigenous economic activities such as aquaculture, finfishing, shellfishing, boating and tourism;

(o) Recommendations for increased enforcement of laws and regulations pertaining to preservation and management of resources;

(p) Identification of environmentally sensitive land suitable for acquisition and dedication for public uses;

(q) Recommendations for institutional arrangements to coordinate and improve management of land and water resources, to maximize efficiency such as coordinating review pursuant to article eight of the environmental conservation law and article forty-two of this chapter, and to adopt uniform policies among agencies where appropriate;

(r) Recommendations for land use management as it relates to maintenance or enhancement of surface water quality and the resources within the reserve, including changes in zoning and restrictions on activities where appropriate within the reserve;

(s) Recommendations for best management practices for private and public landowners to minimize chemical pollution, sedimentation and erosion;

(t) Recommendations for management of commercial, recreational and tourism activities that may threaten sensitive habitats;

(u) Strategies to resolve conflicts among competing demands of the resources and to achieve a balance among economic and recreational activities and preservation of natural resources;

(v) An identification of policies, land use controls and management measures that should be incorporated into the state coastal management program and local waterfront revitalization programs adopted pursuant to article forty-two of this chapter; and

(w) A local participation plan, which describes how local citizens, officials and members of the tourism, fishing and marine industries will participate in the implementation of the management plan and which contains a statement identifying support for such program by the participating local governments.

2. Within one hundred eighty days after the appointments to the council have been made, the council shall adopt a statement of goals and objectives; adopt a map and boundaries of the South Shore Estuary Reserve for purposes of this article and develop a work plan which shall include a timetable to guide the progress of its compliance with this article. Within such time period, the council shall also hold two public scoping sessions, one in Nassau county and one in Suffolk county for the development of the plan. The council shall hold at least two public hearings at different locations, one in Nassau county and one in Suffolk county within the reserve on the draft plan before adoption. The council shall adopt a final plan within four years of the effective date of this article unless insufficient funding is made available or obtained through appropriations, grants or gifts. The adopted plan shall be submitted to each town and village within the reserve, the county executive of the county of Nassau, the county executive of the county of Suffolk, and to the governor and the legislature.

3. The council shall continue to convene to fulfill its duties pursuant to subdivisions eleven, twelve, thirteen and fourteen of section nine hundred sixty-four-b of this article.

S 967. Cooperation of state and municipal agencies. The council may request and shall be provided with such cooperation, assistance, services and data, to the maximum extent feasible, subject to the approval of such agency, from any department, advisory board, task force, commission, bureau or any other agency having jurisdiction over land and water within the reserve, as are necessary to carry out the council's duties pursuant to this article. The council shall utilize the expertise of the marine resources advisory council established pursuant to section 13-0350 of the environmental conservation law. The council shall also seek technical assistance from, consult with and coordinate its actions with the department.

S 968. Acceptance of monies. The designated planning entity or entities may accept any grant or appropriation from federal, state and municipal sources and any gift for use to carry out the provisions of this article. An application from a designated planning entity or entities shall be eligible for assistance pursuant to sections nine hundred seventeen and nine hundred eighteen of this chapter for the development and implementation of the comprehensive management plan. The expenditure of such monies shall be consistent with the recommendation of the council and shall not exceed the grants, appropriations and gifts received by the designated planning entity or entities.

S 969. Limitations on the regulation of hunting, fishing and recreational 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 reserve, except as otherwise provided by law.

S 970. Affect on other laws. Nothing in this article shall affect the police powers, local planning powers, zoning powers or authority to regulate any activity by villages, towns or counties within the reserve or the police powers of the state to regulate any activity within the reserve or affect the authority of any state or public agency in the management of any state or public lands within the reserve.

S 970-a. 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.