

LAKE HOPATCONG PROTECTION ACT

58:4B-1 Short title.

1. This act shall be known, and may be cited, as the "Lake Hopatcong Protection Act."

L.2000,c.175,s.1 .

58 :4B-2 Findings, determinations relative to Lake Hopatcong.

2. The Legislature finds that the preservation and enhancement of the natural beauty of the State and the development of natural resources for public recreation and conservation purposes promote the public health and welfare; and that scenic Lake Hopatcong in Morris and Sussex counties is a unique example of that natural beauty and is therefore a natural resource worthy of special attention, consideration, and protection by all levels of government.

The Legislature further finds that the area around Lake Hopatcong, originally a seasonal community, has become a year-round residential community; that these residences and other buildings are currently served by individual septic systems, many of which have been failing for some time, causing a significant impact upon the lake's water quality; and that the installation of a sewer system for the residents currently living around Lake Hopatcong is necessary to eliminate the pollution caused by these septic systems.

The Legislature further finds that water quality in Lake Hopatcong has been degraded over time by the introduction of nutrients and other pollutants from significant sources other than septic systems, including stormwater runoff and other nonpoint sources of pollution, which reduce oxygen in the water, thereby causing weeds to grow uncontrollably on the lake bottom; and that these weeds are a hazard to recreational boaters and diminish fishing, swimming, and other recreational activities on the lake.

The Legislature further finds that Lake Hopatcong is the largest freshwater lake in the State; that it serves as an emergency source of drinking water for the region and supports a range of recreational uses that contribute significantly to the region's economy; and that improving water quality in the lake is important to protect both environmental and economic interests in the region.

The Legislature therefore determines that it is in the public interest to create a commission composed of both local and State officials and representatives to oversee and safeguard Lake Hopatcong as a natural, scenic, and recreational resource to ensure that the lake may be enjoyed to the fullest possible measure by citizens of, and visitors to, the State both now and in the future.

L.2000,c.175,s.2.

58 :4B-3 Lake Hopatcong Commission.

3. a. There is created, in but not of the Department of Environmental Protection, the Lake

Hopatcong Commission, which shall comprise 11 voting members, as follows: a representative of Morris county appointed by the Board of Chosen Freeholders thereof; a representative of Sussex county appointed by the Board of Chosen Freeholders thereof; a representative of Hopatcong borough appointed by the governing body thereof; a representative of Jefferson township appointed by the governing body thereof; a representative of Mount Arlington borough appointed by the governing body thereof; a representative of Roxbury township appointed by the governing body thereof; two members of the public appointed by the Governor with the advice and consent of the Senate; a chairperson of the commission appointed by the Governor with the advice and consent of the Senate; the Commissioner of Community Affairs, or a designee thereof, who shall serve ex officio; and the Commissioner of Environmental Protection, or a designee thereof, who shall serve ex officio.

b. Each county and municipal appointing authority as prescribed pursuant to subsection a. of this section may also respectively appoint an alternate member for each regular member appointed by the county or municipal appointing authority to act in the absence or disability of the regular member, and while so acting an alternate member shall have all the powers, including voting powers, of the regular member.

c. (1) The chairperson of the commission shall serve a term of three years and until a successor shall have been appointed and qualified. A chairperson may be reappointed to successive terms.

(2) Each member of the public appointed by the Governor shall serve a term of two years and until a successor shall have been appointed and qualified; except that of the two members of the public first appointed, one shall serve a term of two years and the other a term of one year. Members of the public appointed by the Governor may be reappointed to successive terms.

(3) Each member or alternate member appointed by a county or a municipality shall serve a term of two years and until a successor shall have been appointed and qualified; except that each member and alternate member first appointed by Sussex county, Mount Arlington borough, and Roxbury township shall serve a term of one year, and thereafter each member and alternate member appointed by that county and those two municipalities shall serve a term of two years and until a successor shall have been appointed and qualified. Members and alternate members may be reappointed to successive terms.

d. Vacancies in the appointed positions on the commission shall be filled in the same manner as the original appointments were made but for the unexpired term only.

e. Members of the commission shall serve without compensation, but the commission may, within the limits of funds appropriated or otherwise made available to it, reimburse members for actual expenses necessarily incurred in the discharge of their official duties.

f. Members of the commission shall serve at the pleasure of the relevant appointing authority.

L.2000,c.175,s.3.

4. a. The Lake Hopatcong Commission shall organize as soon as may be practicable after the appointment of its members, and shall elect a secretary who need not be a member.

b. The commission shall meet regularly as it may determine, but not less than on a quarterly basis. Meetings of the commission shall be at such times and places as the commission deems appropriate and shall be subject to the provisions and requirements of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

The commission shall also meet at the call of the Governor or of the chairperson.

c. A majority of the membership of the commission shall constitute a quorum for the transaction of commission business. Action may be taken and motions and resolutions adopted by the commission at any meeting thereof by the affirmative vote of a majority of the full membership of the commission, except that any action to recommend or adopt an annual operating or capital budget shall require an affirmative vote of at least two-thirds of the full membership of the commission.

d. The commission shall be entitled to call to its assistance, and avail itself of the services of, such employees of the State, the two member counties, or the four member municipalities, or any political subdivisions, instrumentalities, entities, agencies, or authorities thereof, as it may require and as may be made available to it for the purpose of carrying out its powers, duties, and responsibilities under this act.

e. The commission may, within the limits of funds appropriated or otherwise made available to it for those purposes, employ an executive director and other professional, technical, maintenance, and clerical staff, and incur such other miscellaneous expenses, as it may deem necessary in order to carry out its powers, duties, and responsibilities pursuant to this act.

L.2000,c.175,s.4.

58 :4B-5 Powers of commission.

5. The Lake Hopatcong Commission shall have power to:

a. sue and be sued;

b. adopt bylaws for the regulation of its affairs and the conduct of its business;

c. make and execute contracts and all other instruments necessary or convenient for the exercise of its powers, duties, and responsibilities under this act;

d. establish, construct if necessary, and maintain such offices and facilities as may be necessary for the transacting of its business; and, if deemed appropriate by the commission, establish, or construct if necessary, those offices and facilities on land at Lake Hopatcong State Park or on State land at other appropriate locations around or nearby the lake;

- e. contract for professional and technical assistance; and
- f. contract for and accept assistance, including but not limited to gifts, grants, or loans of funds or of property from the federal government or any agency or instrumentality thereof, from any agency or instrumentality of the State or local government, or from any other public or private source, and to comply, subject to the provisions of this act, with the terms and conditions thereof.

L.2000,c.175,s.5.

58 :4B-6 Duties, responsibilities of commission.

- 6. The duties and responsibilities of the Lake Hopatcong Commission shall be to:
 - a. conduct water quality and water quantity monitoring of Lake Hopatcong to assess conditions and changes thereto over time, and identify the causes and sources of environmental threats and impacts to Lake Hopatcong and its watershed;
 - b. assess present and projected development, land use, and land management practices and patterns, and determine the effects of those practices and patterns upon the natural, scenic, and recreational resources of Lake Hopatcong and its watershed;
 - c. develop plans, strategies, policies, ordinances, and funding mechanisms necessary to protect, preserve, restore, maintain, manage, and enhance Lake Hopatcong and its watershed, to be implemented by those entities with representatives on the commission;
 - d. coordinate with, and make recommendations to, the Department of Environmental Protection with respect to any State plan or program for watershed management, water quality, water supply, stormwater management, nonpoint source pollution, or wastewater management for the area that includes Lake Hopatcong and its watershed;
 - e. recommend appropriate State legislation and administrative action pertaining to the protection, preservation, restoration, maintenance, management, and enhancement of Lake Hopatcong and its watershed;
 - f. encourage and assist in the creation of special local improvement districts for purposes beneficial to Lake Hopatcong and its watershed, including control of stormwater runoff and nonpoint source pollution, and the preservation of significant environmental areas, including wetlands, to control stormwater runoff and nonpoint source pollution;
 - g. review and assess the potential impact upon Lake Hopatcong and its watershed of environmental permit applications pending before or received by the Department of Environmental Protection and provided to the commission pursuant to subsection b. of section 8 of this act, and provide recommendations to the Department of Environmental Protection for appropriate action thereon;

h. review and assess the potential impact upon Lake Hopatcong and its watershed of proposed amendments and revisions to municipal master plans, zoning and other ordinances governing land use and development, and applications for specific development projects, which have been provided to the commission pursuant to section 9 of this act, and provide recommendations to the appropriate municipal agency for appropriate action thereon;

i. conduct, manage, and coordinate specific activities and projects pertaining to the protection, preservation, restoration, maintenance, management, and enhancement of Lake Hopatcong and its watershed, including, but not limited to, weed control measures, dredging, installation and maintenance of boat sewage pump outs, and environmental education;

j. encourage individuals, corporations, associations, and organizations to preserve and enhance the natural scenic beauty, and protect and preserve the purity of the waters, of Lake Hopatcong and its watershed, and to engage in environmental education of the public for such purposes; and

k. establish advisory committees and enlist and accept the support and cooperation of organizations of property owners and others interested in promoting the purposes and objectives of this act.

L.2000,c.175,s.6.

58 :4B-7 Development of stormwater, nonpoint source pollution management plan.

7. The Lake Hopatcong Commission shall, in conjunction with each Lake Hopatcong municipality, develop a stormwater and nonpoint source pollution management plan for the region. The stormwater management and nonpoint source pollution plan shall be designed to reduce siltation and prevent pollution caused by stormwater runoff or nonpoint sources that would otherwise degrade the water quality of Lake Hopatcong and its tributaries, interfere with water-based recreation, or adversely affect aquatic life. The goals and purposes of the plan shall be to improve the quality of stormwater runoff entering Lake Hopatcong, identify cost effective measures to control stormwater runoff and nonpoint source pollution, and identify funding mechanisms for implementation of such measures. The commission shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), in developing the stormwater and nonpoint source pollution management plan pursuant to this section. Any plan developed pursuant to this section that may impact upon or otherwise affect the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), shall be consistent with the Highlands regional master plan adopted by the council pursuant to section 8 of that act.

L.2000,c.175,s.7; amended 2004, c.120, s.76.

58 :4B-8 Reports to commission, notices, consultations, by State agencies.

8. a. The Division of State Police in the Department of Law and Public Safety, with respect to State boating laws, the Division of Fish and Wildlife in the Department of Environmental Protection, with respect to State fish and wildlife laws, and the Department of Environmental Protection, with respect to environmental violations, shall each prepare and submit a report, on at least an annual basis, to the Lake Hopatcong Commission on the number and type of law enforcement stops made, violations for which citations, notices, or orders were issued, and crimes, offenses, and violations committed during the prior year either on Lake Hopatcong or in the immediate area of Lake Hopatcong as defined by the commission.

b. The Department of Environmental Protection shall provide to the commission notice of any permit application pending before or received by the department for an activity that may impact upon Lake Hopatcong or its watershed, and request that the commission review and evaluate the permit application to assess the potential impact of the activity proposed therein upon Lake Hopatcong and its watershed and provide the commission's recommendations for appropriate action thereon.

c. The Division of Fish and Wildlife shall consult with the commission prior to engaging in any fish stocking or fishery management activities affecting Lake Hopatcong.

L.2000,c.175,s.8.

58 :4B-9 Notice of amendments, revisions to municipal master plans.

9. Each municipality represented on the commission shall provide the commission notice of proposed amendments and revisions to municipal master plans, zoning and other ordinances governing land use and development, and applications for specific development projects, and request that the commission review and evaluate the proposed amendment, revision, or application to assess its potential impact upon Lake Hopatcong and its watershed and provide the commission's recommendations for appropriate action thereon. As part of the commission's review and evaluation, the commission shall consider the consistency of the amendment or revision with the Highlands regional master plan, adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8), if it may impact upon or otherwise affect the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), and shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), on any such matter.

L.2000,c.175,s.9; amended 2004, c.120, s.77.

58 :4B-10 Progress report by commission.

10. The Lake Hopatcong Commission shall, within 18 months after the date it organizes, prepare a progress report on its activities, and submit it, together with any recommendations for legislation, administrative action, or action by local governments, to the Governor, the Legislature, and the Senate Environment Committee, the Assembly Environment Committee, and the Assembly Agriculture and Natural Resources Committee or their respective successors.

L.2000,c.175,s.10.

58 :4B-11 Lake Hopatcong Regional Planning Board abolished.

11. a. The Lake Hopatcong Regional Planning Board is abolished.
- b. All files, papers, and records of the Lake Hopatcong Regional Planning Board are transferred to the Lake Hopatcong Commission.
- c. All State and federal appropriations, grants and other moneys available and to become available to the Lake Hopatcong Regional Planning Board are transferred to the Lake Hopatcong Commission, and shall be available for the objects and purposes for which appropriated, subject to any terms, restrictions, limitations or other requirements imposed by State or federal law.

L.2000,c.175,s.11.

58 :4B-12 Allocation, expenditure of funds.

12. Notwithstanding any provision of law, rule, or regulation to the contrary, any State or federal funds appropriated, allocated, or designated by law, rule, regulation, or otherwise for the protection, preservation, restoration, maintenance, management, or enhancement of Lake Hopatcong shall be allocated to the Lake Hopatcong Commission for expenditure in furtherance of the purposes and objectives of this act. This section shall not apply to State or federal funds appropriated, allocated, or designated for Lake Hopatcong State Park.

L.2000,c.175,s.12.

58 :4B-13 Appropriations; annual budget requests.

13. There is appropriated from the General Fund to the Lake Hopatcong Commission the sum of \$3,000,000 to pay for startup costs and to carry out the purposes and objectives of this act in the first year after the date of enactment of this act, and any unspent monies after that first year shall be carried forward for use by the commission in future years. Each year after the first year, the commission shall submit its annual budget request for funds sufficient to carry out the purposes and objectives of this act as part of the annual budget request submitted by the Department of Environmental Protection to the Division of Budget and Accounting in the Department of the Treasury, which shall include it in the budget request submitted annually by the Governor for appropriation by the Legislature.

L.2000,c.175,s.13.