

AN ACT to amend the parks, recreation and historic preservation law, the highway law and the public officers law, in relation to establishing the Niagara river greenway commission and providing for the membership and powers and duties thereof

Became a law September 21, 2004, with the approval of the Governor. Passed on message of necessity pursuant to Article III, section 14 of the Constitution by a majority vote, three-fifths being present.

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

Section 1. The parks, recreation and historic preservation law is amended by adding a new article 39 to read as follows:

ARTICLE 39

NIAGARA RIVER GREENWAY COMMISSION

Section 39.01 Legislative findings and intent.

39.03 Definitions.

39.05 Niagara river greenway commission.

39.07 Commission purpose.

39.09 Powers and duties of the commission.

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39.15 Appropriations by municipalities.

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§ 39.01 Legislative findings and intent. The Niagara River corridor is of unique ecological, cultural and economic importance to western New York connecting Lake Erie and Lake Ontario communities and ecologies. This corridor has played an important role in the history of the Niagara Frontier and it can and should continue to define the western New York experience into the twenty-first century. Niagara Falls is a National Natural Landmark under state stewardship for more than a century that draws more than fourteen million visitors from throughout the world to the region each year. The cities of Niagara Falls and Buffalo are at the heart of the river corridor where much of their waterfront has in the past been dedicated to industrial uses. During the last few decades those uses have begun to wane and there is now an opportunity to redefine the waterfront in a way that creates a balance of economic interests with a welcoming waterfront environment. For more than a century there have been those who have expressed a vision for the Niagara river corridor of a necklace of open space and conservation areas spread along the river. With many areas no longer being used for heavy industry it is now time to complete that vision. Many areas have established parks along the corridor including eleven state parks and fourteen local parks. New York state's only National Scenic Byway, the Seaway Trail, runs through the entire corridor. It is the intent of the legislature to establish the Niagara river greenway commission as a cooperative

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

regional organization established to work with participating state agencies, municipalities, organizations and residents in order to implement or cause to be implemented a linear system of parks and conservation areas that will, consistent with the purpose of the commission as set forth in this article, redefine the Niagara riverfront by increasing landside access to the river; creating complementary access to the greenway from the river; augmenting economic revitalization efforts, and celebrating the region's industrial heritage.

§ 39.03 Definitions. Whenever used in this article, unless a different meaning clearly appears from the context, the terms listed below shall have the following meanings:

1. "Niagara river greenway" or "greenway" shall mean a linear system of state and local parks and conservation areas linked by a network of multi use trails within the greenway area established by an approved plan of the commission as provided for in this article.

2. "Niagara river greenway commission" or "commission" shall mean the Niagara river greenway commission created pursuant to this article.

3. "Municipality" means a county, city, town, village or local public benefit corporation located adjacent to the Niagara river.

4. "Chief elected official" shall mean the chief executive officer of a municipality, or if there is none, any other officer possessing similar powers and duties.

5. "Conservation area or areas" shall mean lands which are of ecological or recreational importance but shall not include state or local parks. Such lands may include but are not limited to wetlands, preserves, trails, riverfront walks and such private lands as may be dedicated by the land owner for the purposes of the greenway.

§ 39.05 Niagara river greenway commission. 1. The Niagara river greenway commission is hereby established to be a body corporate and politic constituting a public benefit corporation. The commission shall consist of up to fourteen voting members. The governor shall appoint eight voting members as follows: four voting members shall be appointed by the governor solely in his discretion; two voting members shall be appointed following the recommendation of the temporary president of the senate; and two voting members shall be appointed following the recommendation of the speaker of the assembly. One appointee recommended by the temporary president of the senate shall be a local elected official of a municipality adjacent to the Niagara river and shall serve as the chairperson of the local government advisory committee created pursuant to this article. One appointee recommended by the speaker of the assembly shall represent local interests and shall serve as the chairperson of the citizens' advisory committee created pursuant to this article. All appointments shall be residents of a municipality adjacent to the Niagara river. In addition, six voting members shall serve ex officio: the secretary of state, the commissioners of parks, recreation and historic preservation, environmental conservation, transportation, and economic development, and the chairperson of the power authority of the state of New York, or their designees. The governor shall designate a chairperson for the commission.

2. The term of office for appointees shall be four years. Members may serve on the commission until they resign or are replaced. In the event of a vacancy occurring other than by the expiration of a member's term, such vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

3. A majority of the members of the commission shall constitute a quorum.

4. The members of the commission shall receive no compensation for their services, but shall be entitled to reimbursement for their expenses actually and necessarily incurred in the performance of their duties.

5. Notwithstanding any inconsistent provisions of law, general, special, or local, no officer or employee of the state or any civil division thereof, shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of membership on the commission.

6. At the initial meeting, the commission shall elect officers, who shall serve at the pleasure of the commission.

7. The commission shall meet at least once every two months until approval of the plan by the commissioner as provided pursuant to section 39.07 of this article, and at least once every quarter thereafter.

8. Every state agency and public corporation having jurisdiction of land within municipalities adjacent to the Niagara river shall, to the fullest extent practicable, cooperate and assist the commission in carrying out the provisions of this article.

9. Every local agency with programs relating to the greenway may offer assistance to the commission in carrying out the provisions of this article.

§ 39.07 Commission purpose. The purpose of the commission is to undertake all necessary actions to facilitate the creation of a Niagara river greenway. The commission shall develop a plan and generic environmental impact statement for the creation of the greenway designed to enhance waterfront access, complement economic revitalization of the communities along the river, and ensure the long-term maintenance of the greenway. The plan shall:

1. Recommend the specific boundaries of the greenway within Erie and Niagara counties;

2. Develop a specific vision for the greenway that focuses on linking parks and conservation areas, creating a multi-use venue for the people of the region, and enhancing the tourism potential of the region;

3. Include an inventory of existing park and other lands under the jurisdiction of state agencies, public corporations and municipalities which may contribute to the purposes of a greenway;

4. Identify such other lands that through acquisition, dedication or redevelopment may contribute to the purposes of a greenway;

5. Identify existing plans and plans under development that can contribute to the purposes of the greenway;

6. Conduct economic analyses of the costs to construct, maintain and market the greenway as part of a strategy for implementation;

7. Consider how the region's industrial heritage can be celebrated and reflected along the greenway;

8. Recommend how the greenway could be linked to upland and interior communities in order to promote linkages to the river;

9. Consider how existing and proposed economic development activities in proximity to the greenway can support and complement the greenway;

10. Recommend cooperative efforts with the province of Ontario and the nation of Canada in furtherance of the objectives of this article;

11. Identify local, state, federal and private sources of funding that could support the purposes of the greenway;

12. Evaluate local, state and federal laws and regulations relating to the purposes of the greenway;

13. Identify ways for the commission to work cooperatively with municipal, state and federal agencies, public and private corporations, not-

for-profit organizations, and private property owners and interests to advance and complement the purposes of the greenway;

14. Recommend how portions of the greenway would be managed including a plan for on-going operation and maintenance that would make the greenway self-supporting; and

15. Include any other information, data and recommendations which the commission determines is necessary to support the purposes of the plan.

Such draft plan shall be submitted to the commissioner of parks, recreation and historic preservation within two years of the effective date of this article. The commissioner may approve the plan, may return the plan to the commission with recommendations for approval, or may reject such plan. Prior to submission of the draft plan to the commissioner, the commission shall hold at least one public hearing on the draft plan in each county for which the plan is applicable. The local legislative body of each city, town or village within the boundaries designated by the draft plan must approve the plan following the public hearing or hearings and before it is submitted to the commissioner. A copy of the approved plan shall be provided to the governor, the temporary president of the senate and the speaker of the assembly.

§ 39.09 Powers and duties of the commission. The commission shall have the following powers:

1. To sue and be sued;
2. To have a seal and alter the same at its pleasure;
3. To acquire, hold and dispose of personal property for its corporate purposes;
4. To make by-laws for the management and regulation of its affairs;
5. To appoint an executive officer, officers, agents and employees, to prescribe their qualifications and to fix their compensation and to pay the same out of funds of the commission;
6. To enter into contracts and leases, and to execute all instruments necessary or convenient with any person, firm, partnership or corporation, either public or private;
7. To accept gifts, grants, loans, or contributions from, and enter into contracts or other transactions with, the United States and the state or any commission of either of them, any municipality, any public or private corporation, individual or other legal entity, and to use any such gifts, grants, loans or contributions to advance any of its corporate purposes;
8. To designate the depositories of its money;
9. To establish and re-establish its fiscal year;
10. To prepare an annual report on the conduct of its activities which shall include a financial statement for that year and a work plan for the next year which may include an estimate of the resources required to complete the commission's activities to be sent to the governor, the temporary president of the senate, the speaker of the assembly and the chief elected official of each municipality adjacent to the Niagara river;
11. To contract with the state as an independent body corporate;
12. To organize and meet with a committee of planners for municipalities adjacent to the Niagara river regarding regional projects and the provision of planning services;
13. To designate districts and routes for planning and project purposes;
14. To create advisory committees to advise on matters of interest; provided, however, there shall be created at a minimum a local government advisory committee consisting of the chief elected official of each

municipality adjacent to the Niagara river, or their designee, and a citizens' advisory committee consisting of representatives of local civic, commercial, educational, recreational, and conservation organizations; and

15. To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this article; provided, however, that no power is provided to the commission to operate any portion of the greenway, to impose operating standards upon any component of the system, or to take property by eminent domain.

§ 39.11 Designation. The Niagara river greenway is hereby designated to include those lands of state agencies, public corporations, and municipalities adjacent to the Niagara river as identified in the approved plan of the commission.

§ 39.13 Cooperation with municipalities, state agencies and public corporations. 1. The commission is a cooperative regional organization established to implement a greenway based upon the mutual assent and participation of each municipality, state agency and public corporation holding lands under its jurisdiction adjacent to the Niagara river. The activities of the commission shall be coordinated with the local planning and cultural and park activities of each municipality adjacent to the Niagara river.

2. Each municipality, state agency or public corporation may provide the commission with the services of its agents, employees and facilities without charge to the commission. Persons serving as officers or employees of the commission may be employees of a municipality and the commission, and the commission may pay the municipality an agreed portion of the compensation or costs of such officers or employees.

3. Nothing contained in this article shall be deemed to affect, impair or supersede the provisions of any city charter, local law, rule or other local requirements and procedures heretofore or hereafter adopted, including, but not limited to, any such provisions relating to the zoning and use of land.

§ 39.15 Appropriations by municipalities. To effectuate the purposes of this article, the local legislative bodies of any municipality may appropriate and transfer to the commission moneys to be expended by the commission to carry out its functions pursuant to this article.

§ 39.17 State purpose. The development of a Niagara greenway plan is considered a state purpose. Notwithstanding any law to the contrary, any state agency or public corporation within amounts appropriated or available therefore may offer assistance to the commission in support of its corporate purpose through the lending of staff or other resources to accomplish the purposes of this article.

§ 39.19 State actions. Each state agency shall review its actions within the greenway in relation to the consistency of such actions with the approved Niagara river greenway plan.

§ 2. Subdivision 1 of section 349-cc of the highway law, as amended by section 6 of part Z of chapter 383 of the laws of 2001, is amended to read as follows:

1. An advisory board of state agencies with responsibilities related to the designation and management of scenic byways and not-for-profit organizations related to the promotion and development of scenic byways is hereby formed to advise and assist the department in the operation of its scenic byways program. The advisory board shall consist of the secretary of state, and the commissioners of the department of agriculture and markets, the department of economic development, and the department of environmental conservation, and the office of parks,

recreation and historic preservation or their duly designated representatives. The commissioner shall appoint as members of the advisory board the chief executive officer, or his or her duly authorized representative, of not-for-profit organizations related to the promotion and development of a scenic byway designated pursuant to this article, three representatives of organizations concerned with the preservation of scenic qualities, the motoring public and tourism development and members or representatives of the upstate New York tourism council and of the downstate New York tourism council. The commissioner, or his or her duly designated representative, shall serve as chair. Members of the advisory board shall receive no pay, but shall be eligible to receive actual and necessary expenses from their respective agencies, or for the expenses of representatives of organizations related to the promotion and development of a scenic byway, the preservation of scenic qualities, the motoring public and tourism development, from the department. The advisory board shall consult with the Adirondack Park Agency regarding scenic byways within the Adirondack Park. The advisory board shall also consult with the Hudson River Valley Communities Council regarding scenic byways within the Hudson River Valley Greenway as defined in article forty-four of the environmental conservation law. **The advisory board shall consult with the Niagara River Greenway Commission regarding scenic byways within the Niagara River Greenway as defined in article thirty-nine of the parks, recreation and historic preservation law.** The advisory board shall consult with the upstate New York tourism council regarding scenic byways in the upstate New York region, and with the downstate New York tourism council regarding scenic byways in the downstate New York region.

§ 3. Subdivision 1 of section 17 of the public officers law is amended by adding a new paragraph (s) to read as follows:

(s) For the purposes of this section, the term "employee" shall include the members of the board, officers and employees of the Niagara river greenway commission.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.

The Legislature of the STATE OF NEW YORK **ss:**

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO
Temporary President of the Senate

SHELDON SILVER
Speaker of the Assembly