

The Hudson River Valley Greenway Act of 1991

(Revised as of August 2008)

Unofficial Copy

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STATE OF NEW YORK

Hudson River Valley Greenway Act

Signed by Governor Mario M. Cuomo

December 31, 1991

In Assembly (8581-B) introduced by **COMMITTEE ON RULES** - - (at request of M. of A. Hinchey, Bennett, Canestrari, Colman, Pataki, Grannis, Behan, Brennan, Catapano, Conners, Dearie, Gaffney, Glick, Griffith, Hoyt, Jacobs, Koppell, Lasher, Leibell, Lopez, Marshall, Mayersohn, Murtaugh, Parola, Ramirez, Sanders, Seminerio, Straniere, E. C. Sullivan, Sweeney, Tokasz, Weisenberg, Young) - - read once and referred to the Committee on Environmental Conservation - - reported and referred to the Committee on Ways and Means - - committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee - - reported and referred to the Committee on Rules - - amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading.

In Senate (6172-A) introduced by Senators Saland, Goodhue, Bruno, Larkin, Leichter, Spano, Velella - - read twice and ordered printed, and when printed to be committed to the Committee on Rules - - committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee.

§ 44-0101. Legislative intent

The Hudson river valley region possesses unique scenic beauty, natural and cultural resources of state and national significance. Efforts including the creation of a state management program for the Hudson estuarine district and fishery, establishment of the heritage task force for the Hudson river valley, establishment of five state designated urban cultural parks in the valley and the preparation of numerous local government waterfront revitalization programs in the valley have been undertaken in recent years to protect and enhance the special places of scenic, cultural and ecological importance. It is the intention of the legislature that these efforts be continued and strengthened under the cooperative program of the Hudson river valley greenway in order to continue and advance the state's commitment to the preservation, enhancement and development of the world-renowned scenic, natural, historic, cultural and recreational resources of the Hudson river valley while continuing to emphasize economic development activities and remaining consistent with the tradition of municipal home rule.

(Added L.1991, c. 748, § 5.)

HISTORICAL AND STATUTORY NOTES

Effective Date. Section effective Dec.31, 1991, pursuant to L.1991, c. 748, §18; as amended L.1991, c. 749, § 19;L.1992, c. 388, § 6.

Derivation. § Former § 44-0101, added L.1987, c. 520, § 1; repealed L.1991, c.748, § 3

Short Title of L.1991, c. 748. L.1991,c. 748, § 2, eff. Dec. 31, 1991, provided: "This act [L.1991, c. 748] shall be known and may be cited as the'Hudson river valley greenway act'."

Legislative Findings and Declaration of L.1991, c. 748. L.1991, c. 748, § 1; amended L.1991, c. 749,§ 1; L.1992, c. 388, § 5, eff. July 17, 1992, provided:

"The legislature created the governor's council on the Hudson river valley greenway (hereafter referred to as the 'council') to undertake a study for a Hudson river valley greenway as a means to protect and foster the beneficial use of the unique qualities of the valley and has received a final report from the council.

"The legislature hereby finds that the council has undertaken an aggressively participatory process in formulating its report including numerous public hearings and consultations with governmental and civic leaders throughout the valley. The returns from this process revealed a strong pride and commitment to protecting the valley's special scenic, natural,

cultural and historic heritage and a belief that protection can best be achieved by a cooperative planning approach which fosters the ability to achieve appropriate economic development consistent with conservation objectives.

"The legislature further finds that the heritage task force for the Hudson river valley as reestablished to be the greenway heritage conservancy for the Hudson river valley will continue its mission to preserve, enhance and restore natural and cultural resources and encourage compatible economic development within the greenway and to address issues that regulation alone cannot resolve.

"The conservancy will continue to seek creative solutions for difficult land and water related issues within the greenway and to provide technical assistance thereon. It will work with landowners, industry, citizen groups, non-profit organizations, individual and organized sportsmen interests dedicated to fish and wildlife purposes and government agencies to open new paths to the river, and other potential recreational areas, protect natural resources, preserve open space and farmland, plan and manage scenic roads, restore urban waterfronts, revitalize beneficial water-dependent industries, foster development of tourism destination facilities and waterborne transportation services connecting them, and promote adaptive reuse of historic structures and the four goals of the state urban cultural park program in traditional urban areas.

"The legislature further finds that the cooperative planning approach proposed by the council offers both opportunities and challenges. Under this approach a framework is established for state agencies with sometimes contradictory missions, numerous local governments, civic organizations and private interests to cooperate in developing a regional strategy for natural and cultural resource protection, economic development including, but not limited to, the fostering of the

agriculture and tourism industries and strengthening existing urban areas, public access and heritage education. Under the heading of a Hudson River valley greenway the council has recommended a unique array and series of actions to link both the physical resources and the citizenry of the valley.

"The legislature further finds that this cooperative planning approach is in the public interest as a necessary and appropriate step to protect the irreplaceable resources of the valley for the benefit of this and future generations.

"The legislature further finds that the council with its primary responsibilities for the greenway criteria and planning and the conservancy with its primary responsibilities for designation and development of the greenway trail and supporting and assisting the implementation of the greenway compact with the public and private sector are necessary and appropriate independent entities intended to work cooperatively and together to achieve the overall purposes and programs of the Hudson river valley greenway act [L.1991,c.748]."

This statute established a Hudson River Valley Greenway Communities Council-- originally named the Heritage Task Force--to safeguard the invaluable historic, scenic and environmental resources of New York's Hudson Valley. It is companion legislation to § 11- 0306, creating a State management program for the Hudson River estuarine district and its fishery. See the Practice Commentary thereto.

The article codifies establishment of the Heritage Task Force for the Hudson Valley, which had earlier been created by the Commissioner of Environmental Conservation. The Task Force--now the Council--is now explicitly authorized to intervene in proceedings before the Department and other State agencies (§ 44-0107[12]), to identify scenic areas appropriate to be designated by the Department under § 49-0103 (§ 44-0107[14]), and to help develop and implement a comprehensive program to protect the beauty of the region in

scenic highway corridors (§ 44-0107[20]).

The Hudson, aptly described by the great German traveler Baedeker as "finer than the Rhine," see Scenic Hudson Preservation Conference v. Federal Power Commission, 354 F.2d 608, 613 (2d Cir.1965), certiorari denied 86S.Ct. 1462, 384 U.S. 941, 16 L.Ed.2d540, is a splendid river valley New Yorkers tend to take for granted. It is replete with history and deserves protection from urban sprawl and other environmental affronts--the clear intent of this statute.

Important amendments to this article in 1991 considerably strengthened the powers of the Greenway Council. The Council, a permanent entity with a chair appointed by the Governor, as the Governor's Message on this legislation notes, is empowered to assist the Hudson Valley's communities in their plans for development. The amendments also create the Greenway Heritage Conservancy, with power (§ 44-0113) to acquire property and easements for riverside parks and, specifically, a greenway trail along both the Hudson's shorelines from Westchester and Rockland counties to north of Albany (§44-0121). See the Governor's Message, McK. 1991 Session Laws, pp. 2234-35. As the Governor notes (id.), the Hudson River "Trail will include existing scenic highways, urban cultural park trails and railroad beds together with property voluntarily included by localities and individuals[,] to provide access to all New Yorkers to the magnificence of the Hudson River Valley."

In addition, the statute (§ 44-0119) enjoins the Council to "guide and support ...cooperative planning ...to establish a voluntary regional compact" among the Hudson Valley's localities to protect the valley's

irreplaceable natural and cultural resources and promote regional planning, which localities are encouraged to adopt. Grants are to be made available to communities for historic preservation and public uses for waterfront sites (§44-0119[9]).

Finally, as noted, § 44-0121 authorizes the Conservancy to develop the Hudson River Greenway Trail by June 1, 2005--a capstone to what the Governor's message aptly describes as "historic legislation." In 1994, the Legislature repealed the Hudson River Valley Greenways fee, an 0.2% tax on hotels in the counties comprising the Greenway (Tax Law § 1104-a, adopted by L.1991, c. 748, § 16 and amended by L.1991, c. 749, § 18). See L. 1994, c. 170, § 172.

The Act was again amended in 1995 to extend the definitions of the Hudson River Valley and "riverside" to include the portions of New York City bordering the Hudson (§ 44-0103 [1][11]). This gives the Greenway Council authority from north of Albany to the southern tip of Manhattan. Membership of the Greenway Council is likewise expanded to include two members from New York City (§ 44- 0105[1]). The Conservancy, within the City, is explicitly limited to developing trails--not landfills, piers or commercial or residential structures (§ 44- 0113 [34]). This wording was added to allay concerns that buildings might be placed on or between the piers on Manhattan's west side, the scene of great controversy stemming from the state's ill-fated attempt to build the Westway during the 1970s. See Sierra Club v. U.S. Army Corps of Engineers, 701 F.2d 1011 (2d Cir.1983) (upholding annulment of permit to build highway on landfill)

§ 44-0103. Definitions

As used in this article, the following words and terms shall have the following meanings unless the context indicates another or different meaning or intent:

1. [Eff. Until Jan. 1, 2009, pursuant to L.2006, c. 271, § 3. See, also, subd. 1 below.] "Hudson river valley" shall mean the areas of Bronx and New York counties designated pursuant to section 44-0109 of this article, the counties of Westchester, Rockland, Putnam, Orange, Dutchess, Ulster, Columbia, Greene, Albany, Rensselaer and Saratoga, excluding any area of Greene county within the Catskill park, as defined in subdivision two of section 9-0101 of this chapter.

1. [Eff. Jan. 1, 2009. See, also, subd. 1 above.] "Hudson river valley" shall mean the areas of Bronx and New York counties designated pursuant to section 44-0109 of this article, the counties of Westchester, Rockland, Putnam, Orange, Dutchess, Ulster, Columbia, Greene, Albany, Rensselaer and Saratoga, excluding any area of Greene and Ulster counties within the Catskill park, as defined in subdivision two of section 9-0101 of this chapter.

2. "Compact" or "greenway compact" shall mean the overall greenway plan adopted by the council pursuant to section 44-0119 of this article.

3. "Conservancy" or "greenway heritage conservancy" shall mean the greenway heritage conservancy for the Hudson river valley, a public benefit corporation, reestablished pursuant to section 44-0111 of this article.

4. "Council" shall mean the Hudson river valley greenway communities council reenacted pursuant to section 44-0105 of this article.

5. "Countryside" shall mean the cities, towns and villages within the greenway which do not border the Hudson river.

6. "Greenway criteria" or "criteria" shall mean natural and cultural resource protection, regional planning, economic development, public access and heritage environmental education identified as the basis for attaining the goal of a Hudson river valley greenway.

7. "Greenway" shall mean the area designated as the Hudson river valley greenway pursuant to section 44-0109 of this article.

8. "Greenway districts" or "districts" shall mean areas made of neighboring communities within the greenway and designated by the council for the purpose of regional planning.

9. "Greenway trail" or "trail" means the trail established pursuant to section 44-0121 of this article.

10. "Participating community" shall mean a county, city, town or village which has adopted the regional plan for its district pursuant to section 44-0119 of this article.

11. "Riverside" shall mean the cities, towns and villages within the greenway which border the Hudson river and shall include the city of New York, with respect to areas of Bronx and New York counties designated pursuant to section 44-0109 of this article.

12. "Chief elected official of a county" shall mean the county executive, or if there is none, the chairman of the board of supervisors, or if there is neither, any other officers possessing similar powers and duties.

13. "Fund" shall mean the Hudson river valley greenway fund established in section ninety-seven-n of the state finance law.

(Added L.1987, c. 520, § 1; amended L.1991, c. 748, §6; L.1991, c. 749, §§ 2, 3; L.1995, c. 225, § 1; L.2006, c. 271, §, eff. July 26, 2006.

<Laws 1972, Chapter 664>

HISTORICAL AND STATUTORY NOTES

L.206m c. 271 legislation
Subd. 1. L.2006, c. 271, § 1, substituted "Greene county" for "Greene and Ulster counties". L.2006, c.271, § 3, provides: "This act [amending Environmental Conservation Law §§ 44-0103 and 44-0109] shall take effect immediately, and shall expire and be deemed repealed on January 1, 2009."
1995 Amendments. Subd. 1. L.1995, c. 225, § 1, inserted reference to areas of Bronx and New York Counties under §44-0109. For eff. date, see note below.

Subd. 11. L.1995, c. 225, § 1, inserted provision relating to areas of Bronx and New York Counties under § 44- 0109. For eff. date, see note below.

1991 Amendments. Subd. 1. L.1991, c. 749, § 2, eff. Dec. 31, 1991, inserted reference to § 9-0101(2).

L.1991, c. 748, § 6, eff. Dec. 31, 1991, included Waterford town and village and excluded portions of Greene and Ulster counties within the Catskill park.

Subd. 2. L.1991, c. 748, § 6, eff. Dec. 31, 1991, added subd. 2 and

omitted former subd. 2, which related to the meaning of the terms "Heritage task force" and "task force".

Subds. 3 to 12. L.1991, c. 748, § 6, eff. Dec. 31, 1991, added subds. 3 to 12. Subd. 13. L.1991, c. 749, § 3, eff. Dec. 31, 1991, added subd. 13.

Effective Date of Amendment by L.1995, c. 225; Expiration Unaffected. L.1995, c. 225, § 13, provided: "This act [amending this section and ECL 44-0105, 44- 0107, 44-0109, 44-0113, 44- 0119, 44-0121, Navigation Law § 46-a and enacting provision set out as this note] shall take effect immediately [July 26, 1995]; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the extent and on the same date as the case may be as otherwise provided by law."

Effective Date. Section effective Aug. 29, 1987, pursuant to L.1987, c. 520, §3

§ 44-0105. Hudson river valley greenway communities council

1. The governor's council on the Hudson River valley is hereby recreated within the executive department to be the Hudson River valley greenway communities council. The council shall consist of a total of twenty-seven voting members. The governor shall appoint two members, one of whom shall be the chairperson. The legislative body of each town, city or village other than the city of New York which is adjacent to the Hudson River may forward the names of a recommended council appointee to the chief elected official of the county in which it is incorporated. One voting member shall be appointed from among the names forwarded by the towns, cities and villages by the chief elected official of each of the ten counties of Westchester, Putnam, Dutchess, Columbia, Rensselaer, Albany, Greene, Ulster, Orange and Rockland, and two voting members shall be appointed by the mayor of the city of New York after consultation with the presidents of the boroughs of the Bronx and Manhattan. Two voting members shall be appointed by the temporary president of the senate, one of whom must reside in the countryside and two voting members shall be appointed by the speaker of the assembly, one of whom must reside in the countryside. One voting member shall be appointed by the minority leader of the senate and one voting member shall be appointed by the minority leader of the assembly. Such appointed legislative representatives may designate a duly authorized representative to attend council meetings and to act in their place. The following seven members shall be ex officio members: the commissioner, the commissioner of parks, recreation and historic preservation, the secretary of state and the commissioners of general services, transportation, agriculture and markets and economic development or their designated representatives who, to the extent practicable, shall be residents of the Hudson valley. All persons responsible for appointing members of the council shall be mindful of the importance of assuring adequate representation on the council of the interests of various municipal entities, conservationists, business owners and operators, persons engaged in agricultural pursuits, minorities and educators. Notwithstanding the foregoing provisions of this subdivision, in the event that there is no vacancy in the membership of the council and there is no member of the council who is a member of an organized sporting association, club or society, the membership of the council shall be increased to twenty-eight voting members. The twenty-eighth voting member shall be a

representative of the organized sporting community and shall be selected from the population of the Hudson river valley by a vote of the council. In the event of a vacancy occurring in the office of any member, such vacancy shall be filled in the same manner as the original appointment. The members of the council shall serve without compensation, except that members shall be allowed their necessary and actual expenses incurred in the performance of their duties under this article. Any person other than an ex officio member who serves as a member of the council, shall not serve as a member of the conservancy.

2. The council shall meet at least once every two months and shall encourage attendance at such meetings of representatives from local governments in the greenway and other interested parties. Copies of the minutes of each meeting with the date of the next scheduled meeting shall be made available to interested parties at their request.

3. Every state agency and public corporation having jurisdiction of land or water within the greenway or of programs relating to the purposes and goals of this article shall, to the fullest extent practicable, offer full cooperation and assistance to the council in carrying out the provisions of this article.

4. Every local agency with programs relating to the greenway may offer assistance to the council in carrying out the provisions of this article. (Added L. 1987, c.520, § 1; amended L. 1991, c. 748, § 61 K, 1991, c. 749, § 4.)

HISTORICAL AND STATUTORY NOTES

1996 Amendments. Subd. 1. L.1996, c. 284, § 1, eff. August 9, 1996, directed that if there is no vacancy in council membership and no council member is a member of an organized sporting group, membership of the council shall be increased to 28 by adding a representative of the organized sporting community.

1995 Amendments. Subd. 1. L.1995, c. 225, § 2, added 2 voting members appointed by mayor of New York City after consultation with Bronx and Manhattan borough presidents, and made conforming correction to reference to recommendations by legislative bodies. For eff. date, see note below.

1991 Amendments. Subd. 1. L.1991, c.

749, § 4, eff. Dec. 31, 1991, increased voting membership to 25 from 24 and governor's appointments to 2, one being chairperson, from chairperson alone, and permitted chairperson to vote in all matters rather than only to break tie.

Subd. 3. L.1991, c. 749, § 4, eff. Dec. 31, 1991, inserted "to the fullest extent practicable".

Subd. 5. L.1991, c. 749, § 4, eff. Dec. 31, 1991, omitted subd. 5 which related to the acceptance of grants or gifts by the council.

Effective Date of Amendment by L.1995, c. 225; Expiration Unaffected. Amendment by L.1995, c. 225, effective July 26, 1995, provided that application,

qualification, expiration or repeal of any provision of law amended by any section of this act to be applied or qualified or to expire or be deemed repealed in the same manner, to the extent and on the same date as the case may be as otherwise provided by law, pursuant to L.1995, c. 225, § 13, set out as a note under ECL 44- 0103.

Effective Date. Section effective Dec. 31, 1991, pursuant to L.1991, c. 748, s 18; as amended L.1991, c. 749, § 19; L.1992, c. 388, § 6.

Derivation. Former § 44-0105, added L.1987, c. 520, § 1; repealed L.1991, c. 748, § 3.

§ 44-0107. Powers and duties of the council

The council shall have the power:

1. To make by-laws for the management and regulation of its affairs.
2. To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this article.
3. To appoint an executive officer, officers, agents and employees, and prescribe their duties and qualifications and fix their compensation.
4. To utilize, to the extent feasible, the staff and facilities of existing state agencies, pursuant to an allocation to be made by the state division of the budget.
5. To contract for professional and technical assistance and advice.
6. To contract for and to accept assistance, including but not limited to gifts, grants, or loans of funds or personal property from the federal government or any agency or instrumentality thereof, or from any agency or instrumentality of the state, or from any other public or private source and to comply, subject to the provisions of this article, with the terms and conditions thereof. Notwithstanding the provision of section eleven of the state finance law, the council may accept gifts, grants, devises and bequests, whether conditional or unconditional providing that any gifts, grants, devises and bequests be consistent with greenway criteria.
7. To conduct scientific, environmental, economic, tourism and cultural studies within the valley that are germane to the greenway criteria.
8. To annually review and update the recommendations of the governor's council on the Hudson river valley and prepare objectives to advance each of the five greenway criteria:

natural and cultural resources protection, regional planning, economic development including agriculture and urban redevelopment, public access and heritage education.

9. To review and comment as an interested agency during the environmental review process pursuant to article eight of this chapter on proposed actions within the greenway, and upon the filing of a draft environmental impact statement for any such action to require the lead agency to conduct a hearing under article eight of this chapter.

10. To review and comment on capital and long range plans of state agencies as they affect the criteria, objectives and plans of the greenway.

11. To review and comment on actions pursuant to section seventy-five of the public lands law within the greenway for their consistency with the public's right and interest in land under water for the purposes of navigation and commerce, fishing, bathing, natural resource conservation, recreation and access to the waters and lands underwater of the state.

12. To review and comment upon the annual work plan submitted by the conservancy.

13. To jointly designate and develop in agreement with the conservancy model greenway projects to demonstrate the implementation of greenway planning and make contracts for assistance to municipalities and nonprofit entities within the greenway therefor.

14. To designate multi-county planning districts or subregions based on environmental, economic and social factors linking counties, cities, towns and villages and the recommendations of municipal officials from such counties and their political subdivisions for the purpose of development of the greenway compact, provided that the areas of Bronx and New York counties designated pursuant to section 44-0109 of this article shall be deemed to be a multi-county planning district and region and shall not be linked with any other county, city, town or village in a multi-county planning district or region.

15. To make recommendations on expanding the geographical area of the greenway to include Washington county and the remainder of Saratoga county.

16. To encourage individuals, corporations, associations and public entities to protect and preserve the unique resources of the greenway and make grants to municipalities and nonprofit entities within the greenway therefor.

17. To make available or to cause to make available dispute resolution services for conflicts over land use regulation

between units of government and/or between interests including development, conservation and neighborhood interests upon request of all parties in dispute.

18. To organize and meet with a committee of county planners within the greenway regarding regional projects and the provision of planning services.

19. To prepare an annual report on the conduct of its activities which shall include a recommended budget for the next year to be sent to the governor and the legislature.

20. To exercise and perform such other powers and duties as shall have been or may be from time to time conferred by law.

21. To utilize the staff and facilities of existing local agencies to the extent that local agencies make them available.

22. To take any actions necessary to carry out the functions, powers and duties imposed by this article.

23. To purchase the maximum insurance coverage practicable and affordable from revenues in the fund, to be effective upon the adoption by a community of a regional plan, from any duly authorized insurer in this state, against any liability of any participating community or its agents that may result from its acquisition of land, consistent with its regional plan, or the adoption or implementation of any land use control including, but not limited to, a zoning law or ordinance; provided, however, such insurance shall not apply to any such claim that results from the intentional wrongdoing, recklessness, gross negligence or an unlawful discriminatory practice as provided in subdivisions two, two-a, three-b, four, paragraphs (a) and (b) of subdivision five and subdivisions six, seven, fourteen and eighteen of section two hundred ninety-six of the executive law and 42 U.S.C § 1981, § 1983 by such community or its agents. Except with respect to New York city, the council shall purchase such insurance and begin coverage upon the adoption by a community of a regional plan, and maintain such insurance for all participating communities. Nothing herein shall require the council to purchase or provide coverage for New York city.

(Added L.1991, c. 748, § 10; amended L.1991, c. 749, § 9, 10; L.1992, c. 388, § 2; L.1995, c. 225, § 3, 12.)

HISTORICAL AND STATUTORY NOTES

1995 Amendments. Subd. 14. L.1995, c.225, § 3, inserted provisions referring to Bronx and New York

County areas. For eff. date, see note below.

Subd. 15. L.1995, c. 225, § 3, deleted reference to Bronx and Manhattan counties. For eff. date, see note below.

Subd. 23. L.1995, c. 225, § 12, inserted and added exceptions regarding New York City. For eff. date, see note below.

1992 Amendments. Subd. 23. L.1992, c. 388, § 2, eff. July 17, 1992, extended authority to purchase insurance against liability to include agents of any participating community; and inserted provisions making insurance inapplicable to an unlawful discriminatory practice as provided in subds. 2, 2-a, 3-b, 4, 5(a) and (b), 6, 7, 14 and 18 of Executive Law § 296 and 42 U.S.C. § 1981, 1983.

1991 Amendments. Subd. 7. L.1991, c. 749, § 9, eff. Dec. 31, 1991, authorized tourism studies.

Subd. 9. L.1991, c. 749, § 9, eff. Dec. 31, 1991, specified that review and comment be as interested agency and directed, upon the filing of a draft environmental impact statement, that the lead agency conduct a hearing under article eight of this chapter.

Subd. 11. L.1991, c. 749, § 9, eff. Dec. 31, 1991, made technical changes. Subd. 13. L.1991, c. 749, § 9, eff. Dec. 31, 1991, substituted

"greenway planning and make contracts" for "greenway planning contracts".

Subd. 15. L.1991, c. 749, § 9, eff. Dec. 31, 1991, added Bronx and Manhattan to prospective greenway.

Subd. 19. L.1991, c. 749, § 9, eff. Dec. 31, 1991, directed that annual report with recommended budget be sent to governor and legislature.

Subds. 22, 23. L.1991, c. 749, § 10, eff. Dec. 31, 1991, added subds. 22, 23.

Effective Date of Amendment by L.1995, c. 225; Expiration Unaffected. Amendment by L.1995, c. 225, effective July 26, 1995, provided that application, qualification, expiration or repeal of any provision of law amended by any section of this act to be applied or qualified or to expire or be deemed repealed in the same manner, to the extent and on the same date as the case may be as otherwise provided by law, pursuant to L.1995, c. 225, § 13, set out as a note under ECL 44-0103.

Effective Date. Section effective Dec. 31, 1991, pursuant to L.1991, c. 748, § 18; as amended L.1991, c. 749, § 19; L.1992, c. 388, § 6.

Former § 44-0107. A former § 44-0107 was redesignated 44-0113.

§44-0109. Designation

The Hudson river valley greenway is hereby designated to include the counties, including all cities, towns and villages therein, of Westchester, Rockland, Orange, Putnam, Dutchess, Ulster, Columbia, Greene, Albany, Rensselaer and Saratoga; provided the greenway shall not include any area of Greene and Ulster counties within the Catskill park as defined in subdivision two of section 9-0101 of this chapter. In addition, in the city of New York the greenway shall include the areas of Bronx and New York counties that are

both adjacent to the Hudson River and included as of the effective date of this section within the boundaries of such city's waterfront revitalization program prepared pursuant to article forty-two of the executive law. For

purposes of the powers and duties of the council and conservancy regarding the Hudson river valley, such powers and duties shall be limited to the geographic area of the greenway as designated in this section.

(Added L.1991, c. 748, § 10; amended L.1991, c. 749, § 5; L.1995, c. 225, § 4.)

HISTORICAL AND STATUTORY NOTES

1995 Amendments. L.1995, c. 225, § 4, added sentences relating to Bronx and Manhattan areas and geographical limitation of powers and duties to designated areas. For eff. date, see note below.

1991 Amendments. L.1991, c. 749, § 5, eff. Dec. 31, 1991, included Rockland County and Waterford town and village and substituted exclusion of areas of Greene and Ulster counties within Catskill park as defined by s 9-0101(2) for exclusion of areas within blue line of Catskill park and areas in Saratoga county outside Waterford but in Hudson- Mohawk urban cultural park.

Effective Date of Amendment by L.1995, c. 225; Expiration Unaffected. Amendment by L.1995, c. 225, effective July 26, 1995, provided that application, qualification, expiration or repeal of any provision of law amended by any section of this act to be applied or qualified or to expire or be deemed repealed in the same manner, to the extent and on the same date as the case may be as otherwise provided by law, pursuant to L.1995, c. 225, § 13, set out as a note under ECL 44- 0103.

Effective Date. Section effective Dec. 31, 1991, pursuant to L.1991, c. 748, s 18; as amended L.1991, c. 749, § 19; L.1992, c. 388, § 6.

§ 44-0111. Greenway heritage conservancy for the Hudson river valley

1. It is hereby found, determined and declared that the reestablishment of the greenway heritage conservancy for the Hudson river valley and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York, for the preservation and enhancement of the natural and historic resources of the Hudson river valley and in furtherance of their welfare and prosperity, and is a public purpose, in that the conservancy will be performing an essential governmental function in the exercise of the powers conferred upon it by this title and the conservancy shall not be required to pay taxes or assessments upon any of the real property interests or rights acquired by it or under its jurisdiction or control, or upon its activities in the operation and maintenance of such property interests or rights or use of any moneys, revenues or other income received by the conservancy. All contributions of real or

personal property interests or rights made to the conservancy whether by gift, devise or bequest shall to the extent deductible for federal income tax purposes, be deductible for purposes of the tax law to the extent provided therein.

2. The heritage task force for the Hudson river valley is hereby reestablished in the executive department to be the greenway heritage conservancy for the Hudson river valley a body corporate and politic constituting a public benefit corporation and to consist of seventeen voting members and nine non-voting members. All voting members shall reside within the greenway and may designate representatives to act in their stead. The governor shall appoint three voting members, one of whom shall also be the chairperson. Two voting members shall be appointed by the temporary president of the senate; two voting members shall be appointed by the speaker of the assembly; one voting member shall be appointed by the minority leader of the senate; one voting member shall be appointed by the minority leader of the assembly and eight voting members shall be appointed by the council. A member of the council may not be appointed to be a voting member of the conservancy. The commissioner and the commissioners of the state departments of transportation, agriculture and markets and economic development and the offices of parks, recreation and historic preservation and general services, the secretary of state, the chairman of the state senate committee on environmental conservation and the chairman of the state assembly committee on environmental conservation, or such members' designated representatives, shall be nonvoting, ex-officio members of the conservancy. The term of office of voting members commencing as of the effective date of this section shall be four years except that five of the first voting members appointed pursuant to this section shall have a two-year term and that another five of the first voting members appointed pursuant to this section shall have a three-year term. Each member appointed to such task force by the commissioner before enactment of this section, shall continue in office until a quorum of voting members has been appointed. In the event of a vacancy occurring in the office of any member, such vacancy shall be filled for the balance of the unexpired term, if applicable, in the same manner as the original appointment.

3. The conservancy shall actively seek qualified candidates for membership and shall recommend such candidates to the governor. (Added L.1991, c. 748, § 10; amended L.1991, c. 749, § 6.)

HISTORICAL AND STATUTORY NOTES

1991 Amendments. Subd. 1. L.1991, c. 749, § 6, eff. Dec. 31, 1991, substituted tax exemption for conservancy's real property interests or rights for exemption for its property easements and substituted tax deduction for contributions of property interests or rights to extent allowed by federal law and provided by state law for deduction of contributions of property easements in calculating the income tax of the state or any political subdivision thereof.

Subd. 2. L.1991, c. 749, § 6, eff. Dec. 31, 1991, increased voting membership to 17 from 15; authorized governor to appoint 3 voting members, one being chairperson, rather than solely chairperson; and

made 4-year term for voting members apply starting with Dec. 31, 1991.

Subd. 3. L.1991, c. 749, § 6, eff. Dec. 31, 1991, redesignated former subd. 4 as 3 and omitted former subd. 3 which related to compensation and reimbursement for expenses of conservancy members.

Subd. 4. L.1991, c. 749, § 6, eff. Dec. 31, 1991, redesignated former subd. 4 as 3.

Effective Date. Section effective Dec. 31, 1991, pursuant to L.1991, c. 748, s 18; as amended L.1991, c. 749, § 19; L.1992, c. 388, § 6.

§ 44-0113. Powers and duties of the conservancy

The conservancy shall have the power:

1. To sue on causes of action consistent with the purposes and its responsibilities under this article and with respect to contracts to which it is a party, but not for general enforcement of state or local environmental or planning laws, provided that the right to sue, other than with respect to contracts, to which it is a party, shall be limited to causes of action arising within the boundaries of the greenway; and to be sued.
2. To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this article.
3. To establish and maintain such facilities as may be necessary for the transacting of its business.
4. To appoint an executive officer, officers, agents, employees, and prescribe their duties and qualifications and fix their compensation.
5. To utilize, to the extent feasible the staff and facilities of existing state agencies.
6. To hold hearings in the exercise of its powers, functions and duties provided for by this article.
7. To contract for professional and technical assistance and advice.
8. To contract for and to 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, or from any agency or

instrumentality of the state, or from any other public or private source and to comply, subject to the provisions of this article, with the terms and conditions thereof, subject to the applicable general policies of the director of the budget.

9. To encourage individuals, corporations, associations, organizations and public agencies to preserve and enhance the natural scenic beauty and heritage of the Hudson river valley and the lands, water, exemplary natural communities, aesthetic and cultural resources of the Hudson river valley, as well as manage and conserve the fish, wildlife and endangered plant and animal species, and to increase public access to the waters of the Hudson river.

10. To acquire, in the name of the state, interests or rights in real property including title by gift or devise anywhere within the greenway, or by purchase solely for the purposes of a riverside park or development of the greenway trail, or by easement for the conservation, management and preservation of open space characterized by natural scenic beauty, heritage, natural resource values or conditions enhancing regional qualities of the Hudson river valley provided, however, that notwithstanding any other provision of law, transfers of such interests or rights in real property may be made to municipalities or not-for-profit corporations which contract to hold such property for the beneficial enjoyment of the people of the state and in no event shall such land be sold by any such municipality or not-for-profit corporation except for purposes consistent with the beneficial enjoyment of the people of the state. Additionally, notwithstanding this or any other provision of law, neither the state, nor any of its instrumentalities, may transfer, to the conservancy, any interests or rights in real property upon which the state is making property tax payments or payments in lieu of taxes, unless provision is made for the continuance of such payments by the conservancy from monies available in the fund.

11. To continue the existing subsidiary nonprofit corporation and create committees and appoint members thereto to assist and advise the conservancy in carrying out its functions, powers and duties and in coordinating the activities of the conservancy with state and local agencies functioning within the Hudson river valley.

12. To intervene in proceedings before state agencies including the department on matters affecting the Hudson river valley.

13. To encourage and assist in the creation of special local improvement districts consistent with the purposes of this article.

14. To identify land and water areas in the Hudson river valley that are suited for designation as scenic areas under the provisions of article forty- nine of this chapter and for subsequent development of resource management plans.

15. To provide technical assistance to county and local officials, landowners and interested organizations with regard to resource protection, conservation and management of renewable natural resources and preservation methods and techniques, including but not limited to: natural resource inventories, scenic and conservation easements, deed restrictions, local land trust, innovative zoning techniques, establishment of urban cultural parks, historic preservation methods and viewshed analysis.

16. To encourage and assist state, county and local governments with the implementation of procedures for identifying and designating critical areas under the state environmental quality review act, and to provide similar support for utilization of scenic impact project review guidelines.

17. To help to advance, guide and coordinate on a priority basis the acquisition of land and water areas possessed of scenic, natural, historical, recreational or cultural significance, for the purpose of preserving or enhancing such areas; and to do so in cooperation with appropriate public and private agencies.

18. To initiate the preparation of comprehensive and systematic inventories and studies of the natural, scenic, historic, cultural and recreational resources of the Hudson river valley.

19. To provide local governments and the private sector with improved liaison, interpretation and focus relative to a variety of state and federal programs which bear on the Hudson river valley and its shorelands, including coastal management; basin level B study; wild, scenic and recreational rivers; urban cultural parks; fisheries management; estuarine sanctuaries; areas of national concern; historic preservation; tourism and outdoor recreation; and grants-in-aid.

20. To help develop and implement a comprehensive program and plan at the state, county and local levels for resource preservation, renewable natural resource management and enhancement in scenic highway corridors.

21. To annually prepare a work plan of intended projects and activities of the conservancy and present such plan to the council for its review and comment and report periodically to the governor, the legislature and the council on the conduct of its activities, but not less than once a year, and to provide a copy of each report to appropriate public and private entities within the Hudson river valley which request a copy of the report.

22. To exercise and perform such other powers and duties as shall have been or may be from time to time conveyed or imposed by law.

23. To encourage individuals, corporations, associations and public entities to protect and preserve unique resources of the greenway and make grants to municipalities and non-profit entities within the greenway therefor.

24. To whenever in the opinion of the conservancy it would be in the public interest, after prior approval of the director of the budget, request the temporary assignment and transfer of certain employees of any board, commission, agency or department of the state or its political subdivisions, and said board, commission, agency or department, if in its opinion such transfer will not interfere with the performance of its duties and functions may make such assignment and transfer of said employees to the conservancy. Such assignment and transfer or extension thereof shall not in any way affect the civil service status, continuity of service, retirement plan status, right to compensation, grade or compensation or other rights or privileges of any employee so transferred.

25. To submit title to all interests or rights in real property proposed to be acquired by the conservancy for examination and approval by the attorney general of the state who shall also furnish any and all necessary legal services and advice required to assist the conservancy in accomplishing its corporate purposes.

26. When funds are available, and with the approval of the governor, enter into an agreement with a municipality or district within which real property interests or rights have been acquired by the conservancy providing for the payment of moneys in lieu of anticipated tax revenues whenever the conservancy shall determine that undue hardship justifying such financial relief has been created by such acquisition.

27. To enforce that no officer, member or employee of the conservancy shall receive or may be lawfully entitled to receive any pecuniary profit from the operation thereof except, to the extent available from the fund, for expenses

actually and necessarily incurred, including reasonable compensation to employees for services in effecting one or more of the purposes set forth herein.

28. To continue to provide certain programmatic contractual services to the department as has heretofore been the practice.

29. To jointly designate and develop model greenway projects in agreement with the council to demonstrate the implementation of greenway planning and make grants for assistance to municipalities and non-profit entities within the greenway

therefor. 30. To promote the greenway as a single, tourism destination site in conjunction with the designation and development of the greenway trail.

31. To assist in the preservation of farmlands within the greenway for continued agricultural use.

32. To take any actions necessary to carry out the functions, powers and duties imposed by this article.

33. Notwithstanding any other section of law the conservancy shall not have the power of eminent domain or to acquire property by eminent domain.

34. Notwithstanding any other section of law, the conservancy may exercise its powers within the county of New York only for the purposes of designating, developing, or causing to be developed a trail pursuant to section 44-0121 of this article. For the purposes of this subdivision, "trail" means a linear corridor or pathway, walkway or bikeway used solely for public transportation and recreation. The council or the conservancy shall not develop, construct or caused [FN1] to be developed or constructed any landfill, pier or structure over water located west of the existing bulkhead or shoreline; nor shall the council or the conservancy develop, construct or cause to be developed or constructed any commercial or residential uses on any trail developed pursuant to this subdivision.

(Formerly § 44-0107, L.1987, c. 520, § 1; renumbered and amended L.1991, c. 748, §§ 8, 9; L.1991, c. 749, §§ 7, 8; L.1992, c. 388, § 1; L.1993, c. 412, § 2; L.1995, c. 225, § 5, 6.)

HISTORICAL AND STATUTORY NOTES

1995 Amendments. Opening par. L.1995, c. 225, § 5, substituted "conservancy" for "task force". For eff. date, see note below.

Subd. 34. L.1995, c. 225, § 6, added subd. 34. For eff. date, see note below.

1993 Amendments. Subd. 9. L.1993, c. 412, § 2, eff. July 21, 1993, required the management and conservation of fish, wildlife, endangered plant and animal species instead of preservation and enhancement of such.

Subd. 10. L.1993, c. 412, § 2, eff. July 21, 1993, included conservation and management as powers and duties of the task force.

Subd. 15. L.1993, c. 412, § 2, eff. July 21, 1993, required assistance be provided with regard to conservation and management of renewable natural resources.

Subd. 20. L.1993, c. 412, § 2, eff. July 21, 1993, included renewable natural resource management.

1992 Amendments. Subd. 9. L.1992, c. 388, § 1, eff. July 17, 1992, substituted reference to endangered plant and animal species for reference to all plant and animal species.

Subd. 10. L.1992, c. 388, § 1, eff. July 17, 1992, added sentence relating to transfers of interests or rights in real property upon which state is making property tax payments or payments in lieu of taxes.

1991 Amendments. Catchline. L.1991, c. 748, § 9, eff. Dec. 31, 1991, substituted "conservancy" for "task force".

Subd. 1. L.1991, c. 748, § 9, eff. Dec. 31, 1991, limited power to sue.

Subd. 9. L.1991, c. 749, § 7, eff. Dec. 31, 1991, substituted "all plant and animal species" for "rare and endangered plant and animal species."

L.1991, c. 748, § 9, eff. Dec. 31, 1991, made subd. applicable to rare and endangered plant and animal species and to exemplary natural communities.

Subd. 10. L.1991, c. 749, § 7, eff. Dec. 31, 1991, required acquisition of interests or rights in real property to be in state's name;

deleted authority to acquire realty to provide access by easement from trail to river, park land, or public trails; and inserted proviso for transfers to municipalities and not-for-profit corporations.

L.1991, c. 748, § 9, eff. Dec. 31, 1991, provided for property within greenway acquired for riverside park or greenway trail, or for access by easement from trail to river, park land, or public trails, and for purpose of preserving natural resource values.

Subd. 11. L.1991, c. 748, § 9, eff. Dec. 31, 1991, provided for the continuation of the existing subsidiary nonprofit corporation and substituted "conservancy" for "task force", wherever appearing. Subd. 15. L.1991, c. 748, § 9, eff. Dec. 31, 1991, made subdivision applicable to natural resource inventories.

Subd. 21. L.1991, c. 748, § 9, eff. Dec. 31, 1991, provided for the preparation and presentation of plans for intended work projects or activities to the council, provided for periodic reports to the council, and authorized copies of reports to appropriate public and private entities within the Hudson river valley upon request.

Subds. 23, 24. L.1991, c. 748, § 9, eff. Dec. 31, 1991, added subds. 23, 24.

Subd. 25. L.1991, c. 749, § 7, eff. Dec. 31, 1991, substituted authority to submit title to interests and rights for examination and approval by attorney general for authority to permit attorney general to examine and approve title to easements.

L.1991, c. 748, § 9, eff. Dec. 31, 1991, added subd. 25.

Subd. 26. L.1991, c. 749, § 7, eff. Dec. 31, 1991, substituted "interests or rights have" for "easement has".

L.1991, c. 748, § 9, eff. Dec. 31, 1991, added subd. 26.

Subd. 27. L.1991, c. 749, § 7, eff. Dec. 31, 1991, permitted expense

reimbursement and employee compensation for service in furtherance of conservancy's purpose.

L.1991, c. 748, § 9, eff. Dec. 31, 1991, added subd. 27.

Subds. 28, 29. L.1991, c. 748, § 9, eff. Dec. 31, 1991, added subds. 28, 29. Subd. 30. L.1991, c. 749, § 8, eff. Dec. 31, 1991, added subd. 30 and redesignated former subd. 30 as 33.

L.1991, c. 748, § 9, eff. Dec. 31, 1991, added subd. 30.

Subds. 31, 32. L.1991, c. 749, § 8, eff. Dec. 31, 1991, added subd. 31, 32.

Subd. 33. L.1991, c. 749, § 8, eff. Dec. 31, 1991, redesignated former

subd. 30 as 33.

Effective Date of Amendment by L.1995, c. 225; Expiration Unaffected. Amendment by L.1995, c. 225, effective July 26, 1995, provided that application, qualification, expiration or repeal of any provision of law amended by any section of this act to be applied or qualified or to expire or be deemed repealed in the same manner, to the extent and on the same date as the case may be as otherwise provided by law, pursuant to L.1995, c. 225, § 13, set out as a note under ECL 44- 0103.

Effective Date. Section effective Aug. 29, 1987, pursuant to L.1987, c. 520, § 3.

§ 44-0115. State agency reports and consistency

1. The council in carrying out its functions and responsibilities under this article, shall consult with, cooperate with, and, to the maximum extent practicable, coordinate its activities with other interested state agencies.

2. The following officers of state agencies with program responsibilities that affect aspects of the greenway criteria shall prepare and submit to the council a program statement which shall detail actions in the areas of planning, development, use, assistance and regulation that can support and assist or would conflict with the establishment and management of the greenway including the compact and development of the trail:

a. commissioner of the office of parks, recreation and historic preservation regarding the state historic preservation program, the state urban cultural park program, state parks within the greenway, outdoor recreation and trail planning;

b. commissioner of economic development regarding the state tourism program including the identification of potential tourism destination areas within the greenway and recommendations for a system of interactive information outlets throughout the greenway and the impact of greenway criteria on economic development activities;

c. commissioner of environmental conservation regarding the management of natural resources including plants, fish and

wildlife and natural communities and protecting environmental quality;

d. commissioner of transportation regarding access and transportation;

e. secretary of state regarding the coastal zone management program and other planning programs administered by the department of state;

f. commissioner of the office of general services regarding the stewardship and disposition of state property; and

g. the commissioner of agriculture and markets regarding the contribution of agricultural activities and programs to greenway criteria. Each such officer shall annually review such statements and submit revisions and updates to the council as appropriate.

3. After the compact is in effect, any state agency conducting, funding or approving activities directly affecting greenway resources shall, to the fullest extent practicable, consult with, cooperate with, and coordinate its activities with the council and the appropriate participating community. Any such state agency shall conduct or support such activities in a manner which is, to the maximum extent practicable, consistent with the compact in addition to requirements of other laws, including those of article forty-two of the executive law. The compact shall be incorporated as part of the reviews of actions pursuant to the state environmental quality review act as provided in article eight of this chapter and the New York state historic preservation act of 1980. For purposes of section 8- 0113 of this chapter, the commissioner shall incorporate consideration of the greenway in rules and regulations adopted pursuant to such section. The council shall review and comment in writing upon the statement and effects on the greenway program, made pursuant to section 8- 0109 of this chapter and section 14.09 of the parks, recreation and historic preservation law.

4. Nothing in this article shall preempt the authority and responsibilities of the department pursuant to article eleven of this chapter.

(Added L.1991, c. 748, § 10; amended L.1991, c. 749, § 11; L.1993, c. 412, § 3.)

HISTORICAL AND STATUTORY NOTES

1993 Amendments. Subd. 4. L.1993, c. 412, § 3, eff. July 21, 1993, added subd. 4.

1991 Amendments. Subd. 3. L.1991, c.

749, § 11, eff. Dec. 31, 1991, required that consultation, cooperation, and coordination with council and community by agency be to fullest extent practicable and required agency's activities to

conform with other laws, including
Executive Law, Art. 42.

c. 748, s 18; as amended L.1991, c.
749, § 19; L.1992, c. 388, § 6.

Effective Date. Section effective
Dec. 31, 1991, pursuant to L.1991,

§ 44-0117. Hudson river valley geographic information systems

The conservancy shall continue, update and maintain the Hudson river valley geographic information system and make available information therefrom to counties, cities, towns and villages within the greenway. The conservancy may charge a fee for such information to cover the cost of providing the information.

(Added L.1991, c. 748, § 10.)

HISTORICAL AND STATUTORY NOTES

Effective Date. Section effective
Dec.31, 1991, pursuant to L.1991, c.

748, s 18; as amended L.1991, c.
749, § 19; L.1992, c. 388, § 6.

§ 44-0119. Greenway compact

1. The council shall guide and support a cooperative planning process to establish a voluntary regional compact among the counties, cities, towns and villages of the greenway to further the recommended criteria of natural and cultural resource protection, conservation and management of renewable natural resources, regional planning, economic development, public access and heritage education.

2. Initially, the council shall offer technical assistance from the conservancy and state agencies to the riverside communities in attaining the goal of establishing and having maximum effective implementation of local planning and zoning through natural and cultural resources inventories, the adoption of a comprehensive zoning ordinance or local law, master plan, site plan and subdivision plat review consistent with the greenway criteria. The council shall also encourage the use of cluster zoning, historic preservation ordinances, transfer of development rights, conservation easements, designation of critical environmental areas and other zoning techniques where appropriate to attain local planning and environmental objectives and participation in the coastal management program and the state urban cultural park program. The council and the conservancy may each,

consistent with their respective responsibilities as provided in this article, enter into contracts not to exceed fifty percent of project cost with riverside communities and in consultation with appropriate state agencies for purposes of administering grants pursuant to this subdivision including, but not limited to, grants to conduct natural and cultural resources inventories, prepare or update a master plan, a zoning ordinance, a transfer of development rights ordinance, a local government waterfront revitalization program, an urban cultural park feasibility study or management plan or a tourism development feasibility study or plan. Any community which receives a grant pursuant to this subdivision may, at the discretion of the council or the conservancy, contribute its fifty percent of the project cost in the form of an in kind or other non-monetary contribution.

3. Not later than four years after the effective date of this article, the council shall convene meetings of the chief elected officials of counties, cities, towns and villages or their designated representatives for each of the subregional districts designated by the council. Such officials in each district shall organize to prepare, or cause to be prepared within twenty-four months, a comprehensive regional plan for their district to be submitted to the council. The conservancy shall offer technical assistance in preparation of such plans and amendments thereof. Within funds available therefor, the council shall grant funds to meet the cost of each regional plan and amendments thereof. Each such regional plan shall address the greenway criteria and the objectives adopted by the council by provisions including, but not limited to, identifying developments of regional impact and areas of regional concern including, but not limited to identifying necessary public facilities and infrastructure consistent with such criteria and objectives and providing for the voluntary adoption by action of a local legislative body and implementation of relevant provisions by each participating county, city, town and village. The council shall review each regional plan for its consistency with the greenway criteria and objectives and to assure that the regional plans conform to establish an overall greenway compact. Upon finding such consistency and conformance, the council shall approve the regional plan and, upon approving all the regional plans, shall produce an overall greenway plan to be known as the compact. If the local officials in any district fail to produce a regional plan for their

district or submit such plan which the council cannot approve, the council may prepare or cause to be prepared a district plan which cities, towns and villages in such district may voluntarily adopt by local law to become participating communities. The council's actions shall not be inconsistent with the requirements of article forty-two of the executive law in approving any regional plan.

4. Upon approval by the council of a regional plan, each county, city, town or village within the district for which the plan was prepared and which adopted the plan by its local legislative body shall become a participating community in the greenway compact by adopting the regional plan as provided in such plan.

4-a. Notwithstanding any other provision of this article, the mayor of the city of New York may submit those portions of such city's waterfront revitalization program, prepared pursuant to article forty-two of the executive law and adopted through the process for the adoption and amendment of plans contained in the charter of such city, as such program applies to areas within the greenway, as the regional plan for the region comprised of the areas of Bronx and New York counties designated pursuant to section 44-0109 of this article. The mayor of such city may submit amendments to such regional plan adopted through the process for the adoption and amendment of plans contained in the charter of such city. Any such plan or amendment thereof submitted pursuant to this subdivision shall be deemed to have been approved pursuant to this section and, upon submission of such plan, the areas of the city of New York designated pursuant to section 44-0109 of this article and which are also included within such plan shall be deemed to be a participating community and, unless otherwise specified, the mayor of such city shall exercise the authority granted to such participating community. Solely for purposes of subdivision five of this section the plan submitted by the city of New York pursuant to this section and any amendments thereto shall not be deemed a generic environmental impact statement or regional plan.

4-b. 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.

5. A regional plan prepared consistent with the procedures of section 8-0109 of this chapter relating to the preparation and contents of an environmental impact statement shall be considered a generic environmental impact statement. Actions proposed in conformance with the conditions and thresholds established in such regional plan will require no further compliance with article eight of this chapter.

6. Notwithstanding any other provision of law, any state agency may provide in implementing a ranking system for allocating funds for infrastructure, land acquisition or park assistance projects a preference not to exceed the equivalent of an advantage of five percent for such projects which are identified in a regional plan approved pursuant to this section.

7. [Eff. until Dec. 31, 2017.] For each such participating community there shall be indemnity from the state in the event of legal actions brought against the community or its agents that may result from the community's acquisition of land consistent with its regional plan or the adoption or implementation of any land use control including, but not limited to, a zoning law or ordinance. Such indemnity shall not apply to the counties of New York and Bronx for such legal

actions brought as a result of New York City's adoption of a regional plan or amendments thereto pursuant to subdivision four-a of this section. Such indemnity shall apply to the extent that any such claim exceeds the insurance coverage obtained by the council pursuant to subdivision twenty-three of section 44- 0107 of this article; provided, however, such indemnity shall not apply to any such claim that results from intentional wrongdoing, recklessness, gross negligence or an unlawful discriminatory practice as provided in subdivisions two, two-a, three-b, four, paragraphs (a) and (b) of subdivision five and subdivisions six, seven, fourteen and eighteen of section two hundred ninety-six of the executive law and 42 U.S.C. ss 1981, 1983 by such community or its agents. In any claim against a participating community of unlawful discriminatory practice, the attorney general shall not represent the defendant or defendants; provided, however, that if the plaintiff is not the prevailing party, the defendant or defendants shall be reimbursed by the state for all reasonable attorneys' fees and litigation expenses incurred in the defense of the action.

8. Pursuant to a chapter of the laws of New York to be enacted, authority shall be granted for a community to

utilize other innovative zoning techniques in carrying out the compact.

9. In addition to any other funds available from the state, participating communities and nonprofit entities designated by such communities shall be eligible for capital, program and planning matching grants from the council and the conservancy including, but not limited to grants for municipal historic preservation projects to acquire, restore or rehabilitate property listed on the state or national registers of historic places or for educational programs related to such historic places, municipal park projects for the acquisition, development or improvement of recreational facilities or the acquisition of land for open space conservation and management of renewable natural resources and natural resource protection including the preservation of endangered species and their natural communities, waterfront revitalization projects to acquire land for public access to the Hudson river or to protect river resources or to clear waterfront sites for public or private water dependent uses or to develop, improve or rehabilitate water dependent or waterfront facilities including wharfs and piers, consistent with a local waterfront revitalization program, urban cultural park projects for planning, program, acquisition or development consistent with the purposes of article thirty-five of the parks, recreation and historic preservation law, tourism marketing projects, development and commercial revitalization and community development programs and projects, natural resources inventories, agriculture preservation projects and public and private infrastructure improvement related to the development of the greenway trail, from money appropriated from the Hudson river valley greenway fund. The state share of the cost of such projects shall not exceed fifty percent of the total project cost. Such grants shall be made by the council and the conservancy consistent with their respective responsibilities as provided in this article. The council and conservancy shall enter into contracts with participating communities and in consultation with appropriate state agencies for the purpose of administering these grants.

10. The council and conservancy shall create a committee comprised of three members from each who shall establish a procedure by which other grants not delineated herein, which are consistent with the greenway criteria, shall be made.

11. Notwithstanding any other provision of law, participating communities shall be eligible to take part in and receive grants and loans from the urban development corporation's urban and community development program and regional economic development program.

12. The council may, after holding a public hearing in the appropriate district, withdraw its approval of a regional plan where it finds that there has been a significant failure to implement such plan by a majority of the participating counties, cities, towns and villages within the district. When approval has been withdrawn from a regional plan, the communities therein may not have the benefits of participating communities pursuant to subdivisions five through nine of this section. The council shall report such withdrawal of approval to the governor and the legislature stating the reasons for such action consistent with subdivisions one through six of this section.

13. The council may promulgate rules and regulations providing for maintaining and updating the compact.

(Added L.1991, c. 748, § 10; amended L.1991, c. 749, § 12, 13; L.1992, c. 388, § 3; L.1993, c. 412, § 4; L.1995, c. 225, §§ 7, 8, 11.)

HISTORICAL AND STATUTORY NOTES

1995 Amendments. Subd. 3. L.1995, c. 225, § 7, inserted references to plan amendments wherever appearing. For eff. date, see note below.

Subds. 4-a, 4-b. L.1995, c. 225, § 8, added subds. 4-a and 4-b. For eff. date, see note below.

Subd. 7. L.1995, c. 225, § 11, added sentence excluding New York and Bronx Counties from indemnity. For eff. date, see note below.

1993 Amendments. Subd. 1. L.1993, c. 412, § 4, eff. July 21, 1993, required compact to further conservation and management of renewable natural resources, and deleted reference to governor's council on the Hudson river valley greenway.

Subd. 2. L.1993, c. 412, § 4, eff. July 21, 1993, gave council and conservancy discretion to allow communities to make non-monetary contributions for their share of project costs.

Subd. 3. L.1993, c. 412, § 4, eff. July 21, 1993, required that the council convene no later than four years, rather than two years, from effective date.

Subd. 8. L.1993, c. 412, § 4, eff. July 21, 1993, made language mandatory.

Subd. 9. L.1993, c. 412, § 4, eff. July 21, 1993, made funds available for preservation of endangered, rather than rare species, and for the management of renewable natural resources.

Subd. 11. L.1993, c. 412, § 4, eff. July 21, 1993, made subdivision applicable in spite of any other provision of law, deleted eligibility for funding from the department of economic development programs for various projects and studies, and made communities eligible for loans. 1992 Amendments. Subd. 7. L.1992, c. 388, § 3, eff. July 17, 1992, included agents of community within indemnity provisions; made indemnity inapplicable to an unlawful

discriminatory practice as provided in subds. 2, 2-a, 3-b, 4, 5(a) and (b), 6, 7, 14, and 18 of Executive Law § 296 and 42 U.S.C. §§ 1981, 1983; prohibited attorney general from representing participating community in claim of unlawful discriminatory practice; and authorized reimbursement of such defendant for all reasonable attorneys' fees and litigation expenses where plaintiff is not the prevailing party.

1991 Amendments. Subd. 2. L.1991, c. 749, § 12, eff. Dec. 31, 1991, authorized the council and the conservancy to contract for the purpose of administering grants including but not limited to grants for tourism development feasibility studies or plans.

Subd. 3. L.1991, c. 749, § 12, eff. Dec. 31, 1991, specified that adoption of district plan be by local law and required council to act consistently with Executive Law, Art. 42.

Subd. 5. L.1991, c. 749, § 12, eff. Dec. 31, 1991, added subd. 5 and omitted former subd. 5 which related to adoption by the commissioner of rules and regulations designed to implement the regional plan approved pursuant to the section.

Subd. 7. L.1991, c. 749, § 12, eff. Dec. 31, 1991, substituted indemnity in actions arising from acquisition under regional plan or adoption or implementation of land use control, and specified extent and exceptions to indemnity, for indemnity in suits arising directly from adoption of compact.

Subd. 9. L.1991, c. 749, § 12, eff. Dec. 31, 1991, in sentence beginning "In addition to" made list of grants exemplary rather than all-inclusive; permitted grants for all waterfront revitalization projects rather than only municipal ones; permitted grants to clear waterfront sites for water dependent uses; substituted grants to develop, improve or rehabilitate water dependent or waterfront facilities including wharfs and piers for grants

to develop or improve water dependent public facilities; and inserted development and commercial revitalization and community development programs and projects and public and private infrastructure improvements concerning greenway trail development; and added sentences beginning "Such grants shall" and "The council and conservancy".

Subds. 10 to 13. L.1991, c. 749, § 13, eff. Dec. 31, 1991, added subds. 10 and 11; and redesignated former subds. 10 and 11 as 12 and 13, respectively.

Effective Date of Amendment by L.1995, c. 225; Expiration Unaffected. Amendment by L.1995, c. 225, effective July 26, 1995, provided that application, qualification, expiration or repeal of any provision of law amended by any section of this act to be applied or qualified or to expire or be deemed repealed in the same manner, to the extent and on the same date as the case may be as otherwise provided by law, pursuant to L.1995, c. 225, § 13, set out as a note under ECL 44- 0103.

Effective Date; Expiration. L.1991, c. 748, § 18; amended L.1991, c. 749, § 19; L.1992, c. 388, § 6, eff. July 17, 1992, provided: "This act [enacting this section and ECL 44-0101, 44-0105, 44-0107, 44-0109, 44-0111, 44-0115, 44- 0117, 44-0121, Agriculture and Markets Law § 285-b, State Finance Law § 97-n and Tax Law § 1104-a; renumbering ECL 44-0107 as 44-0113; amending ECL 44-0103, 44-0113 and 8- 0109 and § Agriculture and Markets Law § 284, Navigation Law s 46-a and Public Officer Law § 17; and repealing former ECL 44-0101, 44-0105 and 49-0104] shall take effect immediately [Dec. 31, 1991]; provided, however, that section 1104-a of the tax law as added by section sixteen of this act shall take effect March 1, 1992 and provided further that subdivision 7 of section 44-0119 of the environmental conservation law as added by section ten of this act, and as amended, shall expire at the end of the sixth year after this act

shall have become a law [Dec. 31, 1997]."

§ 44-0121. Greenway trail

1. The conservancy shall designate and develop or cause to be developed a trail or pathway system consistent with the greenway criteria connecting the city of New York from the southernmost boundary of the area designated as the greenway to the Erie canal lock two park in the town of Waterford, Saratoga county to be known as the Hudson river valley greenway trail. To the fullest extent practicable, the trail shall:

- a.** be located with direct physical or, if not physical, visual access to the Hudson river;
- b.** be planned for both sides of the Hudson river;
- c.** have segments that can be restricted to non-motorized use;
- d.** utilize existing heritage trails, bikeways, scenic highways, railroad rights of way and esplanades and make connections with other trails including trails along tributaries of the Hudson river;
- e.** highlight and link existing parks, urban cultural parks and historic sites;
- f.** provide for interpretive signage and opportunities to experience the unique natural and cultural heritage of the valley;
- g.** reflect the natural and cultural diversity;
- h.** involve state and local agencies and private organizations in the planning, development and maintenance of the trail of the greenway;
- i.** use the services of local school districts and the youth conservation corps to participate in trail development and maintenance;
- j.** have segment management plans prepared for each segment of the trail to assure uniform maintenance and upkeep; and
- k.** have connections to pathways that highlight the character and resources of the countryside communities.

2. The greenway trail to the extent practicable shall be completed on or before June first, two thousand five; provided that the conservancy shall submit a plan for the trail to the governor and legislature within twenty-four months of the effective date of this section and shall to the extent practicable dedicate and open significant sections of the trail on or before June first, two thousand. Planning for the trail shall commence with the council and the conservancy sponsoring a Hudson river valley greenway trail symposium to prepare a plan of action

for the planning and development of the trail. Representatives of local governments in the greenway, interested nonprofit organizations, representatives of the state and federal government, planners and landscape architects along with any other interested parties shall be invited to participate in the symposium.

3. The department and the office of parks, recreation and historic preservation, the department of transportation and the office of general services are hereby authorized and directed to support and assist in the planning and development of the trail.

(Added L.1991, c. 748, § 10; amended L.1991, c. 749, § 14; L.1995, c. 225, § 9.)

HISTORICAL	AND	STATUTORY	NOTES
<p>1995 Amendments. Subd. 1, opening par. L.1995, c. 225, § 9, substituted reference to southern boundary of greenway for reference to Westchester- New York City border. For eff. date, see note below.</p> <p>1991 Amendments. Subd. 1, opening par. L.1991, c. 749, § 14, eff. Dec. 31, 1991, in sentence beginning "The conservancy shall" substituted "trail or pathway system" for "trail or pathway".</p> <p>Effective Date of Amendment by L.1995, c. 225; Expiration Unaffected. Amendment by L.1995, c.</p>		<p>225, effective July 26, 1995, provided that application, qualification, expiration or repeal of any provision of law amended by any section of this act to be applied or qualified or to expire or be deemed repealed in the same manner, to the extent and on the same date as the case may be as otherwise provided by law, pursuant to L.1995, c. 225, s § 13, set out as a note under ECL 44-0103. Effective Date. Section effective Dec. 31, 1991, pursuant to L.1991, c. 748, § 18; amended L.1991, c. 749, § 19; L.1992, c. 388, § 6.</p>	

§ 285-b. Hudson valley agricultural advisory council

The Hudson valley agricultural advisory council shall be appointed by the commissioner, and composed of representatives from consumer and producer organizations, county governments, conservation organizations and tourism organizations of the Hudson valley region. For the purposes of this section, the term "Hudson valley" shall mean the counties of Albany, Greene, Ulster, Orange, Rockland, Rensselaer, Columbia, Dutchess, Putnam and Westchester. The membership of the council shall consist of no more than eleven persons, who shall be residents of the Hudson valley, and who shall meet at least three times annually. Council members shall serve without pay but shall be reimbursed for allowable and necessary travel expenses.

2. The advisory council, in consultation with the Hudson river valley greenway communities council, may recommend programs and promotional activities designed to preserve and enhance Hudson valley region tourism and agricultural open space, address issues affecting the viability of agriculture including real property tax policies and promote greater agricultural marketing and promotional opportunities for the region's agricultural producers to the department.

3. From time to time, but at least every two years, the advisory council shall issue a report evaluating such programs and promotional activities to be transmitted to the commissioner, the chairperson of the Hudson river valley greenway communities council and, upon request, any other interested party. The advisory council shall also do all other things necessary and proper for the completion of a feasibility study of developing a tour of the Hudson valley to be known as "The Hudson Valley Ag Trail" to highlight the unique and significant agricultural and natural resources of the Hudson valley region.

(Added L.1991, c. 748, § 15; amended L.1991, c. 749, § 17; L.1992, c. 388, s 4; L.1993, c. 412, § 1.)

§ 46-a. Regulations of vessels

(5) {As amended by L.1991, c. 748. See, also, subd. 4 above.} The local legislative body, any city, town or village which is a participating community as defined in subdivision ten of section 44-0103 of the environmental conservation law may adopt, amend and enforce local laws, rules and regulations not inconsistent with the laws of this state or the United States or with the Hudson river valley greenway compact, with respect to the restriction and regulation of the manner of construction and location of boathouses, moorings and docks in any waters within or bounding the respective municipality to a distance of fifteen hundred feet from the shoreline.

The provisions of this section shall be controlling notwithstanding any contrary provisions of law.

(As amended L.1989, c. 187, § 1; L. 1989, c. 501, § 1; L.1989, c. 528, § 1; L.1990, c. 313, § 1;m L.1990, c. 432, § 1; L.1991, c. 40, § 1; L.1991, c. 131, § 1; L.1991, c. 553, § 1; L.1991, c. 748, § 13; L.1992, c. 214, § 1; L.1992, c. 373, § 1; L.1992, c. 680, § 1; L.1993, C. 278, § 1; L.1993, c. 605, § 2

§ 17. Defense and indemnification of state officers and Employees

{See main volume for (b) and (e)}

(g.) For the purposes of this section, the term "employee" shall include the members of the board, officers and employees of the greenway heritage conservancy for the Hudson river valley or the greenway council.

(See main volume for 2 to 7) (See main volume for 9 and 10)

HISTORICAL AND STATUTORY NOTES

1996 Amendments. Subd. 1, par. K. L.
1996, c. 484, § 1, eff. Aug. 8,
1996, added par. K.