



NJ Climate Change Alliance

Outline of Potential Elements of Climate Change Resilience Legislation in New Jersey

New Jersey Climate Change Alliance NJCCA

<https://njadapt.rutgers.edu/>

Prepared by the Long-term Planning Workgroup of the NJCCA

February 4, 2022

Background:

The New Jersey Climate Change Alliance (NJCCA) is a network of diverse organizations that share the goal of advancing science-informed climate change strategies at the state and local levels in New Jersey, both with regard to adapting to changing climate conditions and addressing the emissions that cause climate change. Alliance participants include representatives of public, private and non-governmental New Jersey organizations from sectors including transportation, emergency management, business, energy, engineering, farming, insurance, environment, health, community planning, Environmental Justice, natural resource management, and others. The Alliance does not work to influence specific pieces of legislation; rather, the work of the NJCCA serves to integrate science with evidence and diverse points of view through the voices of NJCCA participants for the purpose of informing short and long-term climate change strategies and outlining policy options for New Jersey. NJCCA participants accept three underlying principles that include a commitment to:

- Non-partisan, science and evidence-based climate strategies;
- Climate change strategies that promote economic growth, equity, improved health outcomes, natural solutions, and sustainable communities; and
- Thoughtful, respectful and meaningful dialogue among participants as demonstrated by the Alliance's organizational communication practices.

Since its inception in 2011, the NJCCA's work has involved:

- Leading demonstration projects that can be replicated throughout New Jersey;
- Identifying evidence-based state and local policy options relevant for New Jersey;
- Conducting outreach and education to state and local officials, communities, leaders, and the general public;
- Linking natural and social scientists, engineers, and other experts to decision-makers, communities, and leaders to inform policy and practice;
- Developing tools and guidance to inform planning and decision-making in the public, private, and nongovernmental sectors; and
- Creating a forum that engages a diverse set of perspectives to advance evidence-based climate strategies and policy in New Jersey.

The *Long-term Planning Workgroup* of the NJCCA explores how multi-sectoral state planning efforts, policies and investments in New Jersey can most adequately address long-term climate adaptation and support adaptation efforts in local communities. A focused area of the Workgroup's workplan has been to examine long-term funding for climate adaptation that aligns with a cohesive statewide vision for adaptation as well as models for how a cohesive statewide vision for adaptation can be consistently linked to policies, incentives, standards and guidance at the local levels. The Workgroup has assessed climate resilience policies and programs in states outside of New Jersey, examined proposals for climate resilience policies in New Jersey, and deliberated on a meaningful and sustainable approach for comprehensive climate change adaptation policies in New Jersey.

As a result of these efforts, the NJCCA has developed an outline of potential elements for climate change resilience legislative action in New Jersey. Given the NJCCA's role as not promoting specific legislation, it has made this compilation of potential legislative elements available to inform dialogue in New Jersey. While individual participants of the Alliance do not necessarily agree with each and every insight outlined in this product, the NJCCA Steering Committee concurs that the content of this report/product presents critically important issues facing New Jersey. The views expressed do not necessarily represent the official positions of participants of the New Jersey Climate Change Alliance or the funders who supported this work. Rutgers University serves as the facilitator of the Alliance and recommendations in the report do not represent the position of the University.

Outline of Potential Elements of Climate Change Resilience Legislation in New Jersey

1. Codify Governor Murphy's Executive Orders 89 and 100 (with Amendments)

EO89:

- a. Establish office of Chief Resilience Officer (CRO) and move it under the Governor's Office. Direct the CRO to:
 - Provide opportunities for public comment on agency efforts
 - Serve as chair of the Interagency Council on Climate Resilience (IAC)
 - Coordinate with the IAC to issue the scientific report on climate change at least every two years
 - Coordinate with the IAC to update the statewide climate resilience strategy as needed
 - Develop a program to provide assistance and guidance to local governments, consistent with state regulations
 - Conduct a systematic re-evaluation of stormwater infrastructure and design standards and to establish design standards for state assets and for infrastructure investment by the state of public monies
 - Coordinate with NJDEP to establish procedures for incorporation of climate resilience into EO-215 reviews
- b. Direct other state agencies to coordinate with and provide the necessary support of the CRO. The Chief Resilience Officer and the Interagency Council shall be authorized to call upon any State Agency to supply it with information or other assistance as the Chief Resilience Officer and the Interagency Council determines to be necessary to discharge their duties under this Order. Each Executive Branch department and agency is hereby required, to the extent not inconsistent with law and consistent with budgetary & constraints, to cooperate fully with the Chief Resilience Officer and the Interagency Council within the limits of its statutory authority and to furnish them with such assistance on as timely a basis as is necessary to accomplish the purpose of this Order.
- c. Establish the IAC
 - Establish transparency/accountability for the Interagency Council on Climate Resilience through:
 - Having publicly posted agendas and meeting minutes
 - Directing the IAC to issue a public annual report to the Governor on progress
 - Require agencies on the IAC to issue agency-specific resilience plans by date certain and to contain a list of minimum elements identified by the CRO.
- d. The State Planning Commission, based upon the Scientific Report on Climate Change and the Statewide Climate Change Resilience Strategy, shall incorporate climate change considerations, such as increasing temperatures, rising sea levels, increased flooding, and increased vulnerability to droughts and forest fires, as a mandatory requirement for State Development and Redevelopment Plan endorsement of the development and redevelopment plans of local units of government. The State Planning Commission shall, consistent with the Administrative Procedure Act and as necessary or appropriate, amend its regulations to incorporate these climate change considerations.

EO100:

- a. Authorize integration of climate projections, such as sea level rise, extreme precipitation, extreme temperature, etc. into state regulatory, capital investment, and permitting programs, including but not limited to, land use permitting, water supply, stormwater and wastewater permitting and planning, air quality, and solid waste and site remediation permitting.

2. Authorize requirement of flood notice disclosure

- a. Authorize requirement of (past and future) flood notice disclosure as part of certain types of real estate transactions and for disclosure on rental agreements (leases).
- b. Require that a coastal hazard analysis be conducted by a property owner as a condition of a construction permit for new construction or when substantial improvements are proposed and require that the results of the coastal hazard analysis be recorded on the property deed.

3. **Authorize the establishment of a certified resilience planner program.** Establishment of a program that establishes a certification program for public and private sector resilience planners. Incorporate training components and establishment of certification elements.
4. **Direct the OEM, CRO and DEP to maximize coordination of the state resilience plan into the next update of the state HMP.**
5. **Direct integration of a program on climate change resilience into existing mandatory training requirements for members of local Planning Boards and Boards of Adjustment.**
6. **Assemble a temporary climate resilience public advisory body (i.e., Blue Ribbon Task Force)**

Currently, no body of public members is available to advise the executive and legislative branches on equitable, sustainable and impactful climate resilience policies and programs. The purpose of a temporary (e.g., 6 months) public advisory body is to provide a forum for meaningful public input on development and design of statewide climate resilience goals, policies, and programs. Legislation could:

 - a. Direct the Governor's office to identify adequate resources to support the work of the Blue Ribbon Task Force/Public Advisory Committee/Temporary Task Force
 - b. Authorize the Task Force/Committee/Task Force to:
 - Request information from state agencies
 - Hold public meetings to get input from the public
 - c. Direct the Task Force/Committee/Task Force, within 6 months, to conduct research and develop a report to the Governor and State Legislature with recommendations for:
 - Establishing statewide resilience targets/measures;
 - Modifying the state building code standards to reflect science-informed climate change projections;
 - Applying the Public Trust Doctrine, as has been done in CA and TX, for purposes of extending the jurisdictional reach of the Public Trust Doctrine as more areas are tidally influenced as a result of SLR;
 - Advancing the elements of a statewide, comprehensive resilience planning program, including the establishment of a regulatory regime and ensuring a sustainable focus on equity;
 - Establishing a dedicated, sustainable source of resilience/adaptation funding that:
 - Prioritizes nature-based solutions to the maximum extent possible as guided by science
 - Prioritizes delivery of benefits to disadvantaged populations and communities
 - Promotes regional resilience planning and implementation, including an expanded Blue Acres program.
 - Enhancing existing regulatory authority to incorporate climate projections into rules beyond those for which authority is already provided, including in agencies other than NJDEP;
 - Establishing a permanent public body to provide ongoing advice to state legislative and executive branches with regard to climate change resilience policies and programs;
 - Providing recommendations for integration of climate resilience into specific state programs and into coordinated long term, regional land use planning, including but not limited to:
 - State Hazard Mitigation Plan
 - State Health Improvement Plan
 - State Development and Redevelopment Plan
 - Long-term Transportation Plan
 - Investment of state and federal monies into infrastructure, including integration of climate projections into cost benefit analysis of investment decisions
 - Rulemaking and guidance associated with municipal compliance with the Fair Share Housing Act