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Committee on
Environmental Conservation

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Legislative report from the NYS Assembly Committee on Environmental Conservation

Dear Friend:

As Chair of the Assembly Committee on Environmental Conservation, I have been working to address the many environmental issues and policy issues throughout the diverse regions of our State.

This newsletter summarizes some of the initiatives and accomplishments of the Committee, including environmental initiatives in the 2017-18 State Budget.

I welcome your ideas and concerns. Please do not hesitate to contact me.

Sincerely,

Steve Englebright

Chair, NYS Assembly Committee on Environmental Conservation

Jamaica Bay Makes A Comeback

This October, Assemblyman Englebright toured Jamaica Bay with officials from the NYC Dept. of Environmental Protection and members of citizen organizations working on restoring the bay. Jamaica Bay, home of the Gateway National Recreational Area, is located on the south shore of Long Island and is part of Queens and Brooklyn. The 25,000 acre bay was once profoundly degraded from sewer outfalls, toxic landfill leachates, and filling in marshland with waste materials, but it is beginning to make a come back due to concerned citizens, environmental organizations, and dedicated government officials. Nitrogen reduction upgrades to sewer systems, green infrastructure reducing storm runoff, marsh restoration, and peak flow combined sewer outflow storage areas are beginning to make a real difference. More work needs to be done but it is encouraging to see the tide turning on the health of this important estuary.



Pictured from left to right: Vincent Sapienza, Commissioner of NYC Department of Environmental Protection; Assemblyman Englebright; Assemblywoman Stacy Pheffer Amato; and Daniel Zarrilli, Director of NYC Office of Recovery and Resiliency.

Arbor Day Plantings

On Arbor Day, Assemblyman Englebright joined staff from DEC's Region One as well as other community members in planting native shrubs and trees on a recently purchased environmentally-sensitive property that drains into both Setauket Harbor and Conscience Bay in the Port Jefferson Harbor Complex on Long Island. A derelict house was removed as well as the cesspool, and the plantings complete the parcel's return to a natural state that will help improve coastal water quality. From left to right: Carrie Meek Gallagher, Director DEC Region One; Suffolk County Legislator Kara Hahn; Don Strong; Assemblyman Englebright; and George Hoffman, Setauket Harbor Task Force.



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ENVIRONMENTAL PROTECTION FUND (EPF)

The Environmental Protection Fund (EPF) was funded at \$300 million. The EPF provides funding for a variety of environmental projects including open space acquisition, water quality improvement, municipal recycling, waterfront revitalization and municipal parks. Funding was provided as follows:

EPF Funding \$ (in millions)	
EPF Category	Enacted 2017-18
Solid Waste Account	40.435
Municipal Recycling	14.000
Pollution Prevention Institute	4.000
Secondary Markets	0.500
Environmental Health	6.500
Natural Resource Damages	3.235
Pesticide Database	1.500
Landfill Closure/Gas Management	0.700
Environmental Justice Grants	8.000
Brownfield Opportunity Area Grants	2.000
Parks, Recreation and Historic Preservation Account	86.200
Waterfront Revitalization	16.000
Municipal Parks	20.000
Hudson River Park	3.200
Stewardship	30.000
Zoos, Botanical Gardens, and Aquaria	15.000
Local Navigation Law Reimbursement	2.000
Open Space Account	154.415
Land Acquisition	36.349
Environmental Commissions	0.712
Farmland Protection	20.000
Agricultural Waste Management	1.500
Biodiversity	1.000
Albany Pine Bush	2.675
Invasive Species	13.000
Long Island Pine Barrens Commission	2.000
Ocean and Great Lakes	15.000
Water Quality Improvement	20.250
Long Island South Shore Estuary Reserve	0.900
Non-point Source Pollution Control	24.000
Soil and Water Conservation Districts	9.000
Finger Lakes - Lake Ontario Watershed	2.279
Hudson River Estuary Management	5.500
Lake Erie Watershed Protection Alliance	0.250
Climate Change Mitigation and Adaptation Account	18.950
Greenhouse Gas Management	1.700
Climate Smart Community	12.000
Smart Growth	2.000
State Climate Adaptation Projects	0.750
Climate Resilient Farms	2.500
Total	300.000

BUDGET HIGHLIGHTS

Increased Funding for Drinking Water and Wastewater Infrastructure (2017-18 State Budget)

According to DEC "...there are over six hundred wastewater treatment facilities that serve 1,610 municipalities. The facilities range in size from New York City's vast system that processes 1.3 billion gallons of wastewater a day through 14 facilities, to small village systems that process less than 100,000 gallons a day. These facilities provide wastewater treatment for more than 15,000,000 people across the state." DEC's 2008 assessment of the costs to repair, replace and update New York's wastewater infrastructure estimated the total funding need to be \$36.2 billion over a twenty-year period. A similar assessment for drinking water infrastructure found a need of \$38.7 billion over a twenty-year period. These estimates were made prior to the devastation caused by extreme weather events such as Superstorm Sandy.

In order to help municipalities address outstanding water infrastructure needs, and to improve water quality, this year's State Budget contained over \$2.5 billion in new, multi-year funding for municipal water quality infrastructure grants including wastewater and drinking water projects, septic system upgrades, New York City watershed improvements, and land acquisition projects for source water protection projects. Funding included:

- \$1 billion for the 2017 Water Infrastructure Improvement Act;
- \$245 million for Water Quality Improvement Projects;
- \$200 million for New York City watershed projects;
- \$150 million for the Intermunicipal Water Infrastructure Grant Program;
- \$110 million for source water protection land acquisition;
- \$130 million for mitigation and remediation of contaminated drinking water;
- \$75 million for upgrades and replacements of septic systems and cesspools;
- \$20 million for the replacement of lead drinking water service lines; and
- \$50 million for Green Infrastructure Grants.

This year's funding represents a continuation of funding increases begun in the 2015-16 State Budget.

Increased Drinking Water Testing and Remediation Requirements (2017-18 State Budget)

Recent perfluorinated compound (PFC) contamination in Hoosick Falls, Yaphank, Gabreski Air National Guard Base, and the City of Newburgh highlighted the importance of comprehensive drinking water testing for emerging contaminants. The federal Environmental Protection Agency (EPA) website states "EPA uses the Unregulated Contaminant Monitoring Rule (UCMR) to collect data for contaminants that are suspected to be present in drinking water and do not have health-based standards under the Safe Drinking Water Act." Perfluorooctanoic Acid (PFOA) was included on the most recent UCMR; however, in Hoosick Falls for example, the population was below the threshold level required to participate in the UCMR testing.

The State Budget contained provisions to require the State Department of Health (DOH) to adopt regulations identifying substances as emerging contaminants that meet certain criteria. At a minimum, the DOH emerging contaminant list will include perfluorooctane-sulfonic acid (PFOS), PFOA, and 1,4-dioxane. Once the emerging contaminant list has been established, public water supplies would be required to test for such contaminants. The State's population threshold for such testing requirements is significantly lower than the threshold for the EPA's UCMR criteria.

Public water supply systems that detect significant levels of emerging contaminants would be eligible for funding and participation in a remedial program to mitigate emerging contaminants in drinking water. Solid waste sites that contribute to drinking water contamination would also be eligible for mitigation and remediation funding.

The State Budget also established a twelve-member Drinking Water Quality Council within DOH to include members with expertise in toxicology, health risk assessment, environmental engineering and water supply. The Council will make recommendations to DOH regarding the list of emerging contaminants, the development of public educational materials, the use of and manner of conducting biomonitoring studies.

HIGHLIGHTED LEGISLATION

Climate Change

(A.8270-A Englebright; Passed the Assembly, awaiting Senate action)

Climate change is adversely impacting New York's public health, natural resources, environment and economy. In addition, climate change heightens the vulnerability of disadvantaged communities, resulting in even greater disproportionate environmental and socioeconomic burdens. The severity of current climate change and the threat of more severe changes will be impacted by the actions undertaken by New York and other jurisdictions to reduce greenhouse gas emissions.

New York's efforts to reduce greenhouse emissions will encourage other states to implement complementary greenhouse gas reduction strategies and provide a model for how such strategies can be effectively implemented. New York's actions will also advance the development of green technologies and sustainable practices within the private sector, which can have far-reaching impacts including a reduction in the cost of renewable energy components, and the creation of jobs and tax revenues in New York.

This bill would:

- help put New York on track to minimize the adverse impacts of climate change through a combination of measures to reduce statewide greenhouse gas emissions and increase the resiliency of the State with respect to the impacts and risks of climate change that cannot be avoided;
- shape the ongoing transition in the State's energy sector to ensure that it creates good jobs and protects workers and communities that may lose employment in the current transition;
- prioritize the safety and health of disadvantaged communities, control potential regressive impacts of future climate change mitigation and adaptation policies on these communities; and
- review and prioritize the allocation of certain public investments.

Constitutional Amendment for the Right to Clean Air, Water and a Healthful Environment

(A.6279 Englebright; Passed the Assembly, awaiting Senate action)

Ongoing water contamination and air quality concerns have highlighted the importance of clean drinking water and clean air as well as the need for additional environmental protections. This proposed constitutional amendment would follow the examples established in the state constitutions of Pennsylvania, Hawaii, Massachusetts, and Montana by ensuring that clean air and water are treated as fundamental rights for all New Yorkers. If passed, this concurrent resolution would amend the State Constitution's bill of rights to include a right to clean air, water and a healthful environment.

Best Practices in Treating Residential Property for Tick Prevention and Management

(A.2809 Barrett; Passed the Assembly, awaiting Senate action)

As incidences of Lyme disease and other tick-borne infections in the State increase, questions have arisen regarding effective methods for prevention and landscape management for residential properties.

In order to raise awareness of appropriate and effective methods and to facilitate the delivery of information, this bill would require DEC to develop recommendations for best practices in treating residential properties for tick prevention and management, with the goal of ridding communities of ticks that contribute to tick-borne infections.

Increased Financial Security Requirements for Oil Storage Facilities and Trains

(A.1773 Fahy; Passed the Assembly, awaiting Senate action)

The transport of crude oil by rail has increased exponentially nationwide over the past several years, from over 9,000 carloads of crude oil in 2008 to over 400,000 in 2013. Events such as the Lac-Mégantic train derailment in Quebec have heightened the awareness of safety issues related to the transportation and storage of crude oil and the negative impacts of mishandling crude oil.

This bill would modify the existing provisions of the Oil Spill Fund to require major petroleum storage facilities to demonstrate sufficient financial security to meet all responsibilities for cleanup and decontamination costs associated with any oil spill. In addition, this legislation would require railroads to submit information relating to their ability to pay in the event of a crude oil discharge, with such information then posted on DEC's website.

Pine Barrens Expansion

(A.7722-B Englebright; Veto Memo 245)

The Long Island Pine Barrens contains a unique dwarf pitch pine community. The United States Fish and Wildlife Service has indicated that it is one of only three such communities in the world. The New York State Legislature recognized the importance of the Pine Barrens in the 1990's when it created the "Long Island Pine Barrens Preserve" and provided statutory protections. This legislation would expand the existing boundaries of the Pine Barrens and the "core preservation area." Additional properties consisting of more than 800 acres of woodlands, fields, tidal marsh, vernal pool, and nearly one-mile of shoreline on Long Island Sound would be added. Based on inventory work by the New York Natural Heritage program, the new properties contain more than a dozen rare plant populations and at least twenty-five distinct ecological communities, as well as habitat for many indigenous bird, mammal, reptile, and amphibian species, including habitat for the federally threatened Northern long-eared bat. The expansion also includes the largest remaining undeveloped property within the Forge River watershed.

Constitutional Amendment for Health and Safety Projects on Forest Preserve Lands

(A.8301 Englebright; Passed the Assembly and Senate)

(A.40001 enabling legislation – Chapter 61 of the Laws of 2017)

Forest preserve lands are constitutionally protected and their discontinuance requires approval by two successively-elected Legislatures and a majority of the voters. This proposed constitutional amendment would ensure that municipalities in the Adirondack and Catskill Forest Preserves could conduct certain health and safety projects without a specific constitutional amendment for each individual project, while still protecting the forest preserve. Specifically, the amendment would authorize the creation of a 250 acre health and safety land account which, following legislative approval, would authorize projects including: elimination of bridge hazards and dangerous curves and grades on county and town highways; relocation, reconstruction, and maintenance of county and town highways; and, water wells necessary to meet drinking water standards. In exchange for the creation of such account, and prior to the authorization of any projects, the State would be required to acquire 250 acres of land for inclusion within the forest preserve.

In addition, certain public utility lines and bike paths would be authorized to be placed in the width of State, county or town highways; provided however, that stabilization devices, such as guy wires, could extend beyond the width of the such highways in a manner to be determined by the Legislature. The language of the amendment makes clear that only existing roads are eligible for such projects and that any new roads developed within the forest preserve would still require constitutional scrutiny.

The passage of the proposed amendment this year represents second passage by the Legislature. Voters approved the amendment on the November 7, 2017, ballot.

Adirondacks

At a recent meeting focused on the Adirondacks, Assemblyman Englebright met with residents of Raquette Lake (Town of Long Lake, NY) whose contested properties were part of the Township 40 settlement that was resolved through the passage of a constitutional amendment that was approved by voters on the ballot in 2013. Pictured from left to right: Kevin Chlad, Adirondack Council; John Sammon; Assemblyman Englebright; Carolyn Gerdin; and Jeffrey Sellon.



HIGHLIGHTED LEGISLATION *(continued)*

Preserving Long Island's Water Quality (A.2623 Englebright; Chapter 449 of the Laws of 2017)

Long Island's population of approximately three million people receives its drinking water from a sole source aquifer. Although Long Island's soil quality helps ensure a plentiful groundwater supply, this same quality allows contaminants to leach into the groundwater.

Recent studies have highlighted the potential for adverse water quality impacts as a result of large compost and mulch facilities. This legislation will help protect water quality by ensuring that water quality and other environmental protections are in place. More specifically, this bill would apply to large-scale land clearing debris and composting facilities and require: quarterly water testing, impermeable liners, setbacks, dust and odor suppression, and fire risk management. DEC could exempt facilities following a review of water testing results and a determination that such facilities do not pose a risk of water impairment.

Protecting Biodiversity (A.8153 Englebright; Passed the Assembly, awaiting Senate action)

Plum Island, Great Gull Island, and Little Gull Island are isolated from Long Island and the mainland, and their geological formations and surrounding waters provide important habitat for marine mammals, sea turtles and many other plants and animals. The islands are of unique and significant physical and biological character, qualities and values, supporting important marine species. This bill would further recognize the islands' importance, and provide additional protections to the diverse and important marine mammal and sea turtle species.

This bill, while allowing fishing, would amend the Environmental Conservation Law to:

- designate the area from mean high water seaward fifteen hundred feet around Plum Island, Great Gull Island and Little Gull island as a Marine Mammal and Sea Turtle Protection Area;
- define the Marine Mammal and Sea Turtle Protection Area to mean:
 - a site providing habitat to species including harbor seals, gray seals, harbor porpoises, and sea turtles;
 - the presence of a State-designated natural protective feature; and
 - location within the boundaries of two estuaries of national significance.

Protecting New York's Water Quality

Signing of legislation investing \$2.5 billion in clean water infrastructure and water quality protection in Farmingdale, NY. From left to right: Senator Hannon, Assemblyman Englebright, Governor Cuomo, Senator Flanagan, and DEC Commissioner Basil Seggos.



- authorize the Department of Environmental Conservation to adopt regulations preventing the harassment, and providing for the protection, of marine mammals and sea turtles; and
- establish a Marine Mammal and Sea Turtle Protection Area Advisory Committee.

New York State Assembly, Albany, New York 12248



Legislative report from the NYS Assembly Committee on Environmental Conservation

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HIGHLIGHTED COMMITTEE ACTIVITY

Water Quality and Budget Implementation Hearing

The 2017-18 State Budget contained \$2.5 billion in multi-year funding for water infrastructure projects including: \$110 million for land acquisition for source water protection; \$1 billion for upgrades to municipal drinking water and wastewater infrastructure; \$130 million for drinking water remediation and mitigation of contaminated water; \$75 million for septic system replacement; \$150 million for inter-municipal water

infrastructure; and, \$20 million for the replacement of lead drinking water service lines.

The purpose of this hearing, held December 4th in New York City, was to examine the implementation of the water quality programs as well as their role in ensuring water affordability, and to examine water quality issues such as harmful algal blooms, increasing nitrogen levels, pesticide contamination, and water pollution prevention and enforcement.