



NEW YORK STATE ASSEMBLY • SHELDON SILVER, SPEAKER

2007
Annual Report

COMMITTEE ON
ENVIRONMENTAL CONSERVATION
ROBERT K. SWEENEY, CHAIRMAN

December 15, 2007

Honorable Sheldon Silver
Speaker of the Assembly
Legislative Office Building, Room 932
Albany, NY 12248

Dear Speaker Silver:

I am pleased to submit to you the 2007 Annual Report of the Assembly Standing Committee on Environmental Conservation.

The Committee considered several important issues this year such as brownfield reforms and global warming. This report describes the legislative actions and major issues considered by the Committee and sets forth our goals for future legislative sessions.

Under your leadership and with your continued support of the Committee's efforts, the Assembly will continue the work of preserving and protecting New York's environmental resources during the 2008 legislative session.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Sweeney". The signature is written in a cursive, slightly slanted style.

Robert K. Sweeney, Chairman
Assembly Standing Committee on
Environmental Conservation

2007 ANNUAL REPORT
OF THE NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON ENVIRONMENTAL CONSERVATION

Robert K. Sweeney, Chairman

Committee Members

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Harvey Weisenberg
Deborah J. Glick
William Colton
Ruben Diaz, Jr.
Adriano Espaillat.
Steven Cymbrowitz
Michael N. Gianaris
Adam T. Bradley
Barbara S. Lifton
Daniel J. O'Donnell
Crystal D. Peoples
Aileen M. Gunther
Barbara Clark
George S. Latimer
Donna A. Lupardo
Ellen C. Jaffee
Brian P. Kavanagh
Michelle Schimel

Teresa R. Sayward
Fred W. Thiele, Jr.
James G. Bacalles
Daniel J. Burling
Joseph S. Saladino
Ann G.Rabbitt
Peter D. Lopez
Gary D. Finch

Staff

Andrea Miller, Legislative Coordinator
Alex Roth, Principal Legislative Analyst
Rebecca Rasmussen, Committee Clerk
Jacqueline Canabush, Program and Counsel Secretary

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COMMITTEE RESPONSIBILITIES

The Assembly Standing Committee on Environmental Conservation has jurisdiction over legislation affecting State environmental policy. The Committee considers bills amending the Environmental Conservation Law (ECL), Parks, Recreation and Historic Preservation Law, Canal Law, Executive Law, Soil and Water Conservation Districts Law, and Navigation Law.

The primary concerns of the Committee are pollution prevention and control, resource management, and environmental quality issues. The Committee also monitors the activities and enforcement of environmental laws by the Department of Environmental Conservation (DEC). During the 2007 Legislative Session the Committee considered 376 bills, acted favorably on 110, and 43 became law.

SUBCOMMITTEES

The Environmental Conservation Committee examined policy issues with the assistance of two subcommittees - the Subcommittee on Oversight of the Department of Environmental Conservation and the Subcommittee on Shoreline Protection. These subcommittees help to promote more deliberative, long-term discussions and solutions to challenges that can be complicated and far-reaching.

Subcommittee on Oversight of the Department of Environmental Conservation – Adam T. Bradley, Chair

This subcommittee examines issues regarding the DEC's ability to protect human health and the environment and effectively implement the provisions of the Environmental Conservation Law. These issues include the adequacy of staffing at the Department, auditing of and reporting by the Department, ensuring public access to DEC records and overseeing the implementation of environmental laws and regulations.

Subcommittee on Shoreline Protection – Steven Cymbrowitz, Chair

This subcommittee focuses on topics involving the protection of both coastal and freshwater shorelines. Issues considered by the Subcommittee may impact such areas as the shores of Long Island Sound, New York Harbor, the Great Lakes, the Hudson River and Adirondack lakes. The scope of issues under examination includes beach and shoreline erosion control, tidal and freshwater wetlands protection, shoreline setbacks to control nonpoint source pollution and protecting shore areas from aquatic invasive species.

2007 BUDGET HIGHLIGHTS

The State Fiscal Year (SFY) 2007-08 Enacted Budget included several significant victories for the environment. Most significant was an increase in the size of the Environmental Protection Fund (EPF) to a record \$255 million. This record level of funding reflects a significant dedication of resources to environmental projects statewide and the \$100 million increase over the past two years brings total EPF funding much closer to the goal of \$300 million.

In addition, the Budget includes environmental justice initiatives which focus on improving the environment in communities, specifically, minority and low-income communities, and addressing disproportionate adverse environmental impacts that may exist in those communities. The Assembly ensured that no less than 25 percent of the funds appropriated for local waterfront revitalization and municipal parks projects under the EPF would be made available for projects in densely populated or low-income communities that are underserved with respect to existing recreational opportunities in the area.

ENVIRONMENTAL PROTECTION FUND (EPF)

The final EPF budget led to substantial increases for traditional EPF programs such as municipal parks, waterfront revitalization, municipal recycling, non-point source pollution control, and agricultural and farmland protection.

The table on the next page provides a detailed description of the allocations within the individual EPF accounts.

Environmental Protection Funds

EPF Category	\$ (in millions)		
	Enacted 2006-07	Executive 2007-08	Final 2007-08
Solid Waste Account	24.275	27.075	27.350
Municipal Recycling	8.750	10.000	9.825
Secondary Markets	8.750	8.750	8.750
Hudson River Natural Resource Damages	1.300	1.300	1.300
Pesticide Program	2.475	2.025	2.025
Landfill Closure/Gas Management	3.000	3.000	3.000
Cornell BCERF (new)			0.450
Pollution Prevention Institute (new)		2.000	2.000
Parks, Recreation & Historic			
Preservation Account	79.970	82.225	83.100
Local Waterfront Revitalization	27.000	23.000	23.000
Municipal Parks	20.470	25.225	21.225
Hudson River Park	5.000	5.000	5.000
Stewardship	15.000	21.500	21.500
Bellayre Mountain Ski Center			0.750
Historic Barn Program	5.000		
Zoos, Botanical Gardens, & Aquaria	7.500	7.500	8.000
Open Space Account	120.755	140.700	139.550
Land Acquisition	50.000	58.000	55.000
Smart Growth Program (new)		2.000	2.000
Quality Communities Grants	3.000		
Agricultural & Farmland Protection	23.000	28.000	28.000
Biodiversity	1.500	1.500	1.500
Albany Pine Bush	1.500	1.450	2.000
Invasive Species	3.000	5.000	5.000
Long Island Pine Barrens Planning	1.100	1.100	1.100
Ocean and Great Lakes	3.250	3.000	4.000
Water Quality Improvement	7.000	10.000	10.000
Long Island South Shore Estuary Reserve	0.900	0.900	0.900
Non-point Source Pollution Control	16.505	19.250	19.250
Soil and Water Conservation Districts	3.000	3.000	3.000
Finger Lakes - Lake Ontario Watershed	2.000	2.000	2.300
Hudson River Estuary Management	5.000	5.500	5.500
Total	225.000	250.000	250.000

MAJOR ISSUES OF 2007

A. ENVIRONMENTAL QUALITY

Enhancing the Environmental Protection Fund (EPF) **(A.8339 Sweeney; Chapter 258 of the Laws of 2007)**

New York State's Environmental Protection Fund (EPF) was created in 1993 as the first-ever permanent dedicated environmental funding mechanism in New York. This legislation would increase the deposits from the Real Estate Transfer Tax (RETT) to the EPF to bring the total annual EPF funding to \$300 million. Sprawling development across New York State consumes open space and farmland, threatens clean water, increases fuel consumption and air pollution, and creates more solid waste. This same sprawling development has resulted in an exponential increase in receipts from the RETT, the primary revenue source for the EPF. However, a diminishing percentage RETT revenue has been dedicated to conservation, while at the same time the cost of environmental protection has increased. This legislation enhances funding for the many programs within the EPF where demand greatly outstrips available funding.

Climate Change Task Force **(A.7367-A Sweeney; Veto Memo 114)**

This legislation would have created an interagency Climate Change Task Force, within the Department of Environmental Conservation (DEC), to develop recommendations for actions that can be taken to mitigate the impact of climate change on New York and minimize disruption to the State's economy, infrastructure and environment. The Task Force would have been required to incorporate its recommendations into an overall climate change action plan and submit a draft within one year. Following the completion of the draft, public hearings would have been held throughout the State, with plan updates being completed every two years.

New York State Sea Level Rise Task Force **(A.9002-A Sweeney; Chapter 613 of the Laws of 2007)**

Over 62 percent of New York's population lives in marine coastal counties. Unprecedented changes in global climate are underway. Climate change is resulting already in accelerating rates of sea level rise that, coupled with unsustainable coastal development and shore-hardening practices, have the potential to smother important natural habitats such as beaches, dunes, bluffs and wetlands. This legislation creates the New York State Sea Level Rise Task Force within the Department of Environmental Conservation (DEC) to evaluate ways of protecting New York's remaining coastal ecosystems and natural habitats and increase coastal community resilience in light of rising sea levels. The Task Force will be required to submit a report, no later than December 31, 2009, assessing the anticipated impacts of sea level rise, as well as providing recommendations related to actions the State may take to protect areas at risk of damage, adaptive measures, and regulatory and/or statutory changes.

Establishment of the New York Invasive Species Council
(A.9027-A Sweeney; Chapter 674 of the Laws of 2007)

Invasive plant and animal species pose a significant risk to New York State's environment and economy. More and more invasive species have become established within the State resulting in a detrimental effect upon the State's fresh and tidal wetlands, water bodies and waterways, forests, meadows and grasslands, and other natural communities as the invasive species out-compete native species, diminish biological diversity, alter community structure and, in some cases, change ecosystem processes. Nearly half (46 percent; 57 percent of the plants, 39 percent of the animals) of the species on the federal list of endangered species are declining, at least in part, due to invasive species. The economic impact to the national economy has been estimated to be as high as \$137 billion dollars annually. This legislation creates the New York Invasive Species Council and advisory board within the Department of Environmental Conservation (DEC). The Council will be responsible for the development of a comprehensive plan for invasive species management, providing input on funding for invasive species control and management, and developing a four-tier classification list for non-native wildlife and plant species. The classification list would be the basis for recommendations on prohibitions and penalties for such violations. In addition, the legislation gives DEC additional powers and duties for the implementation of the act and prohibits the State from purchasing or intentionally distributing species identified as prohibited in the recommendations of the Council.

Addition of Saratoga County to the Hudson River Valley Greenway
(A.7210 Tedisco; Chapter 283 of the Laws of 2007)

The Hudson River Valley Greenway was established in 1991 to create a process for voluntary regional cooperation among the counties in the Hudson River Valley. The Greenway currently includes approximately 242 communities from Albany County to Manhattan, with member communities receiving a variety of services including planning grants and technical assistance. This legislation adds Saratoga County to the Greenway membership.

Creation of the Upper Delaware River Greenway
(A.1159 Gunther; Veto Memo 134)

The Niagara and Hudson River Valley Greenways have led to increased cooperation and communication among municipalities in those regions. This legislation would establish the Upper Delaware River Greenway to include the City of Port Jervis, Village of Hancock, and the Towns of Deerpark, Lumberland, Highland, Tusten, Cochection, and Delaware. Also, the legislation establishes a council to undertake projects related to the Delaware River and prohibits the acquisition of lands with Greenway funds without the consent of the municipality.

Encouraging Smart Growth
(A.7335 Hoyt; Passed the Assembly)

As New York's population continues to spread out from urban areas into the suburbs and outlying small towns and villages, the need for responsible growth, incorporating economic, environmental and quality of life concerns, has grown. This legislation would encourage the application of smart growth principles statewide by enacting the "State Smart Growth Public Infrastructures Policy Act." The legislation would ensure that projects undertaken, approved or financed by the Department of Environmental Conservation, the Department of Transportation, the Department of Education, the Department of Health, the New York State Housing Finance Agency, the Housing Trust Fund Corporation, the Environmental Facilities Corporation, the Dormitory Authority and the New York State Urban Development Corporation are consistent, to the extent practicable, with smart growth criteria. The legislation would also direct the chief executive officer of each of the agencies listed above to create smart growth advisory committees within their respective agencies that would monitor the consistency of agency policies, programs and projects with the smart growth criteria.

State Environmental Quality Review Act Standing
(A.1435 Bradley; Passed the Assembly)

Under current law, individuals can be effectively barred from bringing legal actions alleging violations of the environmental quality review provisions of the Environmental Conservation Law solely on the basis that the injury alleged by such individual does not differ in kind or degree from the injury that would be suffered by the public at large. This legislation would ensure that individuals are allowed to bring private actions alleging violations of the State Environmental Quality Review Act (SEQRA) regardless of the kind or degree of injury that would be suffered by the public at large.

Reporting on the State of New York's Natural Environment
(A.801 Englebright; Passed the Assembly)

The natural environment of the State changes frequently, with invasive species and climate change becoming increasingly prevalent. This legislation would require the Department of Environmental Conservation to prepare an annual report on the status of New York's natural environment. The report would include information regarding: positive and negative changes to air, water, soil, wetlands and wildlife; significant programmatic accomplishments of the Department; significant unresolved problems and proposed legislative and administrative recommendations for the resolution of such issues.

Controlling Light Pollution
(A.7438 Rosenthal; Passed the Assembly)

The vast majority of outdoor lighting in use today wastes energy because it is poorly designed. Such waste results in both higher costs for lighting and increased pollution from power plants producing the wasted electricity. This legislation would protect the night time environment and conserve energy by allowing the DEC to designate dark areas and by limiting the installation of unnecessary new and replacement lights by State agencies and public authorities. This legislation would also prohibit unreasonable placement of lights which reduce the privacy of neighbors and would provide for the development of a model comprehensive outdoor lighting ordinance.

Environmental Impact Zone Designation
(A.2002 Diaz R.; Passed the Assembly)

This legislation would require the DEC to publish a list of “high local environmental impact zones,” which are defined as those areas of the State that are most adversely impacted by existing environmental hazards. In compiling this list, the DEC would consider potentially adverse environmental impacts within an area, such as releases of toxic chemicals and petroleum discharges, the quantities of emissions, discharges and stored waste authorized by permit, the amount of pesticides sold and used in the area, the proximity of water bodies, and air quality of the area.

Ensuring Equitable Environmental Quality Review
(A.1098 Brodsky; Passed the Assembly)

This legislation would add a new requirement to environmental impact statement preparation under the State Environmental Quality Review Act (SEQRA) requiring a detailed statement on whether the action of concern would cause a disproportionate or inequitable burden, or a vital indirect impact, on the minority community or economically distressed area affected by the action. The legislation would also direct the DEC to expand the existing criteria used in the SEQRA process for determining whether or not a proposed action may have a significant effect on the environment to include consideration of the proposed action's expected burdens on minority communities and/or economically distressed areas that are affected by the action.

Enhancing Environmental Quality Review
(A.615 Paulin; Passed the Assembly)

This legislation would ensure the consideration of emerging issues in environmental protection, such as the environmental impacts of proposed projects on children, in the determination of the significance of a project or action under the State Environmental Quality Review (SEQR) process. The DEC would be required to annually update any forms or documentation designed to assist applicants and lead agencies in determining whether a proposed project may have a significant impact on the environment. When updating such forms or documentation, the Department would be required to consider changes in science and emerging issues in environmental protection, including impacts on sensitive populations, such as children.

Community Impact Statements
(A.3670 Lentol; Passed the Assembly)

Currently, consent orders are negotiated by the Department of Environmental Conservation and are not subject to community involvement. This legislation would apply to New York City and would require orders to be published in the Environmental Notice Bulletin and in a newspaper having general circulation in the community. Community Board representatives would have 15 days to submit a community impact statement. Such statements would be reviewed by the Department and incorporated into the record.

Lead Contamination Study of Parks
(A.6052 Jeffries; Passed the Assembly)

Lead exposure in children has been found to result in developmental delays and other health problems. This legislation would require the Department of Environmental Conservation to conduct a study of lead contamination in parks adjacent to heavily-traveled city streets and rural and suburban highways. As part of the study, the Department must include recommendations for remediation methods. Within six months of the study, the Department must post warning signs indicating the presence of high lead levels and the potential health effects of exposure. The legislation would also authorize grants to municipalities for remediation costs and require ongoing progress reporting by the Department.

DecaBDE Ban
(A.7977-A; Passed the Assembly)

Chapter 387 of the Laws of 2004 prohibited the manufacture, process, or distribution of two forms of flame retardants commonly known as pentaBDE and octaBDE, due to their prevalence in the environment and research suggesting that they cause permanent neurological and developmental damage. A third flame retardant, decabrominated diphenyl ether (decaBDE), has become the most widely used of the three formulations, exceeding 60,000 metric tons worldwide with 40 percent of the use occurring in North America. DecaBDE has been found to accumulate in dust and food and its presence has been noted in blood and breast milk samples. In addition, it has been shown to pose the same public health dangers as those of its banned counterparts and when it breaks down, either by natural environmental processes or when metabolized, it forms by products that are predominantly found in the now prohibited pentaBDE and octaBDE. This legislation would restrict the use of DecaBDE in certain products including certain electronic devices, upholstered furniture or textiles for indoor residential use, and mattresses and mattress pads provided, however, the DEC Commissioner would be authorized to grant an exemption to the decaBDE prohibition upon a finding that there is no other technically feasible alternative or that the potential harm to public health and the environment posed by an alternative is greater than the potential harm posed by decaBDE.

B. HAZARDOUS WASTE MANAGEMENT

Reducing Human Exposure to Creosote **(A.1095-A Brodsky; Chapter 172 of the Laws of 2007)**

The term “creosote” refers to a variety of products derived from coal tar or other sources, such as wood creosote, coal tar creosote and coal tar pitch, primarily used as wood preservatives. Creosote contains several chemicals that are classified as potential human carcinogens by the United States Environmental Protection Agency (US EPA), and short-term exposure to creosote can result in skin irritations, chemical burns of the eyes, mental confusion, and respiratory ailments. In addition, because it is water-soluble, creosote can contaminate surface and ground water. Effective January 1, 2007, this legislation prohibits the manufacture, sale, and use of creosote in New York State. The legislation provides exemptions for the railroad and utility industries and, until January 1, 2009, marine structures. The legislation also regulates the disposal of creosote and wood treated with creosote, prohibits the burning of creosote and restricts the burning of creosote-treated wood.

Brownfield Opportunity Area Eligibility **(A.1088 Millman; Chapter 386 of the Laws of 2007)**

The Brownfield Opportunity Area program was established in 2003 to encourage increased community participation and planning in the brownfield redevelopment process. Currently, only municipalities are eligible to participate. This legislation permits community boards in New York City to be eligible for funding.

Restrictions on Lead Content in Jewelry **(A.8077 Koon; Veto Memo 140)**

Lead is a neurotoxin that is particularly hazardous to young children. Exposures to even very low levels of lead can cause brain function impairment. High concentrations of lead have been found consistently in jewelry, particularly inexpensive jewelry that is marketed to children. Numerous random samples of jewelry sold in New York State have been found to contain very high lead content (up to 600,000 parts per million) in recent tests. This legislation would have prohibited the advertisement, manufacture or sale of jewelry that contains components with lead standards above the established minimums. Also, this legislation would have established acceptable testing methods and increase penalties for non-compliance.

Tenant Notification of Contamination
(A.2742 Lupardo; Veto Memo 79)

The DEC does not require landlords to notify tenants of known contamination, including vapor intrusion that has occurred on the property, while homebuyers must be informed of certain environmental threats, prior to the transfer and sale of property. In Endicott and Ithaca, for example, renters were unknowingly exposed to environmental hazards such as vapor intrusion even though landlords were notified about the contamination. This legislation would have required a landlord to inform a tenant or prospective tenant of any known or suspected environmental contamination of residential rental property. Specifically, this bill would have required a landlord to disclose to all tenants and prospective tenants the results of any test that has been provided to the landlord as the result of an investigation pursuant to Article 12 of the Navigation Law or Article 27 of the Environmental Conservation Law. Upon completion of remediation of such property, the legislation would have required a landlord to provide a copy of a closure letter, "no further action" letter or certificate of completion.

Hazardous Waste Disposal Facility Siting
(A.248-B DelMonte; Veto Memo 123)

This legislation would have amended the Environmental Conservation law to prohibit any industrial hazardous waste disposal facility from being sited in a location with the potential to discharge into the Great Lakes system. This legislation would have resolved a conflict that presently exists between New York State Hazardous Waste Siting Law and the 1978 Great Lakes Agreement between the United States and Canada. The 1978 agreement and subsequent amendments established the objective of "zero discharges" of toxic chemicals into the Great Lakes system, while New York State Hazardous Waste Siting Law has no prohibition on facilities which accumulate and discharge such contaminants.

Public Notification by Nuclear Power Plants
(A.2422 Galef; Passed the Assembly)

This legislation would require increased public notification by operators of nuclear power plants including: requiring operators to maintain toll free numbers in order to make information available to the public; providing notice of scheduled releases of radioactive materials at least 24 hours in advance; reporting unscheduled releases of radioactive material and equipment malfunctions as soon as possible, but no later than 24 hours; and, reporting annually to the Public Service Commission.

Reimbursement to Fire Companies for Hazardous Spill Response
(A.7332 Sweeney; Passed the Assembly)

Many municipal and volunteer fire companies accumulate significant costs in responding to hazardous materials spills; however, current law does not provide a mechanism to allow for recovery of these costs. This legislation would provide reimbursement to fire companies for costs associated with responding to spills of hazardous materials.

Recycling of Mercury-Containing Lights
(A.8641-B Sweeney; Passed the Assembly)

According to the United States Department of Energy, energy consumption for all lighting in the United States is estimated to be about 22 percent of the total electricity generated. Consumers and businesses are transitioning rapidly to more energy and cost efficient lighting sources. Compact Fluorescent Lamps (CFLs), one example of an energy efficient lighting alternative, use two-thirds less energy than standard incandescent bulbs and last up to 10 times longer, with an average life span of five years. However, CFLs and other lighting alternatives contain trace amounts of mercury and other toxic substances and should be treated as household hazardous waste. This legislation would require the Department of Environmental Conservation (DEC), in consultation with the Public Service Commission and the Energy Research and Development Authority, to develop a plan for limiting electrical energy consumption for lighting by July 1, 2008, with a goal of limiting electrical consumption by 2018 to 50 percent of 2007 use levels for indoor residential lighting and 75 percent of 2007 use levels for indoor commercial and outdoor use lighting. In addition, DEC would also be required to promulgate regulations establishing schedules for reducing the maximum levels of mercury per lumen hour in general purpose lights sold or offered for sale in the State. Also, every manufacturer of general purpose lights sold in the State and containing hazardous materials would be required to ensure that by July 1, 2009, a system is in place to provide for the collection and recycling of any end-of-life general purpose lights generated in the State.

Liquefied Natural Gas Moratorium
(A.6319 Cusick; Chapter 31 of the Laws of 2007)

In 1978, the Legislature enacted a moratorium in New York City on the issuance of certificates of environmental safety for the siting of facilities and certification of routes for the transportation of liquefied natural or petroleum gas. This legislation extends the provisions of the moratorium until April 1, 2009.

C. PESTICIDES MANAGEMENT

Certification for the Application of Aquatic Antifouling Paints **(A. 7382 Sweeney; Chapter 34 of the Laws of 2007)**

This legislation provides technical amendments to Chapter 274 of the Laws of 2006 to promote the safe and proper application of aquatic antifouling paints. This legislation: increases the training hours required for certification; establishes increased penalties for non compliance; and allows a commercial pesticide apprentice to work under the direct supervision of a certified commercial pesticide applicator or a certified pesticide technician qualified in the application of aquatic antifouling paints until December 31, 2007.

Electronic Filing for Certified Pesticide Applicators **(A.8352-A Magee; Chapter 216 of the Laws of 2007)**

Under current law, prior to applying pesticides, every certified pesticide applicator must supply occupants with a written copy of the information, including any warnings, contained on the label of the pesticide to be applied. This legislation permits homeowners to request the information to be provided in an electronic or digital format. This legislation will not remove the requirement that applicators continue to have a written copy of the information in their possession.

Creating a State Urban Pesticide Board **(A.5299 Wright; Passed the Assembly)**

Recent reports have revealed the widespread use of pesticides in urban areas of the State. According to the Department of Environmental Conservation's (DEC) pesticides reporting program, more than 25 percent of all pesticides used in the State during 1998 were applied in New York City. This legislation would create a ten member urban pesticide board within the DEC to investigate the proliferation of pesticides in urban areas. The board created by this legislation would examine, evaluate, and make recommendations concerning the sale, use and application of pesticides in urban areas.

Phasing Out the Use of Pesticides by the State **(A.1142 Brodsky; Passed the Assembly)**

New York State agencies, authorities and their contractors use pesticides that are known to contaminate ground and surface water, cause reproductive or developmental defects, and are often toxic and/or carcinogenic to humans. Restriction of pesticide use by the State will not only prevent the harmful environmental and health effects of these chemicals but may also save taxpayers money. This legislation would provide for the implementation of a policy to discontinue the use of pesticides by all state agencies, public authorities, and public benefit corporations and would require the adoption of a pest control policy that relies substantially on non-chemical pest controls.

Environmental Impact Zone Designation
(A.2002 R. Diaz; Passed the Assembly)

This legislation would require the Department of Environmental Conservation (DEC) to publish a list of “high local environmental impact zones,” which would be defined as areas of the State that are most adversely impacted by existing environmental hazards. In compiling the list, DEC would consider potentially adverse environmental impacts within an area, such as releases of toxic chemicals and petroleum discharges, the quantities of emissions, discharges and stored waste authorized by permit, the amount of pesticides sold and used in the area, the proximity of water bodies, and air quality of the area.

D. AIR QUALITY

Motor Vehicle Global Warming Index Labels
(A.8839-A Sweeney; Chapter 466 of the Laws of 2007)

Transportation remains one of the greatest sources of carbon dioxide emissions. This legislation allows consumers to consider a vehicle's carbon emissions at the point of purchase by requiring the inclusion of a global warming index label. The global warming index label will include a comparison of the emission of global warming gases from all of the vehicles of the same model year. This requirement will apply to all new vehicles beginning in the model year 2010.

RGGI Proceeds
(A.7365 Sweeney; Passed the Assembly)
(A.7366 Gianaris; Passed the Assembly)

Global climate change threatens the environment, natural resources and economy of New York State. In an effort to reduce its contribution to global warming, the State has led the way in developing the Regional Greenhouse Gas Initiative (RGGI), a nine state cap and trade program to stabilize and reduce carbon dioxide emissions. In New York, 100 percent of the carbon dioxide emissions allowance budget will be auctioned for consumer benefit. The bill A.7365 (Sweeney), would require the funds received by the Department of Environmental Conservation from the sale of air emission allowances to be used for the following programs: greenhouse gas emissions reduction, energy efficiency, renewable energy development and clean air technology. The bill, A.7366 (Gianaris), would establish a fund for the proceeds of the emission allowances of the Regional Greenhouse Gas Initiative.

Reporting of Greenhouse Gas Emissions by State Agencies
(A.9169 Sweeney; Passed the Assembly)

State government is one of the greatest energy consumers in the State. This legislation would require State agencies to calculate the amount of greenhouse gases emitted as a result of agency operations. Also, agencies would be required to describe actual emissions, describe steps taken to reduce emissions and reduce future emissions.

Greenhouse Gas Emission Calculator
(A.9199 Sweeney; Passed the Assembly)

Reducing greenhouse gases will help decrease the effects of global warming, preserve resources and help protect the environment. This legislation would require the Department of Environmental Conservation (DEC) to establish and promote on its website a method for individuals and businesses to calculate their greenhouse gas emissions and offer recommendations on steps to reduce such emissions. In addition, the legislation would require DEC to develop best management and procurement practices for State agencies to reduce their greenhouse gas emissions.

Enhancing Public Notification of High Levels of Air Emissions
(A.4226 Ramos; Passed the Assembly)

In the past, major sources of air pollution have exceeded emissions limits while the public was left unaware of the potential health risks of such pollution. For example, during the winter of 2002-03, the Power Authority of the State of New York's (PASNY) power plants in New York City and Long Island violated emissions limits and were subsequently fined by the Department of Environmental Conservation (DEC). The public was not informed of the violations and thus was unaware of the increased risk of health hazards associated with high levels of emissions, which included ammonia, carbon monoxide and nitrous oxide. This legislation would require the owner or operator of an emission source to provide notification within 24 hours to the DEC and the public in instances where the emissions limit has been exceeded for a second or subsequent time. Upon notification, the DEC would be required to solicit from the Department of Health a study identifying the health implications of such emissions. The study would be required to be completed within 90 days of the emission violation notification and would be made available to the public. Finally, the legislation would provide that in cases where a settlement of air operating permit violations includes an environmental benefit project, such project should be undertaken within the municipality where the violation occurred.

E. FISH AND WILDLIFE

Marine Commercial Fishing Licenses

(A.8215 Sweeney; Chapter 366 of the Laws of 2007)

The Department of Environmental Conservation, in consultation with the Marine Resources Advisory Council (MRAC) and members of the commercial fishing industry, determined that commercial fishing licenses needed modification in order to ensure the long term viability of the industry. This legislation maintains the caps on food fish licenses, whelk licenses, and crab permits and provides a mechanism for the caps to be reduced further over the next four years. In addition, a complete moratorium will be maintained on commercial lobster permits, given that current lobster management regulations do not provide for the issuance of any new lobster trap tags. Eligibility and transfer provisions, including the apprenticeship program, will be included in order to maintain family and community traditions of commercial fishing and to provide limited opportunities for new entry to individuals who are willing to make an investment of time and learning in the profession.

Penalties for Illegal Shellfish Capture

(A.8498-A Cusick; Chapter 347 of the Laws of 2007)

Cases of illegal harvesting of shellfish have increased recently in New York State. This legislation increases the penalties for the illegal taking of shellfish and imposes a penalty of three times the market value of the shellfish in cases where the violation represents a second and subsequent offense.

Alternate Members for New York Conservation, Education and Research Board

(A.8731 Sweeney; Chapter 263 of the Laws of 2007)

The Marine and Coastal District of New York Conservation, Education and Research Board was established in 2002, and allowed for the appointment of 10 members; however, voting requires a unanimous decision. This legislation allows for the appointment of alternate members to facilitate the Board's work.

Increasing Penalties for the Unlawful Taking of Deer

(A.735 DelMonte; Veto Memo 77)

White-tail deer are among the most popular game species in New York, and existing penalties for deer poaching are inadequate to deter individuals from breaking the law to get a "trophy" buck. This legislation would have increased penalties for the illegal taking of deer by increasing potential fines for the first such offense and adding new provisions for the suspension of hunting licenses. The legislation would have also created new penalties for subsequent offenses, including increased fines, potential terms of imprisonment and longer durations of license suspensions.

Protecting the State’s Freshwater Fisheries
(A.734 DelMonte; Passed the Assembly)

This legislation would protect the viability of the State’s freshwater fisheries by prohibiting the commercialization of freshwater fish taken under the privilege of a sport fishing license or any similar recreational or sport fishing license issued outside of the State. This measure would prevent over harvesting of unprotected fish (those not subject to minimum size limits or a closed season) and eliminate conflicts between recreational and commercial anglers. New York remains one of only four states where recreational anglers are allowed to sell certain species of freshwater fish for profit.

Striped Bass Management
(A.1147 Brodsky; Passed the Assembly)

Legislation passed in 2000 required the New York State Department of Environmental Conservation to appoint a Temporary Advisory Committee to issue recommendations on the commercial management of striped bass in the Hudson River. The Advisory Committee did not reach a consensus on reopening the fishery, reflecting concerns about the potential depletion of the striped bass if the fishery were re-opened to commercial fishing. The lack of consensus was also based on concerns about the potential loss in revenue generated by the recreational striped bass angling community who travel across the state and the nation to fish for “stripers.” In recognition of these and other concerns, this legislation would prohibit the taking of striped bass from the Hudson River for commercial purposes.

Canned Hunting
(A.2612 Glick; Passed the Assembly)

In 1999, legislation was passed prohibiting the hunting of non-native animals confined to less than 10 acres. This legislation would expand the hunting prohibition to include any fenced area or other area from which there is no means for such animals to escape.

Prohibition on the Mass Release of Helium Balloons
(A.7630 Kavanagh; Passed the Assembly)

Releasing balloons may seem like a harmless activity; however, the litter caused by balloons has a significant impact on the environment and on marine life. Marine life is especially susceptible since the vast majority of the balloons come down over the ocean and the similarity of balloon debris to jelly fish causes them to be eaten by marine life. Animals who consume balloons can choke or be prevented from absorbing nutrients, resulting in starvation. Balloons have been found in dead sea turtles and whales in the Atlantic and Gulf coasts. Several states have already passed legislation limiting the release of helium balloons. This legislation would prohibit individuals or entities from releasing more than 24 helium balloons per day. Balloons for scientific experiments and hot air balloons would be excluded from the prohibition.

F. ENVIRONMENTAL ENFORCEMENT

Improving New York State's Compliance with Environmental Laws **(A.8036 Kavanagh; Passed the Assembly)**

Among the largest polluters in New York State is the State itself. This bill seeks to remedy this problem by requiring the Department of Environmental Conservation to impose penalties upon any State agency that fails to complete a remediation plan within the timeframe required by law. In addition, this legislation would require public hearings and allow for action against agencies for failure to develop and complete remedial plans.

Enhanced Public Notice Requirement **(A.1007 Dinowitz; Passed the Assembly)**

The public notice requirements found in the Environmental Conservation Law were enacted in 1977, in response to concern about the impact of regulatory requirements on business costs. Those concerns were balanced against the public's right to an adequate review and comment period. This bill seeks to continue to achieve this balance by modifying public notice provisions. Present law requires publication in newspapers having "general circulation in the area in which the project is proposed to be located." This legislation would modify those requirements to include publication in the Environmental Notice Bulletin (ENB) and in non-English publications when 25 percent of the population does not have English as a primary language. This legislation would also provide the public with access to correspondence between applicants and DEC and information about pre-application conferences or meetings.

G. SOLID WASTE MANAGEMENT

Solid Waste Management on MTA Leased Property **(A.8340-A Sweeney; Veto Memo 159)**

This legislation would have authorized the governing body of any municipality having a population of less than one million to have jurisdiction over any entity, other than the Metropolitan Transportation Authority (MTA) or its subsidiaries, that operates a solid waste management facility. In addition, this legislation would have prohibited the MTA from knowingly allowing any entity to operate a solid waste, hazardous waste or low-level radioactive waste facility on the authority's property, whether owned, leased, under contract or under any other arrangement, unless permitted pursuant to the Environmental Conservation Law and local law.

Standardizing the Recycling, Reuse and Remanufacturing of Electronic Equipment
(A.3317 Colton; Passed the Assembly)

Discarded electronic equipment now makes up the fastest growing sector of New York's waste stream. Such antiquated electronic equipment often consist of a variety of mechanical and electrical components, many of which contain environmentally hazardous substances such as mercury, lead, cadmium, and PCBs. This bill recognizes the need to keep these dangerous substances out of landfills and would provide for the standardization of the emerging electronic equipment recycling and remanufacturing industry. Specifically, the legislation would require the DEC to develop rules and regulations establishing standards for the recycling, reuse and remanufacturing of electronic equipment by persons or entities operating sites designed for such activities.

Enhancing Statewide Recycling Efforts
(A.3318 Colton; Passed the Assembly)

This legislation would enhance statewide recycling efforts by clarifying the obligations of waste haulers regarding the handling of recyclable materials and specifying the materials which are to be separated for recycling. Specifically, the legislation would prohibit private and municipal waste haulers from delivering recyclable materials to landfills, incinerators or transfer stations. Also, the legislation would prohibit the acceptance of recyclable materials for disposal by operators of incinerators or landfills. In addition, the commingling of recyclable materials with other solid waste would be prohibited. Finally, the legislation would specify which materials must, at a minimum, be separated for recycling pursuant to a local recycling law.

Enhancing Solid Waste Management
(A.6578 Sweeney; Passed the Assembly)

This legislation would require an applicant for a permit to construct a solid waste management facility to demonstrate that the facility would be consistent with the objectives of the local solid waste management plan of the planning unit in which the proposed facility would be sited, as well as the plans of the planning units from which the solid waste would be received. In addition, this legislation would change the definition of "solid waste management facility" to include recyclable waste handling and recovery facilities.

Plastic Bag Recycling
(A.8810-B Sweeney; Passed the Assembly)

An estimated 500 billion to 1 trillion plastic bags are consumed worldwide each year. Billions end up as litter or take up valuable space in landfills. Plastic bags do not biodegrade but instead break down into smaller toxic bits, contaminating soil and waterways and suffocating marine life. In addition, the manufacturing process for plastic bags uses over 12 million barrels of oil each year. This legislation would require stores over 10,000 square feet to accept plastic bags for recycling.

H. PETROLEUM SPILL MANAGEMENT

Neighbor Notification of Petroleum Discharge **(A.843 Englebright; Passed the Assembly)**

Currently, people responsible for petroleum discharges are required to notify the Department of Environmental Conservation (DEC) as soon as possible, but not later than two hours after the discharge; however, there is no requirement for neighboring property owners to be notified. In New Windsor, New York, notification of a petroleum discharge was provided to DEC, but no further notification was provided. The petroleum discharge contaminated nearby wells and residents drank contaminated water for more than a year before discovering the contamination. This legislation would require the DEC, upon notification of a petroleum spill, to provide immediate notification to adjacent and/or nearby landowners or tenants whose property or drinking water supply may be affected by the discharged material.

Accident Prevention Planning for Bulk Petroleum Storage Facilities **(A.1620 Lentol; Passed the Assembly)**

Over the years, millions of gallons of oil have spilled from storage tanks, posing environmental and health risks. This legislation would require bulk petroleum storage facilities in New York City to undertake comprehensive accident prevention planning for the prevention of spills and leaks of petroleum. Plans would be required to be audited by an independent company on a quarterly basis.

Detecting Accidental Discharges **(A.1622 Lentol; Passed the Assembly)**

Current law requires "early" detection of discharges, however, "early" may not be soon enough. Accidental discharges can occur in a short period of time, and can cause significant damage to delicate ecosystems. This bill seeks to prevent such damage and ensure that spills are cleaned up quickly by requiring major facilities, which store at least 400,000 gallons of petroleum, to install devices to detect accidental discharges within 24 hours.

I. WATER CONSERVATION AND QUALITY

Ensuring a Safe Drinking Water Supply for the Residents of Raquette Lake (A.7242 Sweeney; Constitutional Amendment – Second Passage)

The water supply system in the hamlet of Raquette Lake in the Town of Long Lake, Hamilton County, which draws from a surface reservoir, no longer meets State drinking water standards. The prevalence of State Forest Preserve lands surrounding this community, coupled with the sanitary and hydrogeological requirement of public water supply wells, means that the only viable alternative for siting a drinking water supply well for the hamlet of Raquette Lake is on Forest Preserve land. This legislation would amend section one of Article XIV of the State Constitution to allow the Legislature to approve the transfer of one acre of Forest Preserve land to the Town of Long Lake for the purpose of siting a drinking water well to serve as the municipal drinking water supply for the hamlet of Raquette Lake. In exchange for such land, the Town of Long Lake would be required to convey a parcel of land, determined by the Legislature to be of equal or greater value, to the State for incorporation into the Forest Preserve, and abandon the existing surface reservoir as a drinking water supply source. This bill passed the Assembly and Senate in 2005; however, constitutional amendments must be passed by two successive Legislatures. Following its approval by the Legislature this year, the proposed amendment must be approved by the citizens of the State.

Encouraging Non-Point Source Pollution Control Projects (A.8460 Magee; Chapter 262 of the Laws of 2007)

This legislation establishes a linked deposit program that would allow the New York Environmental Facilities Corporation (EFC) to deposit moneys from the water pollution control fund with lending institutions for the purpose of reducing borrowing costs for eligible non-point source pollution projects. This program will be made available to farmers implementing a management program under section 319 of the Federal Water Pollution Control Act related to agricultural operations, as well as residents and small businesses upgrading or replacing on-site wastewater treatment (septic) systems with new Department of Health approved systems or abandoning their septic system and connecting to a sewer system. Up to \$10 million annually will be made available from the State Water Pollution Control Revolving Fund for the program.

New York State Canal Flood Mitigation Task Force
(A.6487-A Tonko; Chapter 456 of the Laws of 2007)

In late June 2006, communities, businesses, farms and families were devastated by unprecedented flooding along the Erie Canal. The flooding caused millions of dollars of damage to the canal system infrastructure and led to numerous questions regarding the operation and impact of the canal system on the severity of the flooding. After a preliminary review, it became evident that there were several weaknesses related to flooding along the canal system that needed to be addressed. This legislation creates the New York State Canal Flood Mitigation Task Force to conduct a comprehensive study of flooding issues along the canal system, including identifying adaptive measures that could be taken to better prepare for and better respond to flooding and make recommendations to the Governor and Legislature. The task force will include appropriate governmental agencies and outside experts, including those with expertise in hydrology, civil engineering, climatology, soil and water conservation, emergency management, recreation, flood management and planning and economic development. The task force will also consult with and gain the input of local emergency officers from counties adjacent to the canal system.

Reserve Provisions for the Environmental Facilities Corporation
(A.8016 Sweeney; Chapter 134 of the Laws of 2007)

The Clean Water State Revolving Fund and Drinking Water State Revolving Fund are funded through Federal capitalization grants, pursuant to the Federal Water Quality Act of 1987 and the Safe Drinking Water Act, respectively, and require State Matching funds equal to 20 percent of the Federal capitalization grants. The Environmental Facilities Corporation (EFC) allocates a portion of the Federal capitalization grants and the State matching component to a reserve fund to secure the financings made to recipients, such as municipalities, for municipal clean water and drinking water projects. This allocation is referred to in the statute as a corpus allocation. The corpus allocation for a financing is equal to at least one-third of the principal amount of each financing outstanding at any given time, excluding portions of the financing used to fund a debt service reserve fund. Current law suggests that the corpus allocation is comprised only of Federal capitalization grants and the State matching component. However, in addition to such Federal grants and State matching funds, EFC is able to use principal repayments and interest from municipalities and interest earned on equity funds to provide recipients with an interest rate subsidy. This legislation allows EFC to include in the term allocation such repayment principal and interest. As a result, with the broader allocation, EFC will be able to finance more municipal clean water and drinking water projects.

Operation of a Leased Craft Without a Boating Safety Certificate
(A.6481 Morelle; Chapter 361 of the Laws of 2007)

In 1998, the Legislature enacted a law to allow a person over 18 years of age to operate a personal watercraft or specialty prop-craft without a boating safety certificate, provided that the use of such vessel is restricted to a specified area, no part of which shall be more 2,500 feet from the livery location, or, if removed from the livery location, not more than 500 feet from the livery operator or agent assigned by the livery operator to supervise such operation. In addition, the personal watercraft or specialty prop-craft and/or the personal flotation device of the operator must be clearly marked so as to be distinguishable by the operator within the permitted areas of operation. This authorization was set to expire January 1, 2008. This legislation extends the authorization until January 1, 2010.

Establishing the Oswego River Basin Water Level Management Commission
(A.6905-A Magnarelli; Veto Memo 111)

The Oswego River Basin includes a number of major bodies of water, including the Finger Lakes and the Oswego River. These lakes and rivers are natural resources that also promote tourism and economic development for surrounding communities. The current system of water level management, however, is insufficient to prevent flooding, and it has allowed for regular flooding to take place in regions within the Basin, causing destruction along waterways that has resulted in a severe economic impact within the region. This legislation would have established the Oswego River Basin Water Level Management Commission for the purpose of managing the water levels of the bodies of water within the Oswego River Basin.

Protecting the State's Freshwater Wetlands
(A.7133 Sweeney; Passed the Assembly)

The United States Supreme Court recently ruled that the federal government has no jurisdiction over isolated wetlands. With the Supreme Court ruling, estimates from the Environmental Protection Agency and The Army Corps of Engineers suggest that at least 20 percent and possibly 50 percent of existing wetlands, constituting millions of acres nationwide, will be left unprotected. In New York State, estimates are even higher, with potentially as much as 80 percent of the wetlands currently being unregulated and unprotected. While all of New York's neighboring states already have the regulatory authority to step in and regulate the wetlands that the Corps of Engineers formerly oversaw, New York's Department of Environmental Conservation is limited currently to regulating mapped wetlands of a size greater than 12.4 acres. This legislation would expand DEC's regulatory authority to wetlands over one acre in size or of significant local importance and remove the existing requirement that lands or waters be included on the freshwater wetlands map in order to be considered wetlands.

Great Lakes-St. Lawrence River Basin Water Resources Compact
(A.7266-B Sweeney; Passed the Assembly)

The Great Lakes Basin is composed of five of the largest freshwater lakes in the world. The Great Lakes and their bays and tributaries contain 20 percent of the world's supply of freshwater and 95 percent of North America's supply of surface freshwater. The Great Lakes represent an invaluable natural resource for the people living within and along the Basin boundaries. Approximately 80 percent of New York's fresh surface water and over 700 miles of New York's shoreline are within the drainage basins of Lake Ontario, Lake Erie, and the St. Lawrence River. Although the Great Lakes are large, they are also vulnerable. Only a small percentage of the waters of the basin are recharged annually, and the Great Lakes are susceptible to the effects of increased demands from municipalities and industries and changes in water recharge patterns including rain, runoff, and snowmelt. The Great Lakes – St. Lawrence River Basin Water Resources Compact is the result of a multi-year international effort to create enforceable guidelines for protecting the waters of the Great Lakes Basin. This legislation would ratify New York's participation in the Compact, a multi-state agreement on the management of the Great Lakes that creates a system for cooperatively managing water withdrawals and use of water from the Basin. The Compact would give the eight Great Lakes States the authority to manage water resources cooperatively.

Protecting Residents with Private Wells
(A.7231 Jaffee; Passed the Assembly)

Over one million residents of New York State get their drinking water from private wells. While laws require municipal water suppliers to test their water periodically and to send residents an annual report on the quality of that water, there are no similar protections for private wells. As a result, people using private wells around the State are unprotected and often unaware that there may be problems with their drinking water. This legislation would establish a private well testing program in New York State, requiring testing of private drinking water wells at the time of property transfer. Testing would include: bacteria (total coliform), nitrates, iron, manganese, pH, and all volatile organic compounds for which a maximum contaminant level has been established pursuant to public health regulations.

Electronic Filing of Wetland Maps
(A.2691 Lifton; Passed the Assembly)

The Freshwater Wetlands Act requires the Commissioner of the Department of Environmental Conservation to file copies of wetland maps with local governments to be made available for public inspection. In order for such maps to be official, they must be distributed in paper format. Paper maps have limited public impact in that they can only be viewed during the office hours of the municipal clerk. This legislation would authorize the electronic filing of wetlands regulatory maps.

Neighbor Notification of Proposed Wetland Development
(A.2799 Cusick; Passed the Assembly)

Current law requires any person proposing to conduct a regulated activity upon a wetland to file an application. Notice of such applications is filed with municipalities which then provide notice to adjacent landowners. This legislation would expand the notice requirements to include publication in a newspaper with general circulation and, in municipalities with a population of one million or more, notice to all property owners within 1,000 feet of the watershed.

Encouraging Watershed Protection
(A.7268 Sweeney; Passed the Assembly)

Over the last 10 years, the State has participated in numerous watershed or regional basin-wide planning approaches to water quality issues with significant local government and public participation. This legislation would encourage municipalities to commence similar projects by authorizing the Environmental Facilities Corporation (EFC) to provide loans at a zero percent rate of interest from the Clean Water State Revolving Loan Fund (CWSRF) for the purpose of acquiring interests in land as part of a watershed management plan.

Establishing a State Ballast Water Management Plan
(A.1355 Aubertine; Passed the Assembly)

The introduction of aquatic nuisance species into United States waters through the discharge of ballast water from vessels has become a significant environmental threat. It is estimated that more than 4,500 self-sustaining aquatic nuisance species populations now exist nationwide. This legislation would limit the introduction of aquatic nuisance species into New York State waters by prohibiting the discharge of ballast water into the waters of the State, unless the vessel has conducted an open sea exchange of ballast water or the vessel has treated its ballast water in accordance with standards to be set by the Department of Environmental Conservation. The legislation would also establish ballast water reporting and sampling requirements.

J. FOREST AND LAND RESOURCES

Protecting Forested Areas within the Adirondacks

(A.9190 Sweeney; Constitutional Amendment, First Passage)

This legislation would amend section one of Article XIV of the State Constitution in order to allow National Grid to construct a power line along County Route 56 in St. Lawrence County on forest preserve lands. The proposed constitutional amendment would authorize the transfer of approximately six acres of forest preserve lands to National Grid in exchange for 10 acres to be added to the forest preserve elsewhere in St. Lawrence County. If the constitution is not amended in order to allow this transfer of lands National Grid has already received approval for an alternative plan that would allow them to construct their power line in a manner that is far more disturbing to the Adirondack ecosystem. This alternative plan would cut a 70-foot wide swath through six miles of forested lands that contain numerous sensitive and locally significant areas. While the alternative plan would not cut through forest preserve lands, it would be more disruptive to forested areas. Constitutional amendments are required to be passed by two votes of successively elected Legislatures before being submitted to voters. The passage of the bill this year represents its first passage.

Payment of Fire Extinguishment Costs

(A.8140 Aubertine; Chapter 426 of the Laws of 2007)

The Department of Environmental Conservation (DEC) is charged with the task of extinguishing forest fires in certain designated “fire towns.” Currently, the “fire towns” are required to reimburse DEC’s non-personnel expenses; however, much of the land is State forest preserve, open to the public. This legislation eliminates the requirement that fire towns provide reimbursement to DEC for forest fire suppression activities.

Discontinuance of Land in the Long Island Pine Barrens Maritime Reserve

(A.6275 Alessi; Chapter 112 of the Laws of 2007)

In the sixties and seventies, the Department of Environmental Conservation (DEC) granted the Longwood Central School District several easements for the use of State property adjacent to the south side of Ridge Elementary School. In 1995, this property became part of the Pine Barrens Core Area; however, the Ridge Elementary School exceeded their permitted uses of the property and constructed an underground oil storage tank at the east end of the easement property. This legislation permits the school district to convey land to the east and north of the property in exchange for the property with the oil tank.

Protecting State-Owned Natural Resources
(A.1614 Englebright; Passed the Assembly)

Since its inception in 1995, the adopt-a-natural resource program, which allows volunteers to preserve and maintain State-owned resources under an agreement with the Department of Environmental Conservation, has facilitated the completion of numerous beneficial stewardship projects. Recently, however, instances have emerged where volunteers performed work that was incompatible with the protection of the natural resource. This legislation would eliminate the possibility of environmental damage by prohibiting stewardship agreements that authorize the destruction or alteration of natural resources in a manner inconsistent with State law. The legislation would also prevent the use of heavy construction equipment to construct, refurbish or build projects pursuant to a stewardship agreement and require the DEC to provide public notice of proposed stewardship agreements in the State Environmental Notice Bulletin.

Local Zoning of Mining
(A.7119 Gordon T.; Passed the Assembly)

Currently, local governments must be notified when a mining application has been submitted to the Department of Environmental Conservation; however, the Department is not required to follow municipal zoning laws and may approve the application despite a municipal prohibition. This legislation would prohibit the Department from approving a mining permit if a local law prohibits the proposed mining use within the area proposed to be mined.

Providing Enhanced Public Notice and Disclosure of County Land Acquisitions
(A.914 Englebright; Passed the Assembly)

This legislation would require municipalities that acquire open space with revenues from a tax authorized by the State, or with the assistance of State funding, to produce a finding to be filed with the municipal clerk. Such finding would address the suitability of the land or easement for preservation, the manner and fairness of the land acquisition process, and the adherence to applicable local laws and procedures regarding land acquisition. Also, the legislation would require municipalities to make a file with all records and information relating to the acquisition transaction available for public inspection and publish notification of each acquisition transaction in the newspaper of record.

Sale of State-Owned Land
(A.2004 Lupardo; Passed the Assembly)

The State Land Acquisition Plan was created in statute to help identify and prioritize the State's natural resources. The State Land Acquisition Advisory Council was created to aid in the formulation of this plan, and to make recommendations for land acquisition that ensure a balance of statewide and regional acquisition goals. This legislation would require the State Land Acquisition Advisory Council to promulgate regulations to determine whether State-owned lands proposed for sale have any value that would make them worthy of continued resource protection by the State.

OVERSIGHT AND PUBLIC HEARINGS

In 2007, the Committee continued its oversight functions by holding a State Budget Oversight hearing in September. In addition, the Committee held hearings on shoreline and environmental protection in Sheepshead Bay, environmental issues related to lighting alternatives, New York City's sustainability proposal, New York State's brownfield cleanup and opportunity area programs and invasive species and pathogens.

State Budget Oversight

The Department of Environmental Conservation (DEC) is responsible for conserving and improving New York's natural resources, managing the State's fish, wildlife and marine resources, and controlling water, land and air pollution to enhance the health, safety and general welfare of the State's residents. On September 18th, in Albany, the Committee held a hearing to review the DEC's implementation of the State Budget and the impacts on State environmental programs.

Shoreline and Environmental Protection in the Sheepshead Bay

Sheepshead Bay is an ocean inlet in Southern Brooklyn which juts out of the western end of Jamaica Bay. On shore it runs from Knapp Street to Shore Boulevard on the north and from Seawall Avenue to Shore Boulevard on the south. The waters of Sheepshead Bay continually face environmental issues that range from odor complaints and floating debris, to fish kills and oil slicks. In addition, casual inspection of the private bulkheads shows many in need of repair and one that has caved into the bay. There have also been reports of emergency vessels running aground while responding to emergencies. With development along the shoreline continuing, the stresses on the bay will only increase. At present, it is unclear who is responsible for dredging of the Bay and ensuring that bulkheads along the shore are properly maintained. On January 17th in Brooklyn, the Committee held a hearing to solicit information to help determine where ultimate responsibility for addressing the problems impacting Sheepshead Bay lies and to determine what actions should be taken to better protect the Bay.

Environmental Issues Related to Lighting Alternatives

According to the United States Department of Energy, energy consumption for all lighting in the United States is estimated to be about 22 percent of the total electricity generated. Consumers and businesses spend approximately \$58 billion a year to light their homes, offices, streets, and factories. Most households still use traditional incandescent light bulbs, which convert approximately 10 percent of the electricity they use to produce light with the remaining 90 percent converted to heat. According to Energy Star, a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy, the energy used in the average home can be responsible for more than twice the greenhouse gas emissions of the average car. Energy efficient lighting alternatives, such as compact fluorescent bulbs, or "CFLs," have made inroads into home lighting systems in the last few years. While CFLs are more expensive to purchase than traditional incandescent lamps, they use two-thirds less energy than standard incandescent bulbs and last up to 10 times longer, with an average life span of five years. It is estimated that

a compact bulb saves \$30 or more in energy costs before it burns out. However, CFLs contain trace amounts of mercury and should be treated as household hazardous waste and recycled. On June 4th, in Albany, the Committee, in cooperation with the Assembly Energy Committee, held a hearing to solicit information to assess the environmental, energy efficiency and economic impacts of switching from traditional incandescent light bulbs to more efficient lighting alternatives.

New York City's Sustainability Proposal

In April, New York City Mayor Michael Bloomberg presented New York City's Sustainability Proposal. The proposal contained 127 separate policy initiatives, some of which required legislative action in order to be implemented. On June 8th, in New York City, the Committee participated in a hearing, held in cooperation with the Assembly Committees of Ways and Means, Transportation, Corporations Authorities and Commissions, Energy and Cities. The hearing examined congestion pricing and related provisions, such as the creation of a new "SMART Authority" and the impacts the proposals would have on the downstate region.

Brownfield Clean up and Brownfield Opportunity Area Programs

The Brownfield Cleanup Program (BCP) was enacted in 2003, to encourage the remediation and redevelopment of underutilized contaminated sites throughout New York State. The BCP provides protective cleanup standards, liability relief and financial incentives, including tax credits for cleanup and redevelopment costs, to volunteers who clean up brownfield sites. To date, the Department of Environmental Conservation (DEC) has received 349 applications for the BCP with 239 sites qualifying for the program and 28 sites having received Certificates of Completion. The Brownfield Opportunity Area (BOA) Program, also enacted in 2003, provides municipalities and community-based organizations with assistance, up to 90 percent of the eligible project costs, to complete revitalization plans and implementation strategies for areas affected by brownfield sites. To date, over 100 BOA applications have been received. While some progress has been made, a number of issues have arisen concerning the implementation of these programs. On August 27th in Cold Spring Harbor and on September 25th in Albany, the Committee held a hearing to examine the implementation of the State's brownfield programs.

Invasive Species and Pathogens

Invasive species and pathogens pose significant threats to ecosystems throughout New York State and cost the State, municipalities and businesses millions of dollars each year. Invasive species are non-native species whose economic or environmental harm outweighs any benefits. Since the 1800s, over 180 aquatic invasive species have been discovered in the Great Lakes alone, out-competing native species and diminishing biological diversity. Invasive species have a detrimental effect upon the State's fresh and tidal wetlands, water bodies and waterways, forests, meadows and grasslands, and, in some cases, change entire ecosystems. Particularly affected by invasive species are water supplies, agriculture and recreation. One known source of aquatic invasive species is the ballast water of ships, which can also be contaminated with harmful bacteria and viruses. Viral Hemorrhagic Septicemia (VHS), which causes large fish kills, was first detected in New York State last year. VHS has now been found in 19 species of fish and has spread through Lakes Erie and Ontario, the St. Lawrence and Niagara Rivers and

into the Finger Lakes Region of New York State. On September 17th, in Clayton, the Committee held a hearing to assess the environmental and economic impacts of invasive species and pathogens in New York.

OUTLOOK AND GOALS FOR 2008

The Committee looks forward to the 2008 Legislative Session. The Committee hopes to work in cooperation with the incoming administration to continue the State's history of environmental advocacy and achievement by working to enact sound, workable environmental policies. The Committee will focus its attention on a wide variety of issues, including reducing air and water pollution, protecting the public from environmental hazards, and addressing solid waste issues.

The Committee will continue to protect and enhance funding for environmental projects by seeking to increase revenue to the State Environmental Protection Fund (EPF). The Committee will explore various options to accomplish this goal, including expansion of the returnable container act (commonly referred to as the bottle bill) to include non-carbonated beverages and provide for the recapture of unclaimed deposits by the State to be deposited in the EPF.

Air pollution continues to be a problem in New York, and the Committee will consider legislation to reduce toxic pollutants such as nitrogen oxides (NO_x), sulfur dioxide (SO₂), mercury, particulate matter (PM) and carbon dioxide (CO₂). The Committee is very concerned about the effects of poor air quality on children. The Committee is dedicated to addressing these issues in the upcoming session and will continue to explore options for reducing diesel emissions and greenhouse gas emissions.

The Committee will continue to work toward its goal of developing a progressive approach to water quality issues. The Committee will also consider legislation to protect wetlands, address sewer overflow issues, reduce the potential for surface and groundwater contamination from septic systems and ensure safe drinking water for homeowners who utilize private wells.

The Committee will also consider numerous measures to deal with the State's solid waste issues and to reduce exposure to harmful substances. The Committee will continue to work to protect the public from the health impacts of vapor intrusion and will focus significant attention to addressing environmental justice issues.

Finally, the Committee will continue to work to protect the State's natural resources and the long-term health and abundance of New York's fish and wildlife populations. Legislation will be considered which would ensure that smart growth principles are implemented by state agencies in order to mitigate adverse impacts of sprawl and development on open spaces and sensitive areas. In addition, the Committee will continue to consider legislation to manage and protect the State's wildlife and marine fisheries resources effectively.

APPENDIX A

2007 SUMMARY SHEET

**Summary of Action on All Bills Referred to the
Committee on Environmental Conservation**

<u>Final Action</u>	<u>Assembly Bills</u>	<u>Senate Bills</u>	<u>Total</u>
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee	18		18
To Floor; Recommitted and Died	0		0
To Ways & Means	29		29
To Codes	48		48
To Rules	15		15
To Judiciary			
Total	110		110
<u>Bills Having Committee Reference Changed</u>			
To Codes	1		1
To Economic Development	1		1
Total	2		2
<u>Senate Bills Substituted or Recalled</u>			
Substituted		2	2
Recalled		2	2
Total		4	4
<u>Bills Defeated in Committee</u>			
<u>Bills Never Reported, Held or Died in Committee</u>	236	21	257
<u>Bills Having Enacting Clause Stricken</u>	3		3
<u>Motion to Discharge Lost</u>			
TOTAL BILLS IN COMMITTEE	351	25	376
TOTAL NUMBER OF COMMITTEE MEETINGS HELD		7	

APPENDIX B

ENVIRONMENTAL CONSERVATION BILLS THAT PASSED BOTH HOUSES

Assembly Bill	Sponsor	Title	Final Action
A.248-B	DelMonte	Prohibits the siting of a disposal facility in a location with potential to discharge into the Great Lakes	Veto Memo 123
A.735	DelMonte	Increases penalties for the illegal taking of deer	Veto Memo 77
A.1088	Millman	Permits payment for Brownfield Opportunity Areas to be made to community boards	Chapter 386
A.1095-A	Brodsky	Provides for the phase-out of the use of creosote as a wood preservative, prohibits its combustion, and regulates its disposal	Chapter 172
A.1159	Gunther	Creates the Upper Delaware River Greenway	Veto Memo 134
A.2010	Duprey	Prohibits the operation of motor boats on Lake Colby in Franklin County	Chapter 425
A.2742	Lupardo	Requires landlords to disclose contamination to tenants	Veto Memo 79
A.6064-A	Bacalles	Authorizes rifle hunting in Chemung, Steuben and Yates counties	Chapter 296
A.6275	Alessi	Authorizes the Commissioner of the Department of Environmental Conservation to discontinue certain lands within the Long Island Pine Barrens Maritime Reserve	Chapter 112
A.6319	Cusick	Extends the moratorium on liquefied natural or petroleum gas or petroleum facilities until April 1, 2009	Chapter 31
A.6481	Morelle	Extends the effectiveness of provisions relating to the operation of a leased craft without a boating safety certificate	Chapter 361
A.6487-A	Tonko	Creates the New York State Canal Flood Mitigation Task Force to examine flood management along the New York State canal system	Chapter 456

Assembly Bill	Sponsor	Title	Final Action
A.6905-A	Magnarelli	Establishes the Oswego River Basin Water Level Management Commission	Veto Memo 111
A.7080	Cusick	Relates to restrictions on the use of nets, trawls and certain cast nets in the marine district of Richmond County	Chapter 37
A.7179	Weisenberg	Extends Nassau County's ability to initiate certain water pollution enforcement actions until October 1, 2009	Chapter 246
A.7210	Tedisco	Includes Saratoga County in the Hudson River Valley Greenway	Chapter 283
A.7242	Sweeney	Authorizes the State Forest Preserve to be used for the construction and maintenance of municipal water supply wells for Raquette Lake	Con Amend
A.7367-A	Sweeney	Creates the New York State Climate Change Task Force	Veto Memo 114
A.7382	Sweeney	Extends provisions related to the certification of commercial applicators of aquatic antifouling paints	Chapter 43
A.7542	Parment	Dedicates the Zoar Valley Unique Area to the State Nature and Historical Preserve	Chapter 130
A.8016	Sweeney	Modifies reserve provisions related to the State Clean Water and Drinking Water Revolving Loan funds	Chapter 134
A.8017	Sweeney	Authorizes the sale, supply or offering for sale of a coating manufactured prior to January 1, 2005 or previously granted a small manufacturer exemption	Chapter 42
A.8077	Koon	Provides for more stringent control over the lead content of jewelry sold in New York state	Veto Memo 140
A.8140	Aubertine	Eliminates the requirement that counties pay for half the cost incurred by the State to extinguish fires	Chapter 426
A.8200	Eddington	Extends, until December 31, 2011, the authority of the Department of Environmental Conservation to provide for the management of monkfish	Chapter 139

Assembly Bill	Sponsor	Title	Final Action
A.8201	Aubertine	Extends, until October 1, 2011, the authority of the Department of Environmental Conservation to adopt regulations for hunting in the Northern Zone	Chapter 140
A.8202	Colton	Extends, until December 31, 2011, the authority of the Department of Environmental Conservation to provide for the management of sharks	Chapter 141
A.8203	Schimmel	Extends, until December 31, 2011, the authority of the Department of Environmental Conservation to provide for the management of clams	Chapter 142
A.8204	Espaillet	Extends, until December 31, 2011, the authority of the Department of Environmental Conservation to provide for the management of whelks and conchs	Chapter 143
A.8205	N. Rivera	Extends, until December 31, 2011, the authority of the Department of Environmental Conservation to provide for the management of oysters	Chapter 144
A.8206	Gunther	Extends, until December 31, 2011, the authority of the Department of Environmental Conservation to promulgate certain regulations related to the taking of fish	Chapter 256
A.8207	Fields	Extends, until December 31, 2011, the authority of the Department of Environmental Conservation to provide for the management of winter flounder, scup and black sea bass	Chapter 145
A.8208	Sweeney	Allows the Department of Environmental Conservation to fix by regulation measures for the management of certain fish, until December 31, 2011	Chapter 146
A.8209	Sweeney	Extends, until December 31, 2011, the authority of the Department of Environmental Conservation to provide for the taking of blackfish	Chapter 147

Assembly Bill	Sponsor	Title	Final Action
A.8210	Titone	Extends, until December 31, 2011, the authority of the Department of Environmental Conservation to provide for the management of scallops	Chapter 148
A.8211	Alessi	Extends, until October 1, 2011, the authority of the Department of Environmental Conservation to adopt management regulations for deer and bear	Chapter 149
A.8212	Sweeney	Extends, until December 31, 2011, the authority of the Department of Environmental Conservation to provide for the management of striped bass	Chapter 150
A.8213	Weisenberg	Allows the Department of Environmental Conservation to continue restricting the taking of fish, shellfish and crustacean in designated special management areas until December 31, 2011	Chapter 151
A.8214	Cymbrowitz	Extends, until December 31, 2011, the authority of the Department of Environmental Conservation to provide for the management of crabs, bluefish, weakfish and fluke-summer flounder	Chapter 152
A.8215	Sweeney	Establishes the number of marine commercial fishing licenses available	Chapter 366
A.8339	Sweeney	Authorizes additional deposits to be made to the environmental protection fund	Chapter 258
A.8340-A	Sweeney	Grants complete jurisdiction to the Metropolitan Transportation Authority over the processing of uncontaminated solid waste, hazardous waste or radioactive waste	Veto Memo 159
A.8352-A	Magee	Authorizes certified pesticide applicators to provide required information to building occupants in digital or electronic form	Chapter 216

Assembly Bill	Sponsor	Title	Final Action
A.8460	Magee	Establishes a linked deposit program where the New York State Environmental Facilities Corporation invests moneys from the water pollution control fund	Chapter 262
A.8498-A	Cusick	Increases the penalties for persons who have been convicted of illegally taking shellfish more than once	Chapter 347
A.8731	Sweeney	Requires alternate members to be appointed to the marine and coastal district of New York conservation, education, and research board	Chapter 263
A.8839	Sweeney	Requires that vehicle global warming index labels be affixed to motor vehicles manufactured for the model year 2009 and for subsequent model years	Chapter 466
A.8878	Weisenberg	Directs the Department of Environmental Conservation to expend funds appropriated for the dredging of Jones Inlet.	Chapter 232
A.9002-A	Sweeney	Creates the New York State Sea Level Rise Task Force	Chapter 613
A.9026-A	Cahill	Extends certain provisions establishing the Hudson River Valley Greenway	Chapter 359
A.9027-A	Sweeney	Establishes the New York Invasive Species Council	Chapter 674
A.9190	Sweeney	Authorizes the state to convey to the National Grid certain forest preserve lands to construct a power line in St. Lawrence county	Con Amend

APPENDIX C

ENVIRONMENTAL CONSERVATION BILLS THAT PASSED THE ASSEMBLY ONLY

Assembly Bill	Sponsor	Title
A.615	Paulin	Directs the Department of Environmental Conservation to update any forms of documentation intended to assist individuals or lead agencies in the preparation of environmental impact statements
A.734	DelMonte	Restricts the purchase or sale of certain fish taken pursuant to fishing licenses, except fish from the St. Lawrence River, and bullhead in certain counties
A.801	Englebright	Requires the Department of Environmental Conservation to prepare an annual report on the status of New York's natural environment
A.843	Englebright	Requires landowners or tenants to be notified of petroleum discharges
A.914	Englebright	Establishes accountability and disclosure requirements for the acquisition of land for open space, environmental and/or historic preservation purposes by local governments
A.1007	Dinowitz	Enhances the public notice provisions of the Department of Environmental Conservation's uniform procedures
A.1098	Brodsky	Makes provisions regarding the siting of environmental facilities in minority communities or economically distressed areas
A.1142	Brodsky	Provides for the phase-out of pesticides on State property and requires the establishment of state agency pest management plans
A.1143	Brodsky	Directs the commissioners of environmental conservation and health to produce an environmental facility and cancer incidence map
A.1147	Brodsky	Prohibits the taking of striped bass from the Hudson River for commercial purposes
A.1150	Gunther	Directs the Department of Environmental Conservation, in consultation with federal agencies and the New York City Department of Environmental Protection to review the West of the Hudson River New York City Drinking Water Supply System Program

Assembly Bill	Sponsor	Title
A.1217-A	Latimer	Requires commercial pesticide applicators to provide notice to residents of multiple family dwellings prior to the application of pesticide on such premises
A.1355	Aubertine	Establishes ballast water management practices for shipping vessels in an effort to prevent the introduction of non-indigenous species
A.1435	Bradley	Allows an individual to institute an action for a violation of the provisions of the State Environmental Quality Review Act even if the injury does not affect the public at large
A.1614	Englebright	Prohibits natural resource stewardship agreements from authorizing the destruction or certain alterations of such natural resource
A.1620	Lentol	Requires bulk petroleum storage facilities to undertake comprehensive accident prevention planning
A.1622	Lentol	Requires the implementation of plans and the installation of equipment for the prompt detection of petroleum discharges
A.2002	Diaz R.	Establishes criteria for the Department of Environmental Conservation to identify areas of the state most adversely affected by existing environmental hazards
A.2004	Lupardo	Directs the State Land Acquisition Advisory Council to promulgate regulations governing the sale of state-owned land
A.2422	Galef	Requires increased public notification by operators of nuclear power plants
A.2612	Glick	Prohibits the taking of non-native big game mammals in a fenced or other area from which there is no means for such mammal to escape
A.2691	Lifton	Authorizes the electronic filing of wetlands regulatory maps
A.2799	Cusick	Relates to requiring notice to neighboring landowners of intention to develop in wetland areas
A.3317	Colton	Directs the Commissioner of the Department of Environmental Conservation to promulgate rules and regulations providing for recycling, reuse and remanufacturing of electronic equipment
A.3318	Colton	Establishes requirements for source separation and disposal of recyclable materials and requires municipalities to adopt local laws providing therefor

Assembly Bill	Sponsor	Title
A.3670	Lentol	Allows communities affected by administrative orders issued by the Department of Environmental Conservation to submit community impact statements
A.4226	Ramos	Adds additional notice provisions to operating permits issued to sources subject to the federal Clean Air Act
A.5299	Wright	Creates a state urban pesticide board to study and report on the application of pesticides in urban areas and requires alternative pesticide training
A.5457	Koon	Prohibits open burning of solid waste
A.6052	Jeffries	Requires the Department of Environmental Conservation to conduct a study of lead contamination of parks
A.6578	Sweeney	Establishes new regulations for the operation of solid waste management facilities
A.7119	Gordon T.	Prohibits the Department of Environmental Conservation from issuing an application for a permit to mine if a local law prohibits the proposed mining use within the area proposed to be mined
A.7133	Sweeney	Provides the Department of Environmental Conservation with regulatory authority over freshwater wetlands
A.7231	Jaffee	Enacts the "Private Well Testing Act"
A.7268	Sweeney	Authorizes the Environmental Facilities Corporation to provide loans from the Water Pollution Control Revolving Fund at zero percent interest to municipalities
A.7332	Sweeney	Provides reimbursement to fire companies for costs associated with responding to spills of hazardous materials
A.7335	Hoyt	Directs state agencies and public authorities to adopt and utilize smart growth principles
A.7365	Sweeney	Provides statutory direction for the use of funds received by the Department of Environmental Conservation from the sale of air emission allowances in accordance with the Regional Greenhouse Gas Initiative

Assembly Bill	Sponsor	Title
A.7366	Gianaris	Establishes a fund for the proceeds of the emission allowances of the Regional Greenhouse Gas Initiative
A.7438	Rosenthal	Provides for the management of outdoor night lighting to protect the night environment, and conserve energy
A.7630	Kavanagh	Prohibits the mass release of helium balloons
A.7977-A	Sweeney	Restricts the use of the flame retardant decabromodiphenyl ether in certain products
A.8036	Kavanagh	Imposes penalties upon agencies that fail to complete a remediation plan
A.8641-B	Sweeney	Enacts the “New York State Lighting Toxics Reduction Act” to require the manufacturers of lights containing mercury to establish collection and recycling programs
A.8810-B	Sweeney	Enacts the “Plastic Bag Reuse and Recycling Act”
A.9169	Sweeney	Requires state agencies to report their greenhouse gas emissions
A.9199	Sweeney	Requires the Department of Environmental Conservation to establish a method for individuals and businesses to calculate their greenhouse gas emissions