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Chair

**New York State Assembly
Committee on
Environmental Conservation**

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Legislative Report from the NYS Assembly Committee on Environmental Conservation

Dear Friend,

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

This newsletter summarizes some of the initiatives and accomplishments of the Committee during the 2018 Legislative Session, including environmental initiatives in the 2018-19 State Budget.

I hope that you find this newsletter interesting and informative. I look forward to continuing to work on these important issues, and as always, I welcome your thoughts and concerns.

Sincerely,

Steve Englebright
Chair, NYS Assembly Committee on Environmental Conservation

BUDGET HIGHLIGHTS

Pine Barrens Expansion

(2018-19 State Budget)

The New York State Legislature recognized the importance of the Pine Barrens in the 1990s when it created the “Long Island Pine Barrens Preserve” and provided statutory protections. Language contained in this year’s budget expands the existing boundaries of the Pine Barrens and the “core preservation area.” Additional properties consisting of more than 800 acres of woodlands, fields, tidal marsh, vernal pool, and nearly one-mile of shorefront on Long Island Sound would be added. Based on inventory work by the New York Natural Heritage program, the new properties contain more than a dozen rare plant populations and at least twenty-five distinct ecological communities, as well as habitat for many indigenous bird, mammal, reptile, and amphibian species, including habitat for the federally threatened Northern long-eared bat. The expansion also includes the largest remaining undeveloped property within the Forge River watershed.

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Assemblymembers Meet With Beekeepers

Assemblymembers Englebright and Fitzpatrick meet with members of the Long Island Beekeepers Club (LIBC) to learn about their experiences with colony loss and to discuss strategies to help honey bee survival in New York State. Pictured (from left) Maria Alverado, Intern; Andrew Hulley; Grace Melh, LIBC Education Director; Assemblyman Michael Fitzpatrick; Assemblyman Steve Englebright; Rich Blohm; Moria Alexander, LIBC Program Director; and Donal Peterson, LIBC Vice President.



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Clean Water Funding Continued

(2018-19 State Budget)

The Assembly pushed successfully to continue the state's multi-year commitment to fund the \$2.5 billion Clean Water Infrastructure Act in order to safeguard water quality and drinking water sources so communities across the state will have access to the funding assistance they need to modernize, repair, and maintain municipal water quality infrastructure systems. In addition, the budget contained reporting language intended to increase the Clean Water Infrastructure Act's funding transparency.

The budget provides \$65 million to establish a multi-year funding plan to prevent water quality impairment by combating harmful algal blooms in water bodies. Funding will be available from the Clean Water Infrastructure Act and the EPF.

Septic System Replacement Fund

(2018-19 State Budget)

Established in the Clean Water Infrastructure Act of 2017, the Septic System Replacement Fund, administered by the Departments of Environmental Conservation and Health and the Environmental Facilities Corporation, provides funding to eligible counties for the replacement of cesspools and septic systems in the State, reducing environmental and public health impacts caused by the discharge of defective systems into the State's water bodies and drinking water supply. Eligible counties would identify areas based upon their vulnerability to contamination, population density, soils, hydrogeology, climate, and reasonable ability for septic systems to mitigate water quality impacts. Monies from the Fund would be used to reimburse property owners in eligible counties for up to 50% of their eligible septic system projects, with a maximum grant cap of \$10,000.

This year, the governor announced that \$15 million in Septic System Replacement Funds will be allocated across the State in 31 priority counties. The replacement of aging septic systems will help reduce harmful algal blooms, beach closures, and drinking water contamination and improve the State's water quality.

HIGHLIGHTED LEGISLATION

Climate Change and Community Protection Act

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

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



In March, Assemblyman Steve Englebright joined with fellow Assemblymembers, Senate bill sponsor Brad Hoylman, and advocacy organizations from around the state to call for the passage of the Climate Change and Community Protection Act.

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

This bill would:

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

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

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

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

Menhaden Protection

(A.10506-A Englebright; Passed the Assembly, awaiting Senate action)

Atlantic Menhaden are a major food source for whales, dolphins, coastal sharks, predatory fish, seals, and seabirds. A single humpback whale can eat thousands of pounds of Menhaden per day. They are used as bait fish by recreational and commercial fisherman, and support fish meal and oil-based products industries. These small fish have been referred to as one of the most important species in the ocean. Just prior to 2012, Atlantic Menhaden were overfished to just a small percentage of their historic abundance.

Purse seines are large nets that encircle schools of fish and are then closed at the bottom like a drawstring purse. Because the Menhaden population has been so low, purse seines have not been used in New York for several years, but as the populations grow, it is important to consider sustainable management of this keystone species. This legislation, which would prohibit the use of purse seines, is necessary in order to prevent repeating history to the detriment of the marine ecosystem and the economies that rely on them.

Best Practices in Treating Residential Property for Tick Prevention and Management

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

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

In order to raise awareness of appropriate and effective methods and to facilitate the delivery of information, this bill would require DEC, in consultation with Cornell University and the Cary Institute, to develop recommendations for best practices in treating residential properties for tick prevention and management, and to provide homeowners with guidance on how to reduce exposure.

Increased Financial Security Requirements for Oil Storage Facilities and Trains

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

The transport of crude oil by rail has increased exponentially nationwide over the past several years, from over 9,000 carloads of crude oil in 2008 to over 400,000 in 2013. Events such as the Lac-Mégantic train derailment in Quebec, which resulted in the death of more than 40 people, have heightened the awareness of safety issues related to the transportation and storage of crude oil and the negative impacts of mishandling crude oil.

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

Drug Take Back Act

(A.9576-B Gunther; Chapter 120 of the Laws of 2018)

The improper disposal of drugs by flushing or other means can cause water contamination potentially compromising the health and quality of New York's water bodies and aquatic life.

The Drug Take Back Act:

- requires manufacturers of covered drugs to submit, individually or jointly, a drug take-back program for approval by the Department of Health, or enter into an agreement with the Department to operate a drug take-back program on its behalf;
- requires manufacturers managing such programs to be responsible for all administrative and operational fees associated with their take-back program;
- authorizes chain pharmacies and mail-order pharmacies to provide for the collection of covered drugs with on-site collection, prepaid mail-back envelopes or alternative U.S. Drug Enforcement Agency (DEA) approved methods; and,
- aids in the fight against the opioid addiction crisis by facilitating disposal, which will help to prevent ready access to drugs by unauthorized individuals.

Offshore Drilling Prohibition

(A.9819 Englebright; Passed the Assembly, awaiting Senate action)

The United States Department of the Interior's announced plans on January 4, 2018, for the expansion of natural gas and oil drilling in the Atlantic Region and the administration of the "2019-2024 National Outer Continental Shelf Oil and Gas Leasing Draft Proposed Program" by the Bureau of Ocean Energy Management (BOEM), has prompted the Assembly to take action to further protect the environment of New York's coastal areas.

This legislation would prohibit the leasing of state-owned underwater coastal lands for oil and natural gas drilling and exploration. This legislation would also prevent the Department of Environmental Conservation and Office of General Services from authorizing leases that would increase oil or natural gas production from federal waters. By doing this, New York's laws regulating oil and natural gas drilling will be reinforced to ensure that the State's coastal management practices are effective and that the endangered/threatened species and commercial fishing industries of the State are protected.

Chlorpyrifos Ban

(A.10274 Englebright; Passed the Assembly, awaiting Senate action)

Scientific studies have proven that the pesticide chlorpyrifos impairs the central nervous system. Chlorpyrifos exposure has been linked to neuropsychological effects such as speech, memory, attention, and coordination difficulties. Despite such health risks associated with exposure to the pesticide, the use of chlorpyrifos has increased over the years as the use of DDT has waned. The federal Environmental Protection Agency (EPA) banned the indoor use of chlorpyrifos in 2001. In 2016, the EPA issued a revised health risk assessment that further highlighted the health risks of chlorpyrifos.

In order to further build upon the EPA's recent findings on the harmful health risks associated with chlorpyrifos, especially to children, this bill would ban the use of chlorpyrifos in the State.

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HIGHLIGHTED COMMITTEE ACTIVITY

Offshore Drilling Hearing

On January 4, 2018, the United States Department of the Interior announced plans for the expansion of natural gas and oil drilling through the potential lease of acreage in federal offshore areas such as the Atlantic Region. Included in the Atlantic Region is New York, which has raised coastal concerns ranging from the protection of the environment to the prosperity of the commercial fishing industry.

The hearing, held by the Assembly Committee on Environmental Conservation, Commission on Toxic Substances and Hazardous Wastes, and Long Island Sound Task Force examined the impacts of a federal offshore natural gas and oil lease authorization on New York's environment and received public feedback. The Committees heard from the Department of Environmental Conservation, the Attorney General's Office, elected officials, scientists, environmental groups, and members of the public. Not a single person testified in support of the proposed gas and oil drilling.



At a press conference prior to the start of the Committee's February 14, 2018 Public Hearing, Assemblyman Steve Englebright joins with State, County, and Town elected officials, environmental organizations, and members of the public in opposition to oil exploration off the Long Island coast.

ENVIRONMENTAL PROTECTION FUND (EPF)

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

| EPF Funding \$ (in millions) | | | |
|---|----------------------|--|----------------------|
| Enacted | EPF Category 2018-19 | Enacted | EPF Category 2018-19 |
| Solid Waste Account..... | 38.174 | Farmland Protection..... | 18.000 |
| Municipal Recycling..... | 14.000 | Agricultural Waste Management..... | 1.500 |
| Pollution Prevention Institute..... | 4.000 | Biodiversity..... | 1.350 |
| Secondary Markets..... | 0.149 | Albany Pine Bush..... | 2.675 |
| Environmental Health..... | 6.500 | Invasive Species..... | 13.300 |
| Natural Resource Damages..... | 2.025 | Long Island Pine Barrens Commission..... | 2.000 |
| Pesticide Database..... | 1.800 | Ocean and Great Lakes..... | 17.250 |
| Landfill Closure/Gas Management..... | 0.700 | Water Quality Improvement..... | 20.250 |
| Environmental Justice Grants..... | 7.000 | Long Island South Shore Estuary Reserve..... | 0.900 |
| Brownfield Opportunity Area Grants..... | 2.000 | Non-point Source Pollution Control..... | 24.000 |
| Parks, Recreation and Historic Preservation Account..... | 86.338 | Soil and Water Conservation Districts..... | 10.000 |
| Waterfront Revitalization..... | 14.000 | Finger Lakes - Lake Ontario Watershed..... | 2.300 |
| Municipal Parks..... | 19.500 | Hudson River Estuary Management..... | 6.500 |
| Hudson River Park..... | 3.200 | Lake Erie Watershed Protection Alliance..... | 0.250 |
| Stewardship..... | 32.638 | Climate Change Mitigation and Adaptation Account..... | 19.150 |
| Zoos, Botanical Gardens, and Aquaria..... | 15.000 | Greenhouse Gas Management..... | 1.000 |
| Local Navigation Law Reimbursement..... | 2.000 | Climate Smart Community..... | 10.650 |
| Open Space Account..... | 156.338 | Smart Growth..... | 2.000 |
| Land Acquisition..... | 35.000 | State Climate Adaptation Projects..... | 3.000 |
| Environmental Commissions..... | 1.063 | Climate Resilient Farms..... | 2.500 |
| | | Total..... | 300.000 |

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Nitrogen Fertilizer Usage

(A.10276 Englebright; Passed the Assembly, awaiting Senate action)

Harmful algal blooms have increased throughout the State, damaging water bodies and potentially compromising the quality of some of the State's drinking water. One potential cause of harmful algal blooms is the runoff of soil fertilizer with high levels of nitrogen into waterways. The excess nitrogen also changes the chemistry of the groundwater.

Beginning on December 31, 2019, this bill would require that the sale or use of fertilizer in Long Island contain no more than 12% nitrogen, with half of such nitrogen content being water insoluble nitrogen. This legislation would exclude agricultural uses and would also require the Department of Environmental Conservation to submit a report to the Governor and Legislature regarding the potential expansion of such prohibition on high nitrogen fertilizer in other areas of the State.



Pictured from left: Assemblyman Anthony D'Urso, Assemblyman Steve Englebright, and Assemblywoman Christine Pellegrino.