

New York State Assembly 2011 ANNUAL REPORT

committee on
TOURISM, PARKS,
ARTS AND SPORTS
DEVELOPMENT

Margaret M. Markey Chairwoman



Sheldon Silver Speaker December 15, 2011

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

Dear Speaker Silver:

I am pleased to submit the annual report of the Tourism Committee for the 2011 legislative session. Included herein are details of the Committee's work on legislation, as well as on other initiatives the Committee has undertaken during the year. Additionally, you will find the Committee's legislative outlook for the 2012 legislative session, throughout which time we will continue to seek creative and innovative solutions to overcome the challenges that will surely face us in this difficult economy.

The scope of issues before the Committee is diverse, encompassing the stewardship of the State park system, the advancement of the arts, the promotion of tourism, the protection of athletes and the preservation of recreational activities for citizens and visitors alike. The work of the Tourism Committee is a crucial element in the overall economic development strategy of the State by creating jobs and generating spending; our work serves to make New York State attractive to residents, tourists and businesses.

In November, the Committee held a hearing to acknowledge and discuss the impact of the tourism industry on job creation and the economy. The Committee received testimony from representatives of the many different industries that comprise our State's tourism economy, which I believe has the potential to create even more new jobs and spending in all regions of our State.

As the new Chair of the Committee, I would like to take this opportunity to thank my predecessor, Chairman Steven Englebright, for his passion, acknowledgeable enthusiasm and hard work during his time as Chair of this Committee. I look forward to working with my colleagues and constituents in the coming session. I would like to thank all of them for their diligence in the 2011 session, and also thank you, Mr. Speaker, for your continued leadership.

Sincerely.

Margaret M. Markey, Chairwoman Assembly Standing Committee on Tourism,

Parks, Arts, and Sports Development

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I. COMMITTEE JURISDICTION AND ACTIVITY

The Assembly Standing Committee on Tourism, Parks, Arts and Sports Development is responsible for reviewing and initiating legislation that affects tourism, State parks, historic sites and arts groups in New York State. The Committee's statutory purview includes: the Arts and Cultural Affairs Law, the Canal Law, the Navigation Law, the Parks, Recreation and Historic Preservation Law, the Economic Development Law and portions of the Executive, General Business Law and Unconsolidated Law. Entities under the jurisdiction of the Committee include the Office of Parks, Recreation and Historic Preservation, the Department of Economic Development Division of Tourism, the New York State Council on the Arts, the Olympic Regional Development Authority, the State Athletic Commission and the Canal Corporation.

Legislation before the Committee is introduced by legislators who respond to the issues facing the tourism industry, tourism-related businesses, and the respective agencies that promote tourism in New York such as Empire State Development Corporation, the Office of Parks, Recreation and Historic Preservation, the New York State Council on the Arts, the Department of State, and the Canal Corporation as part of the Thruway Authority.

During the 2011 Legislative Session, 87 bills were considered by the Tourism Committee. Of these, 24 were favorably reported, 13 passed the Assembly, and 7 were signed into law.

II. 2011 LEGISLATIVE ACCOMPLISHMENTS

1. PROMOTING TOURISM WITHIN NEW YORK STATE

Placement of the "I Love NY" Logo

A. 7095 (Rivera, N)

Ordered Third Reading

This legislation would require that the "I Love NY" logo and the internet Web site address be displayed in an easily readable manner on all State vehicle license plates.

Allowing for the Continuation of Provisions for the Rental of Watercraft

A.7279 (Englebright)

Chapter 301

This law allows consumers to continue renting jet skis, boats, and other mechanically propelled vehicles without the requirement of a 5 hour safety class. It allows tourists to enjoy New York's waterways and supports boat rental businesses throughout the state.

Allowing a High-Wire Stunt in the Niagara River Gorge

A.8206A (Gabryszak)

Chapter 572

This law directs the Office of Parks, Recreation and Historic Preservation to allow Nik Wallenda to traverse the Niagara River Gorge on a high wire. It requires Nik Wallenda to provide funding to support all necessary safety precautions, as proscribed by the Office of Parks, Recreation and Historic Preservation. This law is intended to generate tourism and exposure for Niagara Falls by reenacting a tradition that dates back to the 1800s.

2. PROTECTING AND PROMOTING HISTORY IN NEW YORK STATE

New York State Civil War $150^{\rm th}$ Anniversary Commemoration Commission

A. 1650 (McEneny)

Passed Assembly

This legislation would create a temporary New York State Civil War 150th Anniversary Commemoration Commission consisting of 14 members including the Commissioner of the Department of Parks, Recreation and Historic Preservation, the Commissioner of the Department of Economic Development, and 11 members of the Civil War reenactment community to be appointed by the Governor, the Temporary President of the Senate, the Speaker of the Assembly, and the Minority Leaders of the Senate and Assembly. The Commission would coordinate the commemoration of the 150th anniversary of the Civil War for the years 2011 through 2015.

Creating the Heights Heritage Area

A. 2249 (Wright)

Passed Assembly

In order to better recognize the history and contribution of northern Manhattan, this legislation would create a Heritage Area in West Harlem from 122nd Street to the south, to 218th Street to the north, and from Highbridge Park and 10th Avenue to the east, to the river to the west. The New York system of heritage areas consists of State designated heritage areas including urban cultural parks and heritage corridors that reflect the cultural themes of the state's development and provide educational, inspirational, economic and recreational benefits to their communities and visitors.

New York State War of 1812 200^{th} Anniversary Commemoration Commission A. 3722A (Russell)

Veto Memo. 57

This legislation would create the New York State War of 1812 200th Anniversary Commemoration Commission consisting of nineteen members including the Commissioner of Parks, Recreation, and Historic Preservation, the Commissioner of Education, the Commissioner of Economic Development, representatives from Old Fort Niagara, the Battle of Ogdensburg, the Battle of Plattsburgh, Fort Wadsworth, and Sacketts Harbor, and eleven members of the re-enactment community to be appointed three each from the Governor, Temporary President of the Senate, and Speaker of the Assembly, and one each from the Minority Leaders of the Senate and Assembly. The Commission would coordinate the commemoration of the 200th anniversary of the War of 1812 through the year 2015 including several re-enactment events.

Bill number A.3722A was vetoed by the Governor because the executive estimates that the Commission's activities would cost the State over \$350,000 annually and \$1.4 million over the lifetime of the Commission. The Executive believe that the goals of this bill would be better suited to be considered in a more comprehensive manner by the Regional Economic Development Councils.

Requiring a Hearing and Procedure When a Historic Site is Closed

A. 5541 (Englebright)

Referred to Ways and Means

This legislation would require the Commissioner of Parks, Recreation, and Historic Preservation, in the case of the closing of a historic site, to produce a written outline of alternative actions to maintain the historic site, as well as an economic impact statement on the proposed closing of the site. This legislation would also require at least one public hearing on the proposed closing to allow for public comment.

Expanding the Susquehanna Heritage Area

A. 6299A (Lupardo)

Chapter 279

This bill expands the Susquehanna Heritage Area, which currently includes the cities of Binghamton, Johnson City, and Endicott in Broome County, to include all of Broome and Tioga Counties. With expansion all of the diverse, regional, cultural attractions will be incorporated in the Heritage Area's master plan for development and marketing.

Supporting the Michigan Street African American Heritage Corridor

A. 7570 (Peoples-Stokes)

Chapter 438

This bill gives planners of the Michigan Street African American Heritage Corridor an extension to December 31, 2011, to submit a draft management plan for approval by Commissioner. The plan was originally due on August 15th, 2011; four years after the enactment of the law creating the Heritage Area.

3. ENCOURAGING THE SAFE DEVELOPMENT OF OUTDOOR AND ATHLETIC ACTIVITIES

Regulating Boating Safety Certificates

A. 3550 (Galef)

Referred to Rules

This legislation would require any person born on or after January 1st, 1994, to hold a Boating Safety Certificate issued to him or her by the Commissioner, the United States Power Squadrons, the United States Coast Guard Auxiliary, or other state government in order to legally operate a mechanically propelled vessel on the navigable waters of the State. Alternately, if the operator is younger than eighteen years of age, he or she must be accompanied by a person who is eighteen years of age or older and is either the holder of a Boating Safety Certificate or is deemed to be exempt from the requirements of having to hold a certificate. And lastly, if the operator is eighteen years of age or older and does not hold a Boating Safety Certificate he or she must be accompanied by someone eighteen years of age or older who holds a Boating Safety Certificate. This legislation also provides exemption for the rental of vessels if certain criteria are met.

Allowing Mixed Martial Arts Events to be held in New York State

A. 4146A (Englebright)

Referred to Ways and Means

This legislation would allow professional combative sports, know as mixed martial arts (MMA), to be held in the State, would set forth the jurisdiction of the New York State Athletic Commission as it relates to MMA, and would develop a process for single-discipline martial arts organizations to be approved by that Commission.

Eliminating Price Controls on Health Club Contracts

A. 6402 (Morelle)

Referred to Codes

When regulation of health club contract pricing was originally introduced there was a concern over monopoly in the health club industry. However, many years have passed since the health club industry was created; the health club industry has diversified and many competing entities have entered the market. The offerings of health clubs have also expanded. For some high-end health clubs, the limitation of a contract charge of \$3,600 per year does not cover the services they provide. By removing this restriction, health clubs of New York can expand their offerings to the consumer.

4. NEW YORK'S STATE AND MUNICIPAL PARKS

Creating a Solar-Powered Trash Can Pilot Program in New York State Parks

A.302-C (Hevesi)

Veto Memo. 41

This bill would direct the Office of Parks, Recreation and Historic Preservation to purchase 100 solar-powered trash compacting garbage receptacles with funding raised from the sale of advertising space on the receptacles. The total estimated cost would be \$500,000. These receptacles would provide centralized digital data to allow maintenance crews to only visit the receptacles when they are full, instead of on a time based schedule.

The Executive vetoed this bill, stating that this type of program should be considered during the State budget process when revenues are projected and initiatives are considered in a broader context.

Requiring a Hearing and Procedure When Public Land Closed

A. 693 (Englebright)

Passed Assembly

This legislation would require that prior to the closure of lands owned, held or administered by the Office of Parks, Recreation and Historic Preservation, the Commissioner of Parks, Recreation and Historic Preservation would be required to produce a draft report providing the justification and rationale for such closure. Also, the Commissioner is required to conduct one or more public hearings, including at least one in the impacted area of the proposed closure.

Adopt-a-Park Program

A. 3409A (Schimminger)

Ordered Third Reading

This legislation would create an "adopt-a-park" program that would allow volunteers to cooperate in projects to maintain and beautify parks such as vandalism remediation, litter removal, developing and maintaining nature trails, planting and maintaining flower beds, and otherwise improving the park. This legislation is based on the "adopt-a-highway" program that was passed in 1985 and has been very successful in using volunteer services to beautify New York highways.

Providing for the Continued Charitable Funding of the Natural Heritage Trust

A. 5483 (Englebright)

Ordered Third Reading

This legislation would allow the Natural Heritage Trusts to invest and reinvest the funds of the corporation consistent with the Prudent Investor Act as established in §11-2.3 of the Estates, Powers and Trusts Law and in accordance with §2925 of the Public Authorities Law. The Prudent Investor Act allows a trust account's entire investment portfolio to be considered when determining the potential of an individual investment. Diversification is explicitly required as a duty for prudent fiduciary investing whereas junior lien loans, investments in limited partnerships, derivatives, futures, and similar investment vehicles, are allowable. However, while the fiduciary is now permitted, even

encouraged, to develop greater flexibility in overall portfolio management, speculation and outright risk taking is not sanctioned by the rule.

This legislation would also add the Chairperson of the Senate Cultural Affairs Committee and the Chairperson of the Assembly Committee on Tourism, Parks, Arts and Sports Development to the list of people entitled to receive a report on the operations, accomplishments, receipts, disbursements, assets and liabilities of the Trust.

Creating a Three and Five Year Vehicular Pass to the State Parks

A. 5530 (Englebright)

Referred to Ways and Means

This legislation creates a three-year and five-year general access permit for all State Parks offered through the Office of Parks, Recreation, and Historic Preservation. Currently there is a One-Year Empire Pass that allows general access for one year. These passes would be called the "Three-year Empire Passport" and the "Five-year Empire Passport" and include a decal or hang-tag to be placed in a vehicle as well as a wallet sized access permit.

Promoting State Parks

A. 5531 (Englebright)

Veto Memo 43

This legislation would require the use of tourism promotion agency matching funds, a program begun in 1978 to support local tourism marketing, for the promotion of State parks and historic sites.

The Executive has vetoed this legislation reasoning that requiring a list of state parks and historic sites to be included in all materials, would add design and printing costs to marketing campaigns. In response the Executive has directed the Department of Economic Development to assist Tourism Promotion Agencies in receipt of State Tourism Matching Funds in creating a "featured parks and historic sites" section on their websites and including the site's address on certain promotional materials.

Allowing for the Lease of the Caretaker's House in Buttermilk Falls State Park A.7280 (Englebright)

Chapter 302

This law permits the Commissioner of Parks, Recreation and Historic Preservation to enter into a license or lease agreement not to exceed 40 years for the structures known as the Caretaker's House and Garage within Buttermilk Falls State Park. By enacting this legislation, the Office of Parks, Recreation and Historic Preservation can create a sustainable public-private partnership and preserve and improve the facilities in Buttermilk Falls State Park.

5. ENHANCING CULTURAL INSTITUTIONS

Establishing a Pilot Program for Arts-Based Districts

A. 394A (Hoyt)

Referred to Ways and Means

This legislation establishes an optional pilot program for the creation of arts-based districts in Buffalo, Troy, Rochester, Albany and Syracuse consisting mainly of residential and arts-related and service-related commercial uses to be organized as a business improvement district. Each district would have an Artist Home Ownership Program to assist artists in purchasing and rehabilitating a home within the district. Districts would be provided technical assistance through the "I Love New York" program to develop a tourism marketing plan, and be included in a grant program designed to assist in the development of districts.

Establishes the Arts and Artifacts Domestic Indemnity Act

A. 3253 (Morelle)

Referred to Ways and Means

This legislation provides authorization for the State to indemnify domestically held art and artifacts used for exhibition in New York State, or those New York State collections loaned to institutions in other states, including terrorism indemnity. The federal Arts and Artifacts Indemnity Program only covers those exhibitions either on loan from, or on loan to, foreign institutions. With the ever increasing cost of insurance premiums, many museums, especially those smaller in size, have completely halted securing exhibitions, or participating in reciprocal loan programs. This legislation aids smaller institutions that would normally not be able to participate in these kinds of exhibitions due to the high insurance cost.

Providing for Continued Public Support of the New York Botanical Garden

A.6978A (Rivera, J.)

Chapter 67

This law extends the New York Botanical Gardens authorization to charge a nominal admission fee to May 1, 2015. The authorization to charge an admission fee was last extended in 2007 for an additional four years.

6. PROTECTING NEW YORK CONSUMERS

Continuing Regulations on the Sale and Resale of Tickets to Places of Entertainment A.6856a (Englebright)

Chapter 19

This law extends current regulations of the resale of tickets for an additional year until May 14, 2012. In 2009, when the then-current regulation of ticket resale was going to sunset, the Department of State was commissioned to carry out a review of the statute. In 2010, changes were made to the statute based on those findings. The statute now prohibits an operator of a place of entertainment of more than six thousand seats, or such operator's agent who offers a subscription package, season ticket package, or single event ticket from restricting the resale of any ticket, or employing a form of paperless ticketing that is not readily transferable to another customer, unless a purchaser is given the option at the time of public sale to purchase some other form of ticket that is readily transferable, for which there may be a reasonable surcharge imposed by the operator's agent.

III. HEARINGS/ROUNDTABLES

Throughout the 2011 legislative session, the continued dire state of the economy faced legislators and the Committee to overcome new challenges; among them, a reduced budget for most agencies.

On November 1st, 2011 the Assembly Standing Committee on Tourism, Parks, Arts and Sports Development held a hearing to explore how tourism in New York State creates jobs. Among the topics discussed were the effectiveness of State supported programs aimed at supporting tourism, the arts, and historical and natural preservation; the potential for locally supported events, such as festivals and conferences, to support tourism and local economies; the impact of the arts on tourism; and, the future of New York State parks, historic sites and artifacts, and recreation areas.

IV. OUTLOOK FOR 2012 LEGISLATIVE SESSION

As we look forward to the 2012 Legislative Session the Assembly Standing Committee on Tourism, Parks, Arts and Sports Development remains starkly aware of the lingering effects of the recent recession.

Each new session is an opportunity to advance the goals of the Committee and support the citizens of our State. We remain staunch advocates and defenders of the great natural, cultural, recreational, and historic assets of our State, and their potential to create jobs, support our economy and enhance the quality of life for all New Yorkers as well as those we welcome into our great State.

In anticipation of another austere budget for the 2012-2013 fiscal year, the Committee will continue to strive to ensure that all spending and programs are targeted and maximize impact for the communities they serve. The Committee will seek to ensure both preservation and enhancement of the State's many natural, cultural, and historic assets.

In 2012, the Committee will examine legislation to enhance the preservation of our parks system, to encourage tourism in all regions of the State, to support the recognition and celebration of our State's diverse history and culture, and to ensure adequate safety in sports and recreational activities.

One issue that the Committee will deliberate extensively during the 2012 legislative session is the secondary ticket resale market. The Committee was the first in the nation to enact a ticket resale statute that ensures consumer protections in the secondary market. Examination of the impact of secondary ticket resale regulation and its effect on consumers, the economy, and businesses will all also be addressed nationally as Congress entertains legislation similar to the New York statute.

As always, the Committee will continue to work with arts and cultural groups to secure additional legislative success. We remain invested in initiatives that help localities to capitalize on their diverse natural, cultural, historic and recreational assets. We look forward to meeting with the different industries and continuing to review their proposals and suggestions.

APPENDIX A:

SUMMARY OF ALL BILLS REFERRED TO COMMITTEE ON TOURISM, PARKS, ARTS AND SPORTS DEVELOPMENT

FINAL ACTION	ASSEMBLY BILLS	<u>SENATE</u> <u>BILLS</u>	TOTAL BILLS
BILLS REPORTED WITH OR WITHOUT AMENDMENT			
TO FLOOR; NOT RETURNING TO COMMITTEE	1		1
TO FLOOR; RECOMMITTED AND DIED			
TO WAYS AND MEANS	15		15
TO CODES	7		7
TO RULES	1		1
TO JUDICIARY			
TOTAL	24		24
BILLS HAVING COMMITTEE REFERENCE CHANGED			
TO <u>Transportation</u> COMMITTEE	1		1
TO <u>Housing</u> COMMITTEE	1		1
TO COMMITTEE			
TO COMMITTEE			
TOTAL SENATE BILLS SUBSTITUTED OR RECALLED	2		2
		1	1
SUBSTITUTED		1	1
RECALLED		1	1
TOTAL		2	2
BILLS DEFEATED IN COMMITTEE			
BILLS NEVER REPORTED, HELD IN COMMITTEE			
BILLS NEVER REPORTED, DIED IN COMMITTEE	61	5	66
BILLS HAVING ENACTING CLAUSES STRICKEN			
MOTIONS TO DISCHARGE LOST			
TOTAL BILLS IN COMMITTEE	87	7	94
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	6		

APPENDIX B

COMMITTEE ON TOURISM, PARKS, ARTS AND SPORTS DEVELOPMENT

2011 Bills Considered

Assembly Bill #	Senate Bill #	Last Action	Description
A.302-C Hevesi	S.958-C Maziarz	Veto Memo. 41	Creates a solar powered trash compacting garbage receptacle pilot program
A.374-A Hoyt	S.3847 McDonald	Amended and recommitted to Ways and Means	Creates an optional pilot program to establish arts-based districts in the cities of Albany, Buffalo, Rochester, Syracuse, and Troy
A.693 Englebright	S.1918 Serrano	Passed Assembly	Creates the "New York State Civil War 150 th Anniversary Commemoration Commission"
A.2249 Wright	No Same As	Passed Assembly	Authorizes the formation of the Heights heritage area
A.3253 Morelle	No Same As	Referred to Ways and Means	Establishes the Arts and Artifacts Domestic Indemnity Act
A.3409-A Schimminger	S.2686-A Grisanti	Ordered to 3 rd Reading	Directs the Commissioner of Parks, Recreation and Historic Preservation to cooperate with municipalities in establishing adopt- a-park programs
A.3550 Galef	No Same As	Reported to Rules	Requires boating safety certificates of all persons born after January 1, 1992, operating a mechanically propelled vessel
A.3722-A Russell	S.4025-A Maziarz	Veto Memo. 57	Establishes the New York State War of 1812 Commission to promote its 200 th anniversary
A.3836 Ramos	S.2734 Johnson	Referred to Ways and Means	Requires the transfer of certain lands to the Oak Brush Plain State Preserve
A.4146-A Englebright	S.1707-A Griffo	Referred to Ways and Means	Authorizes and establishes protocols for mixed martial arts events
A.5483 Englebright	No Same As	Ordered to 3 rd Reading	Requires the Natural Heritage Trust to invest its funds pursuant to the Prudent Investor Act

S.2747	Referred to Ways	Directs the Office of Parks,
Serrano	and Means	Recreation and Historic
		Preservation to establish a 3 and 5
		year vehicle access pass
S.1914	Veto Memo. 43	Requires tourism promotion
Serrano		agencies seeking economic
		development funds to encourage
		visitation of state parks and historic
		sites
	Referred to Ways	Requires the Office of Parks,
Serrano	and Means	Recreation and Historic
		Preservation to preserve and
		maintain closed state historic sites
	Chapter 279	Expands the Susquehanna Heritage
		Area
	Referred to Codes	Eliminates price controls on health
		club contracts
	Chapter 19	Extends the ticket resale law
	C1 4-	
	Chapter 67	Authorizes a required fee at the
Klein		New York Botanical Garden until
N. G. A.	D 0 1 111	2015
No Same As		Requires the New York State
	and Means	tourism website be displayed on all
T 1441.	Cl 201	state vehicles
	Chapter 301	Extends provisions authorizing of
3.3312		certain leased personal watercraft
		and prop-craft without a boating safety certificate
C 5122	Chapter 202	Authorizes Office of Parks,
	Chapter 502	Recreation and Historic
O Mara		Preservation to lease the caretaker's
		home and garage within the
		Buttermilk Falls State Park
S 5342	Chanter 438	Extends the submission date for the
	Chapter 730	African-American Heritage
CIBUIU		Corridor Commission draft
		management plan
S.4844-A	Chapter 572	Directs the Office of Parks,
		Recreation and Historic
Maziarz		
		Recreation and Historic Preservation to promulgate regulations to allow Nik Wallenda
	Serrano S.1914	Serrano and Means S.1914 Serrano Veto Memo. 43 S.2393 Serrano Referred to Ways and Means S.5534 Libous S.4558 Robach S.4493 Marcellino S.3860-A Klein No Same As Referred to Ways and Means Little S.5372 S.5133 Chapter 301 S.5133 Chapter 302 S.5342 Grisanti Chapter 438

APPENDIX C: LIST OF LAWS ENACTED DURING THE 2011 LEGISLATIVE SESSION

BILLS THAT BECAME LAW DURING THE 2011 LEGISLATIVE SESSION						
ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION			
A.6299-A Lupardo	S.5534 Libous	Chapter 279	Expands the Susquehanna Heritage Area			
A.6856-A Englebright	S.4493 Marcellino	Chapter 19	Extends the ticket resale law			
A.6978-A Rivera J	S.3860-A Klein	Chapter 67	Authorizes a required fee at the New York Botanical Garden until 2015			
A.7279 Englebright	Little S.5372	Chapter 301	Extends provisions authorizing certain leased personal watercraft and prop-craft without a boating safety certificate			
A.7280 Englebright	S.5133 O'Mara	Chapter 302	Authorizes Office of Parks, Recreation and Historic Preservation to lease the caretaker's home and garage within the Buttermilk Falls State Park			
A.7570 Peoples-Stokes	S.5342 Grisanti	Chapter 438	Extends the submission date for the African-American Heritage Corridor Commission draft management plan			
A.8206-A Gabryszak	S.4844-A Maziarz	Chapter 572	Directs the Office of Parks, Recreation and Historic Preservation to promulgate regulations to allow Nik Wallenda to traverse the Niagara River Gorge			