

New York State Assembly

Carl E. Heastie

Speaker



Committee on
Environmental Conservation

Steve Englebright

Chairman

2016

ANNUAL REPORT



STEVEN ENGLEBRIGHT
4th Assembly District
Suffolk County

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIRMAN
Committee on Environmental Conservation

COMMITTEES
Education
Energy
Higher Education
Rules

COMMISSIONS
Science and Technology
Water Resource Needs of Long Island

MEMBER
Bi-State L.I. Sound Marine Resource Committee
N.Y.S. Heritage Area Advisory Council

December 15, 2016

Honorable Carl E. Heastie
Speaker of the Assembly
Legislative Office Building, Room 932
Albany, NY 12248

Dear Speaker Heastie:

I am pleased to submit to you the 2016 Annual Report of the Assembly Standing Committee on Environmental Conservation.

This report describes the legislative actions and major issues considered by the Committee and sets forth our goals for future legislative sessions. The Committee addressed several important issues this year including record funding levels for the Environmental Protection Fund, legislation to address climate change and prohibitions on the use of harmful chemicals in children's products. In addition, the Committee held several hearings to examine water quality and electronic waste.

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 2017 legislative session.

Sincerely,

Steve Englebright, Chairman
Assembly Standing Committee on
Environmental Conservation

2016 ANNUAL REPORT
OF THE NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON ENVIRONMENTAL CONSERVATION

Steve Englebright, Chairman

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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), 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 DEC. During the 2016 Legislative Session, the Committee considered 473 bills, acting favorably on 94, with 40 becoming law.

MAJOR ISSUES OF 2016

A. BUDGET HIGHLIGHTS

The State Fiscal Year (SFY) 2016-17 Enacted Budget included over \$1 billion in funding for environmental programs as well as monies for drinking water and wastewater infrastructure and recycling programs. Additional details about the Enacted Budget follow.

Increased Funding for Drinking Water and Wastewater Infrastructure

According to DEC "...there are over six hundred wastewater treatment facilities that serve 1,610 municipalities. The facilities range in size from New York City's vast system that processes 1.3 billion gallons of wastewater a day through 14 facilities, to small village systems that process less than 100,000 gallons a day. These facilities provide wastewater treatment for more than 15,000,000 people across the state." DEC's 2008 assessment of the costs to repair, replace and update New York's wastewater infrastructure estimated the total funding need to be \$36.2 billion over a twenty-year period. A similar assessment for drinking water infrastructure found a need of \$38.7 billion over a twenty-year period. These estimates were made prior to the devastation caused by recent extreme weather events. To further compound the problem, the need for investment comes at a time when the federal government has decreased the funding available to states. In a twenty-year period, federal funding for wastewater facilities decreased by over 70 percent, from \$2.4 billion to \$687 million.

The infrastructure deficiencies have an adverse impact on water quality. DEC indicates that in New York City and Long Island, municipal wastewater sources are cited as the cause of 54 percent of all impaired marine estuary acres. In addition, water quality impairment is the most common cause of shellfishery closures.

In order to help municipalities address their water infrastructure needs, and to improve water quality, last year's State Budget contained \$200 million in new, multi-year funding for municipal water quality infrastructure grants including wastewater and drinking water projects. The \$200 million is in addition to the monies currently available through New York State's Drinking Water and Clean Water Revolving Loan Funds. The program is administered by the Environmental Facilities Corporation.

The 2016-17 State Budget contained an additional \$200 million in funding for municipal water quality infrastructure grants bringing the two-year funding total to \$400 million.

Cancer Mapping
(2016-17 State Budget)

The link between environmental factors and health has become increasingly clear. Chapter 77 of the Laws of 2010 required the Department of Environmental Conservation (DEC), in cooperation with the Department of Health's Environmental Public Health Tracking Program Technical Advisory Group, to establish and maintain a computer mapping system for plotting cancer incidence, including but not limited to cancer clusters, and environmental facilities throughout the State.

The 2016-17 State Budget extended the existing cancer mapping authorization for six years and required more timely reporting to help ensure that researchers and health professionals continue to have access to this important information.

Environmental Protection Fund

The Environmental Protection Fund (EPF) was funded at \$300 million, an increase of \$123 million over last year's funding level. The EPF included funding for traditional EPF programs such as waterfront revitalization, municipal recycling, water quality improvement, and farmland protection. In addition, a new climate change category was included. The Assembly ensured that no less than 25 percent of the EPF funds appropriated for local waterfront revitalization and municipal parks projects will be made available for projects in densely populated or low-income communities that are underserved with respect to existing recreational opportunities in the area.

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

EPF Funding
\$(in millions)

EPF Category	Enacted 2015-16
Solid Waste Account	34.850
Municipal Recycling	14.000
Pollution Prevention Institute	4.000
Secondary Markets	1.000
Natural Resource Damages	1.950
Pesticide Database	1.200
Landfill Closure/Gas Management	.700
Brownfield Opportunity Area Grants	2.000
Environmental Health	3.000
Environmental Justice Grants	7.000
Parks, Recreation & Historic Preservation Account	81.500
Waterfront Revitalization	16.000
Municipal Parks	20.000
Hudson River Park	2.500
Stewardship	28.000
Zoos, Botanical Gardens, & Aquaria	15.000
Open Space Account	161.500
Land Acquisition	40.000
Environmental Commissions	.746
Farmland Protection	20.000
Agricultural Waste Management	1.500
Biodiversity	1.000
Albany Pine Bush	2.475
Invasive Species	12.000
Long Island Pine Barrens Planning	1.800
Ocean and Great Lakes	15.000
Water Quality Improvement	20.000
Long Island South Shore Estuary Reserve	0.900
Non-point Source Pollution Control	27.000
Soil and Water Conservation Districts	9.000
Finger Lakes - Lake Ontario Watershed	2.279
Hudson River Estuary Management	5.000
Water Testing Pilot Program	1.500
Dredging Matching Grant Program	1.000
Lake Erie Watershed Protection Alliance	.250
Climate Change Mitigation and Adaptation	22.000
Greenhouse Gas Management	3.000
Smart Growth	2.000
Climate Resilient Farms Program	2.500
Total	300.000

B. ENVIRONMENTAL QUALITY

Prohibition on the Sale and Use of Mercury Wheel Weights **(A.172-C Rosenthal; Chapter 312 of the Laws of 2016)**

Wheel weights are used to balance vehicle wheels and decrease uneven tire wear. Most wheel weights currently in use are attached at the edge of the wheel's rim with a clip, with an average vehicle containing two such weights per tire. Because these weights are clipped on, they are prone to slipping off when vehicles hit potholes or curbs, leading to the potential release of mercury. Mercury-free wheel weights made of aluminum, steel, and zinc are widely available.

This law will establish a timeframe, beginning April 1, 2018, for the elimination of lead-containing wheel weights. Similar laws have been enacted in Connecticut, Louisiana and Rhode Island.

Repair of Damaged Pesticide Containers **(A.9643 Hunter; Chapter 77 of the Laws of 2016)**

The United States Environmental Protection Agency (EPA) released its "Pesticide Container Repair Interim Policy" in October 2009, to address the environmental concerns associated with the unnecessary disposal of consumer pesticide products. According to the EPA, approximately five million pounds of consumer pesticide products may become waste each year in the United States due to damage to the containers before the pesticides can be sold by retailers.

This law will extend, until July 1, 2018, the authority for New York retailers to implement a "minor repair program" for damaged pesticide containers. Such programs would need to be approved by the EPA and demonstrate that product integrity is ensured. Repaired containers would be prohibited from having any appreciable loss of contents or change in the net contents as indicated on the label, and the physical characteristics of the product would be required to remain unchanged, with no dampening or hardening as a result of contact with water or other liquids.

Environmental Impact Zone Designation **(A.3382 Peoples-Stokes; Passed the Assembly)**

This legislation would require the DEC to publish a list of "high local environmental impact zones" that would be defined as areas of the State that are most adversely impacted by existing environmental hazards. In compiling the 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, amount of pesticides sold and used, proximity of water bodies, and air quality.

C. HAZARDOUS WASTE MANAGEMENT

Mercury Content of Light Bulbs

(A.5844-A Kavanagh; Passed the Assembly)

The amount of mercury contained in compact fluorescent light bulbs varies by manufacturer. The European Union and several states have adopted laws that establish standards for the maximum amount of mercury that can be contained in light bulbs. This legislation would establish similar mercury content limits and strengthen disposal provisions.

D. FISH AND WILDLIFE

Management of Mute Swans

(A.9289 Cymbrowitz; Chapter 457 of the Laws of 2016)

In December 2013, DEC issued a management plan for New York's mute swans. Mute swans were first brought to the United States in the 1800s and New York is home to approximately 2,200 mute swans concentrated primarily in the lower Hudson Valley, Lake Ontario and Long Island. DEC's management plan included the goal of eliminating all of the free-ranging mute swans in New York by 2025. A revised management plan was issued in 2015, but it too had the goal of reducing the swan population, this time to 800, and did not contain any of the additional criteria previously requested by the Legislature.

This legislation would establish additional criteria for the adoption of a mute swan management plan including: requiring public hearings and comment periods, prioritizing non-lethal management techniques, and documenting the scientific basis for current and projected environmental damages attributed to mute swans.

Commercial Food Fish License Exclusions

(A.7270 Thiele; Chapter 166 of the Laws of 2016)

Commercial food fish landing licenses may be issued regardless of residency and were created to allow for the landing and sale of fish in New York that were harvested in federal waters. Unlike other State-issued commercial licenses, there are no fishing income criteria or other eligibility provisions other than a minimum age requirement of 16. Blackfish, also called tautog, have become an increasingly popular fish species. DEC restricts the number of such fish that can be taken in State waters; however, there are no similar criteria in federal waters. As a result, commercial food fish landing licenses are being used to catch blackfish in federal waters and return them for sale in New York.

This law will prohibit the taking of blackfish with only a commercial food fish landing license.

Shark Fishing Requirements
(A.9218 Thiele; Chapter 121 of the Laws of 2016)

This law would extend, until December 31, 2018, the requirement for the use of non-stainless steel non-offset circle hooks for recreational and commercial shark fishing. Scientific studies suggest higher survival rates for released fish when circle hooks are used since circle hooks are more likely to hook a fish in the mouth rather than the gut. In addition, circle hooks are easier to remove than the typically used “J” hook and can further reduce the potential harm to fish. Non-stainless hooks further enhance survival rates since they dissolve in the digestive system, especially in large predator fish like sharks.

Seaweed Cultivation Pilot Program
(A.10146-A Thiele; Chapter 322 of the Laws of 2016)

In 2004, New York ceded 110,000 acres of underwater land in Peconic Bay and Gardiners Bay to Suffolk County for a shellfish cultivation program, and authorized the County to develop a leasing program that would provide shellfish growers access to these waters in an environmentally-sustainable way.

Other states, including Connecticut and Maine, are exploring whether seaweed cultivation can yield an economically viable market product while also serving as a nutrient sink to remove excess nitrogen. This law will expand Suffolk County’s existing shellfish lease authorization to include a ten-year research and scientific assessment pilot program to explore the feasibility of seaweed cultivation.

Camouflage Colors for Youth Hunters
(A.10188 Gunther; Chapter 192 of the Laws of 2016)

Hunters between the ages of fourteen and fifteen, and those accompanying them, are currently required to display 250 square inches of solid or patterned fluorescent orange material. This law permits the use of fluorescent pink material so that minors and their companions may display solid or patterned fluorescent pink in lieu of, or in addition to, orange.

Protecting Biodiversity

(A.10474-A Englebright; Passed the Assembly)

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

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

- designate the area from mean high water seaward fifteen hundred feet around Plum Island, Great Gull Island and Little Gull island as a Marine Mammal and Sea Turtle Protection Area;
- define the Marine Mammal and Sea Turtle Protection Area to mean:
 - a site providing habitat to species including harbor seals, gray seals, harbor porpoises, and sea turtles;
 - the presence of a State-designated natural protective feature; and,
 - location within the boundaries of two estuaries of national significance
- authorize the Department of Environmental Conservation to adopt regulations preventing the harassment, and providing for the protection, of marine mammals and sea turtles; and,
- establish a Marine Mammal and Sea Turtle Protection Area Advisory Committee.

Exclusion of Companion Animals from the Definition of “Wildlife”

(A.3448 Glick; Passed the Assembly)

Currently, the definition of “wildlife” contained in the Environmental Conservation Law is very broad and arguably could include companion animals such as cats and dogs. As a result, there is concern that companion animals may be trapped or killed inhumanely by nuisance wildlife control operators.

There is precedent for the specific exclusion of companion animals in the Agriculture and Markets Law, where cats and dogs are clearly defined as “companion animals.” Following that model, this bill would explicitly exclude “companion animals” from the definition of “wildlife” in the Environmental Conservation Law.

Increased Penalties for the Illegal Taking of Deer

(A.7171-B Woerner; Passed the Assembly)

Wildlife is held in trust for the people of the State. Penalties for the illegal taking of big game out of season or with an artificial light have not been increased in over a decade. This bill would increase the financial penalties associated with the illegal taking of big game.

Striped Bass Management
(A.6806-A Abinanti; Passed the Assembly)

Legislation passed in 2000 required DEC to establish 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 re-opening the commercial fishery, in part due to concerns about the potential depletion of the striped bass if the fishery was 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, legislation was passed in 2011 that established a commercial fishing moratorium until 2015. This legislation follows that model and would prohibit the taking of striped bass from the Hudson River for commercial purposes until April 1, 2020.

License Revocation Process
(A.3085 Cook; Passed the Assembly)

New York State joined the Interstate Wildlife Violator’s Compact (IWVC) in 2005 in order to streamline the prosecution of fishing, hunting and trapping violations for the 40 participating states. The IWVC requires that all participating states recognize the revocation or suspension of license privileges of any person by any participating state as though the violation resulting in the revocation or suspension had occurred in their state and could have been the basis for suspension of license privileges in their state. The purpose of the IWVC is to prevent offenders from “shopping” around for sporting privileges when they have been revoked in another state. It is also intended to prevent member States from becoming a dumping ground for all the violators that cannot get a sporting license anywhere else. This legislation is intended to make all license revocations and suspensions in other states eligible for revocation in New York State.

E. ENVIRONMENTAL ENFORCEMENT

Environmental Justice Advisory Group
(A.3063 Peoples-Stokes; Passed the Assembly)

In 1999, DEC received a grant from the EPA to develop a comprehensive environmental justice program. Environmental justice is intended to help members of minority and low-income communities make their neighborhoods safer and more livable. As part of the EPA grant process, DEC convened an environmental justice advisory group. In January 2002, the advisory group issued its report. In March 2003, DEC adopted a policy on environmental justice and permitting but took no action on several of the advisory group's recommendations.

This legislation would establish an Environmental Justice Advisory Group and Interagency Coordinating Council to implement the recommendations of the advisory group and ensure that State agencies conduct an environmental justice review and address environmental justice.

F. PETROLEUM MANAGEMENT

Increased Financial Security Requirements for Oil Storage Facilities

(A.7625 Fahy; Passed the Assembly)

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

This legislation 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.

Installation of Spill Detection Equipment

(A.730 Lentol; Passed the Assembly)

This legislation would require operators of major petroleum facilities to implement plans and to install equipment for the prompt detection of petroleum discharges.

G. WATER CONSERVATION AND QUALITY

Water Quality Impairment from Land Clearing Debris and Compost Facilities

(A.10144-B Englebright; Passed the Assembly)

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

Recent studies, including the Horseblock Road Groundwater Report prepared by Suffolk County, have highlighted the potential for adverse water quality impacts as a result of large compost and mulch facilities. This legislation will help protect water quality by ensuring that water quality and other environmental protections are in place. More specifically, this bill would apply to large-scale land clearing debris and composting facilities and require: quarterly water testing, setbacks, dust and odor suppression, and fire risk management. In cases where the facility is in a primary recharge area an impermeable liner may be required. DEC could exempt facilities following a review of water testing results and a determination that such facilities do not pose a risk of water impairment.

Neighbor Notification of Proposed Wetland Development
(A.5128 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 land owners. This legislation would apply in municipalities with a population of a million or more and expand the notice requirements to include all property owners within 1,000 feet of the wetland.

Groundwater Monitoring at Mines
(A.166 Thiele; Passed the Assembly)

Recent studies have highlighted the significant potential for groundwater impacts associated with mining operations. This potential is especially significant within sole source aquifers such as on Long Island.

This legislation would require a comprehensive groundwater monitoring program on and around mining sites, or reclaimed mines, in counties with a population of one million or more where the primary source of drinking water is a sole source aquifer. Routine groundwater sampling and monitoring can help determine what, if any, groundwater resources may be impacted from these types of operations, and provide an early warning system for any current or future groundwater contamination.

H. FOREST AND LAND RESOURCES

Constitutional Amendment for Health and Safety Projects on Forest Preserve Lands
(A.10721-A Englebright; Passed the Assembly and Senate)

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

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

The passage of the proposed amendment this year represents first passage.

State Geological Trail
(A.9881 Englebright; Passed the Assembly)

There are many naturally and culturally significant geological sites in New York including Niagara Falls, Letchworth Gorge, and the Adirondack and Catskill Parks. These geological sites help form the State's unique landscapes and provide considerable natural, aesthetic, recreational, and symbolic importance to New York's residents and visitors alike.

This bill would amend the Environmental Conservation Law to authorize the designation of geoparks and other sites in order to establish a State geological trail. A "geopark" would be defined as an area or territory of that State encompassing one or more sites of scientific importance, for not only geological reasons but also by virtue of their archeological, ecological, and cultural value. Specific areas, territories, and sites within the State would be studied and then designated as geoparks by the DEC commissioner. Each designated area would have a management plan designed to foster socio-economic development that is sustainable, and established methods for conserving and enhancing geological heritage.

I. CLIMATE CHANGE

Ocean Acidification Task Force
(A.10264 Englebright; Chapter 464 of the Laws of 2016)

This legislation would create a fourteen-member Ocean Acidification Task Force within DEC to identify the causes and factors contributing to ocean acidification and evaluating ways of addressing the problem by applying the best available science. In addition to DEC, the Department of State, and the Office of General Services, the Task Force would include at large members who would have expertise in one or more of the following areas: climatology; hydrology; economics; marine fisheries; aquaculture; oceanography; or ecology.

The Task Force is formed to address a very serious outgrowth of climate change. Specifically, atmospheric carbon dioxide forms carbonic acid when dissolved in water. As a result, the increased levels of carbon dioxide resulting from climate change have contributed to oceans becoming increasingly acidic. Ocean acidification can be further exacerbated by runoff and nutrient influx from land. According to information provided by the Maine Ocean Acidification Commission, “Scientific data indicates that the rate of acidification is at least 100 times faster at present than at any other time in the last 200,000 years and may be unprecedented in earth’s history.” It is thought that the Atlantic Ocean along the Northeast shore will be especially vulnerable to ocean acidification because carbon dioxide is increasingly soluble in cold water and the Northeast will be subject to increasingly intense rain events leading to more intensive runoff.

Creation of the New York State Climate and Community Protection Act
(A.10342 Englebright; Passed the Assembly)

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

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

This legislation 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.

J. CHEMICALS

Restrictions on the Use of Harmful Chemicals in Children's Products **(A.5612-A Englebright; Passed the Assembly)**

Currently, New York identifies or prohibits the use of dangerous chemicals on a chemical-by-chemical basis. Several other states including Washington, California, and Maine have adopted more comprehensive chemical policies after finding high levels of cadmium, lead, and other dangerous chemicals in children's products ranging from crib mattresses to toys. This legislation is modeled after those states and is intended to prevent the use of dangerous chemicals and encourage the use of safer chemical alternatives in children's products.

This legislation would require DEC to develop lists of dangerous chemicals and require manufacturers of children's products containing such chemicals to report the use of such chemicals to DEC. The sale of children's products containing hazardous chemicals would be prohibited unless DEC issues a waiver.

Restrictions on the Use of Flame Retardants in Upholstered Furniture **(A.7837-A Brindisi; Passed the Assembly)**

Recent studies have shown that approximately 94 percent of couches manufactured after 2005 contain chemical flame retardants – in amounts capable of being measured in pounds. The flame retardant chemicals were added in response to a 1975 California flammability standard, TB 117, which was developed in response to concerns about the large number of household fires ignited by cigarettes. The chemical flame retardants migrate out of furniture and into household dust. Because of their tendency to put items in their mouth, toddlers typically have three times the level of flame retardants as their parents. An article in the Chicago Tribune stated, “A typical American baby is born with the highest recorded concentrations of flame retardants among infants in the world.” Many flame retardants, most notably halogenated chemical retardants, have been associated with adverse health impacts.

This legislation would prohibit the use of chemical flame retardants in residential upholstered furniture in order to decrease adverse health impacts and to ensure that chemical fire retardant-laden furniture developed for the prior California standard does not continue to be sold in New York. In addition, this bill would also require residential upholstered furniture manufacturers to comply with an open flame standard beginning in 2017, reflective of a similar standard for residential mattresses adopted by the United States Consumer Product Safety Commission.

K. DEPARTMENTAL POWERS

Resolution of Longstanding Title Dispute in the Adirondack Forest Preserve **(A.10737 Englebright; Chapter 231 of the Laws of 2016)**

In 2013, New York voters approved a constitutional amendment to resolve a one hundred year old title dispute regarding ownership of Adirondack forest preserve lands. In addition to the constitutional amendment, the Legislature also approved legislation specifying the process for resolving the title disputes. The settlement authorization was contingent upon the State determining that resolution of the title dispute “ensures the integrity of the forest preserve in the Adirondack Park and that results in a net benefit to the forest preserve when compared to the contested parcels.”

This legislation is the last step in the settlement process following the identification, by DEC, of land to be added to the Forest Preserve, including a parcel known as the “Marion River Carry.”

Extended Opportunities for Public Comment **(A.9219 Zebrowski; Chapter 412 of the Laws of 2016)**

Major environmental regulations represent significant actions that merit greater scrutiny than more routine regulatory proposals. However, due to quirks in the law, some of the more important regulations proposed by DEC actually offer less time for public input than is the case for most other rules. When the Environmental Conservation Law (ECL) was enacted in 1972, there was no standard minimum public comment period for proposed rules. However, certain grants of rulemaking authority in the ECL were deemed important enough to necessitate a 30-day minimum period for prior notice of public hearings on rules and regulations. These included regulations proposed pursuant to DEC's general rulemaking authority as well as those relating to air pollution, solid waste management, household chemicals and hazardous and acutely hazardous substances.

The State Administrative Procedure Act (SAPA) as originally enacted in 1975 required a minimum 21-day comment period for any rule, unless a different time was specified in law. This timeframe was extended to 45 days in 1987 because the 30-day minimum comment period was felt to be insufficient for the average rulemaking. However, the 30-day minimum periods in the ECL were overlooked at that time. In recent years, DEC has proposed several major rules under these shortened periods, leaving the public with less time to review and prepare comments on substantial regulatory undertakings than it would have under the ordinary SAPA process. For example, the shorter 30-day comment period has been used for rules on the following topics: a cap-and-trade emissions program for major generating facilities; sewage sludge incineration units; motor vehicle emissions inspections; and asphalt pavement and asphalt based surface coatings. This law will update the minimum periods for public notice in the ECL to be consistent with the timeframes for hearings on rules by other agencies.

L. ENDANGERED SPECIES

Increased Penalties for Endangered Species Violations **(A.10471 Englebright; Passed the Assembly)**

Not only do endangered and threatened species add beauty and wonder to the natural world, but they provide the biodiversity necessary for the maintenance of our ecosystems. Unfortunately, trade in illegal wildlife is increasing. The United States Fish and Wildlife Service identifies trade in illegal wildlife as a multi-billion dollar business that has been increasing significantly in recent decades. Unfortunately, New York has not been immune. For example, there have been several high profile cases of illegal ivory trade in New York City.

This bill would help increase awareness of the need for protections of endangered and threatened species and provide additional deterrents to their harm. More specifically, this bill would:

- authorize rewards of up to \$25,000 for information that leads to the detection, arrest and conviction of a person guilty of a felony or misdemeanor related to endangered or threatened species;
- increase the endangered or threatened species civil penalty; and,
- require the Department of Environmental Conservation to:
 - increase public awareness regarding the importance of protecting endangered and threatened species;
 - publicize laws protecting such species; and,
 - increase awareness of the existence of a reward.

M. INVASIVE SPECIES

Best Practices in Treating Residential Property for Tick Prevention and Management **(A.8110-A Barrett; Passed the Assembly)**

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

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

OVERSIGHT AND PUBLIC HEARINGS

In 2016, the Assembly Standing Committee on Environmental Conservation continued its oversight of environmental issues by holding the following hearings and roundtables:

Hearing on Electronic Waste Management

The Committee, in conjunction with the Assembly Commissions on Solid Waste Management and Toxic Substances and Hazardous Waste and the Assembly Subcommittee on Department of Environmental Conservation Oversight, held a hearing on February 24th in Albany to examine the effectiveness of the State's E-waste collection program. The United States Environmental Protection Agency (EPA) "Characterization of Municipal Solid Waste by Weight" reports indicate that the amount of discarded electronic waste, commonly referred to as E-waste, is rising. In 2011, 3.4 million tons of E-waste were generated, up from 1.9 million tons in 2000. E-waste, such as televisions and computers, typically includes harmful chemicals such as lead, cadmium, mercury and flame retardants. In 2010, the Legislature created a statewide electronic equipment reuse and recycling program to encourage recycling and prevent the disposal of E-waste in landfills. The hearing examined the effectiveness of the State's E-waste program including collection rates, administration, and manufacturer compliance.

Hearings on Water Quality

Water contamination in communities across the State has highlighted the need for a thorough review of water quality issues. The Committee, in conjunction with the Assembly Health Committee, held two hearings to review issues related to water quality and contamination. The first hearing was held September 7th in Albany and the second September 12th in Long Island. The purpose of the hearings was to examine water contamination situations and assess the effectiveness and implementation of laws and public policies in protecting water quality and public health.

OUTLOOK AND GOALS FOR 2017

The Committee looks forward to the 2017 Legislative Session. The Committee will continue its history of environmental advocacy and achievement by working to enact sound, workable environmental policies. Also, the Committee will continue its work to preserve open space. The Committee will consider legislation to improve water quality, and ensure safe drinking water. 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.

APPENDIX A
2016 SUMMARY SHEET

Summary of Action on All Bills Referred to the Committee on
ENVIRONMENTAL CONSERVATION

Final Action	<u>Assembly</u> <u>Bills</u>	<u>Senate</u> <u>Bills</u>	<u>Total</u>
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee (Favorable)	24	0	24
To Ways & Means	35	0	35
To Codes	32	0	32
To Rules	3	0	3
To Judiciary	0	0	0
Total	94	0	94
<u>Bills Having Committee Reference Changed</u>			
To Codes	1	0	1
Total	1	0	1
<u>Senate Bills Substituted or Recalled</u>			
Substituted		13	13
Recalled		2	2
Total		15	15
<u>Bills Defeated in Committee</u>	0	0	0
<u>Bills Held for Consideration With a Roll-Call Vote</u>	26	0	26
<u>Bills Never Reported or Held in Committee</u>	288	37	325
<u>Bills Having Enacting Clause Stricken</u>	12	0	12
<u>Motion to Discharge Lost</u>	0	0	0
TOTAL BILLS IN COMMITTEE	421	52	473
TOTAL NUMBER OF COMMITTEE MEETINGS HELD		7	

APPENDIX B

ENVIRONMENTAL CONSERVATION BILLS THAT PASSED BOTH HOUSES

Assembly Bill	Sponsor	Description	Final Action
A.169	Thiele	Authorizes the Commissioner of DEC to undertake projects to protect national historic landmarks from shore erosion	Chapter 310
A.172-C	Rosenthal	Prohibits mercury-added wheel weights	Chapter 312
A.353-C	Ryan	Authorizes DEC to grant an easement through the Boutwell Hill state forest for a wind generation project	Chapter 481
A.6727	Thiele	Extends the time period for the taking of deer in Suffolk County	Chapter 104
A.7270	Thiele	Restricts the use of landing licenses for the taking of blackfish or tautog	Chapter 166
A.8373-B	Duprey	Designates Little Wolf and Simon as inland waterways	Chapter 113
A.9218	Thiele	Extends the use of circle hooks for the taking of sharks	Chapter 121
A.9219	Zebrowski	Relates to notice of public hearings and the adoption of rules and regulations	Chapter 412
A.9289	Cymbrowitz	Enacts a moratorium on any Department plans related to mute swans	Chapter 457
A.9494	Stec	Increases Lake George boat and dock fees	Chapter 272
A.9508-A	Barrett	Adds Bash Bish to the definition of inland waterways	Chapter 176
A.9509	Barrett	Designates Roeliff Jansen Kill as an inland waterway	Chapter 126
A.9643	Hunter	Extends the authorization for the repair of minor damage to pesticide containers	Chapter 77
A.9876	Cusick	Extends the authorization of residential property owners on State Island to cut and remove certain reeds	Chapter 206
A.9996	Fahy	Extends the existing authorization for rifle hunting in Albany County	Chapter 211
A.10037	Nojay	Makes permanent the rifle hunting authorization in Livingston County	Chapter 199

A.10076	Gunther	Designates Basher Kill and Shawangunk Kill as inland waterways	Chapter 217
A.10104-A	Hawley	Designates the Black Creek in Genesee and Wyoming Counties as an inland waterway	Chapter 214
A.10108	Peoples-Stokes	Extends the authority of DEC to manage fish	Chapter 200
A.10109	Englebright	Extends the authority of DEC to manage blackfish	Chapter 140
A.10110	Lupardo	Extends DEC's authority to manage alewife	Chapter 141
A.10111	Fahy	Extends DEC's authority to manage hickory shad	Chapter 202
A.10112	Zebrowski	Extends DEC's authority to manage American shad	Chapter 142
A.10113	Englebright	Extends DEC's authority to manage clams	Chapter 143
A.10114	Otis	Extends DEC's authority to manage oysters	Chapter 201
A.10115	Jaffee	Extends DEC's authority to manage American eel	Chapter 144
A.10146-A	Thiele	Authorizes a pilot program for scientific research of seaweed cultivation in Suffolk County	Chapter 322
A.10165	Barrett	Designates the Clarverack Creek, the Taghkanic Creek, and the Agawamuck Creek as inland waterways	Chapter 216
A.10188	Gunther	Authorizes minors who hunt to wear pink material	Chapter 192
A.10203	Williams	Extends DEC's authority to manage bluefish	Chapter 147
A.10204	Hyndman	Extends DEC's authority to manage weakfish	Chapter 148
A.10263	Englebright	Extends DEC's authority to manage American lobster	Chapter 224
A.10264	Englebright	Establishes the New York State Ocean Acidification Task Force	Chapter 464
A.10280	Cahill	Designates Rondout Creek as an inland waterway	Chapter 154
A.10433	Bronson	Designates Black Creek in Monroe County as an inland waterway	Chapter 157
A.10451	Walter	Designates Ellicott Creek as an inland waterway	Chapter 227

A.10560	Goldfeder	Extends the authorization related to the filling of borrow pits in Jamaica Bay	Chapter 499
A.10603	McLaughlin	Designates Wyomanock Creek as an inland waterway	Chapter 175
A.10699	Katz	Designates several lakes as inland waterways	Chapter 196
A.10721-A	Englebright	Amends the State Constitution to allow certain projects necessary to preserve public health and safety to be conducted on State Forest Preserve lands	Constitutional amendment
A.10737	Englebright	Approves land transactions relating to implementation of a prior State constitutional amendment	Chapter 231

APPENDIX C

ENVIRONMENTAL CONSERVATION BILLS THAT PASSED THE ASSEMBLY ONLY

Assembly Bill	Sponsor	Description
A.166	Thiele	Authorizes localities to adopt laws requiring monitoring of groundwater impacts from mining
A.730	Lentol	Requires operators of major petroleum facilities to implement plans and install equipment for prompt detection of petroleum discharges
A.3063	Peoples-Stokes	Creates a permanent environmental justice advisory group
A.3085	Cook	Relates to the suspension of hunting and fishing licenses pursuant to the interstate wildlife violator compact
A.3382	Peoples-Stokes	Requires DEC to publish a list of high local environmental impact zones
A.3448	Glick	Excludes companion animals from the definition of "wildlife"
A.5128	Cusick	Requires notice to neighboring landowners of intention to develop wetlands
A.5612-A	Englebright	Restricts the use of certain toxic chemicals in children's products
A.5844-A	Kavanagh	Limits the mercury content of compact fluorescent light bulbs
A.6806-A	Abinanti	Prohibits the commercial taking of striped bass from the Hudson River
A.7171-B	Woerner	Increases penalties for the illegal taking of deer
A.7625	Fahy	Ensures adequate financing for the cleanup of petroleum discharges
A.7837-A	Brindisi	Prohibits the use of chemical flame retardants on residential upholstered furniture
A.8089	Rodriguez	Authorizes the Environmental Facilities Corporation to fund improvements to the East River Esplanade
A.8110-A	Barrett	Requires DEC to prepare recommendations for best practices in treating residential properties for tick prevention and management
A.9881-A	Englebright	Establishes a State Geological Trail

A.10144-B	Englebright	Requires water testing for certain mulch and compost facilities
A.10342	Englebright	Enacts the New York State Climate and Community Protection Act
A.10471	Englebright	Increases penalties related to endangered and threatened species
A.10474-A	Englebright	Establishes a Marine Mammal and Sea Turtle Protection Area around Plum Island, Great Gull Island and Little Gull Island