



# Empire State Forest Products Association

*The people behind New York's healthy forests and quality wood products*  
*www.esfpa.org*

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January 31, 2020

Honorable Helene Weinstein  
Member of Assembly  
Chair  
Assembly Ways & Means Committee  
LOB 831  
Albany, NY 12248

Honorable Liz Krueger  
Senator  
Chair  
Senate Finance Committee  
416 Capital  
Albany, NY 12247

Dear Assemblywoman Weinstein and Senator Krueger:

Enclosed please find comments from the Empire State Forest Products Association regarding the Governor's Proposed Executive Budget for 2021.

The Empire State Forest Products Association (ESFPA) represents the businesses, industries and landowners engaged in forest resource production and stewardship of New York's 19 million acres of forest. In total, \$22.9 billion dollars in statewide economic impact and nearly 100,000 jobs are attributable to our working forests and the forest related economic sectors.

There are nearly 700,000 private forest landowners who also depend on sound forest management and production to help them keep their forests as forests. Our vision for New York's working forests and wood products is that together they can provide economic, social and ecosystem benefits that meet the needs of society today and support the State's rural communities, so their benefits are there for generations to come.

In our comments, we are focusing on the Executive TED Article VII bill and those issues with the greatest potential impact on the State's forests and forest-based economy. We also are commenting on a couple of Capital Budget and Tax and Revenue proposals which have a direct benefit to or impact on our forests and the wood products sector. As the budget review process continues over the coming weeks, I and many of our Members will also be meeting with legislators on these and other issues related to the SFY 2020-21 State Budget.

Sincerely,

John K. Bartow, Jr.



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**Empire State Forest Products Association  
Comments on the  
SFY 2021 Executive Budget Proposal  
1/31/20**

## **Capital Budget - Environmental Protection Fund:**

The Empire State Forest products Association (ESFPA) supports the Governor's Budget appropriation request of \$300 million to the Environmental Protection Fund (EPF). We are pleased to see the continued funding requests for:

- **Land Acquisition** and our priority for State Working Forest Conservation Easements.
- **Urban Forestry** as this is often the largest interaction of urban residents and communities with trees and forests.
- **Biodiversity /Landowner Habitat Conservation Programs.** Our private forests represent over 14 million acres of habitat and biodiversity and we hope to see some of this effort benefit private forest lands to encourage sustainable forestry and achieve these goals.
- **Invasive Species** in both our water and terrestrial forest environments including funding for Hemlock Wholly Adelgid (\$500,000).
- **Regenerate NY grant program** for project cost sharing with private forest landowners to help address forest impacts from deer browsing, invasive species and to ensure the next generation of New York forests (\$500,000).
- **Wood Products Development Council** (\$200,000).

This year we support the Governor's addition of new commitments for:

- Creating the **Easements for Land Trusts** to expand the easement program to smaller forest landowners working with Land Trusts (\$3 million).
- Creating the **Community Forest** for municipalities and NGOs (\$500,000).

ESFPA does not support the Executive Proposals for:

- To the use of the EPF for agency personal services costs. The proposal would effectively reduce the \$300 million appropriation for projects by an unknown amount.
- Transfer of \$5 million from the Regional Greenhouse Gas Initiative to the EPF. Our environmental programs need to not only be complementary, but additive. We also have enough demand in our energy sectors for use of the RGGI funds that benefit most those who paid for RGGI.



## **TED PART PP – Ban Single-Use and Loose-fill Polystyrene Products**

ESFPA supports the Executive proposal that would ban the sale, use, or distribution of disposable food service containers made of expanded polystyrene, and the sale, use, or distribution of polystyrene loose fill packaging.

The proposal would further authorize DEC to undertake a review of additional product packaging and based on the environmental impacts of such products promulgate regulations to limit the sale, use, or distribution of such products. ESFPA would prefer to see this authorization confined to more specific products rather than a broad delegation of legislative prerogative.

The bill would preempt local laws which are inconsistent with the act but would not preempt local laws or ordinances that are at least as comprehensive as the provisions set forth in the bill. While ESFPA supports local law pre-emption we do not support local law authorization to have more stringent preemption options. This could result in a hodge-podge of local laws and requirements which would create random market conditions throughout the State.

## **TED PART QQ and Part RR– Authorize the \$3 billion Environmental Bond Act of 2020 "Restore Mother Nature" to be submitted for voter approval in November of 2020 and allocate funding to projects.**

The Environmental Bond Act of 2021 "Restore Mother Nature," would authorize the issuance of \$3 billion of bonds to finance environmental improvements that preserve, enhance, and restore New York's natural resources and reduce the impact of climate change. Capital projects eligible to be financed include those to: restore habitats and reduce flood risk; improve water quality; protect open space, preserve forest and invest in recreational infrastructure associated there to; expand the use of renewable energy to mitigate climate change; and other such projects that preserve, enhance, and restore the quality of the state's environment. According to the allocation language included in the Governor's proposal, bond proceeds could support the cost of approved projects for: acquisition of real property; forest preservation; right sizing dams, bridges and culverts; protection of open space and investment in associated recreational facilities; and, renewable energy projects at state facilities; among other projects.

ESFPA can appreciate the need and ability to finance capital projects through bonding and has supported Bond Acts in the past. The 2020 Restore Mother Nature bond proposed by the Executive does not provide enough specificity for eligible projects or allocation of funding for us to opine on this proposal at this time. ESFPA would like to see how this proposal would benefit New York's public and private forests while not removing significant acreage from management and timber harvesting.

ESFPA also wants to be sure that the role of private forest lands and markets that help support them are complimentary to the Restore Mother Nature Bond Act and Initiative. For decades New York's forest landowners (family and industrial) have been conserving "Mother Nature" through responsible forest management and providing jobs and economic benefits to communities. There are additional roles that private forest landowners and State investments through the Bond Act could further these conservation efforts. For example, ESFPA has consistently supported the State's use of land acquisition for working forest easements which conserves forest land while still allowing for forest management and timber removal. ESFPA is also supporting the new EPF funding for easements for land trusts. In addition, public access investments on eased properties can substantially enhance the public's use and enjoyment of these public/private ownerships.

ESFPA would also like to see more detail on the land acquisition components of the proposed bond act so we have some sense of the types and scale of land acquisition that is targeted and the ownership structure that



would be proposed. ESFPA will offer further comment on the Restore Mother Nature bond proposal as we are provided more detail about its uses and allocation.

#### **TED PART SS – Product Stewardship Program**

This proposal would create a new Product Stewardship Program for the recycling of carpets and mattresses as well as develop the framework for future stewardship programs. Stewardship programs are also known as Extended Producer Responsibility (EPR). Product Stewardship or EPR programs require manufacturers and/or brand owners to assume costs associated with managing waste from their products. However, consistently high voluntary recovery rates, and the industry's ongoing efforts to increase voluntary recovery, make mandates like Product Stewardship and EPR on some packaging unnecessary and this legislation does not provide for this exception.

The proposal as drafted does not sufficiently reflect the success of voluntary, market-based recycling and recovery efforts that have happened to date in the paper and paper-based packaging industry. For example, paper is recycled at a high rate: each year since 2009, 63 percent or more of paper used in the U.S. has been recovered for recycling; and, in 2018 the paper recovery rate reached 68.1 percent. Markets for recovered fiber are well-developed with the amount of paper going to landfills declining by nearly fifty percent since 2000. Imposing a mandatory Stewardship Program or EPR has not demonstrated that it would complement or enhance recycling or recovery in this well-established market.

ESFPA would like to see this legislation amended to strengthen the ability for successful voluntary stewardship programs so that successful, voluntary based efforts supported by strong markets and market resiliency are recognized as worthy product stewardship programs. Voluntary markets with strong citizen participation are less expensive than regulatory imposed methods and do not place added tax burdens on citizens who already are successfully reducing waste streams and support recovery and reuse efforts. Paper has been an outstanding model of market supported change and should be recognized as such.

#### **TED PART TT – Amendments to the Freshwater Wetlands Act**

A central piece of this proposal is alleged to reform wetland maps and amend wetland regulations to advance the goals described in other legislative efforts to address climate risks identified in the Community Risk and Resiliency Act, the recently signed Climate Leadership and Community Protection Act, and the Governor's Restore Mother Nature initiative. This proposal, however, would remove a 49-year standing exemption of certain forest management practices within wetlands and adjacent buffer areas that have not been proven to have any harmful impacts to wetlands. This proposal adds regulatory burdens to forest landowners which may discourage continued retention and management of private forest lands which are the single largest carbon sink in New York and provide the largest landscape scale protection of wetlands, streams and waterbodies as well as clean air, wildlife habitat and jobs.

ESFPA supports the changes in the freshwater wetlands act which would streamline the mapping and regulatory process and make more accurate interpretation and understanding of wetlands, but we cannot support this legislation which unduly restricts private landowners from managing their forests while providing protection to wetlands and other natural resources. We would be happy to participate in a process to amend the wetlands act and streamline the regulatory process outside of the budget process where there is time to develop and consider changes which serve to provide protection to wetlands without deleterious impacts to the single largest natural resource that helps protect them – New York's private forest lands and their owners.

## **Revenue Part D – Reduce Tax Burden on Small Business**

This proposal would make four amendments intended to alleviate the tax burden on small businesses. First, the bill would reduce the corporate franchise tax rate on business income in Tax Law § 210(1)(a) to a flat 4% for qualifying small businesses. Second, the bill would amend Tax Law §§ 210-B(1)(d) and 606(a)(5) to allow the investment tax credit to be refundable for taxpayers that are eligible farmers. Third, the bill would increase the allowable deduction under Tax Law § 612(c)(39) provided to small businesses and farms for net items of income, gain, loss and deduction entering federal adjusted gross income from 5% to 15% of those items. Finally, the bill would amend Tax Law § 1085(c)(1) to eliminate the estimated tax underpayment penalty for New York S corporations.

ESFPA supports all the tax proposals included in the Executive Budget. We are seeking clarification on the ITC credit for farms to ensure that such credits apply to silviculture and logging as do credits for sales, use and franchise tax under existing law.

## **Revenue Part L - Green Economy Tax Credit.**

The budget creates a new refundable, discretionary Green Jobs Tax Credit totaling up to 7.5 percent of wages for each net new job created fostering the expansion of green economy businesses and position New York State to further capitalize on significant projected green economic growth. The State will also create a refundable, discretionary Green Investment Tax Credit totaling up to 5 percent of qualifying new capital investments in connection with qualifying green economy projects and increasing to up to 8 percent of eligible investment for research and development in qualifying green economy projects.

ESFPA is seeking clarification on the definition of “green economy” to see if New York’s existing and potentially new bioeconomy businesses and jobs based on forest and wood products are included. If these are, we would support the Green Economy Tax Credits proposed by the Governor.

## **ELFA – Part J Mandatory Sick Leave**

This Executive Budget proposal would add a new section 196-b to the Labor Law to require:

- employers with 0-4 employees to provide five unpaid sick days each calendar year;
- employers with 5-99 employees to provide five paid sick days each calendar year; and
- employers with 100 or more employees to provide seven paid sick days each calendar year.

A review of literature on existing mandatory sick leave in several U.S. cities and states concludes that overall, mandatory paid sick leave laws consistently have moderate negative consequences for affected businesses. At the same time, such laws do not produce the benefits promised by supporters. Government sick leave mandates even fail to prevent employees from coming to work sick, ostensibly the most basic goal of such requirements.

The proposed legislation does not provide details as to how mandatory sick leave will be allocated among or separate from other leave provided by the employer or how this leave may or may not be included in other leave (e.g. Paid Time Off).

While a generally a well-intentioned public policy prescription, for these and other reasons ESFPA does not support mandatory sick leave.