



**The
Business
Council**

2009 Spring Environment Conference & Green Technology Expo

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Legislative Update

- Budget Review
- Legislative Agenda
- Regulatory Review

Executive Budget Environmental Issues

Legislature Passed the Following Budget Proposals:

- Returnable Container Act (“Bottle Bill”)
- Title V Permit Fee Increase
- State Pollutant Discharge Elimination System (SPDES)
- Utilities Assessment

Bottle Bill

- Extends 5-cents deposit to bottled water
- Requires that 80% of the unclaimed deposits go to the state general fund; bottlers keep 20%
- Bottle must have NY specific UPC code (keeps money in state)
- State to cover up to 50% of costs for reverse vending machines, storage and packing of bottles
- Operator of redemption center (stores) takes 3.5 cents for each container accepted. The deposit initiator (distributors and bottlers) pay the handling fee.
- \$115 million to the general fund

Title V Fees

- Sets a minimum \$45 a ton fee up to 7,000 tons annually
- Facilities would be required to pay a fee based on their level of emissions
 - \$45 a ton if emissions are less than 1,000 tons a year,
 - \$50 a ton if emissions are more than 1,000 but less than 2,000 tons a year
 - \$55 a ton if emissions are more than 2,000 but less than 5,000 tons a year
 - \$65 a ton if emissions are 5,000 or more tons a year
- \$2.5 million in revenue for DEC

SPDES Fees

- Increases fee on small private/commercial/institutional facilities from \$100 to \$300 and \$200 to \$600 for large facilities.
- Industrial facilities see minor increases ranging from \$125 to \$6,500 based on gallons per discharge.
- \$5 million in new state revenue.

18-a Utility Assessment

- Increases the assessment on intrastate revenue from 1/3% to 2% on power utilities.
- Telephone companies are exempted
- Long Island Power Authority is assessed at 1% of gross intrastate revenue
- Expires March 31, 2014

Legislative Agenda 2009

Greenhouse Gas Emissions

A.7572 (Sweeney)/S.4315 (Thompson)

Global Warming Pollution Control

- mandates that emissions by 2012 not exceed “aggregate levels of greenhouse gas emissions” for 1990, and mandate further emission reductions after that date. This limit would be “enforceable.”
- Emissions sources to include manufacturing, power generation, fuel processing and others.

Greenhouse Gas Emissions

A.6321 (Sweeney)/S.2764 (Thompson)

Climate Change Solutions Program Act

- Dedicates all funds from the auction of emissions allowances associated with the Regional Greenhouse Gas Initiative (RGGI) for the purpose of supporting investments in energy efficiency, renewable power sources and carbon emission abatement technology.
- Funds should be used to offset the heavy costs on business born as a result of RGGI.

Brownfields

S.1564 (Thompson)

- modify the definition of a brownfield site, to a site where presence of contamination is known or suspected.
- make any site with a final hazardous waste management (RCRA) permit ineligible for the brownfield program.
- require that a brownfield site located within a Brownfield Opportunity Area (BOA) be developed consistent with a brownfield opportunity plan in order to be eligible for any brownfield redevelopment credit.

Brownfields

- change the cap on the brownfield redevelopment tax credit to \$25 million.
- make brownfield program “participants” ineligible for the tangible property (i.e., post-remediation redevelopment) tax credit.
- require the disclosure of taxpayer-specific tax liability data

Electronics Recycling

A.7571 (Sweeney)/S.2512 (Thompson)

- Require all manufactures to establish a take-back program by January 1, 2010;
- Allow cooperation amongst manufacturers in setting up a program;
- Require manufacturer take-back for all covered equipment they manufacture, plus a pro-rated share of "orphan" equipment. Covered equipment includes computers, monitors, keyboards, mouse, digital music players, and any device containing a hard drive;

Electronics Recycling

A.7571 (Sweeney) cont'd

- Set a minimum requirement that the collection system bring in 25% (by weight) of average sales by 2016; 45% by 2018. DEC authorized to set collection standards by rule;
- Exempt autos, cell phones, household appliances, equipment that is physically part of larger piece of equipment used in the industry, commercial or R&D, and commercial medical devices; and
- Pre-empt local e-recycling laws.

Citizen Suits

A.4272 (Brodsky) / S.1730 (Schneiderman) & A.3423 (Bradley)/S.1635 (Thompson)

- allows private "citizen suits" to be brought in response to alleged violations of the Environmental Conservation Law.
- Environmental issues affecting the public are already being addressed by DEC.
- Passed Assembly

Chemicals Bans

- S.3296-C (Thompson) / A.6919-B (Englebright)

“Bisphenol-A-Free Children and Babies Act”

- bans the manufacture, distribution, and sale of toys or child care products used by children that contain the chemical bisphenol-A (BPA).
- Chemical regulation best done at federal level

Regulatory Review

New Source Review

- air emissions are reviewed for new sources and major modifications to existing sources, involving a long permit process and the installation of emission control equipment in certain instances.
- need to clarify definition of Routine Maintenance repair RMRR

RGGI

- CO2 emissions (Cap and trade) would be stabilized from 2009 until 2015 and then reduced by 10% (2.5% every year) from 2015 until 2019.
- no guarantees to ensure the availability of allowances for affected generating sources.

GHG in EIS

Guide for Assessing Energy Use and Greenhouse Gas Emissions in an Environmental Impact Statement

- Guidance provides instructions to DEC staff for reviewing an environmental impact statement that includes an assessment of energy use or greenhouse gas emissions.
- Open-ended evaluations with no thresholds

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