



**The  
Business  
Council**

# **2010 Spring Environment Conference**

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# Legislative Update

- Budget Review
- Legislative Agenda
- Regulatory Review

# Executive Budget

- \$1 Billion all funds budget for DEC
  - \$541 million decrease
  - Loss of 54 positions
- \$143 Million for EPF
  - \$79 million decrease
- Eliminates sunset on statewide waste tire disposal fee
- Brownfields
  - Further limits BCP development credits

# Executive Budget

## Senate

- Restores \$79 million to EPF
- Accepts further limits to brownfield redevelopment tax credits

# Executive Budget

## Assembly

- Restores \$25 million to EPF; adds \$44 million for state land purchases
- Proposes to eliminate the \$1.2 million small business pollution prevention program
- Proposes E-waste recycling program mandate on manufacturers
- Proposes to shift \$20 of the \$27 hazardous waste special assessment on land-filled waste from the generator to the land fill operator.
- Rejects further limits to brownfield cleanup development credits

# Legislative Agenda 2010

## Greenhouse Gas Emissions

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

### Global Warming Pollution Control

- mandates that emissions by 2013 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.

# Electronics Recycling

## S.6047-A (Thompson)

- Require all manufactures to establish a take-back program by July 1, 2011 based on current market share by weight.
- Require manufacturer take-back for all covered equipment they manufacture, plus one product return for every product of the same type which it sells.
- Covered equipment includes computers, computer peripherals, cathode ray tube, television and small electronic equipment

# Electronics Recycling

## S.6047-A (Thompson) cont'd

- 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-empts local E-recycling laws.

# Citizen Suits

## A.4272 (Brodsky) / S.1730 (Schneiderman)

- 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

# SEQRA Standing

## S.1635 (Thompson)/A.9480 (Sweeney)

- Allows a person to institute an action for a violation of the provisions of the State Environmental Quality Review Act (SEQRA) even if the injury does not affect the public at large
- Court of Appeals ruled in *Matter of Save the **Pine Bush**, Inc. et al. v. Common Council of City of Albany* that a person who is able to prove that he or she uses and enjoys a natural resource more than other members of the public has standing under SEQRA to bring suit against entities which threaten that resource.

# Chemicals Bans

- **S.3296-G (Thompson) / A.9867-A (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

# Record of Compliance

## S.4950-A (Thompson)/A.4110-A (Brotsky)

- Requires disclosure of environmental conservation permit applicant's record of compliance with state, federal, and foreign environmental regulations
- Will lead to excessive costs, delays in processing permits, additional unnecessary paperwork.
- Passed Assembly

# Mercury-Containing Thermostat Recycling

## A.10160-B (Sweeney)

- Require thermostat manufacturers, no later than June 1, 2011, to submit a plan to DEC establishing a collection program for out-of-service thermostats.

### Concerns:

- manufacturers bare full responsibility and cost for this plan
- manufacturers to pay \$5 to \$10 "bounties" for each recycled thermostat if DEC determines that less than 25% of thermostats taken out of service are not being recycled by 2010

# Wetlands

## S.4956 (Thompson)

- **Changes the definition of a “freshwater wetland.”  
Lowers the jurisdictional threshold on wetlands from 12.4 acres to 1 acre.**

### Concerns:

- curtail site development on small properties
- curb economic growth
- delay permits

# Low Sulfur Home Heating Oil

S.1145-C (Perkins)/A.10108 (Sweeney)

- Requires a reduction in sulfur emissions for all heating oil used in non-attainment areas
- Lower content in home heating oil to no greater than 15 ppm by 2011.
- Will increase prices on oil providers who will be forced to make major capital investments to meet the requirements of this bill. These costs will ultimately get passed on to consumers.
- Passed Assembly

# Regulatory Review

## BART 249 (Haze Rule)

- DEC promulgated this rule pursuant to Clean Air Act Section 169A and the federal Regional Haze Rule (July 1, 1999; 64 FR 35714) to reduce regional haze in Federal Class I areas, and to restore natural visibility conditions in these areas by 2064.

Business Council position:

- adopt 0.5 deciview level of visibility as threshold below which sources are determined to not be subject to BART. This is consistent with the criteria used in most states and recommended by EPA.
- Do not codify specific dates for the submission of BART analyses and the installation of approved control equipment.
- any approved emissions reduction methods should be installed as "expeditiously as possible" after approval of the State Implementation Plan (SIP).

# NOx RACT

- Strict NOx emissions limits on boilers and turbines of all sizes
- Goal: 50% reduction through emissions controls, fuel switching, or system averaging plan

Business Council position:

- Exclude boilers with heat capacities as low as 25 million Btu per hour from the definition of a "mid size boiler." Lowering the threshold will subject these smaller boilers to costly modifications without any significant environmental benefit.
- Do not codify specific dates for the submission of NOx analyses and the installation of approved control equipment.
- Any required NOx analysis should be submitted to the Department in a reasonable time-frame following adoption of a final NOx rule and any approved emissions reduction methods should be installed as "expeditiously as possible" after approval of the State Implementation Plan (SIP).

# Hazardous Waste Siting Plan

- Plan focuses on necessity for expanded national capacity for land disposal.
- Reduced in-state capacity.

Business Council position:

- High cost to transport out of state
- negative impact on environment

# Product Stewardship

## Solid Waste Management Plan

- Require product manufacturers to bear disposal costs for excess packaging or difficult to recycle items.
- Goal is to reduce amount of garbage going to incinerators and landfills.

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