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NYGIC 2023 End of Session Legislative Update

New York's 2023 legislative session was scheduled to conclude on Thursday, June 8, 2023, but due to the need for several long debates on bills and a shortened end of session due to a Budget that was one month late, they extended the end date to June 9th. In the end, the Senate and Assembly adjourned on Saturday, June 10th, however the Assembly had not concluded all of their business and had to return on June 20th and 21st to address its outstanding issues. Both houses are not expected to return to Albany until January or at the call of the Governor.

This session the legislature approved the biggest budget in New York history at \$229 billion, with much of it recurring spending. However, they did not include any new taxes to bolster the state's finances, making good on Governor Hochul's pledge not to raise taxes. However, next year's Budget picture is looking much bleaker and as a result, the Legislature will be looking at ways to close the gap next year. Some of the notable items in the Budget included:

- Turfgrass Environmental Stewardship Fund: \$175,000 (increase of \$25,000). This program, administered by the NY Greengrass Association, provides grants to projects that promote, educate, and perpetuate quality green spaces throughout our communities. The development and support of best management practices for New York State golf courses is one area of work funded by the TESH.
- Integrated Pest Management: Core Program: \$2,000,000. This nationally recognized program allows the IPM toolbox to continually improve with new technology, techniques, practices, and programs to enhance pest control success while better understanding the threat, the impact, and the choice of alternatives for effective pest control.
- Pollinator Protection Plan Best Management Practices: \$300,000. Best management practices (BMP's) have been drafted and updated periodically to provide guidance with managing pollinator threats including adequate habitat, proper nutrition, pollinator diseases and pesticide interface. These appropriations keep the plan and its BMPs relevant and up to date.
- Pesticide Management Education Program (PMEP): \$250,000; The Pesticide Management Education Program, housed at Cornell University, has an-esteemed reputation of serving the pesticide applicator community with up-to-date relevant information and guidance pertaining to safe pesticide use. Pesticide use certification and training is provided through this program and our industry's certified applicators depend on this program's expertise to remain certified and current on the latest products and technologies to do their jobs effectively and efficiently.

Additional Budget items included:

- Pollinator Diversity Research: \$500,000

- Invasive Species funding: \$18,550,000
- Long Island Pesticide Prevention: \$200,000
- Honeybee Research: \$175,000

It was a very busy summer and early Fall following the end of session in early June. We had a tough road last session, playing defense on Governor's Hochul's electrification mandates and other environmental proposals being pushed hard by the enviros. We are still actively engaged with the Governor's Office and legislature as we work to secure vetoes on three of our highest priority bills: Birds and Bees legislation to ban neonicotinoids; reclassifying Class C streams for the purpose of protection; and prohibiting the application of pesticides to certain local freshwater wetlands. The Vandervort Group has been busy working with the Governor's office on these bills; two of which we fought last session and were successful in getting the Governor to Veto.

Unfortunately, despite our aggressive efforts to fight these bills throughout the session, all three passed both the NYS Senate and NYS Assembly, and are awaiting delivery to Governor Hochul for her action. She has until the end of the year to take up the remaining over 300 of the 896 bills that passed both houses this session.

Next session is expected to be a difficult one, especially the NYS Budget. New York state agencies are being ordered to freeze spending in their budget proposals for the next fiscal year as the state faces major budget gaps in the years ahead. The state Division of Budget is projecting budget gaps totaling \$36 billion over the next three years. Those break down to \$9.1 billion next year, \$13.9 billion for the following year and \$13.4 billion for the year after that. The gaps are \$15 billion higher than previous projections and the Division of the Budget points to decreasing tax revenue and federal aid while spending increases.

It will be extremely important to get everyone to Albany for a Lobby Day, which is scheduled for March 5, 2024, to push for full funding for the Environmental Stewardship Fund and other Budget items we rely on.

The following is an update on legislation since the session ended.

“Birds and Bees” Legislation
S.1856-A / A.7640
Senator Hoylman-Sigal / Assemblywoman Glick

Throughout the 2023 NYS Legislative Session, a concerted effort has been undertaken by both ag and non-ag organizations in NY to oppose the above-mentioned legislation. The focus during the session was to stop the bill from passing, and to educate and empower legislators to speak to their conferences and committees on behalf of our industry. During the busy end of session flurry, it appeared that NRDC was not going to get any of the bills that made up their legislative agenda passed in the Senate, so the Senate decided to pass the Birds and Bees bill to give them a win.

Throughout the summer and fall we have continued to work with legislators and the NYS Department of Environmental Conservation (DEC) and the NYS Department of Agriculture and Markets to weigh in with the Governor's Office, asking for a veto. We have also had several meetings and conversations with high level staff in

the Governor's Office, providing data and information. We have also worked with the Governor's policy folks to draft Chapter Amendment language in the event the bill is signed into law.

Below is an overview of the strategy we used to fight this legislation:

Coordinated Coalition Effort

Lobbyists and leadership representatives created a coalition from a cross-section of ag and non-ag organizations including the New York Farm Bureau, Empire State Forest Products Association, Northeast Agribusiness Association, Corteva Agrosience, Northeast Agribusiness and Feed Alliance, NY Corn and Soybean Growers Association, Northeast Dairy Producers Association, CropLife America, RISE, Syngenta, TruGreen, and the NY Green Industry Council. I also want to call out the extensive involvement of the Golf Course Superintendent's Association of America under the leadership of Michael Lee and the various regional New York State GCSA members and many individual golf courses. Also, a huge effort was put forth by NYS Turfgrass Association Government Relations Chair Tom Kaplun. Last but not least, the newly created Capital District Golf Club Association's Legislative Committee was very helpful by getting letters in opposition to the Governor from their member clubs and members of the clubs. We are grateful for our supporters and the infinite hours they spent helping us organize, providing data, and mobilizing e-advocacy campaigns.

This coordinated coalition of organizations holds weekly strategy phone calls (or more often if needed). The group has had several joint meetings, in addition to conducting their own separate meetings. The groups compare notes, share intelligence and resources, and have effectively been a force of progress on this issue.

Together our organizations have accomplished the following:

- Met with many legislators, DEC, Ag & Markets, and the Governor's Office
- Analyzed and helped create alternative language for a possible Chapter Amendment
- Created e-advocacy campaigns to share among various organizations' memberships.
- Spoke out in the media against banning neonics ([NY golf courses urge Gov. Kathy Hochul to nix ban on 'nerve-agent' pesticides \(nypost.com\)](#))
- Identified priority counties and regions across the state to gather data from industry leaders and influencers in each area.
- Gathered Information to address proponents' claims, including human health claims.
- Developed and implemented a grassroots outreach strategy.
 1. Phone banking
 2. E-lobby letters
 3. Influential voices
 4. Priority counties to identify spokespersons.

* Since the beginning of the campaign (including while the bill was in the legislature), there have been 312 messages sent. 140 of them have gone to Governor Hochul. 177 individuals participated. Additionally, 29 individuals have participated in the golfer outreach campaign which was a separate alert. *

- Detailed rebuttal on farmer impact, additional cost to farmer, and downstream effects on social classes/costs. Also, rebuttal on non-ag impacts.

Meetings

Governor's Office:

NYGIC and its Coalition of organizations had a Zoom conference with Governor Hochul's top policy people in the Governor's Office including:

- Kevin King, Deputy Secretary for Agriculture
- Jeshica Patel, Assistant Counsel for Energy and Environment
- Ashley Dougherty, Assistant Secretary for Environment
- Lindsey McMahon, Senior Policy Advisor for Food and Agriculture
- John O'Leary, Deputy Secretary for Energy & Environment

The Governor's Office has been nothing short of an open door from the beginning, but especially this summer when the Governor's team began the process of vetting bills that have passed both houses.

Based on some inconsistencies and misinformation we experienced from legislators at the end of session, the Governor's Office wanted to be sure we knew that they were going to be thorough and open to what we had to say about legislation before the Governor, including the Birds and Bees bill. In an effort to put forth our concerns with the bill and find a middle ground, if necessary, they asked for our input on alternatives to neonics, costs associated with using alternatives, efficacy of alternatives, how other states (NJ, CA) were implementing and experiencing use of alternatives, as well as amendments/language we could live with if there were a chapter amendment next year.

We have also had conversations with Kathryn Garcia, Director of State Operations for Governor Hochul. She was very receptive to our conversation and understood the importance of our arguments. She is a Senior staffer that will be in the room with the Governor as decisions are made on legislation.

Todd also had a separate meeting with Kevin King (Governor Hochul's Ag Team Leader) to further express our opposition. The legislation is expected to be considered by the Governor's Office soon, and we want to be sure that our message is consistently voiced.

The Governor's policy team has favorably considered our arguments and points. However, they are also feeling strong pressure from NRDC to sign the bill. If the Governor signs the bill into law, we will hopefully see a Chapter Amendment that takes our concerns into consideration.

NYS Department of Agriculture and Markets:

The Department has met with various stakeholders and remains strongly opposed to the Birds and Bees legislation. They will be recommending that the Governor veto the bill.

NYS Department of Environmental Conservation:

We had a high-level meeting with DEC staff. They understand our position and the fact that legislative bans circumvent regulatory oversight. They are our allies in this fight, but they believe this is going to be a political decision.

NYS Legislature:

Throughout the legislative session The Vandervort Group weighed in heavily with legislators and legislative committees against the legislation. We met with sponsors of the legislation, members of each committee the bill passed through, including:

- Senate and Assembly Environmental Conservation
- Assembly Ways and Means
- Assembly Codes Committee
- Assembly Rules Committee
- Senate Finance
- The full Assembly
- The full Senate
- Budget Subcommittees on Environment, Agriculture, and Housing
- Assembly Minority
- Senate Minority

Since session ended, we have continued to have conversations with the Governor's office and with legislators, asking them to weigh in with the Governor's Office on our behalf.

There has been a strong effort to fight this legislation for many months on this bill. Our coalition of experts were very well received and regarded. Many of the people in our Coalition have been involved in this work for more than 30 years, which has solidified our credibility.

We understand that the Governor was briefed this week about our bill and all the language and input from ag and non-ag groups are on the table. Although we have support from DEC and AG & Markets, the Governor must decide as to whether she is going to support NRDC. There is a strong camp in favor of finding a way to help farmers and non-farmers, but NRDC wields a strong stick.

We are pulling out all the stops! We are cautiously hopeful that beneficial language will be offered in a Chapter Amendment if the bill is signed.

Prohibits Application of Pesticides to Certain Freshwater Wetlands

S.5957 / A.5949

By Senator Harckham / Assemblyman Burdick

A significant effort was put forth to oppose this bill. We met with and/or submitted memos in opposition to the following:

- Governor Hochul's Environmental and Agriculture Team Leaders
- Assembly Environmental Conservation Committee members
- Assembly Codes Committee members
- Senate Environmental Conservation Committee members
- Full Assembly
- Full Senate
- Assembly Minority

We reinforced our position that regardless of the validity to use pesticides in designated wetlands, the decision should be made at the state level by the regulatory body that has the professional expertise to properly evaluate the issues and render science-based decisions.

Last year we successfully secured a veto (Veto #171) by Governor Hochul. Her Veto Message stated that *“this bill would undermine the integrity of DEC's program, which is based on extensive scientific review and submission of supporting data...”* and that *“This bill is unnecessary because of the State's existing robust protections for freshwater wetlands, as demonstrated by the requirements of the aquatic pesticide permit, which is required for the direct application of an aquatic pesticide to surface waters of the State of an acre or more in size...[and]this bill would lead to confusion and inconsistent application of State law among the regulated community, leading to the possibility of EPA rescinding primacy if they consider New York's program to be inadequate, and could thereby ultimately result in a cascade of unintended consequences for pesticide regulation in New York.”*

There were no changes to the bill between last year's veto and this year's bill language. This, coupled with our intense lobbying efforts, leaves us optimistic for another veto.

Protection of Class C Streams

S.1725 / A.4601

By Senator Harckham / Assemblywoman Glick

This legislation would remove regulatory jurisdiction from local water authorities and local governments and place it in the hands of the NYS Department of Environmental Conservation (DEC). This legislation would more than double DEC's existing planning and oversight role, adding approximately 40,000 miles of Class C streams over and above the 36,600 miles of class A & B streams currently subject to DEC permitting authority.

The bill has been vetoed twice by Governor Cuomo and Governor Hochul. Last year Governor Hochul's Veto Message stated that the bill “would have significant regulatory impacts on related projects and will carry substantial costs to the State, as well as to local governments and to the communities that would bear the impact of these new regulations. It would more than double the amount of stream miles as well as the number of permits over which the Department of Environmental Conservation has a planning and oversight role. These significant practical and fiscal implications have not been addressed since the bill was last vetoed in 2020 and were not budgeted for in the State's financial plan. This legislation would be more appropriate to address in the State's budget process.”

There has been a concerted effort by stakeholders to secure another veto from Governor Hochul. There were no changes to the bill between last year's veto and this year's bill language. This, coupled with our intense lobbying efforts, leaves us optimistic for another veto.

Other Relevant Legislation

Several bills were introduced relating to electric landscaping equipment, including:

- S.5853 - Krueger/A.5681 – Otis, establishing the electric landscaping rebate program. (Passed the Senate; Died in Assembly Rules Committee)

- S.5390 - Harckham requires that 100% of in-state sales of new lawn care devices shall be zero emissions by 2029. (Senate Energy Committee; Not introduced in the Assembly)
- S.2132 - Liu / A.2133 – Dinowitz - prohibits the use of gas-powered leaf and lawn blowers during certain months. (Senate Health Committee / Assembly Health Committee)
- A.705 – Carroll - prohibits the sale of gasoline powered leaf blowers and lawn mowers. (Assembly Environmental Conservation Committee; Not introduced in the Senate)

We were able to stop these bills from passing, but Governor Hochul will continue to press for her environmental agenda that will likely include the above legislation in some form. Again, we will have to step up our efforts and fight these proposals.

There is another bill of interest that we will be working closely on this fall leading into the next session. The bill has been introduced in both houses that seeks to regulate all indoor and outdoor worksites with temperature protection standards and education, training, and reporting requirements to ensure that employers provide safe conditions for their employees. A.3321-C/S.1604-C (Joyner/Ramos). Both bills are in their respective Labor Committees.

We look forward to working with all our industry partners to prevail!

GREENPAC:

NYGIC's political success is a function of several factors, including our PAC's ability to support these elected officials who show up and actively work for our interests. Election campaigns are expensive and completely funded by private sources. Therefore, every dollar and the source of every dollar impacts a legislator's attitude and orientation towards public policy once the campaign is over. We encourage all NYGIC friends and supporters to actively support GREENPAC because collectively we can have an impact on those we want to support.

2024 is an election year. With so many bills significantly impacting our industry still in play, we need to engage with legislators by supporting their political campaigns and committees.

Personal contributions are now unlimited or corporate contributions (up to \$5,000) can be made to GREENPAC and sent to:

GREENPAC
Attn: Mike Maffei- Treasurer
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For more information about NYGIC, its mission and goals, please visit our website at www.nysgic.com or contact New York Green Industry Council Chairman, Larry Wilson at Larry@NYSGIC.com