

# NYS Legislative Update

## Bill Status as of February 27, 2017

TO: New York Federation Board, NYSASWM Board, NYSWANA Board

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### SUMMARY

- This is the first year of a 2-year legislative session, so none of the bill numbers from last year have been carried forward to this year. The provisions set forth in many of the bills introduced this session are, however, as is common practice, identical to provisions that were contained in last year's bills – they have simply been repackaged with new bill numbers and sometimes with different bill sponsors. Bill sponsors and current bill status are indicated in parentheses. *Bills of interest that have passed in at least one house, as of 2.24.2017, are shown below in bold italics.*
- 110 bills of interest were tracked. This session started January 4, 2017. The last day of the first year of this session is June 21, 2017.
- One (1) bill was signed in to law this year:
  - Ø Establishes a moratorium on the adoption or implementation of any local law, ordinance, rule or regulation in a city with a population of one million or more related to charging a fee for carryout merchandise bags or a fee of similar effect (S.4158 [Felder] Passed in Senate 2.6.17/A.4883 [Cusick] Passed in Assembly 2.7.17/Signed by Governor 2.14.17).

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Environmental Protection Fund (\$ 000) – Overall Amount for 2017/2018 is \$300M									
Category	FY 17/18 Exec. Proposed	FY 16/17 Enacted	FY 15/16 Enacted	FY 14/15 Enacted	FY 13/14 Enacted	FY 12/13 Enacted	FY 11/12 Enacted	FY 10/11 Enacted	FY 9/10 Enacted
Landfill Closure/Gas (* Plus \$300 for Essex County & \$150 for Hamilton County)	250*	250*	250	250	250	270	600	600	750
Municipal Recycling (DEC) (** includes \$3,000 for organics/food waste programs)	14,000**	14,000	7,500	7,000	7,000	6,435	6,435	6,639	10,825
Secondary Materials Markets (DED)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	2,250
<b>TOTALS</b>		15,250	8,750	8,250	8,250	7,705	8,035	8,239	13,825
Grants for Climate Smart Communities***	14,000	14,000	*** These EPF categories proposed for fiscal year 2017/2018 are possible funding sources for organics diversion projects such as composting and/or digester facilities.						
GHG Reduction Outside the Power Sector***	2,000	1,000							

In 2016, Governor Cuomo proposed and the State Legislature supported an appropriation of \$300 million for the Environmental Protection Fund (EPF). This marked the highest level of funding for the EPF in its 23 year history (\$123M more than FY 15/16).

In January 2017, Governor Cuomo once again proposed a \$300 million appropriation for the EPF, continuing this historic victory by maintaining the appropriation.

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### 1. Product Stewardship Bills

- a. Prohibits the disposal in a solid waste facility of lamps containing mercury; requires manufacturers thereof to establish collection and recycling programs. (A.1523[Englebright] in EnCon/S.1556 [Avella])
- b. Related to reduction of mercury in mercury-added lamps (A.2875 [Kavanagh]/No Same As in Senate).
- c. Packaging (A.3941 [Colton]/S.1935 [Avella] in EnCon Coms). Introduced in Assembly since 1993 legislative session but has never passed.
- d. Thermostats containing mercury (S.1277 [Avella] in EnCon Com/No Same As in Assembly).
- e. Mercury containing lamps (S.4636 [Sanders] in EnCon Com/No Same As in Assembly). 8<sup>th</sup> time introduced; it has passed 4 times in the Assembly including last year. Another similar bill is in the Senate (S.1524 [Avella], in EnCon Com), but there is no Same As bill in the Assembly.
- f. Requires removal of mercury switches before disposal of automobiles and includes requirement for manufacturers to establish a collection program (A.3807 [Colton]/S.2417 [Marcellino] in EnCon Coms). 7<sup>th</sup> time introduced in Assembly, but never passed.
- g. Ionization smoke detectors (A.1460 [Englebright] in EnCon Com/No Same As in Senate).
- h. Paint stewardship program (A.2242 [Peoples-Stokes] in EnCon Com/No Same As in Senate). 1<sup>st</sup> introduced in 2010, but this bill is not supported by the American Coatings Association (ACA) due to the absence of a paint recycling fee. The bill sponsor's memo calls this a pilot program, but the text of the bill is for a full-blown paint stewardship program.
- i. Paint stewardship program that includes a paint recycling fee (A.1038 [Stirpe] in EnCon Com/S.881 [O'Mara]). Passed in the Senate twice including last year but died in Assembly both times.
- j. Establishes special provisions for recycling of ionization smoke detectors and requires manufacturers to create a waste acceptance program for ionization smoke detectors. (A.1406 [Englebright] in EnCon Com/No Same As in Senate).
- k. No pharmaceutical, or carpeting bills have been introduced yet in this Legislative Session.
- l. Relates to the reporting of electronic waste collection and recycling data, the sale of electronic waste and the carry-forward of sales of electronic waste (S.2116 [O'Mara]/No Same As in Assembly).
- m. Primary batteries (S.1448 [Avella] in EnCon Com/No Same as in Assembly).

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2. Expansion of Net Metering
  - a. Expands the net metering law to include electricity generated from publicly owned landfills and treatment works (A.4469 [Magee] in Energy Com/S.1079 [Valesky] in Energy & Telecommunications Com). This bill passed in the Senate twice including last year but died in the Assembly both times.
3. Food Waste
  - a. Enacts the state and local government food waste prevention and diversion act; requires facilities generating excess food waste to take measures to minimize such waste. (A.3412 [Kavanagh] in EnCon Com/S.0107 [Holyman] in EnCon Com).
  - b. Another bill related to the prevention and diversion of food waste was introduced in the Senate (S.3418 [Parker] in EnCon Com/No Same as in Assembly).
  - c. The NYS 2017-2018 state fiscal year budget contains a section related to the donation of excess food and recycling of food scraps (A.3008-A /S.2008A). A copy of Part KK is provided separately.
4. Bills to Require 50% Recycling of Waste Generated at C&D Sites
  - a. Requires contractors to recycle a certain percentage of the waste generated on construction and demolition sites (A.3700 [Colton]/S.1880 [Avella] in EnCon Coms). Introduced in Assembly since 2009 but never passed.
  - b. Requires contractors in cities having a population of one million or more to recycle 50% of the waste generated on construction and demolition sites. In NY City (A.3699 [Colton] in EnCon Com/S.4103 [Sanders] in Cities Com). Introduced in Assembly since 2009 but never passed.
  - c. For State Agency projects or contracts (A.3121 [Colton]/S.1388 [Avella]). Introduced in Assembly since 2009 but never passed.
5. Proposed Bans on Disposal, Sale and/or Use
  - a. Provides for source separation and disposal of recyclable materials and requires municipalities to adopt local laws providing therefor; prohibits transporters from commingling recyclables with other materials; prohibits incinerators and landfills from accepting recyclables. (S.2039 [Avella] in EnCon Com/No Same as in Assembly at the moment) A similar bill has passed the Assembly 14 times, but not last year.
  - b. Immediately bans disposal of hardcover books and requires municipalities to establish recycling/reuse programs for hardcover books within 2 years of effective date (S.926 [Avella] in EnCon Coms/No Same as in Assembly currently). Introduced 4 times in Assembly but has never passed. Similar bill that would provide for the recovery, reuse and recycling of hardcover books; prohibits the disposal as solid waste and incineration of hardcover books (S.1565 [Avella]/No Same as in Assembly).

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- c. Prohibits the disposal of any dredged spoils containing toxic pollutants into the waters of the marine district (A.3815 [Colton] in EnCon Com/S.2602 [Lanza] in EnCon Com). A similar bill was 1st introduced in Assembly in 2001 but never passed the Assembly; the similar bill passed the Senate in 2016.
- d. Bans use of polystyrene containers by restaurants and food vendors (A.1866 [Abinati] in Consumer Affairs Com/No Same As in Senate). Similar bill in Assembly (A.2199 [Abinati]/No Same As in Senate) relates to prohibiting the use of polystyrene containers by restaurants and food vendors to package unconsumed food.
- e. Bans use of Styrofoam “packing peanuts” (A.1534 [Englebright] in EnCon Com/S.4316 [Savino] in EnCon Com). Identified as a new bill in 2015 although a similar bill has been introduced in the Assembly since 1995 but has never passed.
- f. Relates to food service waste reduction; prohibits the use of polystyrene foam by contractors and lessees who deal with the state through state and municipal contracts (S.4168 [Krueger]/A.1013 [Kavanagh] in EnCon Coms). 10th time introduced; passed Assembly 6 times but never in Senate.
- g. Prohibits grocery stores from providing plastic carryout bags and requires them to provide recyclable paper bags at no charge to customers (A.3417 [DenDekker]). Similar bill in Senate (S.108 [Hoylman] in EnCon Coms).
- h. Prohibits the disposal of any dredged spoils containing toxic pollutants into the waters of the marine district (A.3815 [Colton]/S.2602 [Lanza]).
- i. Bills proposing to ban various aspects of hydrofracking (*this is a partial list*):
  - i. Bans wastewater plants and solid waste management facilities from accepting disposal of waste from oil and gas extraction activities, including leachate from solid waste that is associated with natural gas extraction activities (A.302 [Buchwald]/S.98 [Hoylman] in EnCon Coms). 5th time introduced but has never passed.
  - ii. Prohibits publicly owned treatment works from accepting wastewater associated with the exploration, delineation, development, or production of natural gas from high-volume hydraulic fracturing; provides exceptions. (A.4217 [Rosenthal]/S.3908 [Marcellino]). Similar to ban above but introduced separately.
  - iii. Prohibits the sale, purchase or use of any liquid waste product from hydrofracking and requires DEC to establish regulations for disposal of such products (A.1585 [Mosley] in EnCon Coms/No Same As in Senate).
  - iv. Imposes a moratorium on high-volume hydraulic fracturing and horizontal drilling for natural gas until every aquifer in the state is mapped and classified, and the department of environmental conservation has adopted regulations to protect such aquifers (A.5164 [Englebright]/No Same As in Senate).

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- v. Not a disposal ban, but creates a high-volume hydraulic fracturing waste tracking program; requires the commissioner of environmental conservation to track the generation, transportation and receipt of liquid and solid waste associated with the production of oil and gas (S.3909 [Marcellino]/No Same as In Assembly).
  - vi. Prohibits hydrofracking waste from being transported or disposed in New York State (A.4839 [O'Donnell]/S.274 [Hoylman] in EnCon Coms). 1<sup>st</sup> introduced in Assembly in 2013 but has never passed.
  - vii. Prohibits acceptance, disposal and/or processing of any fluid used in a hydraulic fracturing process (A.3243 [Colton]/S.1535 [Avella] in EnCon Coms).
  - viii. Also not a disposal ban, but this bill would require permits for solid waste management facilities to require radiation detection devices if permitted to accept waste from oil and gas drilling activities (S.568 [Young]/No Same As in Assembly). Has passed the Senate previous 2 years, but died in the Assembly.
6. Various Recycling Bills
- a. Authorizes sale of "NY Recycles License Plate" with \$25 annual service charge deposited in to EPF for recycling & reduction programs (A.874 [Gunther] in Transportation Coms/No Same as in Senate). Introduced since at least 2005. Passed both houses once, but was vetoed.
  - b. Requires the commissioner to implement a recycling program for all state-owned and state-leased properties; requires incentives for adherence and annual reporting to the governor and legislature. (A.3392 [Engelbright] referred to governmental operations/No Same as in Senate)
  - c. Requires local solid waste management plans for cities over one million to include a plan for litter control including provision for placement of an adequate number of receptacles for trash and recyclables in commercial and business zones and in public recreational areas. (S.3081 [Parker] in Cities Com/A.3776 [Colton] in EnCon Com). Other versions have been previously introduced.
  - d. Requires cities with a population of one million or more to collect discarded recyclable materials at city parks, playgrounds, historic sites and other recreational facilities; requires the posting of signs on facilities without trash receptacles stating that trash must be retained until you reach a trash can; provides state assistance for such programs. (A.4001 [Colton]/S.3052 [Serrano] in EnCon Coms). Other versions have been previously introduced, but never passed.
  - e. Relates to receptacles for the removal of waste material in the city of New York; requires the department of sanitation to notify property owners in writing regarding this change of law; requires a warning notice be given to any person who violates this law for the first time; and allows consideration for early placement of garbage for senior citizens, persons with disabilities and residents with significant scheduling conflicts upon notification to the department of sanitation. (S.1401 [Avella]/No Same as in Assembly).

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- f. Requires the placement of the recycling receptacle/collection bin near the entrance of the store, if practicable; makes related provisions; mandates a sign be posted above the receptacle/collection bin indicating that this is the location to recycle plastic bags, including grocery store bags, dry cleaning bags, and newspaper bags. (S.1196 [Avella] Passed Senate 1.17.17/No Same as in Assembly).
  - g. Requires recycling of used oil filters (A.1835 [Pretlow] in EnCon Com/No Same As in Senate). 1<sup>st</sup> proposed in Assembly in 2002 but has never passed.
  - h. Requires State Office of Parks to collect discarded recyclables at state parks, historic sites and recreational facilities. It also encourages municipalities to implement recycling programs at municipal parks and recreational facilities, and makes such municipal programs eligible for recycling project grants (A.2858A [Englebright] in Tourism Com/S.4084 [Funke] in Cultural Affairs, Tourism, Parks and Rec Com). Introduced in Assembly 7 previous times; passed Assembly once, but not last year.
  - i. Requires task force to study feasibility of recycling cigarette butts (A.2902 [DenDekker] in EnCon Com/No Same As in Senate). 1<sup>st</sup> introduced in 2012.
  - j. Establishes a cigarette butt recycling program (A.3303 [DenDekker] in EnCon Com/No Same As in Senate).
  - k. Requires the operator of a store to post signs regarding reusable bags. (A.3800 [Jafee]/No Same As in Senate).
  - l. Allows NYC residents living in a building with less than 11 residences to make an appointment with the NYC Sanitation Dept. to pick up e-waste from their residence (A.1333 [Simanowitz] /No Same As in Senate). Passed Senate in 2015 but died in Assembly.
  - m. Requires more stores in NYC to provide recycling bins for plastic bags (S.4641 [Sanders] in EnCon Coms/No Same As in Assembly currently). Introduced in Assembly 5 times; but never passed.
  - n. Requires all political campaign mailing pieces to include a message about recycling the printed materials (A.1659 [Magnarelli] in Election Com/No Same As in Senate). Introduced in Assembly since 2013 but never passed.
  - o. Removes the cap on the return incentive payment (currently capped at \$5 per lead-acid battery) charged by retailers for lead-acid batteries (S.2284 [O'Mara] in EnCon Com/No Same As in Assembly). Passed Senate in 2015 but died in Assembly. Did not pass the Senate last year.
7. Proposed Expansions of the Bottle Bill
- a. An amendment related to mandatory acceptance of empty beverage containers (S.3390 [Gallivan]/No Same As in Assembly).
  - b. Includes fruit juices, iced tea beverages, milk, wine and liquor in definition of "beverage" for purposes of litter control; requires refillable beverage containers to

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- be refilled and resold not less than twenty-five times. (S.109 [Holyman]/No Same As in Assembly).
- c. Allows large volume dealers to collect bottle redemption deposits from distributors upon pick up in the same manner as such bottle redemptions are purchased (A.577 [Rodriguez]/No Same As in Senate).
  - d. Relates to mandatory acceptance of returnable beverage containers (A.5582 [Garbarino]/No Same As in Senate).
8. Facility Siting
- a. Prohibits locating a hazardous waste disposal facility or hazardous waste transfer station within 1,500 feet of school property (A.1606 [Mosley]/ S.2912 [Dilan] in EnCon Coms). 1<sup>st</sup> introduced in 2007. Passed in 2011/2012 session but was vetoed. Similar bill in Assembly (A.2032 [Lentol] in EnCon Com/No Same As in Senate).
  - b. Bans medical waste facilities in areas not zoned for such uses (A.247 [Perry] in EnCon Coms/No Same As in Senate). 7th time introduced, but has never passed.
9. Restrictions on Waste Transfer Operations
- a. For any rail transfer station in the state, requires waste in rail cars to be covered by a hard tarp (A.5809 [Barnwell] in EnCon Com/S.3676 [Addabbo] in Rules Com and A.2130 [Hevesi] in EnCon Com/No Same As in Senate). 1<sup>st</sup> introduced in 2010 but never passed.
10. Drugs
- a. Authorizes residential health care facilities to return and redistribute unused medication if still in original tamper evident packaging (A.6137 [Englebright] in Health Com/No Same As in Senate). 1<sup>st</sup> introduced in Assembly in 2007 but never passed.
  - b. Requires pharmacies to accept and dispose of unused prescription drugs (A.387 [Gunther] in Health Com/No Same As in Senate). 5th time introduced in Assembly but has never passed.
  - c. Establishes a drug repository program to accept and dispense donated prescription drugs (A.2301 [Morelle]/S.1655 [Carlucci] in Higher Education Coms). Introduced in Assembly since 2003 but has never passed.
11. Citizen Lawsuits; Mattress Sanitation; Raptor Protections on LFG Flares; High Impact Zones; Toxics in Children's Products; Bad Actor Ban
- a. Provides that the failure to report a release of hazardous substances is a class A misdemeanor and any such subsequent violation shall be a class E felony (A.1001 [Kavanagh]/No Same As in Senate).
  - b. Would authorize citizen lawsuits for violations of most environmental laws and regulations (S.3269 [Parker]/A.1811 [Kavanagh] in EnCon Coms). Former Brodsky

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- bill. Tried 21 times before; passed Assembly 10 times (most recently in 2010); never passed in Senate.
- c. Provides for the sanitization of every used mattress or bedding material transported, stored or sold in the state. No new bedding can be transported with used bedding unless contained or sanitized (A.5227 [Dinowitz]/S.587 [Peralta] in Consumer Affairs Coms).
  - d. Requires landfill gas flares to install safer and taller perches for raptors and to attach spikes to all landfill gas flares (A.2404 [Englebright] in EnCon Com/No Same As in Senate). Introduced in Assembly since 2009.
  - e. Requires DEC to publish a report that identifies high impact zones that are most adversely affected by existing environmental hazards (A.1862 [Peoples-Stokes] /S.3199 [Serrano] in EnCon Com). Introduced in 4 prior legislative sessions; passed in the Assembly in 2016 and 2014 but died in the Senate both times.
  - f. Requires manufacturers to disclose priority chemicals contained in children's products (S.1454 [Avella] in EnCon Com/No Same As in Assembly currently). 6<sup>th</sup> time introduced; passed 4 times in Assembly, but has died in the Senate each time. Introduced in Senate on January 9, 2017.
  - g. Prohibits violators of solid waste pollution laws from bidding on public solid waste contracts for varying lengths of time based on the number of repeat violations (A.3945 [Colton]/S.1934 [Avella] in EnCon Coms). 15<sup>th</sup> time introduced in Assembly but never passed.

### 12. Money Bills

- a. Provides sales tax exemption for transportation of recycled goods (A.3647 [Colton] in Ways & Means Com/S.1483 [Avella] in Investigations & Gov't Operations). 11<sup>th</sup> time introduced in Assembly but has never passed.
- b. Creates the "Pennies for parks" program providing funds for capital expenditures at state parks and historic sites; imposes tax on single use carryout plastic bags; establishes the pennies for parks fund to hold funds received by the tax on single use carryout plastic bags (S.3509 [Serrano] in Tourism Com/No Same As in Assembly).
- c. Establishes a moratorium on the adoption or implementation of any local law, ordinance, rule or regulation in a city with a population of one million or more related to charging a fee for carryout merchandise bags or a fee of similar effect (S.4158 [Felder] Passed in Senate 2.6.17/A.4883 [Cusick] Passed in Assembly 2.7.17/Signed by Governor 2.14.17).
- d. Establishes a prohibition on the imposition of any tax, fee or local charge on carry out merchandise bags in cities having a population of one million or more (A.1750 [Cusick]/S.362 [Felder] passed in Senate on 1.17.2017). Delivered to Assembly on 1.17.17 where it was referred to Cities.

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- e. Bill would provide an instant tax rebate of 3 cents per reusable bag furnished to replace a plastic carryout bag by a customer of a retail store (S.4330 [Alcantara] referred to Investigations and Gov't Operations Com/No Same As in Assembly).
- f. Establishes the plastic bag challenge grant program to incentivize universities to develop alternative uses or substitutes for plastic bags; provides ten one hundred thousand dollar grants and one one million dollar grant (S.4656 [Avella] in Finance Com/No Same As in Assembly).