



**ENVIRONMENTAL
ADVOCATES OF NEW YORK**

YOUR GOVERNMENT WATCHDOG

**Testimony
Of
Timothy Sweeney
Regulatory Watch Program Director
On the State Budget for Fiscal Year 2008-2009
Before
New York State Division of Budget
Town Hall Meeting
Syracuse, New York
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Good afternoon, my name is Tim Sweeney; I am the Regulatory Watch Program Director at Environment Advocates of New York. I'd like to thank the Division of Budget for holding this series of budget hearings, and for affording Environmental Advocates the opportunity to testify.

We recognize that, in the coming year, the state faces some challenging fiscal realities. However, the need for fiscal restraint notwithstanding, it is important to ensure that protecting and preserving New York's environment remains at the forefront of your budgetary decision-making. As you and your staff embark on the quick-start budget development process, we offer the following recommendations with regard to environmental funding and policy priorities:

Department of Environmental Conservation Staff - The addition of new staff at the Department of Environmental Conservation (DEC) has been a focus of Environmental Advocates' work for the past several years. Therefore, we are appreciative of the addition of 109 new DEC staff positions in state fiscal year 2007-2008. With the addition of these new positions we have seen the first of what we hope will be several installments of new DEC staff. And, with Commissioner Grannis' commitment to reinvigorating the agency, we are optimistic that, given the necessary staff and resources, the future of the DEC and New York's environment looks much brighter now than it did just a year ago.

While the new positions are a step in the right direction, the agency remains understaffed in many program areas and New York's environment will continue to suffer until the DEC has all the staff necessary to meet its varied and ever-increasing responsibilities.

In keeping with the recommendations we have made in the past, Environmental Advocates encourages further staff increases in the following program areas: water pollution permit program, dam safety/removal, investigation and enforcement, land stewardship and forestry, and air resources and climate change.

Capital Funding for Parks – Environmental Advocates of New York also supports increased capital funding for the Office of Parks Recreation and Historic Preservation. According to Parks Commissioner Carol Ash the capital needs for state parks and historic sites is approaching 600 million over the next five years.

Water Resource Appropriations – We urge the Legislature and the Governor to come to an agreement on the use of reprogrammed funds from the Pure Waters and Environmental Quality Bond Acts. Between these two appropriations there is nearly \$15 million that could be used for water quality improvement projects.

Environmental Protection Fund – The Environmental Protection Fund (EPF) is the funding source for many key environmental programs, including open space preservation, farmland protection, water quality programs and municipal recycling. The genius of the EPF is that it is a source of funding for environmental programs in good financial times and bad. Environmental Advocates applauds the \$25 million increase in the fund in state fiscal year 2007-2008 and the enactment of the EPF Enhancement Act which will bring the fund to \$300 million by 2009. However, in order to meet the environmental community's goal of a \$500 million EPF by 2010 we must incrementally increase the fund in the coming years, therefore we encourage raising the EPF to \$300 million this fiscal year. As in past years, Environmental Advocates opposes any "sweep" of funds from the EPF.

Brownfields – New York's Brownfield Cleanup and Brownfield Opportunity Areas programs have been heralded as landmark initiatives and national models for use-based cleanups. Now that the dust has settled, and there has been opportunity to take a more analytical view of the programs, we realize that some changes are needed, both statutory and regulatory. Among the changes is the need to amend the structure of the Brownfield tax credits.

With the state's potential tax credit exposure approaching \$1 billion for just 54 sites that have received a certificate of completion or are in the final stages of cleanup, the Brownfield Cleanup Program as currently structured is not sustainable. In some cases, tax credits in the hundreds of millions of dollars are going to sites that, because of site location and value, would be remediated without the added incentive of tax credits. In other cases, sites located in areas that are not as desirable, and will not be remediated in the absence of tax credits, are being denied eligibility for the Brownfield Program.

As long as the Brownfield tax credits are granted as-of-right once a site is accepted into the program, with the DEC having no discretion in the awarding of the credits, the overall success of the program is threatened.

Environmental Advocates recommends de-linking the tax credits from program eligibility. We further recommend the implementation of a system that would base the amount of tax credits on the cost of the remediation relative to the cost of the development and site-specific conditions such as location of the property and likelihood that it will be remediated without the added incentive of tax credits. We also recommend a sliding scale for the tax credits whereby site clean up is consistent with an established Brownfield Opportunity Areas plan and that the clean up is to the highest standards in order to get the highest tax credits.

In situations where a site, because of location and property value, will be remediated without tax credits, such site should still be allowed into the program and be afforded the other technical and legal benefits associated with the program, including state assistance, oversight and release from liability.

Bottle Bill – The Bigger, Better Bottle Bill would provide a much needed (and long overdue) update to the existing bottle deposit law—New York’s most successful recycling and litter prevention program—by including non-carbonated beverages such as bottled water, iced tea and sports drinks. Expanding the state’s bottle deposit law would effectively remove millions of containers from our landfills, roadsides, and streams, resulting in cleaner communities across the state.

It would also require beverage companies to return any unclaimed deposits to the Environmental Protection Fund to fund recycling and other environmental programs. Estimates of these unclaimed deposits range from \$100-\$200 million—money that rightly belongs to the citizens of New York State, rather than in the pockets of the bottling and beverage industry.

We strongly urge that the Bigger, Better Bottle Bill be included in the executive budget, as its adoption would result in significant environmental and fiscal benefits to all New Yorkers.

Increased Permit Fees – As an additional means of raising much-needed revenue, Environmental Advocates urges the implementation of a “polluter pays” approach to environmental permitting. The polluter pays approach is one in which the cost of an environmental permit is a fee for the privilege of exploiting the state’s natural resources. In the best case scenario the revenues collected from the sale of permits would be enough to cover the costs of administering the permit program. In the worst case scenario, the cost of environmental permits should come much closer to covering administrative costs than is currently the case in New York State.

Environmental Advocates recommends increasing the fee for Title V air permits by employing the statutorily provided formula for determining the per-ton fee for the criteria pollutants. We also recommend removing the 6,000-ton cap, whereby emissions of criteria pollutants in excess of 6,000 tons are not subject to the per-ton fee. Removing the cap would result in an estimated \$8 to \$12 million annually in additional revenue for the state.

We also recommend increases in the permit fees for the State Pollutant Discharge Elimination System (SPDES) water pollution permits and other activities undertaken in and around the waters of New York, including Wild, Scenic and Recreational River permits, Tidal Wetlands permits, Water Supply permits, and Protection of Waters permits. A 2004 report released by the Sierra Club-Atlantic Chapter estimated that the state could raise approximately \$10 million through these permits.

Other Recommendations – Environmental Advocates is currently researching ways in which New York State is either spending money in a wasteful and environmentally harmful manner, or foregoing income by way of tax expenditures that run counter to sound environmental policy. Our findings, which will be released to the public this year, include the need to rein in the state’s Empire Zone program, the need to reform the Brownfield Tax Credits, numerous tax expenditures for fuel and energy use that do nothing to encourage energy conservation, spending on infrastructure that induces sprawl development, and the need for more public authority oversight.

In a year that New York is predicted to face great fiscal difficulties, we urge you to commit to protecting our environment and the health and safety of all New Yorkers by fully funding the DEC and the EPF and its vitally important programs. We further urge the administration to continue the progress that has begun in rebuilding the DEC by adding much-needed additional staff in key program areas.

Thank you again for the opportunity to testify.