



**TESTIMONY OF THE
NEW YORK PUBLIC INTEREST RESEARCH GROUP
BEFORE THE JOINT SENATE FINANCE AND
ASSEMBLY WAYS AND MEANS COMMITTEE
REGARDING THE 2013-14 EXECUTIVE BUDGET:
ENVIRONMENTAL CONSERVATION
ALBANY, N.Y.**

FEBRUARY 4, 2013

Good afternoon. My name is Laura Haight and I am Senior Environmental Associate at the New York Public Interest Research Group (NYPIRG). NYPIRG is New York's largest consumer and environmental advocacy organization, with 20 offices across the state and tens of thousands of supporters. Thank you for this opportunity to present testimony on the proposed FY 2013-14 Executive Budget.

There are many issues that the Legislature will need to address this year outside of the state budget that will have significant environmental and fiscal consequences for the state of New York. These will include:

- renewing the bonding authority for the State Superfund cleanup program, which expires this year;
- reforms to the state's brownfield cleanup program tax credits, which expire in 2015; and
- funding for renewable energy development in New York, through various programs such as Governor Cuomo's proposed NY Sun Act and Green Bank.

AGENCY STAFFING

We continue to be concerned about the hollowing out of the state agency workforce, in particular those agencies charged with protecting New York's natural resources and the health and well-being of its citizens. Staffing levels at the DEC continue to decline, and are at an all-time low. The agency currently lacks the capacity to carry out many of its statutory mandates, and agency resources have been stretched to the limit responding to Hurricane Sandy and other crises. We need to reinvest in the DEC's professional workforce in order to protect the residents of New York and respond to the ever-increasing natural and manmade disasters as our aging infrastructure crumbles and severe storms become more frequent

FUNDING FOR ENVIRONMENTAL PROTECTION

NYPIRG supports the Governor's proposal to transfer \$15 million of the annual unclaimed bottle deposit receipts and any additional revenues collected above FY 2012-13 levels into the State's Environmental Protection Fund (EPF). We were pleased to see modest increases in the executive budget proposal for most of the EPF categories, in particular the Solid Waste category, which includes additional funding for Municipal Recycling, the Pesticide Program, and the Pollution Prevention Institute.

The state's environmental funding needs far outpace the increased funding proposed in the Governor's budget. We encourage the Legislature and the Governor to look beyond this budget fiscal year and put in place long term revenue measures to provide critically needed funding for recycling, water quality protection, pollution prevention, sewage treatment upgrades, parks, and other environmental needs.

One option the Legislature should consider is the "Pennies for Parks" program which would place a 5-cent fee on disposable carry-out bags (S.1670-Grisanti and A.1148-Cahill). This program is being successfully implemented in Washington, D.C., which in the first year saw a 50% drop in paper and plastic bag use and generated over \$1.5 million to support the Anacostia River Cleanup Fund.

NYPIRG also supports the Governor's proposal to make the waste tire recycling fee permanent.

FUNDING FOR CLEAN ENERGY

We are pleased that the Governor has expressed such strong support for advancing renewable energy and energy efficiency in New York and look forward to seeing more details about these proposals.

To bolster these efforts, we encourage the Legislature to add an appropriation of \$252,800 for a comprehensive, independent investigation into the technologies, infrastructure and policies needed for New York to make the transition to a safe, clean and renewable energy supply. The study, *ReNewYork: The Green Energy Path to Jobs and Prosperity*, would provide key information that can inform the state's future energy planning and help New York move confidently toward a carbon-free and nuclear-free future.

BOTTLE BILL REFORMS

The Governor's proposal contains a number of reforms to the Bottle Bill, including tougher enforcement provisions which are expected to generate \$4 million in additional revenue for the EPF in the coming year. While we support stronger enforcement and oversight of this program, we are concerned that some of the proposed changes may have the unintended consequence of suppressing bottle and can redemption.

For instance, the Governor's proposal would significantly reduce the number of bottles and cans that most stores across the state would have to take back, limiting redemption opportunities for consumers. Another provision would allow stores to reject containers if they are not "reasonably clean" – a highly subjective term that could lead to abuse. We also have concerns that some of

the changes may adversely impact bottle and can redemption centers which provide a convenient opportunity for customers to return large quantities of beverage containers.

NYPIRG has been closely monitoring the implementation of the new law, which was updated in 2009. We have found that, in addition to its environmental benefits, the bottle bill has resulted in big benefits for businesses. Today we released two surveys on the bottle bill, which are attached to this testimony. The results of these surveys clearly show that the expansion to bottled water in 2009 went smoothly, and that a further expansion of the Bottle Bill would not only help the environment, but help businesses across the state grow and create new jobs.

In a survey of over 1100 people interviewed while returning bottles and cans at supermarkets, **“Shop Where You Drop: A Survey of Consumer Bottle Return Habits,”** NYPIRG found that most were also shopping at the store (68%). Of these, most said they shopped there frequently (81%), and more than half said that they had chosen that store in whole or in part because of the convenience of its bottle return facilities (57%). These findings suggest that retailers who offer convenient bottle return facilities may be benefiting from New York’s Bottle Bill by attracting more customers, in addition to the handling fee they get for each container they take back.

In a separate survey of bottle and can redemption centers in New York State, **“More Bottles, More Jobs,”** NYPIRG found that the 2009 amendments to the Bottle Bill fostered business expansion and job creation within this sector. In 2009, the Bottle Bill was expanded to include bottled water, and the handling fee paid to retailers and redemption centers was increased from 2 cents per container to 3.5 cents. Most of the redemption centers surveyed reported that the number of beverage containers redeemed at their facilities had increased significantly and that the changes had had a positive impact on their businesses. A third of the redemption centers surveyed said they had opened after the new law’s enactment, and more than half said they had expanded as a result of the new law. Many had opened up new storefronts, hired additional workers, and increased employee wages and benefits.

A previous survey we conducted in 2010 found that three months after the expanded Bottle Bill went into effect, most retailers surveyed were in full compliance with the new labeling and redemption requirements for bottled water.

The Bottle Bill continues to be New York’s most effective recycling and litter prevention program, but it could be even better. While this proposal offers a welcome addition of funding for the EPF, a truly “cleaner, greener New York” would maximize the environmental benefits of the Bottle Bill.

We urge the Legislature and the Governor to make additional reforms to the program that would not only increase recycling and make our communities cleaner, but also bring in more revenue for the state, and help businesses grow across the state – a triple win for New York. These include:

- expanding the definition of “water” to include sugar waters, reducing customer confusion
- requiring a deposit on additional noncarbonated beverages, such as teas, sports drinks, and juices
- increasing the refundable deposit, which would increase return rates

We also recommend amending the law to allow beverage companies that use refillable containers to keep the unclaimed deposits in order to offset the higher costs associated with producing refillable bottles. Since the number of these companies is quite small, this would have a minuscule impact on the overall budget.

Unfortunately the DEC has stopped collecting data on the Bottle Bill since the 2009 amendments went into effect. The most recent report DEC has publicized is from 2006-2007, so we have no information about how the updated program is working, what the redemption rates are, and what environmental benefits have been achieved (i.e. tonnage of plastic, glass and metal recycled). We believe it is critically important for the longterm success of this program to resume collecting and publishing these data.

In addition, we believe there is a significant amount of underreporting of beverage sales and redemption in New York. A greater investment in DEC staffing to monitor and enforce the program could yield substantial financial gain as well as better compliance with the program.

In conclusion, the Bottle Bill is first and foremost an environmental measure. We urge the Legislature to continue to improve the program and not to make any changes to the Bottle Bill that would make it harder for people to redeem bottles and cans. The whole point of the program is to encourage recycling.

Last but not least, there are two items that were not included in the proposed Executive Budget and that we do NOT want to see in any final budget agreement.

NO FUNDING FOR FRACKING

The state's environmental review of high-volume horizontal hydro-fracturing (fracking) has not been completed, and we're far from a final product that adequately acknowledges the dangers posed by this invasive industrial process. To date, the state has not conducted a legitimate Health Impact Assessment, instead opting for a limited review that falls far short of what medical and public health experts are calling for. Until the health impacts are truly understood, the state cannot possibly be in a position to move forward with fracking. It would be inappropriate to include money related to this controversial natural gas extraction method in the budget unless those monies are specifically dedicated to conducting a comprehensive Health Impact Analysis. We urge the Legislature to refrain from including any projected revenues from the extraction of natural gas through fracking in the budget. Also, the State should not dedicate funding to issuing drilling permits or otherwise ramping up fracking activity in New York.

NO MORE DELAYS ON DIESEL EMISSION REDUCTIONS

Another item that we urge the Legislature to keep out of this budget is any further delay in implementing the "Best Available Retrofit Technology" (BART) requirement of the New York State Diesel Emissions Reduction Act of 2006 (DERA). According to the Clean Air Task Force, New York ranks second in the nation in terms of negative health impacts from diesel pollution; including respiratory diseases, heart attacks, premature deaths and numerous other health problems monetized at nearly thirteen billion dollars annually in health damages. Heavy diesel engines also emit the majority of black carbon, a powerful climate-warming agent. The DERA law requires state-owned or contracted heavy diesel vehicles and equipment covered by the law to meet modern emissions standards or be retrofitted with a device - such as a diesel particulate

filter - that reduces harmful pollution. This law should have been fully implemented by the end of 2010, but during the past two budget cycles, the Senate majority has pushed to delay implementation of the law. The final budgets in 2011 and 2012 both delayed implementation by an additional year. This law is now scheduled to go into effect by the end of 2013. The technology is available. Much of it is made right here in New York by companies like Corning and the law includes a waiver provision in the event that no suitable retrofit device is available for a particular application. NYSERDA has even developed CleanDieselClearinghouse.org, a website that makes it easy to find the appropriate emissions-reducing device for any vehicle or piece of equipment. It is time for the Legislature to stop kicking the can down the road. We urge you to keep any further delays to this important public health law out of the 2013-14 budget.

Thank you for this opportunity to testify today. I would be happy to answer any questions.

Attachments:

Shop Where You Drop: A Survey of Consumer Bottle Return Habits, NYPIRG 2013

More Bottles, More Jobs: A Survey of Redemption Centers in New York State, NYPIRG 2013