

## 2024 NYGIC End of Session Legislative Update

July, 2024

On June 8th, Albany lawmakers concluded their legislative session amid uncertainty caused by Governor Kathy Hochul's unexpected decision to indefinitely halt congestion pricing in Manhattan. This move left a significant \$15 billion gap in the Metropolitan Transportation Authority's current capital plan. While the legislature didn't approve the governor's proposed solutions (a new tax or an IOU for MTA funding), they did pass numerous other bills. Notably, 489 out of 805 bills passed during the final week of the session. Some key measures include groundbreaking social media regulations for children, an extensive expansion of red-light cameras in New York City, and a new fee on polluters to support climate mitigation efforts.

There is potential for a special session to be called before regular session for 2025-2026 begins in January if lawmakers need to find ways to address the massive fiscal deficit left in the MTA's operating budget and debt obligations due to indefinite suspension of the congestion pricing program. A Primary Election was held on June 25<sup>th</sup> and all legislators are up for re-election on November 5<sup>th</sup>. There are a significant number of legislators that will be retiring or not running again for office, which means more new faces and more education on our issues next session. In addition, changes at the federal level will undoubtedly impact New York State.

There were several environmental issues that were under consideration right up to the end of session including a bill to reduce the prevalence of plastic packaging, which passed the Senate but died in the Assembly; the Climate Change Superfund Act received a vote in the Assembly for the first time, addressing environmental concerns; and an expansion of the Bottle Bill to increase the deposit to 10 cents and expand the law to include wine and liquor bottles, which, despite a major push from the environmentalists, failed to pass.

The Session was quite eventful on many fronts. Most notably, we were successfully in securing \$200,000 for the Turfgrass Environmental Stewardship Fund in the NYS Budget. NYGIC fought hard for this money to be restored in the Budget, and it was a primary focus of the NYS Turfgrass Association Lobby Day in February. This year's Lobby Day was very well attended by a cross-section of industry partners. Senator Bill Weber, representing Rockland County was the guest speaker. Senator Weber is an accountant and principal in a company based in New Jersey that owns a golf course and also develops golf courses. Going forward he would like to continue to work with the green industry to support our efforts.

There were some changes in leadership and committee chairs in the legislature that we navigated throughout the session, as well as a change in leadership at DEC. In February, NYS DEC Commissioner, Basil Seggos announced his departure. NYGIC had a very good relationship with him. He and his colleagues at DEC were helpful to us and we felt we had an open door with the Department. His departure will be a loss, but we are confident that we will build a relationship with his replacement and continue to have an open dialogue with them.

We also advanced discussions and cultivated relationships with the golf course industry, with whom we have many issues in common. Specifically, we had many conversations and strategy sessions with the Capital District Golf Course Association. The local association now has all the capital district private clubs as members. The goal going forward will be to educate the club Boards of Directors in hopes of enlisting members to weigh in from a grassroots perspective on important issues affecting golf, turf and landscaping.

NYGIC and its lobbyist, The Vandervort Group, faced several pieces of legislation that required our input this session. Here is a list of the most burdensome bills that were addressed during session, and into the final days of the Legislative Session.

## **The TEMP Act [Temperature Extreme Mitigation Act]**

### **S.1604-F / A.8935-C (Ramos / Bronson)**

**Final Status:** The bill did **not** pass the Senate or Assembly. The Senate bill is in the Senate Finance Committee and the Assembly bill is in the Ways and Means C

This bill would have regulated both indoor and outdoor worksites with high temperature protection standards, as well as educational requirements, training, and reporting when workers are exposed to extreme temperatures due to climate change.

- Covered industries include agriculture, construction, landscaping, car wash services, commercial shipping, food service, and warehousing.
- Heat-specific standards – Employers would be responsible for fulfilling the requirements for workers at indoor and outdoor worksites when the temperature reaches or exceeds 80 degrees.
- Training – The NYS Department of Labor would be required to create a training curriculum outlining the signs of heat illness and the necessary medical responses that employers would provide to its employees at the time of hire.
- Signs and educational materials would also be provided by the Department of Labor to be made available to employees in 12 most common languages in the state.
- The Department of Labor would also create a statewide outreach campaign to educate employees on the heat illness standards established and ensure that employers are providing access to proper signage and materials.
- Unlawful retaliation if an employer discriminates, retaliates, or takes any adverse action to an employee who makes a complaint.
- Employers would be responsible for establishing, maintaining, and preserving records for 3 years on all heat related illnesses and fatalities that occur.
- Employers would be responsible for developing a written plan distributed to each employee on how heat-related stress will be mitigated.
- Employers would be required to pay penalties of at least \$50 per day for failing to implement such a standard.
- A worker hotline would be established by the Department where employees can file complaints plus any other reporting or enforcement protocols necessary to ensure the protection of workers.

### **NYGIC Comments:**

The New York State Assembly wanted triggers for cold weather policies, which the Senate did not agree with. The threshold for "cold weather" policies was set at 60 degrees.

Most employers already have actions and reactions as well as policies in place for heat related conditions.

NYGIC was part of a coordinated coalition of business organizations that came together to work on a variety of issues in the NYS Budget and throughout the Legislative Session. As a group, we submitted a joint to Legislative Leaders and legislators opposing the TEMP Act. Our combined voice was very impactful in ensuring that legislators understood the magnitude of the effects of this bill, and the monumental opposition that was amassed from several affected industries.

NYGIC also submitted its own Memo in Opposition to the Senate and Assembly stating that the Occupational Safety and Health Act of 1970, specifically the OSHA General Duty Clause (Section 5(a)(1)), mandates employers to provide hazard-free workplaces, encompassing heat and cold-related risks. Additionally, OSHA's personal protective equipment (PPE) standard necessitates hazard assessments, particularly in heat or cold-exposed work settings.

The recordkeeping provisions within the proposed legislation are redundant and impose undue burdens on small enterprises. Existing OSHA regulations already require meticulous documentation of work-related injuries or illnesses, encompassing those stemming from heat or cold exposure. Moreover, the legislation mandates each employer to devise

and submit a heat-related stress mitigation plan annually, potentially fostering unintended consequences through the "unlawful retaliation" clause.

Although we were successful in stopping this bill, it will likely be reintroduced next session and our work will continue on this bill.

## **Low Impact Landscaping Rights Act**

S.7088 / A.6317 (May / Glick)

**Final Status:** This bill passed the Assembly and died in the Senate Judiciary Committee

This bill would have allowed Condominium owners to defy HOA rules about cutting grass and keeping their properties "neat". It would have forbidden Condo boards to take action against homeowners that allow their property to become overgrown.

Low Impact Landscaping is defined as pollinator gardens, rain gardens, habitat gardens, and natural gardening that uses plants native to the State of NY

### **NYGIC Comments:**

This infringes on the right of condo and co-op boards to control landscaping in their developments. It also dismisses the environmental benefits of turfgrass. The result is that homeowners would have the right to grow their grass as high as they choose.

We are hopeful that our opposition spoke loudly to legislators and we hopefully will not see this bill reintroduced next session, but if it is, we are prepared to oppose it.

## **Electric Landscaping Equipment Rebate Program**

S.5853-A / A.5681-A (Krueger / Otis)

**Final Status:** Passed Senate / Assembly 3<sup>rd</sup> Reading

This bill would require the creation of a rebate program at the point of sale of electric landscaping equipment to institutional or commercial applicants.

NYSERDA would be authorized to determine rebate eligibility, allocate rebates on a first-come first-served basis, and to reduce rebate amounts if it is determined that funds would otherwise be exhausted prior to the end of a fiscal year.

### **NYGIC Comments:**

The bill's sponsors suggest that the purpose of the bill is to reduce greenhouse gas emissions, improve air quality, and reduce noise pollution. It is providing an incentive to buy electric over gas-powered equipment, but it cannot be ignored that this will lead to banning of gas-powered equipment.

While rebates enjoy popularity among eligible homeowners, commercial landscapers recognize that battery powered equipment is not yet reliable enough for commercial use due to lingering inadequacies and safety concerns of the batteries required to run this equipment.

Government officials should let the market decide when or if the use of electric equipment makes sense.

## **Prohibit Application of Pesticides to Certain Freshwater Wetlands**

**Final Status:** Passed Both Houses

This bill allows municipalities to ban the use of pesticides in or near freshwater wetlands.

### **NYGIC Comments:**

It sets a risky precedent by granting local governments control over pesticide use. Regardless of the merit of using pesticides in specified wetlands, such decisions should rest with the state-level regulatory body equipped with the necessary expertise to assess matters thoroughly and make science-based determinations. State law delegates such decisions to the state level (NYS Department of Environmental Conservation – DEC), preempting local government control, to prevent inconsistent regulations and ensure uniform, science-based decisions statewide.

The DEC has a well-established history of evaluating, registering, and regulating pesticides, and it is essential for the state to continue supporting this vital program with sufficient resources. In the past municipalities have proposed or enacted local laws restricting pesticide use, which oversteps and undermines DEC’s statutory responsibility to enforce State laws. DEC has exclusive jurisdiction over pesticide laws across NYS, and this should remain unchanged.

Bills similar to this have been vetoed by Governor Hochul the past 2 years. This year’s bill is slightly different than previous years in that it provides for an exemption for commercial agricultural activities, defined as invasive species, pests of significant public health importance, or noxious weeds; or for the protection of critical native plant species, however it does not exempt commercial horticultural activities.

In July, DEC announced proposed regulations on Freshwater Wetlands Maps and Classification relating to the implementation of the Freshwater Wetlands Act enacted in the 2022-2023 NYS Budget. The proposed rule will take effect on January 1, 2025. The regulations are open to public comment until September 19, 2024 and [public hearings will be held in September](#). This is yet another reason that the Governor should veto this bill, which should not be signed into law while DEC is undertaking a rulemaking process.

### **Proposed Regulations Available for Public Comment**

1. [6 NYCRR Part 664 - Freshwater Wetlands Jurisdiction and Classification](#) - The proposed rule making would amend 6 NYCRR Part 664, Freshwater Wetlands Maps and Classification regulations to implement amendments to the Freshwater Wetlands Act that take effect January 1, 2025. The rule making would define key terms, improve the freshwater wetland classification system, establish criteria for the identification of Wetlands of Unusual Importance, and establish procedures related to jurisdictional determinations.

### [Fish and Wildlife Regulatory Revisions - NYSDEC](#)

### **Rulemaking Documents**

- [Text of Proposed Regulation \(PDF\)](#)
- [Regulatory Impact Statement \(PDF\)](#) - provides background and additional information.
- Supporting Documents (PDF) - [Express Terms Summary](#), [Regulatory Impact Statement Summary](#), [Regulatory flexibility Analysis for Small Businesses and Local Governments](#), [Rural Area Flexibility Analysis](#), and [Job Impact Statement](#).
- For more information, [see our Q & A Sheet](#)

We will work with Governor Hochul’s Office to seek another veto of this bill. Worse case scenario, if she decides to sign the bill, we will ask for a Chapter Amendment next year to exempt commercial horticultural activities.

Each year we ask our supporters and industry partners to consider a donation to NYGIC to help with our efforts, and a donation to GREENPAC to allow us to support our legislative friends. As such, we would like to identify inexpensive in-district fundraisers for you to participate in over the summer. Thanks to the new [Public Financing Program](#), eligible candidates may be able to have contributions between \$5 and \$250 from constituents matched. We can help you determine which candidates participate in the matching program and how you can leverage this opportunity.

Respectfully submitted,

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