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New York Alliance for Environmental Concerns 2015 NYS Legislative Session Wrap-Up

By Rick Zimmerman, The Vandervort Group, LLC

Lawmakers finished this year's legislative term in the early morning hours of Friday, June 26, more than a week after the scheduled end of session. Highlights of the end-of-session legislation included a four-year extension of the property tax cap, extension of NYC rent regulation, the 421-a tax abatement for landlords and mayoral control of city schools. The new legislative leaders, Senate Majority Leader John Flanagan and Assembly Speaker Carl Heastie, demonstrated their abilities to keep their respective conference focused on resolving the essential issues and closing the session in a somewhat timely manner. Even though the NYAFEC legislative agenda was not completely addressed, it is fortunate that we were, collectively, able to stop several potentially harmful, ill-considered, and inappropriate bills before they reached the floor of both houses. The NYAFEC legislative agenda included a number of issues and most of them were addressed in some shape or form during the 2015 legislative session. Progress was made, but we have more work to do in future sessions. Here's a recap:

- **Turfgrass Environmental Stewardship Fund:** This important program has been the source of funding for research initiatives that address critical horticultural production, maintenance and landscaping issues. Historically this fund has supported over \$964,500 in research projects. Once again the Executive Budget did not include a funding line for the TESH, therefore the burden was placed on the legislature to restore the funding line. This initiative was a priority issue during our annual Turfgrass Lobby Day on March 11, and Senate Environmental Conservation Committee Chair Tom O'Mara pledged his support for restoring the funds when he addressed lobby day attendees. He was true to his word and \$150,000 for the TESH was added to the adopted state budget.
- **3A/3B Certified Applicator Fees:** This issue stretched on throughout the legislative session. We were hopeful that the Governor would address our priority to lower 3A/3B certified applicator fees in his Executive Budget, but when he didn't, we quickly generated support from the legislature to insert it into the budget as part of the negotiation process. We were heartened by the fact that both Environmental Conservation Committee chairs, Senator O'Mara and Assemblyman Englebright, supported our request. Unfortunately, the issue "fell off the negotiating table" at the end of the budget process due to circumstances beyond our control.

Moving forward, Senator O'Mara and Assemblyman Skoufis introduced legislation (S.5477/ A.7635) to mandate the reduction of 3A/3B fees to \$150 per year. The bill passed out of the Senate Environmental Conservation Committee and the Senate was prepared to pass the bill if the Assembly demonstrated some interest. Unfortunately, the Assembly Environmental Conservation Committee was unwilling to address the bill, arguing that the issue should be addressed within the state budget. Next steps will be to press our case with the Governor's office, Division of Budget and DEC, to redouble our efforts to get the proposal into the next Executive Budget.

- **Repeal of the Pesticide Reporting Law:** The Pesticide Reporting Law has been a significant burden on our industry for over 15 years, yet it does not serve its intended purpose and it costs our industry millions of dollars every year to comply. Following on the heels of the Governor's failed 2014 budget proposal to reform the program, NYAFEC prioritized the initiative to repeal the reporting law in its entirety. Testimony presented by NYAFEC Chairman Larry Wilson, at a June 2014 hearing of the Assembly Environmental Conservation Committee, clearly articulated that the annual cost of compliance by our industry is conservatively estimated at \$4.75 million. In addition, the state spends about \$1.75 million each year complying with its mandates under the law. Unfortunately, the information gathered by the law has proved to be useless to researchers and therefore the Pesticide Reporting Law is an unfunded mandate that must be repealed.

NYAFEC leadership pushed the repeal initiative to Senate leadership, knowing that the Senate Majority would be more open to the proposal in comparison to their counterparts in the Assembly. Senators Tom O'Mara, (Southern Tier, Chairman of the Environmental Conservation Committee) and Rich Funke (Monroe, Ontario Counties) warmed up to introducing repeal legislation. However, the issue has been one of timing. Both senators are focused on putting the bill into play when it will have the most significant impact. They did not want to do it during the budget debate over concern that it will get lost in the debate. Further, they concluded that introducing the bill after the legislature recessed for the summer would provide the best opportunity for the proposal to receive the attention it deserves. Therefore we expect a bill sometime yet this summer. The bill will be our message to state government leaders that this legislation represents a costly unfunded government mandate that serves no valid purpose yet continues to strap our industry for millions of dollars every year. We must continue to push this fight forward in 2016.

- **Integrated Pest Management (IPM):** (concerns about program funding and a definition we can support): Funding for IPM is a perennial issue in the state budget exercise and this year was no exception. New York has distinguished itself with one of the best IPM programs in the country, yet adequate funding support always seems to be a struggle. This year, Cornell recommended a funding increase from \$500,000 to \$ 1,000,000 for Agriculture IPM and NYAFEC, along with the greater agriculture industry, supported the request. Unfortunately, the additional funds were not appropriated in the final budget and the program will receive \$500,000. Community IPM funding remained the same at \$550,000.

We actively supported A.1186 (Gunther) / S.3064 (Young) legislation that defines IPM in the same way as the DEC regulatory definition and very similar to the USDA definition. The purpose for advocating for a statutory definition that we can support is to offset the threat from all the bills that want to define IPM as essentially "anything but pesticides". The Senate

promptly passed S.3064 (Young) and we made a hard push for the bill in the Assembly. Once again the Assembly Environmental Conservation Committee chose to consider the Zebrowski bill, A.1332, instead of the Gunther bill and passed it on to the Ways and Means Committee where it remained through the end of the session. Even though we did not get the Gunther bill out of the Assembly, our efforts were successful in providing an effective counterbalance to the Zebrowski bill. (See more details about A.1332 below.)

- **Less Than Label Rate:** A.1461 (Magee) / S.1626 (Marcellino) would permit commercial pesticide applicators to apply pesticides in a dosage, concentration or frequency less than that specified on the product label. This proposal would extend the less-than-label rate authorization beyond the farm field and give commercial applicators the flexibility to reduce the dosage rate if, through experience, effective control can be achieved at a lower rate. The Senate passed the Marcellino bill and the Assembly Environmental Conservation Committee did not consider the Magee bill.
- **State Pre-emption of Fertilizer Regulation:** S.3061 (Young) would prohibit local governments from enacting fertilizer sale and analysis policies. Sole authority for fertilizer sale and analysis would remain with the NYS Department of Agriculture and Markets. This bill did not receive much attention this year, but it is worth actively supporting in future sessions given its very positive impacts upon our industry.

Our advocacy efforts were successful in pushing back against proposals to put new costs, burdens and/or restrictions on the industry. Several of these threats had significant political pressure pushing them towards passage. Here is a summary of those bills we actively opposed.

- **Pesticide Ban at Summer Camps.** A.129 (Paulin) / S.1420 (Carlucci) would prohibit the use of pesticides at children's overnight or summer day camps. This legislation would follow in the footsteps of the law banning pesticides on school grounds playing fields. NYAFEC led the charge opposing this bill, pointing out the true hazards that would exist on campgrounds, such as poison ivy and wasps, which would be difficult to control absent chemical pesticides. Child safety is the bottom line for all camping programs and pesticides are part of the safety arsenal.

Once again, this bill passed the Assembly, but was not considered by the Senate. The Senate Health Committee, chaired by Senator Kemp Hannon, was not inclined to consider the bill and it appears that bill sponsor, Senator David Carlucci, did not make a hard push for the bill in the Senate.

- **Integrated Pest Management: (definition to ban pesticides):** One of the more insidious efforts in the legislature is the attempt to use the definition of IPM to essentially ban the use of pesticides. We all agree that IPM plays an essential role in our pest management efforts and that the program has provided opportunities to reduce the use of chemical pesticides in lieu of alternative control methods. However, the bills listed below would define IPM as a practice that would allow for the use of chemical pesticides only as a last alternative, thus limiting the "toolbox" of IPM practices. This initiative to create state law has taken on several different shapes and sizes, but they all have one thing in common; an IPM definition

that discriminates against pesticide use. We actively lobbied against these bills and, with the exception of A.1332 (Zebrowski), none of the bills made it out of their original committee. The Zebrowski bill passed out of the Assembly Environmental Conservation Committee before it died in the Ways and Means Committee. Here's the full list of bad IPM bills:

- A.700 (Englebright) / S.2684 (Parker)
 - A.1332 (Zebrowski)
 - A.1682 (Englebright)
 - A.1796 (Englebright)
 - A.1857 (Englebright)
 - A.1944 (Englebright)
- Local Government Regulation of Pesticides: A.2984 (Englebright) would allow local governments to regulate pesticide use and notification more stringently than the Commissioner of Environmental Conservation. We opposed this bill because of the chaos that would reign as the result of a patchwork of local governments doing their own thing on pesticide use regulation. This bill remained in the Assembly Environmental Conservation Committee and there was no Senate counterpart.
 - Expansion of the Pesticide Reporting Program: A.6761 (Englebright) would increase the pesticide use reporting requirements within the Pesticide Reporting Law (PRL). This bill goes in the opposite direction from our legislative priority to repeal the PRL. Fortunately the bill remained in the Assembly Environmental Conservation Committee.
 - Phase out of pesticides on state property: A.5685 (Kavanagh) S.158-A (Squadron) would eliminate the use of pesticides on state property. Another version on the ban pesticides theme, this bill did not garner much attention. Nevertheless, we must continue to watch as these types of bills can gather a head of steam quite quickly.
 - Neonicotinoid Pesticides Bans: A.4828 (Clark) and A.5529 (Englebright) / S.4833 (Hoylman) would ban the use of neonicotinoid class pesticides. Arguing that neonics are linked to the decline of honey bees, these bills would either ban products, such as Imidacloprid, which are used extensively in agricultural and horticultural situations. We actively opposed these bills and they did not move out of the Assembly or Senate Environmental Conservation Committees.
 - Toxic Toy Bill: S.4102-A (Boyle) and A.5612 (Englebright) (were previously companions until the Senate Bill amendment) would have created a new, state-level chemical safety review process, which would ban the sale of products containing chemicals identified as being hazardous. Pesticide products could have been included on the banned list. A strong coalition of business interests, led by the NY Chemical Council, worked hard to keep this bill from passing. Despite the fact that the Assembly passed the bill early in the session (they always pass this bill) the State Senate Leadership staved off attempts by the Governor's office and environmental advocates to create a compromise deal. In the end, the issue died when the enviros and the business community, for different reasons, could not support the bill being pushed by the Governor's office. In the meantime, we are hopeful that Congress will pass legislation pre-empting states from taking similar action in the

future.

- Mandatory GMO Labeling: S.485-A (LaValle) / A.617-A (Rosenthal), would have required the labeling of seeds and food products containing ingredients derived from genetic engineering. This bill received significant political pressure in the Senate and Assembly as the pro-labeling forces turned out an impressive level of grassroots support through letters, emails and phone calls to legislators. NYAFEC was an active participant in the Pro-GMO coalition because the seed labeling mandate could impact consumer perception of seed products used in the landscape/ ornamental horticulture industries.

Fortunately sound science and economics were once again on our side and we were able to convince a growing number of legislators that this initiative would increase food costs and fly in the face of sound science. The bill failed to pass the Assembly Codes Committee and was never put onto a committee agenda in the Senate.

You, our members, are a very important part of our advocacy work. The Lobby Day, hosted by the NYS Turfgrass Association, combined with the direct outreach by individual members, proved once again to be critical elements of our advocacy program. Thank you to all who actively engaged in our lobbying efforts on behalf of our industry.

Next year is the second year of the two-year session, so all of these bills that were not acted on this past session will still be active. It is vitally important to continue our lobbying efforts and to fund and activate our GREENPAC to support our legislative allies and ensure that our positions are heard. Our PAC is an important and effective lobbying tool. To that end, please give to the GREENPAC as generously as you can this summer and fall so that we will be ready to use the funds to support our efforts next session.

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
 PO Box 90
 Brewster, NY 10509

For additional inquiries about NYAFEC, its mission and goals, contact NYAFEC President Larry Wilson at nyafec@optonline.net

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