



NEW YORK STATE SENATOR

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O'Mara and other state legislators call on Cuomo to veto legislation: Warn that approval would overburden property taxpayers and jeopardize local ability to accomplish critical projects

THOMAS F. O'MARA November 23, 2020

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We strongly urge Governor Cuomo to veto S.5612/A.8349 in the best interests of the local stakeholders we represent and work closely with, as well as to protect local governments, local environments, local economies, local communities, and local property taxpayers from this overregulation that would only serve to stagnate, not strengthen, the well-earned and well-monitored quality of our waterways.

**Elmira, N.Y., November 23**—State Senator Tom O'Mara (R,C,I-Big Flats) and a group of state lawmakers representing the Southern Tier, Finger Lakes, and Western New York are calling on Governor Andrew Cuomo to veto legislation that, if enacted, would significantly expand New York's regulatory process governing stream-related projects.

The legislation (S.5612/A.8349) was approved by both houses of the Legislature earlier this year. It was delivered to the governor for final action late last week.

If enacted, opponents said the legislation would force the reclassification of thousands of New York State streams and result in a more time-consuming, costly, overregulated, and impractical state-level permitting process for stream-related projects involving flood repair and mitigation, bridge and culvert maintenance, farmland protection, and other public works priorities.

In addition to O'Mara, the regional legislators calling on Cuomo to veto the legislation are Senators Fred Akshar, George Borrello, and Pam Helming, and State Assemblymembers Phil Palmesano, Marjorie Byrnes, Chris Friend, Joe Giglio, Andy Goodell, and Brian Kolb.

**In a November 23 letter to the governor, the area legislators wrote,** "We strongly urge you to veto S.5612/A.8349 in the best interests of the local stakeholders we represent and work closely with, as well as to protect local governments, local environments, local economies, local communities, and local property taxpayers from this overregulation that would only serve to stagnate, not strengthen, the well-earned and well-monitored quality of our waterways."

[see attached copy of the November 23rd letter above]

The legislators and other opponents warn that the legislation's enactment would result in significant barriers preventing local soil and water conservation districts, county and town highway departments, public works departments, builders, utilities and others from

undertaking and completing stream-related projects.

Opponents fear that the expanded permitting process would result in time delays and higher costs that would jeopardize stream stabilization, flood mitigation and prevention, bridge and culvert maintenance and rehabilitation, soil erosion prevention, farmland preservation, forestry management, infrastructure protection, and other projects vital to local communities, economies, environments, and property taxpayers.

The sponsors of the legislation believe it's necessary to offset possible federal deregulation that could impact stream protection. Opponents argue that no such federal deregulation is on the horizon and that, in any event, the state Department of Environmental Conservation (DEC) is already authorized to revise and upgrade stream classifications to implement any protections that the department's professionals deem necessary in specific instances.

**The legislators wrote,** "New York State Water and Soil Conservation Districts across the Southern Tier and Finger Lakes regions we represent, and statewide, enjoy a well-earned and well-deserved reputation for their leadership and long-standing success in conserving and protecting water quality, habitats, fisheries, and public and private infrastructure. These districts have long worked closely with the New York State Department of Environmental Conservation (DEC) and other state and local agencies, especially county and town highway departments, local farmers and landowners, foresters, and others who play key roles in stream protection statewide. Together, they implement what we believe is already one of the nation's strongest stream protection frameworks...We believe that New York State can and should trust and value its existing regulatory framework for stream protection. The overriding proof that it continues to work effectively and expertly is that New York State can boast that these projects save millions of tons of sediment, prevent billions of dollars in damage to public and private infrastructure, and deliver countless additional contributions to the long-term benefit of local communities, economies, environments, and property

taxpayers.”

Other opponents have issued similar letters highlighting concerns and urging the governor to reject the measure.

**A joint letter from the New York State Association of County Highway Superintendents (NYSCHA) and the New York State Association of Town Superintendents of Highways (NYSATSOH)** noted that “in some counties, up to 80% of the municipally owned bridges and culverts” could fall under the new stream reclassification which would require projects to secure state approval under an even more time-consuming, burdensome, and potentially cost-prohibitive process.

“A \$90,000 culvert replacement project for example could easily become a \$1 million-plus bridge project,” **the highway superintendents wrote**. “With local highway maintenance resources stretched to the limit, this situation would be untenable for local governments. The result would be inordinate road closures, possible flooding and disruptions of travel within communities that would have to find ways around a failed culvert or bridge crossing for an extended amount of time...The bill would hinder farmers’ abilities to quickly clear waterways, instead possibly waiting months to obtain permits to repair failures or remove obstructions. This could be devastating for seasonal farm operations when trying to protect crops from nature’s elements.”

**A coalition representing the agricultural and forestry industries, including the New York Farm Bureau and the Empire State Forestry Products Association**, warned that the legislation’s enactment would cause “an excessive burden to our farms, forest landowners, local governments, and our soil and water conservation districts that do many of the necessary projects that prevent farm flooding...Our farms and forests make a significant contribution to the protection of streams and other water bodies throughout the state. Our farms have invested significantly in stream buffers and runoff mitigation, and it is important that they be able to clear streams before damage to crops can occur. New York State also has a

Voluntary Best Management Practices for Water Quality guide for forestry which requires foresters and loggers to implement a comprehensive suite of management measures for the protection of streams and water bodies. Together, our farms (21%) and forests (64%) comprise 85% of the landscape of New York State and provide significant benefits as natural solutions to clean air, clean water, climate change and supporting jobs. This legislation would serve to discourage sustainable farming and forest management rather than encourage it.”

**In its own memorandum of opposition, the Chemung County Soil and Water Conservation District stated,** “Currently, Soil and Water Conservation Districts are leaders in their local communities assisting public entities and private citizens with thousands of stream habitat, stabilization, flood remediation, and flood mitigation projects on an annual basis. We oversee and install these projects and go through an arduous permitting process that we can assure you has not been dissolved...This bill, while intended to preserve and protect water quality, would inadvertently set conservation efforts back 50 years.”

Cuomo has until November 30 to act on the legislation.