



Legislation Text

File #: Res 1078-2005, Version: A

Res. No. 1078-A

Resolution calling upon the New York State Legislature to expeditiously enact the Clean Water Protection/Flood Prevention Act that would strengthen protection of wetlands in New York State and safeguard and enhance New York City's water supply quality, pollution treatment, flood control, open space and natural areas.

By Council Members Gennaro, Addabbo Jr., Avella, Barron, Comrie, Fidler, Gentile, Gerson, Gonzalez, Koppell, Liu, McMahon, Nelson, Recchia Jr., Sanders Jr., Sears, Stewart, Vallone Jr. and Weprin

Whereas, As set forth in the State Freshwater Wetlands Act (Environmental Conservation Law, Art. 24), the "freshwater wetlands of the state of New York are invaluable resources for flood protection, wildlife habitat, open space and water resources", the loss of which deprives the citizens of New York of the multiple benefits to be derived from wetlands; and

Whereas, Benefits provided by wetlands include protecting subsurface water resources, recharging ground water supplies, and treating pollution by serving as biological and chemical oxidation basins; and

Whereas, Wetlands also provide flood and storm control benefits through hydrologic absorption and their storage capacity and erosion control benefits by serving as sedimentation areas and filtering basins, absorbing silt and organic matter and protecting channels and harbors; and

Whereas, Wetlands provide benefits as open space and natural areas for hunting, fishing, boating, hiking, bird watching, photography, camping, aesthetic appreciation and other uses, and as readily accessible outdoor biophysical laboratories, living classrooms and offer vast resources for educational purposes and scientific research; and

Whereas, Wetlands provide further benefits as breeding, nesting and feeding grounds and other habitat critical to many forms of wildlife, waterfowl and shorebirds, including migratory wildfowl, serving as nursery

grounds and sanctuaries for freshwater fish, and as sources of nutrients in freshwater food cycles; and

Whereas, The pollution treatment and filtration characteristics of wetlands are critically important to the residents of New York City as they are vital to protecting the long-term quality of the City's drinking water; and

Whereas, The water from the City's Catskill and Delaware watersheds currently requires no filtering and the New York City Department of Environmental Protection estimates that a filtration plant for this water would cost taxpayers over \$6 billion to construct, with hundreds of millions of dollars in annual debt service and operating costs; and

Whereas, The importance of wetlands in storing and filtering stormwater can readily be seen in the Staten Island Bluebelt program which has saved the City of New York approximately \$50 million by using wetlands for flood control instead of constructing expensive storm sewer lines; and

Whereas, The United States Geological Survey estimated that New York State has lost 60% of its wetlands, and in the City of New York, the New York-New Jersey Harbor Estuary Program estimates that there are now only approximately fourteen square miles of wetlands still in existence, where there were once more than 100 square miles, a wetlands loss of over 85%; and

Whereas, The State Freshwater Wetlands Act protects only wetlands that are 12.4 acres or larger or specially designated as being of unusual local importance, and that also have been designated on the State wetlands map; and

Whereas, While the State of New York has historically relied on the United States Army Corps of Engineers to protect the vast majority of wetlands under 12.4 acres, changes in federal policy have resulted in so-called "isolated" wetlands no longer being provided federal protection; and

Whereas, The United States Army Corps of Engineers has attributed the policy change to the 2001 Supreme Court decision in *Solid Waste Agency of Northern Cook County (SWANCC) v. United States*, even though nothing in the SWANCC decision compelled such a drastic environmental rollback; and

Whereas, The 12.4 acre threshold in current state law, coupled with the loss of federal protection for

many smaller wetlands, has created a regulatory gap, leaving an estimated tens of thousands of wetlands in New York without any regulatory protection; and

Whereas, The Environmental Integrity Project, a nonpartisan, nonprofit organization dedicated to the effective enforcement of environmental laws, reported that, since 2004, New York has been among the top fifteen states with the most wetlands exempted from federal protection as a direct consequence of the United States Army Corps of Engineers' aggressive implementation of its interpretation of the SWANCC decision; and

Whereas, New York is the only state in the Northeast that uses wetland size as a threshold criteria for wetland regulation; and

Whereas, The Clean Water Protection/Flood Prevention Act (S.2081/A.2048) is State legislation that would provide greater protection to New York's freshwater wetlands by reducing the size threshold for state jurisdiction to one acre and streamlining the wetland mapping process; and

Whereas, The Clean Water Protection/Flood Prevention Act has been introduced in the State Legislature in each of the last two years, passed the Assembly both times, passed out of the Senate Environmental Conservation Committee twice, but has never been allowed to the Senate floor for a vote; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to expeditiously enact the Clean Water Protection/Flood Prevention Act that would strengthen protection of wetlands in New York State and safeguard and enhance New York City's water supply quality, pollution treatment, flood control, open space and natural areas.

RC/PCW 12-16-05