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Environmental Legislation in New York, 1970*

*By: Thomas A. Fink
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Summary:

Increased community concern over environmental contamination has been largely responsible for the enactment of several important pieces of environmental legislation by the New York State Legislature in the 1970 session. The single most important piece of legislation was the Environmental Conservation Act of 1970. Other significant enactments include (1) reorganizing the Pure Waters Authority into the Environmental Facilities Corporation; (2) amending the Public Health Law to include provisions relating to air, water and lead pollution; (3) amending the Agriculture & Markets Law to include provisions relating to pesticides; (4) amending the County Law and the Public Health Law to include provisions for the labeling of phosphate content of detergents.

Environmental Conservation Act of 1970:

Under the Environmental Conservation Law of 1970, which went into effect on July 1, 1970, a Department of Environmental Conservation was established. The duties of the Department are to enforce the environmental protection laws of the State in order:

"To conserve, improve and to protect its natural resources and environment and control water, land and air pollution, in order to enhance the health, safety, and welfare of the people of the state and their over-all economic and social well-being.

It shall further be the policy of the State to improve and coordinate the environmental plans, functions, powers and programs of the State in cooperation with the Federal Government, regions, and local governments, other public and private organizations and the concerned individual, and to develop and manage the basic resources of water, land and air to the end that the State may fulfill its responsibilities as trustees of the environment for the present and future generations.

It shall further be the policy of the State to foster, promote, agree and maintain conditions under which man and nature can live in harmony with each other and achieve social, economic and technological progress for present and future generations....."

Under the Law, the Department is given broad power generally to coordinate and develop policies, plan programs related to the State's environment; and promote and coordinate water, land and air resources management. The Department also shall

seek to preserve and enhance natural and manmade beauty. A few of the powers and duties of the Department listed under section 14 of the Law will now be discussed.

With respect to pollution already existent and/or prospective, the Department of Environmental Conservation shall provide for the prevention and abatement of all water, land and air pollution, and promote the control and regulate the use, storage and disposal of pesticides and other dangerous chemicals. It shall also promote the control of weeds and aquatic growth and seek to properly regulate the use of herbicides.

Power is given to the Department to provide and recommend environmentally effective methods for disposal of solid waste which shall be consistent with land use practices. The Law specifies that the Department shall also encourage recycling and reuse of products with a view toward conserving resources and reducing waste.

Investigation and Research of environmental problems is also a function of the Department of Environmental Conservation. According to the Law, the Department shall monitor the environment to afford more effective and efficient control practices and shall encourage and undertake scientific investigations and research on the ecological process. In addition, the Department shall administer properties possessing unique natural beauty, wilderness character or geological, ecological or historical significance.

With respect to informing the public as to environmental problems and what efforts are being made to solve them, the Department shall undertake extensive public education programs. It shall also cooperate with other governmental bodies where necessary.

Section 15 of the Environmental Conservation Law provides that environmental standards may be established by the Commissioner of Environmental Conservation after proper hearings have been held.

The Commissioner has a number of other important functions and powers, including the important power to prohibit summarily the improper use of the environment pending the results of a hearing which shall take place within fifteen days of the prohibition. The Commissioner also assumed the relevant powers previously residing in the Conservation Department and the Water Resources Commission. All of the employees in the Health and Conservation Departments which were working on conservation areas have been transferred to the Environment Conservation Department. This coordination of environmental conservation functions has been long advocated by the Rochester Committee of Scientific Information and conservation groups. The legislature has now provided the machinery for coordinated environmental planning. It is felt that if the legislature will allocate sufficient resources and if the Governor will provide a staff whose desire it is to preserve and save the environment, substantial progress toward the solution of environmental problems will be made.

Environmental Facilities Corporation:

In 1970 the New York State legislature reorganized the Pure Waters Authority into the New York State Environmental Facilities Corporation. See New York

Public Authorities Law §§1280 *et seq.* In addition to assuming the functions of the Pure Waters Authority in assisting local municipalities in planning sewage treatment works and systems, the Corporation plans storm water collecting systems, water management facilities, air pollution control facilities and solid waste disposal facilities. As an independent authority, the Corporation can both assist municipalities in planning facilities and actually contract to operate them. The Corporation can deal on a regional basis and can condemn such land as is needed to fulfill its contracts.

To date the Environmental Facilities Corporation has not played a large role in planning any of the major facilities for preservation and protection of the environment. The Governor appoints the president of the Corporation as well as the directors, one of whom shall be the Commissioner of Environmental Conservation. The Corporation must be granted broad powers and specific directives if it is to work closely with the new Environmental Conservation Department.

Air Pollution:

The Air Pollution Control Act (Public Health Law §1267) was amended to define aircraft as a source of air contamination, thus bringing aircraft within the jurisdiction of the Air Pollution Control Board. While serious questions have been raised as to the effectiveness of the Board's jurisdiction over jet planes in interstate commerce, the Act does represent an important first step toward solving a serious pollution problem.

Solid Wastes:

Section 226B was added to the County Law to permit the counties to establish plants and it provide for the collection and disposition of solid wastes, and for that purpose counties may construct, operate and maintain solid waste disposal sites or plants.

The legislature also added sections 370 and 373 to The Public Health Law. The new sections permit the State to assist local governments by paying up to half the cost of preparing detailed plans for improving and building solid waste disposal facilities. In order to receive state grants the communities must submit plans which take into account the ultimate use of landfill sites for recreation or other purposes.

The seriousness of the problem of solid wastes was mentioned by Governor Rockefeller in his Message, when he said, the "Growth of the population and industry coupled with the growing use of prepackaged disposal containers has produced an alarming increase in waste. The problem has become particularly acute in urban areas."