



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 86

December 9, 2022

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 381-A, entitled:

“AN ACT to amend the general business law, in relation to the sale of new motor vehicle child restraint systems”

NOT APPROVED

This bill would require any retailer who sells child restraint systems or car seats to also maintain in stock and sell compatible child restraint alarms that alert the driver when they have exited the car without unbuckling the child from the car seat. The bill would also require retailers to post a conspicuous notice concerning the dangers of leaving children in hot cars.

The goals of the bill are laudable. There have been too many incidents of drivers accidentally leaving children in the backseat of their cars on hot days. However, I have received industry feedback that the requirement to sell compatible car alarms places an unreasonable burden on retailers and may also limit the car seats available on the market. For these reasons, I am constrained to veto the bill.

The bill is disapproved.

Ruth Hochul



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 87

December 9, 2022

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 5541-B, entitled:

“AN ACT directing the departments of environmental conservation and health to establish environmental standards for ambient lead and lead contamination in soils; and providing for the repeal of such provisions upon expiration thereof”

NOT APPROVED

This bill would require the Department of Environmental Conservation (DEC) and Department of Health (DOH) to propose new standards, and update any existing standards as appropriate, for dust lead hazards, soil-lead hazards, and ambient air quality standards for the level of lead. The bill would also require the agencies to submit a report to the legislature by June 1, 2023 describing the status of such adoptions.

Under the Clean Air Act, the Environmental Protection Agency (EPA) adopted primary and secondary National Ambient Air Quality Standards (NAAQS) for lead of 0.15 micrograms per square meter. DEC closely follows the EPA NAAQS development process, which is designed to protect public health and welfare, and provides input during the process.

New York has fully attained the lead standards set by the EPA. Pursuant to the Environmental Conservation Law, DEC has established soil cleanup objectives for lead through regulations contained in 6 NYCRR Part 375. DEC this past year proposed revisions to its Part 375 regulations and is in the process of evaluating comments received during the public comment period. Under the Toxic Substances Control Act, EPA set new clearance levels at 10 micrograms (μg) of lead in dust per square foot (ft^2) for floor dust and 100 $\mu\text{g}/\text{ft}^2$ for windowsill dust, significantly lower than the previous levels.

I wholeheartedly agree that protecting the public from the harmful effects of exposure to lead is of the utmost importance. New York's existing lead standards, as set out in regulations from DEC and DOH, appropriately cover these specific lead levels in a way that is consistent with the most up-to-date scientific understanding of the harmful impact of lead. Requiring the agencies to create additional standards while there are existing processes in place would not be a valuable use of state resources and could potentially delay efforts to update the existing standards. Therefore, I am constrained to veto this bill.

The bill is disapproved.

Ruth Hochul



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO #

December 9, 2022

TO THE ASSEMBLY: 88

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 6652, entitled:

“AN ACT to amend the environmental conservation law, in relation to the protection of certain streams”

NOT APPROVED

This bill would expand the definition of regulated streams under the Environmental Conservation Law (ECL) Article 15 protection of waters program to include “Class C” waterways, thereby requiring a permit prior to disturbance. Class C water bodies support fisheries and are suitable for non-contact activities.

I fully support efforts to safeguard clean water and natural resources across our state. While the intent of this bill is laudable, it would have significant regulatory impacts on related projects and will carry substantial costs to the State, as well as to local governments and to the communities that would bear the impact of these new regulations. It would more than double the amount of stream miles as well as the number of permits over which the Department of Environmental Conservation has a planning and oversight role. These significant practical and fiscal implications have not been addressed since the bill was last vetoed in 2020 and were not budgeted for in the State’s financial plan. This legislation would be more appropriate to address in the State’s budget process.

Therefore, I am constrained to veto this bill.

This bill is disapproved.

Ruth Hochul



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 89

December 9, 2022

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 7889-A, entitled:

“AN ACT to amend the public health law and the social services law, in relation to the functions of the Medicaid inspector general with respect to audit and review of medical assistance program funds and requiring notice of certain investigations”

NOT APPROVED

The Office of the Medicaid Inspector General (OMIG) is tasked with auditing healthcare providers for compliance with Medicaid rules and standards found in state and federal law and regulation. This legislation would restrict OMIG’s ability to enforce such standards by limiting the audit and recovery of improper Medicaid claims. These limitations would prevent the State from collecting the overpayments which federal law and audits require. It would do so without relieving the State’s obligations from paying the federal government, leaving the State to absorb the cost.

Further, the processes added in this legislation would adversely impact OMIG’s ability to identify fraud in the Medicaid program. This is critical since Medicaid increasingly covers more home-based care and telehealth care, and relies on audits to ensure Medicaid dollars are spent taking care of New Yorkers.

The provider community is central to the success of the Medicaid program and the healthcare of the entire State. It is important that OMIG continue to ensure Medicaid meet the standards set by state and federal law. It is also imperative that audit processes do not place an undue burden on providers, who work tirelessly to care for New Yorkers. Therefore, I am directing OMIG to take several steps to address the concerns that underlie this bill, including:

- Engage the healthcare provider community and Medicaid stakeholders to solicit input on the concerns raised in this bill.
- Perform a comprehensive review of the agency’s program integrity processes and identify areas for improvement.
- Commit to conducting program integrity activities in a responsible manner that includes consideration of financial impacts on providers and assures continuity of care for Medicaid recipients.
- Assess opportunities to include additional reporting elements in the agency’s Annual Report as outlined in the bill, including requests by providers for financial hardship and a narrative on the impacts of enforcement actions.

Given the problems enactment of this legislation poses for the successful operation of the Medicaid program, I am constrained to veto this bill.

The bill is disapproved.

Ruth Hochul



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO #90

December 9, 2022

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 8427, entitled:

“AN ACT to amend the real property tax law, in relation to including certain spent fuel rods within the definition of real property”

NOT APPROVED

The bill would add “spent fuel rods” to the statutory definition of “real property” for real property tax purposes, building upon legislation enacted in 2020 that subjected certain spent nuclear fuel storage systems to property taxation. The bill is intended to enable the taxation of spent fuel rods currently housed at the now closed Indian Point Energy Center.

The 2020 legislation removed any ambiguities about the taxability of spent fuel pools, a type of real property, and dry cask storage systems, permanent fixtures that are annexed to real property. This bill, in contrast, would extend the definition of real property to the spent fuel rods themselves, even though these objects are not affixed to land and have none of the hallmarks of what has historically been considered real property. It is not clear that including spent fuel rods in the assessment of the property where they are stored would increase the assessed value of that property. Given the hazardous nature of spent nuclear fuel rods, integrating them into the assessment of the existing real property could reduce the property’s value overall and thereby reduce the taxes paid to the communities where fuel rods are being stored.

I am concerned about the precedent that would be set by extending the definition of real property to objects that are not affixed to land and do not have the hallmarks of what has historically been considered taxable. Because the division of tax and finance has been indicated, this unprecedented legislation could harm, rather than help, the financial security of the communities where spent fuel rods are being stored, I am constrained to veto this bill.

The bill is disapproved.

Ruth Hochul



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 91

December 9, 2022

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 10425 entitled:

“AN ACT to amend the civil service law and the labor law, in relation to clarifying the vesting of retiree health insurance within collective bargaining agreements”

NOT APPROVED

This bill provides that extrinsic evidence shall be admissible to determine whether certain health insurance benefits are intended to vest beyond the term of a collective bargaining agreement.

More specifically, this bill would provide that whenever a collective bargaining agreement between an employee organization and public employer, or between labor organizations and employer, refers to a health insurance benefit for retired employees, extrinsic evidence shall be admissible in court. The court or other forum may consider such evidence to determine whether the parties to that agreement intended for the at-issue retiree health insurance benefit to vest in retirees beyond the durational term of the collective bargaining agreement and, if so, to what extent and scope. The bill would require admission of extrinsic evidence on this issue without regard to whether the language agreed to by the parties was determined by a court or other forum to be ambiguous.

Although I sympathize with the aims of proponents of this bill and I fully support protecting health insurance benefits for retirees, if this legislation were signed into law, the premium shift contributions were relitigated and a determination was rendered retroactively to 2011, it could cost the New York State Health Insurance Plan (NYSHIP) as much as \$245 million dollars. If the matter was relitigated and the prospective premium shift was disallowed, it would cost NYSHIP over \$27.5 million dollars per year and this cost would only increase over time. This outcome would be to the severe detriment to the Department, the State, and, critically, to the State workforce who would be required to pay increased contributions for retirees. For these reasons, I am constrained to veto this legislation.

The bill is disapproved.

Ruth Hochul



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 92

December 9, 2022

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 968-A, entitled:

“AN ACT to amend the public authorities law, in relation to requiring service providers to annually submit emergency response plans to the public service commission”

NOT APPROVED

This bill would require the Long Island Power Authority (LIPA) to submit its service provider's emergency response plan (ERP) to the Public Service Commission for annual review and approval.

Currently, pursuant to the LIPA Reform Act, the Department of Public Service (DPS) reviews, and the LIPA Board approves, the service provider's ERP. In addition, the contract between LIPA and its service provider was renegotiated in 2021 to contain stronger provisions for review and approval of the service provider's ERP by DPS and the LIPA Board of Trustees. In addition, the newly-created New York State Legislative Commission on the Future of the Long Island Power Authority will be providing a final report by April 1, 2023 that covers topics including improved storm response.

Ensuring Long Islanders have safe, reliable power sources throughout the year, especially during emergencies, is a worthy goal. Because of the significant ongoing work related to the subject of this bill, I am constrained to veto this bill.

The bill is disapproved.

Ruth Hochul



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 93

December 9, 2022

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 1608, entitled:

“AN ACT amend the civil service law, in relation to the appointment and promotion of certain personnel of the sanitation department of the city of New York”

NOT APPROVED

This bill would require that vacancies in the New York City Department of Sanitation be filled by promotions among existing employees in the department, establishing competitive promotion examinations for certain titles.

Although I agree with the goal of ensuring that supervisory personnel within the Department of Sanitation are the most qualified, this bill disregards the body of law that states that an individual in a temporary or provisional appointment does not have a property interest in such position and, further, that such an appointment carries no expectation or right of tenure. Such temporary or provisional appointments cannot be used as the basis to become permanent appointments.

Therefore, I am constrained to veto this bill.

This bill is disapproved.

Ruth Hochul



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 94

December 9, 2022

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 2903-A, entitled:

“AN ACT to amend the criminal procedure law, in relation to requiring the court, prior to accepting a plea, to advise the defendant of the risk of deportation if he or she is not a citizen”

NOT APPROVED

This bill would require the court to notify defendants during the plea process for misdemeanors and violations that pleading guilty may subject them to automatic deportation or denial of naturalization. While I support the laudable goal of strengthening due process protections, the actual text goes beyond that stated purpose. Instead, the bill imposes a rigid requirement that the court deliver a specific warning about potential immigration consequences in all cases. It further prohibits a court from using its discretion to mention anything specific about immigration consequences and prohibits the prosecutor from mentioning immigration consequences at all. If these technical provisions are not strictly complied with the plea must be vacated.

Clear due process protections for noncitizens are already in place. Defense attorneys are already required by law to advise their clients of immigration consequences of any conviction. The hyper-technical requirements of this legislation would result in the vacatur of otherwise lawful convictions where defendants were fully aware of the immigration consequences of their actions.

Therefore, I am constrained to veto this bill.

This bill is disapproved.

Ruth Hochul



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 95

December 9, 2022

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 3953-B, entitled:

“AN ACT to amend the railroad law, in relation to requiring certain trains and locomotives to have a crew size of not less than two persons; and providing for the repeal of such provisions upon expiration thereof”

NOT APPROVED

This bill would prohibit a freight train from being operated unless it has a crew consisting of at least two individuals.

Federal laws have been enacted to ensure that the country has nationally uniform safety standards for the railroad system and these laws preempt states from enacting laws that regulate this same subject matter. Additionally, the Federal Railroad Administration has recently undertaken a rulemaking process to further regulate railroad safety by establishing requirements related to crew size.

I recognize the importance of protecting the safety of those working in the railroad industry and of the general public, and believe existing federal regulations achieve those goals. As this bill sets state-specific rules on a subject governed by federal law and FRA rulemaking, I am constrained to veto this bill.

The bill is disapproved.

Kathy Hochul



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 96

December 9, 2022

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 4371-D, entitled:

“AN ACT to amend the environmental conservation law, in relation to emissions of toxic air contaminants”

NOT APPROVED

This bill would require the Department of Environmental Conservation (DEC) to promulgate air quality standards for toxic air contaminants and establish standards on fenceline monitoring for major sources.

Major sources of the toxic air contaminants identified in the bill are regulated by National Emission Standards for Hazardous Air Pollutants and DEC regulations, which provide the regulatory language for DEC staff to enforce specific emission restrictions from process emission sources for criteria and non-criteria air contaminants. Part 212 is used in conjunction with other state and federal regulations to control criteria air contaminants and non-criteria air contaminants, as well as toxic air contaminants. Additionally, existing DEC guidance specifies annual and short-term ambient guideline concentrations for the toxic air contaminants referenced in this bill, and DEC has incorporated toxic contaminants, emission limits, and emission control requirements into major source permits since the inception of the Title V program. These DEC guidance documents also consider off-site fenceline concentrations in relation to the annual and short-term guideline concentrations.

Currently, DEC is undertaking a statewide community air quality monitoring effort in ten disadvantaged communities that are home to an estimated five million New Yorkers. This effort will help DEC target strategies to reduce air pollution in these burdened areas to help achieve the goals of the State's Climate Leadership and Community Protection Act.

Through its existing authority and regulatory programs, DEC has already put in place strong protections against toxic air contaminants. As a result of these programs, there are very few remaining major sources of toxic air contaminants of the sorts defined in this bill. Requiring DEC to promulgate air quality standards and develop regulations for monitoring plans for fenceline systems that are already overseen by DEC under existing regulatory authority is duplicative, unnecessary and could divert state resources from implementing other crucial programs to protect New Yorkers.

Therefore, I am constrained to veto this bill.

The bill is disapproved.

A handwritten signature in black ink that reads 'Kathy Hochul'.



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 97

December 9, 2022

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 5956-A, entitled:

“AN ACT to amend the social services law, in relation to allowing physician assistants to serve as primary care practitioners for purposes of Medicaid managed care plans”

NOT APPROVED

This bill would add physician assistants to the definition of primary care practitioner for Medicaid managed care. I recognize the value that physician assistants bring to primary care, and I am focused on improving access and quality of primary care in the State.

However, physician assistants already provide primary care services under their supervising physician and receive the same reimbursement as the physician. This legislation would result in a complicated and costly billing change for Medicaid claims submission and would also not provide better access to primary care.

I am directing the Department of Health to require that physician assistants be listed in the Medicaid Managed Care Plan provider directories, a measure that accomplishes the goals of this legislation without the administrative and fiscal burdens that are associated with the bill's changes to billing practices.

Therefore, I am constrained to veto this bill.

This bill is disapproved.

Ruth Hochul



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 98

December 9, 2022

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 6777-A, entitled:

“AN ACT to amend the executive law, in relation to providing language translation services to accommodate census self-reporting”

NOT APPROVED

This bill would require the New York Department of State to provide census-related translation services for state agencies and localities to assist New Yorkers with self-reporting data for the United States Census.

The Census is a critical tool for empowering communities to provide key demographic information to the federal government. I am committed to ensuring that New Yorkers of all backgrounds can participate in the United States Census and can access vital public services and resources by removing language barriers. That is why, earlier this year, I launched the Office of Language Access to oversee and provide guidance on the expanded Statewide Language Access Policy, which requires all executive State agencies that provide direct services or benefits to provide interpretation services in any language.

However, this bill would create a legal obligation for the State to duplicate the federal government’s preexisting census translation services. Additionally, the legislation would require the State to devote significant funding for implementation in the near-term, even though the next census is nearly a decade away and census data collection methodology could undergo significant changes between now and then.

I instead welcome a conversation as part of the upcoming budget process to continue our efforts to ensure all New Yorkers have equitable access to vital documents, information, and services.

Therefore, I am constrained to veto this bill.

This bill is disapproved.

Ruth Hochul



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 99

December 9, 2022

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 8816-A, entitled:

“AN ACT to amend the environmental conservation law, in relation to the filling of borrow pits in Jamaica Bay; to amend chapter 288 of the laws of 2014 amending the environmental conservation law relating to the filling of borrow pits in Jamaica Bay, in relation to making the provisions of such chapter permanent; in relation to directing the department of environmental conservation to conduct a study on ecological restoration needs in Jamaica Bay; and providing for the repeal of certain provisions upon expiration thereof”

NOT APPROVED

This bill would amend and make permanent certain testing requirements related to Department of Environmental Conservation (DEC) permits authorizing the placement of fill materials in Jamaica Bay. It would also direct DEC to conduct a beneficial pilot study to determine the ecological restoration needs in Jamaica Bay.

Through the issuance of beneficial use determinations and screening of sediment in accordance with DEC guidance, DEC has overseen the effective and responsible remediation of the underwater pits by permitting the reuse of material dredged for navigational purposes.

This bill is nearly identical to a bill vetoed the last three years. The bill would unnecessarily increase costs and result in a lengthier recovery of the Jamaica Bay borrow pits with no commensurate environmental benefit.

Therefore, I am constrained to veto this bill.

This bill is disapproved.

Ruth Hochul