



MEMORANDUM OF SUPPORT

A.3658 (Englebright) / S.5622 (Mayer)

AN ACT to amend the environmental conservation law, in relation to freshwater wetlands and repealing section 24-1305 of such law relating thereto

Audubon New York strongly supports **A.3658 (Englebright) / S.5622 (Mayer)**, which would amend the New York State Freshwater Wetlands Act by providing the Department of Environmental Conservation (DEC) with regulatory authority over freshwater wetlands of one acre or more in size and eliminating the need to delineate such wetlands on jurisdictional maps in order to establish regulatory authority.

Waters throughout New York State serve as essential habitat for birds and other wildlife, and provide numerous other ecological and economic benefits. Birds use lakes, tributaries, streams of all types, ponds, isolated wetlands, and other water bodies for breeding, nesting and raising young. These water bodies also provide crucial sources of drinking water, food, and nutrition for birds, from invertebrate insects and small vertebrates to a wide variety of plants found along streams, shorelines, and in wetland areas.

Wetlands in particular are critical for bird health and population stability, and numerous freshwater wetlands can be found in Audubon Important Bird Areas (IBAs) throughout the state. Approximately one-third of North American bird species use wetlands for food, shelter, or breeding, and one hundred thirty-eight species and subspecies of birds in the U.S. are designated as “wetland dependent”; including the Black Rail, Pied-billed Grebe, and Least Bittern, which are listed as threatened or endangered in New York State.¹ Protecting these birds’ habitats is absolutely essential to their future survival. Freshwater wetlands also provide countless other environmental benefits; including flood protection, stormwater runoff control, and the filtration of pollutants, pesticides and sediments. All of these benefits illustrate the need to protect the State’s freshwater wetlands to the greatest extent possible.

Currently, the DEC has the authority to regulate freshwater wetlands that are 12.4 acres or greater in size or of unusual local importance, while the federal government regulates all other wetlands pursuant to the Clean Water Act (CWA). However, in the wake of the proposed rollback of the Waters of the United States Rule, New York State’s wetlands may lose the federal protections currently afforded by the CWA. The proposal, if finalized and implemented, would severely weaken CWA protections for critical wetland areas by redefining or eliminating the types of wetlands that are considered “waters of the United States”.

This would leave the wetlands that are less than 12.4 acres in size without oversight or protection unless they are “of unusual local significance”, located in the Adirondacks, or are tidal wetlands, and potentially allow wetlands to be altered, degraded, filled, or even eliminated. Construction, industrial activity, and pollution of various forms drastically alters the delicate ecological balance of these ecosystems, and the bird species depending on those wetlands would face serious risks.

This bill would close the impending gap between federal and state wetland protection by putting freshwater wetlands of one acre or more under state regulatory authority, and increase the state’s ability to properly manage these wetlands by removing the requirement that the DEC delineate these wetlands on jurisdictional maps. Without this increased level of protection, the health of all New York’s water bodies is put at risk.

For these reasons, Audubon New York supports **A.3658 (Englebright) / S.5622 (Mayer)** and urges the legislature to pass this bill.

Audubon New York works with a network of 65,000 members, hundreds of volunteers, 27 local Audubon Chapters, and dozens of other partners to achieve its mission of protecting birds and their habitats through science, advocacy, education, and on-the-ground conservation programs. If you have any questions or would like more information, please contact Erin McGrath, Policy Manager at Audubon New York at 518-869-9731 or emcgrath@audubon.org.



ⁱ American Ornithologists' Union, 1983, Check-list of North American Birds.

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