# 2008 ANNUAL REPORT

NEW YORK STATE ASSEMBLY

# COMMITTEE ON AGRICULTURE



Sheldon Silver, Speaker

William Magee, Chairman

December 15, 2008

The Honorable Sheldon Silver Speaker of the Assembly Room 349, State Capitol Albany, New York 12248

#### Dear Speaker Silver:

On behalf of the New York State Assembly Standing Committee on Agriculture, I respectfully submit the 2008 Annual Report. In our Annual Report, the Agriculture Committee's significant legislation is outlined for your review. The Agriculture Committee members successfully enacted 23 new laws of the 40 bills that passed the Assembly in the 2008 legislative session.

The Agriculture Committee reported legislation that expanded the definition of farmland to include apiary, woodland, and compost/mulch/biomass production; established the food safety and inspection advisory board and improved sanitary conditions of food carriers; strengthened animal safety and control policies such as creating animal response teams, authorizing the rescue of animals trapped in poorly ventilated motor vehicles; increasing fines and penalties for spectators at animal fighting exhibitions; and, regulating the sale of wine ice cream in New York State.

Many issues and challenges face the agricultural services industry, particularly in these difficult economic times. On behalf of the Committee, we thank you for your support and leadership.

Sincerely,

William Magee Chairman

Committee on Agriculture

Bill Magu

### NEW YORK STATE ASSEMBLY STANDING COMMITTEE ON AGRICULTURE

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William Magee Chairman

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#### I. COMMITTEE JURISDICTION

The Assembly Standing Committee on Agriculture is responsible for legislation that relates to the Agriculture and Markets Law, oversight of the Department of Agriculture and Markets, and the Agriculture and Markets budget. The Agriculture Committee works closely with institutions of higher education to promote agriculture research and development, monitors and, in special circumstances, mediates policy disputes and conflicts related to agricultural issues.

As part of its legislative and oversight functions, the Agriculture Committee investigates issues related to food inspections and safety, farmland protection, farm product sales and marketing, agribusiness licensing and regulation, the humane treatment of domesticated animals, kosher laws, and animal diseases.

The Agriculture Committee supports repealing unnecessary or unenforced laws and programs in order to improve public policy. The Agriculture Committee also provides sponsorship, counsel, and support for agriculturally beneficial program legislation referred to the Committees on Insurance, Energy, Labor, Economic Development, and Environmental Conservation.

#### II. 2008 COMMITTEE ACCOMPLISHMENTS

#### A. Agribusiness Development

New York State offers many advantages for food producers and processors. The Chairman of the Agriculture Committee places great importance on strengthening the state's leadership role in agriculture where food producers and processors seek to diversify operations in order to better compete in rapidly changing marketplaces with advancing technologies and with stricter environmental requirements.

#### 1. Farm Winery Licensing Requirements (Chapter 571 of the Laws of 2008/ A. 5973, Magee)

This law creates a farm winery distiller license for manufacturing and selling New York State labeled liquor that is based on annual production levels.

### 2. Clarifying Animal Feed Manufacturing Licensing Regulations (Chapter 451 of the Laws of 2008/ A. 8584-B, Markey)

This law clarifies the provisions regulating animal feed manufacturing facilities by defining commercial feed licensee; expanding the Commissioner of Agriculture and Markets' authority to refuse to grant licenses to noncompliant company shareholders; prohibiting the Commissioner of Agriculture and Markets from delegating licensing responsibilities to municipalities; requiring commercial feed distributors to be registered in New York State; and, exempting licensed commercial feed manufacturers from state registration requirements.

### 3. Protecting Investments in Agricultural Equipment (Chapter 506 of the Laws of 2008/ A. 8657, Magee)

This law strengthens the contractual terms of agricultural equipment dealer agreements by clarifying supplier violations; defining agricultural equipment dealers and agricultural equipment; allowing agricultural equipment suppliers to recover certain expenses; and, defining under what conditions suppliers can terminate dealer agreements.

### 4. Supporting Agritourism Cuisine Trail Programs (Chapter 448 of the Laws of 2008/ A. 10160, Magee)

This law promotes agritourism by increasing the number and length of cuisine trails that can be created in New York State and by authorizing the Commissioner of Transportation to authorize the installation of signs to identify and market cuisine trails.

### 5. Subsidizing Agricultural Research (Chapter 611 of the Laws of 2008/ A. 10574-A, Magee)

This law authorizes land owned by not-for-profit institutions to be considered in an agricultural assessment if the land is used to conduct agricultural research which improves the quality and quantity of crops, livestock, and livestock products.

### 6. Promoting Urban "Greenmarkets" (A.1334-A, McEneny)

This bill would require planning and development of regionally-based urban greenmarkets that would provide New York producers with increased market opportunities while assisting with revitalizing cities and urban areas by bringing farm products and crafts into such areas and allowing for direct sales to consumers.

This bill passed the Assembly, but died in the Senate Rules Committee.

### 7. Increasing Collaboration with the Department of Agriculture and Markets (A. 11452, Rules-Magee)

This bill would authorize the Commissioner of Agriculture and Markets to establish with governmental and educational entities cooperative agreements for departmental services that are in the public interest, such as laboratory services and services related to food safety and inspection, animal health, invasive species control, and the collection of samples for research studies.

#### **B.** Farmland Protection

New York State has approximately 36,000 farms and 7.6 million acres of farmland which produces corn, dairy products, fruits, and vegetables. Due to the increasing conversion rate of farmland to residential areas, the New York State government has worked to maintain and preserve farmland. The Assembly Agriculture Committee creates programs that would ensure that essential farm operations are recognized within the state's regulatory framework in order to ease financial burdens on farmers.

### 1. Expanding the Definition of Farm Operations (Chapter 536 of the Laws of 2008/ A. 9968-A, Delmonte)

This law protects farm operations that process, mix, handle, and produce compost, mulch, and other biomass crops.

#### 2. Protecting Farm Woodlands (Chapter 511 of the Laws of 2008/ A. 10021, Magee)

This law expands the definition of "sound agricultural practices" under the Agricultural Districts Law to include and protect the production, management, and harvesting of agricultural woodlands.

#### 3. Providing Financial Assistance to Honey Producers (Chapter 341 of the Laws of 2008/ A. 10687, Stirpe)

This law classifies land used in apiary products operations as land used in agricultural production and makes certain apiary production land eligible for an agricultural assessment.

#### C. Dairy Issues

Dairy products represent the majority of the agricultural industry and, therefore, are vitally important to the New York State economy. New York remains a top producer of dairy products in the Northeast and ranks third nationally for milk and cheese production. Despite the strength of the New York State dairy market, farmers have seen lower returns due to higher fuel and feed costs. The Agriculture Chairman supports agricultural initiatives which result in product diversification, entrance into new product markets, and establishing efficient payment schedules for farmers.

#### 1. Ensuring Quality Foreign Frozen Desserts (Chapter 509 of the Laws of 2008/ A. 9559-A, Magee)

This law authorizes the Department of Agriculture and Markets to include in the inspection costs for any out of state frozen dessert manufacturing plant the New York State inspector's travel and time costs and allows the out of state frozen dessert manufacturing plants to pay for plant inspections using U.S. (certified and bank) checks and domestic and international money orders.

### 2. Regulating the Manufacture and Sale of Alcoholic Ice Cream (Chapter 189 of the Laws of 2008/ A. 10132, Magee)

This law regulates the manufacture and sale of alcoholic ice cream by classifying this ice cream as unadulterated food; exempting this ice cream from alcoholic beverage regulations; restricting the sale of alcoholic ice cream to consumers over 21 years old; and, establishing penalties and packaging design, signage display, and written notice requirements for manufacturers, retailers, and distributors.

#### 3. Examining Hauling Costs for Dairy Farmers (A. 9460, Aubertine)

This bill would make technical corrections to the Agriculture and Markets Law requiring the Department of Agriculture and Markets to study the impact of hauling costs on dairy farmers; to change the submission date for the finished study to February 1, 2008; and, to remove the requirement for the Department to present such study at the 2007 federal farm bill hearings.

This bill passed the Assembly but died the Senate Rules Committee.

### 4. Effective Communication with Dairy Producers (A. 1296, Aubertine)

This bill would require the Commissioner of Agriculture and Markets to provide 30 days notice to certain dairy cooperative milk producers of any proposed change to milk marketing agreements and orders.

#### D. Food Safety

The Assembly Agriculture Committee is concerned with the staffing levels at the Agriculture Department's Division of Food Safety and Inspection and has passed legislation to enhance the effectiveness of New York's food safety programs. The Division of Food Safety and Inspection is seriously understaffed and cannot adequately protect consumers from threats to public health such as food-borne diseases, sickness form adulteration, improper food storage, and other unsanitary conditions.

### 1. Prohibiting Licensing of Animal and Fowl Slaughterhouses (Chapter 395 of the Laws of 2008/ A. 246-B, Clark)

This law prohibits the Commissioner of Agriculture and Markets from issuing licenses for the next four years to new animal and/or fowl slaughterhouses within a 1500 foot radius of residential property in cities with a population greater than or equal to one million.

### 2. Increase Safety and Quality of Food Product Transportation Methods (Chapter 93 of the Laws of 2008/ A. 1172, Gunther)

This law repeals the common carriers exemption in the Agriculture and Markets Law to allow inspectors representing the Department of Agriculture and Markets to examine the conditions of common carriers transporting food products.

#### 3. Prohibiting Non-Ambulatory Animals (Chapter 164 of the Laws of 2008/ A. 3689-B, Markey)

This law creates a task force that would determine the best policy to prevent non-ambulatory animal meat from entering the New York State food supply.

### 4. Requiring Slaughterhouses to Post the Results of Their Latest Inspection (Chapter 166 of the Laws of 2008/ A. 5375, Markey)

This law requires slaughterhouses to publicly post the results of their last inspection in order to increase compliance with regulations and to disclose the results to the public.

### 5. Supporting Testing Requirements in the Food Safety Education Certification Process (Chapter 195 of the Laws of 2008/ A. 10686, Pheffer)

This law will promote testing requirements in food safety education programs by extending the certification period from two to five years from the issue date if the food safety education program contains a testing component.

### 6. Departmental Insight for Food Safety Protection and Inspection Programs (A. 3559, Cook)

This bill would create a food safety protection and inspection advisory board within the Department of Agriculture and Markets.

#### E. Animal Safety and Control

New York State residents care deeply for the health and safety of their pets. Information gathered during statewide hearings in prior years continued to inform the Assembly Agriculture Committee's pet agenda. The Chairman prioritized legislation to strengthen animal welfare, to assist inspectors in implementing existing law, and to encourage responsible pet ownership.

#### 1. Increasing the Licensed Pet Population (Chapter 598 of the Laws of 2008/ A. 6601-B, Magee)

This law requires pet dealers to inform new pet owners that their pet must be licensed by updating the purchaser information statement, namely, the document that is given to the pet owner at the time of sale which discloses the pet's medical history.

#### 2. Promoting the Humane Killing of Animals (Chapter 25 of the Laws of 2008/ A. 9419, Glick)

This law provides technical corrections to the provision of the Agriculture and Markets Law that prohibits killing "fur-bearing animals" by electrocution.

#### 3. Creating State and Locally Regulated Animal Response Teams (Chapter 182 of the Laws of 2008/ A. 9715-A, T. Gordon)

This law authorizes the Commissioner of Agriculture and Markets to create, appoint, and regulate state and county animal response teams.

#### 4. Expunging Animal Fighting Exhibitions (Chapter 308 of the Laws of 2008/ A. 10092-A, Kavanagh)

This law increases the successful prosecution of animal fighting spectators by removing the evidentiary requirement of paid admission or wagering.

### 5. Rescuing Companion Animals from Motor Vehicles in Extreme Weather Conditions (Chapter 586 of the Laws of 2008/ A. 10343-C, Kavanagh)

This law prohibits pet owners from leaving companion animals in their automobiles during extreme weather temperatures without first ensuring that the automobile is properly ventilated; if the automobile is not properly ventilated, then police, peace, and humane society officers are authorized to free and seize the animal.

#### 6. Improving Animal Living Conditions at Pet Dealerships (A. 536-A, Paulin)

This bill would expand the definition of pet dealership to include any person who engages in the sale or offering for sale of more than nine animals per year for profit to the public or to any broker, wholesaler, medical facility, and licensed pet dealer and would require pet dealerships to be licensed and inspected on a yearly basis.

#### 7. Increasing the Population of Vaccinated Animals (A. 1335-A, McEneny)

The purpose of this bill is to allow livestock owners to administer rabies vaccine to their own livestock.

This bill passed the Assembly but died in the Senate Rules Committee.

#### 8. Creating a Funding Stream for Animal Boarding Facilities (A. 1741, Englebright)

This bill would allow the New York State District Attorney to seek reimbursement in animal cruelty cases for facilities that care for abused animals.

This bill passed the Assembly but died in the Senate Rules Committee.

### 9. Amending Animal Euthanasia Laws (A. 5399-C, Paulin)

This bill would authorize euthanizing diseased, disabled, and physically deformed animals in shelters and humane societies and would ensure approved euthanasia methods are humane by establishing civil penalties.

This bill passed the Assembly but died in the Senate Agriculture Committee.

#### 10. Increasing the Animal Population Control Fund (A. 7097-A, Magee)

This bill would authorize the Commissioner of the Department of Agriculture and Markets to accept donations for the Animal Population Control Fund from corporations and individual taxpayers.

This bill passed the Assembly but died in the Senate Agriculture Committee.

#### 11. Funding Animal Rehabilitation Programs (A. 9975-B, Bradley)

The bill would fund rehabilitation programs for domesticated animals by authorizing the court to order animal abusers to pay for all reasonable expenses that any shelter, humane society, and animal cruelty prevention society incurred while caring for the abused animal.

This bill passed the Assembly but died in the Senate Agriculture Committee.

### 12. Encouraging Reporting of Animal Fighting Activities (A. 10445-B, Paulin)

This bill would require the Commissioner of the Division of Criminal Justice Services to establish and maintain a toll-free statewide number to use in reporting, investigating, and preventing animal fighting activities.

### 13. Simplifying Animal Licensing Fees (A. 11106, Magee)

This bill would simplify the procedures for collecting dog licensing fees and unclaimed deposits for spaying and neutering dogs by requiring county pound and shelter managers to pay the Commissioner of Agriculture and Markets who will in turn pay the county.

#### F. Additional Legislation

#### 1. Increasing Roadway Safety (Chapter 350 of the Laws of 2008/ A. 5023-C. Magee)

This law improves roadway safety by ensuring that farm machinery and equipment are marked to be more visible to other motorists.

### 2. Expanding the Agricultural Environmental Management Program (AEM) (Chapter 375 of the Laws of 2008/ A. 10685, Alessi)

This law expands the Agricultural Environmental Management's responsibilities to address environmental impacts of greenhouse gas emissions as well as soil, air, and water pollution and to assist farmers in developing agriculturally-derived renewable energy sources.

### 3. Assisting Not-for-Profit Conservation Organizations (Chapter 268 of the Laws of 2008/ A. 11511-B, Rules-Magee)

This law creates a competitive grant funding program whereby the Commissioner of Agriculture and Markets awards financial assistance to not-for-profit conservation organizations that assist with the farmland protection program.

#### 4. Creating Conscientious Food Consumers (A. 1999-A, Aubertine)

This bill would require food product producers to disclose the country where such food was grown in order to allow New York State consumers to purchase foods from their preferred countries.

This bill passed the Assembly but died in the Senate Consumer Protection Committee.

### 5. Facilitating Communication between the Department and Municipalities (A. 2570-A, Magee)

This bill would require the Commissioner of Agriculture and Markets to consult with local government officials concerning changes to local land use regulations, ordinances and local laws.

This bill passed the Assembly and died in Senate Agriculture Committee.

#### 6. Improving Disclosure of Real Properties Located Near Agricultural Districts (A. 10169-A, Koon)

The bill would provide purchasers of real property located within a 500 feet boundary of an agricultural district, at the time of sale, exchange, or transfer, with information on the right to farm.

#### III. 2009 OUTLOOK

In the 2008 legislative session, the Agriculture Committee made great strides to protect and enhance the New York State agricultural industries. The Agriculture Committee will focus its efforts to continue to expand marketing opportunities for New York farmers and to ensure the viability of New York agriculture in the 21st century. Legislative issues in 2009 will include promoting statewide distribution and marketing for New York growers and processors; keeping viable agricultural lands in production agriculture; strengthening dog licensing and pet dealer laws; regulating pet boarding and grooming facilities; considering proposals to improve promotions for New York-grown products; assisting not-for-profit organizations in preserving farmland; and increasing food safety.

The Committee will examine these and other issues and will discuss possible legislative solutions with the public and with representatives of the agricultural community.

#### **APPENDIX A**

#### SUMMARY OF ACTIONS ON ALL BILLS REFERRED TO THE COMMITTEE ON AGRICULTURE DURING THE 2008 LEGISLATIVE SESSIONS

Final action	Assembly	Senate	Total
Dilla Dan and al Widla an Widland Amandan and	bills	bills	bills
Bills Reported With or Without Amendment			
To Floor; Not Returning to Committee	6	0	6
To Floor; Recommitted and Died	0	0	0
To Ways and Means Committee	16	0	16
To Codes Committee	16	0	16
To Rules Committee	4	0	4
To Judiciary	0	0	0
Total	42	0	42
<b>Bills Having Committee Reference Changed</b>			
To <u>Transportation</u> Committee	2		2
To Committee			
To Committee			
To Committee			
Total	2		2
Senate Bills Substituted or Recalled			_
Substituted		1	1
Recalled		3	3
Total		4	4
Bills Defeated in Committee	0	0	0
Bills Never Reported, Held in Committee	17	0	17
Bills Never Reported. Died in Committee	106	19	125
Bills Having Enacting Clauses Stricken	1	0	1
Motions to Discharge Lost	0	0	0
TOTAL BILLS IN COMMITTEE	168	23	191

Total Number of Committee Meetings Held: 7

# APPENDIX B NEW YORK STATE ASSEMBLY AGRICULTURE COMMITTEE CHAPTERS

Assembly Bill #	Sponsor	Description
A.246-B	Clark	Prohibits the Commissioner of Agriculture and Markets from licensing new animal and fowl slaughterhouses in certain residential cities. <b>Chapter 395 of the Laws of 2008</b>
A.1172	Gunther	Ensures the maximum safety and quality of food products when being transported across the State. <b>Chapter 93 of the Laws of 2008</b>
А.3689-В	Markey	Creates a task force that would prevent non-ambulatory animal meat from entering the state food supply. <b>Chapter 164 of the Laws of 2008</b>
A.5023-C	Magee	Improves safety on roadways by ensuring farm machinery and equipment are more visible to other motorists. <b>Chapter 350 of the Laws of 2008</b>
A.5375	Markey	Provides consumers with up-to-date information regarding the most recent sanitary inspections of these facilities. Chapter 166 of the Laws of 2008
A.5973	Magee	Improves state-wide marketing services for New York State agricultural products. Chapter 571 of the Laws of 2008
A.6601-B	Magee	Requires pet dealers to notify New York State dog owners to license their dogs and where to license their dogs. <b>Chapter 598 of the Laws of 2008</b>
A.8584-B	Markey	Provides a technical correction to the law governing licensure of feed manufacturers to remove ambiguities regarding the licensing requirements of feed manufacturers. <b>Chapter 451 of the Laws of 2008</b>
A.8657	Magee	Updates the statutes relative to dealer agreements for the sale of farm equipment by providing stability to dealer agreements, thus protecting the investments being made in these businesses by the dealers and their customers. <b>Chapter 506 of the Laws of 2008</b>
A.9419	Glick	Provides technical corrections to the law prohibiting the electrocution of fur-bearing animals, <b>Chapter 25 of the Laws of 2008</b>
A.9559-A	Magee	Reduces department costs in inspecting dessert plants outside of New York State. Chapter 509 of the Laws of 2008
A.9715-A	Gordon, T.	Creates state and locally regulated animal response teams in New York State. Chapter 182 of the Laws of 2008
A.9968-A	DelMonte	Includes compost, mulch or other biomass crops in the definition of a farm operation. Chapter 536 of the Laws of 2008
A.10021-A	Magee	Includes the management of farm woodlands in the definition of sound agricultural practices. Chapter 511 of the Laws of 2008
A.10092-A	Kavanagh	Removes the requirement that a knowing spectator must pay admission or place a wager at an animal fighting exhibition in order to be subject to criminal penalty. <b>Chapter 308 of the Laws of 2008</b>
A.10132	Magee	Regulates the manufacture and sale of alcoholic ice cream. Chapter 189 of the Laws of 2008
A.10160	Magee	Bolsters agritourism by expanding and improving the farm, apple, and cuisine trail programs. <b>Chapter 448 of the Laws of 2008</b>

Assembly Bill #	Sponsor	Description
A.10343-C	Kavanagh	Allows state and local representatives to rescue confined companion animals from motor vehicles in extreme weather conditions. <b>Chapter 586 of the Laws of 2008</b>
A.10574-A	Magee	Qualifies land used for certain agricultural research for an agricultural assessment. Chapter 611 of the Laws of 2008
A.10685	Alessi	Clarifies the role of state agricultural environmental programs. Chapter 375 of the Laws of 2008
A10686	Pheffer	Improves food safety in New York by updating the food safety education programs requirement for retail food stores. <b>Chapter 195 of the Laws of 2008</b>
A.10687-A	Stirpe	Enables honey producers to qualify for agricultural assessments.  Chapter 341 of the Laws of 2008
A.11511-B	Rules-Magee	Ensures accuracy of the weights and measures of petroleum fuels and equipment. Chapter 268 of the Laws of 2008

#### APPENDIX C

#### NEW YORK STATE ASSEMBLY AGRICULTURE COMMITTEE BILLS PASSED BY THE ASSEMBLY

Assembly Bill #	Sponsor	Description
A.536-A	Paulin	Would ensure dogs' health and well-being while in the care of certain pet dealers
A.1296-A	Aubertine	Would provide notice to milk producers who are members of certain dairy cooperatives in the event of proposed changes to milk marketing agreements and/or orders
A.1334-A	McEneny	Would make provisions regarding planning and development of regionally based urban greenmarket.
A.1335-A	McEneny	Would allow livestock owners to administer rabies vaccine to their own livestock.
A.1741	Englebright	Would provide for the cost of animal care during criminal proceedings involving animal cruelty and to expedite legal proceedings.
A.1999-A	Aubertine	Would inform consumers regarding the country of origin of certain foods, thereby allowing them the opportunity to purchase items raised and produced in the United States if they so choose.
A.2570-A	Cahill	Would require the Commissioner of Agriculture and Markets to consult with local government officials concerning changes to local land use regulations, ordinances and local laws. The purpose is to facilitate comments by the department that relate to impacts on farms.
A.2624	Parment	Would phase out the use of herbicides as the principle method of clearing utility right of ways and develop less toxic cultural or manual methods of vegetation removal.
A.3559	Cook	Would create an advisory board to improve food safety protection and inspection programs within the Department of Agriculture and Markets.
A.5399-C	Paulin	Would amend laws that govern euthanizing animals in shelters and humane societies to ensure that the approved methods are humane.
A.5973	Magee	Would improve marketing New York State agricultural products throughout the state.
A.7097-A	Magee	Would authorize tax check-off for gifts and contributions to the Animal Population Control Fund, which provides low-cost spaying and neutering services to cat and dog owners.
A.9460	Aubertine	Would provide technical corrections to the law requiring the department of agriculture and markets to conduct a study on the impact of hauling costs on dairy farmers.
A.9715-A	Gordon, T.	Would create state and locally regulated animal response teams in New York State.
A.9968-A	DelMonte	Would expand the definition of a farm operation to include compost, mulch or other biomass crops.
A.9975-B	Bradley	Would fund rehabilitation programs for domesticated animals.
A.10021-A	Magee	Would include the management of farm woodlands in the definition of sound agricultural practices.

Assembly Bill #	Sponsor	Description
A.10092-A	Kavanagh	Would remove the requirement that a knowing spectator must pay admission or place a wager at an animal fighting exhibition in order to be subject to criminal penalty.
A.10132	Magee	Would regulate the manufacture and sale of alcoholic ice cream.
A.10160	Magee	Would bolster agritourism by expanding and improving the farm, apple, and cuisine trail programs.
A.10169-A	Koon	Would require sellers of real property to disclose to purchasers at the time of sale, exchange, or transfer if the property is located near and agricultural district.
A.10343-C	Kavanagh	Would allow state and local representatives to rescue confined companion animals from motor vehicles in extreme weather conditions.
A.10445-B	Paulin	Would create a toll-free number for concerned citizens to report animal fighting activities.
A.11106	Magee	Simplifies procedures for collecting dog licensing fees and unclaimed deposits related to the spaying and neutering of dogs.
A.11452	Rules-Magee	Would allow the Department of Agriculture and Markets contract out additional services.