

2011
Summary
of
Enacted, Vetoed
and Pending
Legislation
(as of January 30, 2012)



New York State Conference of Mayors and Municipal Officials

Mayor Diana Smith, Village of Seneca Falls, NYCOM President
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Finance

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ENACTED

Property Tax Cap

Caps year-to-year growth in municipal property tax levies at the lesser of 2% or the annual increase in the consumer price index. The cap applies to “taxes imposed on real property by or on behalf of a county, city, town, village, school district, fire district or special district.” It also applies to special ad valorem levies and special assessments. Each local government is responsible for annually calculating its tax levy limit and submitting the relevant information to the State Comptroller prior to adoption of the municipality’s budget. Up to 1.5% of any unused cap in one year would be able to be carried over into the following year. Exclusions from the tax cap include:

- Large legal settlements exceeding 5% of the prior year levy arising out of tort claims;
- Levy increases resulting from local government consolidation, dissolution or the transfer of functions;
- Tax levy necessary for pension growth in excess of two percentage points above the prior year’s average actuarial contribution rates for ERS and PFRS; and
- Development that increases a municipality’s full value of taxable real property. (A growth factor will be calculated by the Department of Taxation and Finance.)

A local governing body may adopt a local law to override the tax cap. The override is effective for one fiscal year and must be approved by 60% of the total voting power of such governing body.

(Chapter 97, effective for municipal fiscal years beginning in 2012 and will remain in effect until June 15, 2016, unless New York State’s rent stabilization law is extended.)

State Aid to Local Governments

The 2011-12 State Budget eliminates AIM funding for New York City and reduces AIM payments to other local governments by 2% of their 2010-11 levels. It is expected these actions will carry over into the 2012-13 state fiscal year. This does not necessarily mean that cities (outside of NYC) and villages will be subjected to an additional 2% cut in 2012-13, but that the 2% reduction in 2011-12 will reoccur in 2012-13.

(Chapters 50 and 56, effective April 11, 2011)

Transportation Aid

The 2011-12 State Budget funds CHIPS and Marchiselli aid at 2010-11 levels of \$363 million and \$39.7 million, respectively.

(Chapter 55, effective March 31, 2011)

Aid for Consolidation and Efficiency Improvements

The 2011-12 State Budget provides a total of \$79 million to encourage and reward local governments that consolidate or achieve efficiencies and performance improvements. Of this amount, \$35 million would be for Citizen Empowerment Tax Credits and Citizens Reorganization Empowerment Grants.

- Citizen Empowerment Tax Credits – Funding would be available to incentivize local government consolidation or dissolution, providing a bonus equal to 15% of the newly combined local government’s tax levy. At least 70% of such amount must be used for direct relief to property taxpayers.
- Citizens Reorganization Empowerment Grants – Funding is available for grants up to \$100,000 for local governments to cover costs associated with studies, plans and implementation efforts related to local government reorganization activities.

The remaining \$44 million is allocated as follows:

- Local Government Performance and Efficiency Program – Funding totaling \$40 million is available for competitive one-time awards of up to \$25 per capita, capped at \$5 million, that recognize local governments that have achieved efficiencies and performance improvements.
- Local Government Efficiency Grants – Funding of \$4 million would continue to cover costs associated with local government efficiency projects, such as planning for and/or implementation of a functional consolidation, shared or cooperative services, and regionalized delivery of services. The maximum grant award for a project is \$200,000 per municipality or \$1 million total.

(Chapters 50 and 56, effective April 11, 2011)

Aid for Municipalities with Video Lottery Terminals (VLTs)

Under current law, 16 municipalities receive state aid to help offset a portion of the costs associated with being a “host community” for video lottery gaming operations. The 2011-12 State Budget reduced the amount of aid provided to each community (including the City of Batavia and the Villages of Monticello and Vernon) so that each will receive 45% of the amount received in 2008-09, except for the City of Yonkers which will continue to receive \$19.6 million under this program.

(Chapters 50 and 56, effective April 11, 2011)

Regional Economic Development Councils

The 2011-12 State Budget establishes 10 Regional Economic Development Councils comprised of local business, community, academic, municipal, state government, labor and other key regional stakeholders. These councils, chaired by Lt. Governor Robert Duffy, are responsible for developing a long-term economic strategy for their respective regions, as well as assisting in the coordination and distribution of state economic development resources, and reviewing previous economic development commitments to ensure the appropriate projects are receiving aid. Funding for the regional councils will come from \$200 million in existing resources that will be awarded competitively – \$130 million in capital funds and \$70 million in tax credits.

(Chapter 50, effective March 11, 2011)

Excelsior Jobs Program

The 2011-12 State Budget modifies the Excelsior Jobs Program, enacted as part of the 2010-11 Budget, which established a package of tax incentives for businesses in targeted industries which create and maintain a set number of new jobs in New York. Among other changes, the Budget extends the tax benefit period from 5 years to 10 years, changes the calculations and caps for the Jobs Tax Credit and Research and Development Tax Credit, enhances the Real Property Tax Credit and authorizes utilities to offer discounted gas or electric rates to program participants.

(Chapter 61, effective March 31, 2011)

Mandate Relief Council

Authorizes creation of an 11-member Mandate Relief Council (seven gubernatorial appointees and four legislative appointees) with the power to review and recommend amendment/repeal of regulatory and statutory mandates presented by local governments and school districts. The Council will remain in existence until January 15, 2015, or until Governor Cuomo leaves office, whichever comes first.

(Chapter 97, effective January 15, 2012)

Petition Process for Alternatives to Regulatory Mandates

Clarifies the process for local governments to seek approval from state agencies for an alternative method of implementing a regulatory mandate. These provisions expire on January 1, 2015 or when Governor Cuomo leaves office, whichever comes first.

(Chapter 97, effective September 22, 2011)

Increase CHIPS Cap

Increases the cap, from \$100,000 to \$250,000, on local street or highway projects funded by CHIPS aid that may be completed by the municipality's own forces as opposed to by contract.

(Chapter 97, effective June 24, 2011)

Continuation of First Time Homebuyers Property Tax Exemption

Permits municipalities to continue to offer the first time homebuyers tax exemption through 2016. The program had previously only applied to those purchasing homes prior to December 30, 2010.

(Chapter 77, effective June 8, 2011)

Tax Exemption for Multiple Dwellings

Permits a city town or village, at local option, to designate benefit areas in which newly constructed or substantially rehabilitated multiple dwellings will be exempt from increased taxation and special ad valorem levies resulting from such new construction or rehabilitation. Eligibility for such exemption is limited to construction and rehabilitation that takes place on vacant, predominantly vacant or under-utilized land, meets specific affordable housing requirements, and is carried out with the assistance of federal, state or local agency grants, loans or subsidies for constructing or rehabilitating affordable housing.

(Chapter 97, effective June 24, 2011)

Property Tax Exemption for Municipal Electric Facilities

Permits local governments to exempt from taxation those properties owned by a municipality and used for municipal electric generation and distribution, regardless of whether the property is located within the municipality to whom the property belongs. This requires the approval of the governing body of the local government in which the property is located.

(Chapter 275, effective September 2, 2011)

Livingston County Residential-Commercial Exemption Program

Allows any municipality within Livingston County to opt in, through adoption of a local law, to a real property tax abatement program. This abatement program would be offered in a designated benefit area, as identified by the municipality, for properties that are converted, created, modernized, rehabilitated, expanded or otherwise improved.

(Chapter 545, effective September 23, 2011)

Retirement System Investments

Increases the percentage of assets which may be invested in real estate by public employee retirement systems, from 5% to 10%.

(Chapter 554, effective September 23, 2011)

Installment Loans Bond and Note Extender

Extends, until September 30, 2014, the provisions of Local Finance Law § 169.00 authorizing municipalities to issue grid bonds or notes evidencing installment loans to the New York State Environmental Facilities Corporation (EFC) in order to obtain financial assistance from the Clean Water State Revolving Fund or (CWSRF) and the Drinking Water State Revolving Fund (DWSRF).

(Chapter 41, effective June 1, 2011)

Statutory Installment Bonds Extender

Extends, until September 30, 2014, the provisions of Local Finance Law § 62.10 in relation to statutory installment bonds issued to the New York State Environmental Facilities Corporation (EFC).

(Chapter 69, effective June 28, 2011)

Adjustment of Current Base Proportions in Certain Counties

Caps the maximum class growth rate in Nassau County at 1% for purposes of the 2011 tax roll.
(Chapter 164, effective July 20, 2011)

Limitation on Tax Growth Rate in Certain Counties

Caps the maximum class growth rate for approved assessing units in Nassau County at 1% for purposes of the 2011 tax roll, reducing the amount by which any class of property is allowed to grow.
(Chapter 36, effective June 1, 2011)

Bulletin Board for Veteran Events

Authorizes cities and villages to adopt a local law providing for a bulletin board for the purpose of displaying veteran-related events.
(Chapter 16, effective July 26, 2011)

VETOED

Office of Taxpayer Advocate

Would have enacted the "Taxpayer Advocate Act" and created the Office of Taxpayer Advocate to assist New York State taxpayers in their dealings with the New York State Department of Taxation and Finance.
(Veto No. 70, September 23, 2011)

Government Operations and Community Development

Staff Contacts: Wade Beltramo and John Mancini

ENACTED

Land Banks

Provides for the creation of up to ten municipal land banks for the purpose of redeveloping vacant, abandoned, tax-delinquent and foreclosed properties. This law addresses many of the legal impediments to turning properties that blight communities into productive properties that contribute positively to the local economic and community health, reviving healthy private real estate markets. The Empire State Development Corporation must still develop rules for determining how the ten land banks are created.

(Chapter 257, effective July 29, 2011)

Procurement Reform

Permits municipalities to piggyback onto federal contracts for information technology and telecommunications hardware, software and professional services (GSA Schedule 70), as well as law enforcement equipment contracts. Also permits localities in New York to piggyback off of county contracts for public works that have been bid in accordance with the competitive bidding laws. These provisions expire on June 24, 2014.

(Chapter 97 of the Laws of 2011, effective June 24, 2011)

Centralized Contracts for Fuel and Electricity

Permits the NYS Office of General Services to provide centralized contracts for the purchase of fuel and electricity by municipalities and school districts. This provision expires on June 24, 2014.

(Chapter 97 of the Laws of 2011, effective June 24, 2011)

Complete Streets Program

Establishes a Complete Streets Program in New York for the purpose of improving all users safe access to public roads. This law requires transportation projects that receive both federal and state funding and are subject to Department of Transportation oversight to consider the convenient access and mobility on the road network by users of all ages, including motorists, pedestrians, bicyclists, and public transportation users through the use of complete street design features, unless the cost of doing so is disproportionate to the need or there is a demonstrated lack of need for such features.

(Chapter 398, effective February 11, 2012)

Public Integrity Reform Act of 2011

The Act includes greater financial disclosure for State officials, additional disclosures for registered lobbyists, forfeiture of pensions for public officials convicted of a felony related to their public office, the creation of a Joint Commission on Public Ethics and increased penalties for violations. This statute does not apply to local government officials.

(Chapter 399, effective August 15, 2011)

Marriage Equality Act

Grants same-sex couples the authority to marry under the law. In addition, the law was amended to include protections for religious organizations that refuse to perform same-sex wedding ceremonies.

(Chapters 95 and 96 of Laws of 2011, effective July 24, 2011)

Attorney Certification of Local Laws

Removes the requirement that the municipal attorney certify (1) that a local law filed with the Department of State contains the correct text and (2) that the local law was properly adopted.

(Chapter 97, effective June 24, 2011)

Local Boards of Health and Civil Penalties

Authorizes a local board of health to impose penalties for the violation of or failure to comply with any of its orders or regulations, or any of the regulations of the State Sanitary Code, not to exceed \$2,000 for a single violation or failure.

(Chapter 193, effective August 19, 2011)

Election Reform - Lever Voting Machines

Permits villages to use lever voting machines in village elections. This law expires on December 31, 2012, at which point villages will have the option of using either paper ballots or the ballot scanners in village elections.

(Chapter 3, effective February 25, 2011)

Preservation of Unused Ballots

Previously, New York State law required that all unused and wholly blank ballots -- including special federal, local, special presidential, absentee, military and emergency ballots -- be preserved for two years after the election. This law amends that provision to require sealed packages of unused ballots be retained for only four months, after which time they may be destroyed, provided that a certificate articulating the election district identifying data and numbers of such ballots is filed with the remaining ballots described in Election Law § 3-222 for the balance of the two-year retention period.

(Chapter 282, effective August 3, 2011)

Voting Machine Security

Updates and clarifies the Election Law by requiring the memory cards or other similar electronic media (as opposed to the entire voting machine) used by the new HAVA compliant voting systems to be securely kept until such time as the information on the media has been preserved in a statutorily prescribed manner.

(Chapter 169, effective July 20, 2011)

Disposal of Municipal Computers

Enables political subdivisions to donate surplus computer equipment to not-for-profit institutions for use by senior citizens and low-income individuals. Prior to this, such donations could only be used by individuals with disabilities.

(Chapter 390, effective August 15, 2011)

“Cure Period” for Rules and Regulations

Requires state agencies, when adopting rules or regulations that involve the assessment of penalties on small businesses or local governments, to consider including a "cure period" that will allow time for correction or amelioration of violations prior to the imposition of penalties.

(Chapter 524, effective October 1, 2011)

Conditional Approval of Final Plats

Removes the statutory provision that limits the number of 90-day extensions that may be granted on conditional approvals of final plats. This legislation would allow planning boards, at their discretion and upon a determination that an extension is warranted, to extend the duration of the conditional approval of the final plat at 90-day intervals. Previously, the law only allowed a maximum of two 90-day extensions of a 180-day conditional approval of a final plat.

(Chapter 561, effective September 23, 2011)

Open Meetings Law and Public Records

Require that, when requested, certain records which are scheduled to be discussed at an open meeting be made available, to the extent practicable, prior to or at the meeting. Copies of the records may be made available for a reasonable fee, in accordance with existing provisions of FOIL. Such records shall also be posted on the municipal website in certain instances.

(Chapter 603, effective February 2, 2012)

VETOED

Modifications to Fireworks Statute

Would have amended provisions of the Penal Law pertaining to the unlawful possession and sale of fireworks by clearly defining fireworks, dangerous fireworks and novelty devices. While the intent of this bill was to provide law enforcement with an important tool to reduce the use of illegal fireworks and homemade devices, by altering the definition of “firework” and “dangerous fireworks” it would have made certain devices, that still may be harmful, legal to sell and use in New York State.

(Veto No. 59, September 23, 2011)

Piggybacking on County Public Works Contracts

Would have authorized municipalities to utilize contracts for public works services which have already been let out to bid by the county in which the political subdivision or district is located, or through any county within the State. Similar provisions were included in the mandate relief section of the property tax cap bill (Chapter 97 of the Laws of 2011).

(Veto No. 89, January 27, 2012)

PENDING ACTION BY THE GOVERNOR

Best Value Standard for Purchase Contracts

Would require that purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract) must be awarded on the basis of best value, which is defined in State Finance Law § 163 as “awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers.” Pursuant to State Finance Law § 163, best value awards must be based upon objective and quantifiable analysis wherever possible. The best value standard does not apply to public works contracts, which must still be awarded to the lowest responsible bidder.

(A. 7357-A, awaiting delivery to the Governor)

Employee Relations and Public Safety

Staff Contact: John Mancini

ENACTED

Repeal of Police Chief Compensation Mandate

Eliminates the requirement that municipalities provide a police chief with the same dollar increase in compensation received by his/her highest ranking subordinate (and which had been interpreted to mean that a municipality must pay a new police chief the same compensation as his/her predecessor).

(Chapter 97, effective June 24, 2011)

Reimbursement for Police Officer Training

Allows all municipalities, regardless of population, to recover municipal expenses associated with police officer training when an officer transfers to another municipal police department within three years of completing training. Previously, only municipalities with a population of 10,000 or less were entitled to such reimbursement.

(Chapter 97, effective June 24, 2011)

Personal Vehicles Used for Volunteer Firefighting

Prohibits insurance companies from refusing to issue or renew an automobile insurance policy for the sole reason that the motor vehicle is used for volunteer firefighting.

(Chapter 408, effective September 17, 2011)

Public Employees on Military Duty

Prohibits abolition of positions based solely upon the fact that the positions are filled by individuals engaged in military duty and mandates compliance with the Federal Uniformed Services Employment Act of 1994.

(Chapter 152, effective July 20, 2011)

Injunctive Relief Extender

Extends, to June 30, 2013, the applicability of injunctive relief in public employment improper practice cases.

(Chapter 112, effective July 12, 2011)

Joint Municipal Ambulance Services

Allows a municipality to operate ambulance services within its own physical boundaries, as well as within the physical boundaries of other municipalities with which it has contracted to perform such services.

(Chapter 471, effective August 17, 2011)

Enhanced Police Training for Sex Offenses

Enhances the training, response and investigation procedures for police officers, investigators and city court judges and village justices in relation to sex offenses.

(Chapter 506, effective December 22, 2011)

VETOED

Health Coverage to Spouses and Dependents

Would have provided, at the expense of the employer, continuous health insurance coverage to the spouse and/or dependents of public employees who are injured or taken ill while on the job. Typically, when an employee is not in full-pay status for whatever reason, the individual and his/her spouse and dependents are no longer entitled to fringe benefits from the employer, including health insurance. However, the individual must be offered the opportunity to continue health insurance, provided the employer is paid for the cost of coverage.

(Veto No. 60, September 23, 2011)

Environment and Energy

Staff Contact: John Mancini

ENACTED

Power NY Act of 2011

Streamlines the permitting process for power plants, requires a multi-agency siting board to determine whether a proposed facility will create a disproportionate environmental impact in a community and, if so, requires the applicant to minimize or avoid those impacts. Also provides for "intervenor funding" for the community affected by the proposed plant for the purpose of hiring experts and lawyers.

(Chapter 388, effective August 4, 2011)

Water Withdrawal Permitting

Authorizes the Department of Environmental Conservation to implement a water withdrawal permitting program to regulate the use of the State's water resources.

(Chapter 401, effective February 15, 2012)

Remote Net-Metering

Amends New York's net-metering law to allow "remote" net-metering in certain instances.

Municipalities in certain circumstances may authorize the designation of net metering credits or the use of such credits at a separate location having its own net energy meter and being owned by or under the control of the same customer. For example, a municipality could place solar panels at a public works garage to offset the energy use at its village/city hall or police station.

(Chapter 35, effective June 1, 2011)

Stormwater Management Design Modification

Modifies the NYS Stormwater Management Design Manual requiring new safety features to be implemented in and around stormwater retention ponds. Specifically, owners of stormwater retention ponds will be required to post warning signs around the pond, as well as to plant aquatic vegetation prior to establishing the pond as "in-service." In addition, owners must examine the status of pond safety features as part of a routine maintenance schedule.

(Chapter 557, effective March 21, 2012)

VETOED

Hazardous Material Spills

Would have allowed municipalities or fire districts that contract with or control fire companies to charge for certain costs incurred by such fire companies when responding to an incident involving the release of hazardous materials by a transporter of hazardous materials. Reimbursement would have been capped at \$10,000 per incident and limited to expendable materials used in the response.

(Veto No. 66, September 23, 2011)

PENDING ACTION BY THE GOVERNOR

LIPA Rate Increase Notification

Would require the Long Island Power Authority (LIPA) to notify the Public Service Commission (PSC) of any proposal for a rate increase exceeding 2.5% over a 12-month period. This bill would also require the PSC to be notified when there is an extension or re-establishment of any portion of a temporary rate increase over 2.5%.

(S. 2581, awaiting delivery to the Governor)