



NEW YORK STATE CONFERENCE OF MAYORS AND MUNICIPAL OFFICIALS

Mayor Gary A. Vegliante, President • Peter A. Baynes, Executive Director

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State Budget and Legislative Update

Although it is mid-April, both houses of the State Legislature are still trying to develop a plan to close the state's \$9.2 billion budget gap for the 2010-11 fiscal year that began on April 1, 2010. The following compares the current positions of the Governor, Senate and Assembly on key budgetary issues of particular interest to cities and villages. While the final outcome on these and other proposals remains uncertain, this update will give you a sense of where the differences currently lie in negotiations. This update also highlights additional bills that NYCOM is closely monitoring due to their potential impacts on our members.

AIM Funding

The Executive Budget would eliminate funding for New York City and reduce AIM payments to other local governments by either 2% or 5% of 2009-10 adopted budget levels based on the municipality's reliance on this revenue source. Specifically, if your AIM funding accounts for 10% or more of your total revenues, it would be reduced by 2%, and if AIM accounts for less than 10% of your total revenues, it would be reduced by 5%. Both houses have proposed a partial restoration of funds for New York City and the Senate plan restores an additional \$3.6 million split among the cities of Buffalo, Yonkers and Syracuse.

Transportation Aid

The Executive Budget funds CHIPS and Marchiselli aid at current year levels of \$363 million and \$39.7 million, respectively. Both the Senate and Assembly have accepted this proposal.

Gross Receipts Tax Rate Increase

The Executive Budget contains language that would permit cities and villages to increase the local gross receipts tax rate on utilities from 1% to a maximum of 3%. Neither house of the Legislature included this proposal in their plan.

Additional Local Revenue Initiatives

The Executive Budget contains a number of local revenue initiatives that include:

(1) permitting municipalities to charge for accident reports at levels authorized for the State Police beyond the current .25 per page permitted under FOIL; (2) authorizing municipalities to impose fees for ambulance and emergency medical services provided by fire departments similar to a local government's ability to charge for freestanding ambulance agencies; and (3) authorizing municipalities to charge for the provision of additional police protection at paid-admission events. Neither house of the Legislature included these proposals in their plan.

Moratorium on Unfunded Mandates

The Executive Budget would impose a four-year moratorium on any legislatively enacted unfunded mandate that would require local governments or school districts to undertake new programs, increase the level of services or increase the value of property tax exemptions beyond \$10,000 for an individual municipality, or \$1 million statewide. This initiative would also improve existing fiscal impact requirements used to identify the true cost of proposed legislation on New York's local governments. While the Senate plan would make this proposal permanent, the Assembly rejected this initiative.

Procurement Reform

The Executive Budget proposes to increase the competitive bidding limits from \$10,000 to \$20,000 for purchase contracts and from \$35,000 to \$50,000 for public works contracts. In addition, the Budget would provide additional procurement flexibility by authorizing local governments to hold reverse auctions, piggyback off of other state and certain federal contracts; publish bid notifications in the statewide electronic Contract Reporter; require bids to be submitted electronically; and allow contracts to be awarded on the basis of "best value" rather than lowest bid. The Senate rejected only the proposal to allow the publishing of bid notifications in the Contract Reporter. The Assembly rejected all the proposals but would support an increase in the bidding limit on purchase contracts from \$10,000 to \$17,500.

Expand Municipal Deposit Options

The Executive Budget would permit local governments to deposit municipal funds in credit unions and savings banks. Currently, municipalities are only permitted to deposit funds in commercial banks and trust companies, which precludes them from taking advantage of the best possible interest rates. This proposal was accepted by the Senate but rejected by the Assembly.

Pension Amortization

The Executive Budget would permit municipalities to amortize a portion of their annual pension costs over a ten-year period at a rate of interest determined by the State Comptroller. This authority would be available for pension bills issued for the 2010-11 through 2015-16 fiscal years. In addition, the minimum employer contribution would be increased from 4.5% to 5.5%. Both houses of the Legislature appear to be willing to include a pension amortization proposal as part of the adopted budget. However, there is some uncertainty as to whether the final proposal would be limited to six years or whether it would be established as a more permanent program with the creation of pension stabilization accounts, as proposed by the State Comptroller.

Additional Bills of Interest

Amendments to New Consolidation/Dissolution Law – A. 10432 (Schimel) / S. 7238 (C. Johnson) – NYCOM Supports

Would amend the General Municipal Law's new Article 17-A governing the consolidation and dissolution of local governments. Along with several technical changes, the bill would extend the timeframe for the development of a dissolution plan, establish a time limit for circulating consolidation/dissolution petitions and, most importantly, require a mandatory referendum on the proposed consolidation/dissolution plan.

STATUS: **Assembly:** Local Governments

Senate: Local Governments

Private Sale of Tax Liens – A. 9460 (Gunther) / S. 6225 (Klein) – NYCOM Supports

Would permit cities and villages to enter into a contract to sell some or all of their delinquent tax liens to a private party, thereby expediting the receipt of local revenues.

STATUS: **Assembly:** Real Property Taxation

Senate: Passed

Local Finance Reforms – S. 4601 (Stewart-Cousins) – NYCOM Supports

Introduced at the request of the State Comptroller, this bill would, among other things, extend the “roll over” period for bond anticipation notes from 5 years to 7 years, increase the cap for allowing certain bonds to be sold at private sale without limitation, from \$1 million to \$5 million, and allow municipalities to issue budget notes in the event of an unforeseen revenue shortfall – something they are unable to do now. A similar bill has been introduced in the Assembly (A. 8565) and is currently in the Ways and Means committee.

STATUS: **Senate:** Local Government

Expansion of Municipal Deposits Options – A. 4370-A (Heastie) / S. 1782 (Parker) – NYCOM Supports

Would allow credit unions, savings banks, savings and loan associations and federal savings associations to accept and secure deposits from municipal corporations. Broadening the number of depository choices enables municipalities to take advantage of the best available interest rates. A similar proposal was included in the 2010-11 Executive Budget.

STATUS: **Assembly:** Banks **Senate:** Finance

Competitive Bidding Restrictions – S. 6434-A (Stachowski) – NYCOM Opposes

Would provide a statutory definition of a “lowest responsible bidder” in competitive bidding contracts. By requiring that local governments designate a lowest responsible bidder based upon a statewide definition, municipalities would be prohibited from entering into contracts that suit their localized needs. Such an amendment will inevitably lead to litigation as confusion arises over how to implement any changes made to a well-settled and established procedure.

STATUS: **Senate:** Finance

Health Insurance Continuation for Those Incurring an Occupational Injury – A. 9943 (Abbate) / S. 6785 (Savino) – NYCOM Opposes

Would add §159-d to the Civil Service Law to require that health insurance be continued for a public employee incurring an occupational injury, until the individual either returns to service, has separated from service, or has retired. This bill represents a significant unfunded mandate that is aimed primarily at those individuals receiving municipal disability benefits pursuant to §207-a or §207-c of the General Municipal Law, for whom a continuation of health insurance is not required. Furthermore, it ignores the fact that employees who move to a no-pay status are not typically provided with fringe benefits.

STATUS: **Assembly:** Ways and Means **Senate:** Finance

Tax Increment Financing (TIF) – A. 2378-A (Schimminger) / S. 1716-A (Stachowski) – NYCOM Supports

Would authorize schools to allow the school portion of real property taxes, typically the largest portion of the real property tax bill, to be used to pay off TIF bonds. By increasing the amount of money available to pay off bonds that are used to redevelop property, redevelopment projects that were previously unworkable will now be viable, spurring growth and development, and boosting municipal and school property tax revenues in the long run.

STATUS: **Assembly:** Local Governments **Senate:** Floor

IDA Civic Facility Authority – A. 5700 (Morelle) / S. 2898 (Stachowski) – NYCOM Supports

Would permanently allow IDAs to finance civic facility projects. In 2008, such authority was allowed to sunset, leaving not-for-profit projects throughout New York without a viable source of financing.

STATUS: **Assembly:** Local Governments **Senate:** Local Governments

Civil Penalties for Failing to Enforce Orders and Protection – A. 5516 (John) / S. 4452 (Schneiderman) – NYCOM Opposes

Would amend Civil Practice Law and Rules § 1602 by removing the limited liability protections set forth in CPLR § 1601 from law enforcement agencies that are authorized to enforce orders of protection. Specifically, this bill would not allow law enforcement agencies to claim the limited liability protections of CPLR § 1601 for failing to enforce orders of protection. This legislation is an unfunded mandate and interferes with the discretionary decision-making of local law enforcement officials who are experienced and are likely in the best position to make decisions on these matters.

STATUS: Assembly: Passed

Senate: Codes

Vested Rights – A. 9563 (Paulin) / S. 1988-A (Valesky) – NYCOM Opposes

Would provide that any city, town or village zoning, planning and environmental regulation in place 180 days after the filing of a completed application for the development of land would remain applicable to such application for a period of six years after the filing, so long as the applicant proceeds with the proposed development with due diligence. This bill would impose a significant and unnecessary impediment on the ability of local governments to create cohesive, well-planned, sustainable zoning regulations that can grow and change as part of ever evolving local land uses.

STATUS: Assembly: Codes

Senate: Local Government

Conflicts of Interest of Municipal Officers and Employees – A.10682 (Destito) / S. 7400 (Stewart-Cousins) – NYCOM Opposes

Would amend Article 18 of the General Municipal Law relating to conflicts of interest of municipal officers and employees. In part, this bill would deem a municipal officer or employee to have an “interest” in a contract between the municipality for which he or she serves and a business entity which is affiliated with his or her spouse. This bill would also prohibit municipal attorneys from having an interest in any contract for rendition of legal services to the municipality and would allow county ethics boards to investigate and enforce, on their own initiative, possible ethics law violations within cities and villages of the county, if the city or village does not have their own ethics board established. NYCOM opposes this legislation in its current form. However, amendments to the legislation are currently being considered.

STATUS: Assembly: Government Operations

Senate: Local Government

Electronic Equipment Recycling & Reuse Act (E-Waste) – S.6047-A (Thompson) – NYCOM Supports

Would establish a comprehensive system for the collection, handling, recycling or reuse of electronic equipment in order to minimize the direct environmental and public health consequences resulting from the improper handling and disposal of electronic waste. This legislation will assist in easing the burden on local governments and users in the safe collection, handling and recycling of e-waste.

STATUS:

Senate: Finance

Bills That Have Been Enacted

Public Accommodation of Open Meetings

Amends the Public Officers Law to require public bodies to make a reasonable effort to hold public meetings in a room which can accommodate members of the public who wish to attend the meeting.

Chapter 40 of the Laws of 2010 (Effective April 14, 2010)

Photographing, Audio and Video Recording Open Meetings

Amends the Public Officers Law to allow any meeting of a public body to be recorded, broadcast, webcast and photographed, provided that it be done in a manner that is not disruptive to the meeting. Also allows the public body to adopt rules governing the location of equipment and personnel used to photograph, broadcast, webcast, or otherwise record a meeting.

Chapter 43 of the Laws of 2010 (Effective April 1, 2011)

State Suspends IDA “Cost-Recovery” Tax

Earlier this month, State Attorney General Andrew Cuomo’s office notified the State Supreme Court that the state is suspending its collection of a 4.7% gross receipts tax on IDAs as a result of pending litigation. In March, three dozen IDAs filed a lawsuit saying the tax was unconstitutional, unreasonable and implemented without proper notice. The tax, which was established as part of the 2009-10 State Budget, was imposed upon public authorities, including IDAs, to cover the costs of “central governmental services.” Although the methodology for computing the assessment was never made public, each IDA with 2008 total revenue greater than \$5,000 was assessed a Cost Recovery amount equal to approximately 4.727% of such revenues, to be paid by March 31, 2010.

NYCOM’s 2010 Annual Meeting & Training School May 16-18, 2010 Saratoga Hilton, Saratoga Springs

NYCOM's Annual Meeting is designed to assist local officials with the many challenges of local government and provide strategies to create a thriving community in tight fiscal times. This training experience brings together municipal officials from across the state to learn about the various issues facing local governments, while also providing attendees with ample opportunities to network with peers from other communities who are dealing with similar challenges. This event features well-known speakers, NYCOM/*Empire State Report* Local Government Achievement Award recognition, and a large trade show. Approximately 30 training sessions will be presented, including:

- Revenue Maximization
- Controlling Health Insurance Costs
- Village Dissolution
- Downtown Revitalization
- Administration of 207-a and 207-c
- Utility Billing

For a meeting registration form, hotel information and to view the most updated tentative agenda, go to www.nycom.org.