

The 2009-2010 Executive Budget

Testimony of the New York State Conference of Mayors

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Before the
Joint Fiscal Committees' Hearing on the Executive Budget

Senate Finance Committee
Hon. Carl Kruger, Chairman

Assembly Ways and Means Committee
Hon. Herman D. Farrell, Jr., Chairman

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Thank you for affording NYCOM the opportunity to express the views of our 592 member cities and villages regarding the 2009-10 Executive Budget. I am John McDonald, Mayor of the City of Cohoes and President of the NYS Conference of Mayors. Let me begin by saying that NYCOM is encouraged by the Governor's Executive Budget and its recognition of the important role that our local governments play in the overall well-being of this state. While many difficult choices had to be made in the development of this plan, the Governor went to great lengths to protect municipalities and their taxpayers as they struggle to deal with the current economic climate that is affecting us all. The combination of local aid, relief from state mandates and expanded revenue options will go a long way toward helping our struggling communities. We are particularly encouraged by the Governor's decision not to propose any across-the-board reductions in AIM funding – especially given the magnitude of the state's current and out-year budget gaps – and to include a proposal for a new retirement tier – two of NYCOM's top legislative priorities.

AIM Funding

Given the current economic climate and the broad range of cuts in the Budget, NYCOM is pleased that, under the Governor's plan, most cities and villages would receive the same amount of AIM funding in 2009-10 as they do now. This decision by the Governor speaks volumes, especially when you consider that the last time the state faced a similar fiscal crisis in the early 1990s, aid to local governments was dramatically reduced, and as a result, municipalities were forced to raise taxes and diminish services. One need only understand the extent to which those cuts in state aid continue to plague municipal budgets today to appreciate the importance of preserving this funding stream.

Our local leaders have proven that the long overdue AIM increases provided in each of the last four budgets have gone a long way toward reducing the reliance on the already overburdened property tax. At a time when other local revenues are declining as a result of the state's languishing economy, any reductions in this funding source, no matter what size the state's deficit, would most certainly translate into an increase in local property taxes. In that regard, we urge the Senate and Assembly to follow the Governor's lead by at least maintaining AIM funding at current year levels, and, if

possible, building upon the Governor's proposal, thereby continuing a worthwhile investment in a property tax relief program that works.

NYCOM is strongly opposed, however, to the fact that under the Governor's plan, the City of New York would be eliminated from the AIM program, losing a total of \$328 million in its upcoming fiscal year and beyond. Every municipality – big or small, village or city – contributes to the overall well-being of New York, and in return, deserves to benefit from a strong fiscal partnership with the state. In addition, the 33 cities that received a portion of the \$11.6 million that was added by the Legislature as part of the 2008-09 adopted State Budget, would also have their AIM funding reduced in the current year by half the amount of the Legislative Add. The other half of the Legislative Add would be eliminated in 2009-10. These cuts, regardless of their size, will have a significant negative impact on these municipalities, particularly those reductions that will occur in the current year. We recognize the serious fiscal situation that the state is confronting, but when you take into account that the AIM program accounts for less than 1% of the total budget, we urge you to consider the minimal benefit these proposed cuts would yield for the State budget, compared to the significant harm this would inflict at the local level.

Mandate Relief

At times like these when revenues are scarce, it is critical that local governments be given the tools and flexibility to be as efficient as possible, thereby reducing their expenses. The 2009-10 Executive Budget contains certain mandate relief items, which, if enacted, would have that result. One of the most significant initiatives that could help lower municipal costs is the proposal to establish a new retirement tier for non-uniformed employees that would: require a 3% employee contribution for the duration of employment; increase the minimum retirement age from 55 to 62; and eliminate overtime earnings from the final average salary calculation. Although pension contribution rates – as a percentage of payroll – have declined moderately in recent years, currently placing them in the same range as they were in the mid-to-late 1980's, the base upon which pension costs are calculated – that is, salaries – has risen substantially since then. This, coupled with the pension benefit enhancements that have been granted during this decade, has resulted in the continued rise in the pension bill amounts for many local governments.

In the past, when the growth in pension costs became too much for public

employers to bear, the State Legislature intervened by creating new pension tiers with less generous benefits for employees. Since pension benefits for retirees and current public employees are constitutionally protected, creation of a more affordable pension tier will not harm a single existing worker, yet would yield significant savings in years to come for local governments and, in turn, their taxpayers. NYCOM strongly believes, however, that this proposal should be expanded to include a new pension tier for uniformed employees as well. When you consider that the biggest component of a city's budget is typically public safety – which is driven in large part by the salaries upon which pension benefits are based – coupled with the fact that pension rates for uniformed employees are virtually twice that of non-uniformed employees, any pension reform proposal that does not address this aspect of the problem will fall far short of bringing about true property tax relief in New York.

NYCOM has long argued that the state's current local liability laws cost municipalities statewide millions of dollars. Consequently, NYCOM fully supports the Governor's proposals to reform these laws by (1) allowing judgment awards against local governments and the state to be offset by both past and future compensation from all collateral sources and (2) establishing a reasonable market-based method of calculating interest in court judgments similar to the method used in judgments involving the Federal government. NYCOM also fully supports the proposed reforms which would enhance procurement flexibility by increasing competitive bidding limits for local governments from \$20,000 to \$50,000 for public works projects and from \$10,000 to \$20,000 for commodities; authorizing local governments to purchase off of certain Federal IT contracts as well as certain contracts let by other states and local governments; and allowing contracts to be awarded on the basis of "best value" rather than lowest bid. These initiatives represent another no-cost way of easing the burdens placed upon local governments while allowing for the more economical delivery of local government services.

With respect to the proposed modifications to the Wicks Law, despite NYCOM's consistent call for its full repeal, which would allow both the state and its local governments to utilize a more cost effective approach to complete all public works projects, we did support the reforms to the Wicks Law enacted last year and appreciate the Governor's willingness to continue the fight by including a Wicks reform proposal in

his 2009-10 Executive Budget. The fact is, even with the increased thresholds and Wicks exemption for projects where the contractors enter into a Project Labor Agreement, the number of projects that continue to be subject to the multiple bidding requirements is astounding. While we support the \$10 million threshold for New York City and the Wicks Law exemption for school districts, we believe that eliminating the Wicks Law requirements for all municipalities will yield the most meaningful result in terms of reducing both local expenses and property taxes, particularly in this faltering economy.

Another local efficiency initiative worth mentioning, and which NYCOM fully supports, is the Executive Budget's proposal to relax the requirements for forming a municipal cooperative health benefit plan. Specifically, this proposal would: reduce the minimum number of municipal corporations needed to establish such cooperative from five to three; allow a qualified actuary to determine the amount of reserves each individual cooperative needs; and, require insurers to provide up to three years of claims experience to a municipal corporation when it requests such information for the purpose of forming or joining such cooperative. In addition, the Budget proposes that a study be completed, by September 1, 2010, that would analyze how allowing municipalities with 50 or fewer employees to join larger municipalities in purchasing experience-rated policies, would impact the community-rated health insurance market. When you consider that employee benefits was the fastest growing expenditure category for local governments over the past ten years – and increased by 78% between 2001 and 2006 alone – it is essential that we look for ways to better control these costs.

Enhanced Revenue Options

As you know, municipal budgets are plagued by rising costs and limited revenue-raising opportunities. As a result, local governments are continuously trying to overcome the imbalance between their fiscal capacity and the cost of providing essential services. And now, when even these limited revenue options are experiencing declines as a result of their economic sensitivity, it is more important than ever that the state find no-cost ways to enhance local revenue options. NYCOM has been a strong advocate of the Executive Budget proposal to include cellular services within the scope

of the utility gross receipts tax (GRT). In 2007, cities received nearly \$56 million in revenue from the GRT, while villages generated an estimated \$28 million. However, many municipalities have, and will likely continue to experience declines as more and more consumers move from land line to wireless phone service. The state and New York City have already made changes to their respective statutes to include cellular services as taxable for purposes of the state's excise tax and the City's gross receipts tax. It only seems appropriate that similar changes be made to the statute governing the GRT for the other 61 cities and more than 360 villages that currently impose such tax. Not only does this proposal have the potential to generate additional local revenues, it will also promote equity in the tax treatment of various types of telecommunications providers.

The Governor's Budget would also permit our largest cities – Buffalo, Rochester, Syracuse and Yonkers – to operate red light cameras and to impose fines of up to \$100 for each red light traffic violation. This authorization will have the dual benefit of improving traffic safety while providing these cities with another revenue source to help offset their municipal expenditures without relying solely on real property tax increases.

Clearly this budget has the potential to provide a number of benefits to cities and villages throughout the state. However, it also contains proposals that could have significant negative impacts on our communities by either jeopardizing the availability and amount of a funding stream that they currently rely on, or by forcing them to unnecessarily incur costs that will ultimately be assumed by their residents in the form of increased property taxes.

First, as I mentioned earlier, we object to the reduction in AIM funding for the 33 cities and are strongly opposed to the elimination of New York City from this program. The state was able to maintain its AIM commitment to the other cities, villages and towns – and the City of New York should be no exception.

CHIPS Funding

NYCOM also strongly opposes the Executive Budget's proposal to reduce CHIPS funding by a total of \$112 million, or 31%, year to year. Local governments are

responsible for 85% of New York's roads, highways and bridges, many of which are in need of significant repair. At a time when improving our local infrastructure is essential to the recovery and revitalization of our communities and our state, the need for adequate resources for this purpose is more critical than ever. Furthermore, it is counterproductive for New York to be looking to the Federal government for infrastructure aid when we are decreasing our commitment at the state level. We encourage the Legislature, as it has done in recent years, to increase the Governor's proposed CHIPS funding amount.

Empire Zone Program Reforms

The Empire Zone Program has received its share of criticism in recent years, and in many minds, has not served the purpose for which it was established. It is important to note, however, that many communities across the state have significantly benefitted from the program, and therefore any reforms must take this into account. It is NYCOM's belief that the Governor's proposal goes a step too far, as it would potentially remove tax credits already promised to companies that do not meet a new higher standard of producing at least \$20 in wages and investments for every \$1 that the state spends. At a time when investing in our struggling economy and bringing businesses and jobs to our communities is of the utmost importance, this is not the time to "walk away" from deals already made, many of which have had positive impacts for our state. Not only is this counterproductive, but it will very likely discourage future agreements by calling the state's credibility into question. Could the program be improved? Yes. Better record keeping, increased accountability, enhanced oversight and a more targeted focus would all serve to advance the state's Empire Zone Program, making it more affordable while ensuring that it generates jobs in our upstate communities. But to jeopardize the benefits the program is currently providing can not, and should not, be the answer.

And while I am on the subject of reinvesting in our communities, industrial development agencies (IDAs) are one of the few tools available that New York's local

governments may use to help them improve their ailing local economies. In the past, IDAs have had the authority to finance “civic facilities,” such as senior living facilities, college dormitories, hospital projects, and other important projects. However, the authority to finance these projects was allowed to sunset on January 31, 2008. Consequently, absent action at the state level, many economic development projects that were the focus of local development efforts will not be done in the future. Several bills were introduced in the 2008 Legislative Session that would have placed significant restrictions on IDA activities, including imposing prevailing wage requirements on IDA projects, curbing the financing of recreational facilities, limiting IDA funding to brownfields, and restricting who may sit on IDA boards. If enacted, these restrictions would greatly hamstring the ability of IDAs to facilitate the revitalization of New York’s local economies. We urge the Legislature to simply reinstate the authority for IDAs to finance civic facilities in the same manner that was available to them prior to January 31, 2008.

Other Proposals NYCOM Opposes

NYCOM is also opposed to the so-called “unified merger” proposal that the Executive Budget contains. Specifically, we strongly believe the provision that would require petitions to initiate the village dissolution or consolidation process contain signatures from only 10% of eligible registered voters is bad public policy. A decision of this magnitude, with so many far-reaching implications, should not rest with such a small percentage of the village electorate, nor should the potential exist for such process to be initiated by a handful of disgruntled citizens. The current requirement that calls for signatures from one-third of registered voters is one that works, and one that makes sense.

And finally, the Executive Budget proposes to combine and reduce the funding streams for several critical youth prevention and development programs. In addition, the distribution of the funds would be determined at the county level, which means the communities that actually administer the programs and currently receive this funding directly, would now have to compete with one another to receive their “share.” These proposed revisions would add additional layers of governance to the process and rather than result in a consolidation of services, will bring about a disjointed system that lacks accountability and oversight.

Conclusion

Let me conclude by saying that we are encouraged by the Governor's proposed budget in that it preserves, for most local governments, current levels of state aid and contains many of the elements necessary to bring our communities and our state one step closer to fiscal stability. As your budget deliberations develop over the coming weeks, we urge you to not lose sight of the critical role that local governments play in the overall prosperity of this state. Maintaining local government aid, enacting significant mandate relief, providing local officials with better tools, greater flexibility and enhanced revenue options – while refusing to implement so-called “reforms” to programs and processes that will only jeopardize their efficiency and effectiveness – are all essential steps to achieving municipal property tax relief and revitalizing New York's economy. NYCOM urges you to seriously consider our remarks during budget negotiations and we look forward to providing your committees additional input as the budget making process continues.

Again, I thank you for the opportunity to testify at this important hearing. I would be happy to respond to any questions.