LEGISLATIVE PROGRAM

STRENGTHENING OUR COMMUNITIES

2019

New York State Conference of Mayors and Municipal Officials
Executive Committee and Legislative Staff

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Dear Fellow New Yorker:

The legislative priorities included in NYCOM’s 2019 Legislative Program, as developed and approved by our 60-member Legislative Committee, share a common objective: to provide local leaders with the resources and flexibility to deliver essential municipal services in the most effective manner for the taxpayers they serve. Municipalities are not a special interest group, but rather the providers of public services that directly benefit each and every resident and business of this State. Mayors are your partners and the success of our municipal governments depends upon a demonstrated commitment by the State, the clearest example of which would be for you to provide the first increase in general purpose aid in a decade.

In the face of significant fiscal pressures, New York’s cities and villages are working diligently to control property taxes while maintaining fundamental services. The State demands much of our municipal governments. It is time for the State to in return increase its financial commitment to its local partners.

Our cities and villages need the funding, the tools and a genuine commitment from the State to help break down the barriers to efficiency and community revitalization. Enactment of the proposals advanced by NYCOM in our 2019 Legislative Program would ensure local success and, in turn, a better and stronger New York. I look forward to you joining us in reaching this important goal in 2019.

Peter A. Baynes
Executive Director
New York State Conference of Mayors
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While the primary role of a local government is to provide vital services to its residents, cities and villages must also maintain critical public infrastructure such as roads, bridges, and water and sewer systems. This infrastructure, however, is aging and deteriorating due to its age as well as deferred maintenance and repair.

**Increase Highway Funding**: While local governments are benefiting from the PAVE NY and BRIDGE NY programs created three years ago, annual local highway infrastructure needs continue to far outpace the amount of resources currently available. The $438 million Consolidated Highway Improvement Program (CHIPS) assists local governments with the cost of construction, reconstruction and improvement of local highways, bridges and highway-railroad crossings. The 2018-19 State Budget did include an additional $65 million for the repair of local roads, but this funding is not added to the CHIPS base and is therefore not recurring. Locally owned roads remain in need of substantial near-term improvements and therefore local governments must receive more bonded or pay-as-you-go transportation funding than they do currently.

Additionally, in June 2013, the Federal Department of Transportation issued an update to its regulations regarding ADA requirements to provide curb ramps whenever streets, roads or highways are altered through resurfacing. Some form of this requirement has been in place since 1994 but it has not been enforced until recently. Local governments are incurring additional costs as a result of this requirement. In fact, some municipalities have indicated that the added expense associated with this requirement now consumes a significant portion of their CHIPS allocation. The CHIPS formula should be
amended to provide additional aid based on sidewalk miles in a municipality.

- **Increase Funding for Water and Sewer Infrastructure:** The 2017-18 State Budget included $2.5 billion for Clean Water Infrastructure to help cities, villages and other municipal governments address water emergencies, pay for infrastructure projects, facilitate source water protection, and investigate and mitigate water contamination. While this is a significant investment, it is being phased in over five years and is designed to support a variety of non-municipal initiatives. **NYCOM supports the following two proposals that would establish an annual funding stream that could be used by all cities and villages to supplement their water infrastructure operation and maintenance costs:**

  **Safe Water Infrastructure Action Program** – A dedicated program designed to assist cities and villages in addressing crumbling water, sewer, and storm water infrastructure analogous to CHIPS would help municipalities manage and invest in the replacement and rehabilitation of existing municipally-owned and funded drinking water, storm water, and sanitary sewer systems.

  **Emergency Water Infrastructure Repairs Fund** – This Fund would provide funding to municipalities for the emergency repair of any municipally-owned water or sewer system. This would help cities and villages respond to crises without detrimentally impacting their annual budgets.
The reinvestment of progressive and locally generated State tax revenues in municipal governments is essential to the strength of our communities, the retention and growth of New York’s population base, and the lowering of the property tax burden on our residents. While we continue to support AIM funding as an essential priority, we recognize – as demonstrated by the past ten State budgets – that increasing AIM funding does not comport with the State’s local funding philosophy. That being so, NYCOM proposes that AIM be preserved at current levels and that the State establish the New York Municipal Investment Initiative that annually allocates $100 million in funding to all cities (outside of New York City), villages and towns through a need-based formula that takes into account factors such as population, poverty levels, types of services delivered, and the amount of tax-exempt property a municipality has within its boundaries. In order to receive such aid, each municipality would be required to develop a Municipal Sustainability Strategy that includes (1) a multi-year financial plan, (2) ongoing efforts to encourage economic growth, and (3) evidence of working with other public, private and non-profit entities to accomplish the regional vision established by the applicable Regional Economic Development Council.
MUNICIPAL INVESTMENT INITIATIVE

- $100 million in locally generated state tax revenue invested back into municipalities

- Operational aid to cities (excluding NYC), villages and towns to support economic development and retain/grow NY’s population base

- Need-based allocation factors:
  - population
  - poverty level
  - types of essential services provided
  - amount of tax exempt property

- Contingent upon local adoption of a Municipal Sustainability Strategy:
  - multi-year financial plan
  - ongoing efforts to support economic growth
  - collaboration with other public, private and non-profit entities to further the strategic vision of its Regional Economic Development Council
Our current system of funding local governments relies too heavily on the regressive property tax. NYCOM supports legislation to reform State tax laws to promote fiscal stability, better service delivery and an improved quality-of-life in our communities.

• **Internet Sales Tax** – In a 5-4 decision in June of this year, the Supreme Court in *South Dakota v. Wayfair* overruled two prior U.S. Supreme Court cases and held that state and local governments can require remote retailers with no physical presence in the state to collect and remit sales taxes. This decision does not impose any new taxes, but instead would close what many have considered an unfair tax loophole that has cost state and local governments billions in lost revenue each year and has placed Main Street brick and mortar businesses at a competitive disadvantage. States, including New York, that don’t already have laws in place that would require retailers having a substantial economic presence to collect and remit sales taxes would need to enact such a law. NYCOM strongly supports the passage of legislation (similar to what was proposed in the 2018-19 Executive Budget and consistent with the *Wayfair* decision) providing for the collection of sales tax on merchandise sold online to New York residents.

In addition, counties and cities are the only two classes of local government that may impose a local sales tax. In most cases, the amount of sales tax revenue (if any) that villages receive is determined by the county via a sharing agreement. NYCOM supports providing a role for villages in negotiating and strengthening those sharing agreements, especially since the total amount of sales tax revenue is likely to increase significantly as a result of closing the online retailer loophole.
• Restructure and Reform the Gross Receipts Tax –
Under current law, cities and villages have the option of imposing a gross receipts tax (GRT) on the gross operating income of utility companies located within their boundaries, at a rate of 1%. Unfortunately, the laws governing this tax were written decades ago and have not been amended to account for changes in technology or the marketplace, resulting in widespread under- or non-payment of the GRT. NYCOM supports the following proposals:

♦ Expand the GRT Scope to Include Cellular Services
In recognition of the predominance of wireless technology and to promote equity in the tax treatment of various types of telecommunications providers, State law has been amended to include cellular services as taxable for purposes of the State’s excise tax and New York City’s gross receipts tax, but has not been amended for villages and other cities. NYCOM supports amendments to current State law to ensure that cellular telephone services are subject to all GRTs.

♦ Require Compliance with Gross Receipts Tax Laws
In 2009, NYCOM sought and received an advisory opinion from the NYS Department of Taxation and Finance stating that the GRT is applicable to energy transactions involving Energy Service Companies (ESCOs) – specifically the revenues associated with the sale of the commodity by ESCOs, as well as the revenue associated with the delivery by a utility to ESCO customers. Despite this opinion, many ESCOs still do not pay the tax to those cities and villages that impose it. In addition, NYSE&G and RG&E have taken the position – unique among all other gas and electric utilities in New York State – that when a customer buys their gas and/or electric supply from an ESCO, these utility companies do not pay any GRT on the revenue they derive from the delivery of that commodity. This noncompliance by the ESCOs has resulted in millions of dollars in higher property taxes due to the lost revenues for cities and villages. NYCOM supports legislation that would clarify that ESCOs and any transactions involving ESCOs are subject to the GRT.
While the tax cap has clearly placed significant pressure on local property tax revenues, a major source of pressure on the property tax rate is the increasing amount of tax-exempt property a municipality has within its boundaries. NYCOM supports legislation that would authorize, at local option, a service charge on tax-exempt entities that own significant amounts of tax-exempt property in a municipality. This would be implemented by establishing a PILOT program for tax-exempt entities that own property of a value greater than 1% of the total taxable value in the municipality. The amount of the PILOT payment would be equal to 10% of what the tax-exempt property would generate in property taxes if it were taxable. This would help to ensure that local governments are given the ability to recoup at least a portion of the expenses they incur servicing tax-exempt properties, particularly since such properties often place the greatest strain on municipal services.
Distressed and abandoned properties continue to be a challenge for local governments throughout New York. Local officials need a comprehensive and effective toolkit to address this intractable problem and to successfully revitalize their downtowns. NYCOM supports the following proposals:

- **Allow Municipalities to Take Title to Abandoned Commercial Property and Streamline the Notice Process for Abandoned Property Proceedings** – Currently, Real Property Actions and Proceedings Law Article 19-A provides a relatively quick and easy method for local governments to take title to residential property that is “abandoned” within their jurisdictions. However, Article 19-A does not apply to commercial property. This statute should be amended to allow municipalities to take title to all real property that is “abandoned” so that the properties’ negative effects on the surrounding community can be promptly and effectively addressed by the municipality. Moreover, the notice requirements for judicial proceedings should be amended to match the notice requirements for *in rem* tax foreclosure proceedings.

- **Allow Local Governments to Shorten the Redemption Period for *in rem* Tax Foreclosure Proceedings** – By default, the redemption period for *in rem* tax foreclosure proceedings is two years. Two years is too long a time for properties that are being neglected or that have been abandoned. Consequently, State law should be amended to allow the local government entity conducting the tax foreclosure to shorten the redemption period for abandoned properties to one year.
• Allow Local Governments to Force Mortgage Holders to Complete the Foreclosure Process or Release Their Mortgage Rights for Properties that Have Been Abandoned – Local governments are struggling to deal with properties that are delinquent on their mortgage payments, but for which the banks are delaying in completing the foreclosure process. Unfortunately, in many of these instances the property owners are abandoning their properties, leaving no one to maintain them. Because the banks are delaying in completing the foreclosure process, the properties remain in a legal limbo, inhibiting the ability of local officials to address the blighting influence of the property on adjacent properties and the surrounding community. Local governments should be allowed to initiate legal proceedings compelling banks to complete the foreclosure process or to relinquish their legal interests in properties that have been abandoned by the property owner.

• Strengthen New York’s Land Bank Program – One tool that is proving to be useful in dealing with New York’s plethora of vacant and abandoned properties is the land bank, an initiative which has, in large part, been supported by bank settlement funds provided by the Office of the Attorney General. Unfortunately, these funds are limited and non-recurring. Consequently, a systemic funding source for land bank operations must be established. Communities with land banks should be authorized to increase the interest imposed on delinquent taxes and assessments by 0.1% per month, with those increased funds dedicated to land bank operations.
The New York State Conference of Mayors and Municipal Officials (NYCOM) is an association of, and for, cities and villages in New York. Since 1910, NYCOM has united local government officials in an active statewide network focused on the singular purpose of finding the most effective means of providing essential municipal services. Through the active participation of our membership, which represents more than 12 million New Yorkers, NYCOM is an aggressive advocate for city and village interests before the Executive, Legislative and Judicial branches of state government. Our association is a readily accessible source of practical information touching upon every area of municipal activity, and is also a leader in the on-going training and education of local officials.

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