NYCOM Briefing on the 2020-21 Executive Budget

**AIM Funding** – The Executive Budget makes no changes to the amount of AIM funding and the associated AIM-related payments that certain villages and towns receive from county sales tax revenues. There is language, however, that would clarify and facilitate the process for making the necessary AIM-related payments in both Erie and Nassau counties. (S.7503/A.9503, p.799; S.7505/A.9505 – Part NN)

**Water and Sewer Infrastructure Funding** – An additional $500 million would be provided for drinking water and wastewater infrastructure as well as water quality protection. This would be in addition to the $500 million included in the current year’s budget as well as the five-year $2.5 billion Clean Water Infrastructure Act that was created in 2017-18. The Budget would also allow EFC to offer certain lower income municipalities 40-year financing through the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund. This would lower the annual debt service costs to municipalities and make infrastructure projects more affordable for local governments and their ratepayers. NYCOM supports the increase in funding but would like to have each municipality receive its own allocation, similar to the CHIPS program. (S.7504/A.9504, Pgs. 122-123; S.7508/A.9508 – Part KK)

**Transportation Funding** – CHIPS funding would remain at $438 million but the $65 million in Extreme Winter Recovery (EWR) funding is not continued under the Executive Budget. The Budget includes $100 million for PAVE-NY and BRIDGE-NY. Both programs were due to expire at the end of the current fiscal year. In addition, at NYCOM’s request the Budget would increase the CHIPS bidding-out threshold from $250,000 to $750,000, allowing municipalities the option to perform any projects at or under the $750,000 threshold with their own workforce rather than bidding out the contract competitively. NYCOM is seeking additional CHIPS funding, including the restoration of the EWR funding. (S.7504/A.9504 – Department of Transportation, S.7508/A.9508 – Part A)

**Department of Transportation (DOT) Capital Plan** – The Executive Budget provides $11.9 billion for a new, two-year DOT Capital Plan which will facilitate the improvement of highways, bridges, rail, aviation infrastructure, non-MTA transit, and DOT facilities. The decision to propose a two-year plan as opposed to a five-year plan is because a significant amount of the plan is federally funded and there is currently a great deal of uncertainty as to the amount of federal funding that will be available. (FY 2021 Capital Program and Financing Plan, pgs. 45-46) The current DOT Capital Plan expires in 2020.

**Criminal Justice Reforms** – While the Governor did not advance specific proposals to address widespread concerns regarding last year’s Criminal Justice Reform, he noted that the reform is an ongoing process and that the Executive and the Legislature need to respond to relevant facts pertaining to implementation problems. There is $2 million in funding to assist with the new discovery requirements which is referenced on page 5.
Interest Rate on Judgments – The interest rate on court judgments or accrued claims would be changed from a 9% fixed rate to a market rate used by the federal court system. This would not only generate savings for the State and local governments but also encourage timely court proceedings. (S.7505/A.9505 – Part T)

Legalization of Recreational Cannabis – The Executive Budget would legalize recreational marijuana for those 21 years of age and older. County governments and cities with a population over 100,000 would have the authority to opt out which would allow them to prohibit any establishment or operation involving the cultivation, processing, distribution and sale of adult-use cannabis within their jurisdiction. However, recreational cannabis would remain legal in their jurisdiction. In addition, the proposed law expressly preserves the authority for any city, village, county or town to regulate the hours of operation and location of licensed adult-use cannabis retail dispensaries, provided such regulations do not make the operation of such licensed retail dispensaries unreasonably impracticable.

Marijuana sold by wholesalers to retailers would be subject to three different taxes including: a tax on the cultivation of cannabis at the rate of $1 per dry weight gram of cannabis flower, $0.25 per dry weight gram of cannabis trim, and $0.14 per gram of wet cannabis; a tax on the sale by a wholesaler to a retail dispensary at the rate of 20% of the invoice price; and a tax on the same sale by a wholesaler to a retail dispensary at the rate of 2%. Revenue from the 2% tax would be collected in trust for and on account of the county in which the retail dispensary is located. Revenues from the other two cannabis taxes would be deposited in the New York State Cannabis Revenue Fund and used for cannabis-related purposes. The State’s Division of the Budget estimates that the Act would increase the State’s All Funds revenue by $20 million in FY 2021, $63 million in FY 2022, $85 million in FY 2023, $141 million in FY 2024 and $188 million in FY 2025. No city (excluding New York City as a county), village or town would receive any of the associated tax revenue. NYCOM supports giving cities and villages, regardless of population size, the ability to opt-out of allowing cultivators, processors, distributors, dispensaries, and on-site consumption establishments to operate within their jurisdictions, as well as revenue sharing for all local governments. (S.7509/A.9509 – Part BB)

Prevailing Wage – Effective July 1, 2021, the Executive Budget would require prevailing wage to be paid on private construction projects with total costs that exceed $5 million and that are paid for with at least 30 percent public funds. Certain projects, including those related to affordable housing, historic preservation and renewable energy, would be exempt. The Budget would also establish a Public Subsidy Board comprised of eleven gubernatorial appointees which would be empowered to examine and make any necessary adjustments to thresholds included in the language, as well as determinations related to its applicability to specific projects or entire categories of projects. NYCOM has concerns about the impact of these provisions on certain development projects in cities and villages, including the broad authority given to the Public Subsidy Board. (S.7508/A.9508 – Part FFF)

E-Scooter and E-Bicycles – The Executive Budget would legalize the operation of e-bikes and e-scooters for individuals 16 years of age and older. These vehicles would only be permitted on roads with speed limits of 30 mph or less and bike lanes. E-bikes could not be operated in excess of 20 mph nor operated on sidewalks. E-scooters would be limited to no more than 15 miles per hour and could also not be used on sidewalks. Cities, villages, counties and towns would have the ability to further regulate e-bike speeds as well as time, place, and manner of e-bike and e-scooter operation, including requiring headwear and visible reflective clothing, and limiting and prohibiting
e-bike and e-scooter use in specific areas or the municipality entirely. NYCOM is seeking elimination of the ability for counties to opt-out, which if left in the bill would essentially mean that all municipalities within the county would be compelled to opt-out by default. We are also in favor of giving municipalities the flexibility to allow for the parking of these vehicles on sidewalks if desired. (S.7508/A.9508 – Parts ZZ and AAA)

**Small Wireless Facilities Deployment** – The Executive Budget would establish uniform procedures affecting the siting of small wireless facilities and further restrict local authority over siting decisions, fees, and the ability to hold wireless companies responsible for infrastructure installed in the municipal right-of-way (ROW). This bill seeks to both codify into State law many of the regulations already adopted by the Federal Communications Commission (FCC) in 2018 and exceed the minimum requirements implemented at the federal level. Notably, this bill would prevent municipalities from imposing meaningful indemnification clauses in ROW occupancy agreements and would limit the bonding requirements a local government may impose on a wireless provider when installing facilities in the municipal ROW. This legislation would support the industry’s effort to eliminate all local oversight of wireless siting decisions in municipally owned and controlled rights-of-way. Lastly, while this bill has no State fiscal impact, the policies proposed here would have a tremendous impact on local siting decisions and procedures. Consequently, this proposal should be addressed outside of the budget. (S.7508/A.9508 – Part BB)

**Video Lottery Terminal (VLT) Aid** – The Executive Budget would eliminate VLT Aid for all recipients except for the City of Yonkers. This would negatively impact 15 local governments including the cities of Batavia and Saratoga Springs as well as the villages of Monticello and Vernon. (S.7505/A.9505 – Part KK)

**Medicaid Local Share Restructuring** – The Executive Budget proposal includes three separate initiatives that would impact the local share paid by counties (including New York City) for the State’s Medicaid program. Specifically these proposals would: require a county to comply with the 2% property tax cap in order to continue receiving the fiscal benefits of the state cap on local Medicaid costs; require a county to pay for any growth in their local share of Medicaid costs that exceeds 3%; and would cap the amount of federal savings that can accrue to counties from the Affordable Care Act but does not cap the federal savings that can accrue to the State. These proposals, if implemented, could have a significant negative impact on the City of New York and other counties throughout the State. (S.7507/A.9507 – Part R)

**Regional Economic Development Councils (REDC)** – The Executive Budget would continue the regional economic development approach and provide $220 million to support a tenth round of the REDC awards. This will include core funding of $150 million and $70 million in tax credits. This will be combined with a wide range of existing agency programs to provide a total of $750 million for this purpose. (S.7504/A.9504, p.798)

**Downtown Revitalization Initiative** – The Executive Budget includes funding for a fifth Downtown Revitalization competition where 10 communities would each receive $10 million. (S.7504/A.9504, p.487)

**Airport Funding** – The Executive Budget includes up to $100 million for a second round of funding for the Upstate Airport Economic Development and Revitalization Program. This funding supports enhancements to safety and economic development, improves airport operations and access, reduces environmental impact, and creates better passenger experiences. (S.7504/A.9504, p.600)
Environmental Protection Fund (EPF) – The EPF would continue to be funded at $300 million, including $39 million for solid waste programs, $89 million for parks and recreation, $152 million for open space programs and $20 million for climate change. (S.7504/A.9504, p.104)

Mother Nature Bond Act – The Executive Budget includes language that would establish a $3 billion Restore Mother Nature Bond Act, which would require approval via a statewide referendum. The $3 billion in bond proceeds would be used to make environmental improvements to preserve and restore the State’s natural resources and reduce the impact of climate change by funding projects to restore natural habitats, protect open spaces, reduce flood risks, and improve water quality. Some of the proceeds would be dedicated to the creation of two new state parks along the Hudson River: a new 508-acre park in Kingston and the Hudson Eagles State Recreation Area. Municipalities would be authorized to apply for and receive monies from the State and to perform acts necessary to carry out a project or obligation related to the Act. (S.7508/A.9508 – Parts QQ and RR)

Water Supply Regionalization on Long Island – The Executive Budget includes funding for the Department of Health (DOH) and the Department of Environmental Conservation (DEC) to conduct a feasibility study that will evaluate using New York City’s water supply to provide Nassau County with an additional source of drinking water.

Ban on Styrofoam – The Executive Budget would establish a statewide ban on the sale, use, and distribution of food service containers that contain expanded polystyrene foam, commonly referred to as Styrofoam, expect where the foam is used for prepackaged food that is sealed prior to the food service provider’s receipt of the item or is used to sell raw meats and fish. This would impact any municipality that also has a food service component. Additionally, the proposal would preempt local laws that are inconsistent with its requirements, but local governments would be allowed to exceed the standards implemented by the proposal. (S.7508/A.9508 – Part PP)

State Match for Countywide Shared Services – The Executive Budget re-appropriates approximately $220 million in funding for the State match of first-year savings from county-wide shared services plans. Counties and participating municipalities that implemented shared services plans in 2019 are eligible to receive matching funds from the State in calendar year 2020. Additionally, the Budget would allow projects included in previous shared services plans that are not yet implemented to be eligible for State matching funds when they are implemented. While the Budget maintains the requirement that all projects in a plan be implemented during the same 12-month period to receive matching funds, local governments would be able to decide whether to implement a project beginning on either January 1 or July 1. (S.7505/A.9505 – Part LL)

Consolidation and Restructuring Programs – The Executive Budget includes $64 million to support the Citizens Empowerment Tax Credits, the Citizen Reorganization Empowerment Grants and Local Government Efficiency Grants. This funding is intended to incentivize local government consolidation, dissolution and the sharing of services. (S.7503/A.9503, p.799)

Establish Internet Neutrality Principles, Enforcement and Compliance – Net neutrality is the principle that internet service providers (ISPs) should enable access to all content and applications regardless of the source and without favoring or blocking particular products or websites. The Executive Budget would prohibit internet service providers from blocking lawful content, disadvantaging lawful internet content, or engaging in third-party paid prioritization. The proposal
would also impose fines for violating its provisions and authorize the PSC and the Attorney General to enforce its provisions. Public agencies and authorities would also be prohibited from entering into contracts with ISPs that fail to certify their neutrality pursuant to the provisions of the proposal. (S.7508/A.9508 – Part AA)

**Tax Return Filing** – The Executive Budget would require all local elected officials who earn an annual government salary of more than $100,000 to file a copy of their income tax return with JCOPE. (S.7505/A.9505 – Part TT)

**Non-MTA Transit Systems** – The Executive Budget provides $236 million in operating support for upstate transit and $394 million for downstate systems. Other downstate transit aid includes $11 million to continue to fund the Lower Hudson Transit Link serving the Mario M. Cuomo Bridge and parts of Rockland and Westchester counties. The Executive Budget would also provide non-MTA transit systems with an additional $20 million in capital assistance this year, the first year of a $100 million five-year program to aid local transit agencies in the transition to electric buses. (S.7503/A.9503, pgs. 739-746)

**District Attorney Discovery Compensation Fund** – The Executive Budget would require the Office of the Manhattan District Attorney to annually transfer $2 million in revenue from deferred prosecution agreements to the District Attorney Discovery Compensation Fund to support local assistance services and expenses related to digital evidence transmission technology. (S.7503/A.9503, p.56; S.7505/A.9505 – Part E)

**Hurrell-Harring Settlement Implementation** – The Executive Budget includes $150 million for increased support for the Office of Indigent Legal Services. This funding would provide for the continued phase-in of the Hurrell-Harring Settlement reforms to every county in order to improve the quality of indigent criminal defense statewide through three initiatives: counsel at arraignment, caseload relief, and quality improvement. (S.7503/A.9503, p.643)

**Proposed Court Restructuring** – Modeled after the September 2019 New York State Judiciary’s proposal to reform the State Court System, the Executive Budget includes language that would abolish the State’s court of claims, county courts, surrogate’s courts, family courts, New York City Court, district courts, and city courts. In their place, the State would create a new type of court called a municipal court, which, along with the State’s Supreme Courts, would handle all of the cases previously handled by the abolished courts. Upon the laws effective date, the New York City Courts and the city courts outside of New York City would continue as municipal courts for those cities. Likewise, the district courts in Nassau and Suffolk counties would continue as municipal courts. In addition, the New York State Legislature would be authorized, at the request of a county legislature or county board of supervisors, to establish a municipal court (a) for the entire area of the county or (b) for a portion of the county consisting of one or more cities, one or more towns, or a combination of cities and towns, so long as the portion is contiguous. (S.7512/A.9512)

**Protection and Strengthening of Unions** – The Executive Budget would allow public employers to provide the personal information of new hires, among others, to a union without fear of constituting an improper labor practice. This is a technical correction to last year’s adopted law that makes it an improper practice to disclose the personal information of public employees. The proposal supports the notion that access to this private information will ensure that unions remain up-to-date on a local government’s new employee hires and also member status for current employees who are transferred or promoted. In addition, in order to remedy the United States
Supreme Court’s Decision in *Janus v. AFSCME*, public employers would be mandated to provide union’s access to their new employee orientation process if the employer has one. (S.7505/A.9505 – Part W)

**Code Blue Investment** – The Executive Budget includes $13 million to support the Governor’s 2016 Executive Order which directs local social services districts, working in consultation with state and local law enforcement and community-based organizations, to protect individuals experiencing homelessness from inclement winter weather when temperatures decline to 32 degrees or below. (S.7503/A.9503, p.433)

**Gig Economy** – A task force would be established and charged with making recommendations regarding the conditions of employment and classification of workers in the on-demand economy. The taskforce would focus its recommendations on wages, classification, employment criteria, safety and health regulations, collective bargaining and anti-discrimination protections. In addition, the bill authorizes the Commissioner of Labor to promulgate regulations pertaining to the classification of workers employed in the on-demand workforce. The task force recommendations, which would be due by May 1, 2020) could have an impact on the on-demand services (e.g., Uber, Lyft, Grubhub) in local communities. (S.7508/A.9508 – Part GGG)

**Manual Election Recounts** – The Executive Budget would amend the Election Law requiring county boards of elections to conduct manual recounts of ballots from any general, special or primary election in the following circumstances: (1) in a statewide election if the margin of victory is 0.2 percent or less of all ballots cast in the contest; or (2) in any other election for public office, including village elections, if the margin of victory is 0.5 percent or less of all ballots cast in the contest. (S.7505/A.9505 – Part JJ)

**Denial of STAR Credits for Delinquent Property Taxpayers** – The Executive Budget would provide that no STAR credits or exemptions would be granted to property owners with delinquent property taxes. This essentially would enable the State to assist with the enforcement of local past-due property taxes, but would also impose reporting requirements on all local tax districts. (S.7509/A.9509 – Part O)

**Placing Converted Condos into the Homestead Class** – The Executive Budget would permit an approved assessing unit that uses dual tax rates (i.e. homestead and non-homestead) and has opted to assess converted condos based on their sales value, to further opt to classify those condos as homestead property. This is because condos are normally in the non-homestead class, even though it has higher tax rates, because condos also get the benefit of the rental value-based assessments. If the municipality has decided not to let converted condos get the benefit of rental value-based assessments, it stands to reason they should also have the option of putting them in the homestead class with all other residential property that is assessed based on sales value. (S.7509/A.9509 – Part N)