



NEW YORK STATE ASSEMBLY • SHELDON SILVER, SPEAKER

2007
Annual Report

COMMITTEE ON

CITIES

JAMES F. BRENNAN, CHAIR

December 15, 2007

The Honorable Sheldon Silver
Speaker, New York State Assembly
State Capitol, Room 349
Albany, New York 12248

Dear Speaker Silver:

I am pleased to present to you the 2007 Annual Report of the Assembly Standing Committee on Cities. This report describes the legislative action and major issues considered by the Committee and sets forth our goals for continued legislative support to assist cities throughout the State that are facing increasing fiscal difficulties.

The problems facing our State's urban areas are as varied and complex as New York's 62 cities themselves. The Cities Committee has considered measures during this past legislative session that address some common urban problems, as well as many proposals requiring Home Rule messages, which reflect the more specific needs of individual cities.

Sincerely,

James Brennan
Chair
Assembly Standing Committee on Cities

2007 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON CITIES

James Brennan, Chair

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I. INTRODUCTION

The New York State Assembly Standing Committee on Cities is primarily responsible for the initiation and review of legislation affecting the State's 62 cities. The Committee's role in initiating and reporting legislation is primarily influenced by the Municipal Home Rule powers provided to cities under the provisions of Article IX of the New York State Constitution. Article IX describes and defines the powers, duties and limitations of local governments and the State Legislature in the enactment of laws affecting local governments. These "Home Rule" powers limit the Legislature's action to (a) general law, which applies uniformly to all local governments of equal size; (b) special law, on request by two-thirds of the membership of the local legislative body, or on the request of its chief executive officer and concurred by a majority of the membership of the local government, i.e., a "Home Rule Message"; and (c) with two-thirds of both houses concurring, action on a certificate of necessity from the Governor, which states that an emergency situation requires enactment of such law.

Bills referred to the Committee on Cities are those that would amend city charters, the Administrative Code of the City of New York, the General City Law, the Second Class Cities Law or the General Municipal Law. Bills that relate to cities and would amend general bodies of law such as Public Health, Housing, Energy, Transportation, Education, or Economic Development may also be referred to the Cities Committee if they have specific or local applicability.

The Committee is concerned with the enactment of laws that will further improve the ability of cities to address their unique problems, as well as prohibiting the enactment of laws that would impede city governments in their delivery of local services. Under the leadership of Assemblymember James Brennan, the Committee monitors the problems of cities and works closely with state and local representatives to develop solutions.

II. MAJOR ISSUES OF 2007

A. LOCAL GOVERNMENT AID – ENACTED BUDGET

The State Budget for State Fiscal Year (SFY) 2007-08 restructured the Aid and Incentives for Municipalities (AIM) program to increase funding to financially distressed municipalities and encourage greater accountability. Funding increases were targeted to municipalities with the highest degree of fiscal distress. Fiscal distress included the following criteria: full valuation per capita less than 50 percent of the statewide average; less than 40 percent real property tax capacity; population loss greater than 10 percent since 1970; and a poverty rate greater than 150 percent of the statewide average.

This year, the Budget contained \$983 million in AIM funding. Cities received \$581 million of that funding, an increase of \$115 million from SFY 2006-07.

In 2005, the Legislature consolidated all existing revenue sharing programs into the AIM program. As a result, Revenue Sharing, Supplemental Municipal Aid, Emergency Financial Aid to Certain Cities, and Emergency Financial Aid to Eligible Municipalities no longer appear as separate funding streams.

Shared Municipal Services Initiative (SMSI)

The State Budget contained \$25 million in funding for the Shared Municipal Services Incentive (SMSI) program. The SMSI program was created in 2005 to encourage municipal consolidation and cooperation. The program is administered by the Department of State and provides grants to local governments, fire, special improvement or school districts that merge or share services.

Grants are intended to cover costs associated with mergers, consolidations, cooperative agreements, dissolutions and shared services, including legal and consultant services, feasibility studies and capital investments. Recurring expenses such as salaries, utilities or fuel are not eligible. For some grant categories, grant recipients have to provide a match for up to 10 percent of the project cost.

Broadband

The State Budget contained \$5 million for broadband funding. The money will be allocated as follows: \$2.5 million for activities to facilitate increased physical access to broadband internet service statewide and \$2.5 million for activities to provide equal and universal access to broadband internet services for underserved rural and urban areas, including schools and libraries.

B. NEW YORK CITY CONSTRUCTION SAFETY

There has long been public concern about the effectiveness of New York City's regulatory system for assuring construction and building safety and for preserving the integrity of the Building Code and Zoning Resolution. Construction accidents and building collapses are reported regularly. The health and safety of the public in New York City is a matter of State concern. The Committee continues its work in considering legislation to improve construction safety in New York City.

Safety Requirements During Excavations **(A.7748-A Brennan; Chapter 664 of the Laws of 2007)**

This legislation requires all persons doing excavation work to support adjacent properties and requires all persons engaged in construction activities in New York City to obtain general liability insurance.

Falsified Construction Documents **(A.7746 Brennan; Chapter 542 of the Laws of 2007)**

This legislation authorizes the Commissioner of the Department of Buildings to refuse to file any document that has been signed by a person who has been found to have made a false statement or to have falsified a document filed under the building code. This legislation also requires the Department of Buildings to accept building plans only from architects and engineers who are currently licensed and registered with the New York State Education Department.

New York City Department of Buildings Community Accountability Act **(A.7745-A Brennan; Passed Assembly)**

This bill would require records of accidents, unsafe building orders and vacate orders to be posted on the website of the Department of Buildings (DOB), and would require the Commissioner of DOB to investigate and issue a report on all accidents arising from building code violations involving injury or death to persons or damage to property. This legislation would also permit community boards to request an audit review of up to 30 new building plans a year, and require site safety coordinators to be present for the construction of any new building over five stories high.

Building Plan Violations **(A.7122 Lentol; Passed Assembly)**

This bill would create criminal penalties for developers who complete buildings that have more units than the amount stated in the building plan application or if the occupancy classification has been changed after the permit application was originally filed. This legislation would create a process for developers to amend building plans to reflect a change in the number of units or occupancy classification prior to completion of the building.

Environmental Control Board Judgments
(A.7755 Hevesi; Passed Assembly)

This bill would require the Department of Buildings Commissioner to re-inspect work sites that have been identified as having hazardous conditions every sixty days until the violation has been corrected. This legislation would also authorize the Commissioner to impose a tax lien upon those properties that have unresolved Environmental Control Board judgments.

Building Plan Certification
(A.7309 Rosenthal; Reported to Ways and Means)

This bill would prohibit the Commissioner of the New York City Department of Buildings from designating building plans that involve vertical enlargements to be eligible for limited supervisory check.

C. STATEWIDE SIGNIFICANCE

Electronic Key Cards
(A.8308 Kavanagh; Passed Assembly)

This bill would prohibit the use of electronic key cards which contain personal identification information as a means for entering or exiting a city apartment building unless all lease-holding residents consent in writing.

City Charter Adoption
(A.5504 Gottfried; Reported to Calendar)

This bill would repeal certain provisions of the Municipal Home Rule Law that allow for the “bumping” of ballot questions if a charter revision commission created by a mayor places any question on the ballot.

Rooftop Landing of Aircraft
(A.2020 Glick; Reported to the Calendar)

This bill would prohibit the construction or operation of a heliport without a valid city permit. This legislation would also limit the construction of heliports in densely populated areas, defined as a block with 7,500 residents or employees, to those that would be used for emergency medical purposes or other public purposes necessary for public health and safety. This bill would require a city to hold one or more public hearings, assuring full opportunity for citizen participation, when considering a resolution to permit the use of a heliport in a densely populated area for purposes other than a medical emergency or public safety.

D. NEW YORK CITY LEGISLATION

Energy Programs Extender

(A. 8132 Silver; Chapter 255 of the Laws of 2007)

This legislation extends, until July 1, 2010, the authorizations for the Energy Cost Savings Program and the Lower Manhattan Energy Program.

Unsolicited Advertising on Private Property

(A. 6247-A Weprin; Chapter 585 of the Laws of 2007)

This legislation prohibits the placement of advertising materials on private property within the City of New York when the owner of such property posts a sign requesting that no advertising materials be deposited and creates a civil penalty for violations.

Prosecution of Cigarette Tax Offenses

(A.7324 Dinowitz; Chapter 632 of the Laws of 2007)

This legislation authorizes the State Attorney General to prosecute offenses relating to the New York City cigarette tax.

Charter Revision Commission Members

(A.3071 Brennan; Reported to Calendar)

This bill would provide a new appointment process for members of a charter revision commission created by the Mayor of New York City, prohibit certain individuals from serving on a charter revision commission, and provide a new timeline for the submission of certain proposals.

East River Toll Charges

(A.3491 Nolan; Reported to Ways and Means)

This bill would require that any revenues generated from the imposition of tolls on bridges crossing the East River – namely, the Brooklyn, Williamsburg, Manhattan and Queensboro Bridges – be used exclusively for transportation uses within New York City.

Protections For Water Customers
(A.3972 Perry; Reported to Ways and Means)

This bill would prohibit the New York City Water Board from adopting rules and regulations that would reduce the timeframe for consumers to appeal bills and receive refunds or other rules that would be otherwise less favorable to consumers.

E. DEBT INSTRUMENTS

City of Yonkers
(A.3164 Pretlow; Chapter 80 of the Laws of 2007)

This legislation extends, until June 30, 2008, the authority for the underwriting or sale of bonds or notes for the City of Yonkers at private sale. This legislation provides the City of Yonkers with additional fiscal flexibility by permitting the City to determine the timing of bond sales.

City of New York
(A.8277 Farrell; Chapter 83 of the Laws of 2007)

This legislation extends, until July 1, 2008, the authority for the City of New York to enter into interest rate exchange agreements.

III. PARKLAND ALIENATION LEGISLATION

The issue of parkland alienation, or the conversion of parkland for other purposes, has been a great concern to the Committee for some time. Case and statutory law have established that any use of public parkland for non-parkland purposes must be authorized by the New York State Legislature.

As part of the Committee's on going effort to protect the public trust as it relates to parkland and in keeping with the Assembly's policy of preserving open space, every attempt is made to ensure that each proposed alienation of parkland complies with alienation guidelines and adheres to the long standing policy prior to passage out of Committee.

Committee guidelines for authorizing parkland alienation include the verification of the number of acres proposed for alienation and a requirement that such lands be sold at fair market value, with the proceeds from the sale dedicated for the purchase of replacement parkland of equal or greater fair market value or for capital improvement of existing parkland. The legislation must also include a legal description of the parkland being alienated, as well as language detailing the number of acres of land being alienated or dedicated (if replacement parkland is proposed for parkland). Finally, the Committee requires a home rule message from the municipality requesting alienation prior to acting on any parkland legislation.

The following parkland alienation bill was signed into law.

City of New York
(A.8027-A Cusick; Chapter 659 of the Laws of 2007)

This legislation authorizes the City of New York to discontinue the use of certain municipal parkland in Fresh Kills Park. In exchange, the legislation requires replacement lands to be dedicated by the City.

IV. PUBLIC HEARINGS

The committee held four public hearings in 2007. A summary of those hearings follows.

A. FISCAL DISCLOSURE BY VOLUNTEERS FOR NEW YORK CITY

On May 24, 2007, the Committee held a hearing in New York City to discuss the process of financial disclosure for certain New York City volunteers.

Chapter 766 of the Laws of 2005 requires that board members of not-for-profit entities located in the City of New York file financial disclosure forms “at least as stringent” as the form completed by governmental employees. Such forms are lengthy and require detailed personal financial information and, thus, may possibly deter potential volunteers.

B. NEW YORK CITY’S SUSTAINABILITY PROPOSAL – CONGESTION PRICING

On June 8, 2007, the Committee, in conjunction with the Assembly Standing Committees on Ways and Means, Transportation, Corporations, Authorities and Commissions, Energy, and Environmental Conservation, held a hearing in New York City to discuss and review congestion pricing and related provisions contained in New York City’s Sustainability Proposal.

In April 2007, New York City Mayor Michael Bloomberg presented New York City’s Sustainability Proposal which contained 127 separate policy initiatives. This hearing examined congestion pricing and related provisions, such as the creation of a new “SMART Authority” and the impacts that these proposals would have on the downstate region.

C. NEW YORK CITY’S SUSTAINABILITY PROPOSAL – ENVIRONMENTAL AND ENERGY CONSERVATION AND EFFICIENCY PROVISIONS

On June 15, 2007, the Committee, in conjunction with the Assembly Standing Committees on Ways and Means, Transportation, Corporations, Authorities and Commissions, Energy, and Environmental Conservation, held a hearing in New York City to discuss and review environmental and energy conservation and efficiency provisions contained in New York City’s Sustainability Proposal.

The Committee continued its discussion of New York City’s Sustainability Proposal. This hearing examined environmental and energy conservation and efficiency provisions, such as the creation of a new “Expedited Brownfield Cleanup Program” and a new “New York City Energy Efficiency Authority” and the impacts these proposals would have on the downstate region.

V. OUTLOOK FOR 2008

In 2008, the Cities Committee will again endeavor to assist all 62 cities of the State by passing legislation strengthening our commitment to maintaining their economic well-being. A primary goal of the Committee will be to achieve comprehensive solutions for assisting our cities – solutions forged from ideas rather than dollars. The Committee’s other areas of oversight will again range from the protection of public parklands and the parkland alienation process, the sale of bonds, issues dealing specifically with New York City including oversight of construction safety, and neighborhood improvement projects.

APPENDIX A

**2007 SUMMARY OF ACTION ON ALL BILLS REFERRED TO
THE COMMITTEE ON CITIES**

<u>Final Disposition</u>	<u>Assembly Bills</u>	<u>Senate Bills</u>	<u>Total</u>
Bills Reported	37	0	37
To Floor	5	0	5
To Ways and Means	21	0	21
To Codes	10	0	10
To Rules	1	0	1
To Judiciary	0	0	0
 Bills Having Enacting Clauses Stricken	 6	 0	 6
 Bills Having Committee Referenced Changed	 3	 0	 3
 Senate Bills Substituted Or Recalled		 7	 7
 Bills Never Reported, Held In Committee	 80	 3	 83
 Total in Committee	 126	 10	 136
 TOTAL NUMBER OF MEETINGS HELD			 7
 Bills Never Reported Never Received Home Rule Message	 53	 1	 54

APPENDIX B

Chapter Laws of 2007

<u>Bill #</u>	<u>Sponsor</u>	<u>Description</u>	<u>Chapter</u>
A.3164	Pretlow	Extends for one year the authority of the City of Yonkers to issue bonds and notes through negotiated sale.	80
A.3548	Cook	Authorizes the City of New York to reconvey certain real property to Morris Brown Church.	518
A.3734	Butler	Authorizes the City of Gloversville to sell certain delinquent tax liens.	44
A.4254	Destito	Authorizes the City of Utica to sell certain delinquent tax liens.	45
A.6247-A	Weprin	Prohibits the placement of advertising materials on certain properties within the City of New York and creates a civil penalty for violations.	585
A.7226	Giglio	Authorizes the City of Olean to finance a certain deficit by the issuance of bonds..	331
A.7324	Dinowitz	Authorizes the State Attorney General to prosecute offenses relating to the New York City cigarette tax.	632
A.7496	Tobacco	Authorizes New York City to reconvey certain real property to Joan Noordzy.	
A.7739-A	Lavine	Authorizes the City of Glen Cove to finance certain deficit by the issuance of bonds.	337
A.7746	Brennan	Authorizes the Commissioner of the Department of Buildings to refuse to file any document that has been signed by a person who has been found to have made a false statement or to have falsified a document filed under the building code	542
A.7748-A	Brennan	Requires all persons engaged in construction in New York City to obtain general liability insurance and requires all persons doing excavation work to support adjacent properties.	664
A.8027-A	Cusick	Authorizes the City of New York to discontinue the use of certain parkland.	659
A.8132	Silver	Extends authorizations for the Energy Cost Savings Program and the Lower Manhattan Energy Program.	255

<u>Bill #</u>	<u>Sponsor</u>	<u>Description</u>	<u>Chapter</u>
A.8277	Farrell	Extends authorization for the City of New York to enter into interest rate exchange agreements.	83
A.9167-A	Nolan	Extends authorization for the Relocation and Employment Assistance Program.	497

APPENDIX C

Vetoes of 2007

<u>Bill #</u>	<u>Sponsor</u>	<u>Description</u>	<u>Veto Memo #</u>
A.7088	Brennan	Creates a duty to re-inspect and abate hazardous activities in violation of the New York City Building Code.	152