

2005 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON CITIES

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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. The Committee monitors the problems of cities and works closely with state and local representatives to develop solutions.

II. MAJOR ISSUES OF 2005

A. ASSISTING UPSTATE CITIES

City of Watertown

(A.6075 Scozzafava; Chapter 38 of the Laws of 2005)

This legislation requires that plumbing inspectors for the City of Watertown be residents of Jefferson County. Pre-existing law required that all plumbing inspectors be citizens of both the City and County that appointed them. The City of Watertown has a shortage of qualified plumbing inspectors and this legislation seeks to remedy this problem by allowing for the City to appoint inspectors that reside outside of the city limits.

City of Utica

(A.7973 Destito; Chapter 627 of the Laws of 2005)

This legislation authorizes the city of Utica to establish an administrative tribunal for the adjudication of parking violations. Until now, parking tickets were handled by the Utica City Court. This resulted in a backlog of tickets, and it was a burden on the time and personnel of the Court. This legislation allows for the City of Utica to adjudicate these cases in a more timely, efficient and cost effective manner.

City of Middletown

(A.8514 Gunther; Chapter 585 of the Laws of 2005)

This legislation requires that plumbing inspectors for the City of Middletown be residents of Orange County. Pre-existing law required that all plumbing inspectors be citizens of both the City and County that appointed them. The City of Middletown has a shortage of qualified plumbing inspectors. This legislation seeks to remedy this problem by allowing for the City to appoint inspectors which reside outside of the city limits.

City of Niagara Falls

(A.1880 DelMonte; Chapter 436 of the Laws of 2005)

This legislation authorizes the City of Niagara Falls to convey property to the Niagara Falls Housing Authority for the purpose of redeveloping Center Avenue East.

B. NEW YORK CITY LEGISLATION

Lower Manhattan Energy Program

(A.7384-A Silver; Chapter 149 of the Laws of 2005)

This legislation extends the effective date of the New York City Energy Cost Savings Program (ECSP) and the Lower Manhattan Energy Program (LMEP) to July 1, 2007. This legislation would amend provisions of ECSP and LMEP to enable the City to continue to provide energy cost savings to commercial and industrial firms, while

maintaining the compatibility of these programs with competitive markets, by extending the sunset dates of these programs to July 1, 2007. ECSP provides benefits, in the form of "special rebates" and "discounts", to firms moving to designated areas of the City or making prescribed levels of investment to expand or upgrade their premises within designated areas of the City. LMEP provides similar benefits to owners of buildings in the Lower Manhattan area and requires that the benefits be passed through to qualified tenants. At the core of both programs is a requirement that the local utility provide eligible beneficiaries with a special rebate against their energy bills (the city pays for the special rebates by giving the utility a credit against its utility tax liability equal to the amount of special rebates granted). Both programs are designed to curtail the loss of industrial and commercial jobs to other regions outside the city, which can offer lower energy costs. These programs also promote the renovation and modernization of older commercial and industrial space, thereby providing an incentive for businesses to relocate to, or to renovate and/or expand within New York City. Currently, through ECSP and LMEP, New York City provides energy benefits to over 1,000 businesses that employ over 50,000 individuals within the city's five boroughs. The two programs currently save businesses approximately \$46 million annually in energy costs.

Protecting Outdoor Produce Displays from Pesticides
(A.573 Stringer; Reported to Calendar)

This bill would reduce the exposure of New York City residents to pesticides by prohibiting outdoor sidewalk display of fruits and vegetables at produce markets during times of pesticide application to repel West Nile Virus. A shop owner would be required to cover or remove any produce from an outdoor sidewalk display during all pesticide applications. The removal or covering of produce would be required within a one-mile radius of any area in which pesticide application were scheduled to occur.

Charter Revision Commission
(A.1084 Stringer; Reported to Calendar)

This bill would require the Mayor of the City of New York, in making selections to the charter revision commission, to include nominations offered by the following individuals/groups: the comptroller, the public advocate, the borough presidents acting together, and one nomination from each of the borough delegations to the city council. The individuals who would be prohibited from serving on such commission would include: officers of a political party, registered lobbyists, or any employee of a lobbyist.

The commission, if created after the 15th of February of any year, would be prohibited from placing proposals on the ballot until the next calendar year unless the proposals were first approved by the local legislative body no less than 90 days before the general election. Proposals recommended by the commission that would make specific changes to the city's charter would be identified separately on the ballot, to the extent possible.

Building Code Enforcement

(A.1141 Rules (Stringer); Reported to Committee on Ways and Means)

This measure would strengthen building code enforcement for multiple dwellings in New York City. The bill would require inspectors of the Department of Buildings to record all building violations and to notify the appropriate agencies regarding any hazardous conditions not within the inspector's jurisdiction. Tenants could petition the Department for an inspection and the inspector would be required to provide all tenants with a copy of the report of violations. The Department of Buildings also would be required to devise a system of random checks to determine if violations had been remedied. These responsibilities would be shared by the Department of Buildings and the Department of Housing Preservation and Development.

In addition, this bill would create the temporary New York City Housing Oversight Commission to oversee building code enforcement efforts. The Commission would report its activities and goals to the City Council and to the Mayor both monthly and annually. The Commission also could make recommendations to the appropriate agencies.

Consumer Protection

(A.3440 Perry; Reported to Committee on Ways and Means)

In an effort to allow New York City residents additional time to challenge billing errors in their favor, this bill would prohibit the New York City Water Board from reducing the time frame for consumers to challenge water bills or receive refunds when previous billing errors are discovered in favor of the consumer. It would require the water board to provide refunds for up to six years; the current limit is four years.

Confidentiality of Information Obtained by City Employees

(A.4558 McLaughlin; Passed Assembly)

This bill would prevent the unnecessary disclosure of personal and confidential employee information. The bill defines confidential information as any information pertaining to an employee's health or disability status, income tax records, sexual orientation, status as a crime victim or witness, public assistance status, immigration status, or any other information protected by federal, state or local law.

If enacted, a city agency would be prohibited from disclosing such confidential employee information except under certain circumstances. A city officer or employee would be prohibited from making inquiries regarding confidential information to any individual applying or receiving any service or benefit unless the disclosure of such information were specifically required by federal or state law as a condition of providing the service or benefit. Further, a city officer or employee would be prohibited from requesting information regarding the immigration status of an individual applying for any service or benefit, unless such information were required by Federal or State law. Each city agency would be required to designate an officer with the authority to release employee

confidential information, which could not be released without prior written approval of the agency's designated officer.

Vendor Identification
(A.5939 Towns; Passed Assembly)

Due to the street vending privileges reserved for disabled veterans, there has been growing concern that other street vendors would attempt to pose as disabled veterans. Currently, disabled veteran vendors do not have an established method by which to identify themselves beyond their license. This bill would provide a means for identifying disabled veteran vendors on the streets of New York City.

This measure would require the disabled veteran vendor advisory committee, in consultation with the New York City Department of Consumer Affairs, to design, create and distribute a universal flag to identify disabled veterans who were vending with a specialized vending license. The flag could not exceed thirty inches by forty inches and flagpoles would be restricted to eight feet in height. The flag could be displayed by a disabled veteran street vendor authorized to hold a specialized vending license, as issued pursuant to section 35-a of the General Business Law. The flag would alert the general public that they were purchasing merchandise from a licensed disabled veteran.

C. STATEWIDE SIGNIFICANCE

Rooftop Landing of Aircraft
(A.1507 Glick; Reported to 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.

Electronic Entry Card Access to Residential Buildings
(A.7500 Stringer, Reported to Calendar)

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

D. DEBT INSTRUMENTS

City of Buffalo

(A.2442 Schimminger; Chapter 69 of the Laws of 2005)

This legislation extends the expiration date of current statute from June 30, 2005 to June 30, 2006, to allow the City of Buffalo to continue to issue bonds or notes at private sale, subject to the approval of the Office of the State Comptroller. Existing law allows for the city to supply funds for projects that require immediate attention. This extension provides Buffalo with additional flexibility to address any further financial needs.

City of Yonkers

(A.4687 Pretlow; Chapter 118 of the Laws of 2005)

This legislation extends the expiration date of current statute from June 30, 2005 to June 30, 2006, to allow the City of Yonkers to continue to issue bonds or notes at private sale, subject to the approval of the Office of the State Comptroller. Existing laws allows for the city to supply funds for projects that require immediate attention. This extension provides Yonkers with additional flexibility to address any further financial needs.

E. PARKLAND ALIENATION

The issue of parkland alienation, or the conversion of parkland for other purposes, has been of great concern to the Committee for some time. Case law has been established which requires that any use of public parkland for non-parkland purposes be authorized by the New York State Legislature. As a result, the Cities Committee examines and analyzes all public parkland alienations for the States' 62 cities.

Prior to consideration, all proposed parkland alienation legislation introduced is carefully examined to insure that it upholds the Committee's ongoing efforts to protect the public trust and to adhere to the Assembly's longstanding policy of preserving open spaces.

As such, the following bills met the Committee's criteria for parkland alienation and were reported:

City of New York

(A.4407 Heastie; Chapter 525 of the Laws of 2005)

This bill authorizes the City of New York to discontinue the use of certain lands located in the Borough of the Bronx, as parklands and to use such lands for the purposes of constructing and operating a subway, an intermodal transfer station, parkland, and traffic and streetscape improvements associated with the Gun Hill Road Station Rehabilitation Project. In the event the lands described in the bill are not of equal or greater fair market value than the lands to be discontinued, the City shall dedicate the difference toward the

acquisition of additional parkland and/or toward capital improvements to existing park and recreational facilities.

(A.8046 Seddio; Chapter 708 of the Laws of 2005)

This bill authorizes the City of New York to discontinue the use of certain lands located in the Borough of Queens as park lands for the purposes of establishing a park and parkway corridor through a portion of Marine Park for park and parkway purposes. In the event the lands described in the bill are not of equal or greater fair market value than the lands to be discontinued, the City shall dedicate the difference toward the acquisition of additional parkland and/or toward capital improvements to existing park and recreational facilities.

City of Glens Falls

(A.8620 Sayward; Chapter 631 of the Laws of 2005)

This bill authorizes the City of Glens Falls to discontinue the use of certain lands as park lands, and to use the lands for the purposes of renovating the Crandall Public Library. The authorization provided by the bill is effective only upon the condition that the Crandall Trust provide parkland to the city which is located in the same park. In the event the lands described in the bill are not of equal or greater fair market value than the lands to be discontinued, the City shall dedicate the difference toward the acquisition of additional parkland and/or toward capital improvements to existing park and recreational facilities.

City of Tonawanda

(A.8801 Rules (Schimminger); Chapter 542 of the Laws of 2005)

This bill authorizes the City of Tonawanda to discontinue certain parklands, which are no longer needed for park purposes. The authorization provided by this bill is effective only upon the condition that any applicable National Park Service requirements pertaining to alienation have been satisfied. In the event the lands described in the bill are not of equal or greater fair market value than the lands to be discontinued, the city shall dedicate the difference toward the acquisition of additional parkland and/or toward capital improvements to existing park and recreational facilities.

City of Utica

(A.8821-A Destito; Chapter 638 of the Laws of 2005)

This bill authorizes the City of Utica to discontinue certain parklands, formerly known as the Cooper-Bigelow Playground. In the event the lands described in the bill are not of equal or greater fair market value than the lands to be discontinued, the city shall dedicate the difference toward the acquisition of additional parkland and/or toward capital improvements to existing park and recreational facilities.

III. FISCAL AID TO CITIES

A. INTRODUCTION

The continued fiscal crisis faced in all cities, most notably the four big upstate cities, Rochester, Buffalo, Syracuse and Albany, is a direct result of the demand for more community based services. In order to meet these service demands, cities have been forced to increase spending. In part, the high per-capita service costs reflect the commuter population, which depends on city services during the day but returns to a home outside the city's taxing jurisdiction at night.

The tax base on which cities depend has been growing much slower than in the rest of the State; the average annual growth rate in taxable full value was 7.8% for New York City and 7% for upstate cities from 1975 to 1994 as opposed to growth of 9.1% outside of cities. This seemingly small differential, when compounded, means that upstate cities' tax bases are now about two and one-half times greater than they were twenty years ago and New York City's has roughly tripled, while the tax base outside of cities grew roughly four and one-quarter times.

B. 2005-2006 STATE BUDGET HIGHLIGHTS

This year the Legislature enacted its first on-time budget in almost 20 years. The Budget for the 2005-2006 State fiscal year consolidated all existing revenue sharing programs into the Aid and Incentives for Municipalities (AIM) program. As a result, Revenue Sharing, Supplemental Municipal Aid, Emergency Financial Aid to Certain Cities, and Emergency Financial Aid to Eligible Municipalities will no longer appear as separate funding streams.

The Legislature added \$7,949,000 in local assistance grants over the Executive Budget. This includes an additional 12.75 percent increase for cities over their State Fiscal year 2004-2005 amount. Cities are required to submit written certification to the Division of the Budget indicating that they have completed three-year financial plans and have minimized property tax growth. If a city does not submit certification, additional revenue sharing could be withheld beginning in State Fiscal Year 2006-2007.

The Budget also included a Shared Municipal Services Initiative (SMSI) program. This program, funded at \$2.75 million, will be administered by the Department of State and will provide grants of up to \$100,000 per municipality. Grants will be awarded to localities that share services or merge with other municipalities. Municipalities must provide a 10 percent match. Authorized costs are limited to legal and consultant services, feasibility studies, capital improvements and other necessary expenses, not including salaries and other recurring expenses.

IV. THE COMMITTEE AND THE COMMUNITY

In continuation of its efforts to uphold a public process that responds to community involvement and input, the Committee participated in several hearings of local importance this year.

The Proliferation and Placement of Wireless Antennas in New York City February 25, 2005

The Cities Committee held a hearing to investigate the increase in cellular telephone antennas in New York City. Increased availability and use of wireless telephones has generated a greater demand for better customer service and reception. To respond to that demand, wireless providers continually seek locations in which to place company wireless antennas and, despite strong opposition from city residents and businesses, antennas abound on commercial and residential buildings throughout the City. The New York City Department of Buildings is responsible for issuing permits to wireless providers for installing wireless antennas. The permit for which wireless providers apply is categorized under the broad, nondescript term of structure and, as a result, there is no accurate accounting of the number of locations of antennas within the city.

The hearing focused on the need for an official record recording the identification, placement and number of wireless antennas throughout the city and whether or not proper notice should be provided to building occupants before a wireless antenna is installed. Furthermore, the hearing focused on the Department of Buildings process for approving new wireless antennas; specifically the criteria that is used for approving or denying permits.

Testimony at the hearing was presented by the Honorable Peter Vallone, Jr., representing District 22 of the City Council, Phyllis Arnold, General Counsel for the New York City Department of Buildings, and Dr. Martin Blank, PhD, Associate Professor of Physiology and Cellular Biophysics, Columbia University Medical School.

Recent Significant Increases in Real Property Tax Assessments Placed on Rehabilitated or Renovated Residential Dwelling Units in New York City April 7, 2005

The purpose of this hearing was to gather information regarding recent increases in the assessed value of properties that have been recently renovated and to review viable proposals that can be implemented to relieve affected property owners of these sudden and excessive property tax liabilities.

In recent years, homeowners throughout New York who have recently renovated or rehabilitated their homes have experienced significant increases in the assessed value of their properties. Some of these homes have been notified of a property class change, which will ultimately result in substantial increases in their real property tax liability in the upcoming year; increases are estimated to be as much as 1000 percent for some property owners.

The New York City Emergency Response and Evacuation Plans in the Event of a Weather-Related Emergency
September 29, 2005

The purpose of this hearing was to evaluate the status of weather-related emergency planning and evacuations in New York City. The Committee, along with the Committee on Corporations, had been investigating weather-related emergency planning and has reviewed several documents and preliminary reports produced by New York City. Though the Committees have been working with both the New York City Office of Emergency Management (OEM) and the Metropolitan Transportation Authority (MTA) and progress has been made on the issue; it is clear that New York City is unprepared for a major weather-related emergency.

The hearing focused on the readiness of health care facilities within New York City, and the details of evacuation plans for those facilities. Furthermore, the Committees received testimony regarding information which has not been disclosed by OEM with respect to evacuation plans.

Testimony at the hearing was presented by Josh Zilberberg of the Greater New York Health Care Facilities Association, and Joseph Bruno, Commissioner of the New York City Office of Emergency Management.

Investigation into the Policies and Practices of the Roosevelt Island Operating Corporation
October 17, 2005

The purpose of this hearing was to address a series of concerns regarding the operations and management policies of the Roosevelt Island Operating Corporation (RIOC). Specifically, there are outstanding questions on financial practices, as well as the handling of personnel matters. The hearing explored these issues and also examined the impact of the Public Authority Reform Act of 2005 on RIOC.

Testimony at the hearing was presented by Mary Beth Labate, former Chair designee of RIOC, Robert Ryan, former President of RIOC, and Margie Smith and Steven Marcus, members of the Roosevelt Island Residents' Association.

State Aid for New York State's Cities
December 5, 2005

In 2004, the Cities Committee held "City Summit" hearings in an effort to discuss the financial challenges facing New York State's cities. The Committee received testimony on issues such as affordable housing programs, economic development and transportation. A main topic of concern to New York State cities was the unrestricted aid to localities and the need to strengthen the revenue sharing program. The 2005 enacted budget included a new Aid and Incentives to Municipalities program (AIM), which combines existing local revenue sharing with other State unrestricted aid programs while also providing \$59.8 million in additional funding for cities, towns and villages. AIM provides 12.75% unrestricted aid increases for cities (other than New York City) in 2005-2006, and also requires that municipalities meet certain requirements such as efforts to minimize property tax growth and the adoption of fiscal accountability measures,

including the submission of multi-year financial plans as a condition to receiving the aid increase.

This hearing reviewed the use of State aid by cities. In particular, it reviewed the 12.75% increase provided in the budget, and also gave municipalities the opportunity to discuss the implementation of the conditions of the AIM program. Furthermore, the hearing provided an opportunity for cities to revisit issues considered at the City Summit hearings and to discuss the progress made on such issues.

Testimony at the hearing was presented by the Honorable Philip Amicone, Mayor of the City of Yonkers, Jeff Kay, Deputy Director of the New York City Office of Management and Budget and Peter Baynes, Executive Director of the New York State Conference of Mayors and Municipal Officials.

V. OUTLOOK FOR 2006

In 2006, 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. Therefore, 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 involvement in issues dealing specifically with New York City, the protection of public parklands and the parkland alienation process, the return of property through the in rem tax proceedings, the sale of bonds and neighborhood improvement projects.

APPENDIX A

**2005 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	24	0	24
To Codes	5	0	5
To Rules	3	0	3
To Judiciary	0	0	0
 Bills Having Enacting Clauses Stricken	 1	 0	 1
 Bills Having Committee Referenced Changed	 2	 0	 2
 Senate Bills Substituted Or Recalled		 5	 5
 Bills Never Reported, Held In Committee	 78	 13	 91
 Total in Committee	 118	 18	 136
 TOTAL NUMBER OF MEETINGS HELD			 7

APPENDIX B

Chapter Laws of 2005

<u>Bill #</u>	<u>Sponsor</u>	<u>Description</u>	<u>Chapter</u>
1880-A	DelMonte	Authorizes the City of Niagara Falls to convey certain land to the Niagara Falls Housing Authority.	436
2014	Robinson	Authorizes New York City to reconvey its interest in Block 1762 in Brooklyn to the heirs or distributes or the successors of former owners George Black.	548
2442	Schimminger	Extends authorization for the private sale of bonds and notes of the City of Buffalo.	69
2545	Cook	Authorizes New York City to reconvey its interest in certain real property acquired by an in rem foreclosure proceeding to Joseph Gray and Karl Gray, the former owners of such property.	550
4407	Heastie	Authorizes the discontinued use as parkland certain real property in the Borough of the Bronx and authorizes the transfer of such land to the MTA for the expansion and improvement of the Gun Hill station.	525
4687	Pretlow	Extends for one year, the authority of the City of Yonkers to issue bonds and notes through negotiated sale.	118
5541	Scarborough	Authorizes New York City to reconvey property acquired by in rem foreclosure in the borough of Queens to Siraj Wahhaj.	556
6075	Scozzafava	Provides that plumbing inspectors for the City of Watertown shall be citizens and actual residents of the county wherein the city is situated.	38
6463	Gordon	Authorizes the City of New York to release its interest in certain real property to the Elva McZeal Tenants Association Housing Development Corporation.	552
7348	Farrell	Extends statutory authority for the sale of bonds and notes of the City of New York, and the refunding of bonds and down payment for projects financed by bonds.	148
7384-A	Silver	Relates to special rebates and discounts provided pursuant to the energy cost savings program and the lower Manhattan energy program.	149

<u>Bill #</u>	<u>Sponsor</u>	<u>Description</u>	<u>Chapter</u>
7973	Destito	Authorizes the City of Utica to establish an administrative tribunal for the adjudication of parking violations.	627
8046	Seddio	Authorizes the City of New York to discontinue as mapped park land the section of the existing Shore Parkway (Belt Parkway System) between Brigham Street and Flatbush Avenue and to use such land to establish a parks and parkway corridor through a portion of Marine Park for park and parkway purposes.	708
8421-A	Clark	Sets forth parklands to be acquired by the City of New York from the State of New York in exchange for parklands discontinued and conveyed to Yeshiva Har Torah.	709
8514	Gunther	Allows inspectors of plumbing in the City of Middletown to live outside such city.	585
8620	Sayward	Authorizes the City of Glens Falls to discontinue the use of certain lands as parklands and transfer such lands to the Crandall Trust.	631
8801	Rules (Schimminger)	Authorizes the City of Tonawanda, Erie County, to discontinue parkland no longer needed as such and dedicate the fair market value equivalent for park purposes.	542
8821-A	Rules (Destito)	Authorizes the City of Utica to discontinue the use of parklands known as the Cooper-Bigelow playground.	638
8932	Rules (Arroyo)	Authorizes the leasing of parkland and demapping of streets for the development of a professional baseball stadium and associated facilities.	238