12

New York State Conference of Mayors and Municipal Officials
119 Washington Avenue, Albany, New York 12210 • Ph (518) 463-1185 • Fx (518) 463-1190
Toll free number for NYCOM members 1-800-446-9266
www.nycom.org

The 2016-2017 Executive Budget

Testimony of the New York State Conference of Mayors

Peter A. Baynes

Executive Director

Before the

Joint Fiscal Committees' Hearing on the Executive Budget

Senate Finance Committee

Hon. Catharine Young, Chair

Assembly Ways and Means Committee

Hon. Herman D. Farrell, Jr., Chair

January 26, 2016
Albany, New York

Thank you for affording NYCOM the opportunity to express the views of our 581 member cities and villages regarding the 2016-17 Executive Budget. I am Peter Baynes, Executive Director of the New York State Conference of Mayors.

Cities and villages across the State continue to face significant fiscal pressures. The negative impact on revenue sources as a result of the property tax cap, high levels of tax-exempt property and declining State and federal aid all contribute to the challenges local governments face as they struggle to keep pace with increasing costs. In the meantime, the current Administration continues to harp on the apparent waste and duplication at the local level – a premise that I clearly take issue with and one that the State Comptroller's data on city and village spending and tax rates does not support. It is no surprise that city and village mayors feel as though they are being made to be scapegoats, when in actuality their level of efficiency far exceeds that of the State and federal governments.

When you look at trends in State aid to local governments, it is easy to see that therein lies our property tax problem. New York's revenue sharing program, when adequately funded, is a proven means of moderating the growth in municipal property taxes. Unfortunately, the last increase in AIM came in SFY 2008-09 and since then AIM funding to cities (outside NYC), villages and towns has decreased by 14% in real dollars. New York City's AIM allocation – totaling $328 million – was completely eliminated in SFY 2010-11. Currently, school aid – which totals $22 billion – is more than <u>30 times</u> the total AIM program and the entire AIM appropriation is 65% less than this year's <u>increase</u> in school aid. We are not saying that the schools are not deserving of this amount – but the success of our schools is directly related to the success of our communities. You can have schools with the best of intentions and funding but if you don't have the infrastructure to support them – the roads and transit systems to get the students there, the water and wastewater systems in the school bathrooms, kitchens and hallways, public safety services that ensure the students are safe and protected – all of the efforts to achieve high-quality schools will fail. Investing in our schools without investing in our municipal governments is short-sighted and counterproductive. After all, failing communities produce failing schools.

Local Government Fiscal Condition

Cities and villages are doing all that they can to control spending while maintaining essential services, but the fiscal path they are on is unsustainable. The tax cap has fallen to nearly zero, State aid has declined and the one glimmer of hope on any mandate relief went away in December 2014 when the Governor's Mandate Relief Council was disbanded. On top of all of this, the proposed increase in the State's minimum wage is likely to have a debilitating effect on local communities throughout New York. Even though local governments are not subject to the State's minimum wage requirements, we expect this proposal will result in a decrease in jobs, the demise of many small local businesses, as well as reductions in essential services as local officials are forced to increase wages just to compete for employees.

It is clear that local governments – in response to the tax cap and the lack of State assistance – are eliminating services, cutting back on jobs and dipping into their fund balances, in some cases, to dangerously low levels. According to the State Comptroller's data, between 2008 and 2014, total unassigned fund balance in cities decreased from $374.3 million to $279.0 million – a decline of $95.3 million or 25%.

Furthermore, the imposition of fiscal austerity on local governments has had a "crowding-out" effect on local budgets, including the deferral of critical infrastructure needs in order to fund essential municipal services. Infrastructure is essential to both a community's economic growth and improved quality of life. Building and maintaining municipal assets and facilities creates jobs and puts the community in a better position to grow and respond to the needs of its residents and businesses. This, in turn, makes it a more attractive place to live and work.

Recent reports document that local governments are facing a combined multi-year funding deficiency of $65.7 billion for municipal infrastructure related to roads and bridges ($34.8 billion), water ($10.7 billion) and sewer ($20.2 billion). Despite the fact that the State has emphasized the importance of infrastructure for economic growth and development, the State's policy and practices in this area contradict the rhetoric. It appears the State believes that economic development comes before infrastructure investment – and that once that development occurs, local governments will have the ability to "fix their own pipes." The physical structures to support economic growth must be in place for that growth to actually occur – it's as simple as that and can only be accomplished through a strong and steady investment by our State.

The Tax Cap

When the tax cap was first imposed in 2012, NYCOM repeatedly pointed out that there is not a local official in this State that doesn't want to lower taxes. And while the State Comptroller's data illustrates that property tax growth is at an inflationary level, the same data also illustrates that this trend, as it relates to municipal property taxes, started long before the tax cap was imposed. But there is a cost to prolonged austerity. As additional pressures, including residents' receipt of rebate checks, are linked to tax cap compliance, negative consequences – including reductions in municipal services, local workforces and capital investment, as well as an increased reliance on reserves to balance local budgets – are inevitable, especially when the cap is well below 2%, as it is currently. The Governor continuously tells local governments "to do as I do" and points to the State's self-imposed spending cap of 2% – not 0.12%, but 2%. If you want local governments to follow the State's example, make the property tax cap a true 2% cap as well, not one that can fall with inflation.

As I am sure you are aware, the current tax cap law fails to exclude the costs of capital projects undertaken by municipalities – again, unlike the State's spending cap that excludes capital spending from the 2% calculation. Given the public infrastructure crisis we are facing in New York, NYCOM believes that adjustments to the tax cap's exclusion provisions will better enable local governments to facilitate economic development via enhanced municipal infrastructure. Specifically, the list of exclusions must be expanded to include, at a minimum, emergency expenditures resulting from damage to municipal infrastructure or equipment; expenses related to capital improvements mandated by Consent Orders from the Department of Environmental Conservation or other government agencies; and infrastructure investments intended to enhance the economic development capacity of a community, including improvements related to municipal water, sewer or transportation, and initiatives that have been "sanctioned" by the State through the provision of State-funded support. The tax cap should also exclude the levy associated with Business Improvement Districts, as this policy undermines local efforts to foster economic development.

Finally, while we are on the topic of strengthening the tax cap, we encourage the State to actually implement the changes that were agreed to at the end of last year's legislative session. These include adjusting the calculation of the tax base growth factor to reflect development on tax-exempt land, and for the schools – excluding construction costs related to BOCES.

Unrestricted State Aid

The State's current unrestricted aid program – formerly known as revenue sharing, now known as Aid and Incentive for Municipalities, or AIM – is general purpose State aid provided to all of New York's cities (outside of New York City), villages and towns. Since the late 1980's, the original "revenue sharing" formula – intended to provide property tax relief by redistributing the State's progressive tax revenues to municipalities that do not have the tax base or the taxing authority to generate these revenues on their own – has been annually disregarded and various constraints have been imposed on the overall level of State aid to local governments. Due to the fact that the original "revenue sharing" formula has not been utilized for decades and, since that time, various additional aid categories have been targeted to specific municipalities based on no particular economic or demographic factors, the current allocation of unrestricted aid fails to accurately reflect the fiscal need and capacity of its recipient cities, villages and towns. Consequently, building on this base with across-the-board aid increases, while marginally helpful, will continue to exacerbate the inequities currently embedded in the AIM program.

While AIM funding is a vital source of revenue to many of those municipalities who receive it, NYCOM supports the creation of an additional program that would allocate new unrestricted aid to local governments. One possible way of doing this and simultaneously addressing the concerns about a true 2% tax cap is to provide each municipality that complies with the cap an aid amount equal to the difference between the municipality's allowable levy under a 2% cap and what it actually is under the CPI calculation. Such a program of Tax Cap Equalization Aid would (1) demonstrate the State's commitment to partnering with municipalities to achieve widespread tax cap compliance, (2) replace a portion of the regressive property tax burden with the State's progressive tax revenue, (3) generate the same property tax relief that increased school aid does for school taxes, and (4) create a real 2% tax cap for those municipalities that are continuing to tighten their belts. The total cost to the State would be approximately $100 million if every municipality complied with the cap and thereby became eligible for the aid. Under this program, additional aid would be provided to local governments with high fiscal distress scores according to the Office of the State Comptroller's Fiscal Stress Monitoring System. Since New York City is not subject to the tax cap (but would likely be in compliance if they were, due to the tax base growth factor) and since the City's AIM funding totaling $328 million was eliminated in 2010-11, this proposal would need to include a way to get an equitable amount of unrestricted aid to the City of New York.

One way to help fund this program or to address any of the numerous other local needs would be to reallocate some of the funding that has been, and continues to be available for purposes that are not practical or are only accessible via processes that are not prudent for a municipality to undertake. Consider, for example, the $35 million which has been appropriated for several years for the Citizen's Empowerment Tax Credits and the Citizen's Reorganization Empowerment Grants – both of which have been woefully undersubscribed. In addition there is an $80 million reappropriation (because this money went unspent for the last two years) in the 2016-17 Executive Budget for the Local Government Performance and Efficiency Program, which can only be accessed by municipalities that subject themselves to the State's Financial Restructuring Board – a process that has arguably not generated the outcomes that had been hoped for.

The $150 million Municipal Restructuring Fund that was established as part of the 2015-16 budget – from which not a dime has been spent nor have local governments even had the chance to apply for – is now being reprogrammed, after never getting off the ground in its first year. And now there is a new program which was included in the 2016-17 Executive Budget known as the Municipal Consolidation and Efficiency Competition which would allocate $20 million to **one** consolidation effort. Does it really make sense to award $20 million to one project, when there are likely 200 initiatives that could successfully use one-tenth of that funding? All of these pots of money would be much better utilized if they were actually available to municipalities for programs and services that mattered and that the State was truly committed to supporting.

Infrastructure Funding

NYCOM strongly supports the Executive Budget's additional $100 million for the Water Infrastructure Improvement Act which was funded at $200 million in the current year budget, of which $50 million has already been allocated. However, we know that the need for infrastructure funding far exceeds the $250 million that would be available over the next two years. In the months leading up to the passage of the current year State budget, NYCOM strongly advocated that the Governor and State Legislature allocate a significant portion of New York's $5.4 billion in bank settlement monies for local infrastructure – recognizing that this would jumpstart long-stalled but much-needed local improvements and lower property taxes at the local level. Once again, we believe that the best way to use the current $2.3 billion settlement windfall in 2016-17 is to invest in local infrastructure.

The 2016-17 Executive Budget also includes $100 million for 10 communities to "invest in transformative housing, economic development, transportation and community projects that will attract and retain residents, visitors and businesses." Each of the 10 REDCs would select one community's downtown and each such community would work with planning experts and State agency personnel to develop and submit a revitalization plan that would highlight a series of coordinated projects intended to drive economic activity and population growth in the downtown area. NYCOM strongly believes that revitalizing our downtowns is a critical component of a successful statewide community development policy and is something that has been neglected for at least a decade. Given the widespread need for downtown redevelopment in every area of the State, and the fact that so many local governments could make significant and transformative improvements for far less than $10 million each, why would we limit the awards to ten? Is an REDC capable of fairly choosing between Troy and Cohoes, Jamestown and Dunkirk, or Middletown and Poughkeepsie? Additionally, this approach essentially eliminates smaller local governments from having any chance of seeing a dime of this funding, even if their downtown has the potential of being the commercial hub of their area. New York has literally dozens and dozens of downtowns that have all of their stakeholders on board and are ready to move forward. What they don't have is the State's willingness to invest in their cause. We believe this money could and should go a lot further by increasing the number and reducing the amount of the individual awards.

Transportation Funding

Local governments are responsible for a considerable portion of New York's road, highway and bridge infrastructure, which is why State funding in this area is essential. As we mentioned earlier, the repair and maintenance of critical local infrastructure – including roads and bridges – has suffered at the expense of the many other demands on municipal budgets. A study by the Cornell Local Roads Program estimates that every $1 of deferred maintenance on roads and bridges costs an additional $4 to $5 in needed future repairs.

This year local governments received an additional $50 million for "Extreme Winter Recovery" to help municipalities pay for the damage to local roads brought on by snow, ice and cold temperatures last winter. NYCOM greatly appreciates the Legislature's willingness to provide these additional resources. Unfortunately, the 2016-17 Executive Budget eliminates this $50 million, but given that winter is clearly upon us, there is no doubt that those additional resources are again necessary this year. NYCOM urges the State Legislature to include the additional $50 million in the adopted 2016-17 State Budget to assist local governments with the repair and resurfacing of local roads. In addition, at a time when improving our local infrastructure is essential to the recovery and revitalization of our communities and our State, the need for a substantial increase in CHIPS funding is more critical than ever.

NYCOM supports true parity between upstate and downstate as it relates to transportation and transit funding. Consequently, NYCOM supports the Executive Budgets $21 billion DOT five-year capital plan to upgrade critical roads, bridges and other vital transportation infrastructure throughout the State, especially upstate. The BRIDGE NY ($1 billion), PAVE NY ($1 billion) and the Extreme Weather Infrastructure Hardening Program ($500 million) will go a long way toward improving the condition of local roads and bridges, as well as provide resiliency to those roadways that are particularly susceptible to weather events. It is unclear, however, exactly how this money will be allocated, and whether local governments will get their proportionate share. When the need is so great and so widespread, it is essential that the distribution of these funds recognizes that fact.

Restore New York

One of NYCOM's Legislative Priorities is to re-establish a funding source for building demolition and reconstruction. In 2006, the Legislature appropriated $300 million to fund the demolition, deconstruction, rehabilitation and/or reconstruction of vacant, abandoned, condemned and surplus properties. This program, known as Restore New York, awarded 197 grants over a three-year period. While this was a great start to addressing the epidemic of outmoded and unsafe properties that not only threaten the public's health, safety, and welfare but also inhibit redevelopment of New York's cities and villages, thousands more buildings need to be renovated or demolished. The 2015-16 State Budget included $25 million for Restore New York, and when NYCOM asked about the status of this program in October of last year, we were told that the details were still being finalized but that it would be formally announced by Empire State Development in the "near future." It is imperative that the State get this program – which has already proven to be a critical and successful tool for community revitalization – up and running.

MWBE Requirement

In 2014, Governor Cuomo established a goal requiring that 30% of all State contracts go to minority- and woman-owned enterprises (MWBE). In his State of the State address, the Governor proposed expanding this 30% requirement to include those local government contracts supported by State funding, and to those entities that subcontract with such local governments. While we are strongly supportive of the Governor's intentions, we believe that this mandate, particularly in certain areas of the State, will be impossible to comply with. In addition, this proposal will likely encourage the awarding of contracts based on criteria other than cost and the quality of the bid.

Conclusion

No one can argue with the fact that New York has and continues to make great strides, but the only way we can keep moving in that same direction is through a mutually respectful and committed partnership between the State and its cities, villages, counties and towns. Our State leaders cannot and should not place the blame for high property taxes solely on local governments. Instead of pointing fingers, focusing on rebate checks, and disparaging local governments and the economic growth they help generate, it is time for the State to realize that it does have a role to play – an important role – to partner with local governments and help us further improve what we do best: in the most cost-effective manner, provide the essential services upon which individuals, families and businesses rely.

Again, I thank you for the opportunity to testify at this important hearing. NYCOM looks forward to providing your committees with additional input as the budget making process continues.