



NEW YORK STATE ASSEMBLY • SHELDON SILVER, SPEAKER

2007  
*Annual Report*

COMMITTEE ON  
LOCAL GOVERNMENTS  
SAM HOYT, CHAIRMAN

December 15, 2007

Honorable Sheldon Silver  
Speaker of the Assembly  
Legislative Office Building, Room 932  
Albany, NY 12248

Dear Speaker Silver:

I am pleased to submit to you the 2007 Annual Report of the Assembly Standing Committee on Local Governments.

The Committee addressed several important issues this year, including Industrial Development Agency (IDA) reform, municipal consolidation and cooperation, and extension of the Private Activity Bond Allocation Act. This report describes the legislative actions and major issues considered by the Committee and it sets forth our goals for the continued legislative support of municipalities and their residents throughout the State.

I share with you an appreciation of the role municipalities play in providing essential services to the residents of this State and acknowledge your continuing support and leadership in ensuring that the Local Governments Committee continues to address issues facing New York's municipalities. With your assistance, the Committee will continue to focus on the needs of local governments.

Sincerely,

Sam Hoyt, Chairman  
Assembly Standing Committee on  
Local Governments

**2007 ANNUAL REPORT**  
**OF THE NEW YORK STATE ASSEMBLY**  
**STANDING COMMITTEE ON LOCAL GOVERNMENTS**

**Sam Hoyt, Chairman**

**Committee Members**

David F. Gantt  
William Magee  
David Koon  
Michele Titus  
William F. Boyland, Jr.  
Daniel O'Donnell  
Philip R. Ramos  
George S. Latimer  
Charles D. Lavine  
Mark J. Schroeder  
Marc Alessi  
Dennis Gabryszak  
Ellen Jaffee  
Michelle Schimel

Ann G. Rabbitt  
David Townsend  
Michael J. Fitzpatrick  
Michael W. Cole  
Marcus J. Molinaro

**Staff**

Andrea Miller, Legislative Coordinator  
Michelle Milot, Principal Legislative Analyst  
Alice Vanderhoef-Murray, Committee Assistant  
Julia Mallalieu, Counsel  
William Barrett Wadsworth, Committee Clerk  
Jacqueline Canabush, Program and Counsel Executive Secretary

## TABLE OF CONTENTS

<b>I. INTRODUCTION</b> .....	<b>1</b>
<b>II. MAJOR ISSUES OF 2007</b> .....	<b>2</b>
A. LOCAL GOVERNMENT AID – ENACTED BUDGET .....	2
B. INDUSTRIAL DEVELOPMENT AGENCIES .....	3
C. PRIVATE ACTIVITY BOND ALLOCATION PROCESS .....	5
D. 911 EMERGENCY SERVICE .....	6
E. AFFORDABLE HOUSING .....	7
F. PUBLIC EMPLOYEES .....	7
G. MUNICIPAL FINANCES .....	10
H. MUNICIPAL CORPORATIONS .....	12
I. DISABILITY COVERAGE .....	12
J. ELECTION REFORMS .....	13
K. MUNICIPAL ZONING .....	13
L. MUNICIPAL PROCUREMENT .....	15
M. EMERGENCY SERVICES .....	16
<b>IV. PUBLIC HEARINGS</b> .....	<b>20</b>
A. INDUSTRIAL DEVELOPMENT AGENCIES (IDAs) .....	20
B. BUDGET IMPLEMENTATION .....	20
<b>V. OUTLOOK FOR 2008</b> .....	<b>21</b>
<b>APPENDIX A</b> .....	<b>22</b>
<b>APPENDIX B</b> .....	<b>23</b>
<b>APPENDIX C</b> .....	<b>26</b>

## **I. INTRODUCTION**

The Assembly Standing Committee on Local Governments considers the legislative needs of New York State's local governments, which includes counties, cities, towns, villages, school districts, fire districts, and various other special districts. The Committee's goal is to monitor the problems of local governments, to develop legislative remedies to these problems, and to research new proposals that will enable local governments to serve the needs of New York State better. The Committee is concerned with the enactment of laws that will further improve local governments' ability to address their unique problems, as well as prohibiting the enactment of laws that would impede local governments in their delivery of local services.

New York State statutes affected by proposed legislation before the Committee include: the General Municipal, Municipal Home Rule, Local Finance, County, Town, Village, Volunteer Firefighters' Benefit and Volunteer Ambulance Workers' Benefit Laws. Since the powers of local governments are so broad, the Committee's concerns range widely – from the general area of municipal finance, to the creation of a special district. Home rule, or “special legislation,” is also addressed by the Committee. These measures concern problems of specific local governments and apply to a particular jurisdiction. For example, a home rule bill might permit the establishment of a special district for a town to remedy a local problem. Through the use of special legislation to solve individual local needs, the Committee has helped to resolve hundreds of unique problems and enabled local governments to better serve their citizens.

## **II. MAJOR ISSUES OF 2007**

### **A. LOCAL GOVERNMENT AID – ENACTED BUDGET**

The State Budget for State Fiscal Years 2007-08 restructures 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.

The Budget contains measures intended to help local governments with their long-term planning, including a multi-year funding structure. In addition, the Budget restores funding to 81 towns and villages the Governor had proposed to eliminate from the Aid and Incentives for Municipalities (AIM) program.

In 2005, the Legislature 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 no longer appear as separate funding streams.

#### **Shared Municipal Services Initiative (SMSI)**

The State Budget contains \$25 million in funding for the Shared Municipal Services Incentive (SMSI) grant 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 ten percent of the project cost.

#### **Broadband**

The State Budget contains \$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. INDUSTRIAL DEVELOPMENT AGENCIES**

Industrial Development Agencies (IDAs) have been created by the State Legislature to promote the economic welfare and prosperity of the State's inhabitants and to promote, attract, encourage and develop economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. In order to encourage increased economic activity and job growth, IDAs provide exemptions from municipal and school taxes. IDAs also issue low-interest bonds that allow companies to borrow money at low cost. Currently, there are over 100 county and municipal-level IDAs.

### **Industrial Development Agency Authorization** **(A.9238 Hoyt; Chapter 381 of the Laws of 2007)**

Several provisions of the IDA statute were set to expire on July 1<sup>st</sup> of this year including: the authorization for IDAs to finance civic facility and continuing care retirement projects; certain tax policies; and, restrictions on the use of agency funds. This legislation extends, until January 31, 2008, the existing provisions of the IDA statute without modification.

### **Industrial Development Agency Reform** **(A.8703 Hoyt; Passed Assembly)**

The over 100 IDAs throughout the State provide an estimated \$400 million in net tax exemptions each year. IDAs are an important economic development tool intended to promote job creation and business retention, but Assembly hearings, State Comptroller audits and newspaper articles have highlighted problems with IDA accountability.

This legislation would have increased the accountability of IDAs to the taxpayers and municipalities they serve. In addition, the legislation would have ensured a greater degree of uniformity in the application process for IDA assistance, allow for more careful analysis and deliberation in the decision-making process and ensure enhanced monitoring once IDA benefits are conferred. A summary of the legislation's provisions follows.

#### Accountability

- requires board members to attend at least 10 percent of all hearings or forfeit their office;
- requires IDAs to maintain a website;
- requires IDA hearings to be attended by no less than two board members;
- requires IDAs to suspend financial assistance to recipients found to have committed a substantial violation of any federal, state or local law, rule or regulation related to environmental protection, taxation, financial assistance, protection of workers or minority and women-owned business enterprises.

### Accountability (continued)

- authorizes the Attorney General to commence an action to recover financial assistance
- requires hearing notices on the development of a PILOT policy by an IDA to be provided to the members of the local governing body, with copies of the adopted policy to be sent to the chief executive officer and members of the governing body and posted on the IDA's website;
- authorizes the State Comptroller to investigate pirating complaints and require repayment of assistance upon a determination that a complaint is valid;
- requires the approval of the Public Authorities Control Board for projects over \$100 million;

### Smart Growth

- establishes a compliance schedule for green building standards based on the building cost and the type of construction work to be performed;
- prohibits IDA funds from being used for projects not on a brownfield, served by existing public sewer and water, or on lands designated as suitable for conservation, unless the agency can demonstrate that there is no viable alternative;
- makes brownfield projects eligible for low cost power programs and waives bond issuance charges on those projects; and,

### Wages

- requires the payment of prevailing wages for any construction or building renovation work;
- requires the payment of the median hourly wage for "all occupations," as published by the United States Bureau of Labor Statistics, for the duration of the financial assistance and for five years after.

### Consolidation

- provides that whenever an agency has \$100,000 or less in outstanding debt it shall exist only to pay debt service on the bonds;
- establishes a uniform procedure for the dissolution and merger of sub-county IDAs;
- consolidates the sub-county IDAs of Erie County;

## **C. PRIVATE ACTIVITY BOND ALLOCATION PROCESS**

### **Private Activity Bond Allocation Formula**

**(A.7334-A Hoyt; Chapter 593 of the Laws of 2007)**

The Federal Tax Reform Act of 1986 imposed a ceiling on the volume of private activity and certain other bonds that can be issued in a state in any given year. The Reform Act also established an allocation formula that provided 50 percent of the Statewide Industrial Development Bond (IDB) cap to State agencies and the remaining 50 percent to local governments. Federal law permitted temporary modification of this allocation formula by gubernatorial executive order until December 31, 1987. Following this sunset, the Federal Act permitted the State Legislature to establish an alternative formula for allocation legislatively. The system proposed in this bill, implemented in 2000, has worked well and operates smoothly and efficiently. Issuers around the State are familiar with the process, meaning that the statutory continuation of this approach will provide the least disruptive, most flexible and least costly alternative for the allocation of the State's bond volume.

The legislation passed this year strongly resembles the legislation passed in 2000, which originally established a distribution of  $\frac{1}{3}$  of the statewide allocation to Industrial Development Agencies (IDAs);  $\frac{1}{3}$  to State agencies; and  $\frac{1}{3}$  to a statewide bond reserve, for use by both State and local agencies. However, this year's legislation includes the modifications made in 2001 to take into account the increased per person dollar allocation of bonding authority. The federal government provides an allocation of tax free bonding authority based on a certain dollar value per person – in 2000 that value was \$50 per person, and currently that value is \$85.

The available allocation for 2007 is \$1.61 billion. Additional details of the allocation formula follow.

#### **Allocation Formula:**

The statewide bond volume ceiling established under the Federal Tax Reform Acts of 1984 and 1986 will be allocated as follows:

- One-third to local Industrial Development Agencies based on population;
- One-third to State agencies; and,
- One-third to a statewide bond reserve, for use by both State and local agencies.

#### **Distribution of Statewide Bond Reserve:**

If the allocation to a local IDA is insufficient for a specific project, the IDA may apply at any time to the Commissioner of the Department of Economic Development (DED) for an allocation from the bond reserve. The Commissioner will ensure equitable distribution of the reserve to local IDAs. The Director of the Division of the Budget (DOB) will make an allocation of the reserve to State agencies if an agency's allocation is insufficient for a specific issue.

**Year-End Allocation Recapture:**

Each State and local agency must report, by October 1<sup>st</sup> of each year, the amount of the agency's unused allocation. The unused allocations will be recaptured by October 15<sup>th</sup> and added to the reserve.

**Allocation Carry Forward:**

On or before November 15<sup>th</sup> of each year, State agencies may apply to the Director of DOB, and IDAs may apply to the Commissioner of DED, seeking unused statewide bond allocation for use in future years.

**New York State Bond Allocation Advisory Panel:**

The Bond Allocation Advisory Panel provides policy advice on distribution of the statewide ceiling. The five-member panel consists of designees from the Governor, the Temporary President of the Senate, the Speaker of the Assembly, the Minority Leader of the Senate and the Minority Leader of the Assembly.

**Future Year Allocations:**

This legislation provides an allocation of up to \$650 million per year out of future federal bond allocations for the years 2008, 2009 and 2010.

**D. 911 EMERGENCY SERVICE**

Many people purchase cellular telephones for use in an emergency, not realizing that 911 calls made from a cellular telephone are not received in the same manner as calls made from a landline phone. Dispatchers receiving a 911 landline call are able to identify automatically the phone number and location of callers. Due to technological issues, dispatchers do not receive the same information from wireless callers. This is true despite a Federal Communications Commission (FCC) order issued in 1996, which required wireless carriers to deploy wireless enhanced 911 service; wireless enhanced 911 service refers to the ability of a call center to determine the location and identity of wireless callers.

**Local Surcharge Bills**

**(A.2819-A Hawley; Chapter 161 of the Laws of 2007 – Orleans County)**

**(A.7200 P. Lopez; Chapter 170 of the Laws of 2007 – Greene County)**

**(A.8644 Tedisco; Chapter 479 of the Laws of 2007 – Saratoga County)**

Orleans, Greene and Saratoga counties requested and received authorization to levy a monthly \$.30 local surcharge on wireless telephone bills to supplement the support and development of E-911 systems.

**Wireless Service Provider Accountability**  
**(A.2679-B Sweeney; Passed Assembly)**

Numerous counties have received authorization to levy local surcharges on wireless phone bills. The surcharges are collected by wireless service providers who determine eligibility for the surcharge based on the customer's designated place of primary use. Customers across the State have complained that wireless service providers have failed to remove surcharges when the customer's place of primary use changes to a county that does not levy a surcharge.

This legislation would require wireless service providers to update customers' records within 45 days of notification that a customer's billing address has changed. In instances where the customer's place of primary use changes to a county without a surcharge, wireless service providers who continued to levy the surcharge after receiving notification would be responsible for refunding any surcharges. The legislation passed the Assembly, but the Senate has not taken action.

**E. AFFORDABLE HOUSING**

**Westchester County Workforce Housing Incentive Program**  
**(A.6141 Bradley; Passed Assembly)**

Housing prices in Westchester County have risen dramatically in recent years, with the median price of a single family home reaching \$655,000 in January of this year. This legislation amends the General Municipal Law to establish the Westchester County Workforce Housing Incentive Program. Local governments in Westchester County that approve the construction of five or more residential housing units in one site plan would require developers to provide one of the following items: affordable housing; a fee to support the construction of affordable housing; or land for the development of affordable housing. In exchange, the developer would become eligible to receive density bonuses and other incentives. The legislation passed the Assembly, but the Senate has not taken action.

**F. PUBLIC EMPLOYEES**

**Village and Town Justices**  
**(A.5825 Magnarelli; Chapter 638 of the Laws of 2007)**

Town and village justices are involved with all forms of criminal cases including vehicle and traffic offenses, violations and misdemeanors. These justices also have initial jurisdiction over felonies. Although current law prohibits supreme and appellate justices from holding office if convicted of a felony, it does not prohibit town and village justices from being elected or continuing to hold office after having been convicted of a felony. This legislation extends the prohibition to town and village justices.

### **Solemnization of Marriages**

**(A.7758-A Paulin; Chapter 536 of the Laws of 2007)**

Frequently, the public officers who solemnize marriages are asked to travel to locations away from their customary place of business and at times that would not be considered normal working hours. Currently, the allowable value of any fee or compensation for providing these services is seventy-five dollars or less.

This legislation, which applies only to marriages performed at a time and place other than the public officer's normal public place of business or outside of normal business hours, raises the amount to one hundred dollars or less. This increase is the first in seventeen years.

### **Deputy Town Clerks**

**(A.5119-A Sweeney; Chapter 280 of the Laws of 2007)**

Although other town officials like highway superintendents and tax receivers are accorded full authority to specify the duties of their deputies, current law specifies that deputy town clerks are subject to the authority of the town board. The involvement of the town board creates the potential for a dual chain of command in towns – with the authority granted by the town board potentially conflicting with the responsibilities delegated by the town clerk.

This legislation authorizes a town clerk to appoint and specify the duties of a deputy town clerk. In addition, the town clerk is authorized to appoint up to two additional deputy town clerks whose duties and responsibilities would be established by the town board. Similar legislation passed the Legislature in 2006, but was vetoed by the Governor.

### **Residency Requirements**

Both the Public Officers and the Town Law currently require elected officials to maintain residency in the towns they are elected to serve; however, some localities have requested special State legislation. A summary of those bills follows.

### **Residency Requirements for the Providence Fire District**

**(A.7389 Sayward; Chapter 461 of the Laws of 2007)**

This legislation exempts the Providence Fire District from certain residency requirements.

**Residency Requirements for the Slingerlands Fire District**  
**(A.8305 T. Gordon; Passed Assembly)**

This legislation exempts Slingerlands Fire District 1 from certain residency requirements.

**Residency Requirements for the Thornwood Fire Company**  
**(A.8317 Brodsky; Passed Assembly)**

This legislation exempts the Thornwood Fire Company from certain residency requirements.

**Residency Requirements for the Town of Lewisboro**  
**(A.8752-A Bradley; Chapter 554 of the Laws of 2007)**

This legislation authorizes wetland inspectors in Lewisboro to reside outside the Town.

**Coroner Education**  
**(A.2585 Parment; Passed Assembly)**

Despite the complex nature of their work, State Law does not establish training requirements for coroners/medical examiners, resulting in varying degrees of training across the State. This legislation would authorize the Division of Criminal Justice, in consultation with the Department of Health, the State Police, the State Education Department and the New York State Association of County Coroners to establish medical/legal investigation training requirements for coroners, coroners' deputies, medical examiners and deputy medical examiners. Such training would be required to be completed on or before January 1, 2010, by persons currently holding such offices, and prior to taking office by persons taking office after the effective date of the legislation. The legislation passed the Assembly, but the Senate has not taken action.

**Coroner Jurisdiction**  
**(A.5225 Pretlow; Passed Assembly)**

Under the current County Law, only the coroner or medical examiner of the county where a death has occurred has jurisdiction to investigate that death. In certain areas of the State, crime victims found near death in one county will be rushed by police or ambulance to a hospital in an adjoining county because that hospital is the nearest with adequate trauma facilities. If a death results, the homicide will be prosecuted in the original county. This legislation provides coroners in whose district the crime occurred with concurrent jurisdiction during autopsies. The legislation passed the Assembly, but the Senate has not taken action.

## **G. MUNICIPAL FINANCES**

### **Deficit Financings**

**(A.6620-A Hoyt; Chapter 341 of the Laws of 2007)**

Municipalities and school districts are not authorized to end their fiscal year with a deficit and therefore must receive State authorization prior to issuing deficit-financing bonds. This legislation creates much-needed uniformity in municipal deficit financing authorizations. While the enactment of a special authorizing act would still be necessary to authorize deficit financing, this legislation ensures that whenever it becomes necessary for the Legislature to grant deficit financing authorization, such financing will follow previously established standards that will be consistent and provide for comprehensive reporting requirements. Municipalities and school districts that are compelled to seek authorization for deficit financing will know in advance what to expect. An awareness of the stringent deficit-financing requirements will help deter municipalities and school districts from incurring operating deficits.

### **Neighborhood Improvement Projects**

**(A.7757 Jeffries; Chapter 250 of the Laws of 2007)**

Under current law, after June 30, 2009, the New York City Department of Housing Preservation and Development (HPD) can only provide loans within commercial corridors designated by the City of New York prior to June 30, 2007. The loans fund neighborhood improvement projects including commercial and community facilities. This legislation, requested by HPD, will extend the authority to designate such corridors until June 30, 2010, and will permit facilities within them to be eligible for neighborhood improvement loans after June 30, 2012.

### **Erie County Private Bond Sales**

**(A.5405 Schimminger; Chapter 87 of the Laws of 2007)**

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

### **Community Preservation Funds**

**(A.7333 Sweeney; Passed Assembly)**

Undeveloped and agricultural lands in New York are disappearing at a rapid rate. In an effort to conserve these lands, communities across the State are exploring a range of options from land use planning activities to the outright purchase of

property. In conserving land, communities are pursuing different objectives such as providing parkland, safeguarding drinking water, preserving farmland, protecting habitat and preserving spectacular scenic views; however, all of these activities require financial resources.

This legislation would permit towns and cities, following a voter-approved referendum, to impose a tax on real estate transfers with the resulting money used to create community preservation funds. The legislation passed the Assembly, but the Senate did not take action.

**Post Employment Benefits**  
**(A.7121 Hoyt; Passed Assembly)**

In addition to pensions, many local governments provide retirees with health care benefits. Though post-employment health care benefits are provided after an employee retires, they constitute compensation for employee services. Currently, municipal financial statements do not include the financial effect of post-employment health care benefits until those benefits are paid. The Governmental Accounting Standards Board (GASB) establishes standards of financial accounting and reporting for state and local governments. In June 2004, GASB issued Statement No. 45 that requires municipal financial statements to include an estimate of the projected cost of post-employment health care benefits for each current employee.

Currently, municipalities and school districts pay for post-employment benefit items on a “pay as you go” basis and there is no method by which they can accrue money or account for such expenses. This legislation would permit municipalities and school districts to meet the new GASB 45 requirement by authorizing post-employment benefits to be accounted for in Employee Benefit Accrued Liability Reserve Funds. The legislation passed the Assembly, but the Senate has not taken action.

**Funding for Patriotic Organizations**  
**(A.6572 Towns; Passed Assembly)**

Many municipalities do not have facilities for meetings conducted by patriotic organizations such as the American Legion or VFW Post. Instead, meetings are held in the post of an adjoining town. Current State law allows a town to appropriate up to \$125 annually to assist a neighboring town to fund costs incurred by a patriotic organization. The current sum has not been increased since 1984, and is inadequate to defray room rental or maintenance. This legislation would increase the amount of money that towns may appropriate from \$125 to \$300. The legislation would also increase, from \$500 to \$1,000, the amount of money available to help a town’s patriotic organizations defray meeting costs. The legislation passed the Assembly, but the Senate did not take action.

## **H. MUNICIPAL CORPORATIONS**

### **Audit Responses**

**(A.5750 Sweeney; Passed Assembly)**

Audit reports and management letters are important tools in the efficient management of local governments. They are utilized most effectively, however, when local officials promptly focus on audit findings and recommendations and address any deficiencies in an effective manner. Written, public responses also help foster greater accountability to the taxpayers of the local governments.

This legislation would require municipalities, industrial development agencies, and special districts to respond in writing to audits performed by the Office of the State Comptroller, or external audits performed by independent public accountants. The legislation passed the Assembly, but the Senate did not take action.

## **I. DISABILITY COVERAGE**

### **Special Accidental Death Benefits for Certain Municipal Employees**

**(A.6238 Abbate; Veto Memo 147)**

This legislation would amend the General Municipal Law to provide special accidental death benefits to the surviving spouses and children of the following municipal employees: sanitation members; special officers; parking control specialists; school safety agents; taxi and limousine inspectors, and CUNY campus peace officers. Pension benefits would be available in cases where municipal employees died as the result of an accident incurred in the performance of their duties before the effective date of their retirement.

**Disability Coverage for County Probation Officers**  
**(A.167 Weisenberg; Passed Assembly)**

This legislation would authorize counties to add probation officers to the list of law enforcement personnel eligible to receive additional disability coverage for injuries received in the line of duty, ensuring that county probation officers would receive the same disability benefits as other law enforcement officers. The legislation passed the Assembly, but the Senate did not take action.

**J. ELECTION REFORMS**

**Absentee Ballots for Fire District Elections**  
**(A.7183 Eddington; Passed Assembly)**

Currently, fire district commissioners must adopt a resolution prior to providing absentee ballots in fire district elections. This legislation would bring the election provisions of fire districts into compliance with the provisions of other local elections by requiring absentee ballots to be available for all fire district elections. This legislation passed the Assembly, but the Senate has not yet taken action.

**Ward System Elections**  
**(A.2327 McEneny; Passed Assembly)**

Historically, the phrase “ward system” has been very closely associated with cities. Since towns are governed by town boards made up of elected council members, it would be more consistent to call the system a council district system instead of a ward system.

This legislation would amend the Town Law to replace the phrase “ward system” with the phrase “council district system.” The legislation passed the Assembly, but the Senate did not take action.

**K. MUNICIPAL ZONING**

**Hudson Valley Preservation Funds**  
**(A.7849-B Bradley; Chapter 596 of the Laws of 2007)**

This legislation authorizes cities and towns within the counties of Westchester and Putnam, following a mandatory referendum, to establish a two percent tax on real estate transfers, with the resulting monies used to establish a community preservation fund. The fund will be used to acquire property listed on a town’s community preservation plan.

**Town of Fishkill Preservation Funds**  
**(A.7939 Miller; Chapter 544 of the Laws of 2007)**

This legislation authorizes the Town of Fishkill, Dutchess County, following a mandatory referendum, to establish a two percent tax on real estate transfers, with the resulting monies used to establish a community preservation fund. The fund will be used to acquire property listed on the Town's community preservation plan.

**Town of Chatham Preservation Funds**  
**(A.8217 T. Gordon; Chapter 543 of the Laws of 2007)**

This legislation authorizes the Town of Chatham, Columbia County, following a mandatory referendum, to establish a two percent tax on real estate transfers, with the resulting monies used to establish a community preservation fund. The fund will be used to acquire property listed on the Town's community preservation plan.

**Referrals to County Planning Boards**  
**(A.7396 Hoyt; Passed Assembly)**

General Municipal Law section 239-m requires cities, towns and villages to refer certain proposed land use actions, including "adoption or amendment of a zoning ordinance or local law" to county planning agencies for review; however, there has been some confusion as to what actions should be referred. This legislation would clarify that enactment and amendment of land use laws and ordinances, including subdivision regulations, site plan review laws and communication tower ordinances, are required to be referred to county planning boards. The legislation passed the Assembly but the Senate did not take action.

**Compliance with Municipal Zoning**  
**(A.2740 Cusick; Passed Assembly)**

Some developers begin the application process with the local building department. Upon receipt of a building or demolition permit they begin their project. After work has begun, they appear before the State for wetlands applications or the Department of Transportation for permits or licenses. In many cases, the developer makes a hardship claim citing their prior investments. The permit is granted, regardless of the municipal zoning laws.

This legislation would require developers to certify that they have complied with all relevant state permits and licensing procedures before a municipality can issue a building permit or zoning variance. The legislation passed the Assembly but the Senate did not take action.

**School District Confirmation**  
**(A.4947 Eddington; Passed Assembly)**

School district location is often an important factor in determining whether or not to purchase a home. For newly-constructed homes, that consideration can pose a challenge with developers in effect “guessing” the likely school district. This legislation would authorize municipal planning boards to require the developer(s) of a proposed subdivision to apply for and receive notification from a school district as to whether such parcel is located within the school district’s boundaries. The legislation passed the Assembly but the Senate did not take action.

**L. MUNICIPAL PROCUREMENT**

**Identification of Procurement Officers**  
**(A.7399 Hoyt; Chapter 402 of the Laws of 2007)**

Local governments typically operate under either a centralized or de-centralized purchasing model. In the centralized model, one person makes the purchasing decisions, but in a de-centralized model, several individuals may be responsible for purchasing decisions.

This legislation amends the General Municipal Law to require municipal procurement policies to include the name and title of the individuals responsible for purchasing. Such information will be required to be updated every two years. Requiring individuals to be identified will not only increase awareness of purchasing practices, it will also help increase accountability.

**Purchases from County Contracts**  
**(A.8976 Hoyt; Chapter 343 of the Laws of 2007)**

In 2003, section 103 of the General Municipal Law was amended to provide an exception to the competitive bidding requirements to allow a political subdivision “located in whole or in part in a county” to make purchases and acquire certain services by “piggy-backing” on a contract let by any New York State county, if that county has extended its contract to such political subdivisions. Because the language authorizing the exception applies only to political subdivisions that are located “in” a county, and not to counties themselves, it does not permit counties to “piggy-back” on contracts of other counties. Counties should have the same ability as their subdivisions to “piggy-back” on extended contracts of their fellow counties.

This legislation will allow counties, after consideration of all cost factors, to take advantage of this exception to competitive bidding in order to achieve cost savings for the benefit of their taxpayers.

### **Energy Purchases**

**(A.2162 Galef; Passed Assembly)**

Municipal purchases above a certain dollar threshold are subject to competitive bidding, meaning purchases must be made from the lowest-priced bidder. Section 104-A of the General Municipal Law permits items made of recycled products to be purchased even if they are not the lowest price. This legislation would establish a provision, similar to 104-A of the General Municipal Law, for the purchase of renewable energy resources provided that they are within 15 percent of the cost of a comparable non-renewable energy product. The legislation passed the Assembly, but the Senate did not take action.

## **M. EMERGENCY SERVICES**

### **Long Distance Learning Availability**

**(A.4251-A Ramos; Chapter 580 of the Laws of 2007)**

Since September 11, 2001, the increased responsibilities of firefighters have forced them to perform a growing number of tasks in a limited amount of time. At an Assembly hearing held in 2004, firefighters frequently cited concerns regarding the availability and proximity of required training and indicated certain training demands are actually a deterrent to recruitment and retention. This legislation requires the State Office of Fire Prevention to make firefighting training available by video or computer to the maximum extent practical. In addition, the legislation requires the State Emergency Medical Services Council to make emergency medical training available by video or computer to the maximum extent practical.

### **Fiscal Management of Fire Districts**

**(A.8727-A Schroeder; Chapter 555 of the Laws of 2007)**

In 2006, landmark legislation was enacted that ensured good governance, accountability and transparency with respect to fire districts. As part of these new laws, the Office of the State Comptroller was assigned to establish training regulations for fire commissioners, a code of ethics and other guidance documentation for fire districts. Through that process, the Comptroller has identified a number of provisions that require technical amendments to clarify these laws and to ensure the smooth implementation of the changes.

This legislation seeks to make certain that the budget hearing process works in all counties by providing for a uniform date of submission of fire district budgets. In addition, this legislation makes changes to fire district budgetary controls, conforming them to the budget procedures of other municipalities. For example, fire districts will be prohibited from placing additional funds into reserve funds after a budget is approved, ensuring public input in the creation and funding of reserve funds.

**Reimbursement for Hazardous Material Remediation**  
**(A.7332 Sweeney; Passed Assembly)**

Currently, municipal corporations or fire districts that contract with or control fire companies do not have the authority to bill hazardous materials transporters for their spill response costs; however, many small municipal and volunteer fire companies accumulate significant costs in responding to hazardous materials spills.

This legislation would establish a procedure to provide reimbursement to fire companies for costs associated with responding to spills of hazardous materials. The legislation passed the Assembly, but the Senate did not take action.

**Free Thruway Access for Emergency Vehicles**  
**(A.2505 DelMonte; Passed Assembly)**

When responding to an emergency, time is of the essence. In some areas of the State, the Thruway provides the fastest and most direct access to the scene of an emergency.

This legislation would require the Thruway Authority to develop a permit process or provide refunds for ambulances and fire trucks responding to an emergency. The legislation passed the Assembly, but the Senate has not taken action.

**Fire District Commissioner Dereliction of Duty**  
**(A.3563 Galef; Passed Assembly)**

Fire district commissioners perform many essential roles in the governing of the district. In most cases, if a quorum of commissioners is not present, business cannot be conducted. It is for this reason that fire commissioner attendance is so important; however, there has been some confusion as to whether or not commissioners can be removed for excessive unexcused absences. The current provision in the Public Officers Law refers to “malversation” and “malfeasance.”

This legislation would authorize the removal of fire commissioners for dereliction of duty. Dereliction would include, but not be limited to, excessive unexcused absences from regularly scheduled meetings and would follow the existing removal process for commissioners. The legislation passed the Assembly, but the Senate did not take action.

### **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. Finally, the Committee requires a home rule message from the municipality requesting alienation prior to acting on any parkland legislation.

The following parkland alienation legislation has been enacted.

#### **Westchester County Parkland (A.3172 Pretlow; Chapter 392 of the Laws of 2007)**

This chapter authorizes Westchester County, to use certain previously alienated municipal parkland for the construction of an animal shelter. As part of the alienation, the County was required to dedicate the fair market value of the property being alienated for the acquisition of new parkland or the improvement of existing park facilities.

#### **Town of Smithtown Parkland (A.6577-A Fitzpatrick; Chapter 307 of the Laws of 2007)**

The letters patent (deed) from the State conveying certain property to the Town of Smithtown contains a reverter clause that limits the use of the property to specific purposes identified in the Public Lands Law. The Town wishes to use the land, which contains an armory, for construction of a public library; however, this is not an authorized use identified in the Public Lands Law. The letters patent further provide that any use of the property other than those set forth in the Public Lands Law would result in a reverter of title from the Town to the State. This legislation authorizes the Town of Smithtown to construct the library.

**Village of Alexandria Bay Parkland**  
**(A.6918-A Aubertine; Chapter 301 of the Laws of 2007)**

This chapter authorizes the Village of Alexandria Bay, Jefferson County, to transfer certain recreational facilities to the Town of Alexandria, provided that the facilities continue to be used for park purposes.

**Town of Cheektowaga Parkland**  
**(A.8387-A Gabryszak; Chapter 481 of the Laws of 2007)**

This chapter authorizes the Town of Cheektowaga, Erie County, to convey an easement under certain municipal parkland for construction of a sanitary sewer pipe. In exchange, the Town must dedicate the fair market value of the easement for the acquisition of new parkland or the improvement of existing park facilities and restore the surface to pre-construction condition.

**Village of Great Neck Estates Parkland**  
**(A.8400-A Schimel; Chapter 261 of the Laws of 2007)**

This chapter authorizes the Village of Great Neck Estates, Nassau County, to discontinue the use of certain municipal parkland. In exchange, the Village must dedicate the fair market value of the property being alienated for the acquisition of new parkland or the improvement of existing park facilities.

**Nassau County Parkland**  
**(A.8462-A Schimel; Chapter 413 of the Laws of 2007)**

This chapter authorizes Nassau County to convey certain municipal parkland to the Village of Flower Hill provided that the Village not enact any fees that are higher for non-village residents.

**Town of Thompson Parkland**  
**(A.9089 Gunther; Chapter 565 of the Laws of 2007)**

This chapter removes a provision from a 2000 parkland chapter that had required certain former municipal parkland to continue to be accessible to Town residents. Since the 2000 law, the Town has alienated the parkland and has dedicated land and money to improve other parkland and expand its park operations.

## **IV. PUBLIC HEARINGS**

The Committee held two public hearings in 2007. A summary of those hearings follows.

### **A. INDUSTRIAL DEVELOPMENT AGENCIES (IDAs)**

On May 17, 2007, the Committee held a hearing in Buffalo to solicit input on the role of Industrial Development Agencies in New York State.

Industrial Development Agencies (IDAs) have been created by the State Legislature to promote the economic welfare and prosperity of the State's inhabitants and to actively attract, encourage and develop economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. Currently, there are over 100 county and municipal-level IDAs. The Committee received testimony on issues related to the effectiveness of IDAs including whether they are fulfilling the purposes for which they were created and the potential need for reform and/or consolidation.

### **B. BUDGET IMPLEMENTATION**

On October 11, 2007, the Committee, in conjunction with the Assembly Committee on Governmental Operations, held a hearing to review the Office of Homeland Security's (OHS), the State Emergency Management Office's (SEMO) and the Office of Fire Prevention and Control's (OFPC) implementation of programs funded through the SFY 2007-2008 State Budget, as well as the overall impact of the Budget on the State's disaster preparedness programs.

OHS is responsible for the development and implementation of a comprehensive statewide strategy to detect, protect against and respond to terrorist threats and events. SEMO prepares the State and local governments to deal effectively with potential disasters and coordinates the State's response to disasters. In addition, SEMO provides training to emergency response personnel to mitigate against, prepare for, respond to, and recover from disastrous incidents while protecting lives, property and the environment. OFPC works with both career and volunteer firefighters by providing training, technical support and assistance with arson investigations, and conducts fire safety inspections of colleges and State owned buildings. The Committees received testimony related to the impact of the 2007-2008 State Budget on the programs of OHS, SEMO and OFPC.

## **V. OUTLOOK FOR 2008**

The Assembly Local Governments Committee will continue its in-depth review of provisions related to Industrial Development Agencies (IDAs). The expiration of certain provisions related to IDAs, including the authorization of IDAs to finance civic facility and continuing care retirement projects, as well as certain tax policies and restrictions on the use of agency funds, will provide the Committee with the opportunity to explore issues related to the role of IDAs, including potential reforms.

The Committee will also continue to advocate for the equitable distribution of local government aid. In particular, it will continue to support the adoption of equitable local government aid programs to provide both a stable and predictable revenue stream for local governments.

**APPENDIX A**

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

<b><u>Final Disposition</u></b>	<b><u>Assembly Bills</u></b>	<b><u>Senate Bills</u></b>	<b><u>Total</u></b>
Bills Reported	<b>90</b>	<b>0</b>	<b>90</b>
To Floor	9	0	9
To Ways and Means	65	0	65
To Codes	5	0	5
To Rules	10	0	10
To Judiciary	0	0	0
Bills Having Enacting Clauses Stricken	<b>8</b>	<b>0</b>	<b>8</b>
Bills Having Committee Referenced Changed	<b>5</b>	<b>0</b>	<b>5</b>
Senate Bills Substituted Or Recalled		<b>19</b>	<b>19</b>
Bills Never Reported, Held In Committee	<b>228</b>	<b>46</b>	<b>274</b>
<b>Total in Committee</b>	<b>331</b>	<b>65</b>	<b>396</b>
<b>TOTAL NUMBER OF MEETINGS HELD</b>			<b>12</b>

**APPENDIX B**

**Chapter Laws of 2007**

<b><u>Bill #</u></b>	<b><u>Sponsor</u></b>	<b><u>Description</u></b>	<b><u>Chapter</u></b>
A.1219	Latimer	Authorizes the board of trustees of the Village of Rye Brook, by resolution or local law, to extend the terms of the mayor and trustees to three years.	387
A.2819-A	Hawley	Authorizes Orleans County to adopt a local law imposing a 30 cent monthly wireless surcharge.	161
A.3172	Pretlow	Authorizes Westchester County to use previously alienated municipal parkland for the construction of an animal shelter.	392
A.4235	Quinn	Authorizes the Town of Hamburg, Erie County, to provide code enforcement services to the Villages of Hamburg and Blasdell.	521
A.5119-A	Sweeney	Clarifies the powers and duties of deputy town clerks acting during the absence of a town clerk.	280
A.5405	Schimminger	Authorizes Erie County to market serial bonds at private sale through June 30, 2008.	87
A.5825	Magnarelli	Prohibits a town or village justice from remaining in office, being appointed, or running from office if he or she has been convicted of a felony.	638
A.6193	Magee	Authorizes Otsego County to correct an error in its 2007 tax roll and provide a refund.	35
A.6400	Giglio	Validates certain actions taken by the Town of Friendship with regard to the Friendship Fire District.	644
A.6577-A	Fitzpatrick	Authorizes the Office of General Services to convey letters patent to the Town of Smithtown regarding the conveyance of certain property.	307
A.6620-A	Hoyt	Provides uniform deficit financing requirements applicable to municipalities and school districts.	341
A.6801	Thiele	Relates to Payments in Lieu of Taxes (PILOTs) for open space purposes in the Town of Southampton.	531
A6810-A	Gantt	Authorizes the Gates Fire District to re-open its retirement plan.	195

<u>Bill #</u>	<u>Sponsor</u>	<u>Description</u>	<u>Chapter</u>
A.6918-A	Aubertine	Authorizes the Village of Alexandria Bay to transfer ownership of the Alexandria Bay Municipal Arena to the Town of Alexandria.	301
A.7200	P. Lopez	Authorizes Greene County to adopt a local law establishing a monthly 30 cents wireless surcharge.	170
A.7334-A	Hoyt	Enacts the Private Activity Bond Allocation Act of 2007.	593
A.7389	Sayward	Exempts the volunteer members of the Town of Providence fire district from certain residency requirements.	461
A.7399	Hoyt	Requires municipal procurement policies to identify the individual(s) responsible for purchasing.	402
A.7665	Sayward	Authorizes the Chester town board to remove certain land from the Pottersville water district.	467
A.7757	Jeffries	Extends provisions related to loans for neighborhood improvement projects.	250
7758-A	Paulin	Provides for an increase in the authorized fee or compensation for solemnization of marriage from \$75 to \$100.	536
A.7849-B	Bradley	Authorizes Putnam and Westchester counties to establish a community preservation fund with revenue from a real estate transfer tax.	596
A.7939	Miller	Authorizes the Town of Fishkill to establish a community preservation fund with revenue from a real estate transfer tax	544
A.8119	Lavine	Authorizes Suffolk County to establish, operate and maintain a foreign trade sub-zone in Nassau County.	453
A.8170-A	Kolb	Increases the membership of the Seneca County IDA from seven to nine members.	657
A.8217	T. Gordon	Authorizes the Town of Chatham to establish a community preservation fund preservation fund with revenue from a real estate transfer tax.	543
A.8387-A	Gabryszak	Authorizes the Town of Cheektowaga to convey an easement under certain municipal parkland.	481
A.8400-A	Schimmel	Authorizes the Village of Great Neck Estates to discontinue the use of certain municipal parkland.	261

<u>Bill #</u>	<u>Sponsor</u>	<u>Description</u>	<u>Chapter</u>
A.8462-A	Schimmel	Authorizes Nassau County to convey certain parkland to the Village of Flower Hill.	43
A.8644	Tedisco	Authorizes Saratoga County to enact a monthly 30 cents wireless surcharge.	479
A.8727-A	Schroeder	Provides technical amendments to previously enacted fire district legislation.	555
A.8752-A	Bradley	Exempts the Town of Lewisboro wetlands inspector from residency requirements.	554
A.8976	Hoyt	Relates to certain county contracts and competitive bidding requirements.	343
A.9062	P. Lopez	Extends the authorization for the Town of Sidney to issue deficit financing bonds.	371
A.9089	Gunther	Amends previously authorized parkland alienation.	565
A.9139	Reilly	Authorizes the Town of Clifton Park to provide a refund.	499
A.9238	Hoyt	Extends provisions of laws relating to Industrial Development Agencies (IDAs).	381

**APPENDIX C**

**Veto of 2007**

<b><u>Bill #</u></b>	<b><u>Sponsor</u></b>	<b><u>Description</u></b>	<b><u>Veto Memo #</u></b>
A.3820	Magee	Authorizes the Towns of Richfield, Otsego and Exeter to establish a lake improvement district.	8
A.3833	Townsend	Authorizes the Town of Schroepel to provide a tax refund.	88
A.6238	Abbate	Authorizes certain municipal employees to receive special accidental death benefits.	147