

New York State Assembly - Sheldon Silver, *Speaker*

2006

ANNUAL REPORT

Committee On

Cities

James Brennan, Chair



December 15, 2006

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

Dear Speaker Silver:

I am pleased to present to you the 2006 Annual Report of the Assembly Standing Committee on Cities. This report describes the legislative action and major issues considered by the Committee and sets forth our goals for continued legislative support to assist cities throughout the State that are facing increasing fiscal difficulties.

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

Sincerely,

James Brennan
Chair
Assembly Standing Committee on Cities

2006 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON CITIES

James Brennan, Chair

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I. INTRODUCTION

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

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

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

II. MAJOR ISSUES OF 2006

A. LOCAL GOVERNMENT AID – ENACTED BUDGET

This year the Legislature again enacted an on-time budget. The Legislature added \$77.4 million in local assistance grants over the Executive's proposed \$50 million increase, resulting in a \$127.3 million increase over State Fiscal Year (SFY) 2005-06. This translates into an additional 25 percent increase for cities.

Shared Municipal Services Initiative (SMSI)

The State Budget contained \$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. This year the program was divided into four separate grant pools: Local Highway Services grants (up to \$300,000 per municipality); Local Employee Health Insurance Incentive grants (up to \$500,000 per municipality); Countywide Shared Service Plans grants (up to \$300,000 per municipality); and Municipal Consolidation Incentive Funding grants (up to \$200,000 per municipality).

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

B. STATEWIDE SIGNIFICANCE

City Charter Adoption

(A.4117 Gottfried; Reported to the Calendar)

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

Rooftop Landing of Aircrafts

(A.1507 Glick; Reported to the Calendar)

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

Electronic Key Cards

(A.9492 O’Donnell; Reported to Rules)

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

C. NEW YORK CITY LEGISLATION

Water Bill Exemptions for Charities

(A. 10291 Silver; Chapter 229 of the Laws of 2006)

This legislation extends water bill exemptions for charitable organizations for an additional two years.

Penalties for False Cigarette Tax Stamps

(A8032 Grannis; Chapter 458 of the Laws of 2006)

This legislation imposes a penalty of, at a maximum, \$200 on retailers for every 10 counterfeit cigarette tax stamps in excess of 100. Under current statute, New York City can impose civil penalties on retailers who sell untaxed cigarettes of no more than \$200 per carton. However, the law does not provide similar authority to impose civil penalties on tax stamp counterfeiters. Previously, the only recourse in counterfeit cases was a criminal sanction.

Cigarette Stamp Tax Refunds
(A8034 Grannis; Chapter 586 of the Laws of 2006)

This legislation extends from 90 days to 2 years the period in which a New York City retailer can file for reimbursement of unused cigarette tax stamps. It provides New York City retailers with the same reimbursement time frame that is provided to the rest of the state.

Charter Revision Commission Members
(A.10234 Brennan; Reported to Calendar)

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

Building Plan Violations
(A.1651-A Lentol; Passed Assembly)

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

Prosecution of Cigarette Tax Offenses
(A.8033-A Grannis; Reported to Codes)

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

Rate Setting for the New York City Water Board
(A3452 Weprin; Passed Assembly)

This bill would require the New York City Water Board to wait at least 30 days after the adoption of the New York City Executive Budget to establish, fix, and revise annual fees for water. After the adoption of the City Budget, the Water Board would be required to hold public hearings, in each of the five boroughs, prior to setting its annual fees, rates, rents, or other charges related to the use of the water and/or sewer system.

East River Toll Charges
(A.1177 Nolan; Reported to Ways and Means)

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

Protections For Water Customers

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

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

D. DEBT INSTRUMENTS

City of Yonkers

(A.10070 Pretlow; Chapter 122 of the Laws of 2006)

This legislation extends, until June 30, 2009, the authority for the underwriting or sale of bonds or notes for the City of Yonkers at private sale. This legislation provides the City of Yonkers with additional fiscal flexibility by permitting the City to determine the timing of bond sales.

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

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

City of Port Jervis

(A.9572-C Gunther; Chapter 345 of the Laws of 2006)

This legislation authorizes the City of Port Jervis to discontinue the use of certain municipal parkland. In exchange, the legislation requires the City to acquire additional parkland and/or make capital improvements to existing parkland equal to or greater than the fair market value of those lands to be conveyed.

Gateway National Recreation Area

(A.9657 Ignizio; Chapter 85 of the Laws of 2006)

This legislation extends the deadline for the conveyance of lands for the establishment of Gateway National Recreational Area.

City of Rome

(A.10213 Destito; Chapter 224 of the Laws of 2006)

This legislation authorizes the City of Rome to discontinue the use of certain municipal parkland. In exchange, the legislation requires the City to acquire additional parkland and/or make capital improvements to existing parkland equal to or greater than the fair market value of those lands to be conveyed.

City of New York

(A.11288-A Benedetto; Chapter 396 of the Laws of 2006)

This legislation authorizes the City of New York to discontinue the use of certain municipal parkland. In exchange, the legislation requires the City to acquire additional waterfront parkland and/or make capital improvements to existing parkland in City Island and in Pelham Bay Park equal to or greater than the fair market value of those lands to be conveyed.

(A.11989 Rules (O'Donnell); Chapter 284 of the Laws of 2006)

This legislation authorizes the City of New York to discontinue the use of certain municipal parkland and to use such lands for the West 96th Street subway station.

IV. PUBLIC HEARINGS

The Committee held five public hearings in 2008. A summary of those hearings follows.

A. ADDRESSING THE FINANCIAL PROBLEMS OF UPSTATE CITIES IN NEW YORK STATE

The Committee, in conjunction with the Assembly Standing Committees on Oversight, Analysis and Investigation, Economic Development, Job Creation, Commerce and Industry, and, Tourism, Arts and Sports Development, held a series of hearings in Buffalo, Rochester, Syracuse, and Binghamton to investigate the causes of, and share effective solutions to, the challenges faced by upstate cities.

Upstate cities are a vital cornerstone of the New York State economy. They have unfairly felt the brunt of the shift in manufacturing jobs to areas to the South and West, as well as overseas resulting in decreased population and property values. This has caused considerable increases in expenditures, which have nearly exhausted many cities' tax and debt limits. These hearings were designed to gain a fresh perspective from community leaders on what other steps the State can take to aid upstate cities.

B. NEW YORK CITY EMERGENCY RESPONSE AND EVACUATION PLANS

On July 7, 2006, the Committee, in conjunction with the Assembly Standing Committees on Corporations, Authorities and Commissions, and, Governmental Operations, held a hearing in New York City on the status of the New York City Emergency Response and Evacuation Plans in the Event of a Weather-Related Emergency (the Evacuation Plan), which was prepared by the New York City Office of Emergency Management.

The purpose of this hearing was to discuss the bases and methodology for the conclusions and recommendation of the Evacuation Plan.

C. EFFECTIVENESS OF THE REGULATION OF CONSTRUCTION AND DEVELOPMENT IN NEW YORK CITY

On September 7, 2006, and continued on November 15, 2006, the Committee, in conjunction with the Assembly Standing Committees on Codes and Housing, held a hearing in New York City to examine issues related to the New York City Construction Regulatory System.

Notwithstanding some improvements in the performance of the Department of Buildings, there remains intense public concern about construction and zoning-related law enforcement as development pressures in the City continue to surge. This hearing explored the powers, duties, obligations, and accountability of New York City's regulatory system for construction, development, and zoning enforcement.

V. OUTLOOK FOR 2007

In 2007, the Cities Committee will again endeavor to assist all 62 cities of the State by passing legislation to maintain 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 the protection of public parklands, sales of bonds, issues dealing specifically with New York City including oversight of construction safety, and neighborhood improvement projects.

APPENDIX A

**2006 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	36	0	36
To Floor	3	0	3
To Ways and Means	22	0	22
To Codes	8	0	8
To Rules	3	0	3
To Judiciary	0	0	0
 Bills Having Enacting Clauses Stricken	 3	 0	 3
 Bills Having Committee Referenced Changed	 3	 0	 3
 Senate Bills Substituted Or Recalled	 0	 4	 4
 Bills Never Reported, Held In Committee	 0	 0	 0
 Total in Committee	 84	 3	 131
 TOTAL NUMBER OF MEETINGS HELD			 7
 Bills Never Reported, Never Received Home Rule Message	 53	 0	 53

APPENDIX B

Chapter Laws of 2006

<u>Bill #</u>	<u>Sponsor</u>	<u>Description</u>	<u>Chapter</u>
A.6376-A	Robinson	Authorizes the City of New York to reconvey its interest in certain real property acquired by an in rem foreclosure proceeding to Robert Cradle, the former owner.	299
A.8032	Grannis	Relates to penalties for false cigarette tax stamps in New York City.	458
A.8034	Grannis	Extends the time to file with New York City for a refund of the cigarette tax.	586
A.9572-C	Gunther	Authorizes the City of Port Jervis to discontinue the use of certain park lands and dedicate additional land as park lands.	345
A.9657	Ignizio	Relates to conveyance of lands for the establishment of Gateway National Recreational Area.	85
A.10070	Pretlow	Extends for one year, the authority of the City of Yonkers to issue bonds and notes through negotiated sale.	122
A.10213	Destito	Authorizes the City of Rome to discontinue and convey certain parklands which are not currently utilized as parklands.	224
A.10291	Silver	Extends for an additional two years, the establishment of certain water charges for hospitals and charities in New York City.	229
A.10492	Farrell	Authorizes the City of New York to release its interest in certain real property to Childs Memorial Church of God and Christ.	608
A.10939-A	Cahill	Authorizes the City of Kingston to alienate and convey a certain waterfront parcel of land.	685
A.11003	Brennan	Requires that income and expense statements and real property transfer tax returns be filed electronically and makes cooperative sales prices public.	385
A.11175	Tonko	Authorizes the City of Amsterdam to enter into a contract to sell some or all of the delinquent tax liens held by such city.	505
A.11288-A	Benedetto	Authorizes the City of New York to discontinue certain land as park land.	396

<u>Bill #</u>	<u>Sponsor</u>	<u>Description</u>	<u>Chapter</u>
A.11593	Lopez	Authorizes the public sale of taxicab licenses in the City of New York.	535
A.11747-A	Rules (Latimer)	Authorizes the City of New Rochelle, through its city council, to sell the Bellantoni Community Center and dedicate equal funds to capital improvements.	634
A.11989	Rules (O'Donnell)	Authorizes the City of New York to discontinue the use of certain lands as parklands and to use such lands for the West 96 th Street subway station.	284
A.12025	Rules (Manning)	Authorizes the City of Hudson to convey an easement to the Hudson Power Association for the purpose of connecting to the city's sewer line.	550