

# New York State Assembly | Sheldon Silver, Speaker



committee on  
**Cities**

James Brennan, Chair

December 15, 2009

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 2009 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

**2009 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 2009**

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

This year the State Budget contained \$952 million in Aid and Incentives to Municipalities funding for cities, an increase of \$14 million over State Fiscal Year 2008-09. For all cities outside of New York City the Legislature appropriated \$650 million and New York City received \$302 million.

#### **Local Government Efficiency (LGE) Grant Program**

The State Budget contained \$13 million in funding for the Local Government Efficiency (LGE) grant program. The LGE program replaced the Shared Municipal Services Incentive (SMSI) program, which was created in 2005 to encourage municipal consolidation and cooperation.

The program is administered by the Department of State and provides grants to counties, cities, towns, villages, special improvement districts, fire districts, library districts, water authorities, sewer authorities, regional planning and development boards, school districts, and, in certain instances, Boards of Cooperative Educational Services (BOCES) that merge or share services. This year the program was divided into four separate grant pools: High Priority Planning Grants (up to \$50,000 per award), General Efficiency Planning Grants (up to \$25,000 for the first two applicants, \$1,000 for each additional applicant, up to a maximum of \$35,000), Efficiency Implementation Grants (up to \$200,000 per municipality, up to a maximum of \$1 million), and 21<sup>st</sup> Century Demonstration Project Grants (up to \$400,000 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. For some grant categories, grant recipients have to provide a match for up to 10% of the project cost.

## **B. STATEWIDE SIGNIFICANCE**

### **City Charter Adoption**

**(A.6019 Gottfried; Passed Assembly)**

This bill would repeal certain provisions of the Municipal Home Rule Law that allow for the “bumping” of ballot questions, i.e., barring all other local referendum proposals from the ballot if a charter revision commission created by a mayor places any question on the ballot.

### **Electronic Key Cards**

**(A.514 Kavanagh; Passed Assembly)**

This bill would prohibit the use of electronic key cards that contain personal identifying information as a means of entering or exiting an apartment building. The bill would provide an exemption for buildings in which every tenant has given written consent for the use such key cards.

## **C. NEW YORK CITY LEGISLATION**

### **Building Code Violation Re-Inspection**

**(A. 4555 Brennan; Chapter 250 of the Laws of 2009)**

This legislation creates a duty to re-inspect and abate hazardous conditions in violation of the New York City Building Code. It requires an additional penalty of \$1,500 for a person who fails to submit certification of correction of an immediately hazardous violation and prohibits the issuance of a certificate of occupancy and removal of a stop work order until the fine is paid. This legislation also requires the Department of Buildings to re-inspect, issue violations and stop work orders for immediately hazardous violations until the violation(s) are corrected.

### **Tenant Harassment**

**(A.473-A Kavanagh; Passed Assembly)**

This legislation would allow rent controlled or rent stabilized tenants to recover attorneys' fees and damages in cases where landlords acting in bad faith bring eviction proceeding against tenants on the basis of non-primary residence of the tenant.

### **Appearance Enhancement Businesses**

**(A.1500 Wright; Passed Assembly)**

This bill would authorize the New York City Department of Health to regulate appearance enhancement businesses, such as nail specialty shops and hair braiding businesses.

### **Protections for Water Customers**

**(A.3250 Weprin; Passed Assembly)**

This bill would require the New York City Water Board to wait at least thirty days after adoption of the city budget before setting its annual rates.



## **D. DEBT INSTRUMENTS**

### **City of Buffalo**

**(A.6296 Schimminger; Chapter 78 of the Laws of 2009)**

This legislation extends, until June 30, 2010, the authority for the underwriting or sale of bonds or notes for the City of Buffalo at private sale. This legislation provides the City of Buffalo with additional fiscal flexibility by permitting the City to determine the timing of bond sales.

### **City of Yonkers**

**(A.7655 Pretlow; Chapter 77 of the Laws of 2009)**

This legislation extends, until June 30, 2010, 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. 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 prior to passage out of Committee.

Committee guidelines for authorizing parkland alienation include specifying the number of acres proposed for alienation and requiring that such lands be sold at fair market value, with 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 proposed to be alienated, as well as language detailing the number of acres of land proposed to be 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 the Committee acting on any parkland legislation. The following parkland alienation bill was signed into law:

**City of Watertown**  
**(A.6320 Russell; Chapter 67 of the Laws of 2009)**

This legislation authorizes the City of Watertown to lease parkland to the Watertown Family YMCA. The City of Watertown is required to dedicate the fair market value of the parkland to acquire additional parkland and/or for capital improvements to existing parkland.

## **IV. PUBLIC HEARINGS**

The Committee held five public hearings in 2009. A summary of those hearings follows.

### **A. UTILIZING PUBLIC FINANCING FOR CONSTRUCTION OF A NEW YANKEE STADIUM IN NEW YORK CITY**

On January 14, 2009, and again on March 6, 2009, the Committee, in conjunction with the Assembly Standing Committee on Corporations, Authorities and Commissions, held a hearing in New York City to review the use of tax-exempt bonds from the New York City Industrial Development Agency (NYCIDA) for the construction of a new Yankee Stadium in New York City.

The NYCIDA is the financing branch of the New York City Economic Development Corporation that provides assistance to businesses and companies operating in the five boroughs of New York City through tax-exempt bond financing. In 2006, the NYCIDA approved the issuance of \$920 million in tax-exempt bonds to the New York Yankees for the construction of a new Yankee Stadium in the borough of the Bronx. A series of policy and legal questions have been raised about the NYCIDA and other government agencies using public financing to construct a new Yankee Stadium. This hearing allowed the committees to explore these issues as they relate to public funds and the operation of IDAs and other authorities.

### **B. STATUS OF THE REDEVELOPMENT OF LOWER MANHATTAN AND THE WORLD TRADE CENTER SITE**

On January 29, 2009, the Committee, in conjunction with the Honorable Sheldon Silver, Speaker of the Assembly, and the Assembly Standing Committees on Corporations, Authorities and Commissions, and Oversight, Analysis and Investigation, held a hearing in New York City to obtain information on the status of plans and the timetable for the redevelopment of the World Trade Center site and surrounding structures.

In October 2008, the Port Authority of New York and New Jersey issued a report outlining the progress that had been made in the rebuilding of the World Trade Center site and redevelopment of the surrounding area. The report also included modifications to the World Trade Center design, and adjusted timetables for the completion of construction projects along with a target overall completion date of sometime in the year 2013. This hearing gave the Speaker and the committees an opportunity to receive an update on the status of redevelopment projects in Lower Manhattan and the World Trade Center site.

### **C. WILL WATER REMAIN AFFORDABLE TO THE USERS OF THE NEW YORK CITY WATER SYSTEM?**

On May 1, 2009, the Committee, in conjunction with the Assembly Standing Committee on Corporations, Authorities and Commissions, held a hearing in New York City examining the present and future costs of New York City water and sewer service.

Recent increases and proposed increases in water and sewer rates have raised concerns that water and sewer service, essential to public health, will become cost prohibitive for many users of the New York City water system in the near future. In addition to supplying water to New York City, the New York City water system provides 85 percent of the water used in Westchester County and approximately 7.5 percent of the water used in Putnam, Orange and Ulster Counties. This hearing examined the costs involved in providing water from the New York City water system and sewer service in New York City.

### **D. RETAIL DIVERSITY AND NEIGHBORHOOD HEALTH**

On September 18, 2009, the Committee, in conjunction with the Assembly Standing Committees on Economic Development, Job Creation, Commerce and Industry, and Small Business, and the Senate Standing Committee on Cities, held a hearing in New York City to identify and disseminate best practices for supporting and facilitating the preservation and revitalization of retail in urban neighborhoods.

In large and small cities across the state there is less and less retail diversity. The devastating common features of many of our mid-size and smaller cities is that both the neighborhood commercial strips and downtown business districts have been hollowed out because of “big box” retailing and strip plaza development on the outskirts of urban centers. This hearing provided the committees with the opportunity to examine common features and potential statewide solutions for revitalizing and preserving retail in urban neighborhoods.

### **E. MUNICIPAL PARTICIPATION IN THE RESTORE NEW YORK COMMUNITIES INITIATIVE (RESTORE NY)**

On November 13, 2009, the Committee, in conjunction with the Assembly Standing Committees on Local Governments, and Economic Development, Job Creation, Commerce and Industry, held a hearing in Buffalo regarding municipal participation in Restore NY. Restore NY was established in the 2006-07 New York State Budget to provide eligible municipalities with financial assistance to encourage economic development and neighborhood revitalization.

This hearing examined the effectiveness of Restore NY in achieving its legislative goals to provide eligible municipalities with financial assistance to encourage economic development and neighborhood revitalization.

## **V. OUTLOOK FOR 2010**

In 2010, the Cities Committee will again endeavor to assist all 62 cities of the State by passing legislation that will maintain their economic well-being in this time of economic turmoil. 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**

**2009 SUMMARY OF ACTION ON ALL BILLS REFERRED TO  
THE COMMITTEE ON CITIES**

| <b><u>Final Disposition</u></b>                 | <b><u>Assembly<br/>Bills</u></b> | <b><u>Senate<br/>Bills</u></b> | <b><u>Total</u></b> |
|---|----------------------------------|--------------------------------|---------------------|
| <b>Bills Reported</b>                           | <b>29</b>                        | <b>0</b>                       | <b>29</b>           |
| To Floor  | 3                                | 0                              | 3                   |
| To Ways and Means                               | 17                               | 0                              | 17                  |
| To Codes  | 8                                | 0                              | 8                   |
| To Rules  | 1                                | 0                              | 1                   |
| To Judiciary                                    | 0                                | 0                              | 0                   |
| <br>  |                                  |                                |                     |
| <b>Bills Having Enacting Clause Stricken</b>    | <b>2</b>                         | <b>0</b>                       | <b>2</b>            |
| <br>  |                                  |                                |                     |
| <b>Bills Having Committee Reference Changed</b> | <b>2</b>                         | <b>0</b>                       | <b>2</b>            |
| <br>  |                                  |                                |                     |
| <b>Senate Bills Substituted or Recalled</b>     | <b>0</b>                         | <b>3</b>                       | <b>3</b>            |
| <br>  |                                  |                                |                     |
| <b>Bills Never Reported, Held in Committee</b>  | <b>67</b>                        | <b>0</b>                       | <b>67</b>           |
| <br>  |                                  |                                |                     |
| <b>TOTAL # of Bills in Committee</b>            | <b>100</b>                       | <b>3</b>                       | <b>103</b>          |
| <br>  |                                  |                                |                     |
| <b>TOTAL NUMBER OF MEETINGS HELD</b>            |                                  | <b>6</b>                       |                     |

## APPENDIX B

### Chapter Laws of 2009

| <u>Bill #</u> | <u>Sponsor</u> | <u>Description</u>   | <u>Chapter</u> |
|---------------|----------------|--|----------------|
| A.1204        | Destito        | Authorizes the City of Utica to enter into a contract to sell some or all of the delinquent tax liens held by the city to a private party.               | 62             |
| A.1396        | O'Mara         | Makes technical amendments to Chapter 438 of the Laws of 2008 which authorized the City of Elmira to transfer ownership of the Mark Twain Golf Course.   | 420            |
| A.4421-A      | Butler         | Amends Chapter 148 of the Laws of 2001 which authorized the City of Gloversville and the Town of Johnstown to enter into certain cooperative agreements. | 303            |
| A.4554-C      | Amedore        | Authorizes the City of Schenectady to enter into a contract to sell some or all of the delinquent tax liens held by the city to a private party.         | 100            |
| A.4555        | Brennan        | Creates a duty to re-inspect and abate hazardous violations of the New York City Building Code.  | 250            |
| A.5208-A      | Gunther        | Authorizes the City of Middletown to enter into a contract to sell some or all of the delinquent tax liens held by the city to a private party.          | 104            |
| A.5651-A      | Pheffer        | Authorizes the City of New York to reconvey certain property to the former owners, Thomas and Lucille Hussey.  | 309            |
| A.6053-A      | Arroyo         | Authorizes the City of New York to reconvey certain property to Gardner Paige.   | 107            |
| A.6296        | Schimminger    | Extends the authorization for the private sale of bonds and notes of the City of Buffalo to June 30, 2010.   | 78             |
| A.6320        | Russell        | Authorizes the City of Watertown to lease certain parkland to the Watertown Family YMCA.   | 67             |
| A.7655        | Pretlow        | Extends the authorization for the private sale of bonds and notes of the City of Yonkers to June 30, 2010.   | 77             |
| A.7721        | Giglio         | Extends, until October 1, 2010, the deadline for the City of Olean to issue serial bonds to finance a certain deficit.                                   | 147            |
| A.8007-A      | Cusick         | Authorized the City of New York to reconvey certain property to the Greentree Homeowners Association.  | 391            |