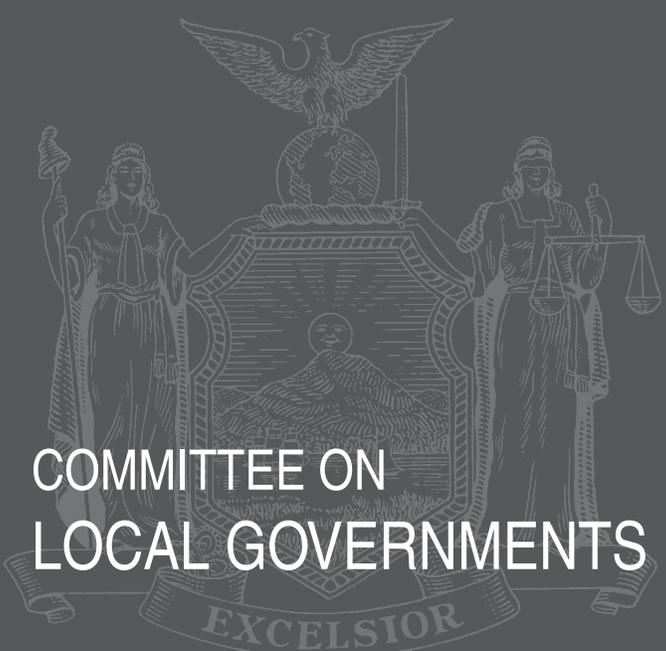


NEW YORK STATE ASSEMBLY

ANNUAL REPORT

2020



COMMITTEE ON
LOCAL GOVERNMENTS

CARL E. HEASTIE
SPEAKER

FRED W. THIELE, JR.
CHAIR



THE ASSEMBLY STATE OF NEW
YORK ALBANY

COMMITTEES
Ways and Means
Environmental Conservation
Oversight, Analysis and Investigation
Transportation

FRED W. THIELE, JR.
Assemblyman 1st District

CHAIR
Committee on
Local Governments

December 15, 2020

Honorable Carl Heastie
Legislative Office Building, Room 932
Albany, NY 12248

Dear Speaker Heastie:

I am pleased to submit to you the 2020 Annual Report of the Assembly Standing Committee on Local Governments.

Throughout the year, the Committee addressed many significant issues, including responding to the COVID-19 pandemic. The Committee worked to ensure that first responders and local governments statewide were able to receive support from the State to mitigate the impacts of the COVID-19 pandemic. The Committee also worked on various legislation including parkland alienations, as well as legislation related to firefighters and emergency services, and municipal employees. In this report you will find descriptions of legislation and important issues considered by the Committee. Additionally, this report highlights goals of the Committee, which emphasize the ongoing need to support the municipalities of this State.

I share with you an appreciation for the important role local governments play in providing essential services to their residents and commend you for the support and leadership you have provided the Local Governments Committee in its pursuit to address issues facing New York's municipalities. With your assistance, the Committee will continue to focus on the needs of local governments.

Sincerely,

A handwritten signature in black ink that reads "Fred Thiele, Jr." in a cursive script.

Fred W. Thiele, Jr., Chairman
Assembly Standing Committee on Local Governments

2020 ANNUAL REPORT
OF THE NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON LOCAL GOVERNMENTS

Fred W. Thiele, Jr., Chairman

Committee Members

| | |
|----------------------|-----------------------|
| David F. Gantt | Colin J. Schmitt |
| Phil Ramos | Christopher S. Friend |
| David Buchwald | Daniel G. Stec |
| Steven Otis | Karl Brabenec |
| Carrie Woerner | Christopher Tague |
| Monica P. Wallace | |
| John T. McDonald III | |
| Anthony D'Urso | |
| Patrick T. Burke | |
| Jonathan G. Jacobson | |
| Karen McMahan | |
| Taylor Darling | |
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Staff

Michelle Milot, Assistant Secretary for Program and Counsel
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Thomas Conlon, Committee Assistant
Erin Fleming, Committee Clerk
Maya Wilson, Program and Counsel Secretary

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I. INTRODUCTION

The Assembly Standing Committee on Local Governments considers the legislative needs of New York State's local governments, including counties, cities, towns, villages, school districts, fire districts, and various other special districts and local agencies. The Committee monitors the needs of local governments and strives to develop legislative remedies to meet those needs. The Committee also explores new proposals and ideas that will enable local governments to better serve the citizens of New York State. The Committee endeavors to enact laws that will further improve local governments' abilities to address their unique problems. The Committee is also interested in assisting local governments by considering legislation that will provide flexibility in municipal finances and consider other legislative solutions to help local governments remain financially solvent.

The Committee considers legislation that proposes to amend the General Municipal, Municipal Home Rule, Local Finance, County, Town, Village, Volunteer Firefighters' Benefit, and Volunteer Ambulance Workers' Benefit Laws. Since the structure, powers and scope of local governments is broad, the Committee's concerns cover a wide range of issues. Home Rule legislation is also addressed. These bills deal with issues specific to a certain local government's jurisdiction and are intended to remedy a specific local concern. Through the use of home rule legislation to solve individual local needs, the Committee has helped resolve many unique situations and has enabled local governments all over the state to serve their citizens better.

II. MAJOR ISSUES AND LEGISLATION OF 2020

A. LOCAL GOVERNMENT AID – ENACTED BUDGET

The State Budget for the State Fiscal Year of 2020-2021 continues funding for local governments in the form of unrestricted aid and grants to help local governments achieve efficiencies and share municipal services.

Aid and Incentives to Municipalities

Aid and Incentives to Municipalities (AIM) funding is direct general purpose aid provided to towns, villages and cities. AIM funding for the State Fiscal Year 2020-2021 was maintained at \$647 million for cities and \$9 million for towns and villages whose AIM award equaled 2% or more of total expenditures in 2018. The 2020-2021 Budget also maintained authorization for the State to intercept an amount equal to the prior AIM amount from county sales tax revenues for an annual remittance to the towns and villages within the county that no longer receive an AIM award.

Local Government Performance and Efficiency Program

The 2020-2021 Budget contained funding to continue grant programs administered by the Department of State to provide assistance and incentives for local governments to consolidate, dissolve, share services and find other efficiencies. The programs include: \$35 million for Citizens Reorganization Empowerment grants and Citizen Empowerment Tax Credits, and \$4 million for the Local Government Efficiency Grant Program.

Financial Restructuring Board

The Financial Restructuring Board provides a comprehensive review of eligible municipalities' finances and operations. The Board makes recommendations on improving an eligible municipality's fiscal stability and provides financial assistance for undertaking certain recommendations. The 2020-2021 Budget contained an appropriation of \$2.5 million for this purpose, representing no change from the previous year.

Ithaca Tompkins International Airport

The 2020-2021 Budget authorized a specific period of probable usefulness (PPU) for construction and improvement of the Ithaca Tompkins International Airport. Under this law, the PPU for construction, reconstruction or extension of the Tompkins County airport facility and an above-ground aircraft fuel farm was specified as 30 years.

Erie County Bonds

The 2020-2021 Budget extends, until June 30, 2021, the authority for the underwriting or sale of bonds or notes for Erie County at private sale. This authorization provides Erie County with additional fiscal flexibility by permitting the County to determine the timing of bond sales.

Competitive Bidding for Farm Goods

The 2020-2021 Budget increased the threshold for competitive bidding of farm goods for school districts or cooperative educational services from \$50,000 to \$100,000 to provide increased flexibility in the purchasing of farm goods.

AIM-related Payments

The 2020-2021 Budget made technical changes to the process of providing AIM-related sales tax payments to towns and villages in Erie and Nassau Counties.

Westchester Bond Limitation

The 2020-2021 Budget repealed legislation that required only Westchester County to hold a public referendum to approve capital projects over \$10 million. This law levels the playing field between Westchester County and the rest of the State.

Private Activity Bond Act

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 State Legislature modified the process and issuers around the State are familiar with the process. The 2020-2021 Budget extends the current allocation system until July 1, 2022.

Refunding of Certain Environmental Facilities Corporation Bonds

The 2020-2021 Budget extended, until September 30, 2023, provisions of Local Finance Law which authorize municipalities with hardship financing to sell their refunding bonds to the Environmental Facilities Corporation without requiring a showing of savings.

Environmental Facilities Corporation Installment Loans

The 2020-2021 Budget extended, until September 30, 2023, the authorization for municipalities to issue their bonds or notes evidencing installment loans to the Environmental Facilities Corporation.

Environmental Facilities Corporation Statutory Installment Bonds

The 2020-2021 Budget extends, until September 30, 2023, the authorization for local governments to issue statutory installment bonds in an amount not to exceed \$20 million to the Environmental Facilities Corporation at a fixed rate or, if issued in serial maturities, at a set rate for each individual maturity.

B. COVID-19 RESPONSE

In March, the COVID-19 pandemic struck the State of New York. As a result, businesses and schools statewide were forced to close, and local governments were left to adjust to the rapidly changing environment. New York's first responders were required to work even harder on the front lines to save lives. In response, the Assembly passed legislation to protect and support the State's first responders and to help local governments better respond to the rapidly changing needs of their communities.

State Disaster Emergency Loan Program

(A.10294-A Stirpe; Chapter 109 of the Laws of 2020)

In order for small businesses to reopen safely during the COVID-19 pandemic, small businesses had to comply with new requirements to ensure the safety of employees and customers. To protect New York businesses and the communities they serve, the Legislature passed legislation creating the State Disaster Emergency Loan Program, which authorized Industrial Development Agencies (IDAs) to provide loans of up to \$25,000. This law also authorizes IDAs to provide grants to small businesses and not-for-profit corporations for personal protective equipment (PPE) and other safety devices.

Extension of Building Permits

(A.10409-A McDonald; Chapter 111 of the Laws of 2020)

As a result of the COVID-19 pandemic, building projects were often halted mid-construction while many building permits and approvals potentially expired. This law extends active building permits and approvals for 120 days beyond the original expiration date to ensure that projects are not left incomplete due to the COVID-19 pandemic.

Length of Service Award Program (LOSAP) COVID-19 Determination

(A.10438-A Rules (Thiele); Chapter 113 of the Laws of 2020)

Length of Service Award Programs (LOSAP) are pension-like programs intended to help recruit, retain, and reward volunteer firefighters and volunteer ambulance workers for their service to the community. This law allows volunteer firefighters and volunteer ambulance workers to earn up to five points per month toward their service during the

COVID-19 pandemic. These additional points will compensate for changes made to emergency response protocols and points-earning events and activities which have been canceled due to the pandemic.

Municipal Financing Flexibility

(A.10492 Rules (Thiele) and A.10530 Rules (Mosley); Chapters 157 and 126 of the Laws of 2020)

The COVID-19 pandemic increased the financial burdens on local governments and school districts. As a result, local governments needed additional financial and budgetary flexibility to continue operating and providing essential services. This law provides an extension of the “rollover” period for Bond Anticipation Notes issued between 2015 and 2021, and authorizes local governments and school districts to spend or temporarily transfer capital reserve fund moneys for COVID-19 related expenses. This law also extends the timeframe for repayment of inter-fund advances of COVID-19 related expenses to the end of the next fiscal year. These measures allow local governments and school districts to have the flexibility needed to begin to recover from the effects of the COVID-19 pandemic while continuing to provide essential services.

C. MUNICIPAL OFFICERS AND EMPLOYEES

Shared Services

It can be difficult for some municipalities to find people interested in holding public office who are also residents of the municipality, as required by law. Additionally, it would be easier for these smaller municipalities to share services with a nearby municipality. The Committee considers legislation that would provide flexibility in filling these offices by authorizing towns to combine municipal offices with another municipality. The following legislation provided these types of exceptions:

**Town Justice for the Towns of Mina and French Creek, Chautauqua County
(A.9884 Goodell; Chapter 129 of the Laws of 2020)**

**Town Justice for the Towns of Lorraine and Worth, Jefferson County
(A.9052 Blankenbush; Chapter 271 of the Laws of 2020)**

D. MUNICIPAL CORPORATIONS

Dissolution of the Village of Groton Industrial Development Agency (IDA) (A.9826 Lifton; Chapter 192 of the Laws of 2020)

Industrial Development Agencies (IDAs) are intended to provide economic support to businesses and economic development projects. The Village of Groton IDA has not operated or provided such support for many years; this law removes the statutory reference for the Village's IDA.

Requirements for Permissive Referendum (A.10783-A Rules (Zebrowski); Chapter 128 of the Laws of 2020)

The time frame for town board resolutions or submission of petitions to a town board in Town Law was 60 to 75 days prior to an election, and the time frame for submission of petitions or resolutions to the Board of Elections was also 60-75 days prior to an election. This conflict resulted in the inability for towns to vote on resolutions at the next election. This law creates parity between Town Law and Election Law and ensures that petitions brought before a town board are able to be voted on in the next general or special election.

E. EMERGENCY SERVICES

The Assembly has worked consistently to ensure the State's policies regarding volunteer firefighters and volunteer ambulance workers are sufficiently protective. We appreciate the diligence, dedication to service and efforts put forward by the thousands of New Yorkers who generously dedicate their time as volunteer firefighters and volunteer ambulance workers. This session, the Committee passed a variety of volunteer firefighter and volunteer ambulance workers legislation.

County Airport/Aviation Departments Fire Response and Rescue Employees (A.7646-A Bronson; Chapter 325 of the Laws of 2020)

There are a number of county airport and aviation departments with paid employees who provide fire response or rescue services as part of their job duties. Although they provide many of the same services as other paid firefighters in the State, they currently do not qualify for the same benefits under current law. This legislation includes these employees in the definition of paid firefighter to ensure that they can receive salary, medical treatment and hospital care when they are injured in the performance of duties.

Fire District Audit Threshold

(A.10041 Gunther; Chapter 262 of the Laws of 2020)

Each year, fire companies and fire districts are required to conduct an independent audit of their finances if they report revenues in excess of \$300,000. In the years since the revenue threshold was last adjusted, costs for goods and services for fire districts have increased, and programs and services offered by fire companies and fire districts have been expanded. As a result, the number of fire districts and fire companies that reach the revenue threshold has increased, requiring more audits to be conducted at taxpayer expense. This legislation increases the audit revenue threshold from \$300,000 to \$400,000 to account for such increases.

Firefighter Cancer Presumption Eligibility

(A.9505-B, Subpart P; Chapter 55 of the Laws of 2020)

A number of fire departments have been unable to properly verify the eligibility of firefighters for enhanced cancer disability benefits due to the loss or absence of documented records. Chapter 738 of the Laws of 2019 authorized the Office of Fire Prevention and Control to promulgate rules and regulations regarding the acceptance of alternative documents to establish eligibility when other documentation is available. Subpart P of Chapter 55 of the Laws of 2020 made technical amendments to Chapter 738 of the Laws of 2019, clarifying documentation requirements.

III. PARKLAND ALIENATION LEGISLATION

The issue of parkland alienation, or the conversion of parkland for non-park purposes, has been a great concern for the Committee. As a matter of public trust, it is required 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, the Committee strives to ensure that each proposed parkland alienation complies with alienation guidelines prior to being reported out of Committee.

Committee guidelines for authorizing parkland alienation include specifying the number of acres proposed for alienation and requiring that the fair market value of such lands be dedicated for the purchase of replacement parkland of equal to or greater than fair market value, or for capital improvements to existing parkland. The legislation must also include a legal description of the parkland proposed to be alienated, as well as language detailing any land proposed to be dedicated (if replacement land is proposed for the parkland). Finally, a home rule message from the municipality requesting alienation is required prior to the Committee acting on any parkland legislation.

County of Nassau

(A.8186-B Darling; Chapter 254 of the Laws of 2020)

This legislation authorizes Nassau County to alienate certain parklands to the Coleman Country Day Camp and Coleson Properties, LLC for the continued operation of a recreational day camp.

(A.10652-A Rules (D'Urso); Chapter 158 of the Laws of 2020)

This law authorizes Nassau County to alienate certain parklands to the Port Washington Water District for a water treatment facility.

(A.10802 Rules (Miller ML); Chapter 165 of the Laws of 2020)

This law authorizes Nassau County to alienate certain parklands for the construction of a force main for the Bay Park sewage treatment plant.

Town of Union

(A.9810 Lupardo; Chapter 162 of the Laws of 2020)

This law authorizes the Town of Union, Broome County, to alienate parklands for the purpose of relocating existing overhead electrical transmission lines and installing anchoring facilities.

Village of Herkimer

(A.10111-A Smullen; Chapter 276 of the Laws of 2020)

This legislation authorizes the Village of Herkimer, Herkimer County, to alienate certain parkland to the Herkimer Central School District for the purpose of expanding educational, school-related extracurricular facilities.

Village of Patchogue

(A.10377-A Garbarino; Chapter 198 of the Laws of 2020)

This law authorizes the Village of Patchogue, Suffolk County, to alienate certain parklands for the placement and operation of a wireless communication tower.

Town of Southeast

(A.10388-A Byrne; Chapter 219 of the Laws of 2020)

This law authorizes the Town of Southeast, Putnam County, to alienate certain parklands to Proswing Sports Realty, Inc. for recreational use.

Town of Hempstead

(A.10573-A Rules (McDonough); Chapter 281 of the Laws of 2020)

This legislation authorizes the Town of Hempstead, Nassau County, to alienate certain parklands to the Levittown School District for the purpose of expanding parking and access facilities.

IV. PUBLIC HEARINGS

A. EXPLORING SOLUTIONS TO THE DISPROPORTIONATE IMPACT OF COVID-19 ON MINORITY COMMUNITIES

On May 18, 2020, the Committee, in conjunction with the Assembly Standing Committees on Cities, Health, and Labor, and the Senate Standing Committees on Cities, Health, Labor, and Local Government, conducted a virtual hearing to examine how the COVID-19 pandemic has disproportionately impacted minority communities and how New York State can mitigate the damage the COVID-19 pandemic has caused.

B. ELECTIONS IN A PANDEMIC: A REVIEW OF THE 2020 PRIMARIES

On August 11, 2020, the Committee, in conjunction with the Assembly Standing Committee on Election Law and the Senate Standing Committees on Elections and Local Government, held a virtual hearing related to voting during the COVID-19 pandemic. This hearing explored how the pandemic affected the primary elections in June 2020, including the dramatic increase of absentee voting, and practical solutions for ensuring that all New York State voters are able to vote safely during the November general election, without fear of disenfranchisement.

C. POWER AND COMMUNICATION FAILURES FROM TROPICAL STORM ISAIAS

On August 20, 2020, the Committee, in conjunction with the Assembly Standing Committees on Corporations, Energy, Environmental Conservation, Governmental Operations and Cities, along with the Senate Standing Committees on Energy, Environmental Conservation, Corporations, Veterans, Local Government and Cities held a virtual hearing on the power and communications failures following Tropical Storm Isaias. The Committees collected testimony about the widespread outages, communication failures, and emergency response plans of the region's utility and telecommunication providers. The Committees also gathered information on utility and telecommunication provider storm preparedness; pre-storm steps taken to protect the electric distribution grid and critical telecommunications infrastructure; the causes of outages and service disruptions; the reasons for the lengthy post-storm repair, restoration of service and reconnection of customers and other storm-related information.

V. OUTLOOK FOR 2021

The Committee recognizes the difficult economic outlook that municipalities and citizens of New York State have faced and will continue to face in the year to come. The Committee will build on the progress made during the 2020 legislative session, continuing to find solutions to reduce costs to local governments and keep New Yorkers safe during this uncertain time. New York's local governments have been hard hit in 2020, and maintaining essential services will be a challenge in the wake of the COVID-19 pandemic. The Committee will continue to advocate for local aid to municipalities and work to promote solutions to the issues faced this year. The Committee looks forward to continuing to work with the Governor, the Senate, the State Comptroller, the Attorney General, and all local governments to improve the outlook for municipalities going forward.

APPENDIX A

**2020 SUMMARY OF ACTION ON ALL BILLS REFERRED TO
THE COMMITTEE ON LOCAL GOVERNMENTS**

| <u>Final Disposition</u> | <u>Assembly Bills</u> | <u>Senate Bills</u> | <u>Total</u> |
|---|----------------------------------|--------------------------------|---------------------|
| Bills Reported: | | | |
| To Codes | 0 | 0 | 0 |
| To Judiciary | 0 | 0 | 0 |
| To Ways and Means | 17 | 0 | 17 |
| To Rules | 2 | 0 | 2 |
| To Floor | 1 | 0 | 1 |
| TOTAL | 20 | 0 | 20 |
| Bills Having Enacting Clauses Stricken | 8 | 0 | 8 |
| Bills Having Committee Referenced Change | 18 | 0 | 18 |
| Bills Held in Committee | 27 | 0 | 27 |
| Total in Committee | 210 | 16 | 226 |
| TOTAL NUMBER OF MEETINGS HELD | | 4 | |

APPENDIX B

Bills that Passed Both Houses

| <u>Bill #</u> | <u>Sponsor</u> | <u>Description</u> | <u>Status</u> |
|---------------|----------------|--|---------------|
| A.5839-A | Paulin | Amends provisions in the Westchester County Administrative Code relating to the lease or sale of real property for park purposes | Chapter 201 |
| A.7646-A | Bronson | Includes county airport/aviation department fire rescue and response units in the definition of paid firefighter for eligibility of benefits | Chapter 325 |
| A.8186-B | Darling | Authorizes the alienation of certain municipal parklands in Nassau County | Chapter 254 |
| A.8195 | Thiele | Relates to the preservation of community character in the Peconic Bay Region | Chapter 255 |
| A.8643 | Fitzpatrick | Authorizes the Town of Smithtown to include the Village of Head of the Harbor within the boundaries of the St. James Fire District | Chapter 272 |
| A.8695-A | Crouch | Exempts the Village of Port Dickinson Fire Department from the 45% non-resident member threshold | Chapter 185 |
| A.9052 | Blankenbush | Authorizes the towns of Lorraine and Worth, Jefferson County, to elect a single town justice for both towns | Chapter 271 |
| A.9154-A | Jacobson | Authorizes the Town of Newburgh, Orange County, to establish a road improvement district | Chapter 291 |
| A.9614 | Garbarino | Establishes the Davis Park Fire Department Benevolent Association | Chapter 190 |
| A.9810 | Lupardo | Authorizes the Town of Union, Broome County, to alienate certain municipal parklands | Chapter 162 |

| | | | |
|-----------|-------------|--|-------------|
| A.9826 | Lifton | Repeals the Village of Groton Industrial Development Agency | Chapter 192 |
| A.9884 | Goodell | Authorizes the towns of Mina and French Creek, County of Chautauqua, to elect a single town justice for both towns | Chapter 129 |
| A.9997 | Englebright | Relates to the incorporation of the Port Jefferson Volunteer Fireman's Benevolent Association | Chapter 194 |
| A.10012 | Byrne | Authorizes the lease of sports field fences in the Town of Yorktown, Westchester County | Chapter 177 |
| A.10041 | Gunther | Relates to increasing the revenue threshold for annual audits of fire districts and fire companies | Chapter 262 |
| A.10111-A | Smullen | Authorizes the Town of Herkimer, Herkimer County, to alienate certain municipal parklands | Chapter 276 |
| A.10294-A | Stirpe | Establishes the State Disaster Emergency Loan Program for small businesses and small not-for-profit corporations to be administered by industrial development agencies | Chapter 109 |
| A.10313 | Galef | Updates provisions related to the Briarcliff Manor Fire Department Benevolent Association | Chapter 263 |
| A.10371-A | Palmesano | Authorizes the alienation of certain reforested land in the Town of Italy, Yates County | Chapter 278 |
| A.10377-A | Garbarino | Authorizes the Village of Patchogue, Suffolk County, to alienate certain municipal parklands | Chapter 198 |
| A.10383 | Mikulín | Relates to the number of trustees on the board of the Volunteer and Exempt Fireman's Benevolent Association of Nassau County | Chapter 196 |

| | | | |
|------------|----------------------|---|-------------|
| A.10388-A | Byrne | Authorizes the Town of Southeast, Putnam County, to alienate certain municipal parklands | Chapter 219 |
| A.10409-A | McDonald | Authorizes local code enforcement officers to extend building permits for a period of up to 120 days beyond the expiration date during the state disaster emergency | Chapter 111 |
| A.10438-A | Rules (Thiele) | Relates to the determination of points for volunteer firefighters and ambulance workers service award programs during the state disaster emergency | Chapter 113 |
| A.10492 | Rules (Thiele) | Relates to additional flexibility for municipal financing of COVID-19 related expenses | Chapter 157 |
| A.10530 | Rules (Mosley) | Makes technical changes to Chapter 157 of the Laws of 2020 | Chapter 126 |
| A.10573-A | Rules (McDonough) | Authorizes the Town of Hempstead, Suffolk County, to alienate certain municipal parklands | Chapter 281 |
| A.10652- A | Rules (D’Urso) | Authorizes Nassau County to alienate certain municipal parklands | Chapter 158 |
| A.10783-A | Rules (Zebrowski) | Relates to changing certain filing and submission date requirements for permissive referendums | Chapter 128 |
| A.10802 | Rules (Miller ML) | Authorizes the County of Nassau to alienate and convey certain parklands | Chapter 165 |