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*Service and Representation for Town Governments of New York*

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PUBLIC HEARING  
on  
2013-2014 Executive Budget

Presented to

Senate Finance Committee  
and  
Assembly Ways and Means Committee

Hearing Room B – Legislative Office Building

**Presented by**

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## **Greeting and Preliminary Statement**

Good Afternoon, it is a pleasure to be with you today. My name is Mike McNulty, and I thank you for the opportunity to appear today on behalf of the Association of Towns to discuss the impact the Executive Budget for State Fiscal Year 2013-2014 will have on town budgets and services. In the interest of time I will address some of the highlights of the Executive Budget and some initiatives that could be included in the enacted state budget that will help lower property taxes and continue to foster the growth and prosperity of our great state.

As a former town supervisor and member of the state legislature, I know firsthand that state funding is critical to the provision of local services. The state budget sets forth many funding opportunities to support local services, with most of the funding derived from the following programs: Aid and Incentives for Municipalities (AIM); Efficiency Grants; Consolidated Highway Improvement Program (CHIPS); the Municipal Streets and Highway Program (Marchiselli); and the Environmental Protection Fund. In addition to these important programs, towns receive funding for quality of life programs for seniors, summer youth programs and libraries. Nearly nine million people who live in towns depend upon these aid programs to fund local services.

## **Transportation Infrastructure Funding**

All New Yorkers benefit from safe and reliable roads and bridges. Over 67 billion vehicle miles are traveled annually on local roads and this travel is increasing at a rate of almost 2.5 percent per year. Numerous studies have demonstrated that local infrastructure needs are not being met despite the best efforts of local officials. The State Comptroller recently determined that New York needs to invest an additional \$1.2 billion per year on local roads and bridges to prevent them from becoming deficient. It will cost the taxpayers far more tomorrow to replace a damaged road than it does to maintain a road today.

More than fifty percent of the average town budget is devoted to maintaining roads, bridges and supporting infrastructure. The State Comptroller recently determined that local governments are doing their best to meet the current funding needs of maintaining and replacing local infrastructure but towns have limited revenue sources and every dollar not funded from CHIPS or Marchiselli must be funded locally. (Growing Cracks in the Foundation: Local Governments are Losing Ground

on Addressing Vital Infrastructure Needs, Office of the State Comptroller, December 2012). Currently, town taxpayers fund, on average, seventy-five percent of road maintenance, repair and replacement while the state funds the remaining twenty-five percent.

The increasing cost of commodities and employee health insurance are further widening the gap between those resources that are needed for the improvement of local roads and those that are available. While towns typically make up this funding gap with real property taxes, the property tax cap has limited the ability of highway departments to carry out their duties within the allowable levy limit, thereby increasing reliance upon CHIPS and Marchiselli aid. While we are grateful that these programs have been maintained at last year's level (CHIPS - \$363.1 million Marchiselli - \$39.7 million), the state could further its goals of stabilizing property taxes and growing our economy by increasing these funding programs in the 2013-2014 enacted state budget.

### **Protection of New York's Natural Resources**

We thank members of the Legislature for their continued support of the Environmental Protection Fund (EPF). The EPF is critical to maintaining local green space, family farms, municipal parks and clean drinking water. We are encouraged that even in the wake of revenue shortfalls the Governor has demonstrated a commitment to protecting our natural resources by including more funding for the EPF. We also support the utilization of unclaimed bottle deposits to fund the EPF and encourage the state to look for additional revenue sources to fund the EPF. In trying economic times, New Yorkers rely upon local parks and recreation facilities to provide a respite from their daily routines.

We encourage the state to consider additional funding for water and waste water infrastructure programs. Clean drinking water is essential to growing our economy and protecting our residents. Many New Yorkers rely upon municipal water and sewer services to provide clean drinking water and affordable wastewater disposal. Back to back natural disasters, increasing costs for commodities, changing state and federal regulations, the frailties of maintaining aging water and sewer systems have taken a toll on local budgets. In addition, local taxpayers simply cannot afford to fully fund the cost of maintaining and replacing our aging water and sewer systems. Despite the

lack of funding, access to clean and plentiful drinking water remains vital to maintaining our public health and growing our economy.

While we are grateful for the funding provided from our state and federal partners, it is simply not meeting the need. In 2008, the State Department of Health identified a \$38.7 billion dollar need over the next 20 years to repair and replace our aging drinking water systems (Drinking Water Infrastructure Needs of New York State, New York State Department of Health, November 2008). In that same year, the State Department of Environmental Conservation determined that local governments must spend \$36.2 billion over the next 20 years to maintain municipal sewer systems and \$13.6 billion to upgrade treatment facilities (Wastewater Infrastructure Needs of New York State, New York State Department of Environmental Conservation, March 2008). A recent report from the State Comptroller's Office released in December of 2012 noted that these needs have not been adequately met and cash-strapped local governments do not have the resources to meet the need (Growing Cracks in the Foundation: Local Governments are Losing Ground on Addressing Vital Infrastructure Needs, Office of the State Comptroller, December 2012). More state and federal funding is necessary in order to maintain our current systems and provide for the future. Any additional money that can be made available for water and sewer funding today could result in savings on public health issues associated with failing water and sewer systems tomorrow.

### **AIM and Local Efficiency Grants**

Aid and Incentives to Municipalities provides unrestricted general revenue sharing to local governments. The purpose of AIM funding is to help local governments stabilize real property taxes. The Executive Budget continues AIM funding at last year's levels with towns and villages receiving \$67.6 million and cities receiving \$647.1 million. While towns, as a class of local government, continue to lag behind cities in the AIM funding formula, we are grateful for the continued state support of this program and look forward to the day when the state will have sufficient resources to increase AIM funding.

In addition to AIM, several local incentive and efficiency programs are continued in the Executive Budget. The Association of Towns strives to assist local governments to operate more efficiently,

and therefore we support shared services and grant programs that foster municipal cooperation. Towns have been working cooperatively to streamline services and save taxpayer dollars for decades, and local governments are increasingly undertaking efforts towards this end. We anticipate that appropriations made to further local government cooperative initiatives will help drive this trend. The Executive Budget continues funding for these programs at last year's levels but proposes some modifications to the Local Government Efficiency Grant (LGEG) Program and the Citizens Re-Organization Empowerment Grant (CREG) in order to encourage implementation of consolidation plans. To improve the effectiveness of CREG grant program, the Executive Budget proposed increasing the local match for planning or study grants initiated by the local government from 10 percent to 50 percent. Upon approval of the local government reorganization, this 40 percentage point increase in local match would be refunded. The purpose of increasing the upfront local match is to encourage the implementation of local government re-organization activities. There would be no change in the 10 percent local match for planning or study grants in response to a citizen petition, or for implementation grants. These grants share a \$35 million appropriation with the Citizen Empowerment Tax Credits. To improve the effectiveness of the LGEG grant program, the Executive Budget to increase the local match for planning or study grants from 10 percent to 50 percent. Upon implementation of the plan, the local match from the planning project would be refunded (up to the local share for implementation). In addition, the maximum award for planning grants would be reduced from \$25,000 per municipality to \$12,500 per municipality and from \$200,000 to \$100,000 per grant. The purpose of these changes is to encourage implementation and further incentivize local government efficiency improvements.

It is too early to predict whether the proposed modifications to the Local Government Efficiency Grant (LGEG) Program and the Citizens Re-Organization Empowerment Grant (CREG) Program will actually result in the implementation of more consolidation plans. One reason it is important to study the consolidation of services and governmental entities is to determine whether the taxpayers will be better served by the consolidation. Lack of implementation post study could be an indication that the study revealed that it was not actually in the best interest of the community to move forward with the proposed consolidation. While we understand the purpose of increasing the local match for participation in consolidation studies, we are concerned that these added costs might make participation in these grant programs unaffordable for some municipalities.

## **Providing Towns with Additional Local Revenue Sources**

One way the state can lower property taxes today without providing any additional strain on the state budget would be to provide towns with additional local revenue streams that could be implemented at the option of the town board. For example, cities and villages have the authority to levy a local gross receipts tax (GRT) on the sale of utility services. Towns are currently not authorized to provide for such a local tax. Town officials are currently employing every tool available to help keep their budgets within the recently enacted tax cap and to keep real property taxes as low as possible for their residents and businesses. Unfortunately, the cost of services continues to escalate thereby necessitating additional and innovative funding mechanisms. Providing towns with the same local taxing authority as cities and villages will assist town officials in accomplishing these goals.

## **Assessor Training**

Assessors are required to receive continuing education in order to maintain their certification. More importantly, perhaps, the continuing education and training that Assessors receive is an essential component to maintaining fair and equitable assessments. The cost of the training required of assessors is a state charge by law. In the proposed budget, there is an appropriation of \$176,000 for reimbursement of assessor training. This is the same amount that was included in the last two state budgets. To put this amount in perspective, the \$176,000 is less than half of what this appropriation had averaged in the four years prior to the 2011-12 state budget. As it is increasingly important for assessors to remain up to date on the changes to in the laws, regulations and practices related to their duties, the state should remain committed to providing funds sufficient to reimburse assessors for receiving their required training.

## **Mandate Relief**

The Executive Budget contains a few mandate relief measures intended to capture future pension savings associated with Tier VI today and to level the playing field in the binding arbitration process.

## **Pension Smoothing**

The Executive Budget also offers short term relief to local governments from the rising costs of participation in New York State's Retirement System. By offering a stable contribution rate over a period of years, local governments will be able to realize short term savings as pension contribution rates for local governments would continue to rise. The stable rate option is also an advantage to municipalities by adding predictability and avoiding volatility when developing their municipal budgets.

Among the primary virtues of this program is that participation in the program is optional on the part of the local government, and it gives the local governments the ability to opt out, with a reconciliation of its obligations, at points in the future. The opt-in provision will allow local governments to determine for themselves whether or not the stable rate program will be a benefit for them. The opt-out provision will encourage participation by those who may otherwise be disinclined to join for fear of being locked into a program for perpetuity.

To encourage participation in this program we suggest that the local governments be allowed to opt in beyond fiscal year 2013-2014. The Association therefore supports this program and recommends that it be extended to allow for participation in future years.

## **Binding Arbitration**

The Executive Budget proposes capping binding arbitration awards for fiscally distressed local governments who have reached an impasse with their represented police and fire employees. Where a local government has been deemed fiscally distressed, an arbitrator would be prohibited from granting an award that exceeds two percent of the cost of compensation package of the previous twelve months. A fiscally distressed local government is defined as either one whose average full value tax rate for the previous five years is above that of 75 percent of all other local governments, averaged over the last five years, or if its five year average general fund balance equals less than five percent of its total budget.

While the Association of Towns supports this effort, we note that the definition of "fiscal distress" will create an inequity by comparing the fiscal situations of different municipalities that may have different sources of revenue available to them. Towns, counties, cities and villages all rely on real property tax revenue to different degrees, and have different alternative tax revenues available to them. Including all local governments together for the purpose of defining "fiscal distress" will lead to inequities in certain instances. For that reason, the Association of Towns suggests that the cap be extended to all local governments, or in the very least, that each class of local government be evaluated against only others of the same class for purposes of determining whether or not the local government is fiscally distressed.

### **Additional Mandate Relief Requested**

We appreciate the work of the mandate relief council and the attention that this body has brought to the need for meaningful mandate relief. We believe that some cost savings will be realized for town taxpayers should the proposed plan to eliminate unnecessary reporting be realized. We believe that the state legislature can achieve even greater cost savings by addressing other budget straining mandates. First, the budget could include amendments to the legislative law to require more constructive local fiscal impact notes, vetted by the senate finance committee or the assembly ways and means committee, on all legislation involving local governments. Illuminating the actual cost of a new or expanded program will allow for a more precise measure of whether taxpayers can afford a particular program.

In addition to identifying the actual cost of new or expanded programs before legislation is enacted, we continue to ask the legislature to look at the manner in which prevailing wage is calculated. We agree that everyone deserves fair pay for an honest day's work. We also believe that now is the time to examine the prevailing wage system to see if there are ways to reform the system that protect workers, expand access to participation in public works projects to small businesses and reduce costs to the taxpayers. The current prevailing wage system adds 20-50% on the cost of public works projects and municipal services. Strained municipal budgets and efforts to stay within the property tax cap have limited the number of public works projects that municipalities are willing or able to

undertake. Reducing the cost of these projects will not only provide more construction jobs it will bolster the local economy by ensuring safe and reliable infrastructure.

## **Community College Funding**

The Executive Budget sets forth a new program to fund community colleges. The Next Generation NY Job Linkage Program seeks to pair state funding for community colleges with courses that will provide students the necessary skills to fill current job openings. While we support the Governor's goal to match educational programs with available jobs, we would like to see more state funding for community colleges. Community colleges are primarily funded by the state, the sponsoring county or counties and student tuition. When a student enrolls in a community college that is not sponsored by the student's county of residence, the sponsoring county may charge-back to the student's home county the county's share of the college's funding for that student. The student's home county may then in turn charge that cost to the student's home town or city. (Education Law, §6305). In the wake of revenue shortfalls and tax cap pressures, more counties are exercising their authority to shift these costs to town and city taxpayers. Unfortunately, many towns and cities cannot afford to pay these extra expenses.

We agree with the Assembly's observation that community colleges provide a gateway to the middle class for many under-privileged New Yorkers and a viable way to afford college tuition for middle class New Yorkers. There are a few legislative proposals that could continue to make community college affordable for students and which address concerns raised by town officials regarding the burden the current funding system places on town taxpayers. For example, current legislative proposals (A.934 sponsored by M of A Jaffee (MS) and S. 1561 sponsored by Senator LaValle) would require the state to fund baccalaureate and masters degree programs offered by certain community colleges. In addition, this legislation would repeal the authority for counties to charge-back to the town and city taxpayer the cost of county residents attending a community college that is sponsored by another county.

## **Limit Plea Bargaining of Traffic Tickets**

Virtually all violations of the vehicle and traffic law are tried in the local courts (town, city, village). Towns are constitutionally required to maintain a town court. Town courts are primarily locally funded. In fact, town and village justice courts are the only courts in the unified court system, which are not funded by the state. In addition to funding town courts, many towns also fund town prosecutors who are deputized by the county district attorney to prosecute traffic violations.

The Executive Budget proposes to limit the ability of prosecutors and defendants to plea bargain certain speeding violations. Under the Executive Budget proposal, for speeding violations involving a speed of 20 mph over the posted speed limit, the initial charge may only be reduced to another point-bearing violation. While the Association of Towns understands and supports the safety-oriented policy behind this proposal, it will lead to more trials before the town justice courts and consume a greater portion of a town's resources. As the courts that will be implementing these provisions will incur greater costs, the budget should provide funding to offset the costs associated with implementation.

## **Funding for Town Youth Programs**

Towns are currently authorized to participate in state funding programs available through article 19-a of the General Municipal Law. These programs are intended to provide various services and recreational programs to children and young adults. In an effort to reduce costs and improve efficiency, the Executive Budget seeks to streamline these programs by directing state funding to counties and the city of New York thereby eliminating towns, villages and cities from this program. While we understand the need to reduce state program costs, there are towns that utilize funding from this program in order to provide services to young people. Restoration of town eligibility in this program would benefit many New Yorkers.

## **Conclusion**

Thank for the opportunity to appear before you today. We look forward to working with you this session.