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The 2015-2016 Executive Budget

Testimony of the New York State Conference of Mayors

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Joint Fiscal Committees' Hearing on the Executive Budget

Senate Finance Committee

Hon. John DeFrancisco, Chairman

Assembly Ways and Means Committee

Hon. Herman D. Farrell, Jr., Chairman

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Thank you for affording NYCOM the opportunity to express the views of our 581 member cities and villages regarding the 2015-16 Executive Budget. I am Peter Baynes, Executive Director of the New York State Conference of Mayors.

Local Government Fiscal Condition

I'd like to begin my testimony by providing a little background on the apparent "waste and duplication" at the local level that some claim to be the fundamental cause of high property taxes in New York. But first, when we talk about local governments, we need to be sure we are defining them in the same way. By the U.S. Census Bureau's definition of local government, the 10,500 number that the Governor regularly cites is grossly overstated. There are four types of general purpose local governments in New York – counties, cities, towns, and villages. All of these have elected governing boards, can levy property taxes and issue debt, and are covered by "home rule" protections in the State Constitution. There are only 1,601 of them and 685 school districts. Beyond that there are 1,100 entities (primarily special districts) created as a line in a budget to help apportion the cost of specific municipal services to those people that receive the service. In fact, with a real total of 3,400 local governments, New York is well below the national average for the number of local governments per 1,000 residents.

Now let's turn to spending and taxing patterns among cities and villages. Despite rhetoric to the contrary, the State Comptroller's data indicates that municipal property taxes on average, in real dollars, were either flat or falling long before the imposition of the tax cap. Additionally, local governments do not have to be coerced into sharing services and looking for ways to be more efficient. They undertake actions to achieve those results every day, because their budgets and constituents require them to. And to say that the property tax problem is due to the waste and duplication of services at the local level is clearly untrue. According to the State Comptroller's data, city and village leaders have outdone the State's recent spending restraint. For example, since 2008, the average annual increase in spending by cities (excluding New York City) is 1.4%, and by villages is 0.8%. Those percentages are a far cry from inefficient and wasteful.

When you look at trends in State aid to local governments, it is easy to see that therein lies our property tax problem. New York's revenue sharing program, when adequately funded, is a proven means of moderating the growth in municipal property taxes. Unfortunately, the last increase in AIM came in SFY 2008-09 and since then AIM funding to cities (outside NYC), villages and towns has decreased by 14% in real dollars. New York City's AIM allocation – totaling $328 million – was completely eliminated in SFY 2010-11. Currently, school aid – which totals $22 billion – is more than 30 times the total AIM program and the entire AIM appropriation is 65% less than the proposed increase in school aid for 2015-16. We are not saying that the schools are not deserving of this amount – but aren't local governments deserving as well?

The imposition of fiscal austerity on local governments has had a "crowding-out" effect on local budgets, including the deferral of critical infrastructure needs in order to fund essential municipal services. Recent reports document that local governments are facing a combined multi-year funding deficiency of $65.7 billion for municipal infrastructure related to roads and bridges ($34.8 billion), water ($10.7 billion) and sewer ($20.2 billion). These staggering needs can only be met if the State partners with local governments to fund such needs.

Finally, it is clear that local governments – in response to the tax cap and the lack of State assistance through either increased aid or mandate relief – are dipping into their fund balances, in some cases, to dangerously low levels. According to the State Comptroller's data, between 2008 and 2013, total unassigned fund balance in cities decreased from $374.3 million to $266.1 million – a decline of $108.2 million or 29%.

Cities and villages are doing all that they can to control spending while maintaining essential services, but the path they are on is unsustainable. State aid has declined; our one glimmer of hope on any mandate relief went away at the end of December when the Governor's Mandate Relief Council was disbanded; and the 2015-16 Executive Budget provides little in the way of assistance to help brighten the future for New York's local governments. Local officials are frustrated with the State's current approach – which can be characterized as somewhere between "benign neglect" and "drop dead." We hope the State Legislature will change this trajectory, understand our needs and do much more to give us the tools to grow and strengthen our communities.

Infrastructure Funding

Infrastructure is essential to both a community's economic growth and improved quality of life. Building and maintaining municipal assets and facilities creates jobs and puts the community in a better position to grow and respond to the needs of its residents and businesses. This, in turn, makes it a more attractive place to live and work. When local officials are struggling to balance their budgets and difficult choices need to be made, local governments must often defer critical infrastructure needs – not only roads and bridges but flood mitigation and disaster resiliency – in order to fund essential municipal services. In certain instances, while money (oftentimes in the form of loans) may be available to local governments to help fund these projects, the local share that remains still makes such projects cost-prohibitive.

In the months leading up to release of the Executive Budget, NYCOM strongly advocated that the Governor allocate a significant portion of New York's $5.4 billion in bank settlement monies for local infrastructure – recognizing that this would jumpstart long-stalled but much-needed local improvements and lower property taxes at the local level. While the Governor's Budget does propose dedicating $1.5 billion in settlement money to an Upstate Revitalization Fund, only seven of New York's ten regions would be eligible to compete for one of three $500 million pots of money. Given the widespread need for infrastructure funding in every area of the State, we believe that money could and should go a lot further by increasing the total amount and ensuring that all regions compete for and benefit from New York's one-time windfall.

Unrestricted State Aid

The State's current unrestricted aid program – formerly known as revenue sharing, now known as Aid and Incentive for Municipalities, or AIM – is general purpose State aid provided to all of New York's cities (outside of New York City), villages and towns. Since the late 1980's, the original "revenue sharing" formula – intended to provide property tax relief by redistributing the State's progressive tax revenues to municipalities that do not have the tax base or the taxing authority to generate these revenues on their own – has been annually disregarded and various constraints have been imposed on the overall level of State aid to local governments. Due to the fact that the original "revenue sharing" formula has not been utilized for decades and, since that time, various additional aid categories have been targeted to specific municipalities based on no particular economic or demographic factors, the current allocation of unrestricted aid fails to accurately reflect the fiscal need and capacity of its recipient cities, villages and towns. Consequently, building on this base with across-the-board aid increases, while marginally helpful, will continue to exacerbate the inequities currently embedded in the AIM program.

While AIM funding is a vital source of revenue to many of those municipalities who receive it, NYCOM supports the creation of an additional program that would allocate new aid to local governments in a fair and objective manner, and would account for local fiscal capacity and need. The new program's formula components, at a minimum, should include population, population density, poverty and the level of municipal services provided. The formula should also consider the amount of tax-exempt property a municipality has within its boundaries, as this has a significant effect on a community's ability to raise revenue without overburdening the remaining taxable property owners. We urge the Legislature, when considering spending priorities in the 2015-16 State Budget, to give first priority to a long-overdue increase in unrestricted aid to local governments as a means of providing efficient and comprehensive property tax relief.

CHIPS Funding

Local governments are responsible for a considerable portion of New York's road, highway and bridge infrastructure, which is why State funding in this area is essential. As we mentioned earlier, the repair and maintenance of critical local infrastructure – including roads and bridges – has suffered at the expense of the many other demands on municipal budgets. A study by the Cornell Local Roads Program estimates that every $1 of deferred maintenance on roads and bridges costs an additional $4 to $5 in needed future repairs.

This year local governments received an additional $40 million for "Extreme Winter Recovery," to help municipalities pay for the damage to local roads brought on by snow, ice and cold temperatures last winter. NYCOM greatly appreciates the Legislature's willingness to provide these additional resources. Unfortunately, the 2015-16 Executive Budget eliminates this $40 million, but given the winter we are currently experiencing, one could argue that those additional resources are even more necessary this year. NYCOM urges the State Legislature to include the additional $40 million in the adopted 2015-16 State Budget to assist local governments with the repair and resurfacing of local roads. In addition, at a time when improving our local infrastructure is essential to the recovery and revitalization of our communities and our State, the need for a substantial increase in CHIPS funding is more critical than ever.

The Tax Cap

When the tax cap was first imposed in 2012, NYCOM repeatedly pointed out that there is not a local official in this State that doesn't want to lower taxes. And while the State Comptroller's data illustrates that property taxes have experienced a downward trend, the same data also illustrates that this trend started long before the tax cap was imposed. But there is a cost to prolonged austerity. As additional pressures, including residents' receipt of rebate checks, are linked to tax cap compliance, negative consequences – including reductions in municipal services, local workforces and capital investment, as well as an increased reliance on reserves to balance local budgets – are inevitable.

As I am sure you are aware, the current tax cap law fails to include any exclusions for municipalities undertaking capital/infrastructure projects, even when such investments are mandated by the State or intended to facilitate economic expansion in a community. Given the public infrastructure crisis we are facing in New York, NYCOM believes that adjustments to the tax cap's exclusion provisions will better enable local governments to facilitate economic development via enhanced municipal infrastructure. Specifically, the list of exclusions must be expanded to include, at a minimum, emergency expenditures resulting from damage to municipal infrastructure or equipment; expenses related to capital improvements mandated by Consent Orders from the Department of Environmental Conservation or other government agencies; and infrastructure investments intended to enhance the economic development capacity of a community, including improvements related to municipal water, sewer or transportation, and initiatives that have been "sanctioned" by the State through the provision of State-funded support. Finally, the tax cap law should also be amended so as to avoid penalizing (i.e., lowering the cap on) those localities that enter into PILOT agreements, or that consolidate a service with another local government. NYCOM strongly believes that these thoughtful and relatively narrow exclusions will foster improvements in local infrastructure while continuing to control local property taxes.

Restore New York

One of NYCOM's 2015 Legislative Priorities is to re-establish a funding source for building demolition and reconstruction. In 2006, the Legislature appropriated $300 million to fund the demolition, deconstruction, rehabilitation and/or reconstruction of vacant, abandoned, condemned and surplus properties. This program, known as Restore New York, awarded 197 grants over a three-year period. While this was a great start to addressing the epidemic of outmoded and unsafe properties that not only threaten the public's health, safety, and welfare but also inhibit redevelopment of New York's cities and villages, thousands more buildings need to be renovated or demolished. The 2015-16 Executive Budget includes language that would provide up to $50 million for Restore New York. We urge the Legislature to support and increase the amount dedicated to this worthwhile program that has already proven to be a critical and successful tool for community revitalization.

Asbestos Notification Fee

Every year New York's cities, villages, and towns must abate nuisance conditions found on thousands of private properties, either because the property has been abandoned or because the responsible party refuses to fix the condition. Frequently, the costs these municipalities incur in abating such nuisance conditions exceed the value of the property. Compounding this problem is the fact that, pursuant to Labor Law § 904, the State of New York imposes a substantial "project notification fee" when a property contains asbestos that must be abated, even when the work must be undertaken by a municipality fulfilling its governmental function of protecting the public health, safety and welfare. This fee imposes a significant cost on local governments for each property that the municipality demolishes or remediates as a public nuisance. Because local governments are unlikely to recover the cost of this fee, local taxpayers are stuck footing the bill.

During the 2014 legislative session, the State Legislature passed S. 902 which would have waived the asbestos "project notification fee" for building demolitions undertaken by a municipality when the work is being done to abate a nuisance or demolish an unsafe building, as well as when a building demolition or renovation is undertaken by a land bank or pursuant to the urban renewal or municipal redevelopment laws. The Governor vetoed this bill along with two others pertaining to the asbestos notification fee, noting that due to the fiscal impact on the State, these bills would be better addressed as part of the budget process. Unfortunately, no such language was included in the Executive Budget. While NYCOM supported all of these bills, we believe that the provisions of S. 902 would have the greatest benefit since it would apply statewide, reducing municipal expenditures in nearly every community that has vacant or abandoned properties. NYCOM therefore asks that you include the language from S. 902 in the 2015-16 adopted State Budget. This fee is not only an impediment to local government efforts at remediating blight and redevelopment in their communities, it is also a significant unfunded mandate when local governments are unable to recover the cost of demolishing an unsafe building.

Design-Build Authorization

The 2015-16 Executive Budget would permanently extend the authority previously given to certain State agencies and public authorities to use design-build contracts and design-build-finance contracts for their capital projects. It would also expand the authority to use design-build to *all* State agencies and public authorities for projects costing a minimum of $5 million.

Design-build is a method of project delivery in which a single contract is executed with a single entity or team providing architectural, engineering and construction services. By relying on a single point of responsibility, the design-build model minimizes risks for the project owner, reduces the delivery schedule by consolidating the design phase and construction phase with a single source of contact, and cuts costs by streamlining the construction process. Given the success of design-build at the State level, with projects such as the Tappan Zee Bridge, NYCOM fully supports extending this authority to local governments, without any project labor agreement mandates, to offset rising construction-related costs and help them meet crucial infrastructure needs.

Conclusion

No one can argue with the fact that New York has and continues to make great strides, but the only way we can keep moving in that same direction is through a mutually respectful and committed partnership between the State and its cities, villages, counties and towns. Our State leaders cannot and should not place the blame for high property taxes solely on local governments. In fact, you will see and hear over the next few days that the public's perception of New York's local governments – their responsiveness, their ability to get things done and their use of tax dollars – far outweighs the public's perception of the State in these same areas. Instead of pointing fingers, focusing on rebate checks, and disparaging local governments and the economic growth they help generate, it is time for the State to realize that it does have a role to play – an important role – to partner with local governments and help us further improve what we do best: in the most cost-effective manner, provide the essential services upon which individuals, families and businesses rely.

Again, I thank you for the opportunity to testify at this important hearing. NYCOM looks forward to providing your committees with additional input as the budget making process continues.