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Service and Representation for Town Governments of New York

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PUBLIC HEARING
on
2015-2016 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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Good Afternoon Chairmen, Members of the Senate Finance and Assembly Ways and Means committees and distinguished legislators. Thank you for the opportunity to appear here today to discuss the impact that the 2015-2016 Executive Budget will have on the provision of government services to nearly 9 million New Yorkers who live in towns. My name is Gerry Geist, and I am the Executive Director of the Association of Towns and retired Councilman from the Town of North Castle in Westchester County. With me today is our Association President Dorothy Goosby, Councilwoman from the Town of Hempstead in Nassau County and Executive Committee Member Ed Theobald, Supervisor of the Town of Manlius in Onondaga County.

Preliminary Statement

The Association of Towns represents nearly all of the 932 towns in New York State, and our mission is to help towns obtain greater economy and efficiency in the provision of essential services. Whether it's repairing a road or building a park, towns are on the frontline providing taxpayers with vital, everyday services. In order to fund these services, towns largely rely on money raised by real property taxes. Property taxes have been a concern of towns for years, and our members take great care to ensure that taxpayer dollars are spent wisely. Towns have been sharing services and cutting costs for years and today, more than ever, towns are doing more with less. However, the tax cap and tax freeze program, as well as stagnant state funding, put a strain on the funding needed to support critical services provided by towns. In particular, maintaining, repairing and improving local infrastructure, such as roads, bridges and wastewater treatment plants, is becoming an area of increasing concern. We hear from our members – and multiple studies support the notion – that there is a significant need to improve local infrastructure, and your commitment to do so will be a sound financial investment that creates jobs, reduces costs to taxpayers and benefits New York public health.

This year, the state is in the uniquely luxurious position of having approximately \$5 billion from the bank settlement funds with which to work. We strongly urge the Legislature to invest that money in infrastructure by increasing funding to AIM, CHIPS and the Environmental Protection Fund (EPF).

In addition to increasing funding, there are other ways the State can help local governments use taxpayer dollars in the most efficient way possible. For example, we ask the Legislature to reduce municipal costs by decreasing the fees associated with asbestos removal permits and public notices. Towns could use money that would otherwise be spent on these fees to provide better services for their residents.

Tax Cap and Circuit Breaker

This year presents an opportunity for you to assist local governments in complying with the tax cap while maintaining their provision of essential services to taxpayers. As you reevaluate the tax cap program, consider New York State Comptroller Thomas DiNapoli's findings that local governments are forgoing necessary investments in infrastructure to stay under the tax cap (*Growing Cracks in the Foundation: Local Governments are Losing Ground on Addressing Vital Infrastructure Needs, Office of the State Comptroller, December 2012 updated September 2014*). This presents a significant issue, as local governments have traditionally relied upon the

real property tax to fund any essential repairs to local infrastructure. Even with the ability to levy above the cap after certain procedural steps, we are finding that more than 70 percent of municipalities forgo necessary improvements to local infrastructure in order to stay under the cap. When a town follows through with an override, it is typically out of necessity because of non-negotiable contractual obligations, response to natural disasters, equipment failures or crucial infrastructure repairs. Comptroller DiNapoli also observed that the added incentive via the tax freeze rebate program has put even more pressure on local governments to levy under the 2 percent cap. The result is a steady decline in the quality of local infrastructure, as the funds that have traditionally been available through the real property tax have dissipated without any additional aid being furnished.

The Governor has indicated that he would like to make the property tax cap, which is due to sunset next year, permanent. In this era of tough choices and limited funding to localities, something almost always has to give, and levying under the tax cap just is one more choice many governments have to make over funding local infrastructure improvements. So while we do not believe town officials need a property tax cap in order to levy a reasonable tax and keep taxes low; if the State chooses to make the tax cap permanent, changes must be made. Specifically, we respectfully request that the Legislature consider exemptions for structured costs, including pension contributions, health insurance, debt service and contract obligations; exemptions for costs associated with road maintenance, repair, renovation and snow removal; exemptions associated with capital projects and infrastructure improvements in utilities, transportation and communications, all of which are necessary to improve our quality of life and grow our economy; amendments to the tax cap formula to address disincentives to offer PILOTs; and amendments to the tax cap formula to address disincentives to consolidate services. Amending the tax cap in this manner will give local governments the ability to raise revenue while also addressing any infrastructure issues.

Turning to the proposed circuit breaker; the Executive Budget proposes a new personal income tax credit to provide a limited form of property tax relief. The circuit breaker would be available to eligible homeowners and renters whose property tax bills exceed 6 percent of their income and who reside in taxing jurisdictions that stay within their allowable levy limit. While we support property tax relief, the proposed circuit breaker program does not address the cost of maintaining or replacing local infrastructure or the growing costs of goods and services. Moreover, the circuit breaker will likely further discourage local investments in roads, bridges and water and wastewater systems as we strive to provide our residents with the most property tax relief possible. The proposed circuit breaker provides relief only to those New Yorkers who reside in municipalities and school districts able to fund their operations and services fully within the constraints of the tax cap. Inextricably linking the circuit breaker to the tax cap does a disservice to residents in dire need of real property tax relief. We believe that more New Yorkers will experience actual real property tax relief if you instead dedicate these resources toward general purpose revenue sharing and infrastructure funding.

AIM (Aid and Incentives to Municipalities) and Local Government Efficiency Grants

The Executive Budget proposes to fund AIM at last year's levels, with towns and villages sharing \$67.6 million and cities receiving \$647.1 million. AIM funding has remained relatively

flat for the last five years. When adjusted for inflation, however, this unrestricted state aid has actually declined by 10 percent over that same period. In addition, funding is also flat for the Citizens Reorganization (\$35 million) and Local Government Efficiency (\$40 million) grants, although the Executive Budget proposes allocating \$150 million from the bank settlement funds for similar programs. The State Comptroller's Office noted in its 2014 Annual Report on Local Governments that towns receive just 2.5 percent of state revenue sharing, with school districts typically receiving 80 percent of state revenue sharing. The Governor noted in his 2015 State of the State Address that funding for other local governments must remain flat in order to support funding assistance for school districts and Medicaid. While we agree that education and health care funding is important, funding for local infrastructure is necessary for economic vitality in our state.

Infrastructure Funding

Local governments are currently serving in an economic climate that demands increased services with severe limitations on the ability to raise revenue. Our towns have become adept at doing more with less to still provide quality essential services to our residents. However, this ability to do more with less is not sustainable; without increased funding through tax cap relief or increased state aid, essential services will decline, and our residents will suffer. In this tax cap and tax freeze era, an investment in local infrastructure is an investment in New York's economic vitality. Imagine a strong local infrastructure drawing more businesses to the state, which then ensures increased revenues and more returned investments into New York.

Numerous studies have examined the condition of our local infrastructure and the cost to modernize it. In September, Comptroller DiNapoli issued a report highlighting the growing and urgent need to fund our roads, bridges and water and wastewater systems before it is too late. His report found that municipalities outside New York City should be spending about \$3.9 billion annually on roads, bridges and water and sewer systems. Unfortunately, he found that we are spending less than a third of that (*Growing Cracks in the Foundation: Local Governments are Losing Ground on Addressing Vital Infrastructure Needs*, Office of the State Comptroller, December 2012 updated September 2014). This finding was echoed by TRIP, a transportation research group based in Washington D.C. TRIP recently found that New York needs to increase spending for local roads and bridges by 64 percent to maintain them in their current condition, and triple that amount if we want to improve them (*The Condition and Funding Needs of New York's Local Roads and Bridges*, TRIP, October 2014). With studies showing that 47 percent of locally maintained roads and 31 percent of local bridges are in need of rehabilitation or reconstruction, it is not surprising to learn that New York drivers are paying an extra \$2,300 in vehicle repairs a year due to inadequate infrastructure.

So, you can see how the tax cap and flat state aid directly limit local governments' abilities to make necessary repairs and improvements to local roads. While we are grateful that the Executive Budget does not propose to cut or eliminate funding for local roads and bridges, funding for the CHIPS program is flat. This is an existing program that could be infused with additional funding from the settlement funds to distribute more funding for local roads and bridges. We respectfully request that you reevaluate the allocation of the bank settlement funds and dedicate a portion to increase funding for the CHIPS program. The tax cap limits the ability

of our towns to fund infrastructure repairs. While the tax cap has slowed the growth of property taxes statewide, it has not slowed the increase in the cost of salt, asphalt, labor and equipment, which continue to rise, even as CHIPS program funding remains flat.

We have a unique opportunity to use the multibillion dollar bank settlement funds to get people back to work, preserve our public health and cultivate our economy. New Yorkers will be best served by utilizing these funds for local infrastructure investments. We look to you, as you negotiate the budget, to funnel some of these funds toward improving our infrastructure. The Brookings Institution recently found that investing in infrastructure means investing in good-paying jobs (*Beyond Shovel-Ready: The Extent and Impact of U.S. Infrastructure Jobs*, Kane and Puentes Brookings Institute, 5/19/2014). Similarly, the Federal Highway Administration has found that nearly 30,000 jobs are created for every \$1 billion invested in infrastructure. National and local corporate surveys show that good infrastructure access is imperative for businesses looking to locate a new facility or grow an existing one. The cost of not using these funds to improve our infrastructure today will cost us more tomorrow in increased construction costs, lost jobs, lower tax revenue and decreased public health.

Environmental Protection Fund (EPF)

Local governments depend upon the Environmental Protection Fund (EPF) and other environmental funding programs to keep our lakes and rivers clean, to provide parks for our children to play, to keep recyclable goods out of landfills, to preserve open space and to protect farmland. The Executive Budget proposes a \$10 million increase in EPF funding from last year, and though the proposed increase in funding is well-received, there is still more that can be done. The EPF is chronically underfunded, to the detriment of New Yorkers' health and safety. In 2007, the Environmental Protection Fund Expansion Act amended Tax Law §1421 to increase funds deposited to the EPF for 2009-2010 to \$300 million; however, this funding never came to fruition, and EPF funding is still well below the \$300 million promised in 2008. EPF money can be used to improve and update things like municipal wastewater treatment plants. More than 25 percent of New York's wastewater facilities are operating beyond their useful life expectancy, and many others are outdated or are simply inadequate, increasing the likelihood of contamination of New York's drinking water (*Growing Cracks in the Foundation: Local Governments are Losing Ground on Addressing Vital Infrastructure Needs*, Office of the State Comptroller, December 2012 updated September 2014). Along similar lines, the Comptroller's Office estimates that clean water infrastructure needs are underfunded by more than \$400 million a year. Like wastewater infrastructure, failing clean water infrastructure poses a severe health risk to New Yorkers. Local governments are simply unable to absorb these costs, particularly as the cost of labor and materials rise. Increasing EPF money and money for clean water is not only an investment in infrastructure; it's an investment in the health of New Yorkers. It is fitting that in the 50th year of New York's Pure Waters Program, we have at our disposal a multibillion dollar bank settlement, providing a great synergetic opportunity to increase EPF funding.

Broadband Funding

The Executive Budget proposes to allocate \$500 million from the bank settlement funds to bring broadband to more New Yorkers. The Governor's proposal seeks to double this amount with

private investment. We support connecting more New Yorkers to the Internet. Investing in our communications infrastructure will provide access to timely market and weather data for farmers, medical records for patients and doctors, libraries and distance learning opportunities for students, the global marketplace for businesses and friends and family for seniors. It is critical that we connect New Yorkers to each other and the world by bringing broadband to every home, school, library, farm, doctor's office and business. We hope that you will support this initiative in your budget deliberations and negotiations.

Lower Municipal Costs

The state budget proposes to lower costs for businesses and state agencies but fails to provide similar relief to local governments and, in some areas, even proposes increasing local costs. As local governments provide the essential services that enable businesses to thrive, they, too, should enjoy the benefits of additional savings. The state has the ability to provide local governments with such savings by eliminating excessive, unnecessary fees.

Reduce the Cost of Asbestos Notification Permit Fees

According to the Governor's Budget Briefing Book, the Executive Budget proposes to repeal 59 "nuisance" fees, charged by State agencies; including two dozen fees charged by the Department of Labor. Unfortunately, the asbestos notification permit fee paid by local governments to the Department of Labor is not among the so-called nuisance fees up for repeal. This is a missed opportunity to save local taxpayers money, which could be used instead to lower property taxes or rebuild communities.

As you know, local governments are often required to bear the cost of rebuilding or removing abandoned and/or damaged buildings because their property owners do not have the resources to do so. It is an expensive but necessary endeavor to rebuild communities devastated by storms or poverty. Many of these buildings contain asbestos, increasing the cost of reconstruction or removal. While the state may not be able to address all of the costs associated with asbestos removal, the Legislature can address the fees local governments are required to pay to the Department of Labor regarding the asbestos notification. The state-imposed fee for this notification is based on the size of the structure involved, and can run as high as \$4,000 per structure, the costs of which are routinely footed by the municipality. These fees were substantially increased during the recession and should be reevaluated now that the state is on firmer financial ground. The state collects more money in fees than it allocates to run the program, which essentially means that lowering or waiving these fees for municipalities will not impact the funding structure for the Department of Labor's Asbestos Control Bureau. We want to take this opportunity to thank you for passing this important legislation last session. Unfortunately, these bills were vetoed by the Governor, which means that our work is not done. In his veto messages for these bills, the Governor noted that waiver or reduction of asbestos notification permit fees should be discussed in the context of negotiating the State Budget, as it could have an impact on state revenues. As noted by the Legislature in the sponsors' memos addressing this issue, and as noted above, with no impact on the Department of Labor's ability to operate this program, we respectfully ask that you incorporate this issue to be

part of the budget negotiation process, as it provides real relief to local governments and their taxpayers without any impact on state operations.

Reduce the Cost of Public Notices

Property taxpayers collectively spend millions of dollars annually to publish government notices. The Executive Budget recognizes that there is a cost savings to moving publication requirements to government Web sites by proposing to amend the State Election Law to allow county boards of election to post election results on their Web sites and the state board of elections to post propositions on its Web site. Legislatures around the country are exploring ways to lower publication costs while preserving access to public notices, and New York should do the same. We understand that it is a complex balancing act; maintaining public access to local governments is a hallmark of government. Local governments are required to publish costly advertisements when seeking to enact local laws, conduct public hearings or submit requests for competitive bids; such notice could be published for free on a municipal Web site, thereby saving taxpayers real dollars. As we look for ways to lower the cost of government services, we respectfully ask that you consider this issue during your deliberations this session.

State Pollution Discharge Elimination System (SPDES)

The Executive Budget further proposes increasing the fees that municipalities must pay for State Pollutant Discharge Elimination System (SPDES) permits in order to fund DEC Pollution Control programs. We support initiatives to reduce pollution and will work with the state to achieve these goals; however, we believe this can be better achieved without placing additional financial burdens on municipalities and local taxpayers, which are already financially strapped and trying to operate under a tax cap and tax freeze. While we understand the need for the Department of Environmental Conservation to have the appropriate resources to oversee the SPDES program, municipalities do not have the financial resources to pay for increased fees in a tax cap and freeze environment.

Extend and Reform the Brownfield Cleanup Program

Lastly, the Executive Budget proposes to extend the Brownfield Tax Credit program from December 31, 2015 to December 31, 2025, with the proviso that such tax credits shall not be applicable to any site accepted into the program after December 31, 2022 and, additionally, any site accepted into the program prior to that date must receive the certificate of completion by December 31, 2025.

The Executive Budget also reforms the two tax credits in that the remediation credit is limited strictly to the actual clean-up of sites and not, as currently allowed, for construction or start-up costs associated with a project, and that the redevelopment tax credits, now virtually limitless, would be available for projects only if one of three criteria is met: a site would have to be in a legally defined "economically distressed" area of the state; a project would have to have affordable housing as a core component of the re-use; or the cost of the clean-up is greater than the property's value.

In addition, the budget proposal includes provisions whereby the Secretary of State must include how a Brownfield project complies with zoning and other local laws and standards to guide and ensure appropriate use of the projected site when authoring the required Brownfield Opportunity Area Conformance Determination. The Brownfield Cleanup Program is a useful tool that benefits both our environment and economy, so we encourage the Legislature to work with the Governor this session to extend this program.

Conclusion

We appreciate the opportunity to appear before you today and to share our perspective on the Executive Budget. We look forward to working with you this session.