

New York State Assembly

Carl E. Heastie

Speaker



Committee on
**Corporations, Authorities
and Commissions**

James F. Brennan

Chairman

2016

ANNUAL REPORT



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIR
COMMITTEE ON
CORPORATIONS,
AUTHORITIES,
AND COMMISSIONS

COMMITTEES
CODES
EDUCATION
REAL PROPERTY TAXATION

JAMES F. BRENNAN
44TH ASSEMBLY DISTRICT
KINGS COUNTY

December 15, 2016

The Honorable Carl Heastie, Speaker
New York State Assembly
State Capitol, Room 349
Albany, New York 12248

Dear Speaker Heastie:

As Chairman of the Assembly Standing Committee on Corporations, Authorities and Commissions, I am pleased to submit the Committee's 2016 Annual Report.

During the 2016 session, among other aims, the committee worked to ease burdensome requirements for not-for-profit corporations and increase transparency for New York's public authorities.

To expand public involvement in boardroom decisions concerning public works or taxpayer-funded expenditures, the committee reported, and the governor signed, a bill which adds public authorities to New York's Open Meetings Law. These entities are now required to broadcast to the public (and archive) all meetings of the public body via the internet.

The committee also reported and the governor signed a bill which improves and builds on the 2013 Not-For-Profit Revitalization Act of 2013. By collaborating with the Attorney General and numerous stakeholders, the final bill represents a consensus on addressing the issues that have arisen since 2013. The bill allows many not-for-profits to focus on their important charitable missions, by resolving inconsistencies and streamlining administrative requirements.

Additionally, through the 2016-2017 state budget, the MTA and other regional transportation authorities across the state received \$5 billion in transit aid. To support the 2015-2019 MTA Capital Program (the Program), the Assembly also appropriated \$2.93 billion, which demonstrates the first two years of state commitment to provide a total of \$7.3 billion by Program's end. Finally, with the Assembly's support, an additional \$500 million was added to the Program for the Second Avenue Subway project for a total commitment of \$1.035 billion. A number of vital projects and expansions are included in the Program, and these investments show the Assembly's continuing commitment to mass transit.

It has been a privilege to serve as Chairman of the Corporations, Authorities and Commissions Committee. As you know, I am retiring from the State Assembly and this is my last report as the Chair of this Committee. I want to express my gratitude to you, my colleagues on both sides of the aisle, and the outstanding staff in my office, Program and Counsel, and Ways and Means that I had the opportunity to work with over the years. Specifically, I want to thank Laurie Wheelock, Fong Chan, Lisa Forkas, Christian Malanga, David Gordon, Logan Hardy and Matthew Steigman, without whom the work of the Committee could not have been done.

Sincerely,

A handwritten signature in black ink that reads "James F. Brennan". The signature is written in a cursive, flowing style with a large initial "J".

James F. Brennan, Chairman
Assembly Standing Committee on
Corporations, Authorities and Commissions

2016 Annual Report

New York State Assembly Standing Committee On Corporations, Authorities and Commissions

James F. Brennan, Chairman

Committee Members

Majority

Catherine T. Nolan
Vivian E. Cook
Sandra R. Galef
Brian Kavanagh
Addie J. Russell
Robert J. Rodriguez
Thomas J. Abinanti
Daniel Quart
Phillip Goldfeder
Steven Otis
Nily Rozic
Ron Kim
David Buchwald
Francisco Moya
Rebecca Seawright
Erik Dilan
Aravella Simotas
Diana Richardson

Minority

Jane L. Corwin
Peter Lopez
Michael A. Montesano
Kenneth D. Blankenbush
Christopher S. Friend
Nicole Malliotakis
Phillip A. Palmesano

Staff

Christian Malanga, Assistant Secretary for Program and Policy
David Gordon, Associate Counsel
Logan Hardy, Legislative Analyst
Laurie Wheelock, Legislative Director
Fong Chan, Legislative Counsel
Lisa Forkas, Committee Clerk
Jeannine Barcher, Program and Counsel Executive Secretary

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I. INTRODUCTION

The Committee on Corporations, Authorities and Commissions has jurisdiction over the laws concerning private, not-for-profit, and public corporations in New York State. Much of the committee's focus is on the organizational framework and activities of the State's public corporations, largely referred to as public authorities. Public authorities are created in state law, operate at the state and local government level, and provide services such as mass transit, infrastructure building, power generation, and construction services. While these entities perform vital public services, it is imperative that they act with transparency and are held accountable through public oversight. Consequently, the committee devotes significant time to considering legislation that promotes accountability and holding public oversight hearings of public authorities.

During the annual state budget process, the committee reviews funding for transportation authorities and works to ensure that funds are appropriated wisely. New York has a mass transit system in nearly every major population center across the state with a public authority operating most of these systems. The committee has a particular interest in the Metropolitan Transportation Authority (MTA), which runs the largest mass transit system in the nation and has extensive capital requirements.

In addition, the committee monitors the operations and policies of the New York State Public Service Commission (PSC) and considers legislation that amends Public Service Law. The Commission's five Commissioners and the Department of Public Service are required by Public Service Law to ensure that customers of investor-owned electric, gas, telephone, water, and cable utilities in the state provide adequate service at reasonable rates. The committee takes an active role in protecting consumers and reports significant legislation that modernizes and amends Public Service Law.

The committee also examines legislation affecting the governance of for-profit and not-for-profit corporations in the state. This includes the cemetery corporations, which are special types of not-for-profit corporations, which is under the purview of the committee and performs a vital public service for the state. Through legislation, the committee ensures laws affecting corporations remain up-to-date and serve the public interest.

II. COMMITTEE LEGISLATION OF 2016

A. Public Authorities

The following bills were signed into law:

A.5991-A (Crespo)

Chapter 403

This chapter establishes the "school energy efficiency collaboration program" to provide support to public schools on energy efficiency and designates the New York State Energy Research and Development Authority (NYSERDA), in collaboration with public and private entities, as the lead agency in developing the program.

A.7571-B (Thiele)

Chapter 363

This chapter authorizes the Suffolk county water authority to place unpaid rates, fees and other charges as a lien upon a property.

A.7770 (Simon)

Chapter 406

This chapter authorizes the Dormitory Authority of the state of New York (DASNY) to provide for the financing and construction of capital facilities for the not-for-profit corporation known as Dancewave, Inc.

A.8139-D (Schimel)

Chapter 339

This chapter authorizes the Water Authority of Great Neck North to place unpaid rates, fees and other charges as a lien upon a property.

A.9176 (Peoples-Stokes)

Chapter 24

This chapter makes a technical correction to Chapter 560 of the Laws of 2015 to clarify that the Erie County Medical Center Corporation may exercise its general and special powers to engage in certain collaborative activities, regardless of whether such exercise might have an impact on competition. These collaborations are designed to promote the cost effective delivery of healthcare services. This chapter aims to provide the parties with immunity from federal and state antitrust laws, known as "state action immunity."

A.9177 (Seawright)

Chapter 30

This chapter makes an amendment to Chapter 517 of the Laws of 2015 to clarify that Roosevelt Island Operating Corporation (RIOCI) can award grants in a capped percentage of the overall RIOCI operating budget to not-for-profit corporations and to modify the annual reporting requirements and timeframe.

A.9382 (Schimminger)

Chapter 431

This chapter authorizes the Dormitory Authority of the state of New York (DASNY) to provide for the financing and construction of capital facilities for the not-for-profit corporation known as Summit Educational Resources, Inc.

A.9998 (Quart)

Chapter 319

This chapter adds public authorities to the list of entities that are subject to the Open Meetings Law, which requires these entities to broadcast and archive all meetings of the public body via the internet, to the extent practicable and within available funds.

The following bills passed the Assembly:

A.5415 (Brennan)

Passed the Assembly

This bill would make changes to the Public Authority Reform Act. The bill would, by-in-large, make changes to clarify many existing provisions, such as changing references of "public authority" to "state and local authority." The bill makes technical changes, such as adding the Comptroller or the Authorities Budget Office (ABO) to many reporting requirements. It also changes many reporting deadlines to make them more conducive to the varied fiscal years that authorities may have.

A.6534 (Thiele)

Passed the Assembly

This bill would require the Long Island office of the Department of Public Service (DPS), in the context of its review of the Long Island Power Authority's (LIPA) rates and charges, to make recommendations on the compensation or fee structure (including executive pay) included within the operations services agreement with the Public Service Enterprise Group of Long Island (PSEG-LI).

A.9086-A (Glick)

Passed the Assembly

This bill would require, if the membership of the Battery Park City Authority is such that less than a majority are residents of the community district, future appointments must be of residents of the community district until a majority is achieved. This requirement is maintained thereafter.

A.9605-A (Seawright)

Passed the Assembly

This bill would establish the position of chief executive officer of the Roosevelt Island Operating Corporation, and require the CEO be a resident of Roosevelt Island or become a resident within one year of appointment. This bill would allow the board to waive the residency requirement in the case of extraordinary circumstances.

B. Mass Transit Operations and Finance

The following bills passed the Assembly:

A.466 (Gantt)

Passed the Assembly

This bill would add a non-voting, governor-appointed board member from the transit dependent and/or disabled community to the Rochester-Genesee Transportation Authority.

A.7587 (Cook)

Passed the Assembly

This bill would require the Metropolitan Transportation Authority (MTA) to submit its strategic operation plan on or before September 1st of each year, beginning with the plan for the period commencing January 1, 2017, in order to more closely align it with the budget process. The bill also would authorize such plan to include information on MTA operations and capital construction required under §17(a) of the Transportation Law. Under current law, these are completed separately and have deadlines of July 1 and October 1, respectively.

C. Corporations Law

The following bills were signed into law:

A.2647 (Brennan)

Chapter 330

This chapter authorizes the interment of pet cremated remains in certain cemetery corporations (excluding religious cemeteries) only when incidental to the burial of human remains and where authorization has been provided in a written statement from the cemetery corporation.

A.8116-C (Perry)

Chapter 451

This chapter would allow certain entities to convert their filing status as a not-for-profit organization to a for-profit entity. An incorporator would be required to make specific sworn statements, among other claims, that the entity at no time received the benefits and/or privileges of being recognized as a not-for-profit corporation and require the Attorney General to issue a statement on whether or not it approves of the conversion.

A.9175 (Steck)

Chapter 5

This chapter makes a technical correction to Chapter 421 of the Laws of 2015 which provides that the ten largest shareholders of a foreign corporation are liable for any wages due to laborers, servants or employees for services that were not paid for but performed in the State.

A.9751 (Russell)

Chapter 134

This chapter makes a technical correction to the not-for-profit corporation law to update the title of the Division of Military and Naval Affairs (DMNA) commissioner from "chief of staff" to "adjutant general."

A.10251 (Englebright)

Chapter 260

This chapter amends Chapter 475 of the Laws of 2014 to allow for a 15-month grace period for business corporations and limited liability companies consisting of geologists to amend their certificates of incorporation in order to be licensed by the State Education Department.

A.10365-B (Brennan)

Chapter 466

This chapter would make clarifying changes to the Not-For-Profit Revitalization Act of 2013. This legislation removes unnecessary burdens on not-for-profit boards to among other changes: make clear what kinds of related party transactions can proceed without board involvement; clarify the definition of an "independent director;" modify the administration of conflict of interest and whistleblower policies; increase the revenue threshold related to not-for-profits conducting business with entities owned by, or that employ, a director of such not-for-profit; and allow an employee to serve as chair of the board upon a two-thirds vote by the board.

The following bills passed the Assembly:

A.3122 (Morelle)

Passed the Assembly

This bill would prohibit a religious corporation that owns, manages, or controls a cemetery from selling or displaying monuments for sale. Religious corporations would also be restricted from authorizing or permitting any employee or trustee from advertising his or her connection with a cemetery if they sell monuments in a separate business.

A.10468 (Skartados)

Passed the Assembly

This bill would authorize towns to allow or prohibit, by resolution requiring approval of two-thirds vote, a petroleum or gas pipeline that is proposed to be constructed into or through the town. Villages and cities currently have this power.

D. Telecommunications and Utilities

The following bills passed the Assembly:

A.274-A (Rozić)

Passed the Assembly

This bill would allow victims of domestic violence to cancel contracts with telephone, cable television or satellite companies upon providing a domestic violence incident report, a police report, an order of protection, or a signed affidavit.

A.5083-D (Paulin)

Passed the Assembly

This bill would establish a natural gas pipeline leak classification system and procedures to ensure that natural gas leaks are identified and repaired in a timely manner. It would require the classification, and annual reporting to the Department of Public Service, of all reported leaks of natural gas by gas corporations. It would also require a municipality or the state to report to the relevant gas corporation any significant project exposing natural gas infrastructure, to survey such site for gas leaks, and require the Public Service Commission to commence a proceeding to investigate the need for additional winter surveillance of gas pipelines due to the extended frost season.

A.7786-A (Brennan)

Passed the Assembly

This bill would make permanent the public interest review standard for reviewing cable corporation mergers or acquisition, currently set to expire on April 1, 2017. This standard requires a cable corporation to show that a proposed merger or acquisition is in the public interest in order for the Public Service Commission to approve the transaction.

E. Vetoes

A.10421 (Brennan)

Vetoed – Memo 259

This bill would repeal the definition of “transportation purpose” for the MTA; such definition currently includes the realization of revenue and could lead to unintended consequences for local governments such as preemption of local zoning.

A.10555 (Brennan)

Vetoed – Memo 297

This bill would delay, until January 1, 2018, the effectiveness of a provision that prohibits employees of a not-for-profit corporation from serving as chair of the board. Under this bill, certain not-for-profits could continue to have an employee serve as chair until 2018.

III. PUBLIC HEARINGS OF 2016

Public Hearing 1: Providing Affordable and High Quality Cable, Broadband, and Telephone Service

January 20, 2016

11:00 a.m.

Albany

On January 20, 2016, the Corporations, Authorities and Commissions and Energy Committee along with the Committee on Economic Development, Job Creation, Commerce and Industry held a hearing to examine the telecommunications marketplace and the ability of consumers to obtain affordable and high quality cable, broadband, and telephone service. Among other topics, the committees heard testimony on issues affecting consumers, such as: possible consolidation; mergers; and market entry or exit of cable, telephone, and broadband providers. Additionally, the hearing served as an opportunity for participants to respond to a June 2015 report entitled a “Staff Assessment of Telecommunications Services,” issued by the New York State Department of Public Service. The committee received testimony from the New York State Department of Public Service, the City of New York, representatives from major telecommunication providers, and advocates from relevant citizens’ groups as well as labor unions.

IV. OUTLOOK FOR 2017

In 2017, the Committee on Corporations, Authorities and Commissions will continue to oversee the ongoing 2015-2019 MTA Capital Program, while examining the financial sustainability of the MTA's future capital needs. The committee will consider holding hearings that may involve public authorities, the Public Service Commission, or to explore other important subjects under the jurisdiction of the committee.

Through the budget process and legislation, the committee will endeavor to increase oversight of the spending and operations of public authorities. While significant progress was made with the enactment of major public authority reform laws in 2005 and 2009 – as well as the addition of public authorities to the state's open meetings law this year – the committee will continue to report legislation that seeks to increase transparency and accountability of public authorities. The committee will also continue to examine New York's corporation laws to ensure they are modernized and serve the public interest. In overseeing utilities and the telecommunications industry, the committee will continue to support legislation that modernizes Public Service Law and serves ratepayers.

APPENDIX A

2016 SUMMARY SHEET

SUMMARY OF ACTION ON ALL BILLS
REFERRED TO THE COMMITTEE ON

CORPORATIONS

<u>FINAL ACTION</u>	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
BILLS REPORTED WITH OR WITHOUT AMENDMENT			
TO FLOOR; NOT RETURNING TO COMMITTEE	4		
TO FLOOR; RECOMMITTED AND DIED			
TO WAYS AND MEANS	24		
TO CODES	20		
TO RULES	7		
TO JUDICIARY			
TOTAL	55		
BILLS HAVING COMMITTEE REFERENCE CHANGED			
TO <u>CORRECTIONS</u> COMMITTEE	1		
TO <u>SOCIAL SERVICES</u> COMMITTEE	1		
TO _____ COMMITTEE			
TO _____ COMMITTEE			
TOTAL	2		
SENATE BILLS SUBSTITUTED OR RECALLED			
SUBSTITUTED		1	
RECALLED		5	
TOTAL		6	
BILLS DEFEATED IN COMMITTEE			
BILLS NEVER REPORTED, HELD IN COMMITTEE			
BILLS NEVER REPORTED, DIED IN COMMITTEE	272		
BILLS HAVING ENACTING CLAUSES STRICKEN	7		
MOTIONS TO DISCHARGE LOST	1		
TOTAL BILLS IN COMMITTEE	337	43	380
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	5		

**APPENDIX B
BILLS THAT BECAME LAW**

<u>Bill #</u>	<u>Sponsor</u>	<u>Chapter #</u>	<u>Description</u>
A.2647	Brennan	330	Relates to the interment of pet cremated remains
A.5991-A	Crespo	403	Relates to establishing the School Energy Efficiency Collaborative Act of 2016
A.7571-B	Thiele	363	Relates to method of collection of charges by the Suffolk county water authority
A.7770	Simon	406	Relates to the financing and construction of facilities by the dormitory authority for Dancewave, Inc.
A.8139-D	Schimmel	339	Relates to method of collection of charges by the Water Authority of Great Neck North
A.8116-C	Perry	451	Allows certain entities to convert their status of filing as a not-for-profit organization to a for-profit entity
A.9176	Peoples-Stokes	24	Relates to authorizing the Erie county medical center corporation to enter into agreements for the creation and operation of a health care delivery system network
A.9175	Steck	5	Relates to liability of shareholders for wages due to laborers, servants or employees for certain foreign corporations
A.9177	Seawright	30	Relates to the management of the Roosevelt Island public benefit corporation
A.9382	Schimminger	431	Relates to the financing and construction of facilities by the dormitory authority for Summit Educational Resources, Inc.
A.9751	Russell	134	Relates to approvals, notices and consents to certificates of incorporation regarding the Division of Military and Naval Affairs
A.9998	Quart	319	Requires state authorities to conduct open meetings and provide an internet broadcast of its meetings, where practicable
A.10251	Englebright	260	Relates to the incorporation of certain businesses for the purpose of practicing professional geology
A.10365-B	Brennan	466	Relates to the reform of charitable corporations and trust governance