



Committee on Economic Development

Sheldon Silver, Speaker • Robin Schimminger, Chairman
August 2012



A Message from the Chair

Dear Friend,

The 2012 Legislative Session brought many issues of concern to the business community to the forefront, including pension reform, infrastructure funding demands, and getting localities' growing Medicaid costs under control. Most notably, for the second year in a row, the State Legislature worked in a bipartisan manner with the Governor to enact an on-time budget that reduced state spending while directing state investments to important economic development initiatives.

This report contains information on a number of issues on which the Economic Development Committee focused this year. Certainly much more remains to be done to get our economy moving and New Yorkers back to work, particularly upstate, but the balanced and responsible fiscal plans we've put in place these last two years have laid the groundwork for that recovery.

Should you have any questions on any of the items discussed in this report, please feel free to contact my office.

Sincerely yours,

Robin Schimminger
Chairman, Assembly Committee on Economic Development

Up to \$750 Million Available Through Second Round of Regional Economic Development Councils Competition

The Governor announced in May that up to \$750 million in state funding and tax incentives will be awarded through the second Regional Economic Development Council competition that will focus on the implementation of each region's strategic plan and identifying and investing in locally-significant priority projects.

Last year, the Governor launched the 10 Regional Councils and the Consolidated Funding Application (CFA), a streamlined state application process. In December 2011, after months of consideration by the Regional Councils and input at public meetings, forums and workshops in the state's 10 economic development regions, \$785 million was awarded for job creation and priority projects consistent with each region's strategic plan.

Funding for the second round includes \$220 million (\$150 million in capital and \$70 million in tax credits from the Excelsior Jobs Program) included by the Legislature in this year's state budget to implement regional strategic plans and support priority projects, and up to \$530 million from various state agency programs, also funded in the budget, to support regionally-significant economic development projects.

Five awards of \$25 million will be made. The competition will have two parts:

- First, the four regions awarded Best Plan status last year will compete for two awards of up to \$25 million each in capital funds. Awards will be determined based on the progress the Regional Councils have made implementing their strategies and evolution of their strategic plans.
- Second, the remaining six regions will compete for three awards of up to \$25 million each in capital funds. Awards will be made based on the regions' revised and updated strategic plans and progress made implementing their strategies.

The balance of the \$25 million in capital will be available for priority projects in the remaining five regions not succeeding in the two competitions outlined above. In addition, each region will also be eligible for up to \$10 million in Excelsior Tax Credits to help attract and grow business in the region.

The CFA process enables localities, businesses and other entities to apply to multiple agency funding sources through a single, web-based application. The 2012 CFA will provide access to the \$530 million in economic development

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PREVIEWING THE STATE BUDGET. Chairman Schimminger spoke at Governor Cuomo's Western New York Executive Budget Presentation in February. The Governor traveled to Buffalo shortly after unveiling his 2012-13 Executive Budget to present an overview of his budget proposals and outline their impact on area residents, businesses and local governments. Assemblyman Schimminger commented on the various economic development initiatives contained in the Governor's proposed fiscal plan, many of which were carried over to the final budget passed by the State Legislature.

TIF Offers Assistance to Local Governments

The Legislature recognizes that many communities across the state are struggling to deal with vacant, abandoned, and blighted properties in their neighborhoods. An excellent tool for turning these underutilized properties into viable sites for redevelopment is Tax Increment Financing (TIF).

TIF is an economic development tool that municipalities can use to stimulate private investment and development in targeted areas by capturing the increased tax revenue generated by the private development itself and using the tax revenues to pay off TIF bonds used to fund public improvements and infrastructure necessary to enable development.

However, a major obstacle with New York's TIF statute is that it didn't allow school district property taxes to be included in the TIF calculation. Since school

district taxes are usually the largest portion of the total local property tax, the absence of that portion significantly reduced the amount of TIF bonding which could be leveraged, thus limiting the usage of TIF by municipalities.

This year's budget remedies this obstacle by including an expansion of TIF to permit school districts to participate by allocating a portion of their real property taxes to a designated TIF project area in order to provide incentives for its redevelopment. By permitting school districts to participate in TIF, municipalities now have another viable way to combat blight, revitalize communities and spur economic development and job growth.

Boosting Redevelopment of Historic Buildings

While tax policy issues are generally addressed in the state budget, one measure (A.9110/S.6134) that was subsequently passed by the Assembly and Senate late in the session as a separate bill would increase the State's Historic Preservation Tax Credit cap from the current \$5 million to \$12 million per project for restoring eligible historic buildings.

Since the last increase in 2009, when the tax credit was increased from \$100,000 to \$5 million, the credit has proven to be an effective tool to spur the renovation and reuse of historic structures across the state, especially in older upstate cities. However, a number of larger scale projects have not moved from the conception stage to construction as they were not economically feasible with the \$5 million per project cap.

This proposed increase would further spur the redevelopment of eligible structures and allow developers to take on larger projects that have a greater rehabilitation need and cost. As this report went to print, the legislation was awaiting final action by the Governor.



PROMOTING TOURISM. Chairman Schimminger met with several representatives of the convention and tourism industry in Albany during the legislative session to discuss the Tourism Economic Development Fund legislation subsequently passed by the Assembly and Senate that would dedicate funds raised from licensing the I♥NY brand and from other resources to state and regional tourism promotion efforts. Pictured with the Assemblyman are (left to right) Dave Carroll of the Western New York Hotel and Motel Association, Linda D'Agostino of the Buffalo Niagara Convention and Visitors Bureau, and Rick Likus also with the association.

Allowing Brewpubs to Expand

Over the years, the alcoholic beverage industry has grown and flourished around a structure set forth by the Alcoholic Beverage Control Law enacted in 1934 when Prohibition ended. However, as the industry continues to evolve, circumstances arise when the need to review and revise the current law and structure are necessary.

Recognizing the potential of one of the newer niche industries, the craft beer industry in New York, I've supported efforts to help promote the growth of brewpubs in the State. Brewpubs, which are small breweries that are allowed to contain a restaurant, are innovative small businesses that brew unique local beer, revitalize main streets, and support the local economy. The brewpub license was created in New York in 1997, when we made an exception to the "tied-house" restriction in the Alcoholic Beverage Control Law that otherwise prohibits the owner(s) of a licensed alcoholic beverage manufacturer or wholesaler or retail establishment from having an interest in any of the other categories of licensed businesses. Brewpubs have now become a popular choice for consumers and an important part of communities across the state, and, as the brewpub model has taken root in New York State, so has the need to allow for such a model to expand and grow outside the current statutory structure.

I introduced comprehensive legislation this year (A.10667/S.7216) that will allow individuals who hold a brewpub license to also hold a restaurant license (and vice versa), and to sell beer brewed by their brewpub through a wholesaler to retail establishments they may also own. This legislation also increases the total amount of beer a brewpub can brew at one site from 5,000 gallons to 20,000 gallons per year. This legislation continues the Economic Development Committee's goal of supporting home-grown small businesses by allowing a brewpub to expand and offer its craft beer to new markets.

Other Legislation of Note

In addition to the legislative initiatives reviewed elsewhere in this report, the following measures advanced by other committees in the Assembly and passed by both houses of the Legislature may be of interest to businesses and economic development professionals. The status of each as this report went to print is noted.

- **A.1415-D/S.1462-D** – Authorizes a municipal corporation to provide a real property tax exemption for improvements to real property meeting LEED certification standards for green buildings. (Law, Chapter 188)
- **A.5522-B/S.3203-B** – Exempts the sale and installation of commercial solar energy systems equipment from sales and compensating use taxes; allows municipalities the option to grant such exemption from local sales and use taxes. (Awaiting final action by the Governor)
- **A.9274-B/S.6447-B** – Provides for a more effective review of existing rules; requires more frequent review of certain rules and identification of agencies which fail to review rules; extends certain provisions relating to the State Register. (Awaiting final action by the Governor)
- **A.9605/S.6663** – Establishes the tourism economic development fund to be funded with monies from the licensing of the I♥NY brand. (Awaiting final action by the Governor)
- **A.10593/S.7788** – Extends, until December 31, 2015, the eligibility timeframe for certain tax credits for brownfield development. (Awaiting final action by the Governor)

Power Proceeds Bill a Critical Win for W.N.Y.

A portion of the 2.4 million kilowatts of clean hydropower generated by the Niagara Power Project is set aside for businesses in Western New York that create or retain jobs in the region. Some of that power allocation goes unused locally, however, and is sold on the open market by the New York Power Authority (NYPA), which owns and operates the Power Project. A law enacted in 2010 established the Western New York Economic Development Fund that was intended to keep the proceeds from the sale of that block of allocated hydropower in the Western New York area to help local businesses expand. Unfortunately, NYPA contended that the statute was ambiguous in certain respects, and never implemented the law.

In 2011, legislation was introduced in Albany by members of the Western New York State Legislative Delegation to address any technical shortcomings in the 2010 law, but it failed to reach the Governor's desk. This year, after months of intense negotiations involving the Governor, the Senate and the Assembly, the W.N.Y. Power Proceeds Allocation Act was incorporated in the 2012-13 state budget and is now law. The Act establishes a five-member panel, the Power Proceeds Allocation Board, which will determine how those proceeds, estimated at some \$7 million per year, will be used to fund building, R&D, tourism and other job-creating projects within 30 miles of the Power Project. In addition, the \$13 million in proceeds collected since the 2010 law took effect have been held in escrow and can be utilized for such projects by the board.

While the Governor will make the appointments to the panel, the Senate and the Assembly were each authorized to recommend one appointee to the

Governor. At an event held by the Buffalo Niagara Partnership in June to acknowledge the role of the Western New York Delegation in enacting the new legislation, Chairman Schimminger announced that Dennis Elsenbeck had been recommended to the Governor for appointment to the board by

Assembly Speaker Sheldon Silver at the urging of the local Assembly delegation. Mr. Elsenbeck, Western Division Regional Executive Director for National Grid, is well-versed in energy and economic development issues and highly suited for the uncompensated position.



CREATING JOBS. Chairman Schimminger, Assemblymember Crystal Peoples-Stokes, Dennis Elsenbeck, and Assemblymember Dennis Gabryszak (left to right) are pictured at a recent event held by the Buffalo Niagara Partnership to thank members of the Western New York Legislative Delegation for their role in including language in this year's 2012-13 state budget establishing the Western New York Power Proceeds Allocation Board. Elsenbeck, Regional Executive Director for National Grid's Western Division, had just been recommended for nomination to a seat on the new board by Assembly Speaker Sheldon Silver at the urging of the region's Assembly delegation. The board will determine how proceeds from the sale of unused power generated by the Niagara Power Project will be directed to economic development projects in the region.

New UB Center for Materials Informatics to Play Vital Role in Addressing Global Crisis

The University at Buffalo's exciting plan to establish a second Center of Excellence in Materials Informatics sets the stage for the university to play a significant role in addressing the global crisis in the availability of rare earth elements.

When University at Buffalo President Satish Tripathi approached me in February to take the lead in Albany on enacting the State's designation of a new second Center of Excellence at UB, I immediately went to work and secured support in the Assembly for its incorporation into the Assembly budget resolution, which was passed by the Assembly on March 12th. In the final state budget that was adopted on time March 30th, we were able to include the designation of a new Center of Excellence in Materials Informatics (COEMI) at UB and also provide \$200,000 in seed funding to help get the new center up and running.

Research scientists at UB have the potential to accelerate the discovery and commercialization of new advanced synthetic versions of rare earth elements through materials informatics research. These elements are used in the making of high-demand products such as flat-screen TVs, rechargeable batteries, cell phones, computers and automobiles. Most countries neglect their own limited reserves, even as demand for these high-tech products soar, because of the environmental risks associated with mining and refining the rare earth

elements, including toxic and radioactive "trailings" that may be left behind. China, however, has exploited its supply of rare earth metals with little regard to the environmental drawbacks and now largely controls the global supply. The Chinese government has also imposed strict export restraints and steep export taxes on these elements.

President Tripathi noted that once UB got the second Center of Excellence designation from the State, scientists at the university would be positioned to step up their research-intensive work that is needed to develop new synthetic versions of these rare earth elements. This would put New York at the forefront of restoring and growing the United States' competitive advantage in advanced manufacturing over China and other nations, improving health and wellness through biomedical engineering applications, creating sustainable energy solutions and enhancing national security through high-tech military applications.

Stony Brook University also sought designation for a second Center of Excellence, in advanced energy research, and was successful in gaining support from the Governor as it was included in his 21-day amendments to his Executive Budget. The final budget agreement included designation of the Stony Brook center, as well as one focused on sustainable manufacturing at the Rochester Institute for Technology (RIT).

Economic Development Councils Competition *From page 1*

resources from 21 programs across a dozen state agencies, including: Empire State Development; NYS Canal Corporation; NYS Energy Research and Development Authority; Environmental Facilities Corporation; Homes and Community Renewal; Department of Labor; Parks, Recreation and Historic Preservation; Department of State; New York Power Authority; Agriculture and Markets; Department of Environmental Conservation; and Council on the Arts. The agency programs provide resources for projects focused on community development, direct assistance to business, waterfront revitalization, energy and environmental improvements, sustainability, workforce development, agricultural development and low-cost financing.

CFAs will be reviewed by the local Regional Council based on their alignment with the strategic plan and will be reviewed on a technical basis by agencies from which the applicant may be eligible for funding. To maximize participation in the process and ensure high-quality applications, public workshops were held in each region of the state to explain the programs and eligibility standards, as well as recent changes in the CFA application process. Except for the Recharge NY, NYSERDA Energy Efficiency Projects and ESD Excelsior Jobs programs, completed applications were due by July 16th, with Regional Council awards due to be announced this fall.

Information on the Regional Councils is available online at <http://regionalcouncils.ny.gov/> or through any of Empire State Development's regional offices.



BOOSTING CLEAN ENERGY. Chairman Schimminger, N.Y.S. Energy Research and Development Authority (NYSERDA) President and CEO Francis Murray and ENrG Inc. Vice President Kathleen Olenick check out components for a solid oxide fuel cell auxiliary power unit (SOFC APU) that ENrG is developing at its Buffalo manufacturing facility. The specialty ceramic company, headquartered in the Town of Tonawanda, won a \$500,000 contract with NYSERDA this spring for its work with Delphi Technical Center in Rochester to develop a clean energy advanced thermal management package for heavy-duty truck applications.

Decision to Close Canadian Consulate is Bad News for Upstate

When I heard the shocking news that the Canadian Government planned to close the office of the Canadian Consulate General in Buffalo, I immediately sent my reaction to Canadian Prime Minister Stephen Harper conveying my concerns and the concerns of the entire Western New York State Legislative Delegation regarding the implications that the closure would have on our bi-national region and upstate New York.

Over the years my colleagues and I have worked closely with the Consulate—and our Niagara Peninsula counterparts in the Ontario Legislative Assembly—on cross-border issues ranging from immigration, trade and commerce to tourism, education and transportation. Closing this office would be injurious to both sides of the border as the Consulate has been a tireless advocate for all things Canadian in Western New York and other upstate communities. Collaborative efforts between the United States and Canada have resulted in necessary border-policy reform, business-to-business commerce growth and joint planning relative to trade corridors. These programs and policies have in large part been made possible because of the

accessibility of the Consulate office in Buffalo for more than four decades.

The Western New York region has one of the busiest international border crossings in the world, and the physical presence of the Consulate office in Buffalo has been at the very center of those activities. With more than \$1 million in trade per minute crossing the Canada-U.S. border, the elimination of this office would leave a gaping hole in our two nations' mutual economic development delivery system and threaten New York State's longstanding relationship with its number one international trade partner.

The Buffalo Consulate has also taken a leadership role with Beyond the Border, the current joint initiative between the U.S. and Canada, which outlines the pathway to achieving a new long-term security partnership in four key areas—addressing threats early; promoting trade facilitation, economic growth, and jobs; strengthening cross-border law enforcement; and protecting shared critical infrastructure, including enhancing continental and global cyber security.

Many on both sides of the border have called the Niagara Peninsula—Western New York bi-national region a single region separated only by a river. The physical presence of the Consulate in Buffalo for the past 42 years played no small part in forging this bond. For unlike the view from the Canadian government's trade offices that have recently been closed in Philadelphia, Phoenix, Raleigh-Durham and even Anchorage, one can actually see Canada from the Consulate's location in downtown Buffalo. Its unique proximity to Canada has made the Buffalo Consulate that much more significant.

Those of us serving in New York State government certainly understand the necessary pain of fiscal restraint; however, we also know that strategic investments provide long-term benefits. For me and others, the Buffalo Consulate represents a strategic investment, and therefore we have urged the Canadian Government to reconsider its decision to close the Buffalo Consulate so that working together we can continue our efforts to strengthen the relationship between New York State, the United States and Canada.

Innovate NY Fund to Spur Small Business Job Creation

Recently, Empire State Development (ESD) approved \$25 million in funding applications from six investment fund entities from across the state to leverage at least \$50 million in private investment aimed to generate more than 2,200 jobs for small businesses as the state's chief economic development agency implemented the Innovate NY Fund.

The State's new Innovate NY Fund, which was established by legislation I sponsored that was enacted into law last year as Chapter 103 of the Laws of 2011, will use a \$25 million grant from the U.S. Department of Treasury's State Small Business Credit Initiative (SSBCI) to facilitate investment in some 100 seed-stage companies through a geographically diverse group of industry focused investment entities.

As part of the federal Small Business Jobs Act of 2010, the federal SSBCI was created to provide

direct support to states for use in programs designed to increase small businesses' access to credit. Upon enactment of Chapter 103 last year, New York State applied to Washington for \$55.4 million in federal SSBCI funding to expand two existing small business programs and establish the Innovate NY Fund, a \$25 million seed-stage equity fund that will support innovation, job creation and high growth entrepreneurship throughout the state. On September 15, 2011, it was announced that the U.S. Department of the Treasury had approved New York's SSBCI application. In late December 2011, a Request for Proposals (RFP) was issued by ESD, and six investment fund entities have now been selected to invest the funds in seed-stage small businesses around the state.

Investment entities will use funding awarded from Innovate NY to leverage matching investment

funds from private sources of capital at a ratio of at least 2 to 1. Each contracted investment entity will be required to provide quarterly and annual reports outlining the impact and effectiveness of the investments made, leveraged funds, business revenue, and numbers of jobs created, among other performance metrics.

While New York State is renowned as a global leader in high tech research, much of that R&D has all too often ended up making new products and creating jobs elsewhere. Our Innovate NY Fund will help change that dynamic by assisting start-ups in taking an idea at its inception and seeing it through the critical early stage of development to its commercial success here in New York.

The successful Innovate NY Fund applicants are:

Entity	Amount	Regions Covered	Focus
Canrock Ventures, LLC	\$4.5 million	Long Island	General technology
Cayuga Venture CVF IV, LP	\$5 million	Central NY, Finger Lakes, Southern Tier, Western NY	Clean-tech, nanotech, IT & biotech
Excell Partners, LLC	\$2.5 million	Capital, Central NY, Finger Lakes, Southern Tier, Western NY	Life sciences, energy & software & consumer products
Golden Seeds	\$4 million	Statewide	Women-owned general technology, life sciences & consumer products
SCP Buffalo Incubator, LP	\$4 million	Western New York	Internet broadband & life sciences
Stonehenge Capital Company	\$5 million	Statewide	Healthcare information technology & life sciences

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