

2008 ANNUAL REPORT

NEW YORK STATE ASSEMBLY

COMMITTEE ON
CITIES



Sheldon Silver, Speaker

James Brennan, Chairman

December 15, 2008

The Honorable Sheldon Silver
Speaker, New York State Assembly
State Capitol, Room 349
Albany, New York 12248

Dear Speaker Silver:

I am pleased to present to you the 2008 Annual Report of the Assembly Standing Committee on Cities. This report describes the legislative action and major issues considered by the Committee and sets forth our goals for continued legislative support to assist cities throughout the State that are facing increasing fiscal difficulties.

The problems facing our State's urban areas are as varied and complex as New York's 62 cities themselves. The Cities Committee has considered measures during this past legislative session that address some common urban problems, as well as many proposals requiring Home Rule messages, which reflect the more specific needs of individual cities.

Sincerely,

James Brennan
Chair
Assembly Standing Committee on Cities

2008 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON CITIES

James Brennan, Chair

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TABLE OF CONTENTS

I. INTRODUCTION	1
II. MAJOR ISSUES OF 2008	2
A. LOCAL GOVERNMENT AID – ENACTED BUDGET	2
B. NEW YORK CITY CONSTRUCTION SAFETY	3
C. STATEWIDE SIGNIFICANCE	4
D. NEW YORK CITY LEGISLATION	5
E. DEBT INSTRUMENTS	6
III. PARKLAND ALIENATION LEGISLATION	7
IV. PUBLIC HEARINGS.....	8
A. PROCUREMENT PRACTICES REGARDING CENTRALIZED CONTRACTS	8
B. RESTORE NY FUNDING SELECTION	8
C. SENIOR ACCESS TO ESSENTIAL SUPPORTS	8
D. NEW YORK CITY CONSTRUCTION REGULATORY SYSTEM	9
E. YANKEE STADIUM IDA EXEMPTION	9
F. APPLICATION OF THE PUBLIC AUTHORITIES ACCOUNTABILITY ACT OF 2005 TO LOCAL AUTHORITIES	9
V. OUTLOOK FOR 2009.....	10
APPENDIX A	11
APPENDIX B	12
APPENDIX C	13

I. INTRODUCTION

The New York State Assembly Standing Committee on Cities is primarily responsible for the initiation and review of legislation affecting the State's 62 cities. The Committee's role in initiating and reporting legislation is primarily influenced by the Municipal Home Rule powers provided to cities under the provisions of Article IX of the New York State Constitution. Article IX describes and defines the powers, duties and limitations of local governments and the State Legislature in the enactment of laws affecting local governments. These "Home Rule" powers limit the Legislature's action to (a) general law, which applies uniformly to all local governments of equal size; (b) special law, on request by two-thirds of the membership of the local legislative body, or on the request of its chief executive officer and concurred by a majority of the membership of the local government, i.e., a "Home Rule Message"; and (c) with two-thirds of both houses concurring, action on a certificate of necessity from the Governor, which states that an emergency situation requires enactment of such law.

Bills referred to the Committee on Cities are those that would amend city charters, the Administrative Code of the City of New York, the General City Law, the Second Class Cities Law or the General Municipal Law. Bills that relate to cities and would amend general bodies of law such as Public Health, Housing, Energy, Transportation, Education, or Economic Development may also be referred to the Cities Committee if they have specific or local applicability.

The Committee is concerned with the enactment of laws that will further improve the ability of cities to address their unique problems, as well as prohibiting the enactment of laws that would impede city governments in their delivery of local services. Under the leadership of Assemblymember James Brennan, the Committee monitors the problems of cities and works closely with state and local representatives to develop solutions.

II. MAJOR ISSUES OF 2008

A. LOCAL GOVERNMENT AID – ENACTED BUDGET

This year the Legislature added \$112 million in local assistance grants over the Executive's proposed \$200 million increase, resulting in a \$312 million increase over State Fiscal Year (SFY) 2008-09. For all cities outside of New York City, the Legislature appropriated \$693 million, an increase of 10%. New York City received \$245 million, a significant increase over SFY 2008-09.

Local Government Efficiency (LGE) Grant Program

The State Budget contained \$29.4 million in funding for the Local Government Efficiency (LGE) grant program. The LGE program replaced the Shared Municipal Services Incentive (SMSI) program, which was created in 2005 to encourage municipal consolidation and cooperation.

The program is administered by the Department of State and provides grants to counties, cities, towns, villages, special improvement districts, fire districts, library districts, water authorities, sewer authorities, regional planning and development boards, school districts, and, in certain instances, Boards of Cooperative Educational Services (BOCES) that merge or share services. This year the program was divided into four separate grant pools: High Priority Planning Grants (up to \$50,000 per award); General Efficiency Planning Grants (up to \$25,000 for the first two applicants, \$1,000 for each additional applicant, up to a maximum of \$35,000); Efficiency Implementation Grants (up to \$200,000 per municipality, up to a maximum of \$1 million); and 21st Century Demonstration Project Grants (up to \$400,000 per municipality).

Grants are intended to cover costs associated with mergers, consolidations, cooperative agreements, dissolutions and shared services including legal and consultant services, feasibility studies and capital investments. For some grant categories, grant recipients have to provide a match for up to 10% of the project cost.

B. NEW YORK CITY CONSTRUCTION SAFETY

Devastating construction accidents that occurred in New York City in 2008 underscore the need for improved oversight of construction and building safety by the New York City Department of Buildings, the Environmental Control Board and other City agencies. In addition to considering legislation to improve construction safety in New York City, the Committee held a hearing in New York City to discuss the effectiveness of construction and building regulations and enforcement.

New York City Department of Buildings Community Accountability Act **(A.7745-B Brennan; Reported to Rules)**

This bill would require records of accidents, unsafe building orders and vacate orders be posted on the Department of Buildings (DOB) website, and would require the Commissioner of DOB to investigate and report on all accidents arising from building code violations involving injury or death to persons or damage to property. This legislation would also permit community boards to request an audit/review of up to 30 new building plans a year, and require site safety coordinators to be present for the construction of any new building over five stories high.

Training Requirements for Crane Riggers **(A.11393-A Bing; Passed Assembly)**

This legislation would implement recommendations presented at the hearing on construction safety held by the Committee this year. This bill requires riggers, who are responsible for erecting, dismantling and jumping cranes, to complete 30 hours of training prior to licensing and an additional 8 hours of training every three years.

Prohibit Self-Certification of Building Plans **(A.11633-A Brennan; Reported to Ways and Means)**

This legislation would prohibit cities from authorizing architects and engineers to self-certify new building plans and require a review of such plans by city employees.

Building Plan Violations **(A.7122 Lentol; Passed Assembly)**

This bill would create criminal penalties for developers who complete buildings that have more units than the amount stated in the building plan application or if the occupancy classification has been changed since the permit application was originally filed. This legislation would create a process for developers to legally amend building plans to reflect a change in the number of units or occupancy classification prior to completion of the building.

Building Code Violation Re-Inspection
(A.10188-D Brennan; Reported to Rules)

This bill would create a duty to re-inspect and abate hazardous conditions in violation of the New York City Building Code. It would require an additional penalty of \$1,500 for a person who fails to submit certification of correction of an immediately hazardous violation and prohibit the issuance of a certificate of occupancy and removal of a stop work order until the fine is paid. This legislation would also require the Department of Buildings to re-inspect, issue violations and stop work orders for immediately hazardous violations until the violation(s) are corrected.

Building Plan Certification
(A.7309 Rosenthal; Reported to the Calendar)

This bill would prohibit the Commissioner of the New York City Department of Buildings from designating building plans that involve vertical enlargements eligible for limited supervisory check.

C. STATEWIDE SIGNIFICANCE

City Charter Adoption
(A.5504 Gottfried; Passed Assembly)

This bill would repeal certain provisions of the Municipal Home Rule Law that allow for the “bumping” of ballot questions if a charter revision commission created by a mayor places any question on the ballot.

Rooftop Landing of Aircrafts
(A.2020 Glick; Reported to the Calendar)

This bill would prohibit the construction or operation of a heliport without a valid city permit. This legislation would also limit the construction of heliports in densely populated areas, defined as a block with 7,500 residents or employees, to those that would be used for emergency medical purposes or other public purposes necessary for public health and safety. This bill would require a city to hold one or more public hearings, assuring full opportunity for citizen participation, when considering a resolution to permit the use of a heliport in a densely populated area for purposes other than a medical emergency or public safety.

D. NEW YORK CITY LEGISLATION

Water Bill Exemptions for Charities

(A. 10741 Silver; Chapter 518 of the Laws of 2008)

This legislation extends water bill exemptions for charitable organizations for an additional two years.

Annual Statements of Financial Disclosure

(A.8023-B Brennan; Chapter 41 of the Laws of 2008)

This legislation authorizes New York City to offer two or more types of forms for annual statements of financial disclosure.

Charter Revision Commission Members

(A.3071 Brennan; Reported to Calendar)

This bill would provide a new appointment process for members of a charter revision commission created by the Mayor of New York City, prohibit certain individuals from serving on a charter revision commission, and provide a new timeline for the submission of certain proposals.

East River Toll Charges

(A.3491 Nolan; Reported to Ways and Means)

This bill would require that any revenues generated from the imposition of tolls on the East River bridges, the Brooklyn, Williamsburg, Manhattan and Queensboro Bridges, be used exclusively for transportation uses within New York City.

Protections For Water Customers

(A.3972 Perry; Reported to Ways and Means)

This bill would prohibit the New York City Water Board from adopting rules and regulations that would reduce the timeframe for consumers to appeal bills and receive refunds or other rules that would be otherwise less favorable to the consumers.

E. DEBT INSTRUMENTS

City of Buffalo

(A.9878 Schimminger; Chapter 116 of the Laws of 2008)

This legislation extends, until June 30, 2009, the authority for the underwriting or sale of bonds or notes for the City of Buffalo at private sale. This legislation provides the City of Buffalo with additional fiscal flexibility by permitting the City to determine the timing of bond sales.

City of Yonkers

(A.9887 Pretlow; Chapter 144 of the Laws of 2008)

This legislation extends, until June 30, 2009, the authority for the underwriting or sale of bonds or notes for the City of Yonkers at private sale. This legislation provides the City of Yonkers with additional fiscal flexibility by permitting the City to determine the timing of bond sales.

III. PARKLAND ALIENATION LEGISLATION

The issue of parkland alienation, or the conversion of parkland for other purposes, has been a great concern to the Committee for some time. Case and statutory law have established that any use of public parkland for non-parkland purposes must be authorized by the New York State Legislature.

As part of the Committee's ongoing effort to protect the public trust as it relates to parkland and in keeping with the Assembly's policy of preserving open space, every attempt is made to ensure that each proposed alienation of parkland complies with alienation guidelines and adheres to the longstanding policy prior to passage out of Committee.

Committee guidelines for authorizing parkland alienation include the verification of the number of acres proposed for alienation and a requirement that such lands be sold at fair market value, with the proceeds from the sale dedicated for the purchase of replacement parkland of equal or greater fair market value or for capital improvement of existing parkland. The legislation must also include a legal description of the parkland being alienated, as well as language detailing the number of acres of land being alienated or dedicated (if replacement parkland is proposed for parkland). Finally, the Committee requires a home rule message from the municipality requesting alienation prior to acting on any parkland legislation. Some parkland alienation bills that were signed into law include:

City of Yonkers

(A.8499 Pretlow; Chapter 505 of the Laws of 2008)

This legislation authorizes the City of Yonkers to discontinue the use of certain municipal parkland. In exchange, the legislation specifies replacement lands to be dedicated by the City.

Gateway National Recreation Area

(A.11634 Rules (Hyer-Spencer); Chapter 348 of the Laws of 2008)

This legislation extends the deadline for the conveyance of lands for the establishment of Gateway National Recreational Area.

IV. PUBLIC HEARINGS

The Committee held five public hearings in 2008. A summary of those hearings follows.

A. PROCUREMENT PRACTICES REGARDING CENTRALIZED CONTRACTS

On February 26, 2008, the Committee, in conjunction with the Assembly Standing Committees on Governmental Operations, Education, Higher Education, Local Governments, and Small Businesses, held a hearing in Albany to review the use of centralized contracts by state agencies, local governments, and school districts and to examine the impact of such use on small businesses.

Public procurement relies on competitive processes, set forth in the State Finance and General Municipal laws, to obtain commodities, services and technology. The Office of General Services (OGS) administers a large centralized contracts program, the concept of which is based on the State looking at the combined and common needs of State agencies and authorized users and then leveraging its buying power to achieve cost savings and efficiencies. This hearing reviewed the benefits and disadvantages the use of centralized contracts have for the State, its local subdivisions, the educational community, and small businesses.

B. RESTORE NY FUNDING SELECTION

On February 27, 2008, the Committee, in conjunction with the Assembly Standing Committees on Local Governments and Economic Development, held a hearing in Albany to discuss the processes local governments use to select priority projects for submission for Restore NY funding.

Restore NY was established in the 2006-2007 New York State Budget to provide eligible municipalities with financial assistance to encourage economic development and neighborhood revitalization. The program goals of Restore NY are to improve housing stock, encourage commercial investment and revitalize urban centers. This hearing examined the processes by which local governments determine which projects shall be included in their applications for funding from Restore NY.

C. SENIOR ACCESS TO ESSENTIAL SUPPORTS

On April 18, 2008, the Committee, in conjunction with the Assembly Standing Committees on Aging, Consumer Affairs and Protection and the Subcommittee on Outreach and Oversight of Senior Citizen Programs, held a hearing in New York City regarding seniors retaining access to essential supports during implementation of the Aging Services Modernization Initiative in New York City.

The purpose of this hearing was to ensure that due care and caution was taken to ensure that modernization efforts proposed by the New York City Department for the

Aging would not result in a reduction in benefits for seniors who rely on these services.

D. NEW YORK CITY CONSTRUCTION REGULATORY SYSTEM

On April 24, 2008, the Committee, in conjunction with the Assembly Standing Committees on Codes and Housing, held a hearing in New York City to examine issues related to the New York City Construction Regulatory System.

Devastating construction accidents are regularly occurring in New York City. This year alone there were four construction accidents of note that involved property damage and death, including the March 15 crane collapse at E. 51 St., which killed seven people. The hearing considered specific legislation and other proposals for dealing with complaints, planning, worker safety, and tracking and correcting violations.

E. YANKEE STADIUM IDA EXEMPTION

On July 2, 2008, the Committee, in conjunction with the Assembly Standing Committees on Corporations Authorities and Commissions, Local Governments, and Ways and Means, held a hearing in New York City regarding the request for increased public financing for the construction of a new Yankee Stadium in New York City.

This hearing examined recent requests by the New York Yankees for additional funding in the form of tax-exempt bonds from the New York City Industrial Development Agency (NYC IDA), a subsidiary of the New York City Economic Development Corporation (NYC EDC), for construction of a new Yankee Stadium in New York City.

F. APPLICATION OF THE PUBLIC AUTHORITIES ACCOUNTABILITY ACT OF 2005 TO LOCAL AUTHORITIES

On December 11, 2008, the Committee, in conjunction with the Assembly Standing Committee on Corporations, Authorities and Commissions, held a hearing in New York City to examine the impact of the Public Authorities Act of 2005 on local authorities and the application of the financial disclosure requirement.

The Public Authorities Act of 2005 requires all board members, employees and officers of local public authorities to submit annual financial disclosure statements pursuant to Article 18 of the General Municipal Law. In early 2008, Article 18 of the General Municipal Law was amended to authorize New York City to provide more than one form of annual financial disclosure. This hearing provided an opportunity for the Committees to evaluate the impact of these two laws, particularly their application to local authorities.

V. OUTLOOK FOR 2009

In 2009, the Cities Committee will again endeavor to assist all 62 cities of the State by passing legislation to maintain their economic well-being in this time of economic turmoil. Therefore, a primary goal of the Committee will be to achieve comprehensive solutions for assisting our cities – solutions forged from ideas rather than dollars. The Committee’s other areas of oversight will again range from the protection of public parklands, sales of bonds, issues dealing specifically with New York City including oversight of construction safety, and neighborhood improvement projects.

APPENDIX A

2008 SUMMARY OF ACTION ON ALL BILLS REFERRED TO
THE COMMITTEE ON CITIES

<u>Final Disposition</u>	<u>Assembly Bills</u>	<u>Senate Bills</u>	<u>Total</u>
Bills Reported	39	0	39
To Floor	3	0	3
To Ways and Means	25	0	25
To Codes	8	0	8
To Rules	3	0	3
To Judiciary	0	0	0
Bills Having Enacting Clause Stricken	1	0	1
Bills Having Committee Reference Changed	1	0	1
Senate Bills Substituted or Recalled	0	3	3
Bills Never Reported, Held In Committee	3	0	3
Bills Never Reported, Never Received Home Rule Message	56	1	57
Total Number of Bills in Committee	122	7	129
TOTAL NUMBER OF MEETINGS HELD		9	

APPENDIX B

Chapter Laws of 2008

<u>Bill #</u>	<u>Sponsor</u>	<u>Description</u>	<u>Chapter</u>
A.7817-A	Peoples	Authorizes the expenditure of proceeds from bonds issued by the City of Buffalo for the rehabilitation and reconstruction of streets, curbs and sidewalks.	402
A.8023-B	Brennan	Authorizes New York City to offer two or more forms for annual statements of financial disclosure.	41
A.8499-A	Pretlow	Authorizes the City of Yonkers to discontinue the use of certain parkland and to sell and convey such land.	505
A.9088-A	O'Mara	Authorizes the City of Elmira to transfer ownership of the Mark Twain Golf Course to a not-for-profit corporation.	438
A.9450	Weprin	Clarifies requirements related to distributing unsolicited advertising on private property in New York City.	3
A.9878	Schimminger	Extends authorization for private sale of bonds and notes of the City of Buffalo.	116
A.9887	Pretlow	Extends for one year the authority of the City of Yonkers to issue bonds and note through negotiated sale.	144
A.10454-C	Amedore	Extends authorization for the City of Amsterdam to sell delinquent tax liens for an additional three years.	455
A.10741	Silver	Extends water bill exemptions for hospitals and charities in New York City for an additional two years.	518
A.11182	Wright	Authorizes the City of New York to reconvey certain property to the Sacred Heart African Orthodox Church.	476
A.11222-A	Pheffer	Authorizes the City of New York to sell waterfront property and land under water appurtenant thereto that is owned by the city.	423
A.11260-A	Giglio	Extends, until October 1, 2009, the deadline for the City of Olean to issue serial bonds to finance a certain deficit.	127
A.11422-A	Rules (Canestrari)	Authorizes the City of Rensselaer to enter into contracts, leases or rental agreements granting the City the right to use or occupy such building as a fire station.	382
A.11634	Rules (Hyer-Spencer)	Extends the authorization to convey lands for the establishment of Gateway National Recreation Area.	348

APPENDIX C

Veto of 2008

<u>Bill #</u>	<u>Sponsor</u>	<u>Description</u>	<u>Veto Memo #</u>
A.10722	Wright	Authorizes New York City to reconvey certain properties to North Edgecombe, LLC.	149