

# 2009

Summary of

# Legislation



**New York State Conference of  
Mayors & Municipal Officials**



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**Peter A. Baynes**  
Executive Director

# Foreword

The following report summarizes the status (as of October 28<sup>th</sup>) of legislation passed in 2009 by both the Senate and Assembly which directly affects cities and villages. This publication is organized by specific subject areas and the staff contact for each area is listed next to the respective heading. Any specific questions concerning the legislation should be directed to the appropriate staff person.

I hope that this report serves as a useful resource for city and village officials.

Peter A. Baynes  
Executive Director

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# Finance

*Staff Contact: Barbara VanEpps*

**ENACTED**

## **State Aid to Local Governments**

The 2009-10 State Budget maintains the “core” AIM program at the prior year level. For most cities and villages, this means each will get the same amount of AIM funding in 2009-10 as they received in 2008-09. It should be noted, however, as part of the Deficit Reduction Plan (DRP) that was agreed to in February 2009, the 33 cities that received a portion of the \$11.6 million that was added by the Legislature as part of the 2008-09 adopted State Budget, had their AIM funding reduced in 2008-09 by 20% of the amount of the Legislative Add. The remaining 80% of the Legislative Add was eliminated in the 2009-10 budget.

**(Chapters 50 and 56, effective April 1, 2009)**

## **AIM Accountability Requirements**

The 2009-10 State Budget requires all cities and those villages that meet all four of the fiscal distress factors that are used to allocate AIM funding, to continue to prepare multi-year financial plans and provide written certification to the Division of the Budget that they have completed such plans. Cities are not required to complete the fiscal accountability reports or the fiscal improvement plans, since these were predicated on the receipt of additional AIM funding. In addition, there are no restrictions on how a municipality may use the AIM funding since those too were tied to the receipt of AIM increases. It should be noted, however, that cities and villages, to the extent possible, are still required to post financial reports on their web sites, including their most recent budget, independent audit, and multiyear financial plan.

**(Chapter 56, effective April 1, 2009)**

## **Local Government Efficiency Grant Program (LGEG)**

Although current grant awards will be honored in full, funding available for grants under the Local Government Efficiency Grant program (formerly SMSI) was reduced by 50%, to \$11.5 million for the 2009-10 state fiscal year. These monies will fund: high priority and general efficiency planning grants, efficiency implementation grants, and 21<sup>st</sup> Century demonstration projects promoting transformative regional initiatives. The maximum grant amounts vary by category and there is a 10% local match required. In addition to the grant money, nearly \$2 million is available for consolidation incentives. Specifically, municipalities that merge, consolidate or dissolve are eligible to receive additional AIM funding equal to 15% percent of the municipalities’ combined property tax levy from the previous fiscal year, capped at \$1 million.

**(Chapters 50 and 56, effective April 1, 2009)**

### **Transportation Aid**

The 2009-10 State Budget maintains Consolidated Highway Improvement Program (CHIPS) funding at 2008-09 levels, providing a total of \$363 million in 2009-10 for the CHIPS capital program.

**(Chapter 55, effective April 7, 2009)**

### **Restore NY**

The 2009-10 State Budget includes the unspent funds for the third round of the Restore NY program, providing the full \$150 million in grant money that was authorized in 2008-09 for the revitalization of commercial and residential properties. Specifically, this program supports municipal efforts to demolish, deconstruct, rehabilitate or reconstruct vacant, abandoned, condemned and/or surplus properties.

**(Chapter 55, effective April 7, 2009)**

### **Utility Assessment**

The 2009-10 State Budget increased – from one-third of 1% of gross intra-state revenues, to 2% – the assessment on regulated utility companies with gross operating revenues in excess of \$500,000. In addition to New York State gas, electric, steam and water corporations and the Long Island Power Authority, this assessment – which is effective July 1, 2009 and will remain at the 2% level until March 31, 2014 – applies to municipal electric and gas corporations regulated by the Public Service Commission. The revenue collected from this assessment, estimated at \$557 million annually, will be used to provide state general fund relief.

**(Chapter 59, effective July 1, 2009)**

### **Aid for Municipalities with Video Lottery Terminals (VLTs)**

Previously, 17 municipalities received state aid to help offset the cost associated with being a “host community” for video lottery gaming operations. The 2009-10 State Budget changed the way these funds are distributed by considering the poverty rate in each of these communities, as compared to the statewide average. Under this new methodology, aid to the City of Yonkers and the Villages of Monticello and Vernon will continue at current year levels. The City of Batavia will receive half of its current year amount and the City of Saratoga Springs is eliminated from the program.

**(Chapters 50 and 56, effective April 1, 2009)**

### **Empire Zones**

The 2009-10 State Budget modified the Empire Zones Program to reduce the overall cost of the program and to ensure it is serving the purpose for which it was intended. Specifically, all existing participants must demonstrate that they are producing at least \$1 in wages and investments for every \$1 that the state spends. New program participants will be subject to a 20:1 benefit cost ratio (the ratio will be 10:1 for manufacturers). In addition, the current program will sunset on June 30, 2010 – one year earlier than originally scheduled.

**(Chapter 55, effective April 7, 2009)**

### **Red Light Cameras**

Increases the number of red light cameras authorized for use in New York City, from 100 to 150, and permits the cities of Buffalo, Rochester, Yonkers and Syracuse, as well as Nassau and Suffolk counties, to install up to 50 red light cameras in such municipalities. The cameras act as traffic safety mechanisms which capture the license plates of vehicles that are passing through an intersection once the traffic light turns red. **(Chapters 18 (NYC), 19 (Nassau), 20 (Yonkers), 21 (Buffalo), 22 (Rochester), 23 (Suffolk) and 383 (Syracuse), effective May 28, 2009 and expire on December 1, 2014)**

### **Mobility Tax**

Establishes an employer payroll tax – referred to as the mobility tax – which applies to all public, non-profit and private employers in the 12-county Metropolitan Transit Authority (MTA) region whose payroll expense exceeds \$2,500 in any calendar quarter. The rate of the tax is .34%, or 34 cents for every \$100 in salaries and wages. For local governments, the tax is retroactive to March 2009 and payments must be made quarterly to the NYS Department of Taxation and Finance, the first of which is due November 2, 2009.

**(Chapter 25, effective March 1, 2009)**

### **Local Finance Extender**

Extends, until 2012, certain provisions of Local Finance Law (LFL). These provisions include: authorizing municipalities to issue variable rate bonds and notes; allowing municipalities to pay the first installment on serial bonds up to two years after issuance; and suspending the five percent down payment requirement. Also extends other provisions of LFL related to certificates of participation, lease financing, variable rate obligations and original issue discount bonds.

**(Chapter 186, effective July 11, 2009)**

### **Electronic Sale of Bonds Pilot Program**

Establishes an electronic public bond sales pilot program for the county of Westchester. This three year program is intended to reduce the time and costs associated with municipal bond sales by allowing the county to use internet bidding platforms operated by nationally recognized electronic securities bidding firms.

**(Chapter 304, effective August 11, 2009)**

### **Village Tax Lien Sale Extender**

Extends for three additional years (through 2012) the authority for villages to hold annual tax lien sales as a means of enforcing the collection of delinquent taxes.

**(Chapter 230, effective July 16, 2009)**

### **Increase to Tax Exemption for Cold War Veterans**

Provides municipalities with the option to increase the Cold War Veterans real property tax exemption dollar amounts in certain circumstances and allows such veterans who reside in cooperative apartments to benefit from property tax exemptions when they are tenant-stockholders of cooperative apartment corporations.

**(Chapter 235, effective January 2, 2010, and applicable to assessment rolls prepared on the basis of taxable status dates occurring on or after such date)**

### **Tax Exemption for Persons Receiving Veterans Disability Pension**

Exempts from property taxation real property owned by a person certified to receive a United States Department of Veterans Affairs disability pension. Previously, the law recognized several forms of proof of disability but did not specifically recognize a veterans disability pension.

**(Chapter 353, effective November 24, 2009)**

### **Treatment of Reverse Mortgage Proceeds**

Prohibits proceeds received from reverse mortgages from being considered as income for the purpose of senior citizens' partial property tax exemption authorized by § 467 of the Real Property Tax Law. This amendment also provides that monies used to repay a reverse mortgage may not be deducted from income, and that any interest or dividends realized from the investment of reverse mortgage proceeds shall be considered income.

**(Chapter 259, effective October 26, 2009)**

### **Limits Current Base Adjustment Proportions in Nassau County**

Caps, at 1%, the maximum growth of any class of property in Nassau County for the fiscal year 2009. Prior to this bill's enactment, state law prohibited the current base proportion of any class of property in Nassau County from exceeding the prior year's by more than 5%. This change will reduce the amount by which any class of property is allowed to grow, thereby mitigating the extent of a property tax increase.

**(Chapter 384, effective August 26, 2009)**

### **Private Sale of Tax Liens**

Authorizes the Cities of Utica and Middletown to enter into a contract to sell some or all of the delinquent tax liens held by such city to a private party. The contract must be entered into by December 31, 2009, and this authority sunsets on December 31, 2011. The Cities of Schenectady and Amsterdam received similar authority in 2004 and 2006, respectively. NYCOM will continue to support legislation that will provide this authority to all municipalities statewide.

**(Chapters 62 and 104, effective July 11, 2009)**

### **Ease Requirements for Coordinated Assessment Programs**

Amends the Real Property Tax Law to simplify the establishment and administration of Coordinated Assessment Programs (CAPs). Specifically, the bill reduces certain time requirements and clarifies other procedures to encourage greater participation in such programs which are intended to streamline local assessment functions.

**(Chapter 46, effective May 29, 2009)**

### **Sustainable Energy Loan Program**

Authorizes the City of Binghamton to establish a sustainable energy loan program to assist homeowners and businesses within the city in the installation of energy efficiency improvements. Also permits the borrower to repay the city through an assessment on the real property where the sustainable energy loan was applied, and provides that such assessment be included annually within the real property tax bill until repaid in full.

**(Chapter 344, effective August 11, 2009)**

## VETOED

### **SCRIE Income Ceiling Increase**

Would have increased the income ceiling for the Senior Citizen Rent Increase Exemption (SCRIE) and Disability Rent Increase Exemption (DRIE) programs by excluding the cost of certain medical expenses from the definition of income for purposes of such programs.

**(Veto No. 12, July 22, 2009)**

### **Accelerated State Aid Payments for Certain Cities**

Would have accelerated state aid payments to the cities of Syracuse and Rochester, providing them with additional aid in their fiscal years ending June 30, 2010.

**(Veto No. 23, July 21, 2009 and Veto No. 48, August 26, 2009)**

# Government Operations and Community Development

Staff Contacts: Wade Beltramo and Katie O'Neill

**ENACTED**

## **Local Government Consolidation and Dissolution**

Signed into law on June 24, 2009, "The New N.Y. Government Reorganization and Citizen Empowerment Act" (the Act) comprehensively changes the procedure for consolidating and dissolving village governments, making it substantially easier for the public to initiate dissolution and consolidation proceedings. The most significant changes are (1) lowering the number of signatures required to initiate the dissolution and consolidation process from 33% to 10% of the number of a village's registered voters; and (2) mandating a vote to dissolve prior to a study of its potential impacts or development of a plan for its implementation. The Act does not apply to cities.

**(Chapter 74, effective March 21, 2010)**

## **New York Main Street Program**

Established in 2004, the New York Main Street program supports the renewal of New York's cities, villages and towns by funding streetscape improvements, façade renovations, and building and residential rehabilitation. This law amends the Private Housing Finance Law to improve the Main Street program by allowing local governments to directly participate in the program (something they could not do before), increasing the maximum funding award from \$200,000 to \$500,000, and authorizing awardees to spend up to 7.5% of the award for administrative and planning expenses.

**(Chapter 389, effective August 26, 2009)**

## **Historic Property Tax Credit**

To improve upon New York's current Historic Properties Rehabilitation Tax Credit Program, which was established in 2006, this law increases the rate of credit for eligible commercial properties from 6% to 20%, thereby allowing a higher percentage of qualified rehabilitation costs to be eligible for the program. Additionally, the law increases the credits available for commercial projects from \$100,000 to \$5 million and increases the cap on the residential credit value from \$25,000 to \$50,000. The rehabilitation tax credit will also be offered as a rebate, thereby making the program a stronger financial incentive for homeowners without significant income tax liability. Finally, the areas eligible for application of the historic property tax credit are expanded to include residential structures located within census tracts which are identified as at or below 100% of the state's median family income in the most recent federal census.

**(Chapter 239, effective July 28, 2009, applicable to taxable years beginning on and after January 1, 2010)**

### **Open Meetings Law Notice Requirements**

Amends the Public Officers Law to require that local governments, when possessing the ability to do so, conspicuously post notice of the time and place of a meeting on the municipality's internet web site.

**(Chapter 26, effective May 12, 2009)**

### **Processing FOIL Requests via Electronic Mail**

Requires local governments and other public agencies to accept requests for records submitted through electronic mail, provided there is the means to do so. Also provides that a municipality must respond to such requests, to the extent practicable, by electronic mail.

**(Chapter 27, effective May 12, 2009)**

**VETOED**

### **Open Meetings Law – Penalty Provisions**

Would have amended Public Officers Law § 107 to authorize courts to invalidate actions of public bodies not only when the action was taken in violation of the Open Meetings Law, but also when substantial deliberations relating thereto occurred in violation of the Open Meetings Law. Additionally, the bill would have authorized courts to impose a civil penalty of up to \$500 against any public body that violates the Open Meetings Law.

**(Veto No. 3, May 12, 2009)**

### **Historic Property Neglect**

Would have amended General Municipal Law § 96-a to authorize counties, cities, villages and towns to prohibit neglect of historic properties which results in substantial deterioration of the property. This bill was vetoed on the grounds that municipalities already have the authority to prohibit neglect and require routine and major maintenance of historic properties. In addition, there were concerns about the narrow definition of "substantial deterioration" which some feared could be interpreted as triggering maintenance only when a building is on the verge of collapse, defeating the underlying purpose of the legislation.

**(Veto No. 28, August 11, 2009)**

### **Accessibility Requirements at Polling Sites**

Would have amended the Election Law to require all polling sites that fail to meet the existing state and federal Americans with Disabilities Act accessibility standards to make the necessary changes and/or modifications within six months from the time such a place was deemed inaccessible.

**(Veto No. 60, September 16, 2009)**

### **Westchester Workforce Housing Incentive Program**

Would have added Article 16-A to General Municipal Law, establishing the Westchester Workforce Housing Incentive Program. Also, would have required 10% of the total units of any new construction of five or more residential units to be affordable housing units, and would have provided for density bonuses for builders and developers.

**(Veto No. 62, September 16, 2009)**

## **Legislation Awaiting Action by the Governor**

### **Public Authorities Reform**

Would add significantly to the Public Authority Accountability Act's already cumbersome regulatory requirements. Specifically, this legislation would increase the reporting requirements that the state's authorities must comply with, would subject numerous locally constituted "state authorities" to state control, and would impose additional constraints on these authorities – such as requiring State Comptroller approval of contracts exceeding \$1 million – that would impede their ability to function efficiently. Finally, the legislation proposes to remove authorities' power to dispose of property for less than fair market value, even if the disposition would further the public's health, safety or welfare, or an economic development interest of the state or local community. Such a restriction would cripple many of the state's public authorities, greatly hampering their ability to undertake projects in furtherance of their enabling purposes or the public welfare.

**(A. 2209-C, Awaiting Delivery to the Governor)**

# Employee Relations and Public Safety

*Staff Contact: John Galligan*

**ENACTED**

## **Right to Belated COBRA Election Coverage in Accordance with Federal Law**

Allows individuals losing health insurance coverage to make belated COBRA elections in accordance with the American Recovery and Reinvestment Act which allows a nine month, 65% reduction in health insurance premiums if continuation coverage is elected.

**(Chapter 7, effective March 20, 2009)**

## **Extension of Compulsory Arbitration**

Extends, to June 30, 2011, the statute which allows a union representing police officers or firefighters to seek compulsory arbitration of an impasse in collective negotiations.

**(Chapter 28, effective June 30, 2009)**

## **Extension of the Injunctive Relief Law**

Extends, to June 30, 2011, the statute which permits a union to seek injunctive relief in connection with an alleged improper practice under the Taylor Law.

**(Chapter 29, effective June 30, 2009)**

## **Extension of School Retiree Health Insurance Mandate**

Extends, to May 15, 2011, the prohibition on changes in health insurance benefits or health insurance costs for school district retirees.

**(Chapter 30, effective May 12, 2009)**

## **Expansion of Unemployment Insurance Benefits**

Expands the definition of the term “good cause” to allow for the receipt of unemployment insurance benefits by those separating from employment for a “compelling family reason” which would include domestic violence, family illness, or a removal from the labor market to accompany a spouse to a different geographic area as a result of the spouse’s acceptance of new employment. The estimated cost to local governments in 2009 is approximately \$25 million.

**(Chapter 35, effective May 20, 2009)**

## **Operation of a Fire Truck Without a CDL**

Permits the operation of a fire truck without a Commercial Driver’s License (CDL) during emergency situations or during the performance of official duties or activities related to emergency governmental functions.

**(Chapter 36, effective May 21, 2009)**

## **Extension of All Temporary Retirement Benefits**

Extends, to June 30, 2011, any temporary retirement benefit which would have expired in 2009.

**(Chapter 80, effective July 7, 2009)**

**Extension of COBRA Continuation Coverage**

Expands the length of time, from 18 to 36 months, for individuals to elect to continue health insurance coverage when such coverage has been lost due to an involuntary termination of employment by a municipality having fewer than 20 employees.

**(Chapter 236, effective July 1, 2009)**

**Extension of Health Insurance Coverage for Unmarried Children**

Provides for the extension of health insurance coverage for an unmarried child of an insured through age 29.

**(Chapter 240, effective September 1, 2009)**

**Prohibition on the Use of the Term “Oriental” on Municipal Forms**

Bans the use of the term “Oriental” on any municipal form or pre-printed document and requires replacement with the term “Asian” by January 1, 2010.

**(Chapter 385, effective August 26, 2009)**

**Transfer of Police and Fire Retirement Service Credit Back to the Employees' Retirement System**

Allows certain members of the NYS Police and Fire Retirement System who had previously transferred service credit from the NYS Employees' Retirement System (ERS) to transfer all service credit earned back to the ERS.

**(Chapter 390, effective August 26, 2009)**

**VETOED**

**Tier 2 Membership for Newly Hired Police and Firefighters**

Would have extended Tier 2 membership eligibility for any police officer or firefighter hired after June 30, 2009. Newly hired police and firefighters now receive a lesser retirement benefit which requires a 3% contribution during the employment of the individual.

**(Veto No. 5, June 2, 2009)**

**Workplace Violence Study by the NYS Department of Labor**

Would have authorized the NYS Department of Labor to study hostile workplace behavior and its consequences.

**(Veto No. 30, August 11, 2009)**

**Public Authority Subcontracting**

Would have established guidelines that public authorities must adhere to prior to entering into a contract for professional, maintenance, clerical or technical services. This would include determining that such contract is cost effective by conducting a cost benefit analysis, as well as preparing a statement indicating compliance with such guidelines.

**(Veto No. 66, September 16, 2009)**

# Environment and Energy

*Staff Contact: John Mancini*

**ENACTED**

## **Local Disaster Preparedness Planning**

Amends the Executive Law to require that neighboring governments, excluding New York City, have consistent disaster preparedness plans to ensure a smooth, safe and workable evacuation response. If such plans do conflict, the county is responsible for coming up with a resolution. If a local disaster preparedness plan conflicts with any plan developed by a municipality in another county, such conflict shall be resolved by the State Emergency Management Office.

**(Chapter 415, effective February 22, 2010)**

## **Intervenor Funds for Proceedings Relating to Siting of Major Utility Transmission Facilities**

Makes funding available to host communities seeking to intervene in proposed electric transmission projects. The funds may be used to hire expert witnesses, consultants and legal representation, providing municipalities and others with the financial resources necessary to play an active role in the siting process.

**(Chapter 349, effective August 26, 2009)**

## **Expansion of OGS Purchasing Authority**

Authorizes the Office of General Services (OGS) to purchase and deliver, as centralized services, renewable energy and renewable energy credits, along with electricity, from the New York Power Authority and other suppliers. This will allow qualified entities to purchase “green energy” through OGS.

**(Chapter 410, effective August 26, 2009)**

## **Large Print Versions of Utility Bills**

Amends various sections of the Public Service Law and General Business Law requiring that telephone, cable and utility bills issued by companies or municipal electric or gas utilities be offered in large print, when requested, to accommodate the visually impaired and elderly customers.

**(Chapter 359, effective April 1, 2010, except for those companies that service less than fifty thousand customers, November 1, 2010)**

## **Green Jobs/Green New York Act**

Establishes the Green Jobs/Green New York initiative to reduce New York’s energy consumption and create green jobs throughout the state. Provides funding – some of which will flow through a revolving loan fund – to communities, homes, small businesses and not-for-profits for energy audits, energy efficient retrofits for property owners and green jobs training. This law also establishes a Green Jobs/Green New York Advisory Council to advise the New York State Energy Research and Development Authority (NYSERDA) on the creation and implementation of the Program.

**(Chapter 487, effective October 9, 2009)**