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**Association of Towns of the State of New York (AOT)**

*Service and Representation for Town Governments of New York*

January 30, 2017

PUBLIC HEARING  
on  
2017-2018 Executive Budget

Presented to  
Senate Finance Committee  
and  
Assembly Ways and Means Committee

Hearing Room B, Legislative Office Building

**Presented by**

Gerry Geist, Executive Director, Association of Towns  
Rebecca Haines, Town Clerk, Town of Ellery, Chautauqua County  
Ed Theobald, Supervisor, Town of Manlius, Onondaga County  
Bill Moehle, Supervisor, Town of Brighton, Monroe County

## **Greeting and Preliminary Statement**

Good Afternoon, it is my pleasure to be with you today. My name is Gerry Geist. I am the Executive Director of the Association of Towns and a former town board member in the Town of North Castle, Westchester County. Thank you for the opportunity to appear today on behalf of the Association of Towns to discuss the impact the Executive Budget will have on town budgets and services. With me today are: Rebecca Haines, Town Clerk, Town of Ellery, Chautauqua County; Ed Theobald, Supervisor, Town of Manlius, Onondaga County; and Bill Moehle, Supervisor, Town of Brighton, Monroe County.

The Association of Towns was formed in 1933 by town officials to help towns obtain greater economy and efficiency. Towns are located in every county except those counties contained within New York City. Approximately 8.7 million people (46 percent of the state's population) live in towns. Our Association serves town governments by providing training programs, research and information services, technical assistance, legal services, insurance programs and advocacy.

## **Trust in Local Government**

Several trusted state and national polls have asserted that American citizens believe in their local governments. For the last 15 years, Gallup has found that Americans have the most trust and confidence in their local governments,<sup>1</sup> including a 2016 Gallup poll that showed an overwhelming majority of Americans – 70 percent – have trust and confidence in local government leaders.<sup>2</sup> In 2015, the Siena Institute found that that a similar number of New Yorkers say “local government is better at understanding and responding to voter needs.”<sup>3</sup>

## **State of Town Finances**

### **Finances: Reserve Funds and Fiscal Stress**

Towns are doing a great job. They are in a much better position to be able to respond to fiscal emergencies, natural disasters and unforeseen events than they were a few short years ago. While towns

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<sup>1</sup> “Trust in Government Highest at Local Level” Public Affairs Council IMPACT May 2015 page 7,

<sup>2</sup> McCarthy “Americans Still More Trusting in Local Over State Government” | Gallup September 2016.

<sup>3</sup> “Trust in Government Highest at Local Level” Public Affairs Council IMPACT May 2015 page 7.

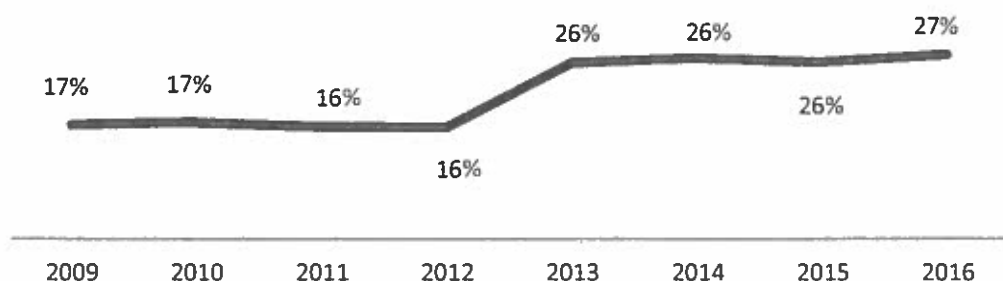
are still 16 percent below the levels of adjusted, unallocated reserves held in 2006, that gap has narrowed by 45 points since 2011, the most recent low point. Furthermore, the most recent *Fiscal Stress Monitoring* report from the Comptroller's Office found that just two towns were under significant fiscal stress. It should be noted that both towns (and two others) have consistently been on the comptroller's list, signifying that they may not be getting the assistance they need. The vast majority of towns, 98 percent, have not been designated as facing even moderate fiscal stress. Again, towns are doing a great job.

- **Recovered Liquidity: Unallocated Fund Balances**
  - Unallocated fund balances have returned to pre-Great Recession levels in unadjusted dollars.
  - In 2011, unallocated reserves were 30 percent below the 10-year average, but in 2015, such reserves were 16 percent above the 10-year average.
  - When adjusted for inflation, however, unallocated funds are 84 percent of what they were in 2006.
  
- **Fiscal Stress: None for Most, Transient for a Few, Consistent for Four**
  - Towns listed in Fiscal Stress Monitoring reports generally move off that list within a year or two.
  - The two towns most recently designated as under significant fiscal stress have been on the comptroller's list of distressed municipalities every year for the last four years.
  - Two additional towns on the most recent listing have also faced some level of fiscal stress for the last four years and are currently under moderate fiscal stress.
    - This suggests that these particular towns may not be getting the assistance they need.

### **Operating Successes: Employees and Shared Services**

The trend of towns replacing full-time equivalent employees with part-time equivalent employees continues. Where the town workforce used to be made up of 17 percent part-time equivalent/83 percent full-time equivalent workers, for the last four years, the split generally has been 26/74. In 2016, 27 percent of town workers were part-time equivalent, which is a full percentage point higher than the prior year. And 2017 median part-time and full-time equivalent wage has declined slightly from last year's amounts. Since 2009, the median part-time equivalent wage has fallen by more than \$1,100. Towns are doing more with less and are paying workers less to do it.

## Town Workers: % Part-Time Equivalent



Local governments in New York State have a long history of sharing services. When local government services were divided into 29 categories, New York's local governments, on average, shared 27 of them with other localities.<sup>4</sup> The average length of these sharing agreements was 18 years.<sup>5</sup> Such efforts bear fruit. In 2015, the Division of the Budget estimated that property taxpayers would save \$2.4 billion as a result of just the efficiencies accounted for in the Tax Freeze Efficiency program over three years.<sup>6</sup>

Shared service agreements can range in size from the large (e.g. 14 municipalities joining together to protect a 100,000-acre watershed)<sup>7</sup> to the small (e.g. the towns of Holland and Wales in Erie County sharing a dog control officer). In fact, Erie County surveyed its constituent municipalities on shared services to reveal more than 440 distinct arrangements. A listing from the established joint activity districts in the state illustrates the breadth of the subjects covered through these shared activities: airports and aircraft safety, ambulance service, building and fire code enforcement, cable franchises, coordinated assessments, drug abuse prevention, economic development zones, environmental commissions, firehouses, fuel farms, golf courses, health insurance, landfills, lighting districts, mass transit, municipal buildings, solid waste transfer stations, parks, planning, police, recreation arenas, recreation commissions, senior programs, sewer service, swimming pools, water service, waterfront management and youth programs.

<sup>4</sup> Homsy, G.; B. Qian, Y. Wang; and M. Warner (2013). Shared Services in New York State: A Reform that Works, Summary of Municipal Survey in NYS, 2013, Shared Services Project, Dept of City and Regional Planning, Cornell University, Ithaca, NY.

<sup>5</sup> *Ibid.*

<sup>6</sup> Joseph Spector, "Efficiency plans approved for local governments," *Rochester Democrat and Chronicle*, October 15, 2015. <http://www.democratandchronicle.com/story/news/local/2015/10/14/efficiency-plans-approved-local-governments/73962544/>

<sup>7</sup> Canandaigua Lake Watershed Council membership includes the City of Canandaigua, towns of Bristol, Canandaigua, Gorham, Hopewell, Italy, Middlesex, Naples, Potter, and South Bristol and the villages of Naples, Newark and Rushville, and the Wayne County Water and Sewer Authority.

When facing fiscal stress, local governments are as likely to explore additional shared service arrangements as they are to consider personnel cuts; they are three times more likely to initiate additional shared service arrangements than eliminate services.<sup>8</sup> Shared service is not just a standard model of operation during good times; it is a lifesaver when times are tough. Sharing services is a fundamental aspect of town operations.

## **Lowering Property Taxes Through State Action**

### **Real Property Tax Exemption Reform**

We believe the state has an opportunity with this budget and this legislative session to provide property tax relief. One way the state can address rising property taxes is to address property tax exemptions. As highlighted in the recent Gannett news series, 31 percent of New York's land value is tax exempt.<sup>9</sup> This takes \$866 billion off of the tax rolls. In less than 20 years, religious exemptions have nearly doubled from \$14 billion in 1999 to \$26 billion in 2015.<sup>10</sup> Even though tax-exempt properties do not pay taxes, they still receive services, which must be paid for by homeowners, small businesses and farmers. Real Property Tax Law §420-a exemptions for the moral and mental health of men, women and children have increased by more than 300 percent since 1982, while educational nonprofit organizations receiving exemptions increased by more than 150 percent.<sup>11</sup> These figures exist despite a 1993 panel's finding that "exemptions are now a significant source of fiscal stress for (local) taxing units' in New York."<sup>12</sup> In fact, the overextension of property tax exemptions for such properties was addressed in 1975 by a state commission, which found that the courts were extending the benefit to properties associated with private, entrepreneurial activity, which presented both a fiscal liability to local governments and provided a source

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<sup>8</sup> Homsy, 2013, *supra*.

<sup>9</sup> see Jon Campbell, *Taxed off: Tax-free properties mean you pay more*, Iohud The Journal News, October 30, 2016

<sup>10</sup> Adrienne Sanders, *New York religious property tax breaks soar heavenward*, Iohud The Journal News, October 26, 2016

<sup>11</sup> *Evaluating the Needs for and Costs of New York State Property Tax Exemptions*, 2009 Report of NY Senate Select Comm. on Budget and Tax Reform at 4

<sup>12</sup> *Interim Report*, December 1993 Report of Governor's Panel on Real Property Tax Exemption and Classification Issues at 4, quoting John K. Mullen, *Property Tax Exemptions and Local Fiscal Stress*, National Tax Journal, December 1990

of local irritation.<sup>13</sup> That is, the systemic erosion of the tax base has been an issue for more than 40 years, and yet, the number of exemptions continues to climb.

As a result of the number of exempt properties throughout the state, local governments are forced to shift the tax burden of hundreds of billions of dollars in equalized value onto non-exempt taxpayers.<sup>14</sup> There are municipalities in the state with as much as 88 percent of the tax base exempt from taxation;<sup>15</sup> this means that the remaining 12 percent of taxpayers are required to assume 100 percent of the tax burden. These numbers are staggering and unsustainable. We recognize that some exemptions are constitutionally derived, but the courts have expanded those ideals to the detriment of homeowners, small business owners and farmers. We know you have studied this issue, and we would like to work with you to address this inequity and get to the real root of New York State's property tax issues.

## **Reduce Property Taxes by Increasing State Aid to Local Governments**

### **General Purpose Revenue (AIM Funding)**

General purpose revenue sharing is currently provided through the Aid and Incentives to Municipalities program (AIM). AIM was cut in 2009 and again in 2010 and has been flat since 2011. The cuts alone represent a 7 percent reduction, and when inflation is factored in, AIM has fallen 11.5 percent. To make cities, towns and villages whole for the amount of AIM lost to inflation and the early recession cuts would be an additional \$133.4 million, so our members are requesting a 50 percent increase in AIM funding over a multiyear period. Town taxpayers are well-overdue for an increase in AIM funding; unfortunately, the Executive Budget again proposes no increase in AIM funds, representing another missed opportunity to use a proven property tax reduction tool to its fullest potential. Municipalities will again share \$714.7 million dollars in AIM funding: Towns will share \$47.9 million (6.7 percent of the total); villages will share \$19.7 million (2.5 percent of the total); and cities will share \$647.1 million, (90.5 percent of the total).<sup>16</sup>

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<sup>13</sup> *id.* at 29, quoting *The Real Property Tax*, 1975 Report of the Temporary State Commission on State and Local Finances, Vol. 2 at 126.

<sup>14</sup> *Evaluating the Needs for and Costs of New York State Property Tax Exemptions*, 2009 Report of NY Senate Select Comm. on Budget and Tax Reform at 2

<sup>15</sup> NYS Dept. of Taxation and Finance, Exemptions from Real Property Taxation in New York State: 2010 County, City and Town Assessment Rolls [accessed January 27, 2017]

<sup>16</sup> Aid to Localities Budget Bill S2003/A3003 page 1060

Even more concerning than the flat AIM funding, the Governor has proposed to condition the distribution of AIM funding on the adoption of another local government efficiency program.<sup>17</sup> According to the New York State Department of State's *Local Government Handbook*, "General purpose assistance can be defined as financial aid for the support of local government functions without limitation as to the use of such aid and without the substantive program and procedural conditions that are routinely attached to categorical grants-in-aid." AIM funding is not a categorical grants-in-aid program such as the Municipal Restructuring Fund or the Local Government Performance and Efficiency Program. Rather, the purpose of AIM funding is to provide "flexible equitable and predictable" funding to local governments.<sup>18</sup> So, this condition goes against the very purpose of general purpose assistance. We simply cannot support placing conditions on AIM funding, and are not alone in our concern. A recent editorial in the Schenectady Daily Gazette raised a call to arms to reject this proposal: "The Legislature should cross that line out of the budget before the ink dries, or face a revolt like they've never seen. Make sure your local representative in the Assembly and the Senate knows how you feel."<sup>19</sup>

### **Efficiency, Cooperation and Consolidation**

The Executive Budget continues funding for various existing consolidation and efficiency programs administered by the Department of State. The Municipal Consolidation and Efficiency Competition (MCEC) (\$20 million), the Municipal Restructuring Fund (\$25 million), the Local Government Performance and Efficiency Program (\$4 million), Citizen Empowerment Tax Credits and Citizens Reorganization Empowerment Grants (CREG) (share \$35 million).

### **New County-Wide Shared Services Property Tax Savings Plan**

In addition to continuing funding for existing efficiency, cooperation and consolidation programs, the Governor's budget proposes a new short-term, unfunded, county-wide shared services mandate, which largely affects middle-class taxpayers. This new efficiency program would be in effect for 2017 and 2018. The Governor's budget proposes to amend the Municipal Home Rule Law (adding a new §39) to create a new county-wide shared services property tax savings plan requirement. If adopted, each county executive/manager outside of New York City would be required to develop a property tax savings plan for shared, coordinated and efficient services among the cities, towns and villages located within the county,

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<sup>17</sup> Aid to Localities Budget Bill S2003/A3003 page 1060

<sup>18</sup> McCall "A Brief History of General Purpose State Aid to Local Governments" Office of the State Comptroller, March 1998

<sup>19</sup> "Don't tie local aid to new mandate Consolidation and sharing of services is worthy goal, but..." The Daily Gazette Editorial January 25, 2017

seeking input from the public at a public hearing, as well as from the town supervisors and city and village mayors within the county before submitting the plan to the county legislative body. The property tax savings plan must be submitted to the county legislative body by August 1, 2017, along with a certification of the tax savings, which must also be submitted to the Division of Budget. The county legislative body has the authority to modify the plan upon its submission, without input from the impacted municipalities, community leaders or the public. The plan must be then finalized by the county executive/manager by September 15, 2017 and disseminated to the public, to then be voted upon at the 2017 general election. If approved, the plan must be implemented by January 1, 2018. If the vote fails, the county executive/manager must go through the process again and resubmit it to the voters at the 2018 general election. Implementation requires compliance with article 9 of the New York State Constitution, the Municipal Home Rule Law, Statute of Local Governments, article 5-g of the General Municipal and other applicable laws. There is no direct funding appropriated to assist local governments in the compliance of these requirements. In addition, this program does not include school districts or the City of New York.

Local government officials believe in working cooperatively and have utilized their authority to share services, equipment, facilities and operations for generations. In fact, local governments often work cooperatively to address new regulatory requirements. For example, many communities collaboratively responded to new training, public outreach and reporting requirements associated with the federal MS4 stormwater regulations. Local governments in Erie and Niagara counties have joined together to respond to the MS4 regulations through the formation of the Western New York Stormwater Coalition.<sup>20</sup> A similar approach was replicated across the state (e.g. Monroe County Stormwater Coalition; Central New York Stormwater Coalition; Stormwater Coalition of Albany County; Jefferson County Stormwater Coalition; Chemung County Stormwater Coalition; Ontario-Wayne Stormwater Coalition; Broome Tioga Stormwater Coalition; Saratoga County Intermunicipal Stormwater Management Program).

In 2005, before Governor Cuomo was in office, Broome County hosted a shared services summit. Through this effort, the participating municipalities identified 170 different instances of shared services, an average of nearly eight services per local government. These services included sharing highway equipment and snow removal, parks and recreation activities, firefighting, animal control, economic

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<sup>20</sup> Rossi "Western New York Stormwater Coalition: Compliance through Collaboration" Erie County; Buffalo State College - SUNY (2009)



development, police records and investigations, and financial and legal services.<sup>21</sup> More recently, Dutchess County has created a shared services program where the county facilitates discussion about sharing of services and even awards funding to help implement the ideas. For example, Dutchess County provided funding to the towns of Clinton, Milan, Red Hook and Rhinebeck to share a compact excavator for ditch cleaning and culvert pipe replacement, thereby reducing costs by eliminating the need for individual towns to rent equipment annually.<sup>22</sup>

Municipalities work together both formally and informally to reduce purchasing costs. For example, several counties and other local governments created the Hudson Valley Municipal Purchasing Group to save costs and improve the administration of their purchasing needs. In 2013, several regional municipal purchasing groups joined together to form the Empire State Purchasing Group, which is a statewide purchasing cooperative that includes, towns, cities, villages, counties, school districts and BOCES, among others.<sup>23</sup> In addition to the statewide purchasing cooperative formed by local governments, municipalities can piggyback off of contracts let by the Office of General Services and several national government purchasing cooperatives. Many town highway departments purchase their salt and sand through OGS or the county. Even with numerous opportunities for local governments to engage in cooperative purchasing activities, according to a 2014 Empire Center report, sometimes, a local government can get a better price on its own.<sup>24</sup> Towns that choose not to piggyback off an OGS contract or participate in a purchasing cooperative do so not because they do not wish to work with other local governments or to save taxpayer money but simply because they have evaluated their options and decided that the commodities purchased individually will better meet their needs.

In addition, to all of the organically generated shared services, local governments are currently implementing the efficiencies and shared service ideas identified in the recent tax freeze program, which are not even required to be fully implemented until 2019. Sixty-five percent of towns participated in the tax freeze efficiency plan program, and more would have liked to participate if time, resources and results permitted. While we would appreciate additional funding to help create and implement shared service agreements, we do not believe that it is necessary to establish another state-imposed initiative to encourage town officials to talk to each other and work together. If the state would like to facilitate and

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<sup>21</sup> Sinclair, "Broome County Shared Services Summit Final Report" (2005).

<sup>22</sup> More examples are available on the Dutchess County Website [www.co.dutchess.ny.us/CountyGov/22380\\_22384.htm](http://www.co.dutchess.ny.us/CountyGov/22380_22384.htm).

<sup>23</sup> <http://legacy.empirestatebidsystem.com/>

<sup>24</sup> Hoefer and Wright "Municipal Cooperation: Sharing Services in NY" Empire Ideas Reports (2014)

encourage collaboration, we would be happy to work with you to find ways to make it easier for local governments to share services and work cooperatively. Eliminating barriers to cooperation might spark some new ideas. Providing more tools to get local governments started would be helpful. For example, how-to guides such as the State Comptroller' *LOCAL GOVERNMENT MANAGEMENT GUIDE on Shared Services* provides a blueprint to starting and managing shared services. In addition, the technical assistance provided by the Division of Local Government at the Department of State is also helpful in facilitating local cooperation. Additional funding with a streamlined application process would also be helpful. The Restructuring Local Government initiative at Cornell University has produced some reports on shared services including one authored by Xiaomeng Li titled "Barriers to Intermunicipal Service Sharing in NYS," which outlines several ways to improve our ability to share services. If, through your negotiations with the Governor, you determine that a new state program is warranted, we are eager to work with you to create a program that works for local governments and taxpayers while ensuring access to quality services.

### **Funding for Roads and Bridges**

Crumbling roads and bridges will not attract businesses or tourists to New York and will prevent our children from arriving safely to school. Numerous studies and capital plans have shown the need for increased funding for local roads and bridges. The Executive Budget continues funding with no increases for CHIPs (\$438.1 million) and the Municipal Streets and Highways Program (Marchiselli) (\$39.7 million). In addition, \$100 million is proposed for year three of the PAVE NY program, and funding is also maintained for the Bridge NY program. CHIPs, Marchiselli and other funding sources for highway improvements are not merely an aid to reduce property taxes, but are an investment in our business community that also ensures the safety of children busing to school and parents commuting to work.

### **Funding Environmental Stewardship**

The Executive Budget proposes to fund the Environmental Protection fund (EPF) at \$300 million. We support the state's continued commitment to partner with local governments to protect our natural resources. In addition, we support the Governor's proposal to increase the state match for the Local Waterfront Revitalization Program from 50 percent to 75 percent.

## **Funding to Provide Clean Drinking Water**

Thank you for your continued investment in clean drinking water through the creation of the Infrastructure Investment Act of 2015 (WIIA). We have joined others calling for the Infrastructure Investment Act of 2015 (WIIA), which is scheduled to sunset after SFY2017-18, to make this program permanent, and we are optimistic that this discussion will lead to much-needed focus on our aging water and wastewater systems. We appreciate the Senate's recent work on this issue and the recommendation for a Clean Water Bond Act (S3772A) to help local governments finance needed system upgrades. In addition, we appreciate the continued work of the Assembly with respect to legislation introduced to help municipalities address aging infrastructure (e.g. A2250).

The Executive Budget contains a new Clean Water Infrastructure Act.<sup>25</sup> The Governor proposes \$2.5 billion in funding to be appropriated over five years (\$400 million annually). These funds may be used for clean water initiatives such as addressing municipal water and wastewater infrastructure needs, replacing lead pipes, protection of drinking water sources and environmental remediation. As part of this initiative, the Executive Budget proposes a new Solid Waste and Drinking Water Response Account – this fund will be established in accordance State Finance Law, §97-b.

The Executive Budget contains some new monitoring, testing and environmental remediation requirements for which grants and matching funds are proposed, subject to annual appropriation. Although we support additional funding to ensure clean drinking water, some of the new testing and remediation requirements put forth in the Executive Budget are not fully funded, or the funding that is provided may lapse in future years, leaving local governments with limited resources to address the new requirements. One way to ensure continued funding for clean drinking water would be to establish a new, recurring dedicated funding program similar to the CHIPs program for roads and bridges. Sens. Tedisco and Boyle and Assembly member Steck are working on legislation to establish such a program that will provide local governments with reliable funding to help maintain and modernize their water, wastewater and stormwater infrastructure. Reliable funding is crucial to comprehensive planning and proper infrastructure management. We encourage you to enact and fund their proposals.

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<sup>25</sup> TED S2008/A3008.

## **Mandate Relief Provided in the Budget**

The Executive Budget provides some mandate relief that we hope will improve government services while lowering costs. We encourage you to approve Part F of the Revenue Article VII Legislation, which authorizes the partial payment of real property taxes unless a town has opted out. This legislation also grants towns the authority to set the parameters of the partial payments and impose a surcharge not to exceed \$10 for each partial payment. This is an example of the kind of relief towns need: it helps us help our residents by enabling them to make partial payments of taxes while solving practical issues. Taxpayers that don't have the ability to pay their tax bill outright can now chip away at their bill, ensuring its full payment. At the end of the day, all we want to do is provide the best service possible to our residents, and legislation like this enables us to meet these goals.

In addition to providing taxpayers with more options to pay their bills, the Executive Budget proposes to lower the interest that we have to pay on damage awards. Part R (S2005/A3005) seeks to amend section 3-a of the General Municipal Law to lower interest rates paid on damage awards. Pursuant to General Municipal Law, §3-an interest paid by municipal corporations on judgments and accrued claims can be as high as 9 percent. Such artificially high interest rates discourage claimants from seeking to promptly resolve outstanding claims against municipal corporations, resulting in extreme hardship on municipal budgets. The Association of Towns urges the Legislature to consider this proposal.

## **Financial Disclosure**

The Association of Towns has long been strong proponent of ethics in local government. However, we cannot support the proposal in the budget that would require elected officials making \$50,000 annually from the municipality in which they serve to file an annual financial disclosure statement with the joint commission on public ethics (JCOPE). First, having a state agency oversee this aspect of local government undermines the very essence of home rule, and the Legislature has already given financial monitoring authority to municipalities. Specifically, those towns, villages, cities and counties with a population of 50,000 or more are already required to file financial disclosure statements with their local ethics board and even those that do not meet the population threshold have the authority to create a financial disclosure statement and require officials or employees to file them with the local ethics board.

<sup>26</sup> In creating these rules, the Legislature recognized that financial disclosure issues are best left at the

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<sup>26</sup> General Municipal Law, §§ 812; 811 [a-1].

local level so that municipalities can create rules that are responsive to the needs and wants of their community and have potential issues reviewed by an independent local body familiar with both state ethics laws and local ethics codes. Respectfully, a state agency will not be familiar with the particular concerns of a community or the local code, nor is it likely to have the enforcement resources to effectively monitor every municipality in New York State; therefore, financial disclosure issues and review should remain at the local level.

The Association of Towns also has significant concerns that, rather than addressing conflict of interest issues as intended, the proposed financial disclosure requirements would have a chilling effect on people considering running for public office. Holding public office of course means being subject to a certain level of scrutiny, but it is not hard to imagine someone who wants to run for office to help and serve their community who is also unwilling to disclose personal financial information, particularly when the position does not involve significant fiscal control or authority. It is difficult to understand what purpose it would serve to have that individual and their spouse file with the state a financial disclosure form that lists, for example, any source of income in excess of \$1,000, something that is required under Public Officers Law, §73-a and may be required under the proposed legislation.

Rather than discourage individuals from running for public office, any ethics rules should foster the high level of integrity that already exists in local government and deter those who would abuse positions of power. We do not believe the Governor's proposal accomplishes those goals. We are happy to work with the Legislature and other interested parties in creating practical and effective ethics reform and look forward to collaborating on this issue.

## **Cemeteries**

Cemeteries are currently owned and operated by a variety of entities including nonprofit cemetery corporations, family cemetery corporations, religious corporations and local governments. Unfortunately, over the passage time, the boards of directors of nonprofit cemetery corporations dwindle and the family members of the deceased become deceased, leaving no one to care for these cemeteries. While the courts have determined that care for the deceased is a proper public purpose, there are few statutory safeguards in place to address the need. Towns are required to care for abandoned nonprofit cemeteries within their borders (Town Law, §291).

The cost of caring for abandoned cemeteries can be overwhelming for small towns and challenging for larger towns. While the state provides some initial funding to address the cost to assume the care of an abandoned cemetery the funding is insufficient to meet future costs. In addition to caring for traditional burial grounds envisioned in Town Law, §291, the Division of Cemeteries has interpreted the law to require towns to take over abandoned mausoleums and crematoriums, adding to the obligation and expense. There are approximately 1,800 regulated not-for-profit cemeteries in New York, many of which are underfunded; 74 percent of New York's large cemeteries are underfunded, and 66 percent of New York's small cemeteries are underfunded. The average cost to town taxpayers to maintain an abandoned cemetery is \$2,500 per acre, and the expense to maintain an abandoned mausoleum or crematorium is considerably more. This year, the Executive Budget proposes \$939,000 to provide funding assistance for abandoned cemeteries. While this funding assistance sounds substantial, it actually fails to meet the need. We would like to encourage you to look at ways to improve the operation and funding of nonprofit cemeteries as well as ways to assist towns in addressing this expense.

## **Conclusion**

Thank you for the work that you do and for the time that we were afforded today to share with you our perspective on the Governor's budget proposal. We look forward to working with you this legislative session.



# Barriers to Inter-municipal Service Sharing in New York State

Xiaomeng Li, Department of City and Regional Planning, Cornell University | January, 2015

## Background

New York State's Property Tax Freeze Credit encourages local governments and school districts to generate long-term tax relief for New York State taxpayers through "sharing services, consolidating or merging, and demonstrating and implementing operational efficiencies" (NYS Department of Taxation and Finance 2014).

But sharing services among NYS municipalities has long been a common practice (Empire Center 2014). A 2013 survey by Cornell University found that municipalities and school districts use service sharing as a way to improve service quality, to save costs, and to improve regional service coordination (Homsy et al 2013). The survey found inter-municipal sharing agreements in NYS have been in place for about 18 years, on average (Homsy et al 2013). The survey also found NYS municipalities have responded to fiscal stress in recent years by exploring additional shared service arrangements (Homsy et al 2013).

However, this task is increasingly challenging for municipalities because 1) the Tax Freeze disregards prior history of sharing (before 2012) and requires new sharing arrangements, and 2) certain state rules and legal regulations have created significant barriers for further sharing (see Table 1). What exactly are these barriers to sharing? This issue brief describes and illustrates the state rules, legal regulations, and labor

agreements that limit more inter-municipal service sharing. These may be areas for policy reform.

We group these barriers into two types: those related to organization and state authority and those related to labor issues and costs. Based on interviews with local officials and review of state rules and documents we describe seven areas where barriers exist to sharing services. These are 1) requirement to have individual authority in order to share a service, 2) Taylor Law and Triborough Amendment, 3) Public Referendum, 4) Sunset on Procurement, 5) Wick's Law, 6) Prevailing Wage, 7) Special Districts.

## Barriers to Sharing

**1. New York State laws require each participant in a service sharing agreement have individual authority for the service in question.**

### Problem:

The NYS Constitution and General Municipal Law Article 5-G provides a broad legal framework for sharing among municipalities in general, but not without restrictions. The following provisions require that each participant in a service sharing agreement have the individual authority to provide the service or action.

**Table 1: Obstacles to Shared Service Agreements**

Issues	% Municipalities Ranking As Important
State rules/legal regulations (N=754)	83%
Restrictive labor agreements/unionization (N=769)	65%

Source: Cornell University, New York State Municipal Shared Services Survey, 2013



The Shared Services project is directed by John Sipple and Mildred Warner of Cornell University and funded by the Municipal Innovation Exchange and the US Department of Agriculture Hatch and Smith Lever grant programs, administered by the NYS Agricultural Experiment Station at Cornell University. Additional information can be found at [www.mildredwarner.org/restructuring/nys](http://www.mildredwarner.org/restructuring/nys).



### Provisions:

"No county, city, town, village or school district shall... give or loan its credit to or in aid of any individual, or public or private corporation or association, or private undertaking, except that two or more such units may join together pursuant to law in providing any municipal facility, service, activity, or undertaking which each of the units has the power to provide separately" - may contract joint or several indebtedness. [Constitution article VIII, §§ 1, 2-a; State Finance Law § 54(10)(H); Local Finance Law § 15]

"Municipalities may use CLS Gen Mun Art 5-G to undertake cooperatively activities which they independently have authority to undertake." 1994 NY Ops Atty Gen 94-4 (Informal), 1994 N.Y. AG LEXIS 3. [NY CLS Gen Mun § 119-o]

While the individual authority requirement might be necessary in some cases, it may also create significant regulatory barriers for service sharing where it makes sense financially to do so. The following examples illustrate how this requirement may hamper the ability of local governments to work with schools on a mutually beneficial and potentially cost saving sharing opportunity.

### Example:

Municipalities are required to provide school crossing guards to aid in protecting children going to and from school (General Municipal Law, §208a) but oftentimes lack the financial resources to do so. School districts may have the financial means, but are not authorized to provide school crossing guards. This creates a mutually beneficial municipal-school district sharing opportunity. However, due to the individual authority clause of the General Municipal Law § 208a, school districts and municipalities may not share responsibilities in employing school crossing guards.

The following quote is the response of the State Comptroller (Opns St Comp, 1981) to a municipality's inquiry about the issue:

"However, General Municipal Law § 208a only authorizes cities, towns, villages, counties, or

police districts to employ persons as school crossing guards, and this authority is not conferred on school districts. Consequently, a school district may neither employ school crossing guards nor contribute to the expense borne by a city which employs them (24 Opns St Comp, 1968, p 793; Opns St Comp, 1972, No. 72-967 and 1977, No. 77-277).

Therefore, due to the lack of the required individual authority, a school district may not enter into a contract with a municipality whereby the school district pays for all or part of the cost for crossing guards."

### Recommendation:

Allow service sharing without requiring individual authority, as long as the municipality that administers the service has the authority.

To illustrate using the aforementioned example, the municipality still has to be the entity that provides the service, but the school district is allowed to partake or provide monetary contribution for such service. This would enable municipalities to use sharing arrangements to increase the quality of services available to their residents.

## 2. NYS Taylor Law and the Triborough Amendment: Municipalities can share, but it may end up costing more.

### Problem:

The Public Employees' Fair Employment Act, commonly referred as the Taylor Law, and the Triborough Amendment require collective bargaining, and the continuance of previous terms until a new contract is negotiated, both of which have important implications for inter-municipal sharing. When sharing and consolidation occurs, employment 'terms and conditions' related issues<sup>1</sup> would inevitably come up.

<sup>1</sup> E.g. subcontracting with another entity to provide a service previously performed by unit members, eliminating existing positions within the unit, transferring employees between units, changes in salaries and hours, etc.



### Provisions:

Following the expiration of a contract, public employers could not unilaterally alter any of its employees' "terms and conditions of employment" while negotiating a successor agreement with the employee organization. [5 PERB Section 3037 (1972)]

Public employers are required to negotiate in good faith with any duly recognized or certified employee organization concerning any addition, deletion, and/or modification of a mandatory subject of bargaining, which are "terms and conditions of employment." [Civil Service Law Section 204(2)]. Terms and conditions include salaries, wages, hours, agency shop fee deductions, longevity, paid time off, retiree benefits, insurance, safety, subcontracting, and transfers of bargaining unit work, among others. [Civil service Law Section 201(4)]

For nonmandatory subjects of bargaining, public employers have the right to take unilateral action. However, if that action has an impact on the "terms and conditions of employment" of its employees, the employer may still be obligated to negotiate the impact of its unilateral action with the union. [City Sch. Dist. of New Rochelle, 4 PERB Section 3060 (1970)]

Even though more recent legislative changes have further empowered municipalities and citizens to initiate consolidation and dissolution as well as established standards and procedures, they have done very little to address this costly and complicated aspect of such actions – the impacted public sector employees. For example, the 2010 'New N.Y. Government Reorganization and Citizen Empowerment Act' in effect allows for the duplication of positions after consolidation in order to avoid contradicting the existing collective bargain agreements (O'Neil and Murphy 2012).

Consequently, these statutory requirements may incentivize unions to resist changes and thereby obstruct plans for consolidation, or at least engage in stalling agreements in order to maintain costly pay raises and employee benefits (Sykes 2012), not only making the conversations between municipalities and unions very challenging, but

also contradicting one of the important purposes of consolidation – cost-saving.

These legal barriers could prevent cost-effective sharing in the following ways:

- (1) When two municipalities or districts consider consolidating or service sharing, the collective bargaining process may require the consolidated government or shared service pay wages at the higher rate of the two partners.
- (2) It is statutorily required that municipalities cannot take away the work from one civil service unit to another.

### Example:

1. Buffalo, Rochester, and some other New York State municipalities have been exploring opportunities for consolidation, including large-scale city/county consolidations. The issue of leveling pay and benefits between employees from different jurisdictions is often of particular concern, because differences in pay scales are usually leveled up and therefore have a significant impact on the initial investments of establishing the new government structure and the overall cost of the consolidation project. For example, the proposal to consolidate the Buffalo Police Department was strongly questioned on whether an overall net savings was even possible after leveling up the pay and benefit scales (New York State Comptroller 2010).

2. When two school districts consolidate, the salaries of the lower paying district level up to the pay scale of the higher paying one. Westfield Central School District Board member Marie Edward gives an example:

"Contract leveling up is a problem... In our case, Westfield's support staff had a better contract and Ripley teachers had a better contract. Administrative savings from the merger would have been \$300,000, but to level up the contracts would have been more than the savings. So, there were no savings to attract the taxpayers that didn't benefit from improving the educational program aspect of it." (NYSSBA 2013)

### 3. State laws require public referendum for certain sharing arrangements.

#### Problem:

In most cases of consolidation, local government entities are required to conduct public hearings and follow certain civic participatory procedures. But when the action involves towns and villages, a referendum is required pursuant to General Municipal Law article 17a. In addition, NY Town Law section 150 requires that “any local law which seeks to abolish a town police department shall be subject to a permissive referendum”.

#### Provisions:

Towns, Villages, Fire Districts, Special Improvement Districts or other Improvement Districts, Library Districts and other districts created by law except School Districts, City Districts and County Districts – Local government entities may consolidate upon joint resolution of the governing body or bodies endorsing a proposed joint consolidation agreement. **The governing body or bodies must conduct one or more public hearings with prior published notice on the proposed agreement, approve a final version of the joint consolidation agreement, and, in the case of the consolidation of towns or villages, conduct a referendum.** [General Municipal Law article 17-A]

**Any local law which seeks to abolish a town police department shall be subject to a permissive referendum** as provided in article seven of this chapter (NY Code article 7: Permissive Referendum). [NY CLS Town § 150 (2014)]

These mandates create a dilemma for municipalities when local voters prefer retaining local control of a service over possible cost savings. On one hand, a local government is required by the State to cut costs by sharing; on the other hand, it bears the responsibility to provide services in ways that the taxpayers prefer. When it is statutorily required that sharing of a service needs to be approved by voters, it creates barriers for local governments to make sharing or consolidation decisions based on economic considerations.

#### Example:

##### Local Control over Cost Savings?

The Town of Waterford tried to abolish its police department and contract with the Saratoga County sheriff for road patrol to increase the cost-efficiency of the service. The voters in the Town of Waterford decided they would rather pay the extra \$600,000 annually in higher costs to preserve their own police department.

#### Recommendation:

The state might reconsider guidelines on sharing to allow more sharing without public referendum. What is the appropriate tradeoff between potential efficiency and local democratic control?

### 4. Procurement: The sunset clause prevents long-term savings arrangements.

#### Problem:

In 2013 Governor Cuomo signed Senate Bill 3766 into law, which permits a public agency to adopt a piggyback contract with other government entities.

#### Provisions:

Authorizes political subdivisions to purchase apparatus, materials, equipment and related services through contracts let by other government entities or the federal government. [Amd §§103 & 104, Gen Muni Law]

With this new amendment of the General Municipal Law, NYS local governments currently have access to cooperative purchasing. However, this Cooperative Purchasing statute expires on August 1st, 2017, which means that municipalities' access to cooperative purchasing might have a limited timeframe, and if the Bill is not renewed when the time comes, the cost savings would be lost. The following examples illustrate how cooperative purchasing has helped local governments to save costs and why making the Sunset Clause permanent would be instrumental for continued cost-effective service sharing.



**Examples:****Town and Village of Cape Vincent (Jefferson County)**

The Town of Cape Vincent and the Village of Cape Vincent were both in need of new water tanks and combined their efforts to purchase a single 500,000 gallon tank to serve both municipalities. The joint effort has produced \$1 million in savings by eliminating the need for tanks in both the Village and Town water districts. It also reduced the average cost per household in the water districts by approximately \$200 per year. The cost per user to build two tanks was estimated at approximately \$1,000 for town residents. Under the joint purchase, the costs were cut to \$600 per resident. Village residents originally were opposed to the plan because they did not want to pay for Town residential use. This project was recognized by the Central New York Branch of the American Public Works Association as an environmental "project of the year."

Source: <http://s3.amazonaws.com/mildredwarner.org/attachments/000/000/420/original/b69a55719a376aee66614eb61af4d56a>

**Town of Blooming Grove (Orange County)**

There were two bids for heating oil for all Town buildings, one was \$ .47 above the barge price at the date of delivery and the other bid \$ .43 above the barge price at the date of delivery. The Town was able to piggyback on a bid that Putnam County had. This Company is delivering to Putnam County and they bid \$.0899 which is \$ .09 above the barge, [for] a savings of \$ .34 a gallon for heating oil. It is legal for us to do because we are piggybacking on a County bid.

Source: <http://www.ecode360.com/documents/KE0418/public/17598782.pdf>

**Town of Oyster Bay (Nassau County)**

"Oyster Bay estimates it will save 15-25% on its natural gas purchases, paying \$.57 per thermal unit instead of between \$.76 and \$1.08 per

thermal unit [by piggybacking on a contract struck by Nassau County.]"

Source: <http://www.government-fleet.com/channel/fuel-management/news/story/2012/03/town-of-oyster-bay-joins-nassau-county-s-natural-gas-contract.aspx>

**Recommendation:**

The sunset clause should be made permanent so that municipalities and districts could piggybacking on other units' procurement contracts without time constraints.

**5. Wick's Law: Cost thresholds are still too low****Problem:**

Section 135 of the New York State Finance Law, commonly known as the "Wick's Law", requires construction companies to bid separate Multiple Prime Contracts for certain public work projects that exceed certain monetary thresholds. The law was originally put in place in 1912 to promote fair competition among construction project bidders, to prevent bid-shopping, and to protect workers' rights. It was also expected to cut down costs of public construction projects in the long run.

**Provisions:**

Section 135 of the New York State Finance Law, commonly known as the "Wick's Law", requires construction companies to bid specific separate Multiple Prime Contracts for certain public work projects where the cost of the public work exceeds <sup>2</sup>:

- a. \$3 million in Bronx, Kings, New York, Queens and Richmond counties
- b. \$1.5 million in Nassau, Suffolk and Westchester counties
- c. \$0.5 million in all other counties

2. In rare instances this requirement can be waived using a Project Labor Agreement see Section 222 Labor.

However, critics of the Wick's Law contend that the construction industry has become increasingly complex, making it difficult for public agencies – who oftentimes lack construction management expertise on staff – to effectively supervise and coordinate projects themselves, which consequently drives up the costs and the duration of construction projects (Eiseman 2003). For example, according to the 1987 New York State Division of Budget report 'Fiscal Implications of the Wicks Law Mandate', Wick's Law increased construction costs by 24 percent to 30 percent based on an evaluation of various public construction projects such as academic buildings, prisons, and fire stations (NYS Division of Budget 1987). Similarly, the 1991 report conducted by Impact of Wicks Law – Final Report, conducted by the New York State School Boards Association estimated that the Wicks mandate increased project costs anywhere from 20 percent to 30 percent (NYSSBA 1991).

Although the 2008 Wick's Reform has already raised the monetary threshold from a unified \$50,000 to the current levels, some critics argue that (1) these thresholds are still too low for most NY counties, resulting in a larger number of contracts than necessary and adding to the costs, and perhaps (2) there should not be a multiple contract requirement in the first place. The debate centers on to what extent should municipalities be given the choice to decide whether to employ a single general contractor for an entire construction project, or to breakdown the project into several bids and coordinate the work of various prime contractors who specialize in specific areas of the project. While private developers could freely make this decision according to specific needs for each project, NYS public construction projects enjoy no such liberty because of the budget thresholds set by the Wick's Law.

#### Example:

In 2012 Rockland County sought an increase in their Wick's Law Threshold, see A2710 – the bill did not pass .

There is a mention in the Town of Yorktown town

board minutes of March 8, 2000, "Supervisor Cooper also stated that they also asked for changes in the WICKES (sic) Law, a regulation which increases the cost of bids. A good example was the Village of Croton. The Wickes Law added over four million dollars to the cost of a recent proposal."

#### Recommendation:

Increasing the threshold would relieve local governments of unnecessary restrictions on public works projects.

A coalition of business and municipal groups created a mandate relief program called "Let New York Work" which has proposed a uniform \$10 million threshold across the State rather than the tiered threshold enacted in 2008.<sup>3</sup>

#### 6. Prevailing Wage: Municipalities can share, but the wage may level up to the higher cost partners.

##### Problem:

The NYS Constitution and NYS Labor Law require contractors and subcontractors of public works projects to pay the prevailing rate of wage and supplements set for the locality where the work is performed.

The rates of prevailing wage of a particular occupation (except for those for New York City) are determined by the State Department of Labor, based on the "relevant local collective bargaining agreement with at least 30 percent of trade union membership in each jurisdiction" (Citizens Budget Commission 2012, p.2).

<sup>3</sup> Link to NYCOM Memo supporting legislation to increase WICKS thresholds:

[http://www.nycom.org/images/documents/A2031-BVE-LH-wicks\\_law\\_Support.pdf](http://www.nycom.org/images/documents/A2031-BVE-LH-wicks_law_Support.pdf)

[http://www.nycom.org/images/documents/homepage\\_rotators/finalletnywork.pdf](http://www.nycom.org/images/documents/homepage_rotators/finalletnywork.pdf)



**Provisions:**

The NYS Constitution requires that laborers, mechanics and other workers on public projects are paid prevailing wages. New York State Labor Law extends prevailing wage requirements to all building service workers.

“Every contractor shall pay a service employee under a contract for building service work a wage of not less than the prevailing wage in the locality for the craft, trade or occupation of the service employee.” [N.Y. LAB. LAW § 231]

Under New York State Labor Law, contractors and subcontractors must pay the prevailing rate of wage and supplements (fringe benefits) to all workers under a public work contract. Employers must pay the prevailing wage rate set for the locality where the work is performed. Prevailing wage is the pay rate set by law for work on public work projects. This applies to all laborers, workers or mechanics employed under a public work contract.

The Bureau of Public Work administers following articles of the New York State Labor Laws:

- Article 8 (Public Work)<sup>4</sup>
- Article 9 (Prevailing Wage for Building Service Employees)<sup>5</sup>

Critics argue that the process of how prevailing wage is determined lacks transparency and the rates result in unnecessary high and unaffordable costs of construction projects (Citizens Budget Commission 2012). The following examples illustrate how Prevailing Wage requirements drive up government contracting costs.

4. <http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=@SLLAB0A8+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=21196857+&TARGET=VIEW>

5 <http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=@SLLAB0A9+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=21196857+&TARGET=VIEW>

**Examples:**

Based on interview with Warren J. Lucas, Supervisor, Town of North Salem

The 2007 Prevailing and Supplemental Wage Law requires all school districts and municipalities in the State to pay union wages and benefits on any contract. The Town used to have someone who provided tree removal service for \$900/day. With the new rates in place, he has to be paid \$1950/day. On many projects, the larger contractors (who pay prevailing wage) will not even bid.

Similarly, the lowest garbage bid went up 40% in 2012 when it was renegotiated after a previous 6 year contract, during which the annual increase was only 3%. The increase can be primarily attributed to the Prevailing and Supplemental wage law.

**Recommendations:**

NYS should consider adjusting how prevailing wage is calculated and make sure all information used to determine the rates is made available to the public.

The ‘Let New York Work’ coalition has proposed that NYS “use Unemployment Insurance (UI) Prevailing Wage tables to determine regional prevailing wage rate for projects. The wages are updated semi-annually, based on the findings of the semi-annual Department of Labor survey of employers. The information is provided to help employers and unemployed job seekers understand the job titles and wage rates that will determine prevailing wage in local areas across New York State.”<sup>6</sup>

**7. Sharing with Special Districts: When do they Count Against the Tax Cap?**

Whether special districts are subunits of a municipality or separate governments (lateral) has implications for sharing. While subunits (such as Business Improvement Districts) are subject to the cap, lateral districts are not.

6. <http://www.bcny.org/whatsnew/2011/let-ny-work-media-packet-0111.pdf>

Town Special Improvement Districts are typically governed by articles 12 or 12-a of the Town Law. Most districts established after the 1930s are governed by the town board and count towards the town's tax cap levy limit.

There are some Town Special Improvement Districts that were created prior to 1940 that are governed by a separately elected board of improvement district commissioners and these districts do not count towards the town's tax cap levy limit but rather they are separately required to comply with the tax cap on their own (General Municipal Law, §3-c). Municipalities should explore sharing opportunities with these types of special districts.

In fact, Article 5-g of the General Municipal Law authorizes improvement districts to share services, is actually a fairly common practice. Improvement districts share operation and maintenance expenses, billing, staff, professional services, procurement and services such as water or wastewater treatment. For example it is common for water districts to contract with a city or village for water and water treatment.

**Recommendation:**

Excluding subdistricts from the tax cap calculation for a municipality could potentially create more taxing and sharing opportunities. Special districts are a means to pay for services enjoyed

by a district and they promote community led initiatives such as Business Improvement Districts, which help communities promote economic development.

**Conclusion**

This issue brief has outlined seven important barriers to sharing in NYS that can only be addressed at the State level. Allowing sharing, even when a district does not have individual authority and ensuring that sharing with special districts counts under the tax freeze would help encourage more sharing between municipalities and districts of all types. The State could also make permanent the authority to piggyback on state procurement contracts. More controversial is how to balance public referendum and cost savings when the public chooses not to allow cost saving sharing agreements to go forward.

Labor is a major cost in any government services and can be a major sticking point in negotiating sharing agreements. How to balance the interests of different bargaining units in shared agreements need to be carefully considered. Finally, Wick's law and prevailing wage rules should more accurately reflect current contract scale and wage rates that local governments regularly encounter.

To encourage local governments and school districts to share services and save costs, these state level barriers need to be addressed.

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## Appendix: Relevant Excerpts

General Municipal Law article 5-G: MUNICIPAL COOPERATION

NY CLS Gen Mun § 119-n

§ 119-n. Definitions

As used herein:

a. The term "municipal corporation" means a county outside the city of New York, a city, a town, a village, a board of cooperative educational services, fire district, or a school district.

b. The term "district" means a county or town improvement district for which the county or town or towns in which such district is located are required to pledge its or their faith and credit for the payment of the principal of and interest on all indebtedness to be contracted for the purposes of such district. The term "district" shall also mean, for the purposes of joining a municipal cooperative health benefit plan authorized under article forty-seven of the insurance law, a soil and water conservation district established under the soil and water conservation districts law.

c. The term "joint service" means joint provision of any municipal facility, service, activity, project or undertaking or the joint performance or exercise of any function or power which each of the municipal corporations or districts has the power by any other general or special law to provide, perform or exercise, separately and, to effectuate the purposes of this article, shall include extension of appropriate territorial jurisdiction necessary therefor.

d. The term "joint water, sewage or drainage project" means a joint project to provide for a common supply of water, the common conveyance, treatment and disposal of sewage or a common drainage system, as described in paragraphs B, D and F of section two-a of article eight of the constitution.

e. The term "voting strength" means the aggregate



number of votes which all the members of the local governing body of a municipal corporation or district are entitled to cast.

Relevant Excerpts:

General Municipal Law §§ 119-n, 119-o and 120-w permit a city and town to enter into a cooperative agreement to provide garbage pickup service. 1979 NY Ops Atty Gen Sept 18 (Informal), 1979 N.Y. AG LEXIS 38.

Mutual aid must be carried out consistent with provisions of General Municipal Law. 1998 NY Ops Atty Gen 98-53 (Informal), 1998 N.Y. AG LEXIS 61.

School and municipal energy cooperative, entity formed under CLS General Municipal Law Art 5-G, could be subject to tax under CLS Tax § 186. NY Adv Op Comm T & FTSB-A-00-(8)C, 2000 N.Y. Tax LEXIS 146.

Soil and water conservation districts are not included within definition of "municipal corporation" for purposes of CLS Ins § 4702(e) since CLS Soil & W Con Dist § 9 does not empower them to pledge their credit, and they are not included within those entities specified in CLS Gen Mun § 119-n(b). NY Ins Dept Gen Counsel, Opinion No. 04-03-28, 2004 NY Insurance GC Opinions LEXIS 80.

A fire district may enter into a municipal cooperation agreement with an adjoining fire district under Article 5-G of the General Municipal Law under which it would provide one of its emergency rescue vehicles not needed for rescue operations in the district to the adjoining district at such times when the latter's rescue vehicle is inoperative. 1983 NY Ops Atty Gen 83-41 (Informal), 1983 N.Y. AG LEXIS 53.

A county may not own, maintain and operate a cascade vehicle which is to be used at the scene of a fire to replenish the oxygen supply in the firefighter's oxygen tanks since the county would then be actively engaging in fire prevention and protection. 1982 Op St Compt No. 82-280, 1982 N.Y. Comp. LEXIS 453.

A village and its fire department may not agree to transfer fire department monies into the custody of the village treasurer to be jointly invested with village monies. 1991 Op St Compt No. 91-42, 1991 N.Y. Comp. LEXIS 40.

A village police force may patrol an area of a town located outside the village in accordance with a municipal cooperation agreement between the town and the village. 1982 NY Ops Atty Gen 82-25

(Informal), 1982 N.Y. AG LEXIS 83.

Through municipal corporation agreement under Article 5-G of CLS Gen Mun, town may enforce petty offenses for traffic violations on city road located within 100 yards of town, and town police officers' territorial jurisdiction necessary for undertaking of co-operation agreement is extended under CLS CPL § 119-n(c). 1988 NY Ops Atty Gen 88-39 (Informal), 1988 N.Y. AG LEXIS 41.

A county may contract with a village which lies partly outside the county to provide additional police protection by the sheriff. Such a contract would not have to include the adjoining county as a party. Such police protection is limited to the test enunciated in Opn Nos. 71-651, 76-731 and 78-603 but is not subject to the requirement that such police protection be "specialized". To the extent that those opinions are inconsistent with the views expressed in this opinion, they are superseded. 1980 Op St Compt No. 80-284, 1980 N.Y. Comp. LEXIS 260.

A county may enter a contract to provide a village or town with additional police services which are far more intensive than that usually and normally supplied by the sheriff and involving a considerably greater county outlay in money, manpower, and equipment. 1980 Op St Compt No. 80-611.

Town improvement district which is governed by separate board of commissioners is a district for purposes of CLS Gen Mun Art 5-G. 1995 Op St Compt No. 95-7, 1995 N.Y. Comp. LEXIS 4.

A town and a village within the town may not, pursuant to an Article 5-G cooperation agreement, extend the territorial application and effect of a town zoning ordinance or local law into the village. The town and village, however, may separately enact the same substantive zoning regulations. 1984 St Compt No. 84-50, 1984 N.Y. Comp. LEXIS 88.

Two non-contiguous villages may enter into municipal cooperation agreement under CLS Gen Mun Art 5-G before provision of police protection as joint service. 2000 Op St Compt No. 2000-24, 2000 N.Y. Comp. LEXIS 28.

Joint village and town planning board, formed to consider land use applications relating to property on border between municipalities, may employ weighted voting designed to give majority of votes to municipality in which property lies. 1998 NY Ops Atty Gen 98-54 (Informal), 1998 N.Y. AG LEXIS 117.



#### General Municipal Law article 17-A

Towns, Villages, Fire Districts, Special Improvement Districts or other Improvement Districts, Library Districts and other districts created by law except School Districts, City Districts and County Districts – Local government entities may consolidate upon joint resolution of the governing body or bodies endorsing a proposed joint consolidation agreement. The governing body or bodies must conduct one or more public hearings with prior published notice on the proposed agreement, approve a final version of the joint consolidation agreement, and, in the case of the consolidation of towns or villages, conduct a referendum. [General Municipal Law article 17-A]

#### General Municipal Law Article 14-G

Counties, Cities, Towns, Villages, School District, Improvement Districts and District Corporations are authorized to make interlocal agreements with governmental units of other states. [General Municipal Law Article 14-G]

#### General Municipal Law article 12-C, § 239-n

Any County outside New York City, City, Town, Village, School District, Board of Cooperative Educational Services or Fire District is authorized to form Intergovernmental Relations Councils "... to strengthen local governments and to promote efficient and economical provision of local governmental services within or by such participating municipalities." [General Municipal Law article 12-C, § 239-n]

#### Education Law article 40-A

School Districts and BOCES – May share services of a superintendent, associate superintendent, assistant superintendent or any other employee with districtwide administrative or supervisory responsibilities. [Education Law article 40-A]

