Impact on Towns

Funding • Broadband • Environmental • Tax Issues • Miscellaneous

FUNDING

Highways & Local Roads

The final budget includes $32.8 billion in funding for a new five-year DOT capital-funding plan. The following funding is maintained at last year’s level: CHIPS at $538.1 million, Marchiselli at $39.7 million, PAVE-NY at $150 million, Extreme Winter Recovery at $100 million and the Touring Roads Program at $100 million. The BridgeNY Program is increased by $100 million for a total of $200 million, and the governor’s new Operation Pave our Potholes (POP) program will be funded at $100 million. For individual allocation amounts and program details, check DOT’s website.

AIM (PPGG Part X)

The Aid & Incentives for Municipalities (AIM) is maintained at the current level of funding of $715 million. The final budget returns AIM to a state-funded program instead of one funded by county sales tax.

BROADBAND

• ConnectALL Initiative (TED Part JJ)

The budget eliminates occupancy fees charged to place fiber-optic cable in state rights-of-way in furtherance of the ConnectALL Initiative (Highway Law § 10 [24-e]; Transportation Corporations Law § 7 repealed). ConnectALL is a new state initiative that aims to deliver affordable broadband through a public/private program administered by the new ConnectALL office. The initiative includes grants to construct broadband infrastructure, connect rural New Yorkers through last- and middle-mile projects, the creation of interactive maps and affordability programs.

• Wired Broadband Act (WBA) (TED Part MMM)

The Wired Broadband Act (WBA) is an
effort to expand access to high-speed, reliable and affordable broadband across the state, particularly in unserved and underserved areas through new grant programs, technical assistance, regulatory and program review, and consolidating existing broadband programs into a new office called the Division of Broadband Access (DOBA) which will be housed within the Department of Economic Development (DED).

From a town’s perspective it does two important things:

1. Creates the ConnectALL Municipal Assistance Program. After DED creates rules and regulations and DOBA creates the procedure on how to apply, towns can apply for funding, and applications will be evaluated by DOBA.

2. Creates General Municipal Law § 99-y, which authorizes local governments to establish, construct and maintain broadband and related telecommunications infrastructure and to contract for the construction and maintenance of broadband services. There are various program requirements, such as following worker safety protocols, creating workforce development plans, complying with prevailing wage and fostering minority- and women-owned business enterprises.

ENVIRONMENTAL

- **Environmental Protection Fund (EPF)** (TED Part PP)

The budget includes $400 million in funding for the EPF, which is an increase over last year. The EPF provides funding for a number of municipal programs, including sewage treatment plants, parks, recycling, farmland conservation and more. For more information about the EPF, visit this [website](#).

- **Freshwater Wetlands Regulatory Program** (TED Part QQ)

The budget amends the Environmental Conservation Law regarding the regulation of freshwater wetlands. The DEC regulates mapped freshwater wetlands that are approximately 12.5 acres or larger in size. In addition to other changes, the amendments in the budget change the manner in which freshwater wetlands are...
mapped and allows the DEC commissioner to make changes to the map at any time to more accurately depict the approximate location of wetlands. Permits to work in or near a freshwater wetland will no longer be linked to the map, with the map serving instead as an educational tool.

Municipalities that have a freshwater wetlands local law should work with the town attorney to determine if amendments are necessary to comply with the changes to the state freshwater wetlands program. Municipalities that adopt or amend a local freshwater wetlands local law must notify DEC within 30 days of adoption; failure to do so may result in a transfer of this function to DEC. For additional information on freshwater wetlands local laws call DEC at (518) 402-8848 or e-mail fw.ecohealth@dec.ny.gov.

- **Brownfield Opportunities Area Program** (TED Part U)

General Municipal Law § 970-r is amended to expand the list of eligible activities for the Brownfield Opportunities Area Program to include supporting job growth, reducing greenhouse gas emissions, increasing climate resilience and achieving environmental justice. Applicants will also be authorized to contract with DASNY for planning, design and construction management services. In addition, the budget transfers program administration from the Department of Environmental Conservation to the Department of State. You may visit the Brownfield Opportunities Area Program’s website for more information.

- **Solid Waste Mitigation Fund** (TED Part KK)

The budget increases the program cap in the Clean Water Infrastructure Act of 2017 from $25 million to $50 million. Increasing the program funding cap will allow annual appropriations to fund more mitigation and cleanup measures associated with inactive landfills. More information on the Solid Waste Mitigation Fund is available on the DEC website.

- **Clean Air Bond Act** (Part NN)

Includes a $1.2 billion increase to the Clean Water, Clean Air and Green Jobs Environmental Bond Act, for a total of $4.2 billion to fund projects related to open space conservation, water quality, flood risk reduction and habitat restoration. The increase must be approved by voters in the November general election.

**TAX ISSUES**

- **Telecommunications Assessment Ceiling Extender** (Revenue Part Y)

This extends the telecommunications assessment ceiling through 2027, and provides local governments with the option to have any assessment challenges
• **STAR Administrative Reforms**
  (Revenue Part Z)

Makes changes to the STAR tax benefit program, including authorizing the state to send refund checks directly to an enhanced STAR homeowner if the exemption is not placed on the school tax bill on time after a showing of good cause for late filing (Subpart A); clarifying the income tax year applicable for recipients of the STAR credit benefit (Subpart C); authorizes the state to share a list of recipients that receive the STAR credit with other states that offer similar lists (Subpart D); and authorizes the state to share lists of decedents with assessors so that they can update their records as needed (Subpart E).

• **Solar and Wind Valuation – Technical Corrections**
  (Revenue Part AA)

This section provides the framework for how property owners can challenge assessments made pursuant to the state formula for valuing solar and wind energy systems and clarifies that challenges to the validity or accuracy to the state’s model should be commenced in an Article 78 proceeding against the Tax Department – not with the local assessor on Grievance Day. The only grievance authorized during a Board of Assessment Review proceeding is a challenge to the way the model inputs were used by the assessor.

• **Homeowner Tax Rebate Credit**
  (Revenue Part BB)

Extends the former Property Tax Relief Credit for tax year 2022 and offers a real property tax credit for property owners that receive the STAR benefit and have an income no greater than $250,000.

• **Gas Tax Repeal**
  (Revenue Part RR)

This provision suspends the state taxes on motor and diesel fuel from June 1, 2022 through December 31, 2022. Additionally, counties are authorized to increase the cap on local sales tax on motor fuel to $4/gallon x the local tax rate (from a prior cap of $2-3/gallon).

**MISCELLANEOUS**

• **Videoconferencing**
  (ELFA Part WW)

Allows towns to adopt a local law and policy authorizing participation at meetings via videoconferencing due to sickness or other extraordinary circumstances from a place not accessible to the public so long as a quorum of the board is physically present at a spot accessible to the public. The town must livestream the meeting, allow public participation via videoconferencing (if it allows comments), maintain a website, place a recording of the meeting on the website within five days, and maintain a copy of the recording for five years. In other words, if a town board member is home with a broken leg, that member
may videoconference in from their house without making it accessible to the public, so long as a quorum of the board is at town hall.

• **EMS Fees** (PPGG Part KK)

Gives authorities with control of a fire department or company that provides EMS services the option to establish fees for emergency medical and transport services. Providers may charge fees for service only when responding to emergencies in their primary response area and are prohibited from directly billing patients who do not have health insurance.

• **Email Notifications on Liquor License Applications** (PPGG Part K)

Between 270 and 30 days before filing an application, an applicant who intends to file an application for a liquor license from the State Liquor Authority must notify the host municipality. This proposal allows municipalities to accept notification by email if they so choose.

• **Requesting Birth Certificates** (PPGG Part E)

Makes amendments to Corrections Law § 601 (e) and Public Health Law § 4174 (4) so that the Department of Corrections and Community Supervision (DOCCS) has the authority to request a certified copy or certified transcript of a birth certificate on behalf of an incarcerated individual.

• **Issuing Marriage Certificates Upon Change of Name or Gender** (ELFA Part Y)

Town clerks are now required to issue a new marriage certificate upon receipt of a change in name or gender designation from a party the clerk had previously issued a marriage certificate to when presented with proper proof. Proper proof includes a court judgment, order or decree, an amended birth certificate, a notarized affidavit from the individual attesting to their change of gender designation, or other proof as determined by the commissioner of health. Upon issuing a new certificate, the clerk must replace the current marriage certificate on file, keeping the original certificate and all related documents to the updated certificate confidential. These documents are not subject to FOIL and cannot be released other than by court order. Additionally, the clerk must send a digital copy of the new marriage certificate to the commissioner of health. The clerk can charge $10 for a certified copy of any updated marriage certificate.

Note that this is not discretionary, and the law empowers the commissioner of health to report any individuals that fail to adhere to these requested changes to the state attorney general.

If you have any questions about these or other specific legislative proposals, please call our office at (518)465-7933 to speak with a member of our legal staff.