

IN SESSION

Association Of Towns' Legislative Newsletter



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On April 2, the New York State Budget was adopted for state fiscal year 2020-2021. To say this year's budget and budget process has been unusual would be an understatement. From the time the Executive Budget was released through mid-March, AOT was meeting with lawmakers and their staffs, conferencing with interested parties, and preparing for the one-house budget bills to be released. Then the world turned upside down.

With the ongoing health crisis and an uncertain financial future, this year's budget leaves more questions than answers. The priority right now is, and should be, public health and safety. The Division of Budget will periodically review state revenue and expenditures and may adjust or reduce appropriations accordingly (see Balanced Budget Amendment below). This, combined with reduced sales tax revenue, permitting fees, mortgage recording tax etc., undoubtedly stresses your ability to budget, particularly as you continue to provide essential services and help your community. While there are many unknowns at this point, we continue to have ongoing contact with the Governor's office, Comptroller DiNapoli, lawmakers, and various state agencies letting them know the impact COVID-19 is having on local governments. As we receive clarification or guidance on issues related to or impacting local governments, we will update you. Meanwhile, we encourage you to reach out to our office with your concerns and questions so that we may help where we can and relay other issues to the state.

What follows is a summary of some key provisions in the final state budget



impacting local governments. We, and by extension our members, are proud to have achieved some victories for local government with this budget; small cell wireless being permitted to the detriment of home rule is OUT; get discovery and bail reform, along with funding and changes to the list of excepted crimes is IN; and we are proud to have achieved some significant compromises to the siting of renewable energy legislation. However, we suspect that our work is far from over. The Legislature passed a resolution allowing members to vote remotely if needed, and we anticipate the Legislature will conduct a special session later this year. We will continue our advocacy and make sure our members have the information and tools needed to speak with your individual representatives.

[The Balanced Budget Amendment] combined with reduced sales tax revenue, permitting fees, mortgage recording tax etc., undoubtedly stresses your ability to budget, particularly as you continue to provide essential services and help your community.

Seeing the response by local governments during this unprecedented time makes us proud to work with and represent towns. Though we are working from home for the foreseeable future, AOT's commitment to helping towns remains unwavering. We encourage you follow us on Facebook and Twitter, where we post up-to-date information, check our website nytowns.org for additional informational postings, and to contact us via e-mail (info@nytowns.org) with any questions or areas of need where we can provide a resource (chances are, if one of our members has a question, other members do too!). You may also call our office at (518)465-7933 and leave a voicemail; someone will get back to you.

You may also call our office at (518)465-7933 and leave a voicemail; someone will get back to you. We hope you and your loved ones stay safe and healthy.

Balanced Budget Amendment (S7506-B/ A 9506-B ELFA Part JJ)

- Requires the state budget director to review state revenues and expenditures during three measurement periods to determine whether the state budget is balanced
 - Three measurement periods are (1) April 1 to April 30, 2020, (2) May 1 to June 30, 2020, and (3) July 1 to Dec. 31, 2020
- Authorizes the state budget director to “adjust or reduce any general fund and/or state special revenue fund appropriation and related cash disbursement by any amount needed to maintain a balanced budget” for state fiscal year 2020-2021. There are certain exceptions, and cuts should be as uniform as possible.
- Legislature has 10 days to adopt its own balanced budget plan. The state budget director may implement his or her own plan if the Legislature fails to adopt its own plan within the designated time

Highway Funding Remains Flat (Capital Funding Appropriation Bill S7504-c/A9504-c)

- \$438.1 million for Consolidated Highway Improvement Program (CHIPS) (p. 607)
- \$39.7 million for the Marchiselli program (p. 606)
- \$100 million for the PAVE-NY program
- \$100 million for the BridgeNY program
- Extreme Winter Recovery Funding \$65 million

NOTE – these funds are subject to the Balanced Budget Amendment (see above), and the Division of Budget must first certify that the state can distribute/spend this money without adversely impacting state funding for capital projects deemed essential to public health and safety or essential government services.

Renewable Energy Siting (S7508-B/ A 9508-B TED Part JJJ)

- Creates the Office of Renewable Energy Siting to permit renewable energy projects with a capacity of 20KW or more
- Establishes a new process to site renewable energy projects
- Authorizes NYSERDA to facilitate build-ready sites with an emphasis on brownfields and other underutilized properties

NOTE – The Association of Towns will be sending out a separate informational sheet outlining the new process and providing more details

Aid and Incentives to Municipalities (AIM) General Purpose Revenue Sharing

- AIM and AIM-related payments remain the same as last year (Aid to Localities Budget Appropriation, page 942)
- Addresses the authority for the financial control boards in Erie and Nassau counties to turn over sales taxes to the state comptroller in order to meet their AIM-related sales tax payments (S7505-B/ A9505-B, PPGG Part NN)

NOTE - AIM payments, and potentially AIM-related payments, are subject to the Balance Budget Amendment (see above)

Increase in mandatory competitive bidding threshold for CHIPS funded projects (S7508-B/ A 9508-B TED Bill Part A)

- Amends Highway Law § 10-c (4) to increase the monetary threshold from \$250,000 to \$350,000 before a town will be required to competitively bid a public works project funded by CHIPS
- Please note that public works projects that exceed \$35,000 are still subject to competitive bidding if the town decides to contract for the project instead of using the town highway department employees

Restore Mother Nature Bond Act (S7508-B/ A 9508-B, TED Part QQ and RR)

- Allows an aggregate of \$3 billion in state debt to be created and used as follows
 - \$1 billion for restoration and flood risk reduction
 - \$550 for open space conservation and recreation
 - Up to \$700 million for climate change mitigation
 - Not less than \$550 million for water quality improvement and resilient infrastructure
- Subject to voter approval at the November 2020 elections; however, it will not be submitted unless the Division of Budget certifies to the Secretary of State that the debt can be issued within the state's financial plan without adversely affecting funding available for capital projects essential to the health and safety of the public or essential government services
- If the act does not get submitted to voters in November, it will be deemed expired
- If approved, the DEC will distribute funds and promulgate regulations on how municipalities can apply for funds

Prevailing Wage Expansion (S7508-B/ A 9508-B TED Part FFF)

- Amends Labor Law to expand prevailing wage requirements to more projects
- Creates a state subsidy board made up of agency heads, industry groups and labor groups that can clarify application of \ new prevailing wage requirements and determine exemptions
- Prevailing wage now required for private construction projects when the project costs over \$5 million and at least 30 percent of it is paid by public funds
 - exceptions for certain affordable housing projects and renewable energy projects

E-Scooters and Bikes

- Authorizes electronic scooters and electronic bicycles on municipal roadways and grants localities the ability to further regulate or prohibit electronic scooters and bicycles within their jurisdictions
- Towns in Westchester, Nassau and Suffolk counties may prohibit e-scooters and e-bikes but cannot further regulate them without county authorization

Removal of STAR Benefit for Past-Due Taxes (ELFA Part W)

- Removes the STAR benefit for any taxpayer that has past-due taxes
- Town officials will be required to implement this policy and notify the state of any delinquent taxpayers.

Election Recounts (S7505-B/ A9505-B, PPGG Part JJ)

- Requires an automatic manual recount of election results when there is a slim margin of victory (0.2 percent or less in elections for statewide offices and 0.5 percent or less in non-state wide elections)
- Goes into effect January 1, 2021 and applies to any election held 120 days or more after the effective date

Add "E Pluribus Unum" (Out of Many, One) to the State Arms (S7508-B/ A 9508-B TED Part U)

- Adds state motto "E Pluribus Unum" to the word "Excelsior" on the scroll beneath the shield agent which appears on the state seal and the state flag. Effective 180 days after April 2, 2020, and within 60 days any electronic depiction of the arms of the state must be updated.
- Local governments are not required to replace a flag solely because it contains the former arms of the state.

Notaries (S7508-B/ A 9508-B TED Part V)

- Notary publics no longer need to be U.S. citizens. They must still be either a resident of New York or have an office or place of business in New York. Effective immediately.

Water Funding (S7508-B/ A 9508-B TED Part KK)

- Amends Public Authorities Law § 1285-j (4) to allow the Environmental Facilities Corporation to offer municipalities 40-year financing through the Clean Water State Revolving Fund and/or Drinking Water State Revolving Fund for projects which qualify for zero-percent interest rates due to financial hardship.

Effective immediately.

Bans Styrofoam Container and Packing Peanuts (S7508-B/ A 9508-B TED Part PP)

- Bans food service providers and stores from selling, distributing or using Styrofoam and packing peanuts to hold food or beverage
- Towns are pre-empted from adopting local laws on the issue

Optional Exemption from Special Ad Valorem Levies (PPGG Part XX Subpart E)

- Provides towns with the ability to provide taxpayers with a real property tax exemption for any improvements to residential real property that facilitates accessibility for a physically disabled owner

Union Access to Employee Orientation Training PPGG Part W:

- Requires public employers to provide unions access to new employee orientations if the public employer conducts such orientations

Prison Closures (PPGG Part F)

- Provides the Governor with the authority to close correctional facilities in Fiscal Year 2020-2021 as he determines necessary for cost-saving measures, so long as he provides 90 days' notice to the temporary president of the senate and the speaker of the assembly

Establishes the District Attorney Discovery Compensation Fund (PPGG Part E)

- Creates the District Attorney Discovery Compensation Fund (funded at \$40 million) to support expenses related to digital evidence transmission technology, administrative support, computers, hardware and operating software, data connectivity, development of training materials, staff training, overtime costs, litigation readiness, and pretrial services.
- Counties, cities with populations less than 1 million, and law enforcement and prosecutorial entities within towns and villages are eligible for these funds

Discovery and Bail Reform (ELFA Parts UU and HHH)

- Expands list of crimes are eligible for bail
- Extends timeline for discovery
 - 20 days from arraignment if defendant is in custody while criminal case is pending
 - 35 days from arraignment if defendant is not in custody while criminal case is pending
 - As soon as possible but no later than 15 days before trial for a vehicle and traffic infraction or a petty offense (as defined in a municipal code) that does not carry a sentence of imprisonment

Omitted from the Final Budget

- Legalizing recreational use cannabis
- Proposal on permitting of small cell wireless facilities
- Proposal to eliminate video lottery terminal aid
- Proposed amendment to allow more flexibility in projects eligible for state matching funds under the county-wide shared services matching savings grant program
- Proposal on the disclosure of tax returns for certain local elected officials
- Court restructuring proposal
- Amending interest rates on judgments

An Announcement Re: Our 2020 Finance Schools

Unfortunately, due to COVID-19, we are forced to postpone our original training event. We will announce the new dates and locations as soon as we have them, and we sincerely hope you will be able to join us. We hope you and yours are staying safe during these uncertain times.

As always, please stay tuned to our website, nytowns.org, and our social media, as well as your inbox and your mailbox, for important communications.