



Proposed Resolutions 2017 Legislative Program

As Reported by the Resolutions Committee of the Association of Towns

*Elizabeth Neville, Town Clerk, Town of Southold, Suffolk County
First Vice President, Association of Towns, Presiding*

- | | |
|-------------------|--|
| Resolution No. 1 | Fund Local Water, Sewer and Stormwater Infrastructure |
| Resolution No. 2 | Fund Local Highways and Bridges |
| Resolution No. 3 | Increase AIM funding |
| Resolution No. 4 | Unfunded Mandate Reform |
| Resolution No. 5 | Cemetery Reform |
| Resolution No. 6 | Optional Town Gross Receipts Tax |
| Resolution No. 7 | Increase Returned Check Charge Fees |
| Resolution No. 8 | Preserve and Strengthen Home Rule |
| Resolution No. 9 | Support Constitutional Home Rule in the Siting of Wind and Solar Energy Facilities |
| Resolution No. 10 | Reform Inequities in the Property Tax Cap Formula |
| Resolution No. 11 | Reform the Real Property Tax System |

Resolution No. 1

Fund Local Water, Sewer and Stormwater Infrastructure

Whereas, communities within New York State maintain extensive networks of intertwined infrastructure that are critical to public health and state and local economies; and

Whereas, many municipalities are responsible for water systems, sewer systems, stormwater facilities and other infrastructure constructed decades ago under earlier regulatory standards; and

Whereas, these systems are owned and maintained at various levels of government and require regular maintenance, analysis and upgrades; and

Whereas, while New York State provides application-based funding assistance on a case-by-case basis, the need for improvements to the state's infrastructure impacts the public health of all of our communities; and

Whereas, the state initiated the Consolidated Local Street and Highway Improvement Program (CHIPs) in 1981, which provides consistent funding assistance for the maintenance of local roads; and

Whereas, CHIPs provides a successful model for the distribution of statewide assistance through a fair and equitable formula, ensuring that every municipality receives funding assistance for sanitary sewer, drinking water and stormwater systems; **NOW THEREFORE BE IT**

RESOLVED, that the Association of Towns hereby supports a New York State dedicated funding program to provide a fair and equitable formula to distribute funds annually to municipalities to ensure the integrity and reliance of municipal water, sewer and stormwater infrastructure.

Background

This is a new resolution submitted at the request of the Town of Clifton Park, Saratoga County.

New York State principally provides funding for water, sewer and stormwater infrastructure through grants and low/no-interest loans. After continual calls for a dedicated program to fund drinking water systems, the state created the temporary Water Quality Infrastructure Improvement Act of 2015 (act). Over a three-year period, the Environmental Facilities Corporation will disperse \$200 million for municipal water and sewer infrastructure improvements, with \$100 million to be distributed in state fiscal year 2016-17 and another \$100 million to be distributed in state fiscal year 2017-18. In addition, the state appropriated \$77 million for the Safe Drinking Water Revolving Fund. Unfortunately, although this seems like a lot of funding, it does not meet the minimum funding needs facing our communities.

In 2015, the American Society of Civil Engineers' New York State Council (council) gave our drinking water systems a letter grade of *C* and our wastewater systems a *D*. The council noted that an astounding

95 percent of drinking water projects submitted go unfunded. The Department of Health estimates that New York must spend a minimum of \$38 billion on drinking water infrastructure over the next 20 years to protect the public health. The council also reported that 25 percent of wastewater treatment facilities are currently operating beyond their 30-year life expectancy. Moreover, the council reports that 22,000 miles of underground sewer systems are more than 60 years old and operating well beyond their intended use. The Department of Environmental Conservation has reported that it would cost \$36.2 billion over 20 years to repair, replace and update New York's aging wastewater infrastructure. Addressing these issues today will result in taxpayer savings, public health protection and economic growth.

The Association of Towns, with NYCOM, NYSAC and several other environmental, planning, building and business organizations, sent a letter to Gov. Andrew Cuomo seeking \$800 million in the 2017-18 State Budget to fund municipal water, sewer and stormwater needs.

In 2016, two bills were introduced to create new dedicated water and sewer funding programs. A9651-A (Tedisco) (same as S7389 (Boyle)) sought to amend the General Municipal Law to create a new dedicated water/sewer infrastructure funding program called the Safe Water Infrastructure Action Program Act or SWAP. SWAP, like CHIPs, would be a dedicated program with quarterly funds distributed based upon a formula promulgated by the Department of Transportation and the Environmental Facilities Corporation. This legislation did not advance out of the Senate or Assembly local government committees.

In addition, A9611 (Steck), (same as S7551 (Boyle)) sought to amend the Environmental Conservation Law to create a new dedicated water/sewer/stormwater infrastructure funding program called Consolidated Local Infrastructure Program, or CLIP. Under CLIP, the state would make quarterly payments to towns, cities, villages and counties to help fund the replacement and rehabilitation of existing local municipally owned and funded drinking water, stormwater and sanitary sewer systems. This bill did not advance out of either the Assembly or Senate Environmental Conservation Committee.

Classes at the 2017 Annual Meeting that may be of interest regarding this resolution:

Stormwater Regulation Parts 1 and 2

Tuesday February 21 2017

2:00 – 3:50

Alvin/Carnegie - 5th Floor

State & Federal Funding, Financing, and Resources for Infrastructure

Tuesday February 21 2017

11:00 - 12:30

Booth/Edison - 5th Floor

State of the State of New York Water Law

Tuesday February 21 2017

10:00 - 10:50

Astoria Ballroom - 7th Floor

Resolution No. 2

Increase Highway and Bridge Funding

Whereas, the Consolidated Highway Improvement Program (CHIPs) was established pursuant to Chapter 314 of the Laws of 1981 for the purpose of making state aid payments to New York towns and other general purpose local governments for the construction, operation and maintenance of local highways and bridges that make up 85 percent of our state's highway system; and,

Whereas, recent studies of New York's extensive local road system continue to identify a multibillion dollar shortfall in funding of local highways and bridges; and

Whereas, an enduring and reliable stream of revenue for our local road system is essential for towns and other local governments to be able to properly plan their highway and bridge programs; **NOW THEREFORE BE IT**

RESOLVED, that the Association of Towns calls upon the Governor and Legislature to increase funding for the Consolidated Highway Improvement Program (CHIPs) and ensure that the PAVE-NY and BRIDGE-NY programs are fully funded for the lifespan of these programs.

Background

The Association of Towns regularly includes a specific resolution calling for increased funding for local roads and bridges through the CHIPs program.

State Funding CHIPs and Marchiselli

In 1982, the Consolidated Local Street and Highway Improvement Program (CHIPs) was established to assist localities finance the construction, reconstruction or improvement of local highways, bridges, highway-railroad crossings and/or other local facilities (Highway Law, §10-c). The New York State Department of Transportation (DOT) annually calculates CHIPs funding in accordance with formulas specified in Highway Law, §10-c. Unfortunately, funding for local roads has not kept pace with the need to repair existing roads and bridges. NYSDOT has more information on CHIPs: <https://www.dot.ny.gov/programs/chips>

The 2016-17 State Budget preserved but did not increase funding for capital aid to local governments for highway and bridge projects, with \$438.1 million provided for CHIPs and \$39.7 million for the Marchiselli program. In addition to funding CHIPs, the state provided funding for two new local programs: PAVE-NY and BRIDGE NY.

PAVE-NY Program (<https://www.dot.ny.gov/paveny>)

PAVE-NY is a new program under the State Capital Transportation Plan (State Fiscal Year (SFY) 2015/16 – 2019/20), which makes available to towns, cities, villages and counties funding for roadway resurfacing, widening and realignment; construction of turning lanes at intersections; and new drainage to mitigate the harmful effects of flooding. This is a reimbursement program similar to CHIPs, with \$100 million to be distributed annually through SFY 2019-20.

For a list of distributed PAVE-NY funds, please visit:

www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/PAVENYAwardsPDF.pdf

BRIDGE-NY Program (<https://www.dot.ny.gov/BRIDGENY>)

The BRIDGE NY program is a new commitment between the Governor and the Legislature to appropriate \$100 million during the next four state fiscal years by administering two, two-year grant cycles with \$200 million available during each cycle. The BRIDGE NY funds are open to all municipal owners of bridges and culverts as a competitive grant program to replace, rehabilitate and maintain local bridges and culverts. This program is also administered by DOT.

NYS Association of Town Highway Superintendents' Needs Study

Local governments are responsible for 85 percent of New York's roads and bridges, with 46 percent of the vehicle miles travelled in New York occurring on local roads. In 2013, the NYS Association of Town Highway Superintendents released an updated 20-year needs assessment of local highway and bridge infrastructure. The assessment estimates local pavement needs, over the next 15-year period, to be \$31.95 billion. Local system bridge needs over the same period is \$2.85 billion. The report concluded that local governments should be receiving an additional \$1.3 billion annually in highway funding to address the need and usage patterns.

Report: An Assessment of Local Jurisdiction Highway and Bridge Infrastructure Needs (2013)

www.nystownhwys.org/wp-content/uploads/2014/11/2013LocalNeedsAssessmentUpdate.pdf

State Comptroller's 2014 Cracks in the Foundation Report

The state comptroller estimates that based upon the reported needs, local governments should be spending \$2.3 billion annually on roads and bridges.

www.osc.state.ny.us/localgov/pubs/infrastructure2014.pdf

Classes at the 2017 Annual Meeting that may be of interest regarding this resolution:

Budgeting for the Long Term: Developing a Highway Capital Plan

Monday, February 20, 2017

11:30 - 12:30

Booth/Edison- 5th Floor

Resolution No. 3

Increase Revenue Sharing

Whereas, unrestricted state aid to local governments, now known as Aid and Incentive for Municipalities, or AIM, is general purpose state aid provided to all of New York's cities (outside of New York City), villages and towns; and

Whereas, since the late 1980s, the original "revenue sharing" formula – intended to provide property tax relief by redistributing the state's progressive tax revenues to municipalities that do not have the tax base or the taxing authority to generate these revenues on their own – has not been fully implemented, and various constraints have been imposed on the overall level of state aid to local governments; and

Whereas, AIM funding has remained flat since 2010, thereby effectively resulting in a 10 percent cut after considering inflation; and

Whereas, when sufficiently funded, unrestricted state aid to local governments is a clear and proven way to provide property tax relief; and

Whereas, a strong and growing state-local fiscal partnership is essential to generating economic vitality in all regions of our state; and

Whereas, the state has limited the amount of funding towns may raise locally through the property tax cap, thereby making towns all the more dependent upon unrestricted state aid; **NOW, THEREFORE BE IT**

RESOLVED, that the Association of Towns calls upon the Governor and the state Legislature to increase general purpose, unrestricted revenue sharing by 50 percent over a multiyear period to be distributed to local governments in a fair and objective manner.

Background

This resolution was part of the 2016 AOT Legislative Platform. The Association of Erie County Governments requested that it be reconsidered. In addition, NYCOM and the Nassau County Village Officials Association support an increase in AIM funding in the 2017-18 State Budget.

Revenue Sharing

General revenue sharing (unrestricted aid) is provided to towns through the Aid and Incentive for Municipalities (AIM) program to help local governments stabilize real property taxes. The state comptroller released a 2005 report explaining the history of revenue sharing and the cutbacks that have been made over the last few decades. To read the 2005 OSC Revenue Sharing Report, please visit www.osc.state.ny.us/localgov/pubs/research/rev_sharing.pdf

AIM funding has suffered a 7 percent cut since 2008. The 2016-17 State Budget maintained AIM funding at last year's levels, totaling \$714.7 million for cities, villages and towns. Towns will share \$47.9 million or 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, or 90.5 percent of the total. Despite express authority for an annual 2 percent increase, unrestricted state aid to towns has effectively been reduced by 9.74 percent due to flat funding against rising inflation, meaning towns have effectively missed out on \$30 million in AIM funding. Although the governor demonstrated a clear desire to reduce the burden on property taxpayers through the tax cap and tax freeze programs, the Executive Budget again underutilizes a revenue sharing program already in place to reduce local reliance on property taxes to fund local services.

This resolution seeks to increase revenue sharing to local governments by 50 percent, to be phased in over an undetermined period of time. In addition, the original resolution seeks to change the funding distribution formula in order to better account for fiscal capacity and need. Resolutions committee members expressed concerns about the proposed distribution changes in the original resolution. Due to flat AIM funding over the last several years, towns, as a class of local government, receive less AIM funding than cities thanks to prior funding programs that awarded towns less per-capita funding than cities.

The Department of State's Local Government Handbook contains a good description of revenue sharing and the current AIM program: www.dos.ny.gov/lg/publications/Local_Government_Handbook.pdf

Resolution No. 4

Address Unfunded Mandates

Whereas, the Congressional Budget Office recently noted that local governments play a significant role in people's daily lives and in the nation's robust economy; and

Whereas, local governments, in partnership with the State of New York, educate our children, protect our environment, respond to emergencies, care for those in need and foster economic growth; and

Whereas, compliance with state and federal regulations increases the cost of state and local services; and

Whereas, state revenue sharing, program funding and technical assistance has not kept pace with the costs to provide these services, necessitating many of these services to be funded through local real property taxes; and

Whereas, with the enactment of the Real Property Tax Cap, the state has evinced a real commitment to reduce property taxes; **NOW THEREFORE BE IT**

RESOLVED, that the Association of Towns calls upon the Governor and the Legislature to enact comprehensive mandate relief legislation that provides permanent and full funding of existing and

future mandates and requires all legislation to include thorough local fiscal impact notes regarding the actual expense of implementing said legislation.

Background

Resolution from 2016 Legislative Platform requested to be reintroduced by the Association of Erie County Governments

Mandate Relief

Unfunded mandates come in all shapes and sizes. Some mandates require local governments to perform a service, some mandates require local governments to implement state/federal policies; some mandates dictate the manner in which local government services or operations are provided, and some mandates impose bureaucratic reporting requirements. Over the last few years, several bills have been introduced seeking to fund or eliminate the enactment of new mandates, signifying state lawmakers' awareness of exactly how mandates exacerbate localities' abilities to operate and provide services. Even though these bills have failed to pass both houses yet, some gains have been made regarding procurement mandates; for example, local governments may utilize 'best value' bidding to allow greater flexibility and to piggy-back off of government contracts outside New York State. Although numerous state and federal commissions, councils, reports, executive orders, bills and recommendations regarding mandate relief have been put forth in the last decade, there is more work to be done.

In the past, bills have addressed the financial burden of state-mandated programs on local governments. For example, S2295/A2338 would have required the state to fund any state-mandated program imposed on municipalities and school districts. The Senate passed S2295 during the 2015 and 2016 legislative sessions. Unfortunately, A2338 did not advance in the Assembly.

Resolution No. 5

Improve Cemetery Operations, Revenue and Abandonment Process and Address Local Impact

Whereas, there are approximately 1,800 regulated not-for-profit cemeteries in New York; and

Whereas, since 1990, more than 150 regulated cemeteries have failed; and

Whereas, 74 percent of New York's large cemeteries are underfunded, and 66 percent of New York's small cemeteries are underfunded; and

Whereas, pursuant to Town Law §291, towns are the only local governments required to care for abandoned not-for-profit cemeteries; and

Whereas, the average cost to town taxpayers to maintain an abandoned cemetery is \$2,500 per acre; and

Whereas, towns are restricted regarding the authority to generate sufficient revenue to support town operations; **NOW THEREFORE BE IT**

RESOLVED, that the Association of Towns calls upon the state to provide ways for not-for-profit cemetery corporations to improve operations and increase revenue streams; and **BE IT FURTHER**

RESOLVED, that the Association of Towns calls upon the state to reform the dissolution process utilized by not-for-profit cemetery corporations to require notice of abandonment to the town board and a sufficient waiting period prior to abandonment; and **BE IT FURTHER**

RESOLVED, that the Association of Towns calls upon the state to allow towns that have assumed responsibility for abandoned mausoleums and crematories to apply for additional state funds for any repairs required under the Uniform Fire Prevention and Building Code within 25 years from the date of an application of funds from the state abandoned cemetery fund; and **BE IT FURTHER**

RESOLVED, that the Association of Towns calls upon the state to provide indemnification of cemetery activities to towns that assume maintenance of abandoned cemeteries; and **BE IT FURTHER**

RESOLVED, that the Association of Towns calls upon the state to provide towns with more options to operate abandoned cemeteries.

Background

New resolution drafted by AOT staff in consultation with the supervisors of the towns of Plattsburgh and Ellenburg, Clinton County, and the supervisor of the Town of Nassau, Rensselaer County, in response to the costs associated with the care and maintenance of abandoned cemeteries.

Cemeteries are owned and operated by a variety of entities including nonprofit cemetery corporations, family cemetery corporations, religious corporations and local governments. Over time, the boards of directors of nonprofit cemetery corporations move on, 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), while counties are authorized, but not required, to take over the care of abandoned cemeteries (County Law, §222 [5-a]). The state comptroller's office has opined that a city may provide to itself the authority to care for an abandoned cemetery but is not obligated to do so under state law (Opns St Comp, 1987 No. 87-11). Although villages are authorized to operate cemeteries, they are not required by statute to take over abandoned cemeteries located within the village, leaving that responsibility with the town board (Village Law, Art 15; Town Law, §291; 1969 Op. Atty. Gen. No. 87).

Assuming the cost of abandoned cemetery upkeep can range from overwhelming for small towns and challenging at best for larger towns. The initial funding provided by the state to offset the cost of the takeover is insufficient to meet future costs. In addition to caring for traditional burial grounds envisioned in Town Law, §291, the Division of Cemeteries has now begun to require towns to take over abandoned mausoleums and crematoriums, adding to the obligation and expense. Most recently, the towns of Plattsburgh and Ellenburg are in the process of assuming responsibility for the care and management of a poorly regulated and managed nonprofit mausoleum/crematorium. Neither town currently has the financial resources needed to address the renovation and maintenance duties associated with these facilities.

The state needs to provide nonprofit cemetery corporations with more options to generate revenue and improve operations. By improving nonprofit cemeteries, they are less likely to dissolve and abandon their debts, liabilities and obligations to town taxpayers. Even with efficiencies and additional funding, some cemetery corporations will still become defunct. Towns should receive notification well in advance of when a cemetery corporation is at the point of abandonment. In addition, towns should be given formal notification and a waiting period should be established prior to actual abandonment. In addition to improving nonprofit cemeteries, the state needs to provide continued funding to towns that take over abandoned mausoleums and crematoriums. Town Law §291 requires towns only to mow the grass and secure the fencing of abandoned cemeteries; the needs and expenses associated with the care, maintenance and operation of an abandoned mausoleum or crematorium are well beyond the costs envisioned in section 291, and therefore, the state should provide additional and continuing funding assistance to these towns.

Finally, the state should provide more options to towns to address the needs of abandoned cemeteries such as the authority to contract with funeral directors and others to operate and maintain abandoned cemeteries.

Classes at the 2017 Annual Meeting that may be of interest regarding this resolution:

Cemeteries May Be Taxing on Local Government

Tuesday February 21 2017

10:00 - 10:50

Imperial/Julliard 5th Floor

Resolution No. 6

Authorize an Optional Town Gross Receipts Tax (GRT)

Whereas, cities and villages are authorized, by local option, to collect a Gross Receipts Tax (GRT), which is essentially the rental cost for leasing or utilizing the municipal rights-of-way by utility and telecommunication companies; and

Whereas, while these two classes of local government have the ability to impose and collect this revenue, and have had the authority for eight decades to do so, lessening their reliance on the real property tax base to fund local services, towns do not enjoy the same authority, nor are they able to reap the same benefits; and

Whereas, in the absence of other revenue sources such as the GRT, towns are heavily dependent upon real property taxes; and

Whereas, the real property tax cap/freeze limits the amount of revenue towns can derive from the real property tax; and

Whereas, in the absence of robust state and federal aid, complicated by reduced revenue derived from real property taxes, towns are in need of additional revenue sources to fund town services; and

Whereas, town rights-of-way are currently being enjoyed by utility/telecommunications companies at reduced rates because towns do not have the ability to collect a GRT; **NOW THEREFORE BE IT**

RESOLVED, that the Association of Towns calls upon the Governor and the state Legislature to authorize towns, at their discretion, to a collect gross receipts tax.

Background

This resolution was part of the 2015 AOT Legislative Platform and requested to be reintroduced by town officials in the Town of Union in Broome County.

Authorize an Optional Gross Receipts Tax (GRT)

Towns are in dire need of additional revenue sources in order to lessen their dependency on the real property tax base to fund town services and operations. Cities and villages have the authority to fund their operations with a local gross receipts tax on utility services within their municipalities. The Association of Towns supports legislation that would provide towns with the same authority as cities and villages to charge a local gross receipts tax.

According to the New York State Department of Taxation and Finance, cities and villages may impose selective gross receipts taxes on the sales of utility services that originate and terminate within their jurisdictions. Chapter 321 of 1937 granted cities the authority to impose a 1 percent tax on the gross income of utilities operating in their jurisdiction. Chapter 591 of 1950 extended similar authority to villages. *For purposes of this tax, a utility is defined as "any person ... subject to the supervision of the state department of public service ... who sells gas, electricity, steam, water or refrigeration delivered through mains, pipes or wires ..."*

According to the New York State Conference of Mayors, approximately 360 villages and 61 cities currently impose the utility gross receipts tax. In 2010, cities received nearly \$50 million in revenue from this tax, while villages generated an estimated \$26 million.

Towns across New York State are now requesting the same authorization that cities and villages have received for generations. Three cities even have the ability to collect higher percentages (3 percent) than the original legislation authorized. We can point to the following reasons that the New York State Legislature and governor should support this:

1. In a home rule state such as New York, legislation authorizing towns to impose the GRT at their option is a classic example of local discretion and provides the town with the ability to collect this revenue while not mandating or compelling a town to collect it. This authorization to towns should be viewed as a strengthening step of home rule.
2. GRT is similar to the concept of the cable franchise agreement, where towns, cities and villages have an agreement with cable companies to utilize the municipal rights-of-way in exchange for compensation. It is common for franchise fees paid to cities and villages to exceed GRT revenue. Courts have ruled that the cable franchise fee is not a tax, but rather a cost of doing business. No other entity provides free rent to a utility company, and towns should not be treated any differently. Extending the same GRT authority that cities and villages possess to towns is a matter of equity and common business practice.
3. In the new "Tax Cap Era," both the governor and the comptroller advocate becoming less dependent on the property tax and broadening the tax base. The GRT is based on usage and is spread across utility users rather than just property owners. This is a great example of revenue diversification and an equitable mechanism to finance public goods and services through all users.

Resolution No. 7

Returned Check Charges

Whereas, Section 85 of the General Municipal Law currently authorizes municipal corporations to adopt a service charge on checks returned or dishonored for insufficient funds, which charges cannot exceed \$15 per check; and

Whereas, Section 5-328 of the General Obligations Law currently authorizes a processing fee of up to \$20 by other holders of checks dishonored or returned due to insufficient funds or other cause; **NOW THEREFORE BE IT**

RESOLVED, that the Association of Towns requests the Governor and Legislature to amend state law to authorize local governments to impose dishonored check charges of up to \$35 for any check returned for insufficient funds or other cause.

Background

A similar resolution appeared on the AOT Legislative Platforms in 2000 and 2001. The Town Clerk in the Town of Shelby, Orleans County, requested that this resolution be reconsidered for 2017.

Recently, there has been some confusion regarding the amount a municipality may charge for dishonored checks, which is set by state law. General Municipal Law §85 provides that a town may, by resolution, impose a service charge on any check that is dishonored by a bank or depository institution. The fee imposed may not exceed the amount set forth in General Obligations Law §5-328, which is \$20. There is no authority for a town to impose a service charge on a returned check in an amount higher than \$20, absent an amendment to the law by the state Legislature. The law regarding the amount a municipality may charge for returned checks was last amended in 1991, from \$10 to \$20. Legislation in 2010 (A5920/S2712) sought to raise the fee from \$20 to \$30, but that bill did not advance out of committee. Most states authorize banks and vendors to charge a higher fee for bounced checks. According to a 2014 article published by *Dollars & Sense*, 18 states authorize a \$25 returned check fee; 17 states authorize a \$30 returned check fee; 2 states authorize a \$35 returned check fee; 4 states authorize a \$40 returned check fee; 2 states authorize a \$50 returned check, and the remaining 7 states authorize a \$20 returned check fee. So, New York is among the group of states that is on the low-end of what a bank or vendor may charge for a bounced check.

Resolution No. 8

Preserve and Strengthen Home Rule

Whereas, since 1894, the Constitution has granted broad home rule powers to local governments and placed corresponding restrictions on the state Legislature to preserve these powers; and

Whereas, home rule powers encompass a wide range of subjects, including but not limited to: the power to adopt, amend and repeal local laws in the exercise of its functions, powers and duties; the power to share services and act cooperatively with other local governments; the power to acquire real and personal property for its corporate purposes; the power to establish recreational facilities; the power to dispose of its real and personal property; the power to levy and collect rents and/or penalties in a city, village or town; the power to adopt, amend and repeal zoning regulations; and the power to perform comprehensive or other planning work relating to its jurisdiction; and

Whereas, the exercise of these powers permits local governing bodies to meet the unique and diverse needs of local residents while fostering citizen participation and grassroots involvement in government; and

Whereas, New York's diverse communities are best served by maintaining the principles of home rule, including those set forth in the state Constitution, Local Government Bill of Rights, Statute of Local Governments and the Municipal Home Rule Law; **NOW THEREFORE BE IT**

RESOLVED, that the Association of Towns calls upon the Governor and the Legislature to preserve and strengthen home rule; and **BE IT FURTHER**

RESOLVED, that the Association of Towns will continue to strongly oppose any state initiative that serves to weaken or eliminate New York's long-standing tradition of home rule and local government authority.

Background

This is a carryover resolution from the 2016 Legislative Program.

Home rule can be described as a method by which a state government can transfer a portion of its governmental powers to a local government, providing localities with autonomy in the management of their own affairs, the objective being a more equitable and efficient allocation of duties and rights between the state and its local governments. The evolution of home rule occurred over the span of several decades. Cities, counties and some villages all received home rule powers before towns. Towns received home rule powers with the adoption of the 1963/1964 Constitutional Amendments. Unfortunately, through a series of court cases and legislative enactments, the state has weakened local home rule powers by finding local governments are pre-empted by the state regarding areas of local concern. This resolution seeks to preserve and strengthen home rule by affording town governments the authority needed to serve New Yorkers who live and work in towns.

Resolution No. 9

Support Constitutional Home Rule in the Siting of Wind and Solar Energy Facilities

Whereas, the New York State Constitution grants towns broad home rule powers to adopt local laws with respect to (1) their "property, affairs and government" and (2) other powers granted in statute, whether related to their property, affairs and government or not; and

Whereas, home rule establishes a local government's authority as the source for local zoning and planning power and gives municipalities great flexibility in dealing with local regulation of land use, keeping these decisions as close as possible to the citizens who live there; and

Whereas, the New York State Legislature enacted amendments to Article X of the Public Service Law to establish procedures for certifying major electric generating facilities to include renewable energy sources such as wind and solar; and

Whereas, industrial wind and solar power developers now seek certification from the New York State Board on Electric Generation Siting and Environment, rather than local governments, to erect industrial turbines and expansive solar installations over many thousands of acres in towns across the state; and

Whereas, wind and solar projects are now being proposed in record numbers across the state and numerous towns must now consider complex regulations and enormous and expensive tasks in order to protect the health, safety and general welfare of their citizens; and

Whereas, prior to Article X, local governments successfully developed, implemented and administered local wind and solar energy siting laws and policies with input and guidance of local taxpayers, residents, businesses, agricultural representatives, environmentalists, energy generators, planners and lawyers;
NOW THEREFORE BE IT

RESOLVED, that the Association of Towns supports the constitutional rights of local governments to decide how land will be used within their jurisdiction, which is closest to the citizens of that region; and **BE IT FURTHER**

RESOLVED, that the Association of Towns seeks amendments to the Article X state siting procedures to involve local governments and communities more in the siting of industrial wind energy facilities.

Background

This resolution is based upon a resolution that was part of the 2016 AOT Legislative Platform and was resubmitted by the towns of Cambria, Hartland, Newfane, Somerset, Wheatfield and Wilson in Niagara County.

Gov. Andrew Cuomo recently proposed to add 300 more wind turbines in the state over the next four years, which is expected to increase New York's wind production nearly 40 percent by 2020 for a total generating capacity of 2,200 MW, or enough wind to power nearly 800,000 homes and likely resulting in more industrial wind farm applications. Article X is preemptive, and the authority to process and approve industrial wind farms has been transferred to the state. Although the revised Article X siting procedure acknowledges local zoning codes and affords local governments a limited role in the siting application process, many towns facing industrial wind projects should be afforded either a greater role in the state process or strict control over the siting process at the local level. To learn more about the Article X siting process, please visit the Department of Public Service's website <http://www.dps.ny.gov/SitingBoard/>.

In addition, you can read a paper written by Environmental Planner Peter Manning regarding the impacts of the Article X siting process and home rule here:
<http://occainfo.org/wp-content/uploads/2015/01/Article10DiscussionPaper.pdf>

Classes at the 2017 Annual Meeting that may be of interest regarding this resolution:

Taxation and Zoning for Utility Scale Solar Projects (Part 1 and 2)

Monday February 20 2017

10:00 – 12:00

Astor Ballroom 7th Floor

Article X: Background, Impacts & Reform

Monday February 20 2017

2:00 - 2:50

Booth/Edison 5th Floor

Article 10: Essential Information for New York Towns

Tuesday February 21 2017

11:00 - 12:00

Astoria Ballroom - 7th Floor

Solar Guidebook

Monday February 20 2017

3:00 - 3:50

Shubert Complex 6th Floor

Resolution No. 10
Property Tax Cap Reform

Whereas, the property tax cap was extended until June 15, 2020 with modification to the manner in which PILOT properties are treated when determining a local government's tax cap formula; and

Whereas, towns responsibly manage their finances, with the majority of towns levying at or below the allowable limit, despite limited revenue sources, stagnant state/federal aid and increasing expenses; and

Whereas, New York State governs the manner in which towns raise revenue; and

Whereas, New York State has primarily provided real property tax relief through ad hoc property tax exemptions rather than comprehensive property tax reform, resulting in a *tax shift* rather than a *tax reduction*, as well as additional administrative and litigation costs; **NOW THEREFORE BE IT**

RESOLVED, that if the tax cap continues, reforms will need to be made such as, but not limited to:

- Exemptions for expenditures that improve public safety and invest in local infrastructure including emergency expenditures, acquisition and development of open space and capital improvements mandated by consent orders from government agencies, and investments in municipal infrastructure to enhance economic capacity and community development; and **BE IT FURTHER**

RESOLVED, that the Association of Towns calls upon the state to examine and report on the property tax cap's impact on local government operations and infrastructure; and **BE IT FURTHER**

RESOLVED, that the Association of Towns calls upon the Governor and state Legislature to fund and/or eliminate state mandates, provide meaningful state aid, reform the real property tax system and address cost drivers in the provision of local government services/operations in order to lower property taxes for all New Yorkers.

Background

A similar resolution was part of the 2016 AOT Legislative Platform. The Erie County Association of Governments submitted a request that the tax cap formula be revised.

Gov. Andrew Cuomo often cites the property tax cap, which was adopted in 2011 and is scheduled to expire in 2020, as one of his legislative reforms. The tax cap law established a limit on the annual growth of property taxes levied by local governments and school districts to 2 percent or the rate of inflation, whichever is less. Property taxes have been capped at less than 2 percent for the last four years, and less than 1 percent for the last two years. "In what is becoming the norm, New York's local governments must cope with extremely limited growth for property taxes to stay within the tax cap," Comptroller DiNapoli has said. "Low inflation has positive effects for consumers, but it also reflects an uncertain economic environment. Local officials have faced growing fixed costs and limited budget options for years, but 2017 will necessitate even tougher financial choices."

www.osc.state.ny.us/press/releases/july16/071816.htm

The law sets forth a formula to calculate a municipality's allowable levy limit that takes into consideration a few statutory exemptions (tort judgments, pension costs and transfers of functions), credits from previous years and payments in lieu of taxes (PILOTs). Towns have identified some additional exemptions that should be included in the levy calculation in order to provide taxpayers with much-needed relief, while also supporting towns' abilities to provide local services. In addition, we believe PILOT payment and transfer of function credit calculations need to be reformed. Finally, in order to achieve the level of property tax relief state leaders have discussed, more state aid, real property tax reform and mandate relief are needed.

Although towns are allowed to override the tax cap by the adoption of a local law approved by 60 percent of the town board, many town boards seek to levy within the annual tax cap in order to meet their constituents' expectations.

Resolution No. 11 **Reform the Real Property Tax System**

Whereas, towns are heavily reliant on real property tax revenues to fund important government services; and

Whereas, New York's real property tax burden is among the highest in the nation, diminishing standards of living and economic vitality across the state; and

Whereas, a contributing factor to high real property taxes is the volume of legislation passed each year granting particular property owners and not-for-profits either a partial or full exemption from the payment of real property taxes and relief from established taxable status dates; and

Whereas, the manner in which condominiums, cooperative housing and certain multifamily dwelling units are assessed further contributes to high real property taxes in this state; and

Whereas, it is essential that the cumulative long-term impact of real property tax exemptions be addressed in New York, particularly in light of the continual erosion of real property tax bases resulting from the above practices; **NOW THEREFORE BE IT**

RESOLVED, that the Association of Towns calls upon the Governor and the Legislature to define and enact a uniform, well-defined approach to exemption and taxable status date legislation and provide state funding for any state-mandated or -encouraged exemption programs and protect local property tax revenues.

Background

Carryover Resolution from the 2016 Legislative Program

One reason New Yorkers pay amongst the highest real property taxes in the nation is due to the state's real property assessment methods; most notably, the tendency to provide favored status to certain properties to the detriment of others. Indiscriminate property tax exemptions have now taken 31 percent of all New York State real property off the tax rolls, meaning local governments must raise the same amount of money for the provision of services from a notably smaller tax base. Property tax exemptions often eliminate the taxes one party would owe and shift the burden to other taxpayers, who endure the double whammy of having to fund the administration of this complicated system property tax exemptions.

Even though 43 percent of local government revenues and approximately 50 percent of town revenues are derived from real property taxes, the Legislature annually introduces hundreds of bills to provide for more real property tax exemptions to both private parties and not-for-profits. Numerous legislative hearings, bills and proposals have been devoted to the issue of real property tax reform, but to date, no measurable improvements in the area of property tax exemptions have been enacted.

In the fall of 2016, Gannett Newspapers published an in-depth series about property tax exemptions in New York State. Gannett reports that:

Statewide: Thirty-one percent of New York's land value is tax exempt. Of its \$2.8 trillion in land value, about \$866 billion of it never gets billed.

Religious groups: The value of religious groups' land bypassed for taxation has nearly doubled from \$14 billion in 1999 to \$26 billion in 2015.

Hospitals: Nonprofit hospitals' tax-exempt property increased in value from \$13.1 billion to \$22.7 billion over the past 16 years. Sixteen hospitals and health systems had \$2.6 billion invested in the Caribbean, Central America and other foreign countries in 2014 alone.

State land: New York pays tax on 90 percent of the 4 million acres it owns. The other 10 percent exposes a patchwork system of ad hoc deals that is dependent, in part, on who had the political juice to forge a deal.

Industrial development agencies: More than 4,600 deals granted more than \$1 billion in sales and property tax exemptions in 2014, but a state report found "little correlation" between private-sector job growth and IDA projects.

Colleges: State University of New York schools own \$10 billion worth of land, which would have yielded \$316 million annually in tax payments if not exempted. Nonprofit educational organizations, including private colleges and universities, if taxed, would have generated \$1 billion last year.

The Association of Towns' legislative agenda often includes one or more resolutions devoted to addressing real property tax system issues. This resolution focuses on exemptions generally, including the sheer number that continue to be enacted annually and the program's administration.

Additional Issues Referred to Staff

The Resolutions Committee has also requested that AOT Staff look into the manner in which all-terrain vehicles are defined under the New York State Vehicle and Traffic Law and whether or not amendments can be made to accommodate the use of Utility Task Vehicles in order to allow them to be registered and driven on town roads in order to access recreational trails. This issue will not be part of the Association of Towns official 2017 Legislative Platform but it will appear in the back of the booklet under the heading "referred to staff."



Association of Towns of the State of New York

RULES OF ORDER 2017 ANNUAL MEETING

Pursuant to section 5 of Article III of the Constitution and By-laws of the Association of Towns, the Executive Committee is charged with determining "the rules applicable to meetings of the Association". The Executive Committee has adopted the following Rules of Order for the Association's Business Session.

ARTICLE I- PURPOSE

Pursuant to Article III §5 of the Constitution and By-laws of the Association of Towns of the State of New York, the Association, duly convened, hereby finds that New York State is the most dynamic and diverse state in the Union, and that the Association brings together dedicated representatives from Town Government, the front line of service delivery across our state. In order that the will of the majority shall always be upheld and effectuated while the voice of the minority is heard and its rights are protected, and also so that civility, decorum and order shall prevail during of its annual meeting, the Association hereby adopts these rules.

ARTICLE II- PRESIDING OFFICER

The President of the Association, or designee thereof, shall preside at the Association's annual meeting. If the President is not present or able to preside, then the First Vice President, or designee thereof, shall preside.

The Presiding Officer shall decide all questions of order, and rulings of the Presiding Officer shall not be the subject of debate. It shall require a majority of those delegates present to overrule the chair.

ARTICLE III- ORDER OF BUSINESS

The Association shall conduct its business in this sequence:

a. Call to Order

The Association shall convene at the time and place duly appointed and, upon a quorum of a majority of delegates from member towns being present, as noted by the Chair of the Credentials Committee, the President shall call the meeting to order and recite the Pledge of Allegiance.

b. Credentials Report

The Chair of the Credentials Committee or his or her designee shall present a report regarding the number and names of member towns represented at the meeting (1993 Bylaws, article 7, §2 (a))

c. Executive Director Report

The executive director shall present a report regarding the work of the Association of Towns.

d. Treasurer's Report

The treasurer shall present a report of the Association of Towns finances.

e. Report of the Nominating Committee

The Chair of the Nominating Committee or his or her designee shall present a report of the nominating committee setting forth the names of those town officers who they have nominated for the elective offices of president and the five vice presidents.

f. Election of Officers

Following acceptance of the report of the Nominations Committee, with any amendments thereto passed by a majority of Association delegates, the report shall be taken up as a single slate of candidates and voted upon.

g. Adoption of Resolutions

Only resolutions reported from the Resolutions Committee shall be presented to the Association for a vote. With respect to resolutions memorializing the New York State Legislature, Governor, State Agencies or the New York State Congressional Delegation to act on behalf of the Association, the Chair of the Resolutions Committee shall summarize each resolution as it is called up for action. No amendment of such resolution shall be in order except for typographical errors minor corrections designed to clarify its intent. Following the reading of each resolution, a delegate shall move the resolution which, if duly seconded, shall be approved or defeated by a majority of delegates present.

h. Consideration of Revisions to the Bylaws

Bylaws revisions duly reported from the Resolutions Committee and ripe for consideration by the delegates shall be presented and acted upon by the delegates.

i. Other Business

j. Adjourn

ARTICLE IV- DECORUM

All Delegates shall maintain the highest standards of civility and decorum during the Annual Meeting. All debate shall be germane to the issue before the House. Debate shall be dignified and lacking in personal invective. A delegate rising to debate or present a paper, to give a notice, to make a motion or report, shall address the Presiding Officer and shall not proceed further until recognized by the Chair.

ARTICLE V-MOTIONS

a. All motions shall be germane to the matter before the Association and must be duly seconded. When a question is before the Association, only the following motions, duly seconded, shall be in order, in the following preference:

- (1) For an adjournment.
- (2) For a quorum.
- (3) To lay on the table.
- (4) To commit to a standing committee.
- (5) To commit to a select committee.
- (6) To amend.

b. The motion to adjourn, or for a quorum call, or to lay on the table, shall be decided without debate, and shall always be in order.

ARTICLE VI – VOTING

The Presiding Officer may ascertain the credentials of any person claiming to be an official delegate by a review of the Credentials Committee report as to the timely and proper filing of the delegate's Town's Certificate of Designation and payment by said town's membership dues for that year.

The Presiding Officer shall designate two or more official counters who may be called upon by the Presiding Officer to count votes as needed.

The following votes shall be necessary to decide all questions:

- Majority of Delegates - the adoption of all resolutions and the election of officers
- Majority of Delegates Present- all procedural motions
- Two-thirds of all Delegates - adoption or amendment of rules; amendment of the by-laws

Only Official Town Delegates may speak to and vote on matters brought up before the Association. Voting shall be taken by displaying an Official Voting Paddle, or as determined by the Presiding Officer.

The Presiding Officer shall announce the result of any vote.