How State Mandates Have Changed Counties

NYSAC
NEW YORK STATE ASSOCIATION OF COUNTIES

"Remember, my friends, the property tax is the killer tax in this state, and it has been for a long time. It's nothing new. Listen to what FDR said, and I quote 'The public is at last coming to realize that the increase in real estate taxes is due wholly to the increase in the cost of local and not state government. These taxes on real estate are too high…Local government has in most communities been guilty of great waste and duplication."

- Governor Andrew M. Cuomo,

2016 State of the State Address

Is there a need to put FDR's quote into context?

- FDR was governor from 1928 to 1930 – at that time state government provided few direct services (still the case today) and provided even less guidance to local governments on what services to provide or how
- New York was growing dramatically in population & the demand for services from the public was exploding
- Since the state did not provide a lot of services it was up to local governments to figure out what services the public wanted in addition to the services they were already mandated to provide (sheriff, courts, etc.)

Is there a need to put FDR's quote into context?

- At the time, local governments' only significant revenue source was property taxes – as demands grew so did property taxes
- When demands from certain interest groups were beyond the capacity of local governments to fund – they were directed to State government representatives for funding
- The lack of coordination between all levels of government, no clear authorization on who should do what, and limited flexibility and authority to raise revenues at different municipal levels created a patchwork of government service delivery in the 1920's and earlier
- The end result was some level of duplication and waste. Since the State did provide some aid to localities at this time, ensuring state resources were not wasted, and quality and consistent services were provided became a priority for FDR

How did NYS address FDRs "quoted" concerns?

- In 1935 the NYS Legislature created a temporary commission on State Aid to Municipal Subdivisions
  - A primary objective was to look at how state aid could reduce pressure on local property taxes
  - Additionally, the state wanted to make sure the public understood why, where, and how state aid was distributed and that it was being spent effectively and consistently

How did NYS address FDRs “quoted” concerns?

Interesting excerpts from the 1935 commission

“The simple process of raising money through one governmental unit and spending it through another governmental unit, both units covering the same area and same people, exerts a powerful and insidious influence toward increasing the absolute amount of public expenditure.”

How did NYS address FDRs “quoted” concerns?

“Through their spending unit the people may commit themselves to an ambitious program that they ultimately find themselves unwilling to continue to finance through the revenue-raising unit – and the commitment has been made only because the circular routing of the funds made the burden appear, in prospect, relatively painless.”

How did NYS address FDRs "quoted" concerns?

- These two "revelations" are borne of the 1935 viewpoint that because the state provided financial assistance to counties and the county financial commitment was not large enough, the local government will spend excessively
- The answer, in 1935, was to make sure that counties financial contribution was "substantial and state supervision thorough" (i.e., strong central control by the state and the beginning of substantial cost shifts from the state to local taxpayers)
- Over time, state central control usurped any local flexibility to control costs and the county fiscal share increased as ordered by the state. The fear of excessive spending now lies with the county, which is required to raise local taxes to support state programs that have grown "overly ambitious" and cannot be supported through local revenues any longer
  - ***In essence, the state government has for decades used local taxes to mask the cost of its' programs, such as Medicaid, Safety Net and other social service and early learning programs.***

What services were counties providing leading up to FDR?

- The 1892 adoption of county consolidated law – provides the framework for the operation of county government
- Granted counties authority to create towns and balance power between cities and towns
- Consolidated county law is the root of the modern county's role in almost all jurisdictions and the guarantor of town and school district tax levies

What services were counties providing?

- Consolidated County Law codified elected officials and some general functions
    - Treasurer (chief fiscal officer)
    - Clerk (Custodian of official record)
    - Sheriff (maintain law and order)
    - District Attorney (prosecute crime)
    - Judges
    - Coroners
    - Superintendents of the poor
        - Nursing homes, Alms houses and child welfare already existed but likely now operated under this position
    - Highway superintendents (maintain roads and bridges)

State Mandates

- In addition to the responsibilities laid out in the county consolidated law, and prior to FDR, local governments were subject to state labor and contracting mandates
  - 1911, regulating hours of work, workers compensation, etc.
  - 1924 Wicks Law enacted
- Then FDR got elected Governor (1928-1930)
  - In 1929, the state adopted laws endorsing state government's responsibility for relief for "state poor" and the county welfare districts role to administer income transfer payments (home relief), among other social insurance programs The first big social services mandate placed on county government
    - This was later enshrined in Article 17 of the State Constitution in 1938 to provide care, aid and support for the needy. A State constitutional responsibility carried out to this day in large part by counties

Government…"Efficiency"?

- While some level of segregation in municipal service delivery was occurring before FDR, it was taken to another level thereafter – for better or worse
- State government's efforts to control service delivery (by defining program parameters to ensure quality, consistency and outcomes), as well as their efforts to eliminate duplication and waste, likely resulted in unintended consequences
  - In the post World War II era specialization in government, rather than general purpose, became the preferred model

Government…"Efficiency"?

- This "specialization" required counties to administer and partially fund welfare, social services, and health programs, *while…*
- Specifically precluding towns, villages and cities from providing the same services
- In other cases counties, towns, villages and cities were all allowed to provide certain services under state law including public safety, waste disposal, parks and transportation
- In the final model, state authority was granted to create special-purpose local districts designed to perform a single function (schools districts, water, sewer, fire protection, lighting, etc.)

Government…"Efficiency"?

- County responsibilities changed dramatically over time as the State redefined its own role, and the county role, in delivering and paying for government services
- County government serves simultaneous roles as a semiautonomous, general-purpose local government and as a primary service deliverer and financier in New York State's decentralized state and local system

An Expansion of State Mandates and New Costs for Counties

- The state's desire to more fully control service delivery in New York led to the gradual, but relentless expansion of fiscal and administrative mandates, imposition of substantial new costs on counties
- The earlier labor and construction mandates were joined by environmental, purchasing and other mandates that impacted the day-to-day operations of county government – while laudable, many of these requirements made it much more expensive to operate compared to other states

History of State Mandates

- The 1950's brought the first community colleges and the 1970's brought incentives for a huge expansion
  - The 1970's expansion set state aid at 40 percent of operating costs to encourage counties to participate, this was later modified to up to 40 percent
  - Today the net operating costs of the community college system is about $2 billion annually, with a state share of about $460 million (23 percent – far short of the 40 percent promised)

History of State Mandates

- The 1960's brought a huge expansion of mandates to counties including
  - PINS established in 1962
  - Medicaid – with a first year county cost of about $20 million in 1966 rising to today's $7.5 billion county cost
  - Indigent Defense was made a primary responsibility of counties – by 2013 the county costs were $360 million (81%), state costs were $59 million (19%)
  - Public Assistance programs were expanded greatly with 50/50 state/county cost sharing of the nonfederal share established
    - Westchester County – 1960 home relief costs $13M, they grew 800 percent by 1971, rising to $102M
    - (Safety Net/Home Relief) has gone from a 50/50 state/local share to a 29/71 state/local share

History of State Mandates

- The 1970's
  - Taylor Law – followed by Triborough amendment that defines how local government must negotiate with their employees. In 2012 the Governor's Mandate Relief Council refused to recognize these requirements as a mandate on local governments
  - Environmental control mandates – costs shifted to county health departments, requiring counties to pay 40% of capital. The cost of this mandate rivaled the cost of welfare mandates
  - Revenue Sharing enacted – 21% of State PIT set aside for local governments

History of State Mandates

- 1980's
  - Early Intervention begins in the late 1980's
  - Medicaid is expanded. The State does take more fiscal responsibility for certain long term care expenses, but local costs continue to grow
  - Probation – while counties had this responsibility long before, the state share of program funding was 53.5 percent in 1989
    - Today, the state share is around 10 percent. Mandates within this program have expanded dramatically to the point where about half of a probation officer's time is spent meeting state mandated requirements even though the state share of funding dropped dramatically

History of State Mandates

- 1990's
  - Preschool Special Education – State Law requires a 75 percent state share. This is never achieved.
    - Permanent law (even today) calls for a state share of 69.5 percent and each year the Legislature & Governor "notwithstands" this requirement and only provides 59.5 percent state share
      - **In 2015, the notwithstanding clause cost counties $171 million**
      - **<u>Had the state abided by the original law of 75% state share, county costs would be $265 million per year lower today</u>**
  - $80 million in Revenue Sharing for counties ends
    - The loss of revenue sharing is part of a larger agreement that envisioned the state meeting, for the first time, its 75 percent preschool special education funding share – The state never followed through with their end of the deal.

History of State Mandates & Cost Shifts

- 2000's
  - The state enacts substantial pension sweeteners for all ERS and PFRS employees
  - Poor retirement fund returns driven by 2 recessions, combined with the pension enhancements led to a nearly 1700 percent increase in county retirement costs by 2014, increasing from $69 million to $1.2 billion
    - By 2012, skyrocketing costs requires the state to repeal most of these pension enhancements for newly hired workers. However, today, about 85-90 percent of the state and local workforce is subject to the enhanced benefits enacted a decade earlier
    - County pensions costs equal 24 percent of the aggregate county property tax levy by 2014

History of State Mandates & Cost Shifts

- 2001 – the State enacts the largest Medicaid expansion in the history of the program, county costs explode
  - Many counties experienced annual double digit increases in property taxes to support rising Medicaid costs
  - In addition, more than 30 counties and NYC increase local sales taxes to keep their heads above water as enrollment and costs grow
  - State implements Medicaid 3% growth cap in 2006 in recognition that the state imposed Medicaid expansion is wreaking havoc with county budgets.

History of State Mandates & Cost Shifts

- 2008-2012 – the Great Recession decimates local revenues and the state budget
    - The state reduces reimbursements to counties by nearly $400 million annually, without reducing the costs of state mandates
    - Most of these cuts are still in place today and include –
        - The state share for local social services administration is eliminated
        - The state reduces its share of funding to support child welfare, Early Intervention, Safety Net, article 6 public health, community college FTE aid, along with across the board 2 percent cuts to a wide variety of programs counties pay for on behalf of the state and receive partial reimbursement for later.

History of State Mandates

- 2011 – the State enacts a local property tax cap of 2% or inflation whichever is lower in an effort to control local property tax growth
  - County Medicaid costs are capped at zero percent growth in 2015 to help counties meet the property tax cap
  - NYC and counties costs for Medicaid are locked in at $7.6 billion annually and after 10 years of being capped they are not as closely linked to actual Medicaid caseloads or costs and the payments to the state function more as reverse revenue sharing.

History of State Mandates

Between 2001 and 2014 state reimbursement to counties dropped from 15.7% of total county budgets to 10.3%

History of State Mandates

It appears the State's actions of 1935 have come full circle. In 2011, the state steps in again to control the growth in local property taxes by enacting a local property tax cap.

How State Mandates Continue to Impact County Budgets

The Impact of Major State Mandates on Counties

	2010	Mandate Base Year 2011	9 for 99 2015
Medicaid**	$ 2,081,000,000	$ 2,135,000,000	**$2,255,650,783**
TANF - Family Assistance	$ 92,000,000	$ 91,000,000	**$0**
Safety Net/TANF	$ 204,000,000	$ 215,000,000	**$373,294,006**
Child Welfare	$ 270,000,000	$ 270,000,000	**$291,832,200**
Special Education Pre-K²	$ 193,900,000	$ 207,240,882	**$250,744,099**
Early Intervention¹	$ 60,000,000	$ 64,600,000	**$75,708,792**
Indigent Defense³	$ 133,812,147	$ 140,054,574	**$164,391,331**
Probation	$ 116,000,000	$ 123,200,000	**$156,668,359**
Youth Detention	$ 29,000,000	$ 31,000,000	**$38,581,897**
Pensions*	$ 461,978,835	$ 687,481,228	**$1,162,903,116**
Cost of 9 State Mandates	$ 3,641,690,982	$ 3,964,576,684	**$4,769,774,583**
Statewide Property Tax Levy (w/o NYC) ⁴	*$ 4,516,741,102*	*$ 4,528,799,053*	***$4,832,672,795***
Cost of These Mandates in Comparison to County Tax Levy	81%	**88%**	**99%**

* 5 year change - 2009-2013 - pension amounts paid by counties taken from Annual OSC CAFRs

** 2% year over year growth as enacted in 2012-13 budget, 2013-14 grwoth equals 1%, 2014-15 and thereafter 0% growth under state growth cap

*** Actual Adopted Levies for 2010, 2011, 2012, 2013, 2014, 2015

¹ The Early Intervention program switched to a prefunded statewide fiscal agent model in late 2013 which lowered the growth rate to about 1%.

² Preschool Special Education growth rates slowed dramatically in 2014-2015 and are expected to plateau in future years due to reforms

³ Per NYS Comptroller and OILS

⁴ County Property Tax Levy (net of county special districts)

"The cost, the waste, the inefficiency of our 10,500 local governments is still the state's financial albatross, and that is what is driving the cost. Consolidation, shared services, local efficiencies must be a top priority and we must encourage those choices by framing the true economic realities for local governments."

- Governor Andrew M. Cuomo,

2016 State of the State Address

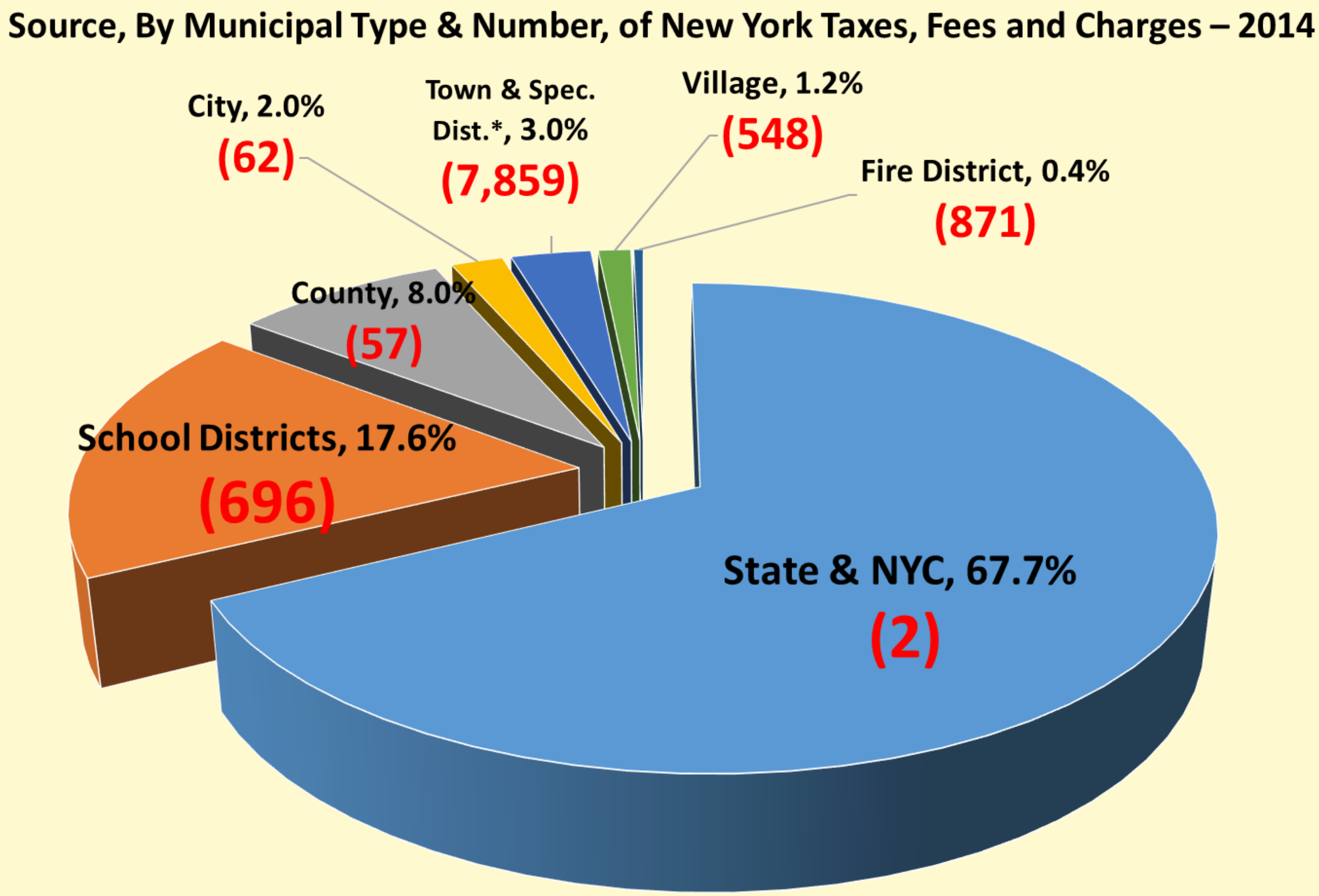
Is it the number, or how much we spend that matters?

- The U.S. Census Bureau and the NYS Comptroller identify a *total* of about 4000 actual local governments in New York State
- On a per capita basis, New York ranks about 38^{th} nationwide in its’ number of local governments
- It does not appear that the number of governments is as important as what each is required to spend

Is it the number, or how much we spend that matters?

- Government efficiency is good and should be pursued to the greatest extent possible
- A larger and more important step is to begin addressing our global budget and taxation in New York
  - We must review our total combined spending
  - What services we spend money on and why
  - What is the best way to finance all of these combined services
  - And finally determine what is affordable and sustainable
- The chart on the next page highlights where all taxes, fees and charges come from in New York State and the governmental entity driving that taxation

Source of All Taxes and Fees in New York - 2014



Source: NYS Comptroller Local Government Database, NYC total does not include school taxes – these are included under School Districts
* Town and Special Districts is broken down between 932 towns and 6,927 special districts that are mostly town entities.

Sources:

Much of the history and related context presented here is found in The Encyclopedia of New York State, Edited by Peter Eisenstadt

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