

Meeting with Legislators: Senator Little and Teresa Sayward

May 5, 2005: Glens Falls

Discussion Topics: Property Tax and School Funding Reform

Background:

The property tax crisis now facing us affects all income levels. Professional people retired on quite decent, but fixed, incomes living in homes they planned to spend the rest of their lives in are being forced out of them by unprecedented assessment and tax increases, with tax bills well into five figures now quite commonplace in many areas throughout your district – and rising further every year. Any system which can do this to so many – even when done in the name of “fairness” – raises the question of the fairness of the system itself. Any concept, formula or system, no matter how noble, fair or well intentioned, can reach its own level of absurdity when followed mindlessly as is happening now. **These are our homes.** In this country we think of our homes as something special. **No tax system** in this country should be allowed to do what this one is doing to so many of your constituents.

I. Introduction

A. Level of dissatisfaction in region has significantly increased due to property tax increases.

-- Overuse of property tax, producing high tax bills, often unaffordable for our older permanent residents on fixed incomes.

-- Additional burden created by skyrocketing property values and assessments, particularly acute in this region because of a limited supply and a strong second home market

B. High level of legislative activity resulting in a large number of bills being introduced.

C. The burden on primary homeowners is being felt at all income levels as the property tax becomes an ever increasing percentage of income.

II. Solutions

A. Restrain spending at state and local levels

- Reform Medicaid, Wicks Law, Taylor Law, “Prevailing Wage” rules, etc.
- Consolidate local services and local governments

B. Reduce current overdependence on property tax

- Pass legislation to develop and begin implementing plan for transition to full state funding of schools (S.1265)
- Eliminate unfunded state mandates. Allow more local school district flexibility.
- Tighten rules on non-profit as well as other property tax exemption categories.

C. Reduce property tax burden on permanent residents; (most states provide for significantly lower taxes for permanent residents)

- Make circuit breaker system (which limits a primary homeowner's tax to a certain percentage of his household income) applicable to all middle income households. For example, a concept that has been seriously proposed in New Jersey (www.theplan4nj.com) would cap the property tax on a primary home at 5% of household income up to \$100,000. (The maximum credit would be limited in the case of those under 65, unlimited for seniors 65 and older.).
- Create local option allowing towns to cap increase in taxable value of primary homes of New York State residents at a maximum of 20% in any five year period (6% in any one year) as the state has approved for New York City residents.
- Modify S.2846 to eliminate payback requirement if home is bequeathed rather than sold.

D. Ensure that variations in assessment practices statewide do not negatively affect our state school aid and other entitlements.

- Why do downstate governments widely ignore revaluation requirements while we constantly update?
- Establish a consistent revaluation policy throughout the state. (A.2975 sponsored by Assemblywoman Sayward)

-- Effect of varying assessment practices within a school district or county. Is it rates with different provisions for in state vs. out of state residents?

E. Potential sources of revenue to fund property tax reform

- Means test the Basic Star program, which now has no income limit
 - Offset much of Basic and Enhanced Star program if expanded circuit breaker is implemented per above
 - Expand scope of sales tax applicability, with particular attention to areas suggesting substantial discretionary income available to the user
 - Luxury tax on new vehicles, boats and airplanes costing over certain amount (\$50,000?)
- Create additional marginal rate for incomes above circa \$150,000

John Whiteley

Dick Gladu

(Additional pages follow with further background material)

1. SPENDING CONTROLS:

Our budgets at the local and school district levels are well published and receive input from the public during the approval process. For the most part, this is a “self cleansing” process resolving many differences of opinions. The most defensive statements at these budget hearings are “ State and Federal mandates drive increases in expense” and “ It’s the Law.”

As a result, there are several areas which require immediate attention and where relief is required:

MEDICAID:

Medicaid is a dominant share (approximately 1/3) of the Warren County budget. Similar dominance exists in other counties.

The local levy is again based upon assessed property value.

New York has the most generous program of all the States.

Medicaid Expenditures Fiscal Year 2003

Source: Urban Institute estimates based on Medicaid accounting statements (CMS-64)

Minnesota *\$4.9 Billion*
Tennessee *\$6.4 Billion*
North Carolina *\$7.3 Billion*
Michigan *\$8.0 Billion*
Illinois *\$9.4 Billion*
Ohio *\$10.3 Billion*
Florida *\$11 Billion*
Pennsylvania *\$12.9 Billion*
Texas *\$15.3 Billion*
California *\$30.4 Billion*
New York *\$40.6 Billion*

The New York State Senate passed 2005-06 State Budget legislation that restores more than \$762 million for hospitals, nursing homes and health care that the Executive had proposed to be cut, and takes steps to rein in the spiraling cost of Medicaid to local property taxpayers.

Health care related highlights contained in the 2005-06 State Budget include: □ **Medicaid Cap-** State takeover of local Medicaid costs, beginning with the takeover of costs that exceed an annual growth rate, set as follows: 3.5 percent in 2006, 3.25 percent in 2007 and 3 percent in subsequent years. Together with the takeover of the Family Health Plus program, the cap will save local taxpayers over \$3.3 billion annually when fully effective. In exchange for the State takeover, counties will be required to remit a set level of local revenues to the state, and will be subject to new accountability standards aimed at checking excessive local spending growth.

Medicaid has been recognized as a major driver of spending at the State and County level. These actions are a step in the right direction. The resultant impact on property tax relief has yet to be quantified. Accountability and control at the county and local levels to insure compliance is fundamental.

WICKS LAW: (ref. ATTACHMENT # 2)

Under New York's "Wicks Law" (General Municipal Law, Section 101), school districts are mandated to use multiple construction contracts for public works projects costing \$50,000 or more. This requirement complicates the construction process and needlessly adds to the cost and time required to complete construction projects.

Various studies have shown there to be a 15 – 20 % premium charge as a result of the School districts being required to manage multiple prime contractors for publicly funded programs.

Multiple Districts have applied for and received exemptions from this law resulting in significant reduced spending.

Comment:

We need relief from the Wicks Law mandates. School districts should have the option of hiring a single contractor to coordinate the work of the numerous contractors whenever a construction project is undertaken. Real taxpayer money will be saved.

A sample resolution, (ref. **ATTACHMENT # 3**), is recommended.

TAYLOR LAW: (ref. ATTACHMENT # 4)

The Law requires public employers to negotiate and enter into agreements with public employee organizations regarding their employees' terms and conditions of employment. This is an extremely important process today in light of the spiraling costs of healthcare insurance, pension contributions, and salaries etc at the School District level. These issues must be reviewed, in committee, with the intent of proposing a process in order to balance employee contributions with taxpayer affordability.

PREVAILING WAGES: (ref. ATTACHMENT # 5 & #6)

The Labor Department issues wage schedules on a county-by-county basis that contain minimum rates of pay for different work classifications. State law requires that these schedules be made part of **all** contracts between a government entity and a contractor.

In order to realize savings, especially in rural communities, limits on the dollar amount of contracts should be established to exempt having to apply these schedules across the board.

EXEMPTIONS: (ref. www.orps.state.ny.us)

Referring to the NYS ORPS Munipro data, all real property in New York is subject to taxation unless specific legal provisions grant it exempt status, whereas personal property is not subject to taxation. Real property tax exemptions are granted on the basis of many different criteria, including the use to which the property is put, the owner's ability to pay taxes, the desire of the state and local governments to encourage certain economic or social activities, and other such rationale.

Approximately 34 percent of the market value of 2002 real property in New York is exempt from taxation.

The list of tax exempt code is too extensive to publish, but is available on the ORPS site.

A comprehensive review at the local, county , and state level is in order to insure compliance with the intent of these exemptions.

ATTACHMENTS

ATTACHMENT # 1

TOWN OF HAGUE RESOLUTION #44

The Hague Town Board, in concert with the NY State Associations of Towns, has adopted the following resolution, since the Board believes that the primary force for changing property tax as the basis for school funding lies in Albany.

By action of the Hague Town Board, adopted at its meeting on April 14, 2005, it was

RESOLVED that the following recommendations be submitted to United State Senators Hillary Clinton and Charles Schumer, New York State Senators Betty Little and Joseph Bruno, New York State Assembly Representatives Teresa Sayward and Sheldon Silver, and Governor George Pataki, on behalf of the citizens of Hague urging their immediate attention.

WHEREAS the residents of the Town of Hague have collectively considered the local issues of greatest concern to them and identified high property taxes as one of the highest priority among them; and

WHEREAS funding for local governmental services, including public education, is provided primarily through a tax on the estimated value of property; and

WHEREAS the welfare of Hague homeowners is jeopardized by the rapid increase in the costs of public education and the inability of many homeowners to pay these increased costs; and

WHEREAS the increasing burden of public education on taxpayers also impacts on the ability to raise other taxes to provide services and to fund Town-specific and local initiatives important to the well being of the community.

THEREFORE, the Hague Town Board appeals to New York State public officials to implement new measures for financing public education, including the following suggested actions:

- 1) Develop legislation that would provide for a gradual transition to full state funding of education to eliminate the irrational reliance on property values as a criterion for school budget decisions. This is in the best interests of the schools as well as the taxpayers.
- 2) As an interim measure, revise state aid formulas to increase the weight given to income -- as opposed to property values -- as the criterion for a district's perceived "ability to pay".

- 3) Refrain from imposing state mandated requirements upon school systems without corresponding state funding.
- 4) Adjust the formulas on revenues earmarked as aid to education from state lottery and other future gaming activities so that the annual percentage is substantially increased from current levels.
- 5) Maintain the enhanced STAR exemption for the town's neediest citizens, but also increase the STAR exemption (or other property tax relief measures such as the circuit breaker) for senior citizens specifically at ALL income levels.
- 6) Recapture lost tax revenue from the above actions through the income tax and/or sales tax.

Resolved and Executed at Hague, New York, this 14 day of April 2005.

Resolved and Executed at Ticonderoga, New York, this 14 day of April 2005.

ATTACHMENT #2 – WICKS LAW

NYSASBO - Position Paper on Wicks

School Districts Need Relief From The Wicks Law Mandate!

A Position Paper prepared by representatives of the New York State Association of School Business Officials, New York State School Boards Association, New York State Council of School Superintendents, New York Superintendents of School Buildings and Grounds Association, Rural Schools Program, and the American Institute of Architects New York State.

Under New York's "Wicks Law" (General Municipal Law, Section 101), school districts are mandated to use multiple construction contracts for public works projects costing \$50,000 or more.

This requirement complicates the construction process and needlessly adds to the cost and time required to complete construction projects.

It is time now to fix the Wicks Law mandate – to spare taxpayers from unnecessary costs and protect students from learning disruptions.

History

The Wicks Law dates back to 1912, and it requires the award of separate "prime" contracts for electrical, plumbing, and HVAC (heating, ventilating and air conditioning) work. The remainder of the work is normally covered under a fourth "prime" contract with a general contractor.

Under the law, school districts have the ultimate responsibility of coordinating the work of the other primes. This puts the school district in the position of managing the actual construction, coordinating the work of all the primes and resolving all disputes. Most states use single prime contracts in which the general contractor assumes all of these responsibilities. Only two states, including New York, extensively use multi-prime contracts on public projects.

Numerous studies have demonstrated that the Wicks Law is needlessly costly and cumbersome; its provisions tend to extend construction projects.

In 1987, the staff of the State Budget Division conducted a study on the cost implications of the Wicks Law which concluded that costs could be reduced by 30% in many typical construction projects. (Fiscal Implications of the Wicks Law Mandate, May 1987)

A study completed by the New York State School Boards Association in 1991 estimated that the Wicks mandate increases costs in a range from 20% to 30%. Based on the construction work to be completed in school districts in 1990-91, the estimated additional cost of the multiple contract mandate ranged from \$327 to \$491 million. (Impact of the Wicks Law—Final Report, March, 1991)

In 1996, the Niagara Falls City School District received legislative approval to construct one school building exempt from the multiple-contractor mandate of the Wicks Law. According to District officials, that \$60 million construction project would have cost about 15% more (\$9 million) if they had been required to use multiple prime contracts.

Some school districts are currently exempt from the Wicks Law, including New York City. A 1999 study completed by PricewaterhouseCoopers LLP for the New York City School Construction Authority, projected a \$192 million savings for the City as a result of its exemption

from the Wicks Law. In addition, the study determined that construction time, without the Wicks mandate, would be reduced from 49 months to 24 months. (Impact of the Wicks Law on Public Construction in New York City, March 1999)

The Problem Today

The purpose of school construction is to provide an appropriate facility for teaching and learning to take place. If a construction project is delayed, teaching and learning suffers more often than not. For example, as is often the case, when occupied schools are in the midst of construction projects, students and staff are inconvenienced and disrupted by the project. In the case of a new school being built, the students and staff are normally being housed in an existing facility that no longer meets their instructional needs. In both circumstances, it is unfair to teachers and students to prolong this disruption and inconvenience, especially at a time when schools are being asked to do more!

In addition, if school construction projects cost conservatively 10% more as a result of the Wicks Law, this means that ultimately less funding is available for instructional programs that directly benefit students, or that taxpayers are bearing unnecessary costs. For example, if a school awards contracts to multiple primes at a cost of \$30 million in comparison to awarding to a single prime for the same work at a cost of about \$27 million, an additional \$3 million is being spent for the project. This \$3 million could have been used for building enhancements or to support the instructional program in very meaningful ways!

Imagine how much money could be saved statewide if construction costs are reduced by just 10% as a result of the Wicks Law exemption. Based on data from the State Education Department, construction projects totaling \$3.7 billion were approved in the 2000-01 school year. Using this example, relief from the Wicks Law would result in a reduction of \$370 million in costs. These savings would be shared between the State and the local taxpayers. It is estimated that the State's share of the savings would be about \$250 million and the local savings would be about \$120 million.

The Solution

Recently, the Buffalo City School District received legislative approval to exempt it from the provisions of the Wicks Law for six new projects. This approval was granted by the Legislature with the recognition that construction costs would be less. If Niagara Falls, New York City, and now Buffalo can be spared from the Wicks provisions, why shouldn't school districts all throughout the State have the same opportunity to reduce the cost and the length of their construction projects?

The Wicks Law was designed to help protect subcontractors from having their costs undercut by unscrupulous prime contractors. But any protection the Wicks Law provides is modest. Enacting better prompt payment legislation and price protection for subcontractors is a more effective strategy – a step endorsed by all the Wicks reform coalition partners.

Wicks Law reform will save money. It won't cost jobs.

There has never been more school construction work than there is now. If projects are completed faster, workers will move on to other projects already in the pipeline. School districts approved more than \$9.6 billion in construction projects in the last four years.

And if not for the Wicks Law, there might be even more work to be done. If not for the added costs imposed by Wicks, even more projects could have been approved. Example: recently voters in Nassau County's Hewlett-Woodmere school district rejected a proposed \$39.5 million construction initiative by just 26 votes. If not for Wicks, that project could have cost 10 percent less – nearly \$4 million less. What do you think? Would a price tag \$4 million lower have shifted the 14 votes

needed to win approval?

What We Propose

School districts should have the option of hiring a single contractor to coordinate the work of the numerous contractors whenever a construction project is undertaken.

If a single contractor is used for the project, the names of the electrical, heating, and plumbing subcontractors to be used should be identified and the amount of money each would receive for their work must be detailed.

Our package would enable schools to make someone ultimately accountable for completion of the project on time and on budget while also ensuring that high quality subcontractors are used and that they are treated fairly.

Given the ominous fiscal outlook for the State, now it is particularly important for school districts to be exempted from the Wicks provisions. Neither the State nor the local taxpayers can afford to pick up the additional costs associated with the Wicks Mandate. Nor, given the mounting demands of higher standards, should students and teachers be asked to bear needless disruption any longer. The timing is right for the Legislature to provide school districts with relief from the Wicks Law mandate.

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ATTACHMENT # 3

NYSASBO - Sample School Board Resolution on Wicks Law Exemption

WHEREAS, Section 101 of the General Municipal Law, more commonly referred to as the Wicks Law, requires school districts in New York State to prepare separate specifications and to award separate prime construction contracts when the entire cost of a project will exceed Fifty Thousand Dollars (\$50,000); and

WHEREAS, for those construction projects exceeding Fifty Thousand Dollars, schools must award prime contracts for the following three sub-divisions of work to be performed: (a) Plumbing and gas fitting; (b) Steam heating, hot water heating, ventilation and air conditioning apparatus; and (c) Electric wiring and standard illuminating fixtures; and

WHEREAS, numerous studies have shown that adhering to the multiple prime Wicks requirement can add 15% to 30% [in excess of 10%] to the cost of a project; and

WHEREAS, the Wicks requirement places school districts in the position of resolving disputes between prime contractors; and

WHEREAS, the multiple prime requirement is needlessly cumbersome for school districts and causes construction delays; and

WHEREAS, construction delays may have a negative impact on teaching and learning; and

WHEREAS, increased construction costs may result in less funding being available for instructional programs that directly benefit students; and

WHEREAS, school districts are prohibited from awarding single contracts for capital construction projects; and

WHEREAS, the New York State Legislature has already amended Section 101 of the General Municipal Law to provide exceptions for the New York City and Buffalo City School Districts ; now, therefore be it

RESOLVED, that the Board of Education of _____ hereby requests Senator(s) _____ and Member(s) of Assembly _____ to immediately move to jointly sponsor legislation specifically authorizing our school district to exercise the option to award a single contract for the construction project approved by our school district's voters on (insert date) in the amount of \$_____, thereby ensuring the opportunity for our school district's property taxpayers to realize cost and administrative savings resulting therefrom in an amount estimated to range between \$_____ and \$_____ or between 10-30% of the project's cost otherwise; and be it further

Or Alternative Resolved Clause for Pre-Voter-Approved Exemption Requests:

RESOLVED, that the Board of Education of _____ hereby requests Senator(s) _____ and Member(s) of Assembly _____ to immediately move to jointly sponsor legislation specifically authorizing our school district to exercise the option to award a single contract for the construction project proposed for approval by our school district's voters on (insert date), which authorization will help our school district's property taxpayers realize cost and administrative savings resulting therefrom in an amount estimated to range between \$_____ and \$_____ or between 10-30% of the project's

\$_____ cost otherwise; and be it further

RESOLVED, that a copy of this resolution be transmitted forthwith to the Honorable _____
and the Honorable _____, our school district's state legislative representatives.

IN WITNESS WHEREOF, the undersigned has hereto affixed his/her hand and seal and the seal of
the above-named School District this ____ day of _____, 200 .

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ATTACHMENT #4 – TAYLOR LAW

New York State Public Employees Fair Employment Act - The Taylor Law

What Is It?

The Public Employees Fair Employment Act, commonly known as the Taylor Law, is a labor relations statute covering most public employees in New York State-- whether employed by the State, or by counties, cities, towns, villages, school districts, public authorities or certain special service districts. It became effective September 1, 1967 and was the first comprehensive labor relations law for public employees in the State, and among the first in the United States. It is the legal foundation used by GOER in its negotiations with New York State's public employee unions.

What Does It Do?

The Taylor Law:

- grants public employees the right to organize and to be represented by employee organizations of their own choice;
- requires public employers to negotiate and enter into agreements with public employee organizations regarding their employees' terms and conditions of employment;
- establishes impasse procedures for the resolution of collective bargaining disputes;
- defines and prohibits improper practices by public employers and public employee organizations;
- prohibits strikes by public employees; and
- establishes a state agency to administer the Law- The Public Employment Relations Board (PERB).

Administration Of The Taylor Law

The New York State Public Employment Relations Board (PERB) was created as an independent, neutral agency to administer the Taylor Law. The three member Board is appointed by the Governor, with the consent of the State Senate. The Board's major responsibility is to act as an umpire in disputes arising under the Taylor Law. Other responsibilities include: administration of the Taylor Law statewide; resolution of representation disputes; provision of impasse resolution services; adjudication of improper practice charges; designation of management/confidential employees; determination of employee organization responsibility for striking and ordering forfeiture of dues and agency fee check-off privileges; and, administration of grievance and interest arbitration panels.

Resolution of Contract Disputes

- **Mediation:** Generally under the Taylor Law there are four impasse resolution systems, and in each system, mediation is the required first step. Either or both parties may request mediation assistance by filing a "Declaration of Impasse" with PERB's Director of Conciliation. The mediator is appointed by the Director from PERB's full-time staff or its panel of per diem mediators. The mediator acts as liaison between the parties, and seeks to effect a settlement through persuasion and compromise.

- **Fact-Finding:** If mediation fails to resolve the impasse, then Fact-Finding is the next step. The fact-finder may attempt to resolve the dispute through further mediation. If not, or if unsuccessful in that effort, the fact-finder then holds a hearing, takes testimony of witnesses, accepts briefs from the parties, and then makes a written, nonbinding recommendation for settlement to both parties. The Fact-Finder then makes the report and recommendations public within five days of transmission of the report to the parties.

- **Binding Arbitration:** For New York State Police units, the procedure is similar to what the law provides for local police, fire fighters, and certain transit employees. The Taylor Law provides that if the dispute is not resolved in mediation, PERB, on petition of either party, will generally refer the dispute to arbitration. Arbitration for New York State Police units is restricted to issues directly related to compensation and the decision of the arbitrator is binding on both parties.

- **Legislative Hearing:** In those instances where arbitration is not permitted, if one or both parties does not accept the fact-finding report in its entirety, then for public employees (with the exception of public employees of educational institutions, police, fire fighters and certain transit employees) the next step is a legislative hearing. The Governor's Office of Employee Relations submits to the Legislature a copy of the fact-finding report plus the agency's own recommendations for resolving the dispute. The employee organization may submit its recommendations for settling the dispute as well. A public hearing is then conducted by the Legislature or a legislative committee to hear the positions of both sides. The Legislature usually directs both parties to resume negotiations but occasionally, the legislature will choose to impose employment terms. Such imposition may be for no more than a single fiscal year. A legislative determination cannot change the terms of an expired agreement unless the employee organization has waived its right to stand on those terms.

- **Conciliation:** Is mediation assistance which PERB may offer, at its discretion, if an impasse continues after a fact-finding report has been issued.

PREVAILING WAGE: ATTACHMENT #5

The Labor Department issues wage schedules on a county-by-county basis that contain minimum rates of pay for different work classifications. State law requires that these schedules be made part of all contracts between a government entity and a contractor. The State Labor Department updates prevailing wage rates annually by July 1. For information and/or assistance on a specific rate, please contact the local district office. Informational wage schedules may be obtained by mailing or Fax a request to the Bureau's Central Office.

The process has five steps:

A state or local agency decides to let a contract for a public work project.

The contracting agency must send a written request to the Labor Department's Bureau of Public Work for an appropriate wage schedule.

The contracting agency then must attach the wage schedule to the bid specifications.

When awarding a contract, the agency must attach the wage schedule to the contract and notify the Bureau of Public Work that the contract has been awarded.

Before work begins, the contractor and subcontractor(s) must post wage schedules at the construction site so that workers know what they are entitled to.

LABOR LAW COMPLIANCE – ATTACHMENT # 6

The New York City School Construction Authority (SCA) requires compliance with Article 8 of the New York State Labor Law and additionally, for certain contracts involving Federal funding, Davis-Bacon and Related Acts. The law requires public work contractors to pay individuals working on public work projects not less than the prevailing wage rate. A new schedule of rates is issued at least once each year. Different areas of the State of New York have different prevailing wages. The prevailing wage is different for each trade, and is based on the work that the individual actually does, not the job title. For example, if the individual is doing the work of a "carpenter", the individual must receive the appropriate prevailing wage for a "carpenter", even though the individual might incorrectly be referred to as a "laborer". State Law requires that wage rates for public work projects are those established by collective bargaining agreements between trade unions and employers where the project is located. Required wages, supplements (fringe benefits), and hours of work are referred to collectively as the prevailing wage. Apprentices on SCA sites must be registered with the NYS Department of Labor and must conform with established ratios. A ratio establishes the number of journey workers required for each apprentice in a program and on a job site. The Contractor is required to post the most current Section 220 prevailing wage schedule and current SCA wage notices at each site of work in a prominent and accessible place where they can be easily seen.

The SCA works closely with the New York State Department of Labor, the Office of the Comptroller of the City of New York, the Offices of the District Attorneys of New York City, the United States Department of Labor, the United States Attorney General and other entities and agencies to assure compliance with these contractual requirements. Innovative language in SCA contracts requires that the contractor assume the cost of any investigation conducted by or on behalf of the SCA which discovers a failure to pay the prevailing wage by either the contractor or the subcontractor.