

State Senator Liz Krueger's Albany Update Summer 2015

Dear Friend,

This newsletter provides a breakdown of this year's January – June 2105 legislative session. Unfortunately, the few legislative accomplishments of the session were completely overshadowed by the indictments of the legislative majority leaders of both the Senate and the Assembly. One would hope that these revelations of corruption would have helped build support for meaningful ethics and campaign finance reforms, but instead, this being Albany, they were used by the Governor and the new leaders as an excuse for inaction on many of the key issues facing our state.

I do think the attention to corruption in Albany will help in the long-term, and I hope that U.S. Attorney Preet Bharara will continue his work; perhaps it will eventually spark the necessary fundamental changes in the way Albany does business. But in the short-term, too little has changed.

What follows is a summary of the major issues that faced Albany this year, and what the outcomes were on those issues. Unfortunately most of this newsletter is devoted to what didn't get done since this was one of the least productive sessions I have seen in Albany in a long time. A few reports have actually said that since we eventually passed a large number of bills it was a successful session. I prefer to measure **QUALITY** over quantity. You?



Senator Krueger with
Assemblymember Dick Gottfried and
tenant advocates in Albany fighting
for stronger rent laws.

HOUSING

Rent Regulation

While legislation passed on the last day of session extending the state's rent stabilization and control laws, it failed to address the major pro-landlord provisions that result in tenant harassment and the perpetual loss of affordable housing.

The rent laws were renewed through June of 2019, but because no action was taken to repeal vacancy decontrol, end the vacancy bonus, reform Major Capital Improvements (MCIs) or Individual Apartment Improvements (IAIs), and fix the preferential rent loophole, almost 90,000 units are expected to leave rent regulation during the next four years. I opposed the version of the laws passed

because they failed to address key issues. Some felt this was better than nothing, but I believed there was more to be done.

There were some minor changes to the rent laws, including:

- **Vacancy and Luxury Decontrol rent thresholds increased from \$2500 to \$2,700**, with annual indexing based on the 1 year lease rent increase specified by the NYC and Suburban Rent Guidelines Boards (RGB) starting Jan 1, 2016. No changes were made to the \$200,000 income threshold for luxury decontrol.
- **Vacancy Bonus decreased** to 5%, 10%, 15% or 20% for landlords when a preferential rent tenant moves out, depending on whether they move after 1, 2, 3 or 4 years.
- **Increased civil penalties for tenant harassment**, a change that is unlikely to help tenants because it is so difficult to prove harassment under existing laws.
- **Longer amortization period for MCIs.** For buildings with 35 or fewer units, amortization will be stretched out to 8 years, and for buildings with 35 or more units to 9 years. This will reduce the monthly per-room MCI charge somewhat. However, the MCI rent increase will still be permanent, and compounded with the base rent.

421-a Tax Breaks

The outdated, inefficient and expensive 421-a developer tax break program was extended for 7 months and will be extended through June 15, 2019 on the condition that an agreement is reached regarding prevailing wages for construction workers. This means that developers can receive a tax abatement for up to 35 years if they provide more affordable housing within a range of 40-130% of Area Median Income (AMI), which will do nothing for individuals with incomes under \$24,200 and families with incomes under \$34,520. This program costs New York City well over a billion dollars annually in lost tax revenue that I believe should be devoted to more efficient affordable housing programs.

Co-op and Condo Tax Abatement

I was pleased that the co-op and condo tax abatement was extended until 2019. Because of differences in the methods the city uses to determine the assessed values of class one and class two properties, cooperative and condominium owners routinely face tax bills that are two to three times those of comparably valued one- and two-family homes. New York City must create a long-term, comprehensive plan to bring about tax equity for renters and cooperative and condominium owners, but until that happens, the tax abatement program provides meaningful relief.

EDUCATION

I was extremely disappointed that **mayoral control of NYC's public schools** was only renewed for one year. Under the previous mayor, mayoral control was renewed for 6 to 7 years, a much more reasonable time-frame for evaluating what is and isn't working. The short renewal seems to be much more about politics than good educational policy. While there is a range of opinions about the strengths and weaknesses of the existing system, the Senate majority did not engage in substantive discussions on these issues. I am hopeful this dialogue will finally take place before the law expires in June 2016 so our city's school system can have the stability it needs to continue innovating and improving.

One more positive front, I was pleased that the legislature rejected the **Parental Choice in Education Act**. If Governor Cuomo's proposed legislation had passed the full legislature it would have diverted hundreds of millions of dollars in state funding and given huge tax breaks to the wealthiest New Yorkers who made donations to support religious and private schools. While I respect the right of parents to choose the school they feel is most appropriate for their child, I have consistently opposed this legislation.

I was not opposed to the provision of \$250 million in **funding for non-public schools** to cover state-mandated services. These funds were actually owed to the schools for many years and it is a shame that they were not reimbursed sooner.

REPORT ON THE 2015-2016 BUDGET

This year's budget process definitely lived up to the old adage that laws are like sausages – it's better not to see them being made. To meet the budget deadline, the Legislature passed a series of bills over the final days of March and into the early hours of April, mostly with “**messages of necessity**” from the Governor, meaning they didn't have to be in print for the usual three days before voting so there was no time for full review by the public or legislators. I have always objected to the overuse of these messages, but they are particularly troublesome for budget bills, which total several thousand pages of text and impact every corner of our government and over \$100 billion dollars in both revenue and expenditures.

Some of what was in the budget bills was deeply problematic. A couple of particularly outrageous provisions **granted tax exemptions for private airplanes and yachts costing more than \$230,000**. I voted against the bill containing these provisions. While these tax giveaways to the wealthiest were added to the budget, provisions increasing the minimum wage and enacting the Dream Act were removed. In addition, the final budget cut \$22.5 million in funding under Emergency Assistance for Families in NYC homeless shelters. It is unconscionable for the state to be prioritizing the needs of those who can afford luxury items like private planes and expensive yachts over low-wage workers, immigrant college students, and the homeless

I also voted against the budget bill implementing the Governor's changes to education policy. There were a number of major problems with these proposals, but I was particularly concerned about tying teacher evaluations too myopically to standardized test scores. The ever-expanding reliance on standardized tests has already distorted what goes on in the classroom, and the Governor's proposals will only increase the incentives for teaching to the test. Furthermore, the provisions linking a portion of state aid to the implementation of the Governor's education agenda violate the educational requirements in the state constitution.

There were some positive items included in the budget, including a total \$477 million for affordable and supportive housing programs (only some of which is new funding). Funding for a number of SUNY and CUNY programs was increased by nearly \$70 million over last year's budget. Funding for the urban youth jobs program was doubled to \$20 million, and \$4.5 million was included in the budget for emergency food programs, which help more than 3 million New Yorkers each year.

But, overall, I see this year's budget process as **a big step backwards**. For the last several years we have had on-time budgets without resorting to messages of necessity, which at least ensured legislators and the public had some opportunity to know what they were voting on. This year we had over \$5 Billion in Bank Settlement funds available as new money. Yet, only a few dollars of this went back into our crumbling affordable housing, transit, energy and water infrastructure on which we are dependent for our future economic security. In a year with one-time extra funds, this was a disturbingly short sighted budget.

Senator Krueger debates the Senate Budget Resolution with Finance Chair John DeFrancisco.



GOVERNMENT REFORM

Ethics

The final budget included a number of modest ethics reform measures, but none address the major causes of recent Albany scandals. Among the measures included in the budget were:

- Enhanced disclosure requirements for outside income and disclosure of clients if a legislator receives \$5,000 or more in compensation from a single client, or \$10,000 or more in compensation from multiple clients. I am concerned that this provision has a number of exceptions that will continue to allow legislators to hide income sources and doesn't cover the executive branch.
- Per diem reform: requires better documentation of legislative expense claims and the creation of an online database of legislators' per diem expenses.
- Disclosure of independent campaign expenditures: expands existing disclosure requirements to capture references to a candidate that do not specifically call for support or opposition of that candidate.
- Limits on personal use of campaign funds: somewhat stricter standards regarding what campaign funds can be spent on were implemented. However, these requirements still allow far too many options for the misuse of campaign funds for things like buying clothes or paying legal fees.

These minor changes were all the Governor and Legislature were willing to move at a time when corruption in Albany is front-page news. We need to do more.

LLC Loophole

Among the many charges of corruption outlined in the federal complaint against former Senate Majority Leader Dean Skelos is the allegation that he received hundreds of thousands of dollars in contributions funneled through real estate Limited Liability Companies (LLCs) in exchange for political favors.

In New York elections, LLCs are currently treated as people, with the ability to donate up to \$60,800 to a statewide candidate per election cycle. LLC ownership is not disclosed, making it nearly impossible to identify contributors. Thus, an individual can funnel unlimited sums through multiple LLCs without transparency or accountability. Of all the money raised by state-level candidates and party committees in New York, 14% is given by LLCs, three times the amount given by small-level individual donors. Between 2005 and 2013, LLCs contributed over \$40 million to New York State candidates, parties and political action committees.

I cosponsor S.60 to close the LLC loophole, which the Senate majority refused to allow onto the Senate floor for a vote this session. I have also joined a bipartisan group of plaintiffs in suing the State Board of Elections to force them to close the loophole.

I continue to believe that we need fundamental reform of our campaign finance system, including the creation of a public campaign financing system similar to what we have in New York City. The unwillingness of the Senate majority to allow any significant reform is extremely disappointing.

Government Records Retention and FOIL

This session I introduced legislation (S.4307a) to ensure the preservation of important government records and increase public access to legislative records. Current policies allow for the automatic destruction of emails and other electronic governmental records after 90 days and exempt the legislature from the Freedom of Information Law (FOIL).

I was pleased that after I introduced this legislation, the Governor agreed to end his 90 day deletion policy. However, he has not adopted best practices regarding handling of records. I continue to push for passage of legislation that would establish records management principles for electronic records similar to those that apply to other record formats and would require additional access to legislative records.

TRANSPORTATION

MTA Capital Plan

The Legislature failed to act on funding the \$32 billion MTA capital plan. The 2015-2019 plan currently has a \$14.8 billion funding gap at a time when growing ridership is straining existing infrastructure beyond capacity. The need for an aggressive repair and replacement program is obvious to everyone who experiences the chronic delays resulting from signal problems and other equipment malfunctions. The need for expanded capacity is certainly evident for anyone who has to rely on the Lexington line (4,5,6 trains) through the length of my district, and problems are nearly as bad on many other lines across the city.

Ridership is at record levels. Daily subway use passed six million for the first time in 2013 and has exceeded that level 26 times already this year. If we don't maintain and expand the system, we can expect ridership to drop as the subways and buses become an increasingly unreliable way of getting around. And if you live in or visit Manhattan, I don't really need to review above ground traffic gridlock problems, do I?

While proposals like the Move NY bridge tolling plan could help with a portion of the budget gap, without a significant re-engagement by the state the MTA will have to impose even greater fare increases just to meet critical infrastructure upkeep needs and system improvements will be eliminated. Commitment by the city and particularly the state has been lacking in more recent years, forcing the MTA to rely on borrowing, unpopular specialized taxes, and fare increases to meet its capital needs. The state provided 19% of the first two Capital Plans in the 1980s, but as of now has pledged to fund just over 3% of the 2015-19 plan. That pattern must end!

I will continue to remind my colleagues and the Governor that the economic vitality of New York City depends on a functional public transportation system and that the state is failing to do its part supporting that system.

ENVIRONMENT

Hydrofracking

In December, Governor Cuomo announced a ban on hydrofracking in New York State. In June this policy was confirmed in regulation. I have been a supporter of legislative action to ban high volume hydraulic fracturing (HVHF) for many years.

The Governor's decision followed the release of the state Department of Health's (DOH) two-year analysis of an environmental impact assessment of fracking along the Pennsylvania-New York border. The risks it poses to the environment and to the health of New York residents are simply too great. There is still a need to pass legislation I cosponsor (S.4616) that prevents toxic fracking waste from other states being dumped or sold in New York State. For example, fracking waste is being marketed as a cheaper salt alternative for icy roads, where it immediately soaks into the ground and water system.

Marine Transfer Station

In May, I forced a committee vote on my legislation (S.2556) that would ban the construction of any solid waste marine transfer station within 800 feet of public housing. This legislation would apply to the proposed East 91st Street site, as well as any other site near NYCHA developments. It is well established that economically under-served neighborhoods have higher asthma rates. For example, according to the City Department of Health, East Harlem has the highest rate of child hospitalization for asthma and other respiratory ailments in all of New York City. Many well-documented studies link air pollution to asthma attacks and other respiratory problems. Traffic, particularly truck traffic, is a major contributing factor to this type of pollution. The additional truck traffic generated by these facilities also poses a serious risk of pedestrian injuries. In an effort to move this legislation, I filed a motion for committee consideration which requires the chair of the environmental conservation committee to schedule a vote on the bill. Unfortunately the Senate majority members of the committee all voted against the bill. Although this bill has been defeated, I will continue to push to educate my colleagues about the dangers posed by the East 91st Street site and others like it.

HEALTHCARE

Insurance Access During Pregnancy

This year I introduced legislation to make pregnancy a qualifying event triggering a special enrollment period for the state health insurance exchange, allowing pregnant women to enroll in a health plan at any time. Working with the Chairs of the Health and Insurance Committees, I was very pleased we were able to pass legislation in both the Senate and Assembly.

Under current law, eligible New Yorkers can enroll in health plans through the state's Health Marketplace only during a designated open enrollment period unless they experience a qualifying event triggering a special enrollment period. Qualifying events include marriage, divorce, gaining citizenship, and giving birth, among others. So, while birth is a qualifying event, becoming pregnant was not. This bill will fix this oversight in the law, allowing women who become pregnant to apply for insurance on or off the marketplace at any time.

I want to thank City Comptroller Scott Stringer for bringing this to my attention via the release of a report examining health benefits of prenatal care for pregnant women and newborns and the potential for prenatal care to lead to long-term cost savings for the state's healthcare system. I am hopeful the Governor will sign this bill and make New York the first state in the nation to create a special enrollment period for pregnancy.



Senator Krueger speaks at the March of Dimes Lobby Day on the importance of insuring access to health insurance for pregnant women.

"Boss Bill"

I carry legislation in the Senate (S2709-a), which passed the Assembly this session, that would protect all workers from being discriminated against by their employers for their reproductive healthcare decisions or their use of reproductive services including birth control, whether covered by insurance or not. This would also include, for example, women who use in vitro fertilization, or women who have become pregnant and are accessing pregnancy-related healthcare services, regardless of their marital status or sexual orientation.

The "Boss Bill" would close a glaring loophole in New York's existing workplace anti-discrimination laws. The bill's introduction was prompted by the proliferation of more than 100 federal lawsuits by employers seeking to deny their employees the birth control coverage benefits they are guaranteed through their healthcare plans under the Affordable Care Act, including the infamous U.S. Supreme Court "Hobby Lobby" decision. Hobby Lobby is among the growing number of employers intent on cutting employees off from access to birth control and other reproductive health services and the ability to make their own healthcare decisions.

Unfortunately, as with so many other important pieces of legislation this session, the Senate majority refused to bring the bill to the Senate floor for a vote.

Vaccinations

There was some important legislation passed to protect New Yorkers from infectious disease by improving the state's vaccination policies. Both houses passed legislation requiring teens to be

vaccinated for meningitis, which will help reduce outbreaks of the life-threatening disease in schools. Both houses also passed legislation allowing pharmacists to administer the tetanus, diphtheria and pertussis (TDAP) vaccine and removing the personal prescription requirement for the shingles vaccine.

Other states have seen major outbreaks of preventable communicable diseases in recent years. Diseases such as measles that had been virtually wiped out are reappearing. We're fortunate that New York has robust vaccination requirements for schoolchildren and this has limited the spread of the disease here. But the recent outbreaks highlight the potential dangers to public health that are created when parents do not vaccinate their children.

CRIMINAL JUSTICE

Marijuana

This year I reintroduced an amended version of the Marijuana Regulation and Taxation Act (S.1747). While New York State has begun to develop a very limited medical marijuana program, we need fundamental reforms to our drug laws. Marijuana arrests in New York City are finally starting to drop thanks to changes in city policy regarding possession of small amounts of marijuana. Arrests fell to 2,960 for the first three months of 2015, a drop from over 7,000 for the same period in 2014. Unfortunately, racial disparities

in arrests persist, with African-Americans and Latinos making up almost 90 percent of those arrested despite the fact that government health surveys find that young whites use marijuana at higher rates.

On their face, the racial disparities in these statistics represent a grave injustice, while the sheer volume of arrests shows just how gross a waste of city and state resources our current policy has become. We've been spending taxpayer money to ruin lives, disproportionately in communities of color, with no real public policy goal to be found in any of it. While Mayor de Blasio should be commended for taking proactive executive action this fall to partially address this injustice, it's time for the State Legislature to remove possession of marijuana for personal use from the criminal law, and modernize our laws as so many other states are doing.

Raise the Age

New York is currently one of the two remaining states that still automatically tries sixteen and seventeen year olds for non-violent crimes as adults. I strongly support ending this practice. I was disappointed that the Legislature refused to fix this blatant injustice.

Treating youth as criminally-responsible adults fails to reduce crime and has dire human costs. Studies have found that young people transferred to the adult criminal justice system have approximately 34% more re-arrests for felony crimes than youth retained in the youth justice system, and about 80% of youth released from adult prisons reoffend, often going on to commit more serious crimes.



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Youth in adult prisons are twice as likely to report being mistreated by staff, nearly 50% more likely to be attacked with a weapon, and 36 times more likely to commit suicide when compared with those placed in youth facilities. These youth also face the highest risk of sexual assault.

While I was pleased that Governor Cuomo has indicated that he will issue an executive order transferring all 16- and 17-year olds currently in prison to juvenile facilities, I will continue to advocate for making Family Court the primary venue for juvenile cases.

Campus Sexual Assault

One major legislative initiative that did pass is the "Enough is Enough" initiative, which will make New York a national leader in the battle against sexual assault on college campuses.

The legislation expands upon and improves sexual assault policy approved at state universities last year, and makes it state law that applies to all private colleges as well. Already signed by the Governor, this new law strengthens rules governing sexual assault investigations; creates a Students' Bill of Rights to inform sexual abuse victims of their legal rights and access to appropriate healthcare and other resources; creates a new unit within the State Police called the "sexual assault victims unit" specialized in advanced training in responding to sexual assaults; and also preserves and clarifies due process rights of the accused.

ANIMAL RIGHTS

Both houses of the legislature passed legislation I supported to provide funding for trap, neuter and release programs for feral cats, which is a way of controlling the feral cat population without killing the cats, as well as passed legislation to improve police training in animal cruelty laws, which should improve enforcement. The Senate also passed my bill (S.4265) that would amend the aggravated animal cruelty law to clarify that individuals could be charged under this statute in cases where an animal was successfully treated after an assault. Unfortunately, this bill did not pass the Assembly.

Save the Date:

Liz Krueger's 9th Annual Senior Resource Fair

Thursday, October 22nd
2:00 – 5:00 p.m.

Temple Emanu-El • 1 East 65th Street
(entrance between Fifth and Madison Avenues)