

## 2010 WESTCHESTER COUNTY JOINT LEGISLATIVE PACKAGE

### *PACKAGE 'A' – BUDGETARY PRIORITIES*

#### **1. Proposal: A Full Repeal of the MTA Payroll Tax and a Mandate of an Independent Forensic Audit of the MTA.**

Justification: Last year the New York State Legislature authorized the Metropolitan Transit Authority (MTA) to implement a payroll tax of 34 cents for every \$100 earned, which applies to public, nonprofit and private employers in the MTA's 12 county jurisdiction. This tax lessens New York's economic competitiveness and is hurting local businesses, including nonprofit organizations, that are already struggling financially. This legislation levied additional taxes on local municipalities, school districts, hospitals, nursing homes and businesses, additionally burdening our region's already financially stressed citizenry. Further, this tax acts as a jobs deterrent and could potentially lead to layoffs.

The Metropolitan Transit Authority has not demonstrated the financial discipline to make the necessary cuts to their operating budget in order to forestall the need for this tax, and therefore has irresponsibly forced the burden of their fiscal mismanagement onto the taxpayers of New York State, hence the need for a REPEAL of the MTA Payroll Tax, as well as a full, independent forensic audit of the MTA, at their own expense, to highlight ways to cut expenses, introduce budgetary efficiencies and identify potential fraud and mismanagement.

Fiscal Impact: Westchester County Government taxpayers alone are paying \$1,489,000. In addition, it will cost municipalities, school districts, businesses and self-employed individuals millions of dollars. The Westchester County Health Care Corporation (Westchester Medical Center) is assessed another \$1 million annually.

#### Legislative History:

Article 23- Tax

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#### **2. Proposal: A Westchester County Pilot Program for Electronic Court Appearance-to remove defendant option.**

Justification: In an effort to save money on prisoner transportation, while at the same time increasing public safety, the use of Electronic Court appearances has become an essential tool. Unfortunately, due to the inmate consent requirement contained in the

current version of the NYS CPL section 182.20, nearly all inmates view their court appearances as an opportunity to get out of jail and refuse consent, thus eliminating this potential saving time and money. Therefore, we are requesting a pilot program in Westchester County that would remove the option from the defendant, subject to Judicial guidance, and with any and all constitutional and civil liberties protected.

Fiscal Impact: The immediate savings are estimated at \$80,000 for overtime costs in WCPD transportation as they transport all jail arrests to Mount Pleasant Court (approximately 1500 arrests per year, or 20-30 prisoners per week). This is the only local court set up for court conferencing currently. Only 2-3% of the inmates eligible for video conferencing currently permit this because of the CPL. If the legislation is passed, we can expand this program to the courts that DOC and WCPD currently transport prisoners, yielding significant savings to the County. We may also expand the video court system to many routine appearances and reduce DOC daily court processing of non required court appearances. The exact figures may be hard to quantify but is expected to be significant on many levels and savings may increase from year to year.

Legislative History: NYS CPL section 182.20 (1)

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### **3. Proposal: Amending State Public Health Law regarding Early Intervention and Pre-K Program.**

*a) Language in section 3235-a of state Insurance Law must be tightened to ensure payment of private insurance monies for eligible Early Intervention services.*

Justification: Westchester provides approximately 6,000 children with EI services. Since the program's inception in 1993, Westchester has seen a steady increase in the number of children served, as well as an increase in the level of services. In the 1993-94 program years, the EI program cost the county \$5,110,862. The projected cost of this program in the 2009-10 program years is \$46,495,496. In addition, the percentage of state aid was recently reduced from 50% to 49%, thus placing additional burden on Westchester's taxpayers.

In 1993, New York State implemented the Part C (then part H) of the federal Individuals with Disabilities Education Act (IDEA) under Article 25 of the NYS Public Health Law. Under Article 25, public and private commercial insurance is to be maximized in financing EI services. NYS Insurance and Public Health laws protect families from co-payments and deductibles, as well as service and monetary limits, when insurance is recouped for payment for EI services. Yet, despite these provisions in law, reimbursement from third party payers other than Medicaid has

been minimal, leaving State and municipal tax levy dollars the first and last payer for a non-means-tested entitlement program whose costs have escalated exponentially.

In recognition of the need to improve recoupment of insurance monies to help pay for EI, the Third Party Reimbursement Task Force of the New York State Early Intervention Coordinating Council was established in 1999.

The Task Force report issued in November 2001 showed a statewide rate of private insurance collection of only 9.3% in 1997. The Task Force also reported that, based on other states' experiences, specific legislation requiring private commercial insurers to pay for EI services was the single most important factor to improved collections as well as to reduce the administrative burden on counties.

An updated survey conducted by the New York State Association of County Health Officials showed that, excluding New York City, counties billed \$70.4 million to commercial carriers in 2003-2004, more than the amount billed to Medicaid. Despite extensive billing efforts by counties, the overall rate of recoupment remained the same, from 14.4% in 2000 to 12% in 2002 but the total expenditure reported by counties to bill commercial insurers was \$3.5 million.

Fiscal Impact: This proposal will not negatively impact services and will correct a 17 year unfair shift of financial burden from the for-profit private insurance industry to taxpayers.

Legislative History: 2002: A. 11436  
 2003-04: A.6760/S.2410-A  
 2005-06: A.1014-A/S.4365-A  
 2007-08: A.4399  
 2009: A. 3719

*b) County property taxpayer financial liability should be eliminated and counties should be transitioned out of fiscal, programmatic and administrative responsibility for the preschool special education program (Pre-K Program). Between 1997 and 2010, the cost of this program tripled, from \$25.9 million to an estimated \$83.7 million. The tax levy burden shot up from \$10.8 million to \$35.9 million in this twelve year period.*

Justification: In the 1970s, the Pre-K program was established under section 4410 of New York State Education Law. The program operates under the auspices of SED and decisions regarding eligibility for and levels of service are made by local school districts. Counties pay a local share for services. In addition, counties must administer the program including contracting with providers and processing claims for payment and reimbursement, yet continues to receive only \$75.00 per student to partially offset their

administrative costs. Since the inception of the program, the number of children, the levels of service, and the cost of services have escalated and continue to increase exponentially.

When New York State established the mandate for counties to pay for the 4410 program, it made the commitment to initially pay 59.5% of costs and escalate its share to 69.5% then 75% of total costs by the year 1994. However, insufficient appropriations by the state have left those commitments unfulfilled, with counties still paying 40.5% of costs in 2010.

Fiscal Impact: This proposal would have a positive fiscal impact on Westchester County and every other county in the state. In Westchester, the Pre-K program cost the county approximately \$80 million in 2009 and is budgeted at \$83.7 million for 2010. Taxpayers pay these amounts up front, with 59.5% reimbursement coming from the state each year, or in many cases, several years later.

Legislative History: Initially proposed in 2007 and 2008 in the County's legislative proposals and did not receive any sponsors. However, a similar proposal was in the 2008-2009 Governor's Executive Budget based on recommendations from the November 2007 report of the Task Force on Preschool Special Education.

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***Passed by unanimous vote of the Westchester County Board of Legislators: 3-3-10***  
**Resolution #: 25-2010**