



New York State Senate

Committee on Corporations, Authorities and Commissions

Annual Report

January 2009 - March 2010

Bill Perkins, Chair



BILL PERKINS
SENATOR, 30TH DISTRICT

CHAIRMAN
CORPORATIONS, AUTHORITIES &
COMMISSIONS

COMMITTEES:

CITIES
CIVIL SERVICE & PENSIONS
CODES
ENVIRONMENTAL CONSERVATION
FINANCE
JUDICIARY
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June 1, 2010

Mr. Angelo Aponte
Secretary of the Senate
Office of the Secretary of the Senate
New York State Senate
State Capitol
Albany, New York 12247

Dear Secretary Aponte:

As Chairman of the New York State Standing Committee on Corporations, Authorities and Commissions and pursuant to Rule VII, Section 4(e), I am pleased to present you with the Committee's 2009/2010 Annual Report.

The report details the activities of the Committee from January 2009 through and including March 2010. The Committee has been very active holding many high profile hearings involving such matters as the Columbia Expansion project, Atlantic Yards, the Waterfront Commission and the World Trade Center redevelopment. I am also pleased to report the leading role of the Committee in negotiating and passing what has come to be known as landmark public authorities reform legislation making our state and local authorities more transparent and accountable.

I want to thank each member of the Committee on Corporations, Authorities and Commissions, especially the Ranking Minority Member, Senator William J. Larkin, Jr., for their hard work and dedicated service during this time. Their ideas, suggestions, and participation during the Committee meetings have been an important factor in the Committee's success.

I look forward to continuing the important work of this Committee and an even more productive legislative session in 2011.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Bill Perkins".

Senator Bill Perkins
Chairman, Committee on Corporations, Authorities and Commissions

Committee Members

Bill Perkins, Chairman
William J. Larkin, Jr., Ranking Minority Member

Sen. Martin Malavé Dilan
Sen. Michael Ranzenhofer
Sen. Daniel Squadron

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Muhammad Umair Khan

Introduction

This is a report by the New York State Senate Committee on Corporations, Authorities and Commissions, chaired by Senator Bill Perkins. This report encompasses Committee's activity from January 2009 through March 31, 2010.

The Committee crafts legislation, conducts public hearings, and provides legislative oversight for a variety of state agencies. The Committee has jurisdiction over corporate law, authorities law and commissions law.

Hundreds of the state's authorities fall under the purview of the Committee.. Examples include the Metropolitan Transportation Authority (MTA), the Port Authority of New York and New Jersey (PA), the School Construction Authority, the Thruway Authority, the Empire State Development Corporation and the Waterfront Commission.

In addition to Chairman Perkins, 30th Senatorial District, members of the Committee include Senators Martin Malavé Dilan, 17th Senatorial District, William J. Larkin, Jr. (ranking member), 39th Senatorial District, Michael H. Ranzenhofer, 61st Senatorial District and Daniel L. Squadron, 25th Senatorial District.

Committee Jurisdiction

The Senate's Corporations, Authorities and Commissions Committee's authority includes oversight of:

a) *Corporate* laws and public policies that impact for-profit and not-for-profit business organizations;

b) *Authorities*, public entities with corporate characteristics that serve functions such as building and operating infrastructure, airports, roads, bridges, schools, and transportation systems; and

c) *Commissions*, agencies empowered with a specific investigative or regulatory power over an industry or area of public concern.

Transparency, Accountability and Civic Engagement

The Committee on Corporations, Authorities and Commissions focuses on a wide variety of issues. As Chair, Senator Perkins emphasizes transparency, accountability and increased opportunities for civic engagement as guiding principles for the Committee's work.

Public Hearings

Since the start of 2009 the Committee has conducted many noteworthy public hearings. For example, the Committee conducted several hearings regarding the MTA, including some to prevent planned fare hikes and service cuts; the Governor's nomination of a new chief executive; and shortfalls of the MTA's five year proposed capital construction plan.

Other important hearings focused on the stalled redevelopment of the World Trade Center; eminent domain abuse in the Columbia University expansion into West Harlem and the Atlantic Yards in Brooklyn; as well as corruption on the commercial ports of New York and New Jersey. The Committee also held an important hearing on cemeteries in the State of New York and their regulation.

The purpose of committee hearings is to gather information from agencies, good government groups and the public at large, and also to keep the public informed. Ideally,

Committee members apply what they learn at public hearings to craft legislation and formulate policy.

Visit Senator Perkins at www.perkins.nysenate.gov to learn more, access transcripts and/or video of past hearings, and stay informed about upcoming hearings.

Public Authorities Reform Law

Last year the Committee worked on landmark reform legislation to make government authorities more transparent and accountable. Sponsored in the Senate by Senator Perkins, the Public Authorities Reform Law (S.1537-C) provides greater oversight of authority operations, reduces waste in contracts, and establishes a fiduciary duty for authority board members. The passages of this law will result in savings, improved facilities, and better service for New Yorkers.

Public authorities are unique state agencies with corporate characteristics. They are created by the Legislature to serve public purposes such as building airports, roads, bridges, schools, and transportation systems.

One of the main advantages of the public authority is that it may borrow money that traditional state agencies cannot because the New York State Constitution bars the state from carrying excessive debt.

Authority debt is technically not secured by the state, yet the benefits that result from authority investment in things such as infrastructure do accrue to the public. Authorities thus have great value as a mechanism by which the state may create debt for investment. Typically, authorities raise capital through the sale of bonds which are serviced from dedicated taxes or user fees such as fares and tolls.

Authorities' power to issue large amounts of debt, enter into contracts, and use eminent domain are but a few of the reasons why they must be closely monitored. While an authority enjoys wide discretion in the issuances of debt, there always exists the risk that taxpayers will ultimately respond for bad authority debt. For example, what happens if the MTA cannot meet its debt obligations? Who ultimately inherits that bill?

The need for the Public Authorities Reform Law was driven by the fact that for generations authorities operated as a 'shadow government' cloaked in secrecy. The lack of transparency associated with the corporate organizational form led to chronic accountability shortfalls. With limited oversight and no one to ensure taxpayer money was spent wisely, public authorities ran up debt and sold valuable assets to insiders at far below market value.

The Public Authorities Reform Law enacts a series of changes including, state comptroller review of contracts in excess of one million dollars. The law establishes a truly independent Authorities Budget Office (ABO). It imposes a fiduciary duty on all authority board members, so that they are required to always act in the authority's best interest, rather than in the interest of the appointing authority.

Authority property must now be sold at fair market value, or in exchange for disclosed public benefits. The Public Authorities Reform Law finally requires fair opportunities for minority and women-owned businesses to participate in authority contracting.

Good government groups praised the Public Authorities Reform Law. In fact the *New York Times* recognized the merits of this legislation in an August 17, 2009 editorial that praised the law as shining light on New York's "shadow government". Assemblyman Richard Brodsky introduced this bill in the Assembly.

The Metropolitan Transportation Authority

The MTA is responsible for the public transportation system of the entire New York City and suburban metropolitan region. Unfortunately, the agency is in a constant state of fiscal crisis.

Last Spring, the MTA threatened to dismantle elements of the metropolitan region's public transportation system. Years of chronic mismanagement plus a downturn in the larger economy led the agency to consider massive fare increases and devastating service cuts. Local subway and bus service was scheduled to be reduced. Many lines were slated to be eliminated.

One example of a bus line that was scheduled for cancellation is the M10 bus service. This line connects Midtown Manhattan with Central Park, the Upper West Side, through the heart of Harlem along Frederick Douglas Boulevard, all the way up to the neighborhoods east of Jackie Robinson Park.

The M10 cuts through some of the most densely populated and economically viable territory in the state. The negative impact of reducing public transportation options in such an area would be damaging on multiple fronts, including socially, educationally, environmentally, culturally and economically.

With the elimination of the M10, thousands of straphangers who rely on regular bus service would become more isolated. This includes untold numbers of disabled and seniors. Multiply this impact throughout the entire MTA region and the consequences of the MTA's proposed cuts would have been devastating.

In response to the MTA's constant financial crisis, Governor David Paterson formed the Commission on Metropolitan Transportation Authority Financing to study the MTA's fiscal

challenges and formulate an action plan. He appointed Richard Ravitch, who has since become Lieutenant Governor, to Chair the Commission. The Commission issued a report to the Governor that became known as the Ravitch Plan.

The Ravitch Plan proposed higher payroll taxes for employers who operate within the region served by the MTA. It sought to impose tolls on all East River and Harlem River bridges. The Plan was also to give the MTA the freedom to increase fares without the need for public hearings.

Senator Perkins convened the Corporations, Authorities and Commissions Committee for two joint hearings on the Ravitch Plan together with the Transportation Committee, which is chaired by Senator Martin Malavé Dilan. The joint hearings were conducted at Brooklyn Borough Hall and at the Adam Clayton Powell, Jr. state office building in Harlem.

Witnesses included representatives of the MTA, Richard Ravitch, transit advocates and members of the public. Opinions were expressed in favor and against different aspects of the Ravitch Plan. Many residents and community activists discussed the difficulty that draconian fare increases and service cuts would inflict on their lives and the lives of those whom they represent.

Following the hearings and based on the information that was gathered, Chairman Perkins joined Senate colleagues to negotiate elements of an MTA rescue plan. This resulted in a large reduction in the MTA's planned fare increases and the prevention of massive service cuts.

Chairman Perkins also fought for additional good governance measures such as regular forensic audits, the results of which are to be made public. In an effort to maintain public participation, Senator Perkins urged Senate colleagues to reject outright the plan to impose fare increases without public hearings.



Sen. Squadron, Sen. Stewart-Cousins, Chairman Perkins, Sen. Kruger & Sen. Savino



Sen. Diane Savino



Sen. Andrea Stewart-Cousins & Chairman Bill Perkins



Jay Walder (Chair & CEO of MTA) & Michael Garner (Chief Diversity Officer)



Harlem Resident



Sen. Daniel Squadron

Eminent Domain Reform

Eminent domain is the constitutional power of the state to seize private property for public use, provided the landowner is given just compensation. The Committee on Corporations, Authorities and Commissions conducted several hearings that address recent abuses by public authorities use of eminent domain.

In *Kelo v. City of New London* (2005) the United States Supreme Court heard a case where a city condemned privately-owned real property to transfer to another private owner for inclusion in an economic redevelopment plan. The Court held that the general benefits enjoyed by the local community qualified such redevelopment as a “public use” under the U.S. Constitution. Since then, forty-three states have passed legislation reforming their eminent domain laws.

Unfortunately, New York is one of the few states that has not changed its eminent domain process in light of *Kelo*. New York’s eminent domain standards are not transparent. There is little to no accountability to the public. The process appears vulnerable to manipulation by insiders.

One problem is the issue of ‘blight’. Under the current statutes the state may condemn private property that it deems blighted. Unfortunately, there is currently no clear, objective standard by which to define blight. Consequently, “blight” is whatever the state says it is. This has led to a history of abuse especially in minority communities. There are few protections

available to private land-owners should the state or a well-connected developer become interested in someone's private property.

Recent New York court decisions reveal some of the problems and highlight the need for reform. In *Kaur v. New York State Urban Development Corp. d/b/a Empire State Development Corp.* (2009) the New York Appellate Division (1st Dept.) held that the state's actions in taking private property to assist Columbia University's planned expansion into West Harlem were unconstitutional. The state's application of the blight standard was unjustified.

Furthermore, the Court found that by colluding with a private developer the state acted in bad faith. This was best evidenced by the fact that the state and the developer employed the very same consultant to conduct the blight study upon which rested the entire rationale for the condemnation.

The *Kaur* decision surprised legal experts because it came on the heels of a pro forma finding by the state's high court in *Goldstein v. New York State Urban Development Corp. d/b/a Empire State Development Corp.* (2009). That decision upheld the state's condemnation of private property. In that case the purpose of the taking was to transfer the land to a private developer who intends to build a basketball stadium at Atlantic Yards, near downtown Brooklyn.

Under the statutes as written, the opportunity for judicial fact-finding in eminent domain cases is undermined by the fact that there does not exist any option for a trial.

The plaintiffs in the *Kaur* case limits to discovery were overcome by utilizing the Freedom of Information Law (FOIL) to discover the documents that revealed the state's bad faith. Compared to traditional litigation, this is a much more difficult and expensive procedure for discovering what the government does behind closed doors.

The *Kaur* decision was remarkable for many reasons, including the fact that the Court noted that historically, eminent domain abuse has been a form of discrimination and civil rights violation. As the Court cited: ““few policies have done more to destroy community and opportunity for minorities than eminent domain.””

Each hearing was well-attended. Witnesses included representatives of the Empire State Development Corporation, advocates, attorneys for aggrieved property owners, and members of the public. Columbia University did send representatives to the hearings that related to its expansion and the *Kaur* decision. The developer in the Atlantic Yards case however, Forest City Ratner declined several committee invitations to attend and present its view of the issues.

Chairman Perkins was joined at the Atlantic Yards hearings by Senator Velmanette Montgomery, who represents the area, as well as by Senator Carl Kruger, Senator Martin Golden, and Assemblyman Hakeem Jeffries.

At the hearing addressing the *Kaur* decision Chairman Perkins was joined by Senator James Alesi, a former Chair of the Senate Committee on Commerce, Economic development and Small Business. Senator Alesi conducted several hearings across the state on eminent domain following the *Kelo* decision.

There was a consensus among many witnesses and commentators that New York’s blight standards are vague and in need of clarification. As a result of the hearings, Chairman Perkins concluded that the eminent domain statutes need to be reformed.

Senator Perkins introduced S.6791 to reform New York’s blight standards. Specifically, this legislation enacts objective criteria to ensure that blight determinations are consistent, predictable, and based on factors actually related to the public's health and safety.

This bill ensures better protections for tenants and property owners and guarantees that they are not excluded from the development process.

The bill was voted out of the Corporations, Authorities and Commissions Committee on March 17, 2010. In the future Senator Perkins and the Committee will continue to follow eminent domain developments and will consider further reforms, such as allowing private property owners who oppose condemnation the opportunity of discovery.



Chairman Bill Perkins



Sen. Golden, Assem. Jeffries, Chairman Perkins, Sen. Montgomery & Sen. Kruger



Local Union Worker



Brooklyn Resident



Rev. Daughtry



Chairman Bill Perkins & Sen. Velmanette Montgomery



Sen. James Alesi & Chairman Bill Perkins



David Smith, Nick Sprayregen & Norman Siegel



Daniel Goldstein



Harlem Residents



Michael D.D. White & Christina Walsh



Peter Davidson, Anita Laremont & Darren Bloch

World Trade Center Redevelopment

The World Trade Center site is owned by the Port Authority of New York and New Jersey (PA). Ever since it was destroyed during the attacks of September 11th 2001, the PA, Silverstein Properties the private developer, the states of New York and New Jersey, and the City of New York have struggled to redevelop the site.

The Committee on Corporations, Authorities and Commissions conducted a public hearing regarding the delayed redevelopment at the Borough of Manhattan Community College, near the site. Witnesses included representatives of the PA, the developer, the city's Economic Development Corporation, members of the Local Community Board, and members of the public. Senator Daniel Squadron also attended. Prior to the hearing Chairman Perkins took two tours of the site with the PA and the developer respectively.

During the redevelopment process a design plan was selected that includes many blockbuster features. The Port Authority retains responsibility for constructing the following: One World Trade Center, commonly known as the Freedom Tower, an office tower that will be the tallest building in the country; a Memorial and related museum; a transit hub designed by

renowned architect Santiago Calatrava to accommodate PATH passengers; an office tower known as Five World Trade Center which will occupy the site of the Deutsche Bank Building; an underground Vehicle Screening Center; local streets and sidewalks; the number 1 subway tunnel that will pass underneath the site; and the massive spaghetti bowl of infrastructure necessary to house and service all of the various facilities.

Silverstein retains the right to develop most of the eastern end of the site, three office towers, i.e. World Trade Center Towers Two, Three and Four, which would house retail and commercial office space. Tower Four is currently under construction, with assistance from the Port Authority, including the fact that the PA committed to be a principle tenant in the building.

Despite such grand designs, virtually nine years after the attack, no major element of the redesigned complex is complete. No skyscraper, office, retail or cultural space is ready for occupancy. Nor has a transit hub or memorial been completed.

Last year, a dispute between the PA and Silverstein threatened to bring the already slow redevelopment at the Trade Center to a crawl. The impasse centered around the issue of financing for two of Silverstein's towers, Two and Three.

Due to the economic downturn, Silverstein could not find private construction financing. Due to limited commitments from commercial lessees the developer wanted the PA to act as a guarantor, so that banks would be more likely to lend. The Port Authority refused.

For its part the Port Authority asserted that it was in compliance with all of its responsibilities to the developer. The PA claimed to have delivered to the developer every parcel that it owed, and that it was on schedule with construction of the necessary infrastructure.

To the contrary, the developer alleged that the necessary infrastructure which was the PA's responsibility was *not* on schedule. Silverstein's position was bolstered by the details of a

confidential report drafted by the Lower Manhattan Construction Command Center (LMCCC), which was leaked to the press, that indicates that unless the PA mitigates some of the inefficiencies in its construction plans, the World Trade Center redevelopment project will fall much further behind schedule than it already is. Some projects may not be completed until the 2030's.

Silverstein stated that a history of PA delays in delivering the developer's parcels put the developer in an untenable position of having to seek construction financing in a down market, without tenants and at a time when credit was tight. Citing the fact that it already paid the PA billions in rent for non-existent office space, Silverstein now sought to partner with the Port Authority as guarantors.

The Port Authority claimed that if it became more entangled in World Trade Center financing, it would not have the funds to apply to other capital construction projects. Furthermore, the PA maintained that deeper involvement would make the authority more of a real estate speculator, as construction would proceed without tenants under contract. Subsidized office space would compete with unsubsidized office space, and the PA questioned whether this is the proper role for government.

The financing issue is no small detail as the towers at stake would cost around two billion dollars to build. They compromise roughly half of the office space slated for redevelopment, or about half of the office space that was destroyed on September 11th.

The Port Authority suggested a compromise that it would, pursuant to the public interest of not leaving the parcels bare, guarantee the financing of two four-story "stubs", lower floors that would be used for retail, and upon which the office towers could conceivably be built, at

some future date, when market driven demand could trigger private financing. Silverstein rejected that offer and took formal steps to enter binding arbitration.

During the hearing the Committee heard testimony from Local Community Board representatives. While they did not take a position with respect to the dispute between the developer and the PA, they did testify that the continued delays damage the local community through massive traffic and other nuisances, by the denial of a thriving economic center, and because of the psychological impact of living near, “a hole in this city’s heart.”

New York City Councilmember Alan Gerson testified that one major problem with the site is that there is no one manager empowered with overseeing all of the various construction timetables. He suggested appointment of an overseer or ‘sheriff’ for the project, and suggested that the LMCCC may have the requisite expertise.

An arbitration panel reviewing the dispute between the PA and Silverstein gave the parties a month to resolve their dispute and threatened that otherwise the panel would decide for the parties.

Recently the PA announced that it had reached an agreement with Silverstein Properties that addresses some of the concerns raised at the hearing and creates a framework for moving past the impasse. The PA agreed to finance one of Silverstein’s buildings, Tower 4, which is already under construction. The PA had already preleased substantial space. The PA will now create a master lease for the building to facilitate the issuance of Liberty Bonds that will be used to finance the building’s construction.

The PA agreed to provide some financing for Tower 3, so that construction could start immediately. The developer would have to contribute \$300 million and prelease a substantial portion within the next two and half years, while the podium for the tower is being built. If the

developer does not meet these goals, construction will again halt. If the developer succeeds, the city, the state and the PA will provide Silverstein a backstop, that is act as a guarantor, for up to \$390 million. The city and state would also provide \$210 million in equity.

Silverstein in turn agrees to invest all proceeds from insurance and the Liberty Bonds in Towers 3 and 4. This money was originally expected to be invested in all three of the developer's towers. Under the proposed agreement, construction of the final tower will be postponed indefinitely.

Under the proposed agreement, Silverstein and the PA will develop a plan to integrate construction teams and improve communication, as much of the work at the site is interdependent. This will include establishment of formal procedures to communicate, share decisions, and formulate schedules.

The Port Authority board will consider the proposed agreement at a board meeting in four months. The Committee will continue to monitor developments and will conduct a follow up hearing as needed.



Chairman Bill Perkins & Sen. Daniel Squadron



Members of Community Board 1



Ms. Alice F. La Brie, Constituent



Janno Lieber



Robert Lieber & Seth Pinsky



Joseph Petrocelli & Hilary Ring

Corruption On the Waterfront

The Waterfront Commission of New York and New Jersey is entrusted with the task of policing shipping activity and the hiring of dock workers in New York Harbor. The Commission was formed by Congress in 1953 in response to a series of exposés that revealed that the docks were infiltrated by organized crime.

Last year, after a two-year investigation, the NY State Inspector General (IG) discovered corruption at the Waterfront Commission itself was so pervasive, it spread to nearly the entire executive staff. The IG found evidence of, “abuses in hiring, supervision and fiscal oversight.”

The agency's auditing director ran a private accounting business out of his office. The Chief of Police diverted detectives to watch parking spots for agency executives. The Commission failed to conduct necessary background checks of workers and stevedoring companies, a threat to the port and the nation's security.

The Committee conducted a public hearing on the IG's report and on a bill introduced by Senator Ruth Hassell-Thompson that would transfer control of the registry of certified longshoremen from the Commission back to the stevedoring companies and the unions.

Witnesses at the hearing included the NY Inspector General Robert Fisch, representatives of the revamped Waterfront Commission Executive Staff, members of the agency's police force, dock workers, union officials and members of the general public. Senator William Larkin, Jr., Senator Daniel Squadron, and Senator Hassell-Thompson attended the hearing. In addition to the hearing, Chairman Perkins toured docks in Brooklyn and Staten Island, as well as a Waterfront Commission hiring center in New Jersey.

The agency made many changes due to the investigation. Individuals named in the report are gone and the new management team appears serious about reform.

Nevertheless, the hearing revealed the need for continuing oversight. Hiring practices on the waterfront have resulted in a striking lack of diversity, which is unacceptable. Additionally, the economic viability of New York is at stake as the Panama Canal expansion promises to increase business at our ports. In the future, the Committee will consider legislation to improve integrity, transparency, accountability, and diversity at the Waterfront Commission and on the docks.



Paul Ryan, Inspector General Joseph Fisch & Kelly Donovan



Edward J. Kelly, James Cobb & Joseph Curto



Chairman Bill Perkins & Sen. William J. Larkin, Jr.



Sen. Hassell-Thomson, Chairman Perkins & Sen. Larkin



Elizabeth Alexander



Senator Ruth Hassell-Thompson

Conclusion

The Committee on Corporations, Authorities and Commissions is charged with legislative oversight of agencies, laws and public policies that affect all New Yorkers. Chairman Perkins is committed to making transparency, accountability, equity, and increased civic engagement the hallmarks of the committee's work.

If have any questions or suggestions, please feel free to contact Senator Perkins' office at the district office at 212-222-7315, or at the Albany office at 518-455-2441. You may also visit the Chairman's website www.nysenate.gov/senator/bill-perkins for more information.

Summary of Corporation, Authorities and Commissions Committee
Action on Bills

Total number of bills referred to Committee in 2009	133
Total number of bills reported from Committee in 2009	51
Total number of bills reported from Committee that passed the Senate in 2009	20
Total number of Committee bills that became law in 2009	15
Total number of Committee bills vetoed in 2009	4

Public Hearings Held by the Committee

MTA & The Ravitch Plan.....	February 19, 2009
Atlantic Yards (Eminent Domain).....	May 29, 2009
Cemetery Reform in NY.....	August 12, 2009
MTA & Jay Walder Nomination.....	September 8, 2009
World Trade Center & Development.....	September 9, 2009
Waterfront Commission.....	October 19, 2009
MTA Capital Plan.....	December 3, 2009
Columbia Expansion (Eminent Domain).....	January 5, 2010
African Burial Grounds.....	March 19, 2010
Charter Schools.....	April 22, 2010
EZ-Pass & Customer Service Quality.....	April 30, 2010

Corporations, Authorities and Commissions Committee
Legislation Enacted Into Law in 2009

Chapter 38 of the Laws of 2009 -S. 393 Breslin / A. 1032 McEneny

An act to amend the public authorities law, in relation to the construction of facilities by the dormitory authority for the Albany Convention Center Authority.

This law amends Sections 1676 and 1680 of the Public Authorities Law by adding the Albany Convention Center Authority to the Dormitory Authority's enabling act. Specifically, the law permits the Albany Convention Center Authority to enter into agreements with the Dormitory Authority to further the construction of the Albany Convention Center and to avail itself of the construction expertise of the Dormitory Authority. The Dormitory Authority has a long history of providing these types of services to numerous public entities to help further their mission. The use of the Dormitory Authority's existing infrastructure enables the Albany County Convention Center Authority to maximize its resources in building the Convention Center. This legislation permits the Dormitory Authority to finance the Convention Center or any ancillary facilities of the Albany County Convention Center Authority.

Chapter 350 of the Laws of 2009 -S. 1263-B Johnson C / A. 1544-B Schimel

An act to amend the public authorities law, in relation to providing for the financing of certain facilities located on the campus of the United States Merchant Marine Academy.

This law amends the Public Authorities Law by adding a new undesignated paragraph to paragraph b, subdivision two of § 1676 of the Public Health Law by including the United States Maritime Resource Center in the definition of "dormitory." Section two amends the Public Authorities Law by adding a new undesignated paragraph to subdivision one of § 1680 of the Public Health Law by including the United States Maritime Resource Center in the term "educational institution." Section three states that all contracts entered into by the dormitory authority with the United States Maritime Resource Center pursuant to this law will be considered state contracts for the purposes of Article 15-A of the Executive Law.

The United States Merchant Marine Academy (USMMA) is a federal service academy operated by the Maritime Administration in the United States Department of Transportation (USDOT) that trains approximately 900 students to receive a United States Coast Guard license as a merchant marine officer and accept a commission as either a reserve or active duty officer of the armed forces, while at the same time providing them with an undergraduate degree. Currently, the lodging facilities for the USMMA and the Global Maritime and Transportation School (GMATS) are not considered dormitories in the Public Authorities Law and as a result the Dormitory Authority of the State of New York (DASNY) is not authorized to grant them any bonds to assist in the construction of necessary dormitory facilities. This law allows DASNY to issue tax-exempt bonds to the United States Maritime Resource Center, a nonprofit created to assist the USMMA and GMATS, for the construction of an educational and lodging facility.

Chapter 505 of the Laws of 2009 -S.1537-C Perkins A 2209-C Brodsky

***amendment (chapter 506 of the Laws of 2009 – S. 66012 Perkins / A. 40012 Brodsky**

An act to amend the public authorities law and the executive law, in relation to the creation of an authorities budget office; and to repeal certain provisions of the public authorities law relating thereto.

The law strengthens the Public Authorities Reform Act of 2005 by creating an Authorities Budget Office, prohibiting the creation of subsidiary authorities without legislative approval (with certain exceptions), making changes to the authority board's governing process, creating a fiduciary duty, enabling the comptroller to approve authority contracts, strengthening the rules on the disposition of public authority property, providing Minority and Women's Business Enterprises (MWBE) and creating whistleblower protections. In 2003 and 2004, findings of wrongdoing by public authorities made clear that many of these entities were operating without adequate accountability for their actions. Public officials, members of the Assembly and Senate, as well as civic groups and academics, recommended a variety of reforms, resulting in passage of the Public Authority Accountability Act of 2005. At the same time, the Commission on Public Authority Reform, led by corporate governance expert Ira Millstein, conducted an in-depth analysis of public authorities in New York State. In 2006, the Commission published a report recommending improvements to the Public Authority Accountability Act of 2005. This law includes many of those recommendations and others intended to improve public authority operations and oversight.

In 2005, New York State enact major reforms of public authorities. The Assembly and Senate Corporations, Authorities and Commissions Committees,. continue to find ways to strengthen the 2005 Act, knowing that it was only a first step. Consequently after a deliberate study a series of reforms were enacted including:

1. THE CREATION OF AN AUTHORITIES BUDGET OFFICE

The creation of an Independent Authorities Budget Office with the staff and budget to financially review public authorities. The ABO is headed by a Director who is nominated by the governor with the advice and consent of the Senate. The office functions independently. The Director serves a 4 year fixed term.

2. AMENDING THE 2005 LAW TO TOUGHEN RULES GOVERNING THE SALE OF PROPERTY BY PUBLIC AUTHORITIES

Close loopholes regarding the disposition of authority property.

3. AMENDING THE 2005 LAW TO STRENGTHEN THE AUTHORITY BOARD REFORMS

Adds to and strengthen provisions governing public authorities' board of directors. The new law bolsters provisions of the 2005 law with regard to Board accountability and reform. This section creates a fiduciary duty that is enforceable by the Authority Budget Office Director.

Further this section requires members of public authority boards to execute an acknowledgment confirming that they understand their independence as a member and their fiduciary duties to the organization. The law also requires each member of a public authority's audit committee to possess the necessary skills to carry out the duties and functions of the committee, to be familiar

with corporate financial and accounting practices, and be or become financially literate. Furthermore, this section mandates that each member of a public authority's governance committee to possess the necessary skills to carry out the duties and functions of the committee, and expand the responsibilities of those members to include the examination of ethical and conflict of interest issues; performing board self-evaluations; investigate term limits, reappointments and board responsibilities; develop by-laws which include rules and procedures for conducting board business; and make recommendations for new directors.

4. PROVIDING THE COMPTROLLER THE POWER TO APPROVE PUBLIC AUTHORITY CONTRACTS

Prior to publication of bids each authority must submit to the Comptroller contracts over \$1 million. The Comptroller must notify the authority that it wants to review the contract within 45 days. If no action is taken within 90 days the contracts are approved.

5. CREATING STRICT NEW RULES TO CONTROL PUBLIC AUTHORITY DEBT

Boards of directors must submit to the Authorities Budget Office limitations on public authority debt and the ABO will submit to the Legislature and Governor recommendations on reforming debt issuance by public authorities.

6. RULES CREATING SUBSIDIARY PUBLIC CORPORATIONS AND AUTHORITIES

This law ensures that public authorities, including subsidiaries are subject to Legislative and Executive approval. All public authority subsidiaries and affiliates to the provisions of the Public Authorities Law and prohibit the creation of new public authority subsidiaries or affiliates without specific legislative authorization.

7. WHISTLE BLOWER PROTECTIONS FOR EMPLOYEES OF PUBLIC AUTHORITIES

The law includes a "Whistleblower Access, and Assistance Program" to protect those individuals who report wrongdoing.

8. MINORITY AND WOMEN'S BUSINESS ENTERPRISE

Amends Executive Law §310 to extend to all state authorities such section's contract participation requirements relating to MWBE.

Chapter 312 of the Laws of 2009 -S. 2610 Valesky / A. 6417 Stirpe

An act to amend the public authorities law, in relation to authorizing the dormitory authority to construct and finance certain facilities of the YMCA of Greater Syracuse

This law adds new undesignated paragraphs to subdivision 2 of section 1676 and subdivision 1 of section 1680 of the public authorities law to allow the Dormitory Authority to finance construction of the facilities of the YMCA of Greater Syracuse. Specifically, this law allows the Dormitory Authority to finance construction of the YMCA of Greater Syracuse's facilities and those of their satellite branches. The YMCA of Greater Syracuse and its related branches provide many needed and worthwhile community programs and services. As part of that, it would be beneficial to expanding these programs if they could obtain financing and/or refinancing for their capital projects at the lowest possible cost.

Chapter 369 of the Laws of 2009 –S. 2653-C Huntley / A. 6361-C Rivera P

An act to amend the public authorities law, in relation to the construction and financing of facilities by the dormitory authority for the Alliance of Long Island Agencies, Inc.

The law amends section 1676 subdivision 2 paragraph (b) and section 1680 subdivision 1 of the public authority law to include the Alliance of Long Island Agencies, Inc. among those similarly situated groups who are eligible to receive Dormitory Authority funding. Specifically this law authorizes the NYS Dormitory Authority to provide financing for construction and reconstruction of educational, administrative, day program and residential facilities in the state by the Alliance for Long Island Agencies, Inc. The relatively small size of community agencies providing services to people with disabilities has limited the agencies' access to financing or, when financing has been available, has made it very expensive. Allowing the Alliance of Long Island Agencies, Inc, a not-for-profit corporation, to be included on the list of designated agencies to receive dormitory authority funding will enable such service providers to join together to achieve economies of scale and lower rates of financing. By blending together agencies of diverse size and location who offer substantially similar services, the agencies will be able to acquire financing for much needed expansion, renovation and construction at more economical rates. Old debt incurred at high rates by the individual agencies can be consolidated and replaced by refinancing at much more favorable rates through Dormitory Authority support.

Chapter 192 of the Laws of 2009 –S. 3689 Perkins / A. 8691 Lopez V

An act to amend chapter 555 of the laws of 1989 amending the public authorities law and other laws relating to establishing a New York state infrastructure trust fund, in relation to the effective date thereof.

This law extends, until July 16, 2011, the present July 16, 2009 sunset date of certain powers of the State of New York Mortgage Agency's ("SONYMA") Mortgage Insurance Fund ("MIF"). Chapter 55 of the Laws of 1989, as amended, authorizes SONYMA's MIF to provide primary mortgage insurance on a statewide basis to individual homeowners and to provide pool insurance to all of SONYMA's loans and would have sunset on July 16, 2009. Chapter 3 of the Laws of 2004, as amended, enabling SONYMA to provide credit support for the Jacob Javits Convention Center, was scheduled to sunset on July 16, 2009. Enactment of Chapter 555 of the Laws of 1989 and of Chapter 3 of the Laws of 2004 enables SONYMA to provide primary mortgage insurance on a statewide basis, provide pool insurance for mortgages on one-to-four family homes and on multi-family projects where the loans are made by lenders who meet certain criteria and to provide credit support to the Jacob Javits Convention Center. However, these provisions would have sunset on July 16, 2009. The bill extends these sunset provisions until July 16, 2011. Without an extension, the MIF would only be able to insure mortgages for projects located in "blighted" neighborhoods and provide per project mortgage insurance in amounts not exceeding \$5 million or \$10 million depending upon project type. In addition, the MIF would have been unable to provide primary mortgage insurance, pool insurance and credit support.

Chapter 177 of the Laws of 2009 –S. 3694-A Perkins / A. 8529 Lopez V

An act to amend chapter 915 of the laws of 1982, amending the public authorities law relating to the powers of the state of New York mortgage agency, in relation to the effective date thereof; and to amend the public authorities law, in relation to the powers of the state of New York mortgage agency.

This law extends the authority of the State of New York Mortgage Agency ("SONYMA") to purchase forward commitment mortgages and to issue new money tax-exempt bonds and new money taxable bonds. Furthermore it increases the maximum amount of SONYMA's authority to issue new money tax-exempt bonds. SONYMA's statutory authorizations to issue new money tax-exempt bonds and to purchase forward commitment mortgages were scheduled to sunset on July 16, 2009. SONYMA's statutory authorization to issue new money taxable bonds was also scheduled to sunset on July 16, 2009. This law extends the sunset dates for the issuance of new money tax-exempt bonds and new money taxable bonds, and for the purchase of forward commitment mortgages until July 16, 2010. This law also increases the maximum amount of new money tax-exempt bonds which SONYMA is authorized to issue. SONYMA's current authority to issue new money tax-exempt bonds is insufficient to cover the current expected demand for mortgages in the next few years. SONYMA expects to continue its various existing programs to provide more eligible New Yorkers than ever before with affordable, low-interest mortgage loans. The bill would increase SONYMA's authority to issue additional tax-exempt bonds and notes up to a total maximum amount of \$8.72 billion, which will enable SONYMA to satisfy its expected mortgage demand.

Chapter 139 of the Laws of 2009 – S. 3735 Morahan/ A. 7460-A Jaffee

An act to amend the public authorities law, in relation to continuation of the village of Suffern parking authority.

This legislation authorizes the continuation of the Village of Suffern Parking Authority through December 31, 2019, and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all its rights and properties shall pass to the village.

Chapter 321 of the Laws of 2009 – S. 4207 McDonald/ A. 7607 Canestrari

An act to amend chapter 422 of the laws of 2008, relating to creating a public library district in the city of Troy, in the county of Rensselaer, in relation to extending the period of time during which the Troy public library district may be established.

This law extends, until November 30, 2012, the period of time during which the Troy public library district may be established by the voters of the city of Troy. Chapter 422 of the laws of 2008 authorized the voters of the city of Troy to create the Troy public library district and elect trustees to the board and support a budget. In order for this to be accomplished, all three of these components had to pass the voters. Unfortunately, only two of the three were successful, and, because the creation of the district was predicated on all three components passing, the new

district was not created. This law authorizes the city to hold additional elections to create and fund the Troy public library district and elect trustees.

Chapter 363 of the Laws of 2009 - S. 4364-A Aubertine/ A. 4218 Brodsky

An act to amend the not-for-profit corporation law, in relation to the maintenance, protection and preservation of abandoned cemeteries.

This law adds a new section 1506-b to the not-for-profit corporation law to outline the process and requirements for a solvent cemetery corporation to assume management and maintenance of an abandoned cemetery. Many municipalities are in no condition to assume the maintenance and preservation of an abandoned cemetery corporation. The added fiscal burden to localities is often more than they can handle. The result is many cemeteries do not receive the care necessary to revitalize them or to stop decay and vandalism. This law allows cemetery corporations the ability to apply to the state abandoned cemetery fund, and upon approval by the State Cemetery Board, assume the maintenance and preservation of these grounds. Existing cemetery corporations have the knowledge and staff to better handle the upkeep and operation of these entities.

Chapter 182 of the Laws of 2009 -S. 4940 Kruger/ A. 8614 Farrell

An act to amend the public authorities law, in relation to bonds issued by the New York City Transitional Finance Authority (TFA).

The law allows New York City more efficient and cost effective access to financial markets. Specifically the bill would: (1) place outstanding TFA debt (beyond the amount authorized by Public Authorities Law §2799(gg)) under the existing New York City General Obligation (GO) cap in the Local Finance Law and make the existing statutory cap on TFA borrowing for general capital purposes applicable to outstanding debt of the TFA rather than all debt issued by the TFA; (2) continue to exempt Recovery Bonds and Building Aid Bonds from the TFA's general debt limit and continue to provide that the amount of variable rate bonds outstanding for general capital purposes be limited to the current twenty percent of the TFA's general debt limit, with provisions for customary exclusions.

These amendments to the Transitional Finance Authority Act ("TFA Act") significantly reduce City debt service costs at a time when New York City is facing budget gaps ranging from \$4.4 billion to \$7 billion over the next three fiscal years. It also contributes to New York City's ability to continue to finance necessary capital improvements while maintaining crucial public services during these times of economic distress in the national and local economy. During these times of economic crisis, the City needs to be able to utilize its highest-rated, most cost-effective borrowing vehicle, the Transitional Finance Authority. Throughout its existence, the TFA has proven its value in helping to reduce City debt service costs and permitting access to a broad base of investors for access to capital to finance the City's infrastructure needs. However, for the last two years the City has been unable to utilize TFA bonds for general capital purposes because it has reached its statutory bonding limit. Limiting the TFA's ability to issue bonds artificially inflates the City's overall cost of borrowing, restricts its flexibility in debt structuring

opportunities, and constrains its ability to take advantage of tax-exempt borrowing. As a result, the City's debt will cost more, making less money available to meet critical budgetary and infrastructure requirements. If this bill is enacted, the City would be able to finance half of its capital program with TFA bonds and the remaining half with general obligation bonds. The recent TFA bond refinancing indicated that TFA debt service on newly issued debt would be up to 65 basis points cheaper than City general obligation bonds. Due to this differential in interest rates between the general obligation bonds and TFA's bonds, coupled with the increasing market saturation facing the City in the continued issuance of its general obligation debt to finance its capital program, the City estimates that it would save \$20 million in fiscal year 2010 if the statutory limit on TFA bonds were revised as provided in this bill. Accordingly, the Mayor urged the earliest possible favorable consideration of this proposal by the Legislature.

Chapter 452 of the Laws of 2009 – S. 5436-A Klein/ A. 8114-A Canestrari

An act to amend the public authorities law, in relation to providing for the financing and construction of capital facilities for a certain not-for-profit corporation.

This Law allows the inclusion of an educational institution in the Public/Private Partnership program administered by the New York State Dormitory Authority. Sections 1676 and 1680 of the public authorities law contain the names of specific educational institutions that are authorized to receive assistance from the New York State Dormitory Authority. Without inclusion in this listing, an education institution does not qualify for such assistance. This bill will authorize Fordham Preparatory School Inc. to be included in the Public/Private partnership program that is administered by the Dormitory Authority in order to most effectively finance the construction of new science and other educational facilities at its existing location.

Chapter 432 of the Laws of 2009 – S. 5551 Espada/ A. 5753 Lopez V

An act to amend the public authorities law, in relation to the powers of the state of New York mortgage agency.

Until the passage of this legislation, State of New York Mortgage Agency ("SONYMA") did not have the authority to purchase mortgages for second lien purposes or to insure such mortgages. Under the definition of "mortgage" set forth in PAL §2402(5), the definition of mortgage in SONYMA's programs is limited to mortgages secured by first liens.

The purpose of this law is to authorize SONYMA to (a) purchase second mortgage loans to provide borrowers of SONYMA first mortgage loans with down payment and/or closing cost assistance under certain limited circumstances, and (b) to insure such second mortgage loans. This law will permit SONYMA to more efficiently structure programs which feature closing cost and or down-payment assistance to borrowers whose underlying mortgage loans are financed by SONYMA under its various programs. Down-payment and closing cost assistance-type programs would represent an important adjunct of SONYMA's below market interest rate financing and are intended to address the critical problem of the limited cash resources available to otherwise qualified low and moderate income SONYMA applicants.

Chapter 406 of the Laws of 2009 – S. 5732 Aubertine/ A. 8643 Cahill

An act to amend the New York state urban development corporation act, in relation to energy conservation and efficiency projects.

This law makes energy conservation and efficiency activities eligible for Urban Development Corporation (UDC) funding. Chapter 406 Defines "energy conservation and efficiency projects" as project or a that portion of a multi-purpose project designed and intended for the purpose of reducing energy consumption and improving energy efficiency of building envelopes, building systems, manufacturing or industrial systems by retrofitting or modernizing manufacturing, industrial or commercial facilities. It further provides what types of projects may be considered under this definition. By establishing an energy conservation and efficiency projects definition in the UDC law it would enable entities seeking funding under the various UDC programs to use energy conservation and efficiency as a qualifying expense. Two Federal bonding mechanisms for financing renewable energy and energy efficiency systems have been expanded under the tax section of the American Recovery and Reinvestment Act of 2009, signed on February 17,2009. The act authorizes the allocation of \$1.6 billion in new Clean Renewable Energy Bonds (CREBs), which are tax credit bonds for financing renewable energy projects. CREBs were previously limited to a maximum of \$800 million. The act also authorizes the allocation of \$2.4 billion in Qualified Energy Conservation Bonds (QECB), is also increased from the current limit of \$800 million. These tax credit bonds are allocated to States and large local governments to finance a variety of clean energy projects. CREBs and QECBs are not structured like typical Federal bonds that pay interest; instead, tax credit bonds pay the bondholders by providing a credit against their federal income tax. Thus, the new tax credit bonds will provide interest-free financing for clean energy projects. As the Federal government essentially pays the interest via tax credits, the U.S. Internal Revenue Service must allocate such credits in advance. In New York State, the Urban Development Corporation (UDC) is the entity most capable of bonding for the federal funds and providing a legal definition of energy conservation and efficiency projects would strengthen the case for New York State to receive the maximum amount of funds available.

Chapter 470 of the Laws of 2009 – S. 5769-A Marcellino/ A. 8729-A Lavine

An act to amend the public authorities law, in relation to providing for the financing and construction of capital facilities for Friends Academy, Glen Cove, Nassau County.

This Law amends paragraph b of subdivision 2 of section 1676 of the public authorities law to add Friends Academy to the list of eligible institutions to participate in financing and construction options available through the dormitory authority. The Academy is authorized to issue an aggregate sum of bonds not to exceed six million five hundred thousand dollars. This law authorizes Friends Academy in Glen Cove, New York to be included in the Public/Private Partnership program that is administered by the Dormitory Authority in order to most effectively finance the construction of new science and other educational facilities at its existing location. Founded in 1876, Friends Academy is a Quaker, coeducational, independent, college-preparatory school for students age three through twelfth grade.

Corporations, Authorities and Commissions Committee
Legislation Vetoed in 2009

Veto # 39 --- S. 2799 Nozzolio / A 6854 Finch

An act to amend the not-for-profit corporation law, in relation to an exemption to the residency requirement of the town of Fleming.

This legislation would have allowed fire companies within the town of Fleming to utilize volunteers from outside the district in certain instances to provide necessary fire and emergency medical services. Maintaining an effective volunteer fire department requires the retention of highly-qualified and experienced members. Individuals should not be discouraged from becoming new members because they live outside of the district. Currently, Not-For-Profit Corporation Law requires that nonresident membership cannot exceed 45% of the fire districts total membership. The fire companies within the Town of Fleming are seeking an amendment of section 1402 of the Not-For-Profit Corporation Law to allow them to exceed the 45% restriction. This exemption has already been granted to numerous other fire companies in the State. The increased membership would have allowed the fire companies within the Town of Fleming to continue to provide the necessary fire and emergency medical service.

Veto # 66 --- S. 3508 Savino / A. 4343 Brodsky

An act to amend the public authorities law, in relation to subcontracting by public authorities.

This bill would limit the ability of public authorities to contract out for services that are or can be performed by employees of the public authority, unless: it is more effective, it is impractical not to, there is a need of specialized skills, there exists a conflict of interests, it would hinder affirmative action goals, or there are compliance problems with state, local, or federal laws.

Veto # 13 --- S. 3594 Kruger / A. 4166 Cook

An act to amend chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, in relation to kitchen incubator/shared-use kitchen facilities.

This legislation would enable not-for-profit sponsors of small-scale food processing facilities to apply for start-up funding from the empire state economic development fund. It Expands the list of ventures that can apply for loans, loan guarantees and grants for the purposes of developing federal facility sites, urban industrial sites, industrial parks and incubator buildings to also include small business kitchen incubator/shared-use kitchen facilities.

Veto # 21 --- S. 5073 Thompson / A. 8374 Peoples-Stokes

An act to amend the public authorities law, in relation to the Buffalo Fiscal Stability Authority (BFSA) financial crisis determinations.

This legislation clarifies the determination of an advisory period by the Buffalo Fiscal Stability Authority (BFSA). Specifically, it clarifies that the wage freeze is not authority assistance for determining the end of a control period and the beginning of an advisory period. Section 1 of the bill amends Subdivision one of Section 3851 of the Public Authorities Law to clarify that the definition of BFSA assistance for determination of the transition to an advisory period is governed by Subdivision three of Section 3851. It amends Subdivision three of Section 3851 of the Public Authorities Law and stipulates that anything not specified in the definition of BFSA assistance shall not be construed as BFSA assistance. The fiscal crisis for the City of Buffalo has abated, as demonstrated by four successive end of year City surpluses, two successive increases in its credit ratings, and a lifting of the Buffalo Fiscal Stability Authority (BFSA) imposed wage freeze. However, there presently are numerous lawsuits and conflicting legal opinions regarding the lifting of the control period and the transition to an advisory period. Statutory clarification is required to avoid continued lawsuits and disagreements over the terms of the BFSA Act (Chapter 122 of the Laws of 2003), the legislation that established the BFSA and imposed a control period on the City.

Nominations & Guest Speakers
of The Committee on Corporations, Authorities & Commissions
2009- 2010 (March)

- 4/22/09 *Marisa Lago, Chair & CEO, NYS Urban Development Corporation*
- 4/29/09 Howard Polivy; Member, Board of Directors for the Roosevelt Island Operating Corporation
- 5/6/09 *Lorraine A. Cortéz-Vázquez, New York Secretary of State*
- 5/13/09 *Paul T. Williams; Executive Director, NYS Dormitory Authority*
- 5/20/09 Derrick D. Cephas; Director, NYS Urban Development Corporation.
Alfonso Linwood Carney, Jr.; Member & Chairman, NYS Dormitory Authority
- 9/10/09 Jay Walder; CEO & Chair, Metropolitan Transportation Authority
- 1/20/10 Katherine Teets Grimm, MD; Member, Board of Directors, Roosevelt Island Operating Corporation
Michael Shinozaki; Member, Board of Directors, Roosevelt Island Operating Corporation
Margaret M. Smith; Member, Board of Directors, Roosevelt Island Operating Corporation
- 1/26/10 Philip J. Tantillo; Member, Buffalo and Fort Erie Public Bridge Authority
- 2/9/10 Robert Dyson; Director (Member), NYS Urban Development Corporation
- 2/24/10 William C. Thompson, Jr.; Member, Battery Park City Authority
- 3/10/10 Charles G. Moerdler; Member, NYS Dormitory Authority
John B. Johnsons; Member, NYS Dormitory Authority
Paul F. Ciminelli; Director (Member), NYS Urban Development Corporation
- 3/24/10 David J. Kidera; Director, Independent Authorities Budget Office