FISCALLY DISTRESSED MUNICIPALITIES: PREPARING FOR AND PREVENTING MUNICIPAL BANKRUPTCY IN NEW YORK

Testimony of

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before the

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TESTIMONY

Good afternoon and thank you for inviting me to Buffalo today. I appreciate the opportunity to share my views with you concerning ways to relieve fiscal stress on our municipalities. As the City of Corning's Chief Executive Officer and a Past President of the New York State City/County Management Association, I am well aware of the fiscal burdens and constraints confronting our municipalities.

We have all watched the deteriorating conditions in Detroit, Michigan over the years which have led to the City's filing for bankruptcy in July. We have also witnessed other high profile municipal bankruptcies such as Stockton and San Bernardino, California. Before we find some of our New York municipalities in the same situation, I encourage the Governor and State Legislature to make needed legislative reforms allowing local governments the latitude necessary to address their fiscal challenges.

Economic Constraints

As the economy begins to recover, New York State still lags behind the nation in private sector job growth, and Upstate New York continues to trail the Downstate region. According to a July report by the New York State Department of Labor's Division of Research and Statistics, private sector employment in the 52-county Upstate New York region increased by 22,200, or 0.9%, for the 12-month period ending July 2013. The Upstate region's private sector job growth of 0.9% lagged growth in the 10-county Downstate region which increased 2.5%. State-wide private sector job growth was up 1.8% compared to 2.1% nationwide. This slow economic growth continues to put a strain on our municipalities, especially in Upstate New York.

Local Governments as Partners

Governing in these difficult economic times requires new approaches and hard decisions. At all levels of government we share a responsibility to provide fiscally sound policy direction and management decisions. To this end, we have made difficult decisions in Corning to weather the economic downturn and meet our financial obligations including paying for rapidly escalating pension payments and health insurance premiums.

In 1997, when I was appointed as the City Manager in Corning, we had 131 full-time employees. During the 2002-2003 recession, I reduced our full-time work force to 115 employees. This helped regain some of our foothold, but only temporarily. In 2010, in response to reduced sales tax, state aid, and gross receipts tax revenues, as well as increases in pension and health insurance costs, I further reduced our workforce to 103 full-time employees. During both rounds of workforce reductions, the majority of these positions were eliminated in the form of direct layoffs, not through attrition. This represents a 21% reduction of our full-time workforce between 2003 and 2010.

In addition to workforce reductions, the City Council and my management team have continued to exercise extreme caution in our expenditures; renegotiated sales tax allocations with our county government; reduced the size of our vehicle fleet; and restructured certain department operations to improve efficiencies and control costs. We have and continue to take prudent action to reduce those costs under our control.

At this point, we have made significant sacrifices, but are seeking mandate relief from the State Legislature in order to sustain our financial stability. Comprehensive reform has been elusive, replaced mostly by offers of more technical assistance. The State Comptroller has created a Fiscal Stress Monitoring System. While I applaud the Comptroller for trying to quantify indicators of fiscal stress, much of the information to be provided by the monitoring system is already recognized and reported by local governments in the Management & Discussion Analysis section of their annual financial reports or by their bond rating agencies. Technical assistance is being offered in terms of budget reviews, financial planning, and training. In Corning, we already know how to review our budgets to ensure revenue and expenditure projections are reasonable and structurally balanced. We have financial planning and technical capabilities and we regularly attend training. We are not in need of this type of assistance, we are in need of mandate relief to reduce our cost drivers.

Concerning the newly created financial restructuring board, instead of reforming the compulsory interest arbitration process as set forth in the Taylor Law, the Governor and Legislature have established an elective, alternative binding arbitration process. This alternative process breaks down as an effective alternative from its onset, since it is only available if the local bargaining units agree to participate. If they don't agree, the parties must use the current compulsory interest arbitration process to resolve their differences. It is this process that is in desperate need of reform.

By statute, the current interest arbitration process requires the panel make their decisions solely based on the evidence submitted by the parties at the formal hearing. In reality, our experience in Corning has been the determination by the panel reflects an extension of the mediation process rather than a weighing of the evidence submitted at the hearing. As a result, the changes included in the panel's award tend to be incremental and do not suffice to counter the significant growth in pension and health insurance costs.

Instead of instituting this elective alternative under the State's new legislation, the Taylor Law needs substantial reform. Most notably, I would propose the Legislature consider limiting the number of consecutive times the parties can petition for compulsory arbitration. Once the limit is met, the parties should be required to utilize the legislative hearing process already established for some public sector employees. In addition, the term "ability to pay" needs to be clearly defined, and must require the costing of both parties' packages be placed in evidence. This costing should include all economic items such as wages, payroll taxes, health insurance costs, and pension payments. The panel's award should not impose cost increases which would require a reduction of municipal services or an increase above the State's mandated property tax cap for each of the award years.

Local governments throughout New York State are willing to make difficult decisions if we are given the latitude by the Governor and Legislature to manage our financial affairs unencumbered by State mandates. I'd like to highlight two areas of particular concern, State pension costs and health insurance premiums which now jointly represent 23% of the City of Corning's annual budget.

State Pension Costs

Part of our efforts in reducing the City of Corning's full-time workforce was in response to the alarming growth rate of our pension payments. Our pension payments increased 2,251% from $48,683 in 2000 to $1,144,426 this past December, despite the 21% reduction of our full-time workforce I mentioned earlier. In recent years, the State Legislature created a new Tier VI pension category as a means of controlling long-term rate increases. Although imperative for long-term stability, the new tier provides little in the way of short-term relief.

We need predictable rates set on a multi-year basis instead of the annual year-to-year adjustment process currently utilized. A multi-year approach could use the "banking" of overpayments during strong market periods to help cover shortfalls during market declines. Other options proposed by the New York Conference of Mayors and Municipal Officials (NYCOM) are worth further consideration by the Legislature such as reinstating the 3% employee contribution for Tier 3 and 4 members who have completed their 10th year of service, and allowing municipalities to opt out of the retirement system by offering more affordable retirement plans.

Health Insurance

The cost of health insurance for municipal workers is overburdening local finances and driving up property taxes. In the City of Corning, our total premiums for the current budget year are estimated at $3,182,219 with employees and retirees paying, on average, less than 1%

of those costs. This expenditure represents 17% of our total budget.

These costs are estimated to continue to increase at a rate which outstrips inflation, and the liability of retiree health insurance payments will continue to deprive the City of necessary funds for the provision of municipal services and needed infrastructure repairs. The City of Corning's total expenditures for the current fiscal year are estimated at $18.7 million. At the same time, our liability for future employee health insurance benefits will top $30 million by this time next year.

In the three consecutive compulsory interest arbitration processes the City of Corning and its police union have participated in over the past several years, the awards have not provided any substantial relief to the employer's escalating health insurance costs. By requiring the panel to address newly defined ability to pay criteria, this issue, along with other economic issues, would make the awards more objective. As it stands now, there is little incentive on the part of labor to look for more affordable coverage as municipalities tend to shoulder the majority of premium increases.

Property Tax Cap and Unfunded State Mandates

The recently enacted property tax cap on municipal levies was a well-intended attempt to control ever increasing taxes at the local level. However, the cap did not eliminate any of our significant cost drivers such as health insurance costs and mandated pension payments. The property tax cap will only be effective if coupled with substantial relief from the onerous restrictions placed on us by the State itself. If we, in local government, routinely adopt expenditure levels under the cap, without meaningful mandate relief, we will at some point face further reductions of our full-time workforces, the loss of services and a continuing decay of our infrastructure.

Going forward, we need legislation which prohibits the further enactment of statutory and regulatory mandates unless funding equivalent to the cost of the mandates is provided to local governments. In addition, the Legislature should enact sunset provisions on current unfunded mandates in order to allow for a careful review of each mandate to determine their necessity and identify funding sources to offset their costs. These reviews need to solicit input from local governments to ascertain whether or not the mandates are meeting their intended purposes and if they are financially sustainable in the current economic climate.

Conclusion

Again, thank you for allowing me to share with you my perceptions about the fiscal constraints of New York's municipalities. Detroit and other high profile municipal bankruptcy filings should serve as a warning, reminding us policy decisions and management practices of the past need to be reformed in order to address both the fiscal challenges of today and those of the future.

I greatly appreciate your willingness to hold these hearings to collect this valuable input. It is this type of dialogue that is needed on an ongoing basis, so we can relay financial conditions of our municipalities to you. This will help the Legislature to have all the necessary information needed when making difficult decisions effecting local governments.