Chapter Nineteen

THE STATE-LOCAL PARADOX: HOME RULE AND STATE MANDATES

Key points:

- New York's constitutional and statutory provisions regarding home rule are more extensive than those in many states. At the same time, paradoxically, Albany imposes its will and the cost of its decisions on localities more than most other state governments.
- Municipalities and school districts complain about a variety of mandates from the state, but are less concerned about such rules if the state provides additional aid.
- Albany is assuming more of the local cost for Medicaid, and further mandate relief for localities will be on the agenda in 2007.

The state government is there when the mayor of Buffalo gives the State of the City address. It's at work when Onondaga County legislators adopt each year's budget. It's there when 1.2 million state

residents pay rent that's regulated by Albany; when the Hempstead school board negotiates the teachers' contract; and when officials in Orange County consider how to manage rapid residential and commercial growth.

Each unit of local government involved in those activities is, to use the common phrase, a creature of the state. Although local-government activities in much of New York predate the state government itself, today's structure of counties, cities, towns, villages, school districts, and special districts exists because state law makes it so. Not only that structure, but rules great and small for operation of each locality are written in the General Municipal Law, Local Finance Law, Municipal Home Rule Law, and separate statutes governing each class of local governments — as well as specific municipal charters that make one county, for instance, different from every other. Decisions by local officials are also governed by laws of general application such as the Civil Service Law and Tax Law. Localities have only those powers given them by the State of New York, and cannot do things Albany says they may not do.

Municipalities and school districts build their *budgets* within rules set by the state. The Constitution limits local taxes and debt (although the effectiveness of the latter is open to question). If a city or town seeks to impose a tax other than the property tax, Albany must approve.[1] State officials require local leaders to spend billions of dollars on programs created in Albany with little or no consultation from back home. The Legislature tells local assessors what they must do in deciding the taxable value of homes, businesses and other properties. At the same time, localities depend heavily on state financing. State government provides 38 percent of the revenue school districts use to educate 3 million young New Yorkers, for instance.[2]

The state's influence over local government *operations* is vast, as well. County and municipal officials in charge of local jails, courts, sewer and water systems, parks, building inspections, and zoning all must follow rules handed down from Albany.

School districts must have the state Education Department approve building plans, even though they hire licensed architects and engineers to design, and oversee construction of, new school buildings. State

1 Localities may, however, charge fees for services such as garbage collection and water, without specific approval from the Legislature.

2 2003 data, including New York City; Office of the State Comptroller, *2005 Annual Report on Local Governments*, Albany, NY, September 2005.

officials give thumbs up, or thumbs down, on localities' plans to link local roads to state highways, and tell local emergency responders how much training they must have before heading out in an ambulance.

The Municipal Home Rule Law

On April 30, 1963, Governor Rockefeller signed the Municipal Home Rule Law that he had proposed to the Legislature earlier in the year. The new statute and a companion amendment to the state Constitution would, Rockefeller said, "strengthen the governments closest to the people so that they may help meet the present and emerging needs of our time."[3]

Adoption of the law, and that November's approval by voters of Article IX of the Constitution, represented the high-water mark of home rule in New York — at least symbolically.

Less than three years later, Rockefeller pushed through a Medicaid program that required counties and New York City to share in the cost. Some local officials complained bitterly about the new expense. By January 1968, less than five years after initiating historic home-rule legislation, Rockefeller was lamenting the cost his own Medicaid program imposed on localities. Rising expenses, and lower-than-expected federal aid, had forced some counties to raise property taxes by 50 percent, and helped push 28 counties into creating or raising sales taxes, the governor said.[4] Today, county and New York City officials point to the state's design of Medicaid as one of the clearest examples of hegemonic behavior from Albany.

Article IX, including a "Bill of Rights" for local governments, and related statutes do not protect local governments against mandates from the state. Instead, they grant municipalities rights to adopt local laws, establish cooperative agreements, guard against unwanted annexation and undertake certain other activities.

Throughout the United States, the long-established legal understanding of state-local relations is known as Dillon's Rule, after an 1868 court decision in Iowa that emphasized the limited nature of

3 Memorandum of approval, cc. 843 and 844, Laws of 1963.

4 Address to the New York State Women's Legislative Forum, January 9, 1968; in *Public Papers of Governor Rockefeller*. Albany, NY: The State of New York, pp. 1273-74.

local-government powers. The doctrine holds that a local government may exercise only powers that are expressly granted by the state; necessarily implied in a charter or act of incorporation; or indispensable (not simply convenient) in carrying out the locality's assigned responsibilities. New York's home-rule laws and tradition of activist government have moved the state away from adherence to Dillon's Rule, but it remains a touchstone for modern debates over state-local relations.

In New York, the historical divide in political sensibilities between Upstate and New York City contributed to the built-in tension between state and local officials, as legislators from rural areas enacted policies that city representatives saw as almost colonial in nature *(see "New York City is Pie for the Hayseeds," Chapter Five)*.

Immigration-driven population booms and rising statewide political influence for New York and other cities helped lead to a 1923 constitutional amendment that restricted Albany's power to impose special laws on cities. A statute adopted the following year gave cities the power to adopt charters on their own, without seeking individual approval from the Legislature. A 1963 amendment extended home-rule power to towns and villages, and expanded the powers of local governments generally to adopt and amend laws relating to their "property, affairs or government," as well as certain other specific areas such as employees' compensation and hours of work.

Still, to the chagrin of many local officials, the Constitution imposes few limits on Albany's power over localities. Article IX forbids enactment of laws that affect only one local government unless elected officials there have requested such action. But statutes that affect all localities — or all school districts or towns, for example — are permissible. Some 25 states have statutory and/or constitutional limitations on their ability to impose mandates on local governments.[5] Although some legislators have introduced such proposals in New York, none have received even first passage by the Legislature. Reasons for such inaction may include certain interest groups' preference for concentration of power in Albany, and lack of leadership on the issue.

New York's courts have a long tradition of endorsing Albany's firm control over localities. In 1983, for instance, the Court of Appeals ruled against the Chemung County Legislature's attempt to fill a vacancy in

5 Joseph F. Zimmerman, "State Mandate Relief: A Quick Look," *Intergovernmental Perspective* 20, 2 (Spring 1994): 28.

the sheriff's office. While county officials said they were acting under a provision of the county charter, the court held that the sheriff's job included enforcing state laws, and thus appointment to the office was subject to state law, which required a different process.[6] In a 1989 case, the Court of Appeals referred to the Legislature's "untrammeled primacy of the Legislature to act" with respect to matters of state concern. Even where the Legislature has not enacted a law that specifically conflicts with a local provision, the state's "intent to occupy the field" may preempt local decisions, the court has held:

> Where the State has preempted the field, a local law regulating the same subject matter is deemed inconsistent with the State's transcendent interest, whether or not the terms of the local law actually conflict with a State-wide statute. Such local laws, were they permitted to operate in a field pre-empted by State law, would tend to inhibit the operation of the State's general law and thereby thwart the operation of the State's overriding policy concerns.[7]

The Fiscal Connection

Much, though not all, of the perpetual conflict between Albany and New York's local governments stems from arguments about money. A brief outline of the fiscal connections between the two levels of government helps show why — starting with the basic reality that localities may only raise or spend money as Albany allows.

The small, local units of government that arose before the founding of the state followed the lead of the governments they knew in European homelands, making the property tax their first general-purpose tax. Imposition of today's personal-income tax, sales tax, and other local taxes came much later, in the 20th century.

Today, counties, cities, towns, villages, school districts, and fire districts all impose property taxes, which totaled 63 percent of all local tax revenues in the state in 2003. Some libraries and other special districts impose the tax, as well.

Article VIII of the state Constitution imposes limits on property taxes, as well as highly detailed restrictions on localities' power to

---

6 *Cuomo* v. *Chemung County Legislature*, 122 Misc. 2d 42, 469 N.Y.S. 2d 868 (1983).

7 *Jancyn Mfg. Corp.* v. *County of Suffolk*, 71 N.Y. 2d 91, 97

borrow. Generally, counties, cities, and villages are limited to total real-property tax of 2 percent of full valuation.

Localities can also impose taxes for which the Legislature has granted general or special authorization. When Governor Rockefeller initiated a 2 percent state sales tax in 1965, the highest local sales tax was 3 percent, for a total of 5 percent. As of 2006, the average combined rate across the state was 8.25 percent, compared to a national average of 5.93 percent, according to the comptroller's office.

Other local taxes for which the Legislature has granted broad authority include city utility taxes of up to 3 percent, and mortgage recording taxes. The cities of New York and Yonkers impose local income taxes. New York City also collects other taxes including those on business income, certain commercial rents, real property sales, and unincorporated businesses.

Local-government entities also must follow Albany's rules to borrow money, starting with the constitutional limits on debt. Such limits have proven especially inconvenient for New York City, with infrastructure needs driven by far more school children, motor-vehicle traffic, and general human activity than any other locale in the state. Governors and the Legislature have taken numerous steps that effectively allow the state's largest city to escape its constitutional limit on debt with creation of separate entities that have their own borrowing powers. In 1997, for instance, Governor Pataki and legislators created the Transitional Finance Authority, to borrow money that would pay for some capital projects over the ensuing 10 years. The authority was originally empowered to borrow up to $7.5 billion. Three years later, the Legislature added another $4 billion in bonding authorization. State and local officials' discussion of such borrowing power tends to focus on the spending programs it supports, with little regard for the voters' mandate in the Constitution to limit municipal borrowing.

Those limits illustrate a historical low regard for local officials' fiscal practices, Peter Galie notes. In the case of debt, at least, there is little reason to believe Albany has forced localities to be any more responsible than the state itself.

> The assumption underlying the restrictions embodied in Article VIII is that local governments cannot be trusted to act responsibly, especially in incurring debt and contingent liability that will not have to be paid until future years. The state must assume primary responsibility for regulation of local finance because fiscal irresponsibility on the part of lo-

> cal government implicates the financial position of the state itself.… In spite of the labyrinth of provisions, there is some doubt as to whether these restrictions have fostered sound fiscal practices in local governments. One reason for this doubt has been the willingness (by governors and legislators) to pile exemption on constitutional exemption when the need arises. A second reason is the creation of public benefit corporations (authorities), which enable local governments to raise their de facto debt limits to many times the constitutional limits.[8]

Other recent developments show that elected officials at the state level remain willing to impose new costs on their counterparts at the local level (and thus, taxpayers), while gaining political credit. In 2000, Governor Pataki and the Legislature enacted major improvements to pensions for most public employees, including permanent cost-of-living adjustments and elimination of employee contributions after 10 years of employment. Virtually every elected state official had endorsed the pension improvements; then-Comptroller H. Carl McCall was among the most insistent. Supporters justified the benefit enhancements, in part, by pointing to pension funds' record gains from the late-1990s jump in the stock market. Yet, even before the benefit improvements were signed into law, Wall Street's major indices had started to decline. Required employer contributions to the pension funds, from localities as well as the state itself, rose by billions of dollars in succeeding years.

The Mandate Problem

Throughout history, governmental leaders in locales far from centers of power have complained about decisions from above. Certainly that was true of pre-Revolutionary New Yorkers. Along with their neighbors in the other American colonies, they chafed at laws from rulers an ocean away. Two hundred and thirty years after colonial Americans declared their independence from far-off rulers, the tension between Albany and the state's local governments remains the single most contentious issue for localities.

Like states, local governments are subject to the supremacy of the federal government, under the 14th Amendment to the U.S. Constitution. Local officials in New York find reason to criticize mandates from Washington. School districts, for instance, complain about requirements of the

8 Galie, *The New York State Constitution: A Reference Guide*, pp. 184-5.

Medicaid: A Sign of Change in the State-Local Balance?

In recent years, one issue has overshadowed all others for most counties in New York: the high and rising cost of Medicaid. Unlike most states, New York requires localities to pay a significant share of Medicaid costs — some 15 percent of the total, in 2006-07.

County and New York City officials started criticizing the cost of Medicaid not long after Governor Rockefeller persuaded the Legislature to create the program in 1966. After a decade of continually rising costs, Governor Carey and the Legislature relieved localities of some of the cost of long-term care in the early 1980s.

Later that decade, rapid cost escalation returned. With the state's economy suffering in the early 1990s, Medicaid helped drive significant tax increases at the state and local levels. Complaints from county and New York City officials grew louder, and political pressure stronger. The Medicaid issue emerged as the most important among others that local leaders characterized as "unfunded mandates" and "Big Brother"-style government in Albany.

By 2003, the complaints reached a crescendo as county executives throughout the state used their bully pulpits to blame Albany for rising property taxes. More than a dozen counties raised sales taxes in the past decade. At one point, Oneida County imposed a total 9.75 percent rate, including the state's share — a level that was far above those previously considered politically or economically acceptable. Beyond the tax increases, the rising cost of Medicaid led many counties to cut back on other services such as sheriff's patrols and libraries — steps that also would have been considered politically untenable just a few years earlier.

The county executives' campaign, supported by many business groups, paid off in 2005 as Governor Pataki and the Legislature enacted a limit on future growth in local Medicaid costs. Counties were guaranteed the state would pay for future cost increases above 3 percent a year, as of 2008. The 2005 statute also gave counties the option of shifting their entire Medicaid cost to Albany, along with a share of local sales-tax revenue. It created accountability measures for local social-services districts, authorizing the state health commissioner to review districts' management of Medicaid and to impose sanctions on districts that fail to monitor utilization diligently. While representing

a significant change, the 2005 legislation did not eliminate all future cost increases, much less reverse those of previous years.

Local officials' noisemaking over Medicaid also helped persuade the Legislature to increase general aid to localities in 2006. But there was little indication of a long-term change in Albany's expectation that local taxes would continue to fund a major share of New York's expansive social-services programs for the foreseeable future.

No Child Left Behind education law, saying it imposes costly requirements without equivalent funding. Clearly, though, most county, municipal, and school leaders see Albany as their primary antagonist in the intergovernmental conflict.

There's no question, on the other hand, that some state mandates on localities are appropriate, improve the quality of government services and even quality of life for New Yorkers. Examples range from broad policy matters such as financial reporting requirements, to specific rules such as those covering municipal landfills. Arguably, at least, the state should go much further with mandates in some areas — such as education and training requirements for judges in small municipal courts.[9]

Virtually every year, the Legislature adds some mandates with more narrow focus. Starting around 2000, for the first time in decades, local officials forced the state-local relationship to the top of the agenda in Albany. Results include one significant victory for localities, in financing of the vast Medicaid program, and smaller concessions such as increases in general municipal aid.

Mayors, supervisors, school-board members, and other local officials say there is a long list of ways in which Albany forces them to adopt policies — and to spend taxpayer dollars — in ways they otherwise would not. Besides Medicaid, other major issues are:

Prevailing wages. When localities (or the state itself) engage in public-works projects such as building or road construction, they must pay workers the wage that is "prevailing" in a given region. For decades, under both Democratic and Republican governors, the state

9 See William Glaberson, "Broken Bench: How a Reviled Court System Has Outlasted Critics," *The New York Times*, September 27, 2006.

Labor Department has implemented the requirement to consider union wages "prevailing" even when union workers are a minority in a particular area. Local officials say the requirement drives costs up needlessly because contractors must pay higher wages than needed to obtain experienced workers, especially outside metropolitan areas. It also makes project management more difficult; contractors must classify every worker in a particular category and keep extensive records on such classifications that are subject to challenge by employees or unions. A worker who does both carpentry work and window installation, for instance, must be treated differently for the hours spent on each task, even though the pay difference is relatively small.

The "Wicks Law." State law requires governmental entities to issue four separate construction contracts for most work on public buildings, rather than hiring a general contractor who will oversee all the work. A 1987 study by the state Division of the Budget estimated that repealing the law could save Albany and local governments a combined $400 million annually — a figure that would be much higher today. Governors Cuomo and Pataki both proposed repealing or substantially reducing the impact of the law. A relatively small group of contractors and unions benefits from the contractual requirements of the law, however. As of 2006, the law stood unchanged despite two decades of efforts to eliminate it. Reform advocates had managed to eliminate the law for some individual school districts, including those in New York City and Niagara Falls. For the most part, though, the Wicks Law remained intact as a testament to the ability of highly interested groups to affect policy in Albany.

The Triborough Amendment to the Taylor Law. The amendment, which the Legislature enacted in 1982 over Governor Carey's veto, provides that terms of a public-employee union contract continue after the contract expires, unless a new agreement is reached. Employees continue to receive experience-based pay raises and all contractual fringe benefits. In recent years, as municipalities and school districts have attempted to share rising health-care costs with employees, the Triborough Amendment has forced public employers to keep the status quo until workers could be persuaded to agree on a new contract. The law has particularly significant impacts on school districts because teacher contracts often include as many as 20 years of "step" increases that continue after a labor agreement has expired. The New York State School Boards Association estimates repealing the amendment could reduce costs by $50 million or more a year.

Binding arbitration for police and firefighters. In 1999, a state-appointed arbitrator ruled in a dispute between Nassau County and the union representing police sergeants, lieutenants, and captains. The officers were already among the higher-paid in the nation; the county was facing a major budget gap; and inflation for the years covered by the contract was projected at 2 to 3 percent a year. The arbitrator imposed a 24 percent pay increase over five years. Although Nassau officials, a taxpayers' group, and credit-rating agencies criticized the ruling, the county was required to accept it under state law that provides mandatory binding arbitration for police and firefighters. The New York Conference of Mayors and other local-government associations have asked state leaders to repeal the provision or to require that arbitrators give more consideration to the locality's ability to pay. Governor Pataki proposed such a change several times, but the Legislature would not accept the provision.

All four issues are driven largely by the Legislature's desire to avoid taking steps opposed by New York's influential unions, including both public-sector organizations such as New York State United Teachers and private-sector groups such as construction trade unions. At first glance, the Wicks Law and prevailing-wage rules from Albany seem to violate the spirit of local-government protection in Article IX of the Constitution, which provides that each locality has the power to adopt laws relating to "the wages or salaries, the hours of work or labor, and the protection, welfare and safety of persons employed by any contractor or sub-contractor performing work, labor or services for it." But Albany gives power to localities with one hand, and takes it away with another; Article IX says any such laws must not be inconsistent with general state laws, such as those regulating prevailing wages and construction contracts.

While continuing to complain about what they consider unfair mandates from Albany, local officials have seen state leaders enact other changes that drive up local costs, such as mandated enhancement of public-employee pensions. Public-employee unions continue to push the Legislature for more and better benefits, as well as changes to the Taylor Law that would enhance their position at the bargaining table. Local officials, as well as taxpayer organizations and political candidates seeking to capitalize on antitax sentiment, are likely to push for further action on the laws by which the state tells counties, municipalities, school districts, and special districts what to do and/or how to do it.

Localities are subject to regulation by state agencies, and sometimes complain about such oversight, just as private-sector businesses and other organizations do. In 2006, for instance, the New York State School Boards Association questioned an OSC directive that school-board members file reports on personal financial holdings, with the reports subject to public disclosure. The comptroller's office refused to change the new rule, saying the need to assure integrity and public confidence in school districts must overcome any concern for volunteer board members' privacy.

A Changing Fiscal Relationship

As a new gubernatorial administration takes over in Albany for the first time in 12 years, the fiscal relationship between the state and localities is changing significantly in one significant area, that of Medicaid finance. Even more changes than those already taking place may be coming.

The cap on counties' and New York City's share of Medicaid changes the fiscal impact of future increases in spending on the program, now concentrated on the state. That, in turn, is likely to mean shifting attitudes about the desirability of such increases. In past years, when governors proposed cost-saving reforms to Medicaid, they would note that such changes would reduce costs for hard-pressed local taxpayers as well as the state itself. Such arguments can be politically powerful because property taxes are unpopular everywhere, and perhaps more so in New York than in most states. Supporters of increased Medicaid spending have the advantage of being able to cast their arguments in another politically popular light, that of improving and protecting health care. An analysis of Governor Pataki's proposed 2006-07 budget by the Office of the State Comptroller showed one aspect of the changing nature of the debate over Medicaid spending as a result of the cap on local contributions.

> Executive Budget recommendations of $1.3 billion in General Fund savings would have a significant effect, not only on the State's overall financial picture, but on the State's health care industry as well. When considering the impact of the Executive's proposed actions on the federal share of Medicaid spending, the State's health care industry would suffer a loss of $1.8 billion in revenue. Because of the cap on local Medicaid expenditures, any savings from the Executive Budget recommended cost control measures would no longer accrue to local governments, but only to the State and the federal government. By the same token, if the Legis-

> lature rejects any of the Executive Budget recommended cost control measures, additional costs would no longer be borne by local governments, but only by the State and the federal government.[10]

Taxpayer anxiety about property taxes helped drive Albany to change Medicaid financing. The next step may be significant change in financing of local school districts — particularly if state leaders do take significant steps to limit future increases in Medicaid spending, and thus free more resources for use in education and other services.

Next: Changing School Finance?

School taxes are especially high on Long Island and in much of the lower Hudson Valley region. Legislators from those areas have taken the lead in proposing steps to ease the burden on property owners (at least, residential property owners). Several legislators proposed eliminating school property taxes entirely and replacing the revenue with new or higher income taxes, at either the state or local level. Governor Cuomo suggested an optional local income tax for school districts in the early 1990s. Then and more recently, the idea has failed to attract broad support or serious attention in the Legislature.

Governor Pataki's STAR program now provides more than $3 billion in annual funding for school-tax reduction. Funding is from the state's general revenues — meaning mostly from income taxes and the remainder from sales, business and other taxes. When first proposing STAR in 1997, Pataki included a recommendation that the measure include a legal limit on annual school property-tax increases, with the cap linked to the inflation rate. The Legislature refused to approve the tax limit. Comptroller Hevesi concluded in a 2006 report that the net impact of STAR may have been to raise overall taxes.

> While STAR indisputably provides property tax relief for those receiving it, its long-term impact may well be an overall increase in State and local taxes. The reason for this is that STAR lowers the effective tax rate on homeowners — the largest group of people who vote on and otherwise influence local school budgets. For many seniors, STAR effectively eliminated their school tax burden. By reducing the local tax share paid for greater school spending, STAR actually provides an in-

10 Office of the State Comptroller, *2006-07 Budget Analysis: Review of the Executive Budget*, Albany, NY, February 2006; p. 144.

> centive to increase school spending — an impact which has been described in several studies. This incentive is strongest, ironically, in the some of the highest spending areas — where high taxes and high home values combine to provide the highest STAR benefits.[11]

While campaigning for governor in 2006, Eliot Spitzer suggested that the state could "move toward" more reliance on income-tax revenues, rather than the property tax, to fund public schools. As a candidate for governor, he also said he would not raise taxes. It would be possible for Albany to provide significantly more funding for schools over time, relying on normal growth in its existing tax base. State aid already rises by hundreds of millions of dollars each year, however. Increasing those amounts by enough to make a substantial difference in property taxes would require either significant new revenues for the state or new restraint elsewhere in the state budget.

Land Use: Power for Localities But Still Subject to State Regulations

Should new homes require a minimum lot size of half an acre or three acres — or none at all? Which is more important to a declining Upstate city — preserving historic structures, or encouraging redevelopment? Should a suburban town encourage business growth to ease the property-tax burden on homeowners, or limit commercial and industrial development for aesthetic reasons?

These are among the most contentious questions facing cities, towns, and villages, which make most decisions about land use in New York. (Some counties have planning boards, but such agencies generally provide loosely defined coordinating functions and do not exercise decision-making authority in individual planning and zoning cases.)

The basic structure of municipal land-use regulation is contained in the various local-government statutes. Every city, and most villages and towns, also have local zoning laws that provide where various types of development can take place. Such laws also establish detailed rules, such as minimum lot sizes, for new homes or maximum height for commercial buildings. Municipal planning boards advise local legislative bodies on design and amendment of zoning laws, and on specific

11 Office of the State Comptroller, *Property Taxes in New York State*, Albany, NY, April 2006; p. 13.

Rent Control

Besides regulating land use, state law regulates rents for many residential units in New York City and certain other localities. The continuation of rent control and rent stabilization, long past the "emergency" in housing markets that led to creation of the practice immediately after World War II, is a recurring source of tension between Albany and the state's largest city.

Rental rates for more than 1 million apartments in New York City are subject to regulation. In addition, the overall proportion of renters is far higher in the city — more than two of every three — than in almost any other area of the country, making rent regulation an especially potent political issue.

Some 50 other municipalities in the state impose some rent controls, according to the Division of Housing and Community Renewal: Albany; Buffalo; and various other cities, towns, and villages in Albany, Erie, Nassau, Rensselaer, Schenectady, and Westchester counties. In most of those localities, however, the number of rent-regulated housing units is small.

President Roosevelt signed the first federal Emergency Price Control Act, which froze rents in most of the state, in 1942. The federal law expired in 1947. New York's Legislature enacted its own comprehensive law in 1951, allowing New York City to extend the previous regime of rent regulation. As of the mid-1990s, half of all rental units in the city were subject to price controls.

The Legislature enacted laws in 1993 and 1997 that resulted in thousands of apartments moving from regulated to market-based rent or to individual ownership as condominiums or cooperatives. The new laws particularly targeted higher-end apartments, renting for $2,000 or more per month, after critics pointed out that many well-off residents of New York City were benefiting from rent control. Other changes including tightening notoriously loose rules for succession of tenant rights, with the elimination of nieces, nephews, aunts, and uncles from such provisions.

In New York City, the municipal government determines maximum allowable rent increases under rent control. Elsewhere, the state's DHCR does so.

The Assembly, dominated by New York City representatives who tend to be ideologically supportive of government intervention in the marketplace, generally pushes for continuation or strengthening of legal protections for current tenants. The Senate, traditionally more in favor of market capitalism than the Assembly, has tended to push for diminution of rent regulation. Senate Majority Leader Joseph Bruno championed the 1997 revisions to rent-control laws, the most important in a generation. The differing positions of the two houses prevent any permanent resolution to Albany's rent-regulation laws. As a result, the state retains an important role in a matter that many tenant advocates say should be left up to local elected officials.

From a profederalism perspective, the tenants' argument makes sense. Yet most economists, and many students of housing policy, believe rent regulation ultimately hurts working people by reducing the supply of affordable housing.* In New York City, at least, political concerns may trump economic arguments; the number of potential voters living in price-regulated units is greater than the number of actual votes in most state-level elections.

* See, e.g., Peter D. Salins and Gerard C.S. Mildner, *Scarcity By Design: The Legacy of New York City's Housing Policies*, Cambridge, MA: Harvard University Press, 1992.

proposals for rezoning. Zoning boards of appeals give homeowners and businesses an opportunity to seek variances from zoning standards and interpretations of the local zoning law that may override an administrative decision.

In recent decades, concerns over potential overdevelopment has led some suburban towns and counties to adopt or revise comprehensive plans in ways that further restrict future growth. One common approach has been to expand minimum lot sizes for new homes. That reduces the potential for new educational and other costs associated with rising population, but also reduces the housing supply, thus creating upward pressure on prices and potentially reducing housing options for working families. Other localities have purchased undeveloped land for conservation, or worked with private conservation groups that can use various legal and financial methods to prevent development.