

BOCES: A Model for Municipal Reform?

By Robert B. Ward

In making his case for local-government restructuring this year, Governor Spitzer echoed a common theme among observers of government in New York: we simply have too many units of local government. With more than 3,200 taxing authorities, the point is hard to dispute.



Yet one of the most promising ideas for municipal reform could involve creation of yet another layer of local government. Just as the drive to consolidate school districts and their services in the 20th century led to creation of regional educational entities known as boards of cooperative educational services (“BOCES”), a new type of regional entity to provide shared municipal services may merit consideration in the latest push for reform.

This article explores the potential for creation of new, regional governmental entities on the BOCES model to give counties, cities, towns, villages, fire and special districts the same flexible opportunities to share services that school districts enjoy now. A related option would be to use BOCES themselves to serve municipal entities as they now serve school districts.

First, some background on BOCES, the regional approach to educational services that may serve as a model for broader reform.

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Why Do We Have BOCES?

A century ago, New York State was home to some 10,625 local school districts.¹ The typical district consisted of a one- or two-room school. Starting in 1914, state funding incentives and pressure from both state and local leaders produced a half-century of consolidation into larger districts. By the mid-1960s, fewer than 800 districts remained. Today, the number is slightly below 700, with one or two new consolidations occurring in a typical year.

As part of the decades-long drive to make local education more streamlined and effective, a 1948 law authorized creation of BOCES organizations through which local school districts could share services. Besides encouraging cost savings, the new regional entities were intended to allow small districts that could not afford certain programs to pool resources—thus allowing provision of services that otherwise might not be offered at all.

For nearly six decades now, BOCES have been considered essential players in the state’s educational efforts. Virtually every school district outside New York City purchases significant levels of service from its regional BOCES.² They are particularly well known for specialized services such as education of disabled children and vocational training. But BOCES play important roles in a wide variety of academic and business areas. In every region outside New York City, they provide information technology, staff development, business-office and other key services.³

In 2004–05, the 38 BOCES statewide spent \$2.2 billion, roughly 7 percent of all expenditures by school districts outside New York City. For purposes of comparison, that was slightly more than overall spending by the state’s 554 villages, and more than half as much as all cities outside the Big Apple spent the same year.

Applying the BOCES Model to Municipalities

For nearly two decades now, state leaders have actively preached the value of local-government restructuring. Such discussions often focused on consolidation of municipal entities. In 1990, for example, Governor Cuomo created a Blue Ribbon Commission on Consolidation of Local Government. Business groups in many areas of the state echoed the call over the years, hoping to limit growth in municipal costs and property taxes.

Such ideas have found little support in the Legislature, however. Small wonder—voters themselves don’t seem to like the idea, either. When given the opportunity to consolidate school districts, highway departments or other entities, they tend to choose the status quo even when presented with credible evidence of substantial tax savings to come. The New York State Constitution raises hurdles to consolidation of municipalities, such as a triple referendum requirement for transfer of functions from villages to counties.⁴ And New York’s public-employee unions—influential players in Albany—are often antagonistic to structural reforms that might trim payrolls.

With that backdrop, creative approaches to sharing services among municipalities and school districts assume

a more important role than ever. Such steps could bring many of the long-sought benefits of consolidation—while, potentially, setting the stage for outright elimination of governmental units at some point in the future.

A new form of regional entity—similar to BOCES in some ways, while very different in others—was conceived as part of a broad study of municipal reform in the early 1990s. A Local Government Restructuring Project organized by the State Academy for Public Administration and the Nelson A. Rockefeller Institute of Government developed nine model laws. One such proposal, which was introduced in the Legislature but not enacted, would have amended New York's General Municipal Law to allow establishment of regional, multipurpose special districts known as metropolitan municipal corporations.⁵

"The provision of a method by which regional multipurpose special districts can be established, and later assume greater responsibilities, could be an effective means of capturing the benefits of regionalization without requiring residents to give up their traditional political institutions," the Local Government Restructuring Project task force declared.⁶

Under the proposal, voters in any one or more counties would have been empowered to create such regional governments. Powers that could be transferred to the metropolitan organization would have included comprehensive land-use planning, water treatment, public transportation, garbage disposal, and creation and maintenance of parks.

Unlike BOCES, which have no taxing power, the proposed municipal councils would have been empowered to levy property taxes with voter approval. Such a provision would make the new entities more like traditional governments.

A handful of states—including California, Oregon, Colorado and Washington—allow creation of such multipurpose regional councils, although few regions have chosen to do so. Some other proposals for regional government in New York have emerged over the years. More recently, though, most experts have come to consider new regional entities that have the full powers of existing municipalities politically impossible—and, perhaps, not the best option from the perspective of effective governance.

"Measures to create regional entities and institutional mechanisms do not provide permanent solutions to the structural problems of local governments," according to Gerald Benjamin and Richard P. Nathan. "When it comes to changes in the role, boundaries, and structure of local governments, one generation's answers can produce the next generation's problems. Governments created to encompass large regions . . . become ossified."⁷

Many educational leaders in New York would say that such warnings illustrate the value of BOCES' flexible, voluntary nature. Individual school districts have full authority to choose which services they will purchase from the regional organization, and to change such choices annually. BOCES leaders like to say that they are entrepreneurial and customer-focused, and there's good reason for that. Operating in something of a market environment, they have little choice.⁸

If the regional service-sharing model is to work for municipal governments, the flexibility and self-selection inherent in BOCES may be essential. Such flexibility would follow in the tradition of regional service-sharing arrangements that have been successful in the recent past. In such cases, the impetus has often come from local officials willing to push hard to overcome the inertia inherent in any large organization (such as the collective layers of local government in every region of New York) as well as the particular obstacles to municipal reform that are created by the state's Constitution and political landscape.

In the Capital Region, for instance, four counties—Albany, Rensselaer, Saratoga and Schenectady—began envisioning a regional detention center for young offenders in the early 1970s. Criminal suspects under the age of 16 could not be held in county jails, so judges and county sheriffs had to send them to one of the state-approved centers for youthful offenders many miles away, at significant expense. After the four counties agreed in principle on building a regional detention center, bringing the project to reality required more than a decade of often discouraging work. Hurdles emerged from existing laws, bureaucratic opposition or inertia on the part of state agencies whose action was essential, and the desire of local elected officials to avoid political risk. Now, a decade after opening, the Capital District Youth Center ("CDYC") can be considered a success story of cost efficiency and service enhancement. During the developmental stages, however, such an outcome often seemed a long shot.⁹

The CDYC is somewhat like a BOCES in that it sells services to "non-members." The four originating counties appoint board members who oversee the corporation. Other counties contract for services just as school districts that are not members of a BOCES purchase services from them.

A broader approach to regional service-sharing could occur within a new entity similar in some ways to the cooperative CDYC. Under such an approach, local leaders in a number of municipalities and/or counties could seek legislation creating a municipal or public benefit corporation with legal power to provide services at the request of two or more localities. (For reasons related to the bond financing required for construction, CDYC is structured as a nonprofit public corporation under Internal Revenue Service rules.) Such services would be funded through

annual or multi-year contracts between the localities and the new, regional entity. As envisioned in earlier proposals, the new entities might provide infrastructure-related services such as highway maintenance and water treatment, while adding business services such as property assessment, tax collection, information technology and payroll.

Alternatively, the state could allow BOCES to provide municipalities some of the management and administrative services the regional entities already offer school districts—computer and telecommunication network services, payroll processing, benefits administration and others. With growing interaction between schools and local governments' social services agencies, BOCES might take on some human-service roles now assigned to counties.

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Which approach makes more sense—new regional organizations for general-purpose local governments, or additional missions for the existing BOCES? The latter may be easier to accomplish politically, and could make sense as an initial step. In the long run, new regional municipal service organizations may be a better choice. Many observers believe public education already is pulled in too many directions. Asking BOCES to meet the highly demanding mission of educating children, and simultaneously performing a variety of functions that require completely different expertise, could easily result in many important jobs being performed poorly.

Cost Savings, Enhanced Services, or Both?

BOCES and school district leaders say they rely on the regional cooperatives to improve both *cost-efficiency* and *program quality*. The twin goals are important to keep in mind at a time when local government reform is most commonly championed as a way to reduce costs and thus control property taxes.

There is no question that regional service-sharing creates cost savings for school districts in some areas. Schools must provide special education programming, for example. For the small minority of students with significant disabilities, BOCES reduces school districts' costs by creating economies of scale. Each individual district might have only a handful of children with a given set of needs, but when a dozen or more districts join together, providing adequate numbers of appropriately trained staff becomes practical and affordable.

But it's also true that many BOCES services—and their costs—simply would not exist if individual districts

had to provide such programming on their own. For instance, two neighboring BOCES—Capital Region and Questar—joined to create a high school focused on math, science and technology. Opened in September 2007, the school brings together students from 48 school districts. Almost certainly, no district would have created such a school independently. Similarly, if individual school districts had to hire their own staff for career/technical education classes, programming would inevitably be much more limited than it is with BOCES.

Giving local officials new opportunities to share services will likely produce an unpredictable mixture of results: some steps to make existing operations more cost-effective, and other efforts to create entirely new (in some cases long-needed) programs. Both outcomes are desirable, of course. Still, it's important for policymakers and taxpayers to recognize that not all—and perhaps not most—service-sharing efforts will reduce costs.

If and when state leaders consider creating BOCES-style entities for general-purpose local governments, careful consideration of financial incentives will be essential. From the earliest days of BOCES, state funding formulas have encouraged school districts to purchase services through the regional cooperative. Today, some larger school districts that could provide certain services in cost-effective ways on their own choose instead to purchase those services from BOCES simply because doing so generates additional state aid. The result: shifting of costs, rather than overall savings for taxpayers.

Development of new local government entities would bring the potential of cost savings in at least one major area, that of employee compensation. New accounting rules are revealing that many, if not most, municipalities and school districts in New York have accumulated significant long-term liabilities for retiree health coverage. Given the state's public-employment laws and practices, regional municipal service organizations would likely be unionized. When such organizations and unions negotiate employee contracts, though, they would be starting with a blank slate rather than continuing a status quo that originated when health coverage was much less expensive. (In many cases, municipalities and school districts provide retiree coverage as a matter of practice, rather than contract; the new entities would have no particular past practice to follow or break.)

Besides cost, accountability issues are worth considering in development of regional service organizations. The BOCES model leaves ultimate authority with the individual school districts—as customers who can take their “business” elsewhere, as board members of the regional entity, and as fiscal decision-makers who must approve the entity's annual budgets. Similarly, a service-sharing effort in Chemung County, the Municipal Highway Services Board, is entirely voluntary and leaves policymak-

ing authority among participating municipalities. (The staff person for the board carries the title of “coordinator,” rather than “commissioner” or “superintendent.”)¹⁰ Such an approach leaves voters with a clear understanding of which local elected officials are responsible for the quality and cost of public services.

A Bridge to Future Consolidation?

In the middle of the 20th century, the Legislature took two steps to encourage school consolidation. It established BOCES, which grew into major educational institutions across the state. Lawmakers also created another form of educational entity, intermediate school districts, that were intended to augment or eventually replace smaller, local districts. Voters and local leaders ignored the intermediate school district option, and none were established anywhere—not an auspicious precedent for larger regional governmental approaches.

Still, the political zeitgeist today may lead to continued, long-term pressure for restructuring. After decades of losing population and jobs to other states, many New Yorkers feel a sense of urgency about reforming government and reducing its costs. Governor Spitzer is using the most powerful chief executive office in the 50 states to trumpet the need for change. The Governor’s strong rhetoric, his Commission on Local Government Efficiency and Competitiveness, the Shared Municipal Services Incentive program, and efforts under way in various regions of New York, are encouraging local leaders, the media, and voters to talk more seriously about municipal restructuring than at any time in recent memory.

Absent the unlikely event of major legislative action forcing restructuring on localities, truly major reform in New York’s centuries-old structure of local government will require decades of ongoing change analogous to the consolidation of school districts through much of the 20th century. Major progress in sharing of services—through BOCES-style cooperative efforts, or other approaches—would constitute a significant step in that direction by blurring voters’ perceptions of municipal boundaries over time. Outright consolidation, and thus elimination

of many of those thousands of taxing jurisdictions, could eventually become much easier as a result.

Endnotes

1. James D. Folts, *History of the University of the State of New York and the State Education Department, 1784-1996* (1996); available at <http://www.nysl.nysed.gov/edocs/education/sedhist.htm>.
2. All but nine districts are members of BOCES, giving them voting power over the organizations’ budgets and policies. State law does not permit New York City, Buffalo, Rochester, Syracuse or Yonkers to join BOCES. Four other districts remain non-members by choice, but each relies on its local BOCES for special education and other services.
3. Each BOCES is headed by a district superintendent, who also serves as the regional representative of the state Education Commissioner. That function includes helping local districts select school superintendents and implement state academic standards. The district superintendent’s role as regional representative is not addressed in this article.
4. See Richard Briffault, *Local Government and the State Constitution: A Framework for Analysis*, in *DECISION 1997: CONSTITUTIONAL CHANGE IN NEW YORK* (Gerald Benjamin & Henrik N. Dullea, eds., 1997).
5. A.9805, establishing the “Metropolitan Municipal Corporations Act,” was introduced in 1994. Text of the bill is available from the author of this article.
6. *Report on the Local Government Restructuring Project of the Nelson A. Rockefeller Institute of Government*, 1992. Members of the task force were Victor J. Riley Jr., Robert D. McEvoy and Richard P. Nathan; the project director was Frank J. Mauro.
7. GERALD BENJAMIN & RICHARD P. NATHAN, *REGIONALISM AND REALISM: A STUDY OF GOVERNMENTS IN THE NEW YORK METROPOLITAN AREA* (2001).
8. The marketplace metaphor is inexact. Rather than the large number of choices available to a private purchaser of goods or services, school districts often have only three when considering BOCES services: purchasing the service from BOCES, performing it in-house, or not offering the service at all. Still, that gives districts one more choice than would be available otherwise.
9. A forthcoming case study on the Capital District Youth Center, by the Nelson A. Rockefeller Institute of Government, will provide additional history and analysis.
10. Michael Hattery, *Chemung County: Improving Inter-municipal Sharing in Highway Services*, Case Study Report for the Government Law Center, SMSI Technical Assistance Project, March 2007.

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