Government Issues and News of the Week

State

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State

Debate Over Bill to Create an 'Office of Utility Consumer Advocate' Heats Up

Legislation was introduced last year that would create a new Office of Utility Consumer Advocate to intervene on behalf of residential utility customers in proceedings before entities such as the Public Service Commission (PSC) and the Federal Energy Regulatory Commission (FERC). The American Association Retired Persons (AARP), a strong lobby in Albany and Washington, DC, has been actively supporting the bill, arguing that residential utility customers do not have adequate independent representation in rate case proceedings. However, opponents of the proposal say that creating the new advocate is unnecessary since several similar entities, including the Utility Intervention Unit, the Public Utility Law Project (PULP), the PSC, and the Attorney General, already do intervene on behalf of rate payers.. Original versions of the proposal sought to fund the new office using money generated from the 18-a surcharge, scheduled to expire in 2017.

Governor Cuomo was heavily criticized by ARRP for not including the proposal in his Executive Budget, released in January. The Assembly did include the language their one-house budget proposal using money from the state's General Fund, not 18-a, to bankroll the new office.

The Senate is currently divided on the issue. Senate Energy Chair George Maziarz (R-Niagara) is opposed. . Numerous entities have filed memos in opposition, such as the International Brotherhood of Electrical Workers (IBEW), the Business Council of New York, and the Energy Coalition New York (ECNY), which represents New York's investor-owned utilities including Con Edison.

The bill's sponsor, Senator Diane Savino (D-SI), is a member of the powerful Independent Democratic Conference (IDC), a five-member group of democratic senators who share control of the Senate's agenda with the Republican Conference. The Assembly Speaker's press release supporting the budget proposal can be found [here].

A copy of ECNY's memo in opposition can be found here.

Con Edison's Net Metering Study Legislation Gains Momentum
Legislation directing the Public Service Commission to study the pros and cons of net metering is gaining momentum in the Legislature. The bill is being considered by the Assembly Energy Committee this week and was included in the Senate's budget proposal of last week

Since the state first enacted the net metering law in 1997, there has been a proliferation of proposals seeking to expand net metering programs. Con Edison and the Energy Coalition New York have been advocating for this bill on the basis that it would provide an impartial assessment of the efficacy of the State's current net metering program, and enable policymakers to make informed policy choices that will take into account both the customer impacts of net metering and any environmental benefits.
A copy of the legislation can be found here.

NYS Code Council Considers Sandy-related Building Code Changes
The New York State Code Council recently considered a number of recommended changes to the state's Building Code, developed in the aftermath of Superstorm Sandy and other large scale disasters over the last few years. Several panels appointed by Governor Cuomo to assess the state's response to such disasters put forth initiatives relating to emergency response, resilience, and recovery. A technical subcommittee was subsequently formed to determine how best to implement these initiatives.

The proposed changes include:

- Amending the Residential Code to add a standard for construction within flood zones;
- Requiring the installation of certain mechanical systems at a height at least two feet above the 100-year flood level in flood prone areas;
- Requiring health care facilities (hospitals, assisted living facilities, nursing homes, etc.) to have plans for energy generator hook-ups or secondary generation, installed at heights above 100-year flood levels;
- Requiring public water supplies for large-occupancy apartment buildings to have a drinking water tap accessible for every 100 residents;
- Requiring flood resistant building materials and setting forth where such materials must be used; and
- Requiring certain construction materials for flood walls.

The changes have not yet been approved. The Code Council is scheduled to meet again in May at which time it is likely to take action on these proposals.

A memo outlining the proposed changes can be found here.

NYPA Releases "BuildSmart" Progress Report
The New York Power Authority (NYPA) recently released an energy efficiency progress report showing that the energy performance of New York State government buildings improved by nearly five percent in the first year of the BuildSmart NY Initiative. Initially announced in Governor Cuomo's 2013 State of the

State address, the BuildSmart NY Initiative aims to reduce energy consumption at state facilities by 20 percent by 2020.

The report highlights an overall reduction in energy use per square foot at state government facilities by 4.7 percent this year and a corresponding decrease in greenhouse gas emissions by more than 130,000 tons a year. The improvements include retrofitting and replacing existing building systems with more energy-efficient models.

Clean energy generation and smart meter technology are also part of BuildSmart NY's overall strategy. A copy of the report can be found here.

Federal

Obama Releases Budget Request

On March 4, President Obama released his proposed budget for fiscal year (FY) 2015. Although Congress is not required to consider it – nor are they likely to – the document provides a helpful outline of the President's second term agenda.

The $3.9 trillion request contains a number of new initiatives, including increased taxes on higher-income families and businesses. The budget would also raise about $100 billion in revenue from U.S. multinational companies. In total, the proposal would raise $276 billion over the next decade from international tax changes.

Energy budget proposals include the following:

- $12 billion for the Interior Department, up from the $11.6 billion the department received in fiscal year 2014. This money would be partially offset by fees for oil and gas development on federal onshore property and a new fee on hard rock mining.
- $7.9 billion for the Environmental Protection Agency (EPA), returning funding to 2013 levels.
- A boost in funding for the Energy Efficiency and Renewable Energy Office (EERE) and the Advanced Research Projects Agency-Energy (ARPA-E) programs, while reducing funding for nuclear and fossil-related research.
- Reduced funding for capitalization grants for clean water state revolving funds by about $431 million.
- Increased funding for the following EPA programs: state assistance grants; the Superfund Program; science and technology programs; and environmental management programs.

To read summaries or the full text of the proposal, click here.

House Passes Bill to Limit Greenhouse Gas (GHG) Rules

On March 5, the U.S. House of Representative voted 229 to 183 to pass H.R. 3826, the Electricity Security and Affordability Act, which attempts to limit new-source and existing-source Environmental Protection Agency (EPA) Green House Gas regulations for electric generating units.

On final passage, 10 Democrats voted in support of the bill and 3 Republicans voted against it. President Obama has also threatened to veto the bill. For more information, click here.

House Chairman Releases Tax Reform Proposal
On February 28, House Ways and Means Committee Chairman Dave Camp (R-MI) released his version of comprehensive federal tax reform. The proposal is largely viewed as a last-ditch attempt to move tax reform forward prior to the Congressman's chairmanship expiring this year. The draft legislation was greeted with skepticism from all corners and it is highly unlikely that there will be any significant action on the legislation this year. Rather, the draft will serve as a template for potential legislation in 2015.

Some of the more significant provisions in the nearly 1,000 page plan include:

- The elimination of deductibility of state and local taxes
- Changes to calculation for tax rates on capital gains and dividends
- Corporate tax rate lowered to 25%
- The top individual tax rate for most filers will be 25%, but the top 1% of earners will still be at the 35% rate
- R&D tax credit is made permanent

The amount of mortgage debt eligible for deductibility is reduced from $1 million to $500,000 over four years

City

DiNapoli Releases Review of City's Proposed Budget and Financial Plan
New York City Mayor Bill de Blasio's budget proposal appropriately uses higher than expected tax revenues to reduce out-year budget gaps and to replenish reserves, according to a review of New York City's financial plan released recently by New York State Comptroller Thomas P. DiNapoli. The report notes, however, that the potential cost of labor negotiations casts a shadow of uncertainty on the city's finances.

As chief fiscal officer for the state and a member of the Financial Control Board for New York City, the State Comptroller regularly examines New York City's budget and financial plan.

DiNapoli's analysis suggests that revenues could be higher than the city's forecast, but found it still faces a number of large budget risks. Besides the outcome of collective bargaining, other risks include the anticipated receipt of $1.2 billion from the planned sale of taxi medallions during fiscal years 2015 through 2017 and whether the Health and Hospitals Corporation will require additional financial assistance from the city. It is also unclear if federal aid for recovery from Superstorm Sandy will fall short of expectations.

The report also examines economic trends in the city, which point to steady economic growth in the coming years, but there are areas of concern.

The unemployment rate has declined from a recessionary peak of 10.1 percent to 7.8 percent in January 2014, the lowest level in five years. Nevertheless, the city's unemployment rate is higher than before the recession and higher than the national rate.

Another concern cited in the report is the projected growth in debt service and health insurance costs. Together they are projected to grow by $4.6 billion, or 47 percent, between FY 2013 through FY 2018, and to consume 24 percent of city fund revenue by FY 2018.

In recent years, DiNapoli notes the city has relied heavily on nonrecurring resources to balance the budget. The budgets for fiscal years 2014 and 2015 each count on about $2.5 billion in nonrecurring resources.

For a copy of the report, visit: http://www.osc.state.ny.us/osdc/rpt12-2014.pdf