New York's New Property Tax Cap: Issues and Implications

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OUTLINE

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New York's New Property Tax Cap

History

- Commission on Property Tax Relief (2008) – the lesser of 4% or 120% of CPI on school RPT levies only
- Paterson Proposal (2010) – the lesser of 4% or 120% of CPI, override 2/3rd vote of governing body, no exclusions
- Cuomo Proposal (2011) – the lesser of 2% or CPI, override subject to mandatory referendum, exclusions for extraordinary capital expenditures & judgments

Other States

Massachusetts

- 1980 Proposition 2 ½
- Contains a levy ceiling (2 ½% of total full value) and a limit of 2 ½% in year-to-year levy growth
- Excludes certain capital expenditures
- Override must be approved by voters
- Cap was initially successful when coupled with an infusion of state aid

Other States

New Jersey

- July 2010 - 2% levy cap
- Excludes debt, pension and health insurance costs and spending for emergencies
- Override must be approved by the voters
- Passed with a promise of mandate relief some of which has been realized (e.g., binding arbitration reform)

New York's New Property Tax Cap

What We Got

- Chapter 97 of the Laws of 2011 (see attached)
- Cap on year-to-year growth in the "tax levy" at the lesser of 2% or CPI-U (CPI for All Urban Consumers: U.S. City Average) -- currently 2%
- Effective for local fiscal years beginning in 2012
- Applies to "taxes imposed on real property by or on behalf of a county, city, town, village, school district, fire district or special district" – NYC and Big 5 school districts exempt

What We Got

- Also applies to special ad valorem levies and special assessments, but not user fees and fines
- Up to 1.5% of any unused cap can be carried over into the following year
- Carryover must be used in subsequent year and therefore cannot be "banked"

What We Got

Exclusions from Tax Cap

- Court order/judgment amounts (arising out of tort actions) exceeding 5% of the prior year levy
  - Does not include tax certioraris
- Increases in full value of taxable real property resulting from new construction, annexation or tax roll omissions ("tax base growth factor" calculated by NYS Dept. of Taxation & Finance)
- Adjustments will be made for transferring functions as well as government consolidation/dissolution

New York's New Property Tax Cap

What We Got

Exclusions for Pension Costs

- Increase in pension costs attributable to increase in average actuarial contribution rates for ERS & PFRS in excess of 2% of payroll

  E.g., Change in Average Actuarial Rate from 2012 to 2013

  - ERS: 16.3% to 18.9% = 2.6% increase in rate so 0.6% of ERS payroll is excludable
  - PFRS: 21.6% to 25.8% = 4.2% increase in rate so 2.2% of PFRS payroll is excludable

- Note: The Average Actuarial Rate changes amount to a 16% increase in ERS bills and a 19.4% increase in PFRS bills

What We Got

Exclusions for Pension Costs

- "Payroll" is what Retirement System uses to generate pension bill
- If local government has chosen to amortize, it cannot take advantage of the pension exclusion
- No carryover of unused pension exclusion is permitted

What We Got – Local Override

- Prior to budget adoption, local government must file tax levy limit calculation with OSC (using web-based reporting system)
- Local governing body may adopt local law to authorize override of tax cap
- Override is good for one fiscal year and must be approved by 60% of local governing body
- Law is considered effective upon adoption and may be approved on the same day as budget
- If tax levy limit is exceeded due to "clerical or technical error," excess must be placed in reserve to reduce next year's levy

What We Got – Issues of Interest

- Default Budgets – If proposed budget becomes adopted budget "by default," the resulting levy cannot exceed the 2% cap
- Special Districts without separately elected governing bodies are subject to the cap of the local government by which they are governed
- The tax cap law essentially controls for PILOT payments that do not grow by more than 2%
- When a PILOT agreement expires and the property goes back on the tax roll, it will not be accounted for in the Quantity Change Factor

What We Got – Tax Cap Calculation

- Determine total amount of taxes levied for prior fiscal year
- Multiply amount by Tax Base Growth Factor as determined by Taxation and Finance
- Add any PILOTs that were receivable in the prior fiscal year
- Multiply the result by the allowable levy growth factor (tax cap) which will be calculated annually by OSC
- Subtract PILOTs receivable in the coming fiscal year
  = Tax Levy Limit Before Exclusions
- Add adjustment for transfer of function
- Add amount of tort exclusion
- Add amount of pension exclusion
  = Tax Levy Limit Adjusted For Exclusions

Points of Clarification

- Relevies of delinquent taxes or delinquent user fees are not subject to the tax cap
- The levy should not be adjusted for tax refunds granted after taxes are levied
- The tax levy limit applies to the combined town-wide and TOV levy
- BIDs are included in the tax levy limit of the municipality in which they operate

Additional Information

- **Office of the State Comptroller**
  FAQs, Online Reporting Form, Pension Exclusion Calculator,
  www.osc.state.ny.us/localgov/realprop/index.htm

- **Dept of Taxation and Finance/Dept. Of State**
  Guidelines for Implementation & Tax Base Growth Factors
  www.tax.ny.gov/research/property/cap.htm

- **NYCOM website contains links to all documents**
  www.nycom.org

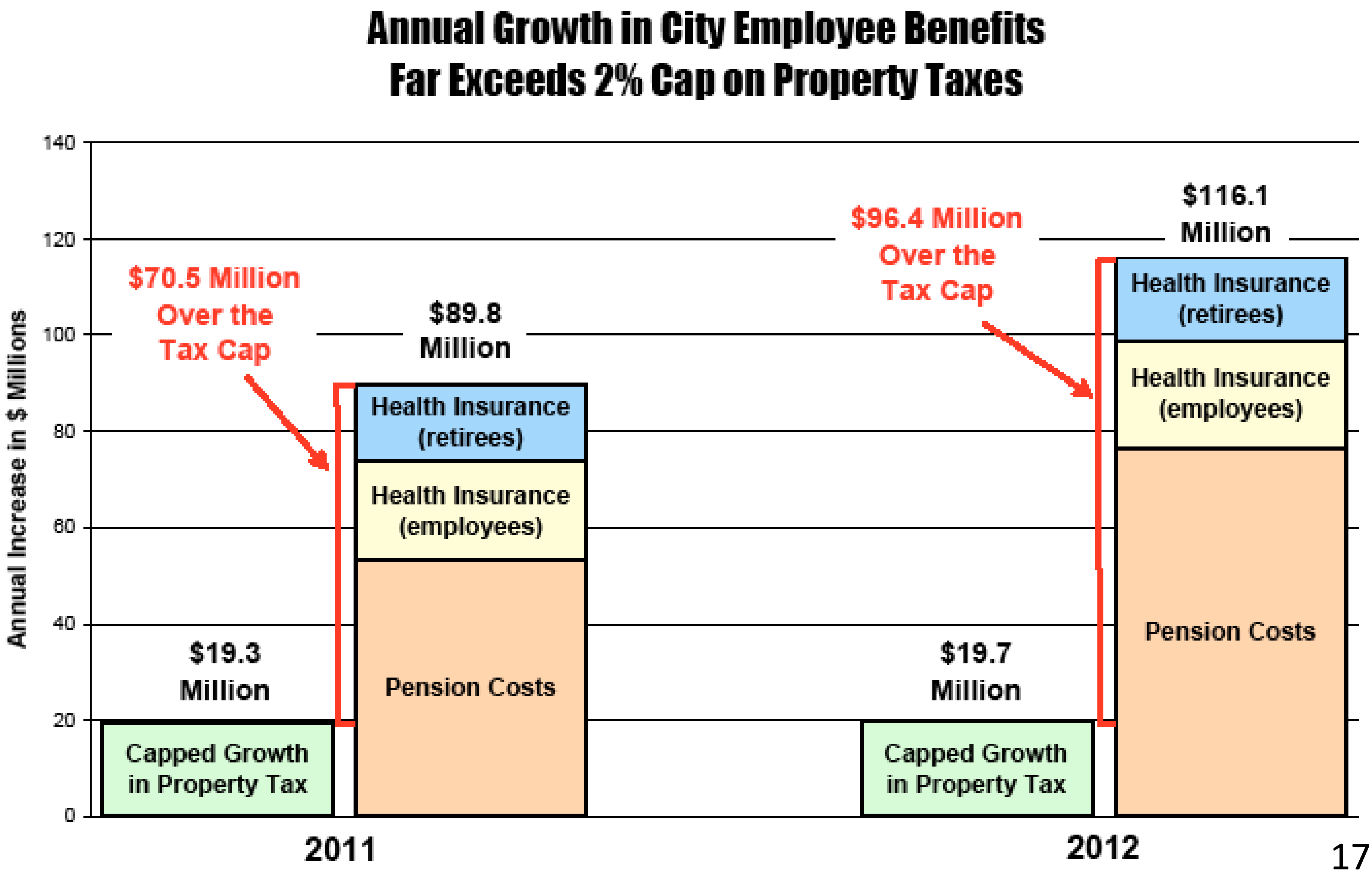
Implications

The Truth About Tax Caps…

- They do nothing to address the true cost drivers
  - ✓ Pensions
  - ✓ Health insurance
  - ✓ Energy/fuel
- May increase disparities among communities
- Often result in reductions in services and personnel

…unless they are accompanied by increased State aid and <u>meaningful</u> mandate relief

New York's New Property Tax Cap



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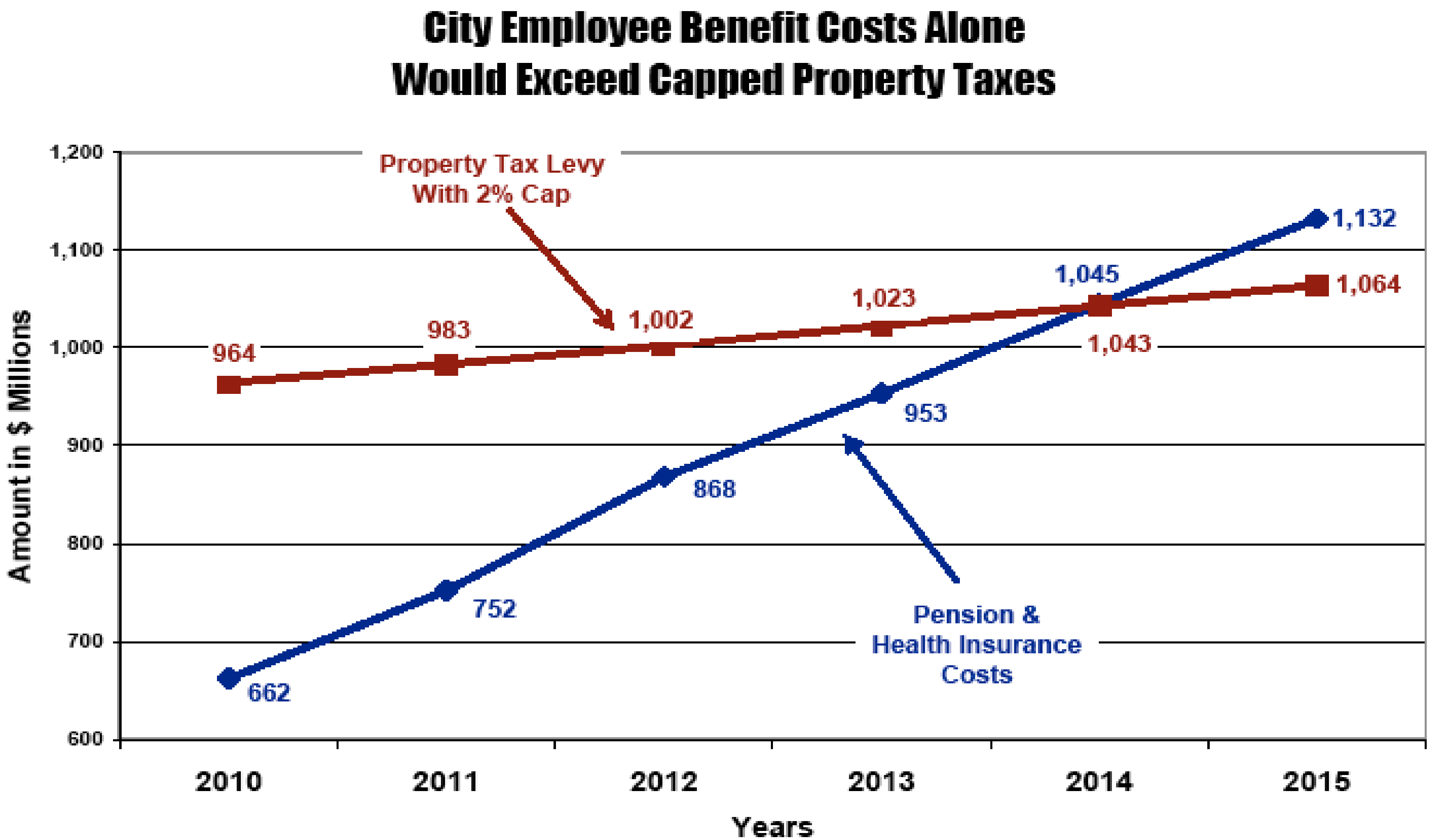


New York's New Property Tax Cap

Capped Growth in Property Taxes
vs.
Mandated Growth in Pension Costs
vs.
Workforce Reductions

City	Population	Capped Increase in Property Tax Levy 2012	Estimated Pension Increase 2012	% by which Pension Increase Exceeds Tax Increase	Reduction in City Workforce 2000 to 2011
Canandaigua	11,264	$83,578	$212,089	154%	18%
Corning	10,842	$106,081	$249,937	136%	21%
Elmira	30,940	$208,851	$822,619	294%	16%
Lackawanna	19,064	$177,774	$425,725	139%	16%
North Tonawanda	33,262	$313,626	$911,632	191%	22%
Ogdensburg	12,364	$87,446	$129,135	48%	8%
Oswego	18,096	$136,474	$318,703	134%	26%
Plattsburgh	18,816	$181,623	$814,777	349%	15%
Rome	34,950	$293,392	$961,501	228%	15%
Syracuse	147,306	$664,242	$5,903,687	789%	6%
Watertown	26,705	$149,748	$887,349	493%	3%

Source: Preliminary data from New York State Conference of Mayors (NYCOM) city budget survey.

New York's New Property Tax Cap

"By enacting a tax cap without meaningful mandate relief, New York has missed an historic opportunity to provide real and sustainable property tax relief. The so-called mandate relief approved by the Senate and Assembly is meager and anemic. It will have no material impact on the rapidly rising local costs that are the cause of New York's property tax crisis. As a result, communities throughout our state will be forced to either override the tax cap, decimate essential municipal services, or both. Before the tax cap goes into effect in 2012, our leaders in Albany must enact mandate relief that makes a difference.“

Peter A. Baynes
NYCOM Executive Director

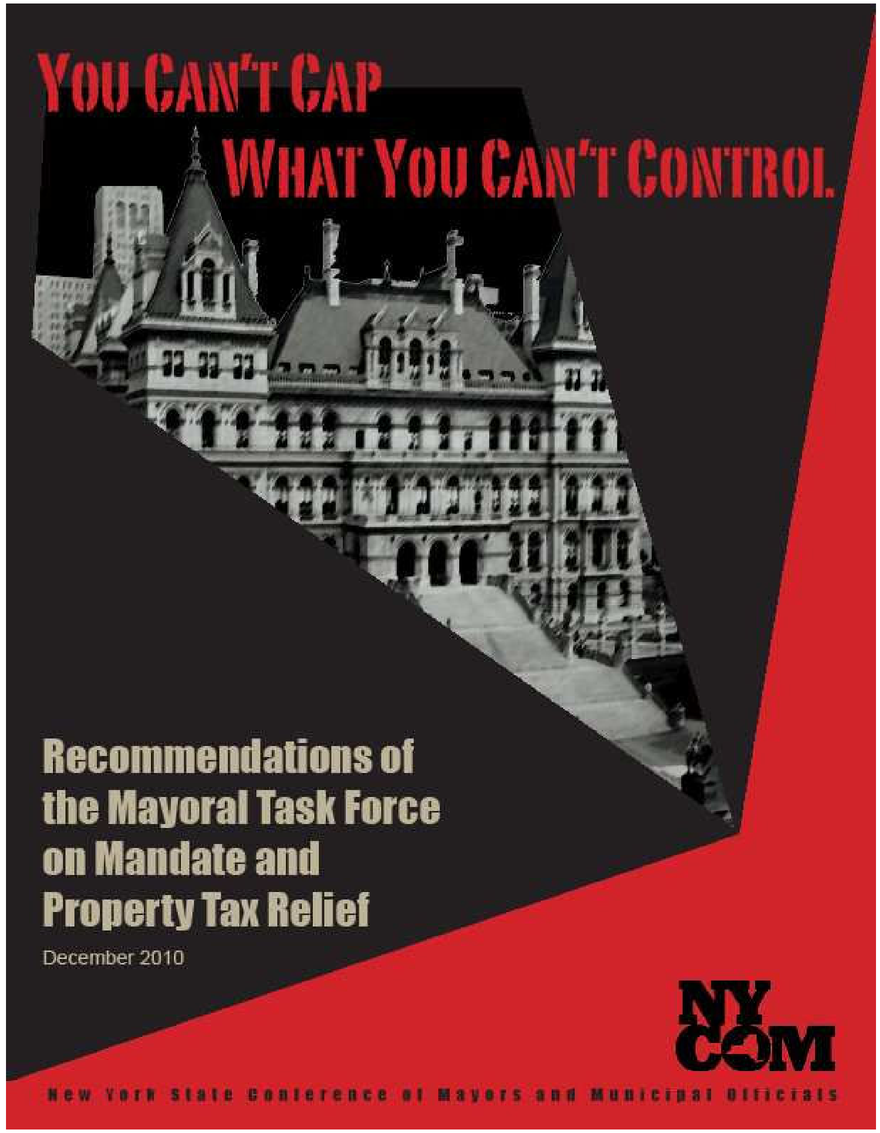
Mandate Relief

NYCOM's Efforts

- 1910 - Schenectady
- 2006 *Connecting the Dots*
- 2009 StoptheTaxShift.org
- 2010 Mandate Relief Task Force &
  You Can't Cap What You Can't Control

Educate policymakers and the public regarding the direct relationship between mandate relief and property tax relief

New York's New Property Tax Cap



Mandate Relief

What we got -- not exactly "meaningful"

- Repeal of the mandate that requires municipalities to provide a police chief with the same dollar increase in compensation received by his/her highest ranking subordinate
- Ability to recover municipal expenses associated with police officer training when an officer transfers to another municipal police department
- Authorization to piggyback onto federal contracts for computer hardware, software and professional services, as well as federal defense supply contracts

Mandate Relief

What we got -- not exactly "meaningful"

- Authorization for the Office of General Services (OGS) to provide centralized fuel and electricity purchases for municipalities
- Creation of an 11-member Mandate Relief Council (7 gubernatorial appointees and 4 legislative appointees) with the power to review and <u>recommend</u> amendment/repeal of regulatory and statutory mandates presented by local governments and school districts

Mandate Relief

What We Asked For

- Pension reform
- Mandatory health insurance contributions
- Repeal of the Triborough Amendment
- Binding Arbitration reform
- Limits on police and firefighter disability payments
- Prevailing Wage reform

Next Steps

- Resolve outstanding Tax Cap issues and provide training for local officials
- Achieve real and sustainable property tax relief
- Promote coalition-building and public education
- Continue dialogue with Governor and legislators on "2nd step"
- Expand local revenue options