

revenues. School districts are not subject to constitutional or statutory tax limits, but resident district voters approve annual school budgets, except for the “Big Five” cities. The practical effect of this referendum, however, is considerably constrained by law. Even if the voters defeat a proposed budget, a school board may still levy sufficient taxes to meet costs for debt service, teachers’ salaries and a number of “ordinary and contingent” expenses as long as the board adopted budget does not exceed a specified percentage increase over the prior year’s budget. This percentage is based on 120 percent of the consumer price index as specified by law, not to exceed 4 percent.

In each of the state’s five largest cities, the city council determines the school tax levy. The board of education prepares its budget for approval by the city council. The council may increase or decrease the budget as a whole, but it may not change individual items. The levy for schools is then included in the overall city tax levy. Furthermore, the school tax levy must be accommodated within the two percent city tax limit allowed by the state constitution for Buffalo, Rochester, Syracuse and Yonkers, and 2.5 percent allowed for New York City.

**Nonproperty Taxes.** Nonproperty taxes represent a small revenue source for school districts. In 2002-03, school districts collected \$250.8 million from nonproperty tax sources, or less than one percent of total revenue collected from taxes.

The only nonproperty tax a school district may levy directly is a tax on consumers’ utility bills, which may be imposed at a maximum rate of three percent. This tax is limited to school districts with territory in cities of under 125,000 population. Of the 66 school districts eligible to impose this tax in the 2002-03 fiscal year, only 20 actually did so.

While only cities and counties can impose a sales tax, the Tax Law provides that they may distribute all or part of the proceeds to school districts. Five of the counties that collected sales taxes in fiscal 2002-03 distributed a portion of the revenue to school districts.

**State Aid.** Receipts from state aid programs represented the second largest revenue source for school districts in the 2002-03 school year. Over \$14.6 billion was received in that year, representing about 37.9 percent of total school revenues. There are two major categories of state aid to education: general and special aid. The latter is a group of relatively small programs, generally experimental or aimed at meeting the special needs of a specific group of pupils.

General aid is paid to all school districts, with variations related to formulas taking into account such items as taxable property, income of district residents per pupil, and district size and organization. The category of general aid includes:

- operating expense aid;
- BOCES aid;
- transportation aid;
- high tax rate aid;
- growth aid;
- building aid; and
- reorganization incentive aid.

Operating aid, which represents more than one-half of total aid provided, is for the general operating expenditures of a district. Other general aid formulas exist to compensate for particular cost factors in school operations, building construction costs, high tax rates, and transportation costs.

**Federal Aid.** The third largest revenue source, but one far smaller than state aid or local revenues, is federal aid. Federal assistance represented about \$2.7 billion in revenues for the 2002-03 fiscal year, or 7.0 percent of total revenues.

### **Organizing for Fire Protection**

Buildings constructed close to each other are particularly vulnerable to fire. Fire protection services in New York have long been viewed as an essential governmental function in densely populated areas. Early on, cities as well as many villages made provisions for fire departments and the organization of fire companies using both career and volunteer services. This did not happen in towns, however, where sparse development made fire, while no less catastrophic to the individuals involved, a more personal than a communal threat. Traditional fire protection in rural areas consisted of close neighbors forming bucket brigades. The era of the bucket brigade was followed by the formation of loosely-knit groups which accumulated rudimentary firefighting equipment. Such groups were precursors to the modern-day volunteer fire companies, which have developed a high degree of organization and capability.

For many years volunteer fire companies supplied reasonably effective fire protection to rural areas without government assistance or support. Gradually, however, greater demands for fire protection service, the high cost of modern and specialized equipment, and the need for giving volunteers economic security in the event of duty-

connected death or injury, forced independent fire services to request assistance from the government.

In towns, the answer came (as in the case of other services) not on a town-wide basis, but through the establishment of special districts on an area-by-area basis. These districts took two basic forms: fire districts, which were true district corporations and enjoyed autonomy from town government; and other types of districts, including fire protection districts, fire alarm districts and certain water supply districts, which were little more than assessment areas that received fire protection.

## Fire Districts

A fire district is a public corporation established for the purpose of providing fire protection and responding to certain other emergencies. The New York State Constitution (Article X) recognizes that fire districts have certain characteristics of general purpose municipal corporations, such as powers to incur indebtedness and to require the levy of taxes. Generally, fire district taxes are levied by the county and collected by the town or towns where the district exists. A fire district is almost a completely autonomous political entity; it has its own elected governing body, its own administrative officers, and it must observe its own expenditure limitations. However, it is dependent upon the parent town or towns for its initial creation, extension, and dissolution.

As of December 31, 2003, New York has 868 fire districts. They are of varying sizes, including smaller districts with annual budgets of several thousand dollars and large districts, some of which feature departments that have both career and volunteer firefighters and annual budgets of several million dollars.

**Establishment.** A fire district is created to provide fire protection to areas of towns outside villages. Villages usually provide their own fire protection. Towns and villages may establish joint town-village fire districts.

A town board may establish a fire district on its own motion or upon receipt of a petition from owners of at least 50 percent of the resident-owned taxable assessed valuation in the proposed district. Whichever method is used, the town board must hold a public hearing and determine that: all properties in the proposed district will benefit, all properties that will benefit have been included and the creation of the district is in the public interest.

If the town board decides to establish a district and proposes to finance an expenditure for the district by the issuance of obligations, it must request approval from the State Comptroller, who must first determine that the public

interest will be served by the creation of the district and that the cost of the district will not be an undue burden on property in the district. If such approval is not required, a certified copy of the notice of hearing must be filed with the State Comptroller.

After a fire district has been established, the town board appoints the first temporary board of five fire commissioners and the first fire district treasurer. At the first election, five commissioners are elected for staggered terms of one to five years so that one term expires each year. At each subsequent election, one commissioner is elected for a full term of five years. The fire district treasurer is elected for three years, although the office may subsequently be made appointive for a one-year term. A fire district secretary is appointed by the board of fire commissioners for a one-year period.

**Operational Organization.** After establishment and initial appointments by the town board, the fire district becomes virtually autonomous from the town in its day-to-day operations.

A fire district has only those powers that are expressly granted by statute, or which are necessarily implied by statute. Unlike towns, villages, cities and counties, a fire district does not possess home rule powers. The powers granted to a fire district board are extremely specific and narrowly limited. A listing of some of the more important and general powers granted to the board of fire commissioners in Town Law serves as a quick synopsis of many of the important areas of operation for fire districts:

- They shall have the power to make any and all contracts for statutory purposes within the appropriations approved by the taxpayers or within statutory limitations;
- They may organize, operate, maintain and equip fire companies, and provide for the removal of members for cause;
- They may adopt rules and regulations governing all fire companies and departments in the district, prescribe the duties of the members, and enforce discipline;
- They may purchase apparatus and equipment for the extinguishment and prevention of fires, for the purposes of emergency rescue and first aid, and fire police squads;
- They may acquire real property and construct buildings for preservation of equipment and for social and recreational use by firefighters and residents of the district;

- They may construct and maintain fire alarm systems;
- They may purchase, develop, or contract for a supply of water for firefighting purposes; and
- They may contract to provide firefighting or emergency services outside the fire district where such services can be supplied without undue hazard to the fire district.

**Financing.** Fire districts are not governed by the constitutional tax or debt limits that restrict most municipal corporations. However, statutory limitations are imposed on their spending and financing authority.

Under section 176(18) of the Town Law, every fire district has a minimum basic spending limitation of \$2,000, plus an additional amount related to full valuation of district taxable real property in excess of one million dollars. Several important expenditures are exempt from this spending limitation, such as certain insurance costs, salaries of career firefighters, most debt service and contracts for fire protection or water supplies. The basic spending limitation may be exceeded only if a proposition for the increase is approved by the voters of the district. Further, many capital expenditures proposed for a fire district, which would exceed the spending limitation, also require voter approval. Certain expenditures that are not chargeable to the spending limitation may also be subject to voter approval under other provisions of law (e.g., General Municipal Law section 6-g, relative to capital reserve funds).

A fire district may incur debt by issuing obligations pursuant to provisions of the New York State Local Finance Law. Fire districts are subject to a statutory debt limit (generally three percent of the full valuation of taxable real property in the fire district) and mandatory referendum requirements.

Within the statutory constraints, the district enjoys general autonomy in developing its budget. When completed, the budget is filed with the town budget officer of each of the towns where the district is located. The town board can make no changes in a fire district budget and must submit it with the town budget to the county for levy and spreading on the town tax roll. When the taxes are collected, the town supervisor must “immediately” turn over to the district treasurer all taxes levied and collected for the fire district.

In 1956, the Volunteer Firefighters’ Benefit Law was enacted to provide benefits similar to those provided by Workers’ Compensation for volunteer firefighters who are injured, or die from injuries incurred, in the line of

duty. Cities, towns, villages and fire districts finance these benefits through their annual budgets.

**Fire Department Organization.** The board of fire commissioners exercises general policy control over its fire department, while the chief of the department exercises full on-line authority at emergency scenes. The fire department of a fire district encompasses all fire companies organized within the district, together with career employees who may be appointed by the board of fire commissioners. Fire companies usually are, but need not be, volunteer fire companies incorporated under the provisions of the Not-for-Profit Corporation Law. They can be formed within the fire district only with the consent of the board of fire commissioners and, thereafter, new members can only be admitted with board consent.

All officers of the fire department must be members of the department, residents of the state and, if required by the board of fire commissioners, residents of the fire district. Officers are nominated by ballot at fire department meetings, and appointments by the board may be made only from such nominated candidates.

**Joint Fire Districts in Towns and Villages.** Article 11-A of the Town Law and Article 22-A of the Village Law allow for the establishment of joint fire districts in one or more towns and one or more villages. Under the provisions of the Town Law, if it appears to be in the public interest, the town board(s) and village board(s) shall hold a joint meeting for the purpose of jointly proposing the establishment of a joint fire district. If, at the joint meeting, it is decided by majority vote of each board to propose a joint district, the boards must hold, upon public notice, a joint public hearing at a location within the proposed district. If, after the public hearing, the town board(s) and village board(s) determine that the establishment of the joint fire district is in the public interest, each board may adopt a separate resolution, subject to a permissive referendum, establishing the joint fire district.

A joint fire district established pursuant to Article 11-A of the Town Law is governed by the provisions of Article 11 of the Town Law unless there is an inconsistency between the two articles. In such case, Article 11-A would provide the prevailing language. Management of the affairs of joint fire districts is under a board of fire commissioners composed of between three and seven members, who are either appointed by the participating town boards and/or village boards of trustees in joint session, or elected as provided in Article 11.

Upon the establishment of a joint district, the town board or village board of trustees of each participating municipi-

pality shall by local law dissolve any existing fire, fire alarm or fire protection districts contained within the joint fire district. The board of trustees of a village or the board of commissioners of a fire district, all of the territory of which is embraced within the boundaries of a joint fire district, may by resolution authorize the sale or transfer of any village-owned or district-owned fire house, fire apparatus, and fire equipment to the joint district. Such transfer may occur with or without consideration, and is subject to the terms and conditions deemed fitting and proper by the board of trustees or board of commissioners.

### Fire Protection and Fire Alarm Districts

Fire protection districts and fire alarm districts are not public corporations. Both types of districts may be described as assessment areas within which a town can provide limited services and assess the cost back against the taxable properties within the district.

Fire protection districts are established for the sole purpose of providing fire protection by contract. After establishing a fire protection district, a town board may contract with any city, village, fire district or incorporated fire company maintaining suitable apparatus and appliances to provide fire protection to the district for a period not exceeding five years. A town may also acquire apparatus and equipment for use in the district and may contract with any city, village, fire district or incorporated fire company for operation, maintenance and repair of the apparatus and equipment and for the furnishing of fire protection in the district. The cost of the contracted services, together with certain other expenses incurred by reason of the establishment of the district, is then levied against the properties of the district on the annual tax roll.

Fire alarm districts are formed primarily to finance the installation and maintenance of a fire alarm system. However, a town board may contract for fire protection for these districts in a manner that is similar to the way it provides protection for fire protection districts.

## Public Benefit Corporations

### The Nature of Public Benefit Corporations

*Public benefit corporations* and other special purpose entities created for specific limited public purposes are often generically referred to as authorities. Many of these entities, however, carry other terms within their titles, such as *commissions, districts, corporations, foundations, agencies* or *funds*. For the sake of clarity, in this chapter we will limit our discussion to *municipal level* authorities and special purpose entities.

The first public authority in New York State was created in 1921 by an interstate compact that required the approval of the United States Congress. However, the idea of public benefit corporations or local authorities with independent powers, including the ability to incur debt and by extension the power to levy taxes in order to retire debt, was not quickly embraced by the public. In 1956, only 90 such entities existed in the state. As of 2005, 866 such entities, including local housing authorities, urban renewal agencies, industrial development agencies and others, filed separate financial statements with the Office of the State Comptroller.<sup>37</sup>

**TABLE 15**  
**Local Authorities and other**  
**Special Purpose Entities\***

Housing authorities .....	120
Parking authorities .....	11
Urban Renewal Agencies .....	20
Industrial Development Agencies .....	116
Municipal Libraries .....	273
Soil & Water Conservation Districts .....	53
Special Districts .....	65
Consolidated Health Districts .....	55
All other .....	153
<b>TOTAL</b> .....	<b>866</b>

\* Entity totals reflect units (not including joint activity units or component units) that file separate financial statements with the Office of the State Comptroller.

The traditional purpose of the public authority was to construct, operate and finance specific types of improvements. This concept has broadened, however, and many local authorities now exist to meet such diverse needs as housing, parking, water supply, sewage treatment, industrial development, solid waste management, urban renewal, transportation, and community development.

### Objectives

Public benefit corporations have been created for a number of reasons, including to:

- overcome jurisdictional problems in the operation of facilities or services that are best provided on a regional, interstate or even international basis;
- provide an administrative entity with the ability to operate and manage public enterprises, without being subject to many of the limitations that apply