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REPORT ON LEGISLATION BY THE NEW YORK CITY AFFAIRS COMMITTEE AND LAND USE PLANING AND ZONING COMMITTEE

S.2810-B (Part BB) – BUDGET

AN ACT to amend the transportation law, in relation to requiring sign properties, in cities having a population of one million or more, to be licensed by the department of transportation

THIS LEGISLATION IS OPPOSED

The New York City Bar Association's New York City Affairs Committee and Land Use Planning and Zoning Committee oppose proposed Senate Budget Bill S. 2810B – Part BB, which would amend the New York State Transportation Law to remove the power and authority of the City of New York to regulate advertising signs within its borders.

Although couched as revenue raising legislation, the proposed legislation would take from New York City, and only New York City, the power to control outdoor advertising signs within its borders. This proposed language is an unwarranted effort to prevent the City from enforcing its laws and regulations concerning outdoor advertising signs, and appears intended to preempt the both City's current detailed legislative and regulatory scheme in this area, as well as any future City laws or regulations. Moreover, we note that the proposed legislation applies only to New York City. Whereas other municipalities are permitted to regulate their billboards, no justification has been provided to explain why New York City alone is unable to properly control signs within its borders.

Recognition that a city should have the right to regulate billboards as part of its zoning authority dates from at least the promulgation of the Standard Zoning Enabling Act in 1926, which established the standard for the delegation by states to cities of the power to adopt zoning regulations. The state should only withdraw powers from a city where there is some overriding state concern. No statewide interest has been asserted that would justify state control as opposed to city control. And no such interest exists. This is a quintessentially local issue, and we urge the State not to intrude in this manner.

Nor is it apparent to us why, if the purpose of the proposed legislation is to raise revenue, New York City should not receive those funds as they pertain to signage on New York City property.

Finally, the proposed legislation may cause the City to lose funds under longstanding agreements with the State and Federal governments for the self-regulation by the City of advertising signs, and there has been no analysis of the potential for any such loss or its effects.

Accordingly, we urge that this proposed bill be disapproved.[1]

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[1] A dissenting member expressed that billboard revenues could be quite significant and that the fiscal benefits to the state should override other considerations given the clear need for revenues this year. While the committees appreciate the seriousness of the state's fiscal crisis, on balance, a clear majority of members opposed the proposal for the reasons stated.