

Battle forms on tax cap

By RICK KARLIN Capitol Bureau – December 14, 2010 – Albany Times Union

ALBANY -- The 2011 legislative session won't start for nearly a month, but local governments already are ramping up a pushback against [Gov.-elect Andrew Cuomo's](#) call for a property tax cap.

If this week is any indication, expect a late-December blizzard of studies, reports and surveys predicting doomsday scenarios for New York's schools, cities and other government entities if a tax cap goes through -- despite a poll saying that voters clearly want the mechanism.

School boards and municipalities predict grave problems if Cuomo's proposed 2 percent cap becomes law without additional legislation giving them a stronger hand in bargaining with public-sector unions. Such leverage will be key, they say, if a tax cap is to achieve the desired effect of tamping down the rising cost of government.

"We're not taking a position on whether a tax cap is the answer," said [Peter Baynes](#), executive director of the state Conference of Mayors. "We're agreeing with virtually everyone that property taxes have reached dangerous levels in New York and have to be fixed. But the first thing is to fix the (state) mandates." For instance, Baynes believes lawmakers should repeal the Triborough Amendment, which keeps public employee union contracts largely in force even after the term of a given contract expires. That means benefits like automatic longevity raises remain in effect, which gives unions little incentive to make concessions during negotiations.

On Tuesday, Baynes will be joined by mayors from across the state at a Capitol news conference outlining what they believe should happen before a cap is instituted. They'll be traveling the state this week with the same message.

Absent changes in their bargaining power, Baynes said, municipalities would see all of their tax revenue going to rising contractual costs, such as health care expenses and pension payments, for their employees.

By 2014, employee health care and pension costs in the state's 61 cities outside New York City, which has its own retirement system, are projected to rise to \$1.05 billion by 2014 unless the growth is slowed.

But under a tax cap, the revenue from real estate taxes in these cities is projected to be \$1.02 billion in 2014 -- not enough to cover even the health and benefit costs.

As mayors prepared to make their case, the state School Boards Association released a survey that found work force costs in schools outside the state's major cities are on track to grow an average of more than \$1 billion annually by the 2013-14 school year;

revenues under a tax cap, however, would grow only \$229 million per year through 2013-14, on average.

Over that time, schools would face a cumulative \$3.3 billion shortfall. That's based on Cuomo's plan to cap property taxes at 2 percent or the rate of inflation, whichever is less.

"We need to think through the election rhetoric about imposing a property tax cap," School Boards Association Executive Director [Timothy Kremer](#) said in a newsletter article outlining the projections.

SBA spokesman [David Albert](#) said the group "fundamentally opposes" the concept of a tax cap, but recognizes the broad support for it.

Like municipalities, school-employee costs are rising so fast that "we would not be able to make payroll" under a cap, Albert said.

So why haven't school boards and cities simply adopted tougher stances with their unions? They contend that laws such as the Triborough Amendment and state-run retirement systems for public employees give their unions an overpowering advantage at the bargaining table.

And Baynes notes that rules regarding arbitration in contract disputes -- such as those governing disability claims for police and firefighters -- frequently work in favor of unions and should be changed.

The need to ease up on mandates isn't lost on Cuomo's team, whose members point to a proposal by the governor-elect to put a two-year sunset, or expiration date, on mandates. Lawmakers would have to affirmatively vote for them again in order to keep them in place.

But that would mean getting legislators to partially dismantle the kind of advantages that powerful public employee unions have enjoyed for years, and which they are unlikely to give up without a fight.

On Monday, Cuomo pointed to a new poll from the [Siena Research Institute](#) showing that 76 percent of New Yorkers favor a 2 percent property tax cap; only 21 percent were opposed to the measure.

"The people of the state by overwhelming margins want the legislature to pass a property tax cap," Cuomo said in a statement about the survey.