NYBA
New York Bankers Association

Memorandum in Opposition

S1762-A/A5782

...Establishes the "New York public banking act"

In Senate Banking Committee/In Assembly Banking Committee

May 14, 2021

The coronavirus pandemic has devastated New York's economy. In addition, it has highlighted inequities in our State's social fabric, not just in the financial system but in many areas of our economic and social systems. The New York Bankers Association (NYBA) recognizes that low-income communities and communities of color were hit the hardest by the pandemic and is committed to ensuring that these communities recover and expand access to financial services in both the short and long term.

However, while public banking may sound like an attractive alternative, it is an empty promise that will not bring the necessary relief to economically disadvantaged and marginalized communities. With the inherent risk and complexity involved in setting up any bank, let alone a public one, it could also prove worse than our current banking system. We believe strongly that there are alternative programs NYBA, in partnership with government, can advance and improve that can achieve the same goals sought through any public banking measure. **Therefore, NYBA strongly opposes S1762-A/A5782.**

The most comprehensive study of public banks, conducted by the John F. Kennedy School of Government/Department of Economics at Harvard University, finds "that higher government ownership of banks is associated with slower subsequent development of the financial system, lower economic growth, and, in particular, lower growth of productivity."

In a recent public hearing Jeffrey Shear, the New York City Department of Finance's Deputy Commissioner for Treasury and Payment Services, told city council members that establishing a public bank "would be a long-term process requiring extensive regulatory review … and that it can be challenging for a public bank to balance the need to protect the public funds that establish the bank, capitalize it, versus the important public goals to provide better, cheaper services for the banking community. There is a tension there and we think there has to be a lot of work done."

Finally, municipalities and organizations and associations representing municipalities have not made creating public banks a priority.

With that as a backdrop, NYBA wants to dispel the 8 most common myths about public banks:

1. Public banks would provide local control and reinvestment in the community. Few municipalities or public agencies have the budget for the huge upfront costs of establishing a public bank, or the ability to wait decades for a bank to become self-sustaining. And public banks that have a mission of serving people who cannot qualify for commercial bank financing face greater risk of defaults, making it harder for them to sustain themselves. Utilizing and improving existing programs that expand access to financial services is a far less costly solution and, unlike public banking, they have a proven track record.

Instead, NYBA respectfully suggests that there are current Banking system programs in New York State, aimed at providing equity and access to banking services, that may be improved upon to better serve the needs of communities. Examples of these existing programs include the Banking Development District (BDD) Program, overseen by the NYS Department of Financial Services, that promotes banking in communities that are not served by a physical branch within a set geographic area; Community Development Financial Institutions (CDFI) funding that supports communities and individuals through increasing access to capital; and the Minority Depository Institutions (MDIs) program - MDIs are recognized by the federal government as any depository institution where 51 percent or more of the stock is owned by one or more socially and economically disadvantaged individuals, recognized as Black American, Asian American, Hispanic American, or Native American.

2. Fees. Proponents say that private banks charge excessive fees for cash management and other services. Wrong. Large banks provide these services at a significantly lower price than a public bank could because they have both sophisticated technology and economies of scale. Furthermore, with NYBA's support, New York was also one of the first states in the nation to pass basic banking legislation that is still unique in the breadth of coverage of its basic banking account. Today, NYBA members are working with the FDIC and the Cities for Financial Empowerment Fund to promote BankOn certification for these accounts, to ensure that all New Yorkers have access to a safe, affordable transactional banking account.

3. Low-cost loans. These are not as low as proponents claim. The bank will need to pay the local government's opportunity costs, plus an amount to cover operating expenses and to fund loan loss reserves. It is also unclear whether such loans would be as well collateralized and monitored as those of the private banks, who are required to do so, and then regulated and examined by State or federal agencies in order to ensure the safety and soundness of the financial system as a whole.

4. Safety of deposits. Public bank proponents do not know if the bank could protect its deposits through the FDIC, exposing both its customers and the State treasury to unacceptable risks. Would the bank have access to the Federal Reserve payment system? And if not, what additional problems and risks does it create for a public bank? New York has not studied the issue. And public banks, unlike the large banks, will not have adequate marketable collateral to cover the deposits.

5. Dividends. Public banks will provide cash for the general fund. **This is simply not true**. The public bank will be a cash drain. A public bank could take up to as many as 9 years to establish, plus an additional several years to be a solid, functioning and dependable financial entity, and the local government will need to fund the bank's equity account, its loan loss reserves, and its many years of start-up losses. We note also that this timeframe defeats the purpose of setting up a public bank to address immediate needs posed by the pandemic; there is simply no way that a public bank could be set up that expeditiously.

6. Bank of North Dakota (BND). BND is the so-called poster child for a profitable public bank. But BND has been in business for 100 years, is very profitable and has a very strong equity base and adequate reserves. The BND adheres to a "partnership bank" model far from what proponents of public banks in New York envision. Any comparison to what could take place in New York is not warranted. Further, BND may be the country's only public bank for good reason- several other attempts at establishing a public bank have failed over the last century, leaving local governments and taxpayer monies in serious jeopardy.

7. Serve the under and un-banked. This too is misleading. This will require the bank to establish a very expensive branch system that would result in even greater losses. NYBA strongly agrees with the public policy goal of giving all New Yorkers access to safe, affordable banking products at insured depository institutions. Indeed, the latest FDIC and Federal Reserve data shows that efforts to bring households into the banking system are making progress, but more must be done, the pandemic has certainly exacerbated the issue, and NYBA is ready to assist in this effort.

8. Public Banks will solve the Cannabis Industry issues. A public bank is an impractical solution to the federal prohibition on banks handling deposits and creating loans for the cannabis-industry. While the federal ban remains in effect there is no reason to believe that banking regulators or law enforcement authorities would give a pass to a public bank that began accepting cannabis industry deposits. The California Cannabis Bank study examined this issue directly and found it would create "unacceptable degrees of legal, schedule, mission and financial risks." The federal ban could end any day now. In April 2021, the House of Representatives passed the Safe Banking Act, which would allow commercial banks to work with cannabis businesses in states where cannabis is legalized. That is a much safer solution.

In conclusion, instead of proceeding with Public Banking legislation that has not even been studied by New York State in regard to the risks to taxpayer funds, why not look to improve existing commercial banking programs that can accomplish many of the same goals. The New York Bankers Association is ready to be a partner with New York State in addressing these and any other banking issues that will help our State in its financial recovery.

For all the reasons stated above and included on the attached fact sheet, we must respectfully oppose S1762-A/A5782.

Presented by the New York Bankers Association (NYBA)

NYBA is comprised of the smaller community, mid-size regional, and large banks across every region of New York State. Together NYBA members employ nearly 200,000 New Yorkers, safeguard $2 trillion in deposits, and extend nearly $70 billion in home and small business loans. NYBA members also support their communities through an estimated $200 million in community donations and 500,000 employee volunteer hours.

Attachment