



## Testimony to NY State Senate for June 24, 2022 Hearing to Review Status of the Penn Station Project and Potential Impact on NYS and NYC Finances

***NYS Senate and Public Authorities Control Board should reject the multi-billion dollar Penn Station Development deal because the Governor and ESD have deliberately kept secret basic financing information***

Good morning, my name is Rachael Fauss and I am the Senior Research Analyst for Reinvent Albany. Reinvent Albany advocates for transparent, accountable New York State government. We thank Chairs Liz Krueger and Leroy Comrie, as well as Senator Brad Hoylman for putting together this important hearing.

As I write four years after former Governor Cuomo pushed the [“blight” determination through in the 2018 state budget](#) and in 2020 announced the “Empire Station Complex” General Project Plan (GPP), Empire State Development and the Hochul administration have refused to release basic information about the Penn Station deal’s financing.

The public still has not been shown why it makes sense to fund state transportation infrastructure using an opaque scheme that essentially steers future New York City property tax revenue to the State via a Payments in Lieu of Taxes (PILOT) deal. This deal could result in a real estate firm and [big political donor](#), Vornado, getting a tax break worth a billion or more dollars.

We support improving Penn Station and New York’s major transit hubs to better serve transit riders. However, a PILOT-based scheme to fund Penn Station *renovations* – notably not add train capacity – is fatally flawed because it puts all of the risks onto the taxpayers while potentially providing a windfall to a private developer.

This secrecy is totally unacceptable. It is dismaying that while Albany rightly cheers new voting rights, a secret negotiation is taking place in which the Governor may be giving a massive handout to a major campaign donor. **The Senate via its role on the Public Authorities Control Board should reject this undemocratic, secretive deal until at a minimum ESD publishes independently verifiable financial data, publicly discloses potential PILOT agreements, and gives a fully-informed public the chance to testify before a final ESD vote.**

After dozens of meetings, press conferences, and hearings held by ESD and the Governor, the public and policymakers – including the Legislature – still have not seen

basic financial details about the project. Tellingly, the New York City Independent Budget office said in its critical [May 2022 report](#) on the project that it was “impossible for IBO to evaluate the financing proposal and quantify its impact on the city and state.”

### ***Unanswered Questions About Penn Station Development Finances***

- 1. What is the logic of this financing approach given that there are frequently cost overruns on mega projects?** PILOTs won't be able to adjust to cost overruns, nor will the real estate market, meaning the State will have to pay for any increases in costs. An [RFP for the design was only issued by the MTA on June 9th](#), and costs can increase as designs change. The MTA's East Side Access, which ballooned to an unfathomable \$11 billion cost, is a cautionary tale for mega projects.
- 2. What is the total cost to city and state taxpayers of this financing scheme, versus the State using conventional borrowing?**
- 3. What is the impact on city real estate tax revenues, given the proximity to Hudson Yards?** The Penn Station area does not exist in a vacuum, but rather in the center of midtown Manhattan.
- 4. Exactly how much is the development expected to raise in support of the renovation project?** It is a gamble to base revenues off of development that is speculative and would occur over multiple decades.
- 5. How much does the State intend to give the developer in tax breaks via discounted PILOTs?** If the Hudson Yards model is used, there could be \$1 billion or more in tax breaks (see [research from the Schwartz Center for Economic Policy](#)).
- 6. How long will taxpayers pay interest payments on project bonding before Vornado properties generate any revenue?** PILOTs don't begin to generate revenue until the completion of construction, which ranges from 2028 to 2044 for all the buildings (see page 12 of [IBO's report](#) for details).
- 7. How much will the State be paying in credit enhancement mechanisms?** Because borrowing based on PILOTs is considered risky by bond raters, the State must guarantee the bonds.
- 8. What are the risks to the taxpayers if development does not go as planned, and Payments in Lieu of Taxes (PILOTs) come in at lower levels?** (See [IBO's research](#) about city payments made in Hudson Yards.) Given that subway ridership remains at 60% of 2019 levels and the return to office is slow, there are concerns about the resiliency of the real estate market in the post-COVID world.
- 9. What assumptions are going into making the City “whole” in terms of projections from current tax revenues as well as increased costs for city services?**
- 10. As part of this redevelopment project, why is the State not proposing to end Madison Square Garden's \$44 million annual tax abatement, which has cost New York City over \$600 million in lost tax revenue since 1982?**

These and other questions still remain despite repeated requests for clear financial information from [State Senators](#), [watchdog groups](#), [Community Boards](#), the [City Planning Commission](#), and [editorial boards](#).

The GPP does not answer these questions, so why is ESD so confident about gambling billions of state taxpayer dollars? What does ESD know that they have not shared?

We strongly suspect the math doesn't add up for this project and it will be a huge giveaway to Vornado in which all the risk falls squarely on the State, and state taxpayers will have to bail out borrowing for the new Penn Station. That is exactly what happened just blocks away in Hudson Yards.

### ***PILOT Being Negotiated in Secret With Vornado***

According to a response from ESD to Reinvent Albany regarding a FOIL request, Ernst & Young has developed a tool to “calculate projected financing revenues,” which “provides the basis for negotiations with Vornado.” However, ESD has not released this tool and their financial modeling, because they stated that “Release of the financial tool would impair ESD’s negotiating position.”

In other words, ESD is negotiating in secret with Vornado the terms of the PILOT agreement, which will determine the costs and risks to the City and State.

### ***Restoration of Public Authorities Control Board Powers and Transparency of Community Advisory Committees Needed ASAP***

[News reports](#) indicate that Empire State Development intends to certify the final Environmental Impact Statement at its meeting on June 30th, with approval of the General Project Plan (GPP) as soon as the July ESD meeting. Public Authorities Control Board – which has appointees from the Senate and Assembly – approval would be sought shortly thereafter.

We thank the Legislature for passing two bills to ensure that the consideration of the Penn Station project is as transparent and robust as possible. These bills should be signed without delay and without chapter amendment by Governor Hochul:

- [S7337/A10157](#) – sponsored by Senator Comrie and Assemblymember Paulin to restore the powers of the PACB, which will ensure that members are able to act independently and not face removal or retribution from the Governor.
- [S8419-B/A9622-C](#) – sponsored by Senator Ramos and Assemblymember Solages to increase transparency of ESD’s community advisory committees.

***If Approved Without Financial Details by ESD, PACB Must Reject Project***

It would be irresponsible for the State and City to sign off on this project without a clear financing plan and understanding of the PILOT agreements because NYS taxpayers will be on the hook for at least a portion of these costs, and possibly much, much more if the development doesn't go as planned decades from now.

Under the Public Authorities Law, ensuring sound financing is a major part of the consideration by the PACB – notwithstanding the gutting of the board by former Government Cuomo.

The State needs to go back to the drawing board and fund this project through traditional, transparent funding. Why can't we just fund transit projects with traditional capital grants from the State or City? Then there would then be real honesty about exactly who is paying and who is benefitting.

Thank you for your consideration.