

# ECB Reforms Taking The Kangaroo Out Of The Court

By City Councilmember  
James F. Gennaro

**W**e all know that government agencies all too often fail to act in the most rapid or fair manner for the people they're meant to serve and assist. A glaring example of this in New York City has been the Environmental Control Board (ECB), the administrative tribunal that processes violations given to residents and business owners for quality of life and safety issues ranging from garbage to noise to fire prevention to building codes.

The ECB has long been criticized for its inherent conflicts of interest. It was originally formed as a part of the Department of Environmental Protection. Aside from its chairperson, each of the ECB board members is a commissioner of a city agency that issues violations. Certainly, these conflicts compel the ECB to generate as much revenue for the city as possible through the issuance of violations.

With all due respect to the highly qualified New Yorkers who serve as hearing officers, the ECB's structure and a citizen's chances of successfully appealing a

violation have made it something of a "kangaroo court."

Under current ECB procedure, residents and small business owners who receive notices of violation often have to make multiple trips to ECB hearings – losing time and money away while from work – or simply plead guilty to the charge because cases do not move forward unless agency witnesses are present. The process is further complicated by a lack of clear rules governing the presentation of relevant pieces of evidence (i.e. documents, lists of witnesses, etc.). Cases can also drag on for years after an appeal has been filed. Most people who appeal violations do not win.

Luckily, for residents and small business owners all over the city, legislation that I authored was recently signed into law that promises to change all of this.

My ECB reform bill, which goes into effect at the end of this year, does the following:

Increases ECB's independence – ECB will be transferred from the Department of Environmental Protection to the Office of Administrative Trials and Hearings (OATH) to improve overall management procedures and make it clear that hearing officers are not employed by agencies

that issue violations.

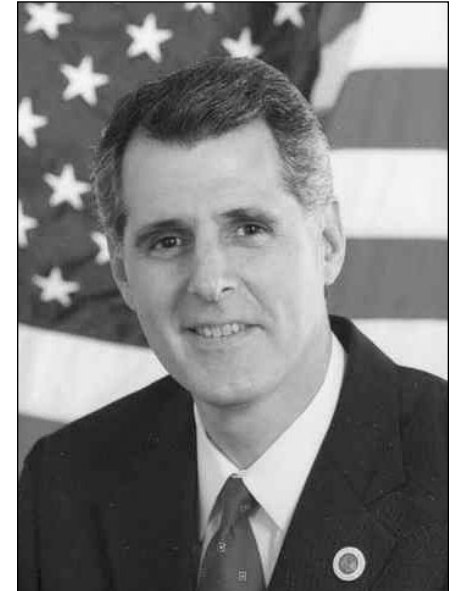
Makes the process faster – ECB will have a deadline to decide appeals within 180 days, otherwise the party appealing can challenge ECB's decision in state court. ECB will also have to adhere to a stricter set of adjournment policies, allowing for cases to proceed if the petitioning agency or ticketing officer fails to appear after a previous adjournment.

Improves compliance and oversight standards – Upon demand, agency representatives will be required to share any and all documentation that may be critical to the outcome of proceedings.

Upgrades technological services – Adding new services, like electronic case scheduling and online hearings and payments in appropriate cases, will allow for the compiling of reports and other documents that will be used to enhance the efficiency and increase public accountability of ECB's operations.

Enhances language translation services – New rules will be adopted to provide for language access to respondents who have limited proficiency in English.

New York City was a very different place in 1972, when the ECB was formed and first put into service. In the 36 years that have passed, the ECB has come to



**Councilmember James Gennaro**

represent much of how government has failed us, either through unfairness or inefficiency. My reform legislation is changing that, however, and I'm proud to be the agent of that change.

*James Gennaro is a New York City Councilmember serving District 24.*

# Senate Democrats Work To Keep New Yorkers Warm This Winter

By Senator Malcolm A. Smith

**A**s winter approaches, millions of New Yorkers may be left in the cold by Senate Republicans' failure to take action on home heating assistance.

The sub-prime mortgage crisis has cost thousands of New York residents their homes, and as the economy continues to struggle, thousands more may be next. While expenses for working families have been steadily climbing, wages have not kept pace.

Experts say that energy prices have increased up to 75 percent for home heating oil and that electricity customers have seen the biggest year-to-year rate increase on record. This is forcing thousands of families to choose between buying groceries and paying for heat – a situation that's simply unacceptable and calls out for government action.

Earlier this year, I joined my colleagues in the State Senate Democratic Conference in calling on the Senate Majority to pass emergency legislation, which would provide energy relief to millions of New York families. And, once again, during a special legislative session in August, Democrats urged our Republican colleagues to address energy relief. Unfortunately, the Majority

refused, apparently more committed to partisan politics than to meeting the pressing needs of families throughout New York.

In some parts of my southeast Queens district and all across our state, the cost of heating the family home has put an impossible strain on household finances. Our plan would assist struggling families with short-term assistance to keep them warm this winter.

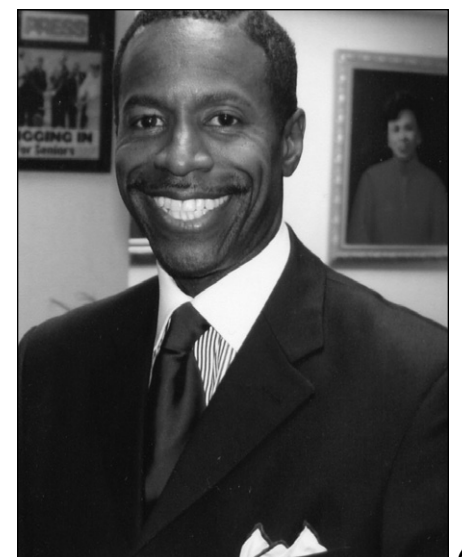
Senate Democrats would provide long and short-term assistance to struggling families by expanding several existing programs, including the Low-Income Home Energy Assistance Program (LIHEAP). Expanding this federally-funded program would benefit more than two million New Yorkers, providing aid of up to \$1,000 for a family of four.

We are also proposing a new program that would provide relief to struggling middle-income families. The Middle Income Home Heating Assistance Program (MIHEAP) would provide immediate help with heating bills (including oil, propane, natural gas and electricity) to families making up to \$85,000. MIHEAP would be funded through the proceeds from the auction of carbon permits as part of the Regional Greenhouse Gas Initiative (RGGI), a 10-state market-based effort to reduce greenhouse gas emissions.

And, our plan includes an historic investment in home weatherization and energy efficiency, providing a billion dollars in no-interest or low-interest loans to families to pay for improvements like insulation, new windows and new appliances that will bring down energy use and energy costs for the long term. Families would pay back the loans on their now-lower utility bills. And, the financing is accomplished through state-issued tax-exempt bonds, allowing an important and needed new program to move forward even when the state budget is tight.

Our energy package provides badly needed right-now help for hard-pressed families. Our home weatherization and energy efficiency initiative would reduce energy costs and energy use while creating up to 30,000 badly needed new "green jobs." It also starts the path towards a 21st century energy policy based on efficient, clean, renewable resources that could make New York a world leader in clean energy and renewable technology.

There has been some action to break the Republican-imposed gridlock on this important issue. Governor David Paterson last week announced a \$49 million plan to help low-income families stay warm this winter by expanding existing energy assistance programs. But, more action is needed, now.



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Middle-class and low-income families need more help, now. The actions we take to help them must make both short-term and long-term sense. To make it happen, we need Senate Republicans to work with Governor Paterson and the Assembly, and with Senate Democrats to ensure that all New Yorkers can afford to stay warm this winter.

*Malcolm A. Smith is the State Senate Minority Leader who represents District 14 in Queens.*