

Albany's 'big ugly' provides cover, has benefits

By American Express

ALBANY — The “big ugly” that descends on Albany just about every year at this time is a legislative blob of disparate items glued together by political expedience to gain overall support by legislators and governors, even though they may vehemently oppose some of its elements.

And in their own shadowy way, big uglies have transformed New York State and may again next week, in the final days of the legislative session.

Big uglies have been used to pass tax increases, expand gambling and casinos, provide tax breaks for real estate interests, provide pension sweeteners to politically powerful public worker unions, approve same-sex marriage, create charter schools in exchange for legislative pay raises, extend mayoral control of New York City schools, and create a 2 percent cap on local property tax levies. These and other measures became law in big uglies, after it was clear the contentious issues couldn't pass as stand-alone bills.

In the June 25, 2015, big ugly, for example, Gov. Andrew M. Cuomo gained the legal authority to conduct wedding ceremonies, which he exercised two weeks later at the wedding of his friend, Billy Joel. In a 2017 big ugly, Cuomo named the replacement for the Tappan Zee Bridge as the Gov. Mario M. Cuomo Bridge, just weeks after the Senate named it for Purple Heart Recipients, then reversed itself to pass it as part of a big ugly.

“This has been one of the worst developments in the political process here in New York in modern history,” said E.J. McMahon of the fiscally conservative Empire Center for Public Policy think tank and a former aide to Gov. George Pataki. “It really is corrosive of accountability and democracy and, implicitly, the constitution prohibits it.”

In a big ugly, officials can tell constituents they supported only the bills they like, but the big ugly required him or her to also cast a vote that approved distasteful elements. And because big uglies are negotiated behind closed doors, no one knows for sure who supported what, which is convenient for incumbents.

“The big ugly is a way of lumping together hard votes and procedural matters into one bill that gets voted on so the legislature can go home,” said Susan Del Percio, a national political commentator who had worked for Republicans and Democrats in Albany. “It's called the big ugly for a reason, there is a lot that can be politically toxic and have big consequences.”

Big uglies have provided political cover for Republicans to vote for tax increases while publicly opposing any tax increases; and allowed Democrats to vote for stiffer criminal penalties while being adamantly against stiffer criminal penalties.

McMahon notes the state constitution doesn't allow amendments or riders to be attached to a bill unless the additions are clearly germane to the main bill. Majorities in the Senate routinely reject "hostile amendments" by the minority parties as "not germane," even though they usually are, McMahon said.

A big ugly, however, is all about issues that aren't germane.

Yet in the closing days of a session, after weeks of long nights and with vacations awaiting, no one brings that up.

If there is another big ugly next week in the final three scheduled days of the current session, the deal could include legalization of marijuana, authorizing driver's licenses for immigrants in the United States illegally, legalizing women to carry babies for others in a surrogacy law, ending the "gay panic" defense in criminal courts, an Equal Rights Amendment to the state constitution and many other unrelated issues. A deal struck last week to extend the state rent laws took that major issue out, even though many past big uglies have been tied to renewal of the rent law every four or eight years.

"There is virtually no public process, no hearings, no debate and it's all done because someone needs a vote," said Blair Horner of the New York Public Interest Research Group. "It's log rolling, in which the citizen gets run over."

The derivation of the term and when it was coined isn't certain.

Some say big uglies began two decades ago with former Assembly Speaker Sheldon Silver, who first called for a "dump truck to back up and load up with goodies, then get out of town," according to one former official.

Others cite former state Business Council leader Daniel B. Walsh, who 30 years ago was asked by reporters to describe Albany's latest deal: "It's big. It's ugly."

Big uglies have gone from rare to routine in Albany. State budget adoptions that once were about passing a financial plan became a big ugly replete with major policies. Pataki and legislative leaders in 2002 made a surprising January announcement of a deal for massive health care spending that included raises for health care workers represented by a politically powerful union, which helped craft the deal paid for with borrowing and new taxes.

"We never did that when I started," said former Assemb. Jack McEneny (D-Albany), who served in the legislature from 1993 to 2012 and was an unofficial historian for state government. "That all broke in the end of the '90s."

He said big uglies evolved from a loss of trust. He said at one time, governors and legislative leaders of different parties could shake hands and seal a deal. But he said that faded as the stress of politics and maintaining power amid so many powerful interest groups swelled. In the place of trust came the reliance on self-interest. That led to the trading of votes on unrelated items.

Former Gov. David Paterson said one of the lesser-known problems in big uglies was that in the rush to finish, horse trading sometimes resulted in passing bills that conflicted with established laws "but it's so late in the session nobody knows."

Big uglies have another allure: They work.

“Traditionally, we were critical of the ‘legislative logjam,’” said Gerald Benjamin, distinguished professor of political science at SUNY New Paltz.

Bills were negotiated, but many issues weren’t passed until the end of session “in a rush to finish” in which details were buried, obscured or unknown at the time of voting.

Further, in a state government that until recently was headed all by older white men who negotiated behind closed doors, the many perspectives of a diverse state might get little attention.

“It does not fit my definition of the way things should work in an ideal representative democracy, but in the real world that we live in, my view may be an example of the ‘perfect being the enemy of the good,’” Benjamin said.

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