

Introduced by Legislators Cooper, Eddington, Vilorio-Fisher and Lindsay

**RESOLUTION NO. 504 -2010, ADOPTING LOCAL LAW  
NO. -2010, A CHARTER LAW TO PROVIDE FIXED  
TERMS FOR PUBLIC SAFETY APPOINTMENTS**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a meeting held on January 4, 2010, a proposed local law entitled, "**A CHARTER LAW TO PROVIDE FIXED TERMS FOR PUBLIC SAFETY APPOINTMENTS**"; now, therefore be it

**RESOLVED**, that said local law be enacted in form as follows:

**LOCAL LAW NO. -2010, SUFFOLK COUNTY, NEW YORK**

**A CHARTER LAW TO PROVIDE FIXED TERMS FOR PUBLIC  
SAFETY APPOINTMENTS**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF  
SUFFOLK**, as follows:

**Section 1. Legislative Intent.**

This Legislature hereby finds and determines that the Suffolk County Police Commissioner, the Commissioner of the Department of Fire, Rescue and Emergency Services ("FRES") and the Director of the Department of Probation are presently appointed by the County Executive, subject to the approval of the County Legislature, and serve at the pleasure of the County Executive.

This Legislature determines that in most instances, the elected County Executive should have the power to appoint department heads to serve at his or her pleasure to ensure accountability within the executive branch.

This Legislature further finds that a limited number of positions in County government are so sensitive and so vital to the health, safety and well-being of the citizens of Suffolk County, that it is appropriate and prudent to afford persons appointed to these positions with a fixed term of office so that they may be insulated from normal political pressures while carrying out their duties and responsibilities.

This Legislature also finds that presently, the Commissioner of the Department of Health Services, the Commissioner of the Department of Social Services, the County Personnel Officer and the Director of the Real Property Tax Service Agency are all appointed for fixed terms in accordance with state law.

This Legislature finds and determines that the appointed officers who are directly responsible for public safety - - the Police Commissioner, the FRES Commissioner and the Director of Probation - - should also be afforded a fixed term of office so that their actions may be shielded, to at least some degree, from political pressures and considerations.

Therefore, the purpose of this law is to amend the SUFFOLK COUNTY CHARTER and provide future Police and FRES Commissioners and Probation Directors with five year terms of office.

**Section 2. Amendment.**

I. Article 13 of the SUFFOLK COUNTY CHARTER is hereby amended as follows:

**ARTICLE XIII, Department of Police**

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**§ C13-2. Appointment of Commissioner.**

A. The Commissioner of Police shall be appointed by the County Executive [subject to] with the approval of the County Legislature [and shall serve at the pleasure of the County Executive] for a term of five years. If the person appointed Commissioner of Police shall at the time of his or her appointment be a police officer with at least 10 years of service as a police officer, then he or she shall continue to be a police officer while serving as Commissioner of Police and shall, in addition to the responsibilities and duties of Commissioner, continue to have all of the responsibilities and duties of a police officer.

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II. Article 11 of the SUFFOLK COUNTY CHARTER is hereby amended as follows:

**ARTICLE XI,  
Department of Fire, Rescue and Emergency Services**

**§ C11-1, Department established; Commissioner of Fire, Rescue and Emergency Services.**

There shall be a Department of Fire, Rescue and Emergency Services, the head of which shall be the Commissioner of Fire, Rescue and Emergency Services. The Commissioner shall be the County Fire Coordinator. The Commissioner shall be appointed by the County Executive, subject to the approval of the County Legislature, and shall serve [at the pleasure of the County Executive] for a term of five years. The County Executive, before presenting the name of any person to fill such office to the County Legislature for approval, shall request the County Fire, Rescue and Emergency Services Commission to make a recommendation or recommendations of a person to be appointed to fill such office and shall consider any such recommendation.

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III. Article 22 of the SUFFOLK COUNTY CHARTER is hereby amended as follows:

**ARTICLE XXII, Miscellaneous Offices and Functions**

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**§ C22-2. Continuation of certain departments, functions and duties.**

A. All other offices, departments, boards and commissions of the county government existing when this Charter becomes effective in the country, including, without limiting the generality thereof, such offices and bodies as the Commissioner of Jurors, Board of Elections, County Sealer, Park Commission, Probation Department and Planning Board, shall continue with the same authority, rights and duties as now or hereafter provided by law, the continuation of said offices, departments, boards and commissions to be subject to local law and any general or special law applying to such offices and bodies. It is the intention of this Charter that such offices and bodies shall continue without general interference, except as otherwise provided in accordance with the procedures established by law.

1. The Director of the Department of Probation shall be appointed by the County Executive, subject to the approval of the County Legislature, for a term of five years.

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**Section 3. Applicability.**

A. This law shall apply to persons appointed as the Commissioner of the Police Department, the Commissioner of the Department of Fire, Rescue and Emergency Services, and the Director of the Probation Department on or after the effective date of this law.

B. Any vacancies in the offices of the Commissioner of the Police Department, the Commissioner of the Department of Fire, Rescue and Emergency Services and the Director of the Department of Probation occurring on or after the effective date of this law, other than by expiration of term or by operation of this law, shall be filled for the unexpired term.

**Section 4. Transition.**

A. The offices of Commissioner of the Police Department, Commissioner of the Department of Fire, Rescue and Emergency Services and the Director of the Department of Probation shall be deemed vacant as of the effective date of this law and the County Executive shall be required to appoint a Commissioner of Police, Commissioner of Fire, Rescue and Emergency Services, and a Director of Probation for fixed five year terms subject to legislative approval.

B. The persons serving in the capacity of Police Commissioner, Commissioner of Fire, Rescue and Emergency Services and Director of Probation on the date that this law takes effect may hold-over and continue to discharge their duties of office. However, in accordance with § C23-17 of the SUFFOLK COUNTY CHARTER if a person serving in a hold-over capacity is not approved for a five year term of office by a duly enacted resolution of the County of Suffolk within 180 days of the effective date of this law, the County Executive shall immediately nominate and appoint a successor and seek to introduce a resolution to approve such appointment.

**Section 5. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 6. SEQRA Determination.**

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

**Section 7. Effective Date.**

This law shall not take effect until at least sixty (60) days after its adoption, nor until approved by the affirmative vote of a majority of the qualified electors of the County of Suffolk voting on a proposition for its approval if within sixty (60) days after its adoption there is filed with the Clerk of the County Legislature a petition protesting against this law in conformity with the provisions of Section 34(4) of the NEW YORK MUNICIPAL HOME RULE LAW and upon filing in the office of the Secretary of State.

[ ] Brackets denote deletion of existing language.  
\_\_\_ Underlining denotes addition of new language.

DATED: **\*\*NOT ADOPTED\*\*** June 8, 2010