STRICKEN AS OF 10/26/2011
AMENDED COPY AS OF 6/8/2011

Intro. Res. No. 1314-2011 Laid on Table 4/26/2011
Introduced by Legislator Romaine

RESOLUTION NO. -2011, ADOPTING LOCAL LAW NO. -2011, A CHARTER LAW TO ESTABLISH A TRUTH AND HONESTY ZONE FOR CLEAN CAMPAIGN PRACTICES IN SUFFOLK COUNTY BY BANNING IMPROPER FUNDRAISING

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on April 26, 2011 a proposed local law entitled, "**A CHARTER LAW TO ESTABLISH A TRUTH AND HONESTY ZONE FOR CLEAN CAMPAIGN PRACTICES IN SUFFOLK COUNTY BY BANNING IMPROPER FUNDRAISING**"; now, therefore be it

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

LOCAL LAW NO. -2011, SUFFOLK COUNTY, NEW YORK

A CHARTER LAW TO ESTABLISH A TRUTH AND HONESTY ZONE FOR CLEAN CAMPAIGN PRACTICES IN SUFFOLK COUNTY BY BANNING IMPROPER FUNDRAISING

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

Section 1. Legislative Intent.

This Legislature hereby finds that not-for-profit organizations, qualifying for tax exempt status under Section 501(c)(3) of the INTERNAL REVENUE CODE, are prohibited from participating or intervening in "any political campaign on behalf of (or in opposition to) any candidate for public office."

This Legislature also further finds that, notwithstanding this year and absolute ban on such political activity, such organizations are constantly solicited for campaign contributions by elected Suffolk County Officials, Candidates for Suffolk County Office, and Employees and/or designees and agents of such officials and candidates.

This Legislature also finds that there exists a public perception that government contracts are often awarded on the basis of political contributions and not upon the qualifications and cost-effectiveness of the proposed contractee.

This Legislature further finds and determines that the use of political action committees further aggravates and magnifies this problem because of the ability of such committees to raise larger sums of money for such contributions.

This Legislature further finds that elected officials must take appropriate measures to change that perception to halt further erosion of public confidence in our political institutions because the influence of money on County political campaigns is growing and, at the very least,

creates an appearance that County government favors those who make campaign contributions.

This Legislature desires to prohibit the acceptance of political contributions from persons or businesses contracting with the County to help avoid even the slightest appearance that elected officials are awarding contracts based upon factors other than merit.

This Legislature determines that campaign contributions by County employees to elected County officials, who are required, as a function of their duties and responsibilities as public officers, to discipline, manage, and regulate the activities of those very same County employees, as well as grant, approve, or withhold contractual, financial, and economic benefits to said employees, creates an inherent tension and conflict between such elected officials and County employees, which conflict, in turn, erodes public confidence in the integrity of County government and undermines public support for governmental institutions in this County in general.

This Legislature further determines that in order to deter the corrosive impact of political campaign contributions on County government, to strengthen public confidence in our public institutions, and to eliminate real or perceived pressures on County employees, it is necessary to prohibit all County employees and officers from soliciting campaign contributions.

This Legislature hereby affirms its awareness of Federal laws which prohibit all corporate solicitations and donations, and the solicitation and donations of all persons contracting with the United States Government, as well as State laws pertaining to political contributions.

This Legislature finds that supplementary legislation in the County of Suffolk will not only bolster the people's confidence in the integrity of the system, but will also increase the likelihood that only the most qualified, talented, and cost-effective firms will be retained by the County.

Therefore, the purpose of this law is to prohibit political contributions by County employees to candidates for County office, to limit political contributions from businesses contracting with the County, to restrict political contributions for County offices by political action committees that are related to firms doing business with the County of Suffolk, to elected officials of the County of Suffolk or to candidates for such office and to ban the solicitation of campaign contributions from tax exempt not-for-profit organizations by elected County officials, candidates for County office, or their designees so as to ensure that County decisions on governmental issues are decided on the merits rather than on the basis of influence by "special interests", subject to the approval of the electorate.

Section 2. Amendment.

The SUFFOLK COUNTY CHARTER is hereby amended by the addition of a new Article XLIII to read as follows:

Section 43-1. Definitions.

As used in this law, the following terms shall have the meanings indicated:

"AGREEMENT" shall mean any written or oral contract or any implied contract including, but not limited to, a contract for the sale of goods or services, a construction contract, or a lease or

contract relating to real or personal property. The term “Agreement” shall also include a transaction whereby a person agrees to sell goods or services, or both to the County pursuant to a successful bid.

“CONTRIBUTION” shall mean any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, political party or organization, in connection with any election for public office to be voted on by the voters of the entire County or the voters of a County Legislative District, and shall include:

1.) communications by a corporation to its stockholders and executive or administrative personnel and their families on any subject;
2.) non-partisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families; and
3.) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, membership organization, cooperative, or corporation without capital stock.

“COUNTY OFFICE” shall mean the Office of District Attorney, County Legislator, County Executive, County Comptroller, County Treasurer, County Sheriff and/or County Clerk or any successor office thereof.

“GRATUITY” shall mean any money, benefit, entertainment, gift or any other consideration whatsoever.

“OFFICIAL OF A POLITICAL PARTY” shall mean a party officer as defined by Section 1-104(5) of the NEW YORK ELECTION LAW.

“PERSON” shall mean individuals, natural persons; partnerships; joint ventures; societies; associations; clubs; corporations; unincorporated groups of any members; officer, directors or stockholders or any kind of personal representative thereof, in any capacity, acting for himself or for any other person, under either personal appointment or pursuant to law. The term “person” shall not be deemed to include shareholders, agents, or representatives of corporations traded on the over-the-counter stock market or traded on recognized national/regional stock exchanges, wherein said corporations’ stock is publicly held, or corporations not so traded but which employ more than twenty-five (25) employees. “Person” shall not include the employees of any of the above described legal entities.

“POLITICAL PARTY” shall mean a party as defined by Section 1-104(3) of the NEW YORK ELECTION LAW.

“POLITICAL ACTION COMMITTEE” shall mean any corporation aiding or promoting and any committee or combination of one (1) or more persons operating or cooperative to take or take part in the election or defeat of a candidate for public office; to aid or take part in the election or defeat of a candidate for nomination at a primary election or convention, including all proceedings prior to such primary election, or of a candidate for any party position voted for at a primary election; to aid or defeat the nomination by petition of an independent candidate for public office; or to aid or defeat any proposition submitted to the public for approval at referendum. Nothing in this section shall apply to any committee or organization for the

discussion or advancement of political questions or principles without connection to any vote, which corporation or committee is not created or formed by or on behalf of any political party. "Political Action Committee" shall not include any party committee of constituted committee, as defined in Article 14 of the NEW YORK ELECTION LAW.

"PUBLIC OFFICE" shall mean the Office of District Attorney, County Executive, County Comptroller, County Treasurer, County Sheriff, County Clerk and/or County Legislator, or any successor office thereof.

Section 43-2. Not-for-Profits.

A.) No officer or employee of Suffolk County, whether paid or unpaid, regardless of status as exempt class, part-time or full-time, management/management confidential, competitive class, non-competitive class, or labor class; members of any administrative board, commission or agency of Suffolk County; or any person seeking or holding County office; shall solicit contributions of money or any other thing of value for the benefit of any candidate seeking or holding County office from any not-for-profit organization established pursuant to Section 501(c)(3) of the INTERNAL REVENUE CODE.

B.) It shall be unlawful for any person seeking or holding County office to knowingly accept contributions of money or any other thing of value for the benefit of his or her candidacy from any not-for-profit organization established pursuant to Section 501(c)(3) of the INTERNAL REVENUE CODE.

Section 43-3. Employee Contributions.

A.) It shall be unlawful for any County employee of such officer's or employee's status as exempt class, paid or unpaid, full-time or part-time, management/management confidential, competitive class, non-competitive class, or labor class, or any members of any administrative board, commission or agency of Suffolk County to directly or indirectly make any contribution to a candidate for County office or an incumbent holding a position of County office.

B.) It shall be unlawful for any candidate for County office, or an incumbent holding a position of County office, to directly or indirectly accept any contribution from a County employee of such officer's or employee's status as exempt class, paid or unpaid, full-time or part-time, management/management confidential, competitive class, non-competitive class, or labor class, or any members of any administrative board, commission or agency of Suffolk County to directly or indirectly make any contribution to a candidate for County office or an incumbent holding a position of County office.

C.) No officer or employee of Suffolk County, whether paid or unpaid, regardless of status as exempt class, part-time or full-time, management/management confidential, competitive class, non-competitive class, or labor class; members of any administrative board, commission or agency of Suffolk County; or any elected County official; shall solicit contributions of money or any other thing of value for the benefit of any candidate seeking or holding a public office in Suffolk County Government.

D.) It shall be unlawful for any candidate seeking or holding a public office in Suffolk County Government to knowingly accept contributions of money or any other thing of value for the benefit of his or her candidacy, which had been obtained through the solicitation efforts of a County officer, employee, or elected official.

Section 43-4. Exemptions.

Sections 43-2 and 43-3 of this Article shall not apply to contributions by individuals to political parties, committees, or candidates as defined by Section 14-100 of the NEW YORK ELECTION LAW.

Section 43-5. Prohibited Acts for Award of Contracts.

A.) It shall be unlawful for any person who enters into an agreement with the County of Suffolk or any department or agency thereof for a sum in excess of $25,000 either for the rendition of personal services or furnishing any materials, supplies, or equipment to the County of Suffolk or any department or agency thereof or for the selling or leasing of any land or building to the County of Suffolk, if payment for the performance of such agreement or payment for such material, supplies, equipment, land or building is made in whole or in part from funds appropriated by the County, to directly, or indirectly made any contribution of money or other things of value to an official of any political party established in Suffolk County or to any candidate seeking or holding a public office in Suffolk County Government, subject to the time constraint contained in Paragraph (D) of this section.

B.) It shall be unlawful for any person who receives financing in excess of $25,000 which has been arranged through the Suffolk County Industrial Development Agency to directly or indirectly make any contribution of money or other things of value to an official of any political party established in Suffolk County or to any candidate seeking or holding a public office in Suffolk County Government, subject to the time constraint contained in Paragraph (D) of this section.

C.) It shall be unlawful for any candidate seeking or holding a public office in Suffolk County Government to accept contributions from any person contracting with the County of Suffolk or any department or agency thereof for a sum in excess of $25,000 for the rendition of personal services or furnishing any materials, supplies, or equipment to the County of Suffolk or any department or agency thereof or for its selling or leasing of any land or building to the County of Suffolk if payment for the performance of such agreement or payment for such materials, supplies, equipment, land or building is made in whole or in part from funds appropriated by the County or from any person receiving financing arranged through the Suffolk County Industrial Development Agency subject to the time constraint contained in Paragraph (D) of this section.

D.) The prohibition of donations and acceptance of the same contained in Paragraphs (A), (B), or (C) of this section shall commence upon the beginning of negotiations for any such agreement or financing arrangement and continue for a period of one (1) year after the termination or completion

of said agreement or financing arrangement. No person shall make a contribution prohibited by Paragraphs (A), (B), or (C) of this section in the name of another person or knowingly permit his name to be used to effect such a contribution and no person shall knowingly accept such a contribution made by one person in the name of another person.

E.) For the purposes of Paragraphs (A), (B), (C), and (D) of this section, the term "Person" shall be construed to mean any individual partnership, firm, corporation, or other legal entity as well as their shareholders, agents, or representatives of corporations traded on the over-the-counter stock market or traded on recognized national/regional stock exchanges, wherein said corporations' stock is publicly held, or corporations not so traded but which employ more than twenty-five (25) employees. "Person" shall not include the employees of such firms, partnerships, corporations or other legal entities.

Section 43-6. Filing Requirements.

The County Comptroller shall file with the Clerk of the County Legislature a list of the persons contracting with the County for a sum in excess of $25,000 on March 31, June 30, September 30, and December 31 of each year.

Section 43-7. Exempt Contributions.

Section 43-5 of this Article shall not apply to contributions to political parties or committees.

Section 43-8. Penalty Provisions.

A.) Criminal. A willful violation of Sections 43-2, 43-3, or 43-5 of this Article shall constitute a Class A misdemeanor and shall be punishable by a sentence of up to one (1) year in prison and/or a fine of up to One Thousand Dollars ($1,000), or by both such fine and imprisonment.

B.) Civil remedies. A willful violation of Sections 43-2 and 43-5 of this Article shall give the County the option, among other civil remedies, of either terminating the agreement or deducting the value of the illegal contributions from any amount due or to become due from the County thereunder.

Section 3. Applicability.

This law shall apply to prohibit conduct occurring on or after the effective date of this law.

Section 4. Rules and Regulations.

The Suffolk County Ethics Commission is hereby authorized and empowered to issue and promulgate such rules and regulations as it shall deem necessary to implement the provisions of this law.

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 enactment of a local law which will not affect the environment pursuant to Section 617.2(b)(3) of the NEW YORK CODE OF RULES AND REGULATIONS (NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW. 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. Form of Proposition.

The question to be submitted to the electorate pursuant to Section 8 of this law shall read as follows:

> **Shall Resolution No. -2011, Adopting A Charter Law, to Limit the Influence of Special Interests by Restricting Political Contributions from Businesses Contracting with the County of Suffolk; Limiting Political Contributions from Political Action Committees Related to Firms Doing Business with the County of Suffolk; Prohibiting Solicitation of Political Campaign Contributions from Tax Exempt Not-For-Profit Organizations and Banning Political Contributions by County Employees to Elected County Officials or to Candidates for County Office, Be Approved?**

Section 8. Effective Date.

This law shall not take effect until the first day of the first fiscal year after its approval by the affirmative vote of a majority of the qualified electors of the County of Suffolk voting upon a proposition for its approval in conformity with the provisions of Section 34 of the NEW YORK MUNICIPAL HOME RULE LAW. After approval by the electorate, this law, as well as any other law converted into a mandatory referendum pursuant to Section 34(4) of the NEW YORK MUNICIPAL HOME RULE LAW, by a vote of the County Legislature, may only be amended, modified, repealed, or altered by enactment of an appropriate Charter Law subject to mandatory referendum in accordance with prevailing law.

DATED:

APPROVED BY:

_____

County Executive of Suffolk County

Date: