

Intro. Res. No. 1149-2016
Introduced by Presiding Officer, on request of the County Executive

Laid on Table 2/9/2016

RESOLUTION NO. 189 -2016, ADOPTING LOCAL LAW NO. 10 -2016, A LOCAL LAW TO AMEND CHAPTER 42 OF THE SUFFOLK COUNTY CODE TO AUTHORIZE THE INDEMNIFICATION AND DEFENSE OF HEARING OFFICERS APPOINTED BY THE COUNTY

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on February 9, 2016, a proposed local law entitled, "**A LOCAL LAW TO AMEND CHAPTER 42 OF THE SUFFOLK COUNTY CODE TO AUTHORIZE THE INDEMNIFICATION AND DEFENSE OF HEARING OFFICERS APPOINTED BY THE COUNTY**"; and said local law in final form is the same as when presented and introduced; now, therefore be it

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

LOCAL LAW NO. 10 -2016, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO AMEND CHAPTER 42 OF THE SUFFOLK COUNTY CODE TO AUTHORIZE THE INDEMNIFICATION AND DEFENSE OF HEARING OFFICERS APPOINTED BY THE COUNTY

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 several Suffolk County departments and offices require the services of hearing officers to hold hearings, subpoena witnesses, administer oaths, take testimony under oath, and compel the production of evidence, among other things.

This Legislature further finds that the County is authorized to defend and indemnify County employees, appointees and elected officials for alleged violations of law that occur while the employees, appointees and elected officials are acting within the scope of their public employment or in the performance of their official duties.

This Legislature also finds that hearing officers who provide services to County departments must bear the expenses incurred in defense of allegations of misconduct or other acts or omissions while providing such services and this potential financial burden, including the cost of maintaining insurance for this purpose, discourages highly qualified people from seeking and/or accepting appointments as hearing officers with the County of Suffolk.

This Legislature further finds that authorizing the County to defend and indemnify its hearing officers will encourage and induce highly qualified individuals to provide their services to the County.

Therefore, the purpose of this law is to amend Chapter 42 of the Suffolk County Code to authorize the County to provide for the defense and indemnification of hearing

officers that provide services to Suffolk County departments and offices in the same manner that the County would provide for the defense and indemnification of County employees, as this term is defined in the Law.

Section 2. Amendments.

Chapter 42, Article I and Article IV of the SUFFOLK COUNTY CODE are hereby amended to read as follows:

§ 42-2 Definitions.

As used in this article, unless the context otherwise requires, the following terms shall have the meanings indicated:

COUNTY

The County of Suffolk.

EMPLOYEE

Any person holding a position by election, appointment or employment in the service of the County of Suffolk, including but not limited to volunteers, any person serving as a hearing officer for any County department, any person not compensated for his or her services and any member of any board or agency appointed by the County Executive and/or the Legislature, including the Suffolk County Soil and Water Conservation District, in those instances in which the employee of the district is not provided indemnification under § 17, Subdivision 1(k), of the New York Public Officers Law, but shall not include an independent contractor. For purposes of this Article and Article IV of this Chapter only, a person serving as a hearing officer for any County department shall not be considered an independent contractor. The term "employee" shall include a former employee, his estate or a judicially appointed personal representative.

LEGISLATURE

The Suffolk County Legislature.

§42-27 Definitions

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

COUNTY

The County of Suffolk.

EMPLOYEE

Any person holding a position by appointment, election or employment in the service of the County of Suffolk, including but not limited to volunteers, any person serving as a hearing officer for any County department, any person not compensated for his or her services and any member of any board or agency appointed by the County Executive and/or the Legislature, but shall not include an independent contractor, other than the Suffolk County Chief Medical Examiner when serving as an independent contractor. For purposes of this Article and Article I of this Chapter only, a person serving as a hearing officer for any County department shall not be considered an independent contractor. The term "employee" shall include a former employee, his estate or judicially appointed personal representative.

LEGISLATURE

The Suffolk County Legislature.

Section 3. 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 effect, 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 judgment or order shall be rendered.

Section 4. SEQRA Determination.

This Legislature, being the State Environment 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) 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 5. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

[] Brackets denote deletion of language.

___ Underlining denotes addition of new language.

DATED: March 22, 2016

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: April 7, 2016

After a public hearing duly held on April 4, 2016
Filed with the Secretary of State on May 2, 2016