

Introduced by Presiding Officer, on request of the County Executive

**RESOLUTION NO. -2016, ADOPTING LOCAL LAW
NO. -2016, A LOCAL LAW TO AUTHORIZE THE
INDEMNIFICATION AND DEFENSE OF TRAFFIC
PROSECUTORS PROVIDING SERVICES AT THE SUFFOLK
COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on 2016, a proposed local law entitled, "**A LOCAL LAW TO AUTHORIZE THE INDEMNIFICATION AND DEFENSE OF TRAFFIC PROSECUTORS PROVIDING SERVICES AT THE SUFFOLK COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY**"; 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. -2016, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO A LOCAL LAW TO AUTHORIZE THE
INDEMNIFICATION AND DEFENSE OF TRAFFIC
PROSECUTORS PROVIDING SERVICES AT THE SUFFOLK
COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY**

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 Traffic and Parking Violations Agency ("TPVA") requires the services of traffic prosecutors to prosecute matters that are adjudicated at the TPVA.

This Legislature also 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 further finds that traffic prosecutors who prosecute matters adjudicated at the TPVA 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 traffic prosecutors with the County of Suffolk.

This Legislature further finds that authorizing the County to defend and indemnify TPVA traffic prosecutors will encourage and induce highly qualified individuals to provide their services to the County.

Therefore, the purpose of this local law is to amend Chapter 42 of the Suffolk County Code to authorize the County to provide for the defense and indemnification of traffic prosecutors who prosecute matters adjudicated at the TPVA 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.

I. Article I of Chapter 42, of the SUFFOLK COUNTY CODE is hereby amended to read as follows:

**Chapter 42
Defense and Indemnification
Article I
Defense of Employees**

§ 42-2 Definitions.

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

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 serving as a traffic prosecutor for the Suffolk County Traffic and Parking Violations Agency ("TPVA"), 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 or a person serving as a traffic prosecutor for the TPVA shall not be considered an independent contractor. The term "employee" shall include a former employee, his estate or a judicially appointed personal representative.

§ 42-9. Applicability.

- A. Except as provided in Subsection B of this section, [T]he provisions of this article shall apply to all actions and proceedings specified herein which have been commenced, instituted or brought on or after the effective date of this article.
- B. With respect to persons serving as hearing officers for the County, or persons serving as traffic prosecutors for the TPVA, the provisions of this article shall apply to all claims.

actions, proceedings, or other litigation made, occurring or accruing on or after the first date of service rendered by such hearing officers or traffic prosecutors

II. Article IV of Chapter 42 of the SUFFOLK COUNTY CODE is hereby amended to read as follows:

Chapter 42
Defense and Indemnification
Article IV
Indemnification of County Employees

§42-27 Definitions.

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

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 serving as a traffic prosecutor for the Suffolk County Traffic and Parking Violations Agency ("TPVA"), 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 or a person serving as a traffic prosecutor for the TPVA shall not be considered an independent contractor. The term "employee" shall include a former employee, his estate or judicially appointed personal representative.

§ 42-33. Applicability.

A. Except as provided in Subsection B of this section, [B]benefits granted to said individuals by this article shall supplement or be available in addition to benefits or indemnification protection offered by other enactments by the State of New York or the County of Suffolk. The provisions of this article shall apply to all actions and proceedings specified herein which have been commenced, instituted or brought on or after the effective date of this article.

B. With respect to persons serving as hearing officers for the County, or persons serving as traffic prosecutors for the TPVA, the provisions of this article shall apply to all claims, actions, proceedings, or other litigation made, occurring or accruing on or after the first date of service rendered by such hearing officers or traffic prosecutors.

Section 4. 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 5. SEQRA Determination.

This Legislature, being the lead agency under the State Environmental Quality Review Act ("SEQRA"), N.Y. Environmental Conservation Law Article 8 and Chapter 450 of the Suffolk County Code, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS ("NYCRR") in that the action constitutes routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment. 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 resolution.

Section 6. 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:

APPROVED BY:

County Executive of Suffolk County

Date: