

COUNTY OF SUFFOLK



OFFICE OF THE COUNTY EXECUTIVE

Steve Levy
COUNTY EXECUTIVE

November 14, 2008

Presiding Officer William J. Lindsay and
Members of the Suffolk County Legislature
William H. Rogers Legislative Building
725 Veterans Memorial Highway
Smithtown, New York 11787

RE: RESOLUTION NO. 850-2008, ADOPTING LOCAL LAW NO. -2008, A CHARTER
LAW TO RESTRICT HOLD-OVER PERIOD FOR CERTAIN APPOINTED
DEPARTMENT HEADS

Dear Presiding Officer Lindsay and Members of the Legislature:

I am returning herein Resolution No. 850-2008, "Adopting Local Law No. -2008, A
Charter Law to Restrict Hold-over Period for Certain Appointed Department Heads."
This legislation continues an alarming trend, whereby the Legislature continues to try
and usurp the powers bestowed upon the County Executive by the Suffolk County
Charter.

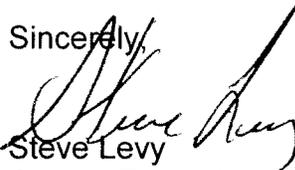
More specifically, Article III, Section C3-3 of the Suffolk County Charter designates the
County Executive to appoint the heads of County departments, with the approval of the
Legislature, as he or she sees fit with individuals that possess relevant experience to
the duties of the office.

In order to ensure that County government is working effectively and efficiently, it is
imperative that the County Executive is provided the authority to fill important
department head positions with individuals that will advance the good will and cause of
the people of Suffolk County..

It is important to remember that all appointed Department Heads are vetted by the
Legislature prior to approval, so a check and balance on the administration and County
departments is well in place. Requiring a specific time period for hold over appointments
runs the risk of not dedicating enough resources to finding a candidate that is best
suited for the position.

The appointed department heads mentioned in this resolution have great influence on policy decisions for the County and their appointments should be treated with careful consideration.

For this and the other reasons enumerated above, I strongly urge the legislature to sustain my veto of this resolution.

Sincerely,

Steve Levy
County Executive of Suffolk County

SL:srt

cc: All Suffolk County Legislators
Tim Laube, Clerk of the Legislature
Christine Malafi, Esq., Suffolk County Attorney
Lynne A. Bizzarro, Esq., Chief Deputy County Attorney
James A. Morgo, Chief Deputy County Executive
Frederick B. Pollert, Deputy County Executive for Finance and Management
Jeffrey W. Szabo, Deputy County Executive and Chief of Staff
Ben Zwirn, Deputy County Executive
Connie Corso, Budget Director
Dan Aug, Director of Communications
Mark Smith, Deputy Director of Communications

Intro. Res. 1806 Res. No. 850

October 14, 2008

Motion:

Romaine, Schneiderman, Browning, Beedenbender, Losquadro
 Eddington, Montano, Alden, Lindsay, Viloria-Fisher, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:

Romaine, Schneiderman, Browning, Beedenbender, Losquadro
 Eddington, Montano, Alden, Lindsay, Viloria-Fisher, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:

Romaine, Schneiderman, Browning, Beedenbender, Losquadro
 Eddington, Montano, Alden, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE					
2	Jay H. SCHNEIDERMAN					
3	Kate M. BROWNING					
4	Brian BEEDENBENDER					
6	Daniel P. LOSQUADRO		/			
7	Jack EDDINGTON	/				
9	Ricardo MONTANO		/			
10	Cameron ALDEN		/			
11	Thomas F. BARRAGA					
12	John M. KENNEDY, JR.					
13	Lynne C. NOWICK					
14	Wayne R. HORSLEY					
15	DuWayne GREGORY					
16	Steven H. STERN					
17	Lou D'AMARO					
18	Jon COOPER			/		
5	Vivian VILORIA-FISHER, D.P.O.					
8	William J. LINDSAY, P.O.					
Totals		14	2	1	1	-

MOTION	
<input checked="" type="checkbox"/>	Approve
_____	Table: _____
_____	Send To Committee
_____	Table Subject To Call
_____	Lay On The Table
_____	Discharge
_____	Take Out of Order
_____	Reconsider
_____	Waive Rule _____
_____	Override Veto
_____	Close
_____	Recess
APPROVED <input checked="" type="checkbox"/>	FAILED _____
No Motion _____	No Second _____

RESOLUTION DECLARED
<input checked="" type="checkbox"/> ADOPTED
_____ NOT ADOPTED

Tim Laube
 Tim Laube, Clerk of the Legislature

Roll Call _____ Voice Vote

Intro. Res. No. 1806-2008
Introduced by Legislators Cooper, Browning, Romaine and Lindsay

Laid on Table 8/19/2008

**RESOLUTION NO. 850 -2008, ADOPTING LOCAL LAW
NO. -2008, A CHARTER LAW TO RESTRICT HOLD-OVER
PERIOD FOR CERTAIN APPOINTED DEPARTMENT HEADS**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on , 2008 a proposed local law entitled, "**A CHARTER LAW TO RESTRICT HOLD-OVER PERIOD FOR CERTAIN APPOINTED DEPARTMENT HEADS**"; now, therefore be it

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

LOCAL LAW NO. -2008, SUFFOLK COUNTY, NEW YORK

**A CHARTER LAW TO RESTRICT HOLD-OVER PERIOD FOR
CERTAIN APPOINTED DEPARTMENT HEADS**

**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 Commissioners in certain crucial county departments are appointed to fixed terms of office pursuant to provisions of state and local law. The County Executive's appointments to these positions -- the Commissioner of the Department of Health Services, the Commissioner of the Department of Social Services, the Personnel Officer in the Department of Human Resources and Civil Service and the Director of the Real Property Tax Service Agency -- are subject to approval by the County Legislature.

This Legislature further finds that pursuant to state law, an appointed official may hold-over and continue to discharge his or her duties after the expiration of their term until a successor is chosen and qualified.

This Legislature further finds that permitting appointed department heads, who may have lost the support and confidence of the County Legislature, to serve in a hold-over capacity long after their term of office has expired is inconsistent with sound public policy. Further, allowing a lapsed appointee to continue indefinitely in office in the absence of legislative support undermines and weakens the system of checks and balances that is the foundation of our representative form of government.

This Legislature further determines that should a department head fail to attract legislative support for a new term within a reasonable time period, a new candidate should be nominated by the County Executive for consideration by the County Legislature.

Therefore, the purpose of this charter law is to prevent an appointed commissioner or department head from serving indefinitely in a hold-over capacity by requiring the County Executive to offer a new nominee for the post within a reasonable time after the expiration of the official's term.

Section 2. Amendment.

Article 23 of the SUFFOLK COUNTY CHARTER is hereby amended as follows:

ARTICLE XXIII, General Provisions

* * * *

§ C23-17. Hold-Over Status of Certain Appointed Department Heads.

Any commissioner or department head appointed by the County Executive to a fixed term of office pursuant to any provision of state or local law, whose appointment is subject to legislative approval, may hold-over and continue to discharge the duties of his or her office after the expiration of his or her term in accordance with Section 5 of NEW YORK PUBLIC OFFICERS LAW. If the commissioner or department head serving in a hold-over capacity is not approved for a new term by a duly enacted resolution of the County of Suffolk within one hundred eighty (180) days of the expiration of their term of office, the County Executive shall immediately nominate and appoint a successor and seek to introduce a resolution to approve said appointment in accordance with the provisions of Section C2-11 of the SUFFOLK COUNTY CHARTER.

Section 3. Applicability.

This law shall apply to commissioners and department heads serving in a hold-over capacity on or after the effective date of this law, however, in the case of commissioners or department heads serving in a hold-over capacity on the effective date of this law, the 180 day period for reappointment set forth in this law shall begin to run on the law's effective date.

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 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 6. Effective Date.

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

___ Underlining denotes addition of new language.

DATED: October 14, 2008

APPROVED BY:

VETOED

County Executive of Suffolk County

Date: 11-14-08