

COUNTY OF SUFFOLK



OFFICE OF THE COUNTY EXECUTIVE

STEVE LEVY  
COUNTY EXECUTIVE

RECEIVED  
2010 NOV 12 P 3:59  
SUFFOLK COUNTY  
LEGISLATURE

November 12, 2010

Mr. Timothy Laube  
Clerk of the Legislature  
Suffolk County Legislature  
Veterans Memorial Highway  
Hauppauge, New York 11788

**RE: - October 12, 2010 - Legislative Meeting**

**Vetoed Resolution: #924-2010**

Dear Mr. Laube:

Attached please find the above resolution, which have been acted upon as indicated.

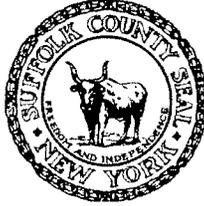
Very truly yours,

**Brendan Chamberlain**  
Intergovernmental Relations Director

Received by A. Pastore Date 11/12/10 Time 3:59

BC:gg  
Enclosure

COUNTY OF SUFFOLK



OFFICE OF THE COUNTY EXECUTIVE

Steve Levy  
COUNTY EXECUTIVE

November 12, 2010

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

RECEIVED  
2010 NOV 12 P 3:59  
SUFFOLK COUNTY EXECUTIVE  
LEGISLATIVE BUILDING  
SMITHTOWN, NY

**RE: RESOLUTION NO. 924-2010, ADOPTING LOCAL LAW NO. -2010, A  
LOCAL LAW IMPROVING TOURISM PROMOTION IN SUFFOLK COUNTY**

Dear Presiding Officer Lindsay and Members of the Legislature:

I am returning herein Resolution No. 924-2010; "A Local Law improving tourism promotion in Suffolk County" vetoed in its entirety.

This local law would undermine the Long Island Convention and Visitors Bureau's (LICVB) already functioning Matching Grant Program that provides a dollar-for-dollar match on a reimbursement basis for marketing assistance to existing and proactive tourism marketing organizations throughout Suffolk County funded in part by the increase in the hotel/motel tax as prescribed in New York State Tax Law 1202-o.

Requiring 33% of the funds allocated to the Suffolk Specialty Fund (estimated at \$308,000 for FY 2011) to be used for another matching grant program with such a specific criteria for eligibility will force the county's contracted agency, the LICVB, to curtail its existing matching grant program and significantly reduce its consumer advertising budget.

However, the most troubling aspect of this legislation is the specific criterion that organizations must adhere to in order for them to receive matching funds for tourism promotion.

Following public hearings and testimony from many well respected Suffolk County promotion agencies, including the Long Island Wine Council, East End Tourism Alliance, and the North Shore Promotion Alliance, it is apparent that many worthy tourism promotion agencies would not meet the legislation's criteria in that they do not

operate with a full-time staff (mostly part-time workers or volunteer based) nor do they maintain an office operated for the purpose of tourism promotion.

The threshold of representing at least 10 hotels and 500 units of lodging also severely limits the numbers of organizations who would be eligible for this matching grant program.

The many organizations that would be excluded consist of local businesspeople that pool their resources to create a friendlier and more inviting environment to promote tourism to the county. They are the lifeblood of the local economy and it's their partnered efforts with the LICVB that has helped promote the tourism industry during these tough economic times. To exclude these organizations from the matching grant process through this narrowly targeted legislation runs counterintuitive to tourism promotion.

Furthermore, the question regarding the county procurement procedures in choosing the agencies that will receive funding appears flawed due to the public notice and bid for such services as required by New York State law. By removing the distribution discretion from the county's contracted promotion agency, in this case the LICVB, it effectively eliminates the need for the already awarded RFP and nullifies the matching grant program already in place that distributed funding to tourism promotion agencies in Suffolk County only. This would be in direct violation of New York State Tax Law 1202-o (5), which clearly states:

*“Such local law shall provide for the county of Suffolk to enter into a contract with a tourism promotion agency to administer programs designed to develop, encourage, solicit and promote convention business and tourism within the county. The promotion of convention business and tourism shall include any service, function or activity, whether or not performed, sponsored or advertised by the tourism promotion agency with the intent to attract transient guests to the county.”*

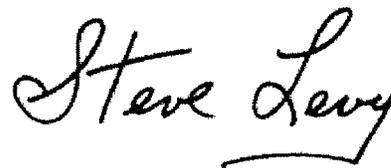
Another component of this legislation that would handcuff the tourism promotion efforts in Suffolk County lies with the timeline of funding distribution. Currently, the LICVB receives quarterly payments from the Suffolk County Treasurer to distribute. Under this legislation, the LICVB will not have received the necessary funds from the county in time to meet the distribution deadline of June 1. This would also prevent the LICVB from implementing any meaningful marketing and advertising programs prior to the spring travel-planning season.

Additionally, requiring that any remaining funds not distributed by June 1 “shall be used as grant funding for cultural programs” is both unclear and contradictory to New York State Tax Law 1202-o (6), which clearly states:

*"(g) all remaining revenue collected by the county of Suffolk shall be deposited into the general fund of such county to be utilized for general park purposes"*

It is critical that we achieve the best possible return on investment in promoting our tourism industry and the redistribution of funding to a limited number of sub-regional promotion organizations as contemplated by this local law, would fractionalize what should be a coordinated countywide effort. For this and the other reasons enumerated above, I strongly urge the legislature to sustain my veto of this resolution.

Sincerely,

A handwritten signature in black ink that reads "Steve Levy". The signature is written in a cursive, flowing style with a prominent underline at the end.

Steve Levy  
County Executive of Suffolk County

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  
Christopher Kent, Chief Deputy County Executive  
Ed Dumas, Chief Deputy County Executive for Policy and Communication  
Connie Corso, Deputy County Executive for Finance  
Ken Crannell, Deputy County Executive for Administration  
Ben Zwirn, County Executive Assistant  
Dan Aug, Director of Communications  
Mark Smith, Deputy Director of Communications

Intro. Res. 1531 Res. No. 924

October 12, 2010

**Motion:**  
 Romaine, Schneiderman, Browning, Muratore, Losquadro  
 Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,  
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

**Co-Sponsors:**  
 Romaine, Schneiderman, Browning, Muratore, Losquadro  
 Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,  
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

**Second:**  
 Romaine, Schneiderman, Browning, Muratore, Losquadro  
 Eddington, Montano, Cilmi, Lindsay, Vilorio-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	Thomas MURATORE						
6	Daniel P. LOSQUADRO						
7	Jack EDDINGTON						
9	Ricardo MONTANO						
10	Thomas CILMI						
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		18					

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
<input type="checkbox"/> NOT ADOPTED

*Tim Laube*

Roll Call \_\_\_\_\_ Voice Vote

**RESOLUTION NO. 924 -2010, ADOPTING LOCAL LAW  
NO. -2010, A LOCAL LAW IMPROVING TOURISM  
PROMOTION IN SUFFOLK COUNTY**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a meeting held on May 11, 2010, a proposed local law entitled, "**A LOCAL LAW IMPROVING TOURISM PROMOTION IN SUFFOLK COUNTY**"; now, therefore be it

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

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

**A LOCAL LAW IMPROVING TOURISM PROMOTION IN SUFFOLK  
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 tourism is a vital component of the economy of Suffolk County.

This Legislature also finds and determines that Suffolk County recently reauthorized the County's hotel tax, increasing it from 0.75% to 3%.

This Legislature further finds and determines that Suffolk County provides its designated tourism promotion agency with up to \$2 million of the County's hotel tax revenue to promote tourism in the area.

This Legislature also determines that Nassau County and Suffolk County contract with the Long Island Convention and Visitors Bureau ("LICVB") as the designated tourism promotion agency for the promotion of Long Island as a tourist destination.

This Legislature further finds that Suffolk County provides more funding to the LICVB than Nassau County. The LICVB puts all monies that Suffolk County provides in excess of those provided by Nassau County in a separate fund that is used exclusively for the promotion of tourism in Suffolk County.

This Legislature also determines that the maintenance of a separate fund solely for the promotion of tourism in Suffolk County -- a "Suffolk Specialty Fund" -- should be codified in law.

This Legislature also finds that advertising that encourages visits to Suffolk County, particularly overnight stays in hotels and motels, is an effective tourism promotion tool.

This Legislature determines that there are many local tourism promotion agencies which specialize in hotel promotion.

This Legislature also finds that many of these agencies have full-time staff and offices located in popular tourist areas, as well as experience in attracting visitors to their region of the County for extended stays.

This Legislature further finds that many of these agencies promote Suffolk County as a tourist destination on modest budgets, with very little funding for advertising.

This Legislature also determines that establishing an advertising matching grant program for these agencies using monies from the Suffolk Specialty Fund would help stretch advertising dollars so that the County receives the greatest benefit from the use of the funds.

Therefore, the purpose of this law is to establish a Specialty Fund for Suffolk County tourism promotion and to create a matching grant program to enhance tourism advertising by local tourism groups.

## **Section 2. Amendments.**

Chapter 327 of the SUFFOLK COUNTY CODE is hereby amended as follows:

### **Chapter 327, HOTELS AND MOTELS**

\*\*\*\*

#### **Article II, Hotel and Motel Tax**

\*\*\*\*

#### **§372-8. Definitions.**

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

**HOTEL or MOTEL** -- Any facility providing lodging on an overnight basis and shall include those facilities designated and commonly known as "bed-and-breakfast", inns, cabins, cottages, campgrounds, tourist homes and convention centers.

**OPERATOR** -- Any person operating a hotel or motel in the County of Suffolk, including but not limited to the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such hotel or motel.

**PERMANENT RESIDENT** -- A person occupying any room or rooms in a hotel or motel for at least 30 consecutive days.

**SUFFOLK SPECIALTY FUND** -- The portion of contract funding utilized by the tourism promotion agency solely to promote tourism within Suffolk County as a result of a funding disparity between Suffolk County and Nassau County.

\*\*\*\*

### §327-13. Tourism Promotion Agency

- A. The County of Suffolk shall enter into a contract, as mandated by Tax Law § 1202-o(5), with a tourism promotion agency to administer programs designed to develop, encourage, solicit and promote convention business and tourism within the County of Suffolk. The promotion of convention business and tourism shall include any service, function or activity, whether or not performed, sponsored or advertised by the tourism promotion agency with the intent to attract transient guests to the County. The County Executive, or his designated representative, is hereby authorized to negotiate and enter into such a contract. No such contract shall be executed without the prior approval of the Legislature.

\*\*\*\*

(6) Such contract shall provide that the tourism promotion agency will establish and maintain a Suffolk Specialty Fund, which shall be used solely to promote tourism within the County of Suffolk.

(7) Such contract shall provide that the tourism promotion agency will utilize 33% of the monies in the Suffolk Specialty Fund annually for a matching grant program available to any tourism promotion agency that is not under contract with the County of Suffolk and which maintains full-time staff, an office, and represents at least 10 hotels and 500 units of lodging ("recipient agency").

- a. The matching grant program will provide one dollar in matching funds for every dollar used for advertising purposes by the recipient agency. The funds available to a recipient agency in a calendar year shall be based on the respective share (measured as a percentage) of hotel tax revenue generated by the region represented by the recipient agency in the preceding fiscal year, as reported by the Suffolk County Treasurer's Office.
- b. Any recipient agency seeking funds through the matching grant program must submit a request to the tourism promotion agency by March 1<sup>st</sup> of each year. Funds granted under the matching grant program must be distributed to recipient agencies by June 1<sup>st</sup> of each year.
- c. The advertising decisions shall be made by the recipient agency, but must follow the same standards, limitations, and regulations established for the tourism promotion agency.
- d. Any funds remaining in the matching grant program after June 1<sup>st</sup> of each year shall be used as grant funding for cultural programs.

\*\*\*

### Section 3. Applicability.

This law shall apply to all contracts entered into by the County of Suffolk with a tourism promotion agency on or after the effective date of this law.

**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.

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

DATED: October 12, 2010

APPROVED BY:

**VETOED**

\_\_\_\_\_  
County Executive of Suffolk County

Date: **NOV 12 2010**