BUDGET & FINANCE COMMITTEE

OF THE

SUFFOLK COUNTY LEGISLATURE

MINUTES

A meeting of the Budget & Finance Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York, on Tuesday, July 27, 2010.

Members Present:
Legislator DuWayne Gregory - Chairman
Legislator Lou D'Amaro - Vice-Chair
Legislator Ed Romaine
Legislator Jay Schneiderman

Members Not Present:
Legislator Daniel Losquadro

Also In Attendance:
George Nolan - Counsel to the Legislature
Renee Ortiz - Chief Deputy Clerk of the Legislature
Jason Richberg - Aide to Legislator Gregory
Gail Vizzini - Director Budget Review Office
Lance Reinheimer - Assistant Director - Budget Review Office
Ed Dumas - Chief Deputy County Executive
Ben Zwirn - County Executive's Office
Eric Naughton - Budget Director - County Executive's Budget Office
Criag Freas - Budget Review Office
Laura Halloran - Budget Review Office
Linda Bay - Aide to Minority Caucus
Paul Perillie - Aide to Majority Caucus
Catherine Stark - Aide to Legislator Schneiderman
Michael Pitcher - Presiding Officer's Office
Connie Corso - Budget Office
Lynne Bizzaro - Chief Deputy County Attorney
Joe Sawicki - Suffolk County Comptroller
Christina Capobianco - Chief Deputy Comptroller
Frank Bayer - Suffolk County Comptroller's Office
Kathy Malloy - AME
Rick Brand, Newsday
Joe Darrow - TBR Newspapers
All Other Interested Parties

Minutes Taken By:
Donna Catalano - Court Stenographer

Minutes Transcribed By:
Donna Catalano - Court Stenographer

Denise Weaver - Legislative Aide

(*THE MEETING WAS CALLED TO ORDER AT 10:05 A.M.*)

CHAIRMAN GREGORY:
Good morning. Can I have all Legislators to the horseshoe, please. Okay. We're ready to go. Good morning. This is -- welcome to today's Budget and Finance Committee meeting. We will start with the Pledge of Allegiance, led by Legislator Schneiderman.

SALUTATION

CHAIRMAN GREGORY:
Okay. Thank you. We will go into the public portion, and we have one card, Kathleen Malloy.

PUBLIC PORTION

MS. MALLOY:
Good morning. My name is Kathleen Malloy. Here today on behalf of the AME president, Cheryl Felice. I beg your pardon as well I just had dental surgery so I realize I'm having trouble speaking.

When Governor Paterson offered the County Executives throughout New York State the opportunity to sign onto an early retirement incentive package he provided the approved bill that left many of the particulars of eligibility up to those County Executives. The time period for the ERI, however, can and should be extended by the Legislature to 60 days.

Local Law 35-2010 also Introductory 1724, which was adopted on July 7th in Suffolk County gave Mr. Levy full power under State Law to designate who can participate in the ERI. This, sir, is where the problems began for our Suffolk County workers because the only limitation placed on that eligibility in Local Law 35 was a prohibition of ERI for employees funded at least 50% by state and/or Federal aid. An exception to that 50% rule was also provided in Local Law 35 for five designated positions in the Office of the Aging and for employees at the Department of Health and Social Services.

When Mr. Levy issued his AEM 21-10 on July 14th, he listed 13 categories of the ineligible titles; such as Consumer Affairs, Law Enforcement, lawyers and every worker at the John J. Foley Skilled Nursing Facility. This means that it is Mr. Levy not the Local Law or the County Legislators who is ultimately and unilaterally blocking certain people from being able to participate. Legislators should be aware that Mr. Levy's AEM contradicts the Local Law in the section wherein he states, quote, those employees whose salary is at least 50% funded with Federal and/or State aid most likely will not be approved for inclusion, end quote. Local Law 35 did not grant any such discretion.

AME asks our 18 member Legislature if your own express language is being ignored and contravened by the County Executive. And even more disturbing, Mr. Levy was the sponsor of the legislation that is being ignored. On June 22nd after addressing the Suffolk County Legislature in Riverhead on AME's endorsement of the ERI and our encouragement to the Legislators for the full inclusion of all County workers, AME President Cheryl Felice held a "full house" union membership meeting that night, again, notifying members of the ERI; its benefits; and severe limitations to many County workers due to Mr. Levy's restrictions.

In that public sector workers work at the direction of elected officials albeit the County Executive and the Suffolk County Legislature. President Felice advised our AME members to call their respective Legislators to advise you -- I have about another minute, sir -- to advise you of their desire to retire with full participation under this ERI package. IR 1726 sponsored by Mr. Levy and pending before the County Legislator -- Legislature links expansion of the open period from 30 to 60 days to September 21st to the sale of the nursing home.

This bill is very misleading because the title of the bill and the accompanying backup documentation create the impression that the bill is enlarging the number of employees eligible for participation. That is not so. The bill only deals with expanding the open period from 30 to 60 days. And why do we need that? It appears that the Executive's Budget Office is overwhelmed by the huge volume of applications for this ERI package and the burden Mr. Levy has imposed on them in calculating all of the costs of each application. They do not appear to have enough time and they need a little more time to handle all the paperwork.

We resolve this. How to resolve this dilemma? AME asks our Legislative body to simply extend the ERI period to 60 days. As a union that represents just about 7,000 working workers with a large amount expressing interest in this ERI package, AME President Cheryl Felice seeks your help in eliminating any unnecessary anxiety and result in innocent mistakes that could be made based on incorrect confusing and misleading information.

And on behalf of the AME officers and its members your assistance to the workers who make Suffolk work is always appreciated. Thank you very much.

CHAIRMAN GREGORY:
Thank you. That is -- we don't have anymore cards. Is there anyone else that would like to come before us and speak? If not, okay. Thank you.

Next we have a presentation from Comptroller Sawicki and his office. Please come forward, sir.

MR. SAWICKI:
Good morning.

CHAIRMAN GREGORY:
Good morning. How are you?

MR. SAWICKI:
I'm good, Legislator. How are you?

CHAIRMAN GREGORY:
Good, Comptroller.

MR. SAWICKI:
Mr. Chairman.

CHAIRMAN GREGORY:
Thank you for you coming here today. There were some members of the Budget and Finance Committee that wanted to have you come before us, your office, and talk about your recent audit of the Suffolk YJCC and so that's why you're here today. And we thank you for your indulgence in giving us a little bit of your time with your busy schedule.

MR. SAWICKI:
Thank you, Mr. Chairman, Legislator D'Amaro and Legislator Romaine and Legislator Schneiderman and fellow Legislators. Thank you for the invitation, Legislator Gregory.

The audit of the Suffolk Jewish Y, as you received copies via e-mail and also copies of the management letter, which accompanied the audit. And the audit obviously is on the Suffolk Jewish Y center itself. The management letter is addressed to the Legislature and to the Budget Offices of this County.

And it's our internal recommendations as to, you know, what we found in the audit and how we could streamline and make the process more efficient in the future. But the bottom line is you probably noticed the highlights of the audit is that the audit findings basically indicate that we are seeking a recovery from the agency of over $780,000.

Now, let me be very clear, please, and if I may, that this audit in no way should be seen as a minimization of the integrity and the well-being and of the great services that the agency provides. We found them to be nothing but a superb agency, very cooperative, well managed and they provide a lot of excellent programs for the community that they serve.

The audit itself is basically cut and dry. The audit went fine until we got to the -- and we had very well findings up until the contract language, which was -- again, the audit covered the years '05 and '06 -- the contract language in black and white in three different areas in the contract indicate that the revenues that the County provide -- the funding that the County provides should be offset by any revenues generated by the agency. And that was not followed through and enforced by the Youth Bureau, which was the oversight department and hence it was really language that we didn't -- we didn't devise and we didn't come up with, we just uncovered the language in the audit, you know, the language was revealed.

So it was basically that cut and dry. And I know that this language has been a thorn in the side of the agency. I think it caught not only the agency but the Youth Bureau by surprise as well. And, you know, as an auditor, as the Comptroller of the County, we have to audit by -- not by the intent what may or may have been over the years as they were funded, but we have to audit the contract that's signed by both parties.

So with that, the management letter is basically self-explanatory, I think you'll find. And it has some good recommendations which pertain to other agencies that we -- that the Comptroller that this office feels that in light of the County's current financial constraints that basically for any agency that you're going to consider funding in the future, you know, we suggest that you take a look at the financial need and the resources available of any agency. This is a well-funded agency, it's, again, well operated and they have, you know, sufficient cash resources we found as well. So overall, you know that's pretty much it.

CHAIRMAN GREGORY:
Okay. Thank you. Now, just to reiterate what you stated, your function as a Comptroller is to audit agencies based -- and you don't devise the contracts as -- just like you, you know, don't devise the procedures, you know, you kind of audit the procedures and make sure that they're going through the procedures, as well as the County is following contracts that we've entered into with respective agencies. So you're the overseer, if you will.

MR. SAWICKI:
Correct.

CHAIRMAN GREGORY:
Now, obviously, this is not a common problem or is it?

MR. SAWICKI:
Well this was -- this full blown audit was -- the agency was chosen because they're one of the ten or 12 largest agents -- funded agencies in the County. The others range from the YMCA to several hospitals to VEEB. And they -- you know, the YMCA for instance, when they apply for their funds, they do offset and subtract the revenues that they've earned towards the various programs and toward the funding. And also as well -- good point, Christina. I'm sorry this is Christina Capobianco, my Chief Deputy, alongside of me.

Because of considerable Federal and State aid that other agencies like the various hospitals, the

YMCA, VEEB receive which are not eligible through the Youth Bureau, we receive up to 75% back from any of their programs. So, for instance, one of the figures for -- and again, just strictly comparison purpose -- comparative purposes is YMCA, if they're funded over 600 or $700,000 by the County in any given year through many programs; through Health Services, through DSS, the net cost to the County in any given year could be like or 80 or $90,000, $119,000.

So that's another part of our recommendation in the management letter, is that going forward, these programs should not be run through the Youth Bureau but more funneled through the Health Services and DSS so that they could be considered eligible for any Federal and State aid.

CHAIRMAN GREGORY:
Okay. Also, I know others have some questions, I'll be just a minute. In the audit, I'm not sure if it was -- I went through the audit myself or if it was through the Newsday reporting of the audit, that there -- that there was a problem with where the funds were allocated, I believe the Suffolk Y -- Jewish Y was under the impression that the monies were to be used for all general purposes, but the contract stated that it was for specific programs and that resulted in the revenue for '05 and '06, the 200 some thousand, I think '05. And the 500 and -- or am I getting it backwards? But those numbers in whatever those years, is that part of the, I guess, the management oversight that you're talking about that was lacking?

MS. CAPOBIANCO:
Yeah. The agency submitted expenditures the -- we audited what the agency submitted expenditures for, and those were for the programs that are included in the audit report.

MR. SAWICKI:
Are they in the contract?

MS. CAPOBIANCO:
Yes, they're in the contract.

CHAIRMAN GREGORY:
Okay. So you saw what was submitted, that reflected what the contract was, so the monies that were allocated to the organization and they have a contract for those programs. But I read it somewhere where there was an understanding that those monies were for all operations, not just those specific programs.

MR. SAWICKI:
I believe, Mr. Chairman, the agency should speak to that. We audited based on the contract that we had in front of us.

CHAIRMAN GREGORY:
Okay. Is this -- again, is this a -- I know you do a lot of audits, that's your job. Is this a common problem or is just the dollar, the magnitude of the dollar amount makes it --

MR. SAWICKI:
I think what separates the Suffolk Jewish Y from the other agencies is that the other agencies are funded through -- even though they might receive six, seven, $800,000 per year, but they're funded through various programs; through DSS, through Health, so you wouldn't see one lump sum of $600,000, whereas for this agency, it stood out like a sore thumb, so to speak, as one lump sum given to the agency.

CHAIRMAN GREGORY:
All right. Legislator Romaine?

LEG. ROMAINE:

Thank you. Thank you, Mr. Chairman, let me ask, when you did the audit obviously you must have had some interviews or exit interviews with the Youth Bureau. Did they provide any rational reason as to their lack of oversight for these contract provisions?

MR. SAWICKI:
Could you be more specific?

LEG. ROMAINE:
Yeah. Clearly, they should have been collecting these fees if they were enforcing the contract. They were the agency responsible for enforcing the contract. Correct me if I'm wrong.

MR. SAWICKI:
The responsibility also rests on the department that exercises the oversight.

LEG. ROMAINE:
Which is the Youth Bureau?

MR. SAWICKI:
Which is the Youth Bureau.

LEG. ROMAINE:
Right. So I'm asking did you have an exit interview with the Youth Bureau as part of this audit?

MR. SAWICKI:
Our procedures wouldn't be with the Youth Bureau, Legislator Romaine, it would be with the agency.

LEG. ROMAINE:
Right.

MR. SAWICKI:
And the agency did contend -- correct me if I'm wrong -- that they have had many conversations and communications with the Youth Bureau over the years and that they were told -- again, these aren't my words, these are pretty much the agency's words.

LEG. ROMAINE:
The agency's words. Okay, right.

MR. SAWICKI:
The agency was basically told to, you know, apply for the funding in this regard, in this fashion.

LEG. ROMAINE:
Okay.

MR. SAWICKI:
And that goes back to '03.

LEG. ROMAINE:
The one thing I've -- by the way, I read every one of your audits. And the reason I did that is because when I was a Legislator in the '80's, I passed legislation that required that all audits be made available to Legislators. And it gives me a good flow of what's happening in County Government. I read the audit, and I particularly read the management letter. And the management letter reminded me of a story that I heard from someone that I knew. This guy said, "You know, I don't know anything about income tax. I went to the IRS, sat with them" -- because he was a senior -- and they have a program where you can sit down and they'll help you -- "and they helped me fill out my income tax. And believe it or not, that year I was audited, and I was

penalized and fined for following the IRS instructions."

My point in case is I read your management letter. If this had been done through the Health Department and Social Services, there would be reimbursement of Federal and State aid that the agency might be entitled to that they lost because it was processed at the instruction of the administration through the Youth Bureau. Is that a fair assumption based on your management letter?

MR. SAWICKI:
That you would be an assumption in hearing the agency's comments.

LEG. ROMAINE:
Okay.

MR. SAWICKI:
In other words, that's according to the agency. You know, perhaps it would be good to ask these questions of the agency, which --

LEG. ROMAINE:
Do you feel that this agency, based on your audit, would be eligible for Federal and State funding had these been run through both the Health and Social Services Department as opposed to the Youth Bureau?

MR. SAWICKI:
Yes, we do. But --

LEG. ROMAINE:
How much money do you think they might have been able to recoup as an agency?

MR. SAWICKI:
Because some of the -- most of the funding is based -- is need-based, it would be difficult to go back in time. I mean, we could do it, but -- if we had to, but it could be as high -- it could have been as high as $2 million over the seven years. I doubt it would have reached that, because again, a lot of those programs would be based on need.

LEG. ROMAINE:
And they owe us how much according to the audit of the contract that you did?

MR. SAWICKI:
Seven hundred and eighty-nine thousand.

MS. CAPOBIANCO:
Two years.

MR. SAWICKI:
Over a two-year period.

LEG. ROMAINE:
Okay. Let me ask you something. When you audited the agency, had they had extensive communications with the administration about the procedures that they should follow in terms of how they approach reimbursement or anything else regarding that; were there extensive procedures established?

MR. SAWICKI:
Could you, please, repeat that?

LEG. ROMAINE:
Yeah. Were there extensive procedures established by the administration in the execution of this contract that the Y complied with?

MR. SAWICKI:
I cannot comment on that, Legislator, because I just -- I'm not sure. I wasn't there at that time when those negotiations were taking place. But again, the agency indicates to us and they indicated in the exit conference that they've maintained a listing of the communications between the County, the Youth Bureau and themselves as to -- you know -- and actually at one point, proposed to do it in different ways. But again, those are not my words, that's coming from the agencies. It clearly seems that the agency could be a victim of this contract language, but then you have to ask yourself the question, both sides signed the contract.

LEG. ROMAINE:
That's correct, caveat emptor. But that is beside the point. And maybe at some point, if the Chairman so deems it, the agency should be invited to come forward and make comments on this, because I am informed that they followed exacting procedures and they had communications with the administration and they even suggested other ways that this could be done that were rejected and that they had to follow the procedures that they were given. That's my understanding of it. Again, I'd rather have them state that for the record, but thank you again.

MR. SAWICKI:
Okay.

CHAIRMAN GREGORY:
Yes, Presiding Officer Lindsay.

P.O. LINDSAY:
Hey, Joe. Unfortunately, this seems to fall into a pattern that we've been seeing lately where you guys go in and do an audit four, five years after the year in question, which is your role, your ordered by the contract and you come up with your findings, but there seems to be a disconnect with the administration of those contracts right along the way. I mean, if the Youth Agency -- your audit goes back to '03 and '04?

MR. SAWICKI:
The audit years are '05 and '06.

P.O. LINDSAY:
Five and '06, okay.

MR. SAWICKI:
But the funding commenced in '03.

P.O. LINDSAY:
My point, if there was something wrong in '05, why didn't the agency pick it up so we're not faced with this horrendous finding? I know you said that the agency is a solvent agency, but we've had some that aren't solvent. And your findings, five years after the fact, because it wasn't picked up at the time, has the effect of possibly putting an agency out of business, you know, that provides decent services. It isn't as if somebody is doing something that's dishonest or -- it's a matter of the contract not being complied with and enforced properly by the agency. Wouldn't you say that's a fair statement?

MR. SAWICKI:

I think that's a very fair statement, Legislator Lindsay. Again, we go in as auditors and, you know, we audit strictly by the contract, whether it's a Social Service agency, whether it's a homeless shelter agency, whether it's this agency. We weren't there when the contract was drawn up. All we know is that the contract was signed by both sides. And over the years, the overseeing department is charged with monitoring the payments and signing off on the payments to the agency.

P.O. LINDSAY:
My point is there seems to be a disconnect between the contract and the enforcement by the agency. And either the contract has to change or the agency has to do a better job, because this has a very destructive affect on a lot of our not-for-profits.

MR. SAWICKI:
That's why we feel strongly that if these contracts were -- if the funding was -- were coordinated -- was coordinating between the Health Department and Social Services that a lot of this would have been, you know, that never occurred. Because they're used to dealing with these kind of agencies. For instance, all the other ones; the hospitals, the
YMCA --

MS. CAPOBIANCO:
Daycare programs.

MR. SAWICKI:
Daycare programs, etcetera, where the Youth Program really is not. It's really not a Youth Bureau issue.

P.O. LINDSAY:
But even beyond that, I bring up my ongoing saga of the homeless shelters that provide an absolute benefit to this County by getting the homeless people out of motel rooms, but we have the same situation. We have a contract that isn't being administered properly. And as a result there's huge findings five years hence and these people have no resources. So you can put them out of business, and that doesn't benefit the County in the long run, because if they go out of business, we're back in motel rooms paying $5,000 a month for a room, you know.

MR. SAWICKI:
As the Comptroller, all we can do is do the audit and report to you.

P.O. LINDSAY:
I realize that.

MR. SAWICKI:
And report to the County Executive of our findings. I mean, that's our charge as the overseer of the County Treasury.

CHAIRMAN GREGORY:
Okay. Just so that -- okay. Legislator Schneiderman.

LEG. SCHNEIDERMAN:
I just wanted to see how long is this contract agency has been involved in the County, a number of years, right?

MR. SAWICKI:
Since '03.

LEG. SCHNEIDERMAN:

Since '03.

MR. SAWICKI:
The first funding was --

LEG. SCHNEIDERMAN:
Did the language of the contract change in '05, or was it always there?

MR. SAWICKI:
The language was consistent through '09 -- through '08.

LEG. SCHNEIDERMAN:
It was always there, you didn't audit past '05.

MR. SAWICKI:
No.

LEG. SCHNEIDERMAN:
So potentially if you went back --

MR. SAWICKI:
It's potential for '03 -'04 which is scary. When Legislator Lindsay talks about hurting, financially hurting an agency, a good agency, as the Comptroller how do I turn my head and not look at '03 and '04 and '07 and '08? So that's why my guess is, you know, the agency is going to be looking for some relief, legally, governmentally, whatever through the Legislature, through the Executive, I don't know.

LEG. SCHNEIDERMAN:
Right. So the common practice even though the contract had this language, the practice was not to --

MR. SAWICKI:
In '09, the contracts changed.

LEG. SCHNEIDERMAN:
-- make them reimburse our grant through their revenues.

MR. SAWICKI:
In '09 an '10, the contracts changed, and that reimbursement clause was significantly watered down. So it's the same -- consistently the same language from '03 through '08. And in '09 and '10, it dramatically changed.

LEG. SCHNEIDERMAN:
And it's not just in their contract, it's in lots of contract agencies, the same language; is that correct?

MR. SAWICKI:
We believe so, yes. We don't read every contract of every single contract of 650 something agencies, but. In the others that I mentioned, the top 12, it is basically consistent, yes. And it stands to reason, if the County is going to fund a program --

LEG. SCHNEIDERMAN:
When we do the budget --

MR. SAWICKI:
-- they should -- and if they earn revenues toward that program, give the revenues back to the

County.

MS. CAPOBIANCO:
Maryhaven, VEEB, YMCA.

MR. SAWICKI:
Maryhaven, VEEB, YMCA.

LEG. SCHNEIDERMAN:
Yes and no. I mean, we often subsidize programs that are revenue generating but not nearly enough -- you know, we want to keep the costs of those programs low. That's part of the reason why we provide that subsidy is so they can open it to the general public at a lower rate.

So as a Legislator, one who, you know, when we do these budgets -- and there's hundreds and hundreds of contract agency lines -- and, you know, I don't think that I was aware that the grant toward that organization was money that was coming back on some other revenue line on some unknown amount based on their revenue generation, you know, through fees or whatever it might be for their program. So I don't even know do we have that in our budget a line showing the money coming back at some estimated revenues from the YMCA?

MR. SAWICKI:
Yeah, we have vouchers here that show that VEEB, YMCA, Maryhaven nets the funding request against the expenditure -- nets their earned revenues against the funding. And therefore, we would fund the net amount. I do -- again, I reiterate, the audit is no reflection on the integrity of the agency. I think that they thought all along they were doing absolutely right.

LEG. SCHNEIDERMAN:
Right.

MR. SAWICKI:
I think we caught the Youth Bureau off guard when we found this language. And I believe everybody thought all along that this was intended to be an outright grant to the agency. When we go in and you see the contract signed by both sides and it calls for offsetting revenues and other agencies do the offsetting revenues, what am I supposed to do as the Comptroller?

LEG. SCHNEIDERMAN:
Was that offsetting revenues after they've hit that break-even point? Because you were basically saying that there was still -- they wouldn't be able to offset all the revenues, but some of the revenues, you believe.

MS. CAPOBIANCO:
Right. Yes.

LEG. SCHNEIDERMAN:
And you're saying this organization is showing basically a surplus in its operations, they have some reserves?

MS. CAPOBIANCO:
Even after --

LEG. SCHNEIDERMAN:
You're going to have to press the button.

MS. CAPOBIANCO:
Even after the funding that they received in these particular programs, in 2005, they had $196,000

loss, and in '06, they had a $70,000 loss.

LEG. SCHNEIDERMAN:
So, is there any room for interpretation in that language that they really haven't hit the mark yet in those years to be able to reimburse the County?

MS. CAPOBIANCO:
I'm sorry. This was before the $500,000 funding that they received each year. That's why what we're asking to be returned is the excess of the funding they received over the loss of 196,000 and 70,000.

LEG. SCHNEIDERMAN:
Okay.

MR. SAWICKI:
In other words, we're allowing them to claim County funding for their loss of those programs, put the excess back. The excess we feel should come back to the County. Again, it's pursuant to the contract language.

LEG. SCHNEIDERMAN:
And are we doing this in an even-handed way with all the other potential contract agencies that have similar language?

MR. SAWICKI:
Absolutely. To the best of our knowledge.

LEG. SCHNEIDERMAN:
Okay.

CHAIRMAN GREGORY:
Legislator D'Amaro.

LEG. D'AMARO:
Thank you. Comptroller Sawicki, thank you for bringing this to our attention. It's very much appreciated. I have a few questions. Just to pick up on that prior conversation though, it seems to me I agree with Legislator Schneiderman, I'm not necessarily sure that I would seek reimbursement. Maybe agencies are turning a profit, in quotes, because they're not-for-profit, only because we're supporting them.

So I'm not so sure that it's policy matter, that's a direction that we should go. And I understand your position of having to enforce what's before you and that's the contract. You mentioned that subsequently the contract provision that provides for reimbursement was watered down.
Does -- do you mean that if this -- if the new provision were in this contract you would not be seeking that reimbursement?

MR. SAWICKI:
It would make a lot weaker case and I doubt if we would be as adamant as the -- - there were three clauses as we provided contracts -- I believe you have copies in front of you -- and you'll see that consistent language about the revenue offsets through '08. In '09 and '10, it's a very, very gray area. Two of the three clauses were dropped in '09 and '10.

LEG. D'AMARO:
So there may be some recognition that this clause, although in the contract was recognized maybe at a policy level that was not realistic or should be enforced, not to say that you're going to ignore it, but it just seems to me that we probably have similar language or had similar language in those

same audit years for hundreds of contract agencies, I would guess.

MR. SAWICKI:
Probably.

LEG. D'AMARO:
For example, if we are supporting other agencies through the Youth Bureau, how many other Youth Bureau contracts have that language, and was that language ever enforced?

MR. SAWICKI:
If we would have audited that particular contract, Legislator, then it would have been enforced.

LEG. D'AMARO:
I'm not saying that.

MR. SAWICKI:
I don't mean -- again, there's over 600 something contracts out there. I don't know that answer to that.

LEG. D'AMARO:
I appreciate that. My point is not so much about the job that you're doing, and I appreciate that. My point is only that I believe you stated that there's been no misapplication of funds. I mean, certainly the contract was administered at least on the receiving end appropriately and properly and according to its terms; is that correct?

MR. SAWICKI:
Absolutely.

LEG. D'AMARO:
Okay. So the problem we have here is whether or not a contract provision was enforced that seems to bring some of the grant money in effect back to the County. And I'm not sure that when any Legislator voted on any of this that was really the intent anyway.

MR. SAWICKI:
Exactly. Again, we can't audit the intent. As the policy making body of this County, you know, it's probably going to end up in your lap I would imagine somewhere along the line perhaps to rectify the situation obviously retroactively. What you voted on over the years -- you know, I'll leave that up to this body to decide.

LEG. D'AMARO:
Sure.

MR. SAWICKI:
You know, again, we're just auditing the contract.

LEG. D'AMARO:
Right. Okay. Now, there was also some conversation about the fact that the agency was told to apply for the funding in this way. This way meaning, I guess, through one line item as opposed to going to various departments where we can seek State reimbursement; is that correct, is that what you meant?

MR. SAWICKI:
That's what was shared with me by the agency director.

LEG. D'AMARO:

Okay. The agency director told you -- who told the agency director to apply for the funding that way?

MR. SAWICKI:
You would have to ask him, Legislator D'Amaro.

LEG. D'AMARO:
Okay.

MR. SAWICKI:
I really -- you know, again, as the Comptroller, and as an auditor, I don't like repeating thirdhand --

LEG. D'AMARO:
I agree. We can go to the source.

MR. SAWICKI:
Yeah. You should really speak to the agency. Exactly.

LEG. D'AMARO:
Fair enough. Now, when that was told to you during the course of your audit, was that coupled with an intention to circumvent getting reimbursement of State Aid?

MR. SAWICKI:
Could you be more clear, please?

LEG. D'AMARO:
Sure. In other words, was it funded in this way through the one line item as opposed to maybe through DSS and other agencies? Why was it done that way? Was the intent here so that we couldn't seek reimbursement?

MR. SAWICKI:
I have no idea, Legislator. That would be a question to either the Youth Bureau and/or the Budget Office. I doubt very much in the bottom of my heart if it was done intentionally to circumvent.

LEG. D'AMARO:
Right.

MR. SAWICKI:
Again, you'd have to ask that question to them.

LEG. D'AMARO:
Sure. Are there any other contract agencies that you're aware of that receive their funding through the -- through one lump sum as opposed to line items, you know, that would be similarly situated to this particular agency.

MR. SAWICKI:
This would be the largest one, Legislator D'Amaro. The others of the 12 that I mentioned, they don't fund it as a lump sum, they do it through many different programs; Brookhaven Hospital, Southside Hospital, VEEB, Maryhaven, YMCA.

LEG. D'AMARO:
Okay. And that practice of funding this agency this way began when?

MR. SAWICKI:
In 2003.

LEG. D'AMARO:
2003. Okay. Because, you know, again, I certainly would want to break it up going forward. I mean why throw away State Aid or any other aid? We certainly -- no one would want to do that. I can't imagine that. But I also believe that seeking reimbursement from agencies, if we're going to start enforcing that against this agency, we'd have to do it across the board. You'd have to audit just about every contract. I mean, we have to play on a level playing field.

And again, not so much in your jurisdictional concern but in mine, when I vote on the County budget, which we all voted on this line item funding in this way working along with our Budget Review Office, my intention is not necessarily to seek that reimbursement unless someone can explain to me how that makes any sense where I'm granting you, you know, a thousand dollars but I'm getting five hundred back. It just doesn't seem to make sense to me, unless I'm missing something, but I don't think I am.

So what do we do from here? I guess we move forward certainly with breaking the funding, if there is future funding, breaking that funding into various line items, so that we can do the proper thing and seek the reimbursements. And I think that would be a very positive thing. And we not have known that had it not been for your audit. And I very much appreciate that. What happens with this enforcement proceeding? How does that play out?

MR. SAWICKI:
Due to the uniqueness of this situation that we revealed, uncovered for lack of a better term, I'm -- we're just going to as the Comptroller's Office, we're going to sit back and see what the Legislature and the County Executive does at this point.

LEG. D'AMARO:
Right.

MR. SAWICKI:
It's really a legal matter as to contract language, the intent. Not being an attorney, I'm going to let the attorneys fight it out.

LEG. D'AMARO:
Fair enough. There's a principle in contract law called reformation where the party against whom you're seeking to enforce a provision or the beneficiary of the provision, in this case the County, we could unilaterally change that contract provision if we so choose. And I'm not saying I'm prepared to do that today, but certainly hearing testimony from you that in fact these provisions were changed subsequently in later years, you know, I'd like to look into that and find out what the policy and reasoning behind that and was it to address this particular circumstance. So I thank you for your time.

MR. SAWICKI:
Thank you.

CHAIRMAN GREGORY:
Legislator Romaine.

LEG. ROMAINE:
Yes. Now that you've issued this audit report, to follow-up on Legislator D'Amaro's question, the collection of this money -- and this represents one year? How many years is the --

MR. SAWICKI:
Two years; '05 and '06.

LEG. ROMAINE:
'05 and '06. But you haven't done '04 and '03 and you haven't done '07 and '08.

MR. SAWICKI:
That is correct.

LEG. ROMAINE:
Right. So the potential sum could be larger.

MR. SAWICKI:
Yes.

LEG. ROMAINE:
Okay. At this point usually after an audit is issued and a finding is made that the County is owed money, putting this aside and just taking a look at the regular procedure, what would the next step be in terms of collection or making a decision in collection?

MR. SAWICKI:
The next -- for a typical audit where without all these mitigating and surrounding circumstances?

LEG. ROMAINE:
Right.

MR. SAWICKI:
We would send a demand letter within 30 days. If this agency or if any agency received continued funding from the County, we would work out a repayment deal to what the agency could afford and without hurting them financially and putting them out of business. But it would be subject to a lot of negotiation between this office and themselves.

LEG. ROMAINE:
Right. But usually the Legislature and the Executive doesn't get directly involved.

MR. SAWICKI:
Correct.

LEG. ROMAINE:
But you've recommended our involvement in this particular case.

MR. SAWICKI:
Only because after listening to the agency at the exit conference and also having a separate meeting with the Executive Director, they firmly believe that they did everything right all along the way.

LEG. ROMAINE:
Right. I understand that.

MR. SAWICKI:
And it was the intent of the Legislature to fund them with an outright grant.

LEG. ROMAINE:
I read your management letter very carefully after the that, and I was struck by the fact that some of this problem may have been caused by the instructions given by the Budget Office/County Attorney's Office/ you know, Youth Bureau to the agency in the sense that they could not maximize the amount of Federal and State Aid reimbursement. And that's something that I would ask the

Chairman, and I think that this matter should be pursued because, essentially, you're talking maybe potentially well over $2 million that may have to be repaid if a full audit was done.

This really is something in this climate that we should ask the Budget Office to come forward, and the Y to come forward and offer explanations regarding this, because Legislator D'Amaro suggested reformation, and I'm not opposed to that, but I'd like to hear all the facts surrounding that. I'd also like to understand if we do reformation for this agency, does this set a precedence for other agencies that we've demanded repayment from? Are we creating an unequal playing field in that case?

So I want to be very careful before we take action. But obviously, this is a situation of well over $2 million where someone goofed. Someone went wrong, and obviously there were people of good will on both sides. I'm sure the Y wanted to carry out these programs, they wanted to provide this service, they wanted to do the right thing, and they were oblivious to this contract provision.

Obviously the people in the Budget Office and the Youth Bureau wanted to exercise the proper oversight. But something -- something happened like Joseph Heller's novel <u>Something Happened</u>. And you have to ask yourself what was it? What was it and how many oops situations are there out there like this with other contracting agencies?

The last comment I would make is I've got to tell you, looking at this budget, I get educated more and more each day and I'm here 25 years, and I've been a Legislator and I've run a department and everyday doesn't -- I learn something else. But one of the things I'd like to see in our budget is the revenues that are coming back from the expenditures that we're making. And I think Legislator Schneiderman and Legislator D'Amaro made excellent points, we're voting on things that we think we're actually expending that money when we're not. We're expending a little less than that because there are net revenues back to the County, and that's not reflected. And there should be estimates of those net revenues, because we get a budget from the Executive, we think that these are expenditures that are being made and, in fact revenues are coming back. And I don't know where those revenues go, I assume the General Fund. And I don't know how they're accounted for for our oversight purposes.

So I'm going to be asking for that in this 2011 budget, because I think that's important information that we should have as Legislators. As far as our oversight responsibilities, the Comptroller which normally handles this because these matters are of smaller and less significant amounts, they have now suggested that this be in our hands, in the hands of the Executive. So, clearly, Mr. Chairman, maybe at our next meeting, because they're probably not prepared to answer questions today and I don't want anyone to come forward without preparation, we should have our Budget Office and anyone else from the administrative side to come forward to comment on this as well as people from the Y. Thank you very much.

CHAIRMAN GREGORY:
Just before Legislator D'Amaro, he wanted to make a comment, we have asked that the Budget Office be present today.

LEG. ROMAINE:
Oh, okay.

CHAIRMAN GREGORY:
So I don't know. I saw Mr. Naughton here. I think I saw Ms. Corso here as well. Okay. So we'll call them up after the Executive's Office and after we're finished with the Comptroller. But, right now, Legislator D'Amaro has a comment.

LEG. D'AMARO:
Yeah. Thank you again. I just want to stress that -- excuse me -- what this seems to be to me is that the County made a collective decision to fund an agency in a certain way, and that agency, at

least with the revenue going in, complied with the contract. We put it in a single line item. We did not break it up into various line items, which in hindsight was an error on the part of the County. An agency receiving the funding received it and applied it as you stated properly and appropriately. There's no allegation of anything nefarious with respect to application of the funds misspending.

And that brings me to my last point as far as a possible forgiveness or reformation of the contract if that's something we want to talk about, I'm not sure it would set -- it would set a precedent, but not necessarily a dangerous precedent in the sense that I read many of your audits and often you see reimbursements sought because funds were misapplied or not spent according to the contract and things like that. I don't recall reading an audit where funds were sought because of the net reimbursement -- the net revenue not coming back to the County.

If we chose and that's an if, if we chose to change that retroactively now, that would be a very limited circumstance. It would be a circumstance that says in subsequent years the reimbursement would not have been sought anyway due to the change in the contract provision. It seems that it was not enforced because all the parties involved never intended to seek that reimbursement anyway. And so if we chose to reverse course on that even retroactively, it would set a precedent, but again, I'm not sure it would be a precedent that would be applied in any other case, because it seems like going forward at least we are not seeking that reimbursement based on a new contract provision.

And also, it would send a message that if there are other agencies that are in that situation where we should be seeking reimbursement, and again, I think we'd have to look at every contract and send out your 30-day letter to every agency, if the collective wisdom of the County and the County Executive and this Legislature are that that was not our intent, it would certainly be less of a burden on all if we just retroactively made that change as opposed to having to come through every contract. So that's just, you know, off the top of my head, it seems to me that's the direction we may want to go, but we'll save that for another day.

MR. SAWICKI:
Legislator D'Amaro, just be aware, please, that we have conducted audits of Maryhaven and VEEB and some of the hospitals, and they indeed have netted out the revenues. So that's why I'm -- I don't mean to deflect it to the Legislature, but as the County's Chief Auditor sitting here and you're looking at the contract, I'm scratching my head and saying, "Wait a minute, why did both parties sign this contract in black and white?" We took the liberty of making you copies of each contract of each year and highlighting those clauses that we're going after.

So I hear where you're coming from and I definitely understand that it was probably the Legislative intent -- back beginning in '03, I think Maxine Postal engineered the initial funding and it was carried through. But again, we can only audit -- I don't mean to be redundant, we can only audit what's in the contract. But keep in mind, there are a lot of other agencies out there in the top 12 that we've identified they do net out the revenue.

LEG. D'AMARO:
You certainly can't fault an agency for complying with their contract.

MR. SAWICKI:
Yeah.

LEG. D'AMARO:
I give you no argument there. Just whether or not that's from a policy perspective we should continue to do that is something I think we need to talk about.

MR. SAWICKI:
Right. That's up to this body.

LEG. D'AMARO::
But your point is well taken.

MR. SAWICKI:
Thank you.

LEG. D'AMARO:
Thank you.

CHAIRMAN GREGORY:
All right. Thank you, Mr. Comptroller.

Now we're going to ask the Budget Office to come up and address us and the County Exec's Office. Okay. Good morning and it is still morning. We'll to keep it that way. Thank you for coming before us and complying with our request. We wanted to hear your feedback because I know that there was some accounts through the media or whatever in response to the Comptroller's audit. So we know that you have an opinion to voice and wanted to hear your opinion and address any concerns or questions that we may have here. Okay? So we'll let you, Mr. Dumas. Okay.

MR. DUMAS:
Thank you, Mr. Chairman members of the Legislative committee. I think we'd like to say that, you know, the Comptroller's audit is accurate in terms of the strict construction of that provision in the contract in question. I think that the administration has always taken the position that it's been the intent of the Legislature in funding agencies like this one that these awards are to be treated as fungible awards that they're not pigeonholed in a particular way.

I think it's also important to note that there's not $778,000 sitting in some interest bearing account of this agency, you know, enriching its personnel. These dollars were expended to provide services to County youth and I don't think anybody disputes that. And it has always been our interpretation that it has been your intent to see that these awards are given to the agencies and used and what we make sure of is that those funds are used to provide services and to as wide a swath of residences we can make available. And I think that, in fact, has happened in this case, and I think that historically that's how we have dealt with issues like that. If, in fact, it is not the intent of the Legislature to see that these awards are fungible awards for these agencies to use to deliver those services, then we'll take a different tact in that approach. But, you know, that's what we believe is the case here. And I think that in prior cases, I can't recall of any instance where we have sought reimbursement from an agency where there's not been an audit finding of sort of misappropriation or misuse of funds and I think the Comptroller -- and we all agree that that is not the case here and this agency does a great job. But I'm unaware of ever an instance where we have sought revenue back, you know, from an agency that had not committed some kind of fraud or negligence with respect to the funding.

I'd also like to point out that the reimbursement, if this contract were to have gone through the Department of Social Services or Health, the State and Federal reimbursements that the County can tap, there's a ceiling on the reimbursement and we're maxing out what we can get reimbursed. So whether this contract was in the Department of Social Services or Health or any other department, it would have not not have resulted in any additional reimbursements back to the County. We are maximizing every dollar that we can get from the State that's not an unlimited source of funds.

But we have agreed to realign this contract with those departments to, you know, have them in place in the event that additional funding streams become available that we can tap and we will be doing that going forward and breaking this up. So those are some of the general points we wanted to make on some of the issues that were discussed earlier.

CHAIRMAN GREGORY:
Okay. Thank you. I have a question, just a quick question. I'm trying to get -- get back to my memory during the Working Groups because I know this issue came up. Is this the agency that was funded in the Executive's budget or did we put it in?

MR. DUMAS:
The funding originally came as a member item from the Legislature in 2003. It was then -- I mean there was an existing contract with this group for very nominal dollar amount prior to that that was run through the youth agency through the Youth Bureau of less than $5,000. The Legislature added this $500,000 award in 2003. It was part of County Executive Gaffney's recommended Operating Budget for '04 and approved and has been included every year going forward.

CHAIRMAN GREGORY:
Included in the Executive's recommended budget.

MR. DUMAS:
Correct.

CHAIRMAN GREGORY:
Okay. So when you say the intent of the Legislature, it's not our -- but we didn't add it in, we pretty much complied with the request of the County Executive and I remember an extensive discussion as we were going through various contract agencies into reduce the funding, keep the level funding with '09. And, so, I like your words, but, you know, we can parse where the -- I don't want to say blame, because no one really should be blamed here, but this is the County Executive's budget, it's his agency that he funded that he sought to fund, and that's great and I've heard wonderful things. I've known people that worked there personally. They speak very highly of the organization.

But let's not politicize this. I think this is an issue that should be -- how do we construct a policy flaw if possible? Do we make changes? There seems to be some changes to the contract, so the issue may be a dead issue, but how do we go about if at all looking for reimbursement and if there are other instances or even going back further to '03 and if there are other agencies they're in a similar situation may not -- nevertheless may not be to this significant dollar amount but, you know, there may be some revenues that the County should seek reimbursement for. Legislator D'Amaro has a question.

LEG. D'AMARO:
Good morning, Mr. Dumas, welcome. Just I want to go back to something you said that the County, through those audit years, was maximized on the State Aid that it could receive, not to say that it shouldn't have been done another way, and I'm paraphrasing, I think, what you said, but the reality or the practical effect had the contract been broken down by line items through different agencies, you're saying that it would not have net any additional State Aid to the County for those audit years?

MR. DUMAS:
That's correct.

LEG. D'AMARO:
All right.

MR. DUMAS:
My understanding is that met the caps in the audit years as well.

LEG. D'AMARO:
Okay, all right. Thank you. I just wanted to clarify.

CHAIRMAN GREGORY:
Legislator Romaine.

LEG. ROMAINE:
Yes, I just want to clarify a couple of statements that were made. The first, I believe, was said was that there's been -- never been money collected, except from audits that reflected some wrongdoing or improper procedure, which is not the case here. I believe that's the statement that was made. But if I listened to the Comptroller carefully he said that several agencies that have contracts with the County net back revenues that they receive, such as the hospitals, Maryhaven and others, so that is not the case. Just I've listened to the Comptroller and, you know, maybe I'm hearing things wrongly but you just indicated that people don't really -- agencies that are found to owe the County money usually as a result of misprocedures or some wrongdoing some miscounting; something, and they have to pay it back. But the Comptroller said people pay us back all the time as a result of a contract that we have where they net revenues to us. Correct me if I'm wrong in this.

MS. CORSO:
Southside and Maryhaven were improper expenditures, they were improper --

LEG. ROMAINE:
They don't net revenues out. They don't have a contract similar to the Y?

MS. CORSO:
No, not Southside Hospital. Southside Hospital the -- Suffolk County Department of Health collects their revenues. So that revenue is in a revenue code somewhere, I think, 3401 in the budget.

LEG. ROMAINE:
But they do give back revenue back to the County.

MS. CORSO:
We collect the revenue for Southside Hospital to run Brentwood Health Center. The County does.

LEG. ROMAINE:
Right.

MS. CORSO:
It's not -- Southside Hospital's contract is not a net deficit funded contract. Maryhaven is a net deficit funded contract where you'd have gross expenses, revenues, net contract. However, the audit of Maryhaven was not a dispute of their revenue, it was a dispute of their expenditure.

LEG. ROMAINE:
I understand that. But other agencies, absent those disputes net back revenue to the County.

MS. CORSO:
Not in the way that you're discussing. What happens is an agency has, you know, Family Service League, they have a contract for -- you know, their agency contract is say $10 million, and of that, they collect revenues of say $8 million, so the net deficit, the loss that they're running is $2 million so we fund $2 million, you know, just by way of example.

LEG. ROMAINE:
And how much of -- to use that very rough example that you gave, how much is reflected in the budget lines that the Executive recommends to the Legislature?

MS. CORSO:
In the case of an agency that has State or Federal funding, they give us a report, it's called a

consolidated budget report and it has like 15 columns and shows all of the programs. As you know some of these agencies are much more extensive than the Y.

LEG. ROMAINE:
Right.

MS. CORSO:
And much more sophisticated. And they show the revenues for each of those programs and then the County only picks up the piece that is leftover after, you know, State Aid and Federal Aid and revenue.

LEG. ROMAINE:
And my question to Gail Vizzini then will be how much is reflected when we get the recommended budget from the Executive in the budget, how much is reflected? The net deficit?

MS. VIZZINI:
We reflect the net deficit. Just to comment on your comments earlier regarding showing revenue in the budget, I think what you're talking about is a direct link.

LEG. ROMAINE:
Right.

MS. VIZZINI:
Where we give Family Service League so much money for expenditures --

LEG. ROMAINE:
Right.

MS. VIZZINI:
-- and what portion of that is reimbursed. In the aggregate we try to present that to the Working Group. But in the budget there are hundreds of line items. The revenue is detailed very specifically. Granted, some of the State Aid tends to be lumped in particular categories, but there are data files available supporting the budget that show some of the -- more of the fine tuning.

LEG. ROMAINE:
Thank you. Let me just go back to something else that Legislator D'Amaro raised and that's the maxing out of Federal and State reimbursement. And I just want to get that clear. What you're saying is that in the years that this audit covered, that the ability for them to receive Federal and State Aid for daycare and for other programs that they ran, if they had run these programs under the Health or Social Service Departments, was nonexistent because, in fact, the County had reached its caps in those years. Is that correct?

MS. CORSO:
Yes. I was in touch with both the Department of Social Services and the Health Department and in those particular years we were capped.

LEG. ROMAINE:
We were capped by?

MS. CORSO:
We were capped by the State -- you have a certain level of funding that you get every year, the Medicaid cap, we were capped and we reached our cap and we got maximum reimbursement.

The other thing I have to note here is --

LEG. ROMAINE:
So you would not get any -- so this agency would not get any reimbursement whether it was under the Youth Bureau or Social Service or Health it was immaterial because you're saying we were completely capped, we were maxed out, no matter what they did we could not get anymore money for.

MS. CORSO:
Right. I think if you remember last year we actually got -- if you remember we got capped on daycare and we put 1.2 million in County funds in there so this is something that happens. You do get capped.

LEG. ROMAINE:
Okay.

MS. CORSO:
But I just want to mention to you one thing about this agency, it's very -- it's different from the typical daycare providers in DSS where I'm not sure the people that are using -- these would be the working poor. These would be the ones that, you know, say get served with a MI-HEAP. They're not the ones -- they're not going to meet the -- the people that are using this program don't seem to meet the criteria, so they're not going to reach that poverty level that's required. These are your -- these are your hardworking people. They're going to get caught and we're not -- even if there was no cap we probably would not get reimbursement as the same way that we get daycare. That being said, that program is going to get broken up in the 2011 budget and is going to be put in the different buckets. Like Ed said, just in case we are eligible we're going to put them on our State Aid claim and let the State tell us no.

LEG. ROMAINE:
I'm glad to hear you say that because at some point I was beginning to get the impression that you were negating the validity of the management letter that was issued by the Comptroller's Office regarding this. Because it would seem as if you're negating the findings of the Comptroller's Office by saying whatever he mentioned it's really not that important because we couldn't get the reimbursement anyway, wouldn't matter which agency it was processed under.

My question is we have a contract here, contract was implemented, I guess, in 2003 and moved forward from there and did not change until 2009. What happened with the oversight responsibilities for that contract? I know the County Attorney's Office, I see Ms. Bizzarro's getting ready to comment, and I appreciate that, the County Attorney's Office drafts this contract. Who is responsible for the oversight of that contract to ensure that those contract provisions are enforced and what happened in this case that early on someone said we're going to have to enforce this contract provision and the Y would have said wait a second, we've got to renegotiate. Because I think Presiding Officer Lindsay said it best; it's five, six years after the fact they owe 2, $3, million, that agency is destroyed. It doesn't have that money sitting around, we understand that. But who was the responsible -- who was responsible for oversight and what happened with oversight in this particular case, if you know that answer to that question?

MS. BIZZARRO:
I know that the oversight department is the Youth Bureau and I can't comment on what happened in this regard. Only the Youth Bureau can do that. And I just want to mention that the contract may have been revised somewhat in 2009, but the language that we're all discussing is still in the contract today. So I just want to make that clear.

LEG. ROMAINE:
So potentially there's a potential for 3 to $4 million now because of that language. Let me ask since you've decided to bravely take the microphone, let me ask you this question.

CHAIRMAN GREGORY:
Easy now she is a constituent of mine.

LEG. ROMAINE:
No, no, no. That's all right -- go very easy. But this language that's in this contract, in the Y's contract, is that standard language for other not-for-profits?

MS. BIZZARRO:
It's standard language, yes, in the omnibus contract. Correct.

LEG. ROMAINE:
It's standard language. Your office has been involved in drafting this language, reviewing this language and let me ask you this, and you probably can't answer this; are we equally enforcing that language in -- standard language as you said in all contracts, are we enforcing this language against all other not-for-profits to the best of your ability?

MS. BIZZARRO:
Again, it's really up to the departments to did that, and I think Comptroller Sawicki stated that other organizations do have -- you know, are complying with the provision.

LEG. ROMAINE:
Okay. You've negotiated these contracts, all right, I assume your office has. Have you ever heard of an instance where a not-for-profit has raised a concern about this language?

MS. BIZZARRO:
I don't know of any. I do not know of any.

LEG. ROMAINE:
You don't know of any until this audit was --

MS. BIZZARRO:
Until this audit. Correct.

LEG. ROMAINE:
-- audit was done. And you believe that most not-for-profits, since this is standard language in contracts for not-for-profits, that most not-for-profits are complying with this language.

MS. BIZZARRO:
I can't comment on that. As I said, it's the departments that are there to enforce the contracts. I'm just going by what Comptroller Sawicki stated to the Legislature today.

LEG. ROMAINE:
Well, you know, then I hate to put the administration on the spot, are your department heads enforcing this language? And I would ask that -- I guess through our Deputy County Executive for finance.

MS. CORSO:
They're legally required to, are they not? I mean that's in the contract. So I would believe that our County employees are reading their contracts while they're paying their vouchers and sending their vouchers to the Department of Audit and Control. I would assume that they were following the procedures that are clearly written in those contracts. Now how this one slipped through the crack I have no idea but the bottom line is here, we would -- nearly -- all we would need to do is a budget modification to have the full expenditures of the agency, the full revenues of the agency and the net deficit. And I'm going to tell you right now, when I go back to my office I'm going to make

sure this happens with that agency.

LEG. ROMAINE:
I assume what you're going to do also, just as a recommendation, might be an All The Department Heads memo that would state in simple terms, this standard language, because I'm told it's standard language in all contract, reminding department heads that if they do have not-for-profits that they do business with that they have oversight of, that this standard language should be enforced. Is that something that you would consider?

MS. CORSO:
I actually think that I should consider one step further --

LEG. ROMAINE:
Okay.

MS. CORSO:
-- and alert the contract agencies that this is the practice that we are now, you know, going to be enforcing, and that they should take a very strong look at their contracts and make sure that they are complying. Because I am going to tell you, this is going to have a rippling effect through that contract agency world, because the bottom line here is this agency did not make a profit. They do not have this money sitting in the bank.

LEG. ROMAINE:
No, I understand that.

MS. CORSO:
They spent this money on very needed services in the community.

LEG. ROMAINE:
I understand that also.

MS. CORSO:
They don't have the money to pay this back.

LEG. ROMAINE:
And this is something that perhaps Legislators as they have discussions amongst themselves have to talk because this type of language and Legislators per se we set policy, we don't get involved in contract language, but this type of language could have a chilling effect on not-for-profit operations, and the ability to deliver services that are needed. The only alternative of not-for-profits would be to actually employ and deliver those services ourselves as a County government, which I don't believe would be cost effective. And we -- and I'm aware of the situation that the Presiding Officer spoke with about those who provide homeless shelters. Many of those people are complaining about a whole host of things, and a lot of these contract agencies may be out of business. May not be able to provide these services. This contract language may be so restrictive in essence because unlike, you know, none of these run at tremendous profits, these are not or non-for- profits. Thank you very much, Mr. Chairman.

CHAIRMAN GREGORY:
Presiding Officer Lindsay.

P.O. LINDSAY:
And I don't mean to be repetitive, but just to get my arms around this problem, the audit -- the Comptroller does an audit of this agency, and finds that the agency owes us $700,000 because they didn't -- they didn't comply with the language in the contract to claim any Federal or State Aid to subsidize these programs. Was that the issue?

MS. CORSO:
No, no, no. They're saying that what happened was, I guess, there's five programs in this particular agency and the camp charged revenue. So, in essence, the camp made a profit, but the other four programs ran a deficit so they used that revenue from the camp to offset the losses for the daycare and all the other things that were happening. It has nothing to do with Federal and State Aid.

P.O. LINDSAY:
But where does the issue comes in where there was no reclamation from aid, that Mr. Dumas talked about?

MS. CORSO:
I think that they're -- the audit in the -- I think it's the management letter states that the agency if they were under the Health Department or DSS they would of been eligible for revenue -- for State Aid and that -- in those particular years it was capped. I think it's capped even this year and last year.

P.O. LINDSAY:
Okay. But my point is that's in the contract.

MS. CORSO:
Right. But that has nothing to do with the audit. That's not what they're getting -- that's not what they're getting -- want back. They want back the revenue that was collected on the camp.

P.O. LINDSAY:
Then I probably misunderstood this then. I thought there was a lack of reclamation of aid, which was capped anyway.

MS. CORSO:
No. What happened was the agency collected revenues on a particular program and should have offset them in the contract and given them back to the County. So say in this particular case the program is $3 million and we gave them $500,000, so say on the $500,000 piece, I guess they're saying the camp collected revenues in excess of $500,000, so they should have given us that excess money back. But instead what the agency did was used it to offset other programs that they run.

P.O. LINDSAY:
Is this a contract language problem?

MS. CORSO:
It's a contract language problem in that the way that the line item budget was written it didn't say gross, less revenue and net. I believe -- I mean, and we don't have the ability to do that if there was a budget modification that included all of the agencies expenditures, all of the agencies revenues that in the end you would have a net deficit and that's what the County could have funded.

P.O. LINDSAY:
Okay. Mr. Dumas, is the County Executive contemplating some kind of Legislative resolution to this audit?

MR. DUMAS:
He'd certainly like for us to discuss what the intention is. And the contract provision in question, the one that has resulted in this problem, is something that was in the uniform contract for years prior to this administration and we continued using the model contract.

P.O. LINDSAY:
Okay. But it's a problem that's generated from the Executive branch. I'm asking is the Executive

branch going to come over with a remedy?

MR. DUMAS:
We'd like to meet with the Legislature or a small group of Legislators to discuss what it is we could do together. I mean, we're trying to interpret the intent of the Legislature.

P.O. LINDSAY:
The only thing that I'm going to say to you is what -- you made a statement before that there was no fault to this finding, it was -- there's no criminality here and no intent to defraud the County or whatever and that makes this case rare. It isn't rare. We had a finding last year of $700,000 against Penates, a homeless shelter provider, that still provides services for homeless people today and we're deducting $10,000 a month out of their contract. So, if you're going to fashion a remedy for this agency, you better look at that agency as well.

MS. CORSO:
But this is completely different situation than that, I'm sorry, it's a completely different situation than that.

P.O. LINDSAY:
Not what Mr. Dumas described, there was no criminality. There was no fault here.

MS. CORSO:
Yeah, but that was -- in Penates it's again an expenditure issue, not a revenue issue. To me this is the first revenue -- an audit that said that the -- from what I can remember, I don't remember another one to be honest.

P.O. LINDSAY:
There is something wrong with a process that five years after the fact goes in and tells a not-for-profit that "you didn't do anything criminally wrong, but your paperwork isn't right and you owe us back $700,000." There's something wrong with that because what we're doing is we're hurting ourselves.

MS. CORSO:
I agree with you.

P.O. LINDSAY:
We're going to put agencies out of business that provide a vital service to our citizens that we can't provide.

MS. CORSO:
This was a -- this isn't -- audit and comptroller. I'm sitting here telling you that this is going to have a rippling effect through the contract agency world, let me tell you.

P.O. LINDSAY:
And what I'm pointing for you is if the Executive Branch is going to fashion some resolution they better do it more globally than just with one contract.

MR. DUMAS:
The resolution would have to be a change to the contract and that's something that we would like to discuss with the members of the Legislature if you agree. And we don't disagree with the notion that in -- we're talking about a specific case where you had a program that charged a fee for a particular service so there was another revenue stream that became included. It's not like any situation that has been mentioned here today. I believe it is -- it is different. And that our interpretation all along has been that we're going to work with agencies for that very reason. We don't seek to penalize them for issues like this. And if it is determined that we should change the

contract language to reflect that, then we'll certainly entertain that.

P.O. LINDSAY:
In all due respect, I don't see any help coming forward for Penates from the Department of Social Services or from anybody else.

MS. CORSO:
Because they had a problem with the service delivery. This is different.

P.O. LINDSAY:
They had a problem -- I don't understand the audit and certainly the Comptroller does. The bottom line is that there was no intent to defraud the County in any way, shape or form there.

MS. CORSO:
Right, but in Penates there was. That's the difference.

P.O. LINDSAY:
There was not.

MS. BIZZARRO:
We have litigation right now going on with Penates.

P.O. LINDSAY:
Then you're going to have more litigation if you keep coming back five years after the fact for these not-for-profits to want this money back because they're up against the wall. They're going to go out of business if they don't sue us.

MS. BIZZARRO:
We didn't do the audit. That is a different situation than you have here. Here it's just a revenue stream. What happened was my understanding is that there was a program that made money, they made more money than they were receiving and they utilized the money for other programs, other eligible programs and that's the problem and the contract language just didn't allow for that to be without a budget modification to be made.

That's not what you had in Penates. It's just a completely different situation. So, you know, it's more of a policy decision between the County Exec's Office and the Legislature as to whether or not you want to change that language from a going forward basis and that's up to everyone here.

P.O. LINDSAY:
Well, going forward, I think it's more than a policy, I think it's a question for the Law Department. Getting people to sign a contract that's not enforceable or isn't the intent of what the agency is doing, then I think you should change the contract. But that doesn't help in retrospect.

MS. CORSO:
No, I mean, I have to talk to Law about is there an ability to amend those contracts retrospectively and have it be -- have the revenues net off. I mean, like Ed said, we would like to do this together -- that what you want to see. I mean, that's what can happen, that can rectify a piece of the audit.

MS. BIZZARO:
Whatever everybody decides from a policy decision, we certainly can make those changes. We can make whatever amendments are needed to the contracts. That's not an issue.

P.O. LINDSAY:
But why were you submitting a contract that the agency couldn't comply with?

MS. BIZZARO:
We did not know that they were not reading their contract and that's a problem. Other agencies were reading them so how do we know?

P.O. LINDSAY:
But Mr. Dumas said that the contract, you know, couldn't be complied with but yet we're still putting out that contract.

MS. BIZZARO:
It could be complied with and it has been complied with. Like I say, these organizations they have attorneys, they are supposed to read their contracts and know what they say. We negotiate in good faith, we assume they negotiate in good faith, everyone knows what the contract says. Do all of the agencies read the contracts, I'm going to guess no, but I don't know that. I just encourage read your contract, know what it says. And know that you have to comply with it. We all have obligations.

CHAIRMAN GREGORY:
Legislator D'Amaro. You finished? I'm sorry, are you finished? Okay.

LEG. D'AMARO:
Very quickly to BRO, we net fund contracts meaning that we really operate on a reimbursement. When we authorize funding in a budget to a contract agency, they're required to go out and expend funds and then seek reimbursement and then that's why we do the offset with revenue or should.

MS. VIZZINI:
Generally speaking, yes.

LEG. D'AMARO:
Generally speaking. How much do we gross fund or authorize as compared to what we actually expend because of the offset? What's the difference? What's the amount of revenue coming back to the County from this type of reimbursement of revenue? Just big picture, looking at it from a larger perspective. Or you can express it as a percentage, you know.

MS. VIZZINI:
It depends on -- as you know from the working group, depending on what department these contract agencies are placed in. Domestic violence agencies typically we maximize the reimbursement there. They're funded through Social Services because domestic violence is a 100% reimbursed give or take your caps.

LEG. D'AMARO:
No, no, I'm not talking about the State reimbursement. I'm talking about the revenue from the agency itself.

MS. VIZZINI:
Oh, you mean if -- fees or something like that.

LEG. D'AMARO:
If we authorize a $1,000 and they generate $800, we net fund $200 to that agency; if I understand this correctly. So how much are we getting back from that revenue stream from the agencies themselves?

MS. CORSO:
You're not actually getting it back because the -- what's the agency supposed to do is say, like I said with this particular program, it's

a --

LEG. D'AMARO:
I understand that. I know we're not --

MS. CORSO:
So we don't get anything back to the County.

LEG. D'AMARO:
I understand that. I'm just asking what is the impact of the revenue generated by the agencies that's supposed to come back to the County on what we actually authorize? Big picture. We fund all contract agencies X amount of dollars. Every one of those contract agencies has a contract that says if you generate revenue it needs to come back in the form of an offset to the County before we'll give you the funding. What's that amount?

MS. VIZZINI:
What the County is saying is; if it costs you a $100 to run your program, but you're going to charge $50 in fees, just come to us for the 50.

LEG. D'AMARO:
Correct. So what is the impact of the fees on our budget either in a percentage amount or a dollar amount?

MS. VIZZINI:
In the case of this agency we would have been funding them less money because that program was profitable.

LEG. D'AMARO:
I understand that.

MS. VIZZINI:
Right.

LEG. D'AMARO:
So I'm just trying to look a little beyond and I'm not going to take up more time on this, but if we made a policy decision to delete this provision from all contracts, what would be the impact on our revenue, on the budget itself?

MS. VIZZINI:
Well, I'm hoping that most of the agencies are in full compliance and therefore they're only coming to us for their deficits.

LEG. D'AMARO:
Right. So what would be --

MS. VIZZINI:
So in that regard it could be minimal.

LEG. D'AMARO:
Do you track? In other words -- you're giving me the right answer, but I'm looking for specifically the fiscal impact, the dollar amount or expressed as a term of percentage. In other words, if we deleted this provision from contracts and some of these agencies are, in fact, reimbursing us, we're going to be picking up the full tab as opposed to netting the aid. So I'd want to know what the impact -- we can save this for another day, but I'd like to know what that impact would be because

in the end taxpayers are going to be picking up that tab and I want to know what that amount is. We can save that for a later time.

MS. VIZZINI:
We don't know right now.

LEG. D'AMARO:
Okay.

MS. VIZZINI:
We will confer. If we can give it to you, we'll give you some semblance, but it's not --

LEG. D'AMARO:
I think we're going to have to know that.

MS. VIZZINI:
Sure.

LEG. D'AMARO:
Because if it turns out that it's, you know, very substantial -- that's right, that's exactly right. I'm not saying not to do it, I'm just saying we have to know what that impact is going to be at some point. If we're going to say to contract agencies, "you don't need to give us back revenue as per this provision," well, you know, so then how is that affecting, now I'm funding a 100% all the time, what's that impact?

MS. CORSO:
I think under General Municipal Law we can't do that because you can't give a gift of funds. So you'd have to -- you can't -- somebody can't profit off the County's dime.

MS. BIZZARO:
Yeah, I mean, I don't think you'd be deleting this provision, but you certainly would be revising it --

LEG. D'AMARO:
So we couldn't do that.

MS. BIZZARO:
-- to the extent of saying, yes, if you have other programs and the money could be used elsewhere. This is what you have to do, you know.

LEG. D'AMARO:
Fair enough. So we need to talk that through and do it the right way.

MS. BIZZARO:
Right, you have to really talk it through, right.

LEG. D'AMARO:
No problem. All right.

My other question was just, Connie, you had mentioned that if you go forward and break up this funding as per complying with the audit, let's say, into different agencies and line items for the purposes of if the funding is available then we can receive it or apply for it, would that cause our grant not to reach the people that it's intended to reach?

MS. CORSO:
No. I think what we'll do is it'll still be with the Y and it'll still be serving the people at the Y. But the

oversight would be through the Health Department for the one before, I think there's a, like a handicapped child component so that would go under, you know, the bureau. There's a piece of daycare even though it doesn't meet the federal guidelines of DSS, we'll still put it under DSS because they're the ones who run most of the daycare for the County.

LEG. D'AMARO:
So the funding will continue to flow as per the Y's use of that funding. However, they may or may not get the reimbursement.

MS. CORSO:
Well, what's going to happen is, number one, they're contracts are going to be net deficit. So whatever fees you collect on a particular program, they better show up on the budget when I get it. And whatever is the real net deficit for that particular year we will consider funding in 2011. Remember, everybody's, you know, people are considered for funding. So if I get a budget that we feel is legal and a true net deficit for YMCA then we'll put it in the budget for you to consider.

LEG. D'AMARO:
But would that then prevent -- take exactly this case where maybe one program did run a surplus, would that prevent that surplus from offsetting another program because now it would be required to come back to the County?

MS. CORSO:
Actually it'll be like -- what'll happen is, that program will be funded less and the other programs will be funded more. So you'll see the five programs show up. So in the end it'll probably equal the 500,000 but you'll have -- the camp will run it.

LEG. D'AMARO:
It's just semantics at that point.

MS. CORSO:
That's it.

LEG. D'AMARO:
Okay, thank you.

CHAIRMAN GREGORY:
Okay. Just another question or two. I'm slightly at a loss because it seems to be that your argument was that we shouldn't seek reimbursement, that the language is in the contract for the return of these revenues. It continues to be in the contract. But then now you're saying that -- that you will be seeking refunds or net deficit. Go ahead.

MS. CORSO:
What I'm saying is the revenues that came in were used to offset the losses in the other five programs. So now you're going to break that contract up into five. The program that's making a profit; maybe they'll get no funding because maybe they're self-sustainable if there is such a thing in the non-for-profit world. And we may only fund those four that are running at the deficit.

CHAIRMAN GREGORY:
Okay, so -- all right, good. Now the language in the contract I'm not understanding that.

MS. CORSO:
They're going to need to comply. I mean, that is General Municipal Law. What would happen is if we did a budget modification for, say, 2003, 2004, whatever years we're talking about, and you require the agency to put all their programs that they run, all the revenues that they've come in,

what is the true net deficit of that? You would see that the agency ran a deficit. Whether it's to the tune of what we think and I think what happened was, there's not 700,000 sitting in a bank account, they used it for the program. So you're going to see that, you know, year to year to year, the way the budget was written is just -- we just took one component. If we modify it and we take all the components, if you look globally at the agency and we're doing this with Cornell. You do globally all the revenues and the true net deficit; there probably wouldn't of been an issue.

CHAIRMAN GREGORY:
Okay, I understand that. But there was a comment earlier that you wanted to come up with an agreement with the Legislature and the Executive's Office with language pertaining to the contract. Now we didn't as a body, we didn't have any input in any contracts, but specifically this contract. So why would you bring us in at this point? This is something that the administration's -- responsibility so you guys can do it unilaterally. You don't need our --

MS. CORSO:
Right. And we will.

CHAIRMAN GREGORY:
Okay.

MS. CORSO:
To the extent that we can comply with General Municipal Law, we will look at the language.

CHAIRMAN GREGORY:
Okay. That's all, all right. Legislator Lindsay.

P.O. LINDSAY:
I have a question on a different issue.

CHAIRMAN GREGORY:
Okay, sure.

P.O. LINDSAY:
Different issue and maybe Mr. Naughton would know this, how is the early retirement going? How many people do we have -- have signed up for it?

MR. NAUGHTON:
As of -- as it ended yesterday, 471 people applied. Included in that group is some people who we had considered as part of our excluded list so the real number's probably closer to about 400.

P.O. LINDSAY:
There was an appeal before by a representative from AME to extend the period of time; that we can't process the amount of applications for retirement?

MR. NAUGHTON:
Our office has no problem processing the applicants that we're receiving. So I don't know where that came from.

P.O. LINDSAY:
The other thing, of course, is the debate we had the morning or the day of the 22nd about the retirement, your impact study showed a loss of $7,391,000 over the seven years from ten to 16 of the early retirement. And that afternoon you submitted to the press for the same period a surplus of $8 million seven hundred and ninety six. That's a $15 million swing, $16 million swing in probably eight hours. How'd you do that.

MR. NAUGHTON:
What we presented to the Legislature was an extremely conservative approach of looking at the numbers. We did not show in the case of when there is no early retirement the amount of backfill that there normally would of been because we don't have a set policy in terms of how many people we actually backfill. But under early retirement we have stated that we are only going to backfill 20%. So that is a guaranteed savings. So we did not want to mislead you or overstate the situation. But in hindsight and looking at I realize that in a normal situation we probably backfill at least one in two if not even greater, which means that under early retirement you generate an extremely greater amount of savings and I would stick with my revised number of over $8 million in savings.

P.O. LINDSAY:
What were the circumstance that brought around that $16 million turnaround?

MR. NAUGHTON:
The reporter asked us a question about it and we said, well, you know, what we presented to the Leg was extremely conservative. The Legislature still approved it even though they thought that there could be a deficit. But the truth of the matter is we will save money.

P.O. LINDSAY:
I think the fact of the matter is that we all know we don't have a choice. That we have to do something for next year and the characterizations by the Executive's press department that myself particularly in this Legislature *doesn't care about the taxpayers* and that's when we voted it down on the 22nd, we had to rehash this out on the 7th. I mean, the point that I was making that day is your first financial disclosure form showed that we're not saving money for the taxpayers with this program. It was changed in the afternoon that we are and I just thought that was masterful of an accounting job of turning something around $16 million in eight hours.

MR. NAUGHTON:
When you do these type of analysis I think there's various assumptions that you look at and, you know, we've worked with Budget Review to sort of like say what the right numbers could be and try not to get into a major debate of what it could be, what it couldn't be. We wanted to make sure that you had sort of a full picture and you can look at it anyway that you choose. But the truth of the matter is we know that we are going to save $12 million next year. And by sticking with a strict backfill policy we are going to generate the savings -- we'll save more money than it will actually cost us.

P.O. LINDSAY:
That's what I love about economists, you know, they're just wonderful. Gail, maybe you could explain the $16 million. How did that happen?

LEG. ROMAINE:
Slight of hand.

MS. VIZZINI:
Well, it's fairly consistent with what Eric is saying. Both offices try very hard to demonstrate only the savings or costs associated with early retirement. But that's only one of many things that's going on in the County. There are costs in the sense that we have to pay -- that we do have to pay the retirement system a little bit more. And, as a matter of fact, other times we actually thought that over the whole tenure, over the three to five years, this is something that costs us. But it boils down to your assumptions and your backfill. When you have 400 and -- 400 plus people leaving in, you know, by the end of August that is going to put come considerable stress on County operations.

What Eric is saying is that anybody who leaves for other than early retirement because we know that we're only going to backfill 20% of the early retirement savings and there definitely is a savings in the 2011 budget and probably dribbling into the 2012. But what he is saying is the people are going to leave under normal circumstances and they are going to only fill half of anybody else who leaves for any other reason. That allows you to have your cost associated with early retirement less those savings so overall he can show a savings from that.

P.O. LINDSAY:
So the first assumption in the morning and showed $7 million in change lost assumed a 100% backfill of those that retire outside of the early retirement program.

MS. VIZZINI:
In a sense because that actually -- the methodology was what does early retirement costs netting out anybody who leaves for any other reasons. So there was there was no value that was deducted from their $7.4 million costs.

P.O. LINDSAY:
Do you think it's realistic if we're shedding 400 so far and it could grow. Right? What do you think, Mr. Naughton, do you think it could grow beyond the 400?

MR. NAUGHTON:
We're getting more applications everyday. But just to make it clear, we have not decided that we are going to allow all 400 of those people to leave, that's the number of people who've actually truly applied that we're considering.

P.O. LINDSAY:
What do you think -- what is your estimate of the final number?

MR. NAUGHTON:
Our assumption is that it will be 400.

P.O. LINDSAY:
That it will be at least 400.

MR. NAUGHTON:
Yes.

P.O. LINDSAY:
Okay. But shedding 400 employees and then for the next five years adhering to a policy that we're only going to replace half of every other County employee that retires; are we going to be able to function?

MR. NAUGHTON:
I think considering we have to look at the economy what can we actually afford, what services we can provide. And as we stated back when we voted on early retirement; the alternative is probably layoffs. And if you do layoffs, clearly you're not hiring in that situation so this is a situation we think is clearer. It's a better situation for the employees and we are going to manage. There are going to be some instances we we're going to have to prioritize out services and we will make those necessary adjustments.

P.O. LINDSAY:
Sounds good. I hope we can do it.

I think the disconnect here and maybe you could take it back to the Executive, especially his press office, before he starts beating us up about taking money out of the taxpayers pocket because we didn't vote for the early retirement the first time, maybe you should do more of a reasonable estimate of what we gain or lose by this program and talk about this on a policy level instead of a public relations level where two or three press releases go out a day beating up this body. And maybe we could get something done instead of a swing of $16 million in eight hours.

CHAIRMAN GREGORY:
This is the first I'm hearing of this that you're only -- you're going to be considering 50% backfill of those positions outside of the early retirement?

MR. NAUGHTON:
I think if -- people who have been here around for a while they know how tough it is to get SCINs approved.

CHAIRMAN GREGORY:
I haven't been around here that long and I understand that policy.

MR. NAUGHTON:
Okay. There's, you know, tons of vacancies in many of the departments. We can only pay for what we can afford. And we have to look at each situation as they arise.

CHAIRMAN GREGORY:
I understand that, but you stated that there's a policy that you're only going --

MS. CORSO:
Not policy just average.

CHAIRMAN GREGORY:
The average what?

MS. CORSO:
That's the average backfill. That's always been the average backfill.

CHAIRMAN GREGORY:
That's always, so --

MS. CORSO:
We just took an average of the backfill for the last several years, 50% is just an average. Just on any given year that's an average.

CHAIRMAN GREGORY:
Okay. So if that's the average how are we expecting more savings when it's already a conditioned, it's already set by the circumstances?

MR. NAUGHTON:
No, what we were saying is that --

CHAIRMAN GREGORY:
If we were filling 80% of those outside the ERI and we dropped it to say, 50%, I could say yeah, we're 30% savings. But you're saying it's the same conditions, you apply the ERI, but somehow we have a $16 million swing. I don't understand that.

MR. NAUGHTON:
No, what I was saying was that when you looked at the earlier fiscal impact statement that we provided, we -- because there was no stated policy we showed zero for backfill under normal situation when in fact it actually should have been 50%. So therefore, when you look at the difference between the impact of early retirement versus retirement the original scenario showed a,

you know, a loss. When in fact under what the general practice is it's a 50% backfill normally so therefore, yes, you get greater savings by doing early retirement.

CHAIRMAN GREGORY:
Okay, all right. Anybody else? Okay. Thank you for your time. All right. Let's get to agenda. We have tabled resolutions.

TABLED RESOLUTIONS

1198 - Reducing Home Energy Taxes on Suffolk County Residents. (Schneiderman)

LEG. SCHNEIDERMAN:
Motion to table.

CHAIRMAN GREGORY:
Motion to table, second.

LEG. D'AMARO:
On the motion.

CHAIRMAN GREGORY:
Legislator D'Amaro.

LEG. D'AMARO:
I had a question for BRO on this. Last time this resolution came up -- oh, my apologies. Sorry.

CHAIRMAN GREGORY:
Okay. All right. We have first, a second. All in favor? Opposed? Abstentions? **TABLED. (VOTE: 4-0-0-1 Not Present: Legis. Losquadro)**

IR 1368 - Adopting a Smart Government Plan to address budget shortfalls to prevent property tax increases. (Co. Exec. Levy) Motion to table.

LEG. SCHNEIDERMAN:
Second.

CHAIRMAN GREGORY:
Second by Legislator Schneiderman. All in favor? Opposed? Abstentions?

LEG. ROMAINE:
Please note my recusal on this resolution.

CHAIRMAN GREGORY:
TABLED. (VOTE: 3-0-0-1-1 Not Present: Legis. Losquadro - Recused: Legis. Romaine)

IR 1629 - Of the Suffolk County Legislature electing a cents per gallon rate of sales and compensating use taxes on motor fuel and diesel fuel, in lieu of the percentage rate of such taxes pursuant to the Authority of Article 29 of the Tax Law of the State of New York. (Muratore)

CHAIRMAN GREGORY:
I make a motion to table, second by Legislator Schneiderman.

LEG. D'AMARO:

That one on the motion.

CHAIRMAN GREGORY:
On the motion, Legislator D'Amaro.

LEG. D'AMARO:
Yes, thank you, Mr. Chair. I have a question to the Budget Review Office. You issued a fiscal impact statement on this, and at the bottom of the first page in paragraph three, representation was made about the projected losses should this bill be approved, loss in revenue to the County that is, and it stated for 2010 based on actual data for only one quarter and a projection for the rest of the year, the full year loss is estimated to be 3.3 million.

It also said that for 2008, it was close to zero projected revenue loss. Have the 2010 numbers been updated on that?

MS. VIZZINI:
No, we haven't updated the fiscal impact on this.

LEG. D'AMARO:
Okay. And then, of course, on the second page you talk about the further fiscal impact statement that would actually be -- or would be projected to be -- would be incurred because this bill would not take effect until March 1.

Anyway my point is, as I stated last time on the record, that since there's some years where there was no revenue that would have been impacted by the enactment of this bill, and certainly much less revenue then in prior years would be deducted from the County coming into the County. This may be exactly the right time to enact a bill like this. So I'm not going to support the tabling motion.

CHAIRMAN GREGORY:
Okay. We have a tabling motion, so any other motions?

LEG. SCHNEIDERMAN:
I'll just make a quick comment, you know, because I just tabled my own bill, 1198, that dealt with the home energy tax. You know, I did that in the spirit of cooperation in trying to find solutions for dealing with an enormous budget deficit we face, wanting to ease the burden on our residents. And clearly one way to do that is decreasing this surcharge on their utilities. Everybody depends upon home heat and other utilities; electricity.

You know, placing a tax there clearly hurts everyone, whereas, gasoline as much as there might be some stimulatory affects on the economy by reducing the tax there, clearly that is a tax that is paid in large part by people who aren't our residents, who aren't paying property taxes, who are visiting the area, traveling through the area. And so if we're going to give relief in the form of tax relief, it ought to be something that is going to benefit those people who need the relief the most.

So I personally would favor something that, you know, would either be a property tax relief or something like energy that will affect property owners. So I'll continue to support that tabling motion. If we're going to provide relief, we should do it in the most efficient way, the way that's going to benefit the most people. Thank you.

CHAIRMAN GREGORY:
I agree. I think that any relief regarding taxes should be first prioritized towards our residents than those that are outside of the County second. Legislator D'Amaro.

LEG. D'AMARO:

I don't disagree with that either. And I think both would accomplish that. However, my only point voting against the tabling on the gasoline -- the cap on the tax on gasoline are $3 a gallon is that it is not bringing in substantial revenue at this time. So we are, in effect, really living without it and this would be a good time to impose that type of fiscal constraint. As opposed to the energy tax, which I think the revenue loss would be estimated at -- looking at the fiscal impact statement -- about 24.1 million in 2012. That's money that in funding that we're using right now as opposed to from the gas tax. If we impose the cap now when we're not dependent on that revenue, should prices skyrocket where we're going to incur additional revenue because of the higher cost of gasoline, which is exactly the time that you want to keep the money in the residents' pocket. So my only point is as a practical matter, the revenue stream generated from the gas tax is substantially lower then from the energy tax.

LEG. SCHNEIDERMAN:
You're basically saying you're going to support it because it's really not going to do much.

LEG. D'AMARO:
Well, no. I'm supporting it because it's a good time to not depend on that revenue going forward, especially in crafting a budget.

LEG. SCHNEIDERMAN:
But it could prove to be a very useful stream of revenue in the future if gasoline goes back where it was.

LEG. D'AMARO:
No revenue is never not useful.

LEG. SCHNEIDERMAN:
Another point that's been made to criticize 1198 with the energy tax is, well, how are we going to make up that money. You know, we don't know obviously until we go through a budget cycle and try to find ways. Nobody wants to increase property taxes. But a point that was made is that, you know, property taxes are in part deductible whereas the energy tax is not. So there might be some relief, but that would require obviously this body to, you know, to look at those alternatives and make a wise decision.

But I don't know where you make up the lost revenue with 1368 on the gasoline. Again, a lot of it would be revenue that was coming from outside of our area into our economy. I don't know where -- we might have to make up even more, place an even larger burden on our taxpayers to replace that revenue. So we'll just see how the vote goes. But I don't support -- I'll support the tabling at this point.

CHAIRMAN GREGORY:
Okay. We have a motion to table. All in favor? Opposed? Abstentions?

LEG. D'AMARO:
Opposed.

LEG. ROMAINE:
Opposed.

CHAIRMAN GREGORY:
Okay. It fails.

LEG. ROMAINE:
Motion to approve.

LEG. D'AMARO:
Second.

CHAIRMAN GREGORY:
Okay. All in favor?

LEG. SCHNEIDERMAN:
I'm going to make a motion to reconsider the tabling.

CHAIRMAN GREGORY:
All right. We have a motion to approve. Who made the motion?

LEG. ROMAINE:
I made the motion.

CHAIRMAN GREGORY:
Seconded by Legislator D'Amaro. The legislative cabal is in effect. I'm only kidding. I always wanted to use that term so excuse me.

LEG. D'AMARO:
Just on the motion. I appreciate the bipartisan support for this legislation. I think it's the proper direction we need to take. And, certainly, again, my justification for supporting it is that we're not really depending on this revenue right now and it's a good time to put those cuffs on, so to speak.

CHAIRMAN GREGORY:
Okay. First, second. All in favor? Opposed? Abstentions? All right, all right. **APPROVED (VOTE: 3-1-0-1 - Opposed - Legis. Gregory; Not present - Legis. Losquadro)**

INTRODUCTORY RESOLUTIONS

1701 - Amending the 2010 Operating Budget and appropriating funds in connection with bonding a settlement for a Bus Liability case. (Co. Exec. Levy) I make a motion to approve.

LEG. D'AMARO:
Second.

CHAIRMAN GREGORY:
Second by Legislator D'Amaro. Any questions?

LEG. ROMAINE:
What was our liability? What happened in this case?

CHAIRMAN GREGORY:
We'll probably have to go to executive session? Oh, no you can, okay. All right, Lynne, please, Ms. Bizzarro.

MS. BIZZARRO:
The only comments I have on this is that the Ways and Means Committee on May 5th of this year, this matter was approved for settlement in the amount of $425,000. If you have any further questions I'll be happy to speak with you in executive session regarding it.

CHAIRMAN GREGORY:
All right, thank you. All in favor? Opposed? Abstentions? Okay. **APPROVED (VOTE 4-0-0-1 - Not present - Legis. Losquadro)**

IR 1709 - Adopting Local Law No.   -2010, A Charter Law to implement a one-year rolling debt policy under 5-25-5 Law to mitigate budgetary shortfall. (Co. Exec. Levy) I make a motion to table for public hearing.

LEG. D'AMARO:
Second.

CHAIRMAN GREGORY:
Second by Legislator D'Amaro. All in favor? Opposed? Abstentions? **TABLED FOR PUBLIC HEARING (VOTE 4-0-0-1 - Not Present - Legis. Losquadro)**

IR 1710 - Adopting Local Law No.   -2010, A Charter Law to implement a one-year rolling debt policy in 2011 under 5-25-5 Law to mitigate budgetary shortfall. (Co. Exec. Levy) I make a motion to table for public hearing.

LEG. D'AMARO:
Second.

CHAIRMAN GREGORY:
Second by Legislator D'Amaro. All in favor? Opposed? Abstentions?
TABLED FOR PUBLIC HEARING (VOTE 4-0-0-1 - Not Present - Legis. Losquadro)

We have no further business so thank you. We are adjourned.

(*THE MEETING WAS ADJOURNED AT 11:58 A.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY