CONSUMER PROTECTION COMMITTEE

of the

SUFFOLK COUNTY LEGISLATURE

Minutes

A regular meeting of the Consumer Protection 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 February 28, 2008.

MEMBERS PRESENT:
Legislator Lynne C. Nowick, Chairwoman
Legislator Elie Mystal, Vice Chair
Legislator Thomas F. Barraga
Legislator Kate M. Browning
Legislator Jack Eddington

ALSO PRESENT:
William J. Lindsay, Presiding Officer/Eighth District
Legislator Brian Beedenbender, Fourth District
George Nolan, Counsel to the Legislature
Ben Zwirn, Deputy County Executive
Charles Gardner, Director of Consumer Affairs
Renee Ortiz, Chief Deputy Clerk of the Legislature
Barbara LoMoriello, Deputy Clerk of the Legislature
Debra Alloncius, AME Legislative Director
April Ortiz, County Executive Assistant
Kevin MacLeod, Vice-President/SC Electrical Contractors Association
Domenico Romero, LI Civic Participation Project
Michele Lynch, 1199 SEIU
Joseph Berry
Anthony Wolbert, Mattituck Resident/Small Business Owner
Jack Morrcu
Joseph T. Mikulas
Rebecca Mowl, Long Island Foundation of Labor
Ruth Mulford, Reg VP/Associated Builders & Contractors of Empire State
Vanessa Crilly, Jobs with Justice - LI
Stephanie Urio, ACORN
Regina Simmons, ACORN
Jessie Rock
Susan Draper
Jean Draper
Seth Muraskin, Exec. Director/Suffolk County-NY Civil Liberties Union
Jack Morrell, President/Suffolk County Electrical Contractors Assoc.
Kevin MacLeod, Vice-President/SC Electrical Contractors Association.
Patrick Young, Central American Refugee Center in Brentwood
Milan Bhatt, Worker's Rights Advocacy Coordntr/NY Immigration Coalition
Luis Valenzuela, Long Island Immigrant Alliance
Dora Myles, Long Island Organizing Network
2nd Vice-President/Central Long Island Branch, NAACP
Thomas Humphrey, Long Island Organizing Network
All other interested parties

MINUTES TAKEN BY:
Diana Kraus - Court Stenographer

MINUTES TRANSCRIBED BY:
Alison Mahoney - Court Stenographer

(THE MEETING COMMENCED AT 1:16 PM)

CHAIRPERSON NOWICK:
Good afternoon. I'd like to start this meeting with a pledge to the flag led by Legislator Barraga.

Salutation

Welcome, everybody, to the Consumer Protection Committee. We have several cards here and, you know what, we're going to go right to them. Seth Muraskin. Hi, Seth. You have three minutes.

MR. MURASKIN:
Thank you very much. Members of the committee, my name is Seth Muraskin and I am the Executive Director of the Suffolk County Office of the New York Civil Liberties Union. I represent a membership in this County of 4,200 with a State membership of 48,000.

I testify today against Suffolk IR 1105, what we call the electrician and plumbers' unemployment act. With this bill, you wish to level the playing field so that those who are working now follow through with the Federal regulations. The amendment to this County law would make an electrician or a plumber or any licensed contractor have their license revoked or not granted at all if it's determined that a Federal employee verification procedures are not complied with. You need not pass such a piece of legislation. You're a body now. Your electrical board that reports to the Commissioner of Consumer Affairs and your plumbers' board that reports to the Commissioner of Consumer Affairs already has the power to revoke and pull any license for cause; you have the ability now.

What's happened with this particular bill is Suffolk County becomes a leader in discriminatory and xenophobic behavior. When you have the ability and when you have the power right now to do what this bill is intended to do which is level the playing field. What happens is by adding this extra thing, you make this County not a place that people want to call home. Section 275, Subsection 6 and 275 Subsection 7 of your law already allows this to occur. The boards themselves have the ability to do this.

This legislation fans the flames of suspicion and gives rise to labor practices and does nothing to prevent bad business practices. Instead of scapegoating immigrants, this County -- the County's problem, Suffolk lawmakers should educate the residents and develop the cultural and economic contributions by documented and undocumented workers. There are also -- we see this -- we were seeing the cost of fear over the centuries in anti-immigration violence, discrimination exclusion, and we saw it even a few years ago in our own County when two day laborers were almost killed.

We need you to lead us forward and not backwards. Let the nation look to us as an example. This is a great country with almost 400 years of history, all shaped by immigrants. Don't endorse this bill, Suffolk County would stand apart from our common heritage. This isn't our past and it's not our future. This resolution does not belong before this body. When you consider such a resolution, vote against it. Thank you.

CHAIRPERSON NOWICK:
Thank you, sir. Jack Morrell.

MR. MORRELL:
Good afternoon. Thank you for letting us address you also. My name is Jack Morrell, I represent

SCECA which is Suffolk County Electrical Contractors Association. We have nearly 400 licensed electrical contractors from Suffolk County that we represent. We've held two meetings, we do not agree with the bill also and we hope the Legislature does not follow through with the group.

It appears to us that the bill favors one or more special interest groups. It does not -- it's not in the best interest of the consumers of Suffolk County nor the businesses of Suffolk County. Instead, we recommend that the County requires occupational trades to maintain their skills and knowledge of the trade and business through education. We believe in education rather than legislation and that's what I'd like to say today. Thank you.

CHAIRPERSON NOWICK:
Thank you. Kevin MacLeod,

MR. MACLEOD:
Good afternoon, Legislators. Kevin Macleod, I'm Vice-President of the Suffolk County Electrical Contractors Association, the same one that Jack just spoke about.

I want to talk more about myself in the capacity as a licensed electrician here today rather than as a member -- Vice-President of SCECA, and I want to voice my opposition to IR 1105.

I'm kind of concerned here, as I'm not exactly sure what this piece of the resolution is going to do. I mean, we're hearing about how it's going to prevent illegal hiring of illegal immigrants, but yet I hear more context in this bill about certifying payrolls and I'm kind of wondering if the County really needs or should be involved in that process being the fact that we're already governed by the State and the Federal taxation departments on this. And you know, I'm just curious, how are we going to pay for this, too? I mean, especially since Consumer Affairs is going to be the one that's going to be enforcing this part. I can understand, okay, certifying with a piece of paper when you renew your license, but why certify payrolls? Why not just simply sign a piece of paper saying that you're not hiring illegal aliens? What does this got to do with payrolls and why should the County have access to my payrolls when the State and Federal government does that already? And who is the one that's really -- is this -- we're talking about a level or a fair playing field, but I'm not exactly sure who is the playing field with?
I mean, you know, I want to quote obvious co-sponsor Eddington on this, but in Newsday you talked about how -- you noted, however, that the labor unions say that this is somewhat effective. Well, you know, I have concerns about that; what about all the other people and contractors in Suffolk County and why are you cosponsoring a bill based on what the recommendations of the labor unions are rather than actually the effectiveness of the bill itself that you're cosponsoring, you know? But obviously, you know, I have concerns about this. And I know that you have constituents in your district that you represent, but we as Legislators here have to remember, you have a responsibility to your constituents, but you have also a responsibility to the people of Suffolk County here, and what about those people? How do they feel about this piece of legislation? And being I'm not a constituent in your district, how do I feel about that? And I think when we take this in mind that we should consider that this is the people of Suffolk County that this affects, not just a single special interest group of people that this may be -- seem to be targeting for. So I thank you for your time and I hope that you defeat this piece of resolution. Thank you.

CHAIRPERSON NOWICK:
Thank you, sir. Patrick Young.

MR. YOUNG:
It's good to see so many Legislator here. My name is Patrick Young from Central American Refugee Center in Brentwood. I'm also a Special Professor of Law at Hofstra Law School.

I'm here to speak in opposition to IR 1105. There are a number of reasons and a lot of them are going to be gone into by other folks today. It's going to affect homeowners, it's going to affect contractors, but I'm here specifically to talk about the expected discrimination against Latinos and

Asians living in Suffolk County as a result of this bill.

It's been said that this bill simply is a repetition of Federal Law, but let's remember it's really not. You don't have to have a violation found by the Federal government in order to run the risk of a contractor losing his or her license. So in other words, the contractor faces the business death penalty based on a finding by County government that the person has violated Federal Law and we know that the County government doesn't have experience with these types of actions. In fact, under the law that was passed a year-and-a-half ago there's only been one prosecution.

Prince William County in Virginia enacted similar legislation and their start-up costs to begin enforcement of the law is $800,000, they expect to spend between 10 and $15 million on this over the next decade. My understanding is Suffolk County isn't expecting to spend any additional money on this, so what we're essentially looking at is a law that will be really unenforced as to people who may actually be involved in violations but employers faced with the possibility of losing their licenses may engage in self-enforcement. And what was found, for instance, for some of you on the committee, I e-mailed you a copy of information on a report done by the General Accounting office of Congress. When employer sanctions came in, almost 20% of employers in the United States began engaging in unlawful discrimination against Asians and Latinos who are here legally and legally authorized to work, because those employers were afraid of being penalized by the Federal Government. Well, here we're talking about a penalty that's much, much stricter than the penalty imposed by the Federal government, one in which employers will cease to be able to do business in the County. And it is much more likely that they will engage in discrimination, not against -- discrimination against people who look like me, but against folks who appear to be foreign. And most of these folks who are here in Suffolk County, about three-quarters of them are either US citizens or lawful permanent residents or holders work permits. So we need to take into account the fact that will be that sort of massive discrimination.

The discriminations unlikely to be brought into court, because the discriminators very rarely are going to tell the person who's being discriminated against what the reason is for them not being hired or why their documents are being subjected to additional checks. So I urge you to vote against this bill, I urge you to stop the discrimination that we anticipate from it. Thank you.

CHAIRPERSON NOWICK:
Thank you. Domenico Romano (sic). I'm sorry, I probably did not pronounce your first name correctly.

MR. ROMERO:
Thank you. Good afternoon. My name is Domenico Romero and I'm the Director of the Long Island Civic Participation Project; this is an organization that works in partnership with labor unions and community organizations through various issues that affect all workers and their communities.

I'm here to speak against IR 1105. This bill is unnecessary. The elements of the bill that would actually improve the conditions of workers are already considered in a State law, therefore there's no need to have any Local Law that also addresses those issues. However, the bill also includes anti-immigrant elements that are there apparently only for political reasons. Besides pitting communities against each other, this bill could also affect the County economically, placing an extra burden in businesses and workers in a time where what we need is help in economic terms. We don't need to make life more difficult for workers and for people in the County.

We hope that Suffolk County will take steps to protect workers' rights and the rights of all workers, instead of playing politics with the money of taxpayers. So I ask all of you to vote against the bill and to speak against the bill for people within the committee because our communities do not need to be divided in order for some to score some political points. What we need is to come together and to find better solutions for everybody in the County. Thank you very much.

CHAIRPERSON NOWICK:

Thank you very much. Milan Bhatt.

MR. BHATT:
Good morning and thank you for your attention. My name is Milan Bhatt and I am the Worker's Rights Advocacy Coordinator at the New York Immigration Coalition. The NYIC is a State umbrella policy and advocacy organization representing over 200 groups around New York State that promotes justice and opportunity for immigrants and refugees.

I'm appearing before you today to testify in strong opposition to Introductory Resolution 1105. While proponents of IR 1105 claim the purpose of the bill is to level the playing field for businesses in Suffolk County, the real intent is clearly to penalize hard working immigrants for political gain. By attempting yet again to do so, Suffolk County is not only acting -- is not acting in the best interest of its residents, it is instead fueling misunderstanding and hostility towards local immigrant communities and setting the wrong example for other municipalities Statewide and nationally.

Suffolk County has repeatedly introduced legislation that uses public welfare and safety as false pretenses for singling out and blaming immigrants for the County's social and economic problems. This is an insult to immigrant communities who face continued efforts by Suffolk County -- by the Suffolk County Legislature to cut them off from opportunities to bring home food and clothing to their families and are instead faced with a message that Suffolk County wants to make life just hard enough for these families that they will simply disappear. It is a particular affront to immigrant workers who are the most likely to be victimized by waging our violations and other workplace hazards. If Suffolk County was serious about improving worker conditions, it would take steps to increase protections for immigrants worker, not to further marginalize them.

The real crisis facing Long Island and the rest of the State is the exploitation of reliable labor to increase profits resulting a race to the bottom and a polarizing of the economy. To effectively address this crisis, New York must strengthen enforcement of its own labor laws, not assume the responsibilities of Federal immigration agents. New York can do this by hiring more labor investigators, conducting workplace sweeps and ensuring that immigrants are able to seek redress when unscrupulous employers fail to pay them according to the law.

Our work as a leading advocate for immigrant communities on the local, State and national levels reminds us every day just how integral immigrants are to the country's prosperity. They make indispensable contributions to all sectors of our nation's workforce and our economic growth, to our religious communities and schools, to our neighborhoods and to many of us as members of our own families. On behalf of NYIC's 200 plus organizations around New York State, I strongly urge you to oppose IR 1105. Thank you for your attention.

CHAIRPERSON NOWICK:
Thank you. Luis Valenzuela.

DR. VALENZUELA:
Good afternoon, distinguished Ladies and Gentlemen. Thank you for the opportunity to speak to you. I am here again to speak against IR 1105. As I said with you last week or the week before, we are at the verge of missing another opportunity to demonstrate to the nation that Suffolk County is a County of inclusion. We have come to be known across the nation as the County that leads the anti-immigrants movement, and that's terribly unfortunate and it's unfortunate for economic reasons, social reasons. And as I have shared with you over the last couple of years, the greatest tragedy is to the children of immigrants, and the majority of those children are US born citizens.

This bill, as has been said by every speaker so far, is duplicative. Federal law already exists to address this issue. The law, if it were passed at some point, would be struck down because immigration is a purview of the Federal government. The bill is unenforceable, let alone unnecessary. The impact right now and the crisis, the economic crisis that we're in is incredible. You have the Long Island Association, a reputable institution come out against the bill and say clearly that the bill would devastate our economy. For the last two weeks, every day on the news we're in a recession, stagnation, inflation is back on us. We have all types of problems here in Suffolk County.

I'm happy to say that two weeks ago we were in a deficit of about $200 million and now, you know, we're in a deficit of $150 million, so I'm glad that we've made that much progress. But shouldn't we be taking the time to address those problems? There are about $30 million in uncollected property taxes; couldn't we come around to finding an equitable way to recoup that money?

And the last thing that I want to say, and I've said this many times before, the problems that we have are not caused by immigrants. I don't know why we keep throwing anti-immigrant solutions at problems that have nothing to do with immigrants. Again, let's lead by example, let's not lead by shame. Thank you.

CHAIRPERSON NOWICK:
Thank you. Michele Lynch.

MS. LYNCH:
Good afternoon. I'm speaking on behalf of 1199 SEIU, we represent 20,000 members who live on Long Island.

I'm here to say that I'm speaking against the bill IR 1105. If Suffolk County was truly serious about improving the lives of workers, you would enforce minimum wage and overtime pay laws, not punishing hard working immigrants and saddling taxpayers with this bill. It would be an economic disaster, it threatens both one of our most vulnerable economic sectors, housing, and tries to idle one our strongest economic engines, the economic contribution of immigrants. I urge you to vote no on this bill. Thank you.

CHAIRPERSON NOWICK:
Thank you. Dora Myles.

MR. HUMPHREY:
Good morning, friends. My name Thomas Humphrey, I'm with LIONs --

CHAIRPERSON NOWICK:
Just one second. I called Dora Myles.

MR. HUMPHREY:
Yes, I'm going to introduce her, yes.

CHAIRPERSON NOWICK:
Oh, you're going to introduce her.

D.P.O. MYSTAL:
No, you can't.

CHAIRPERSON NOWICK:
Really, you can't do that, I think that Dora needs to -- she put a card in and all she needs to do is move over to the mike and introduce herself. Thank you.

MR. HUMPHREY:

Okay.

MS. MYLES:
Good afternoon. My name is Dora Myles, I'm here representing the Long Island Organizing Network along with Mr. Humphrey which he also put a card in, his is right behind mind, just to clear that up: I'm here to speak out against the IR 1105. I think that this is -- we oppose --

CHAIRPERSON NOWICK:
Excuse me. But in fairness to both of you who both put in cards, it's fine with me if you want to flip and you wanted to first, you know, if that was important to you.

MS. MYLES:
Go ahead.

CHAIRPERSON NOWICK:
It seems like that's the way you probably rehearsed it.

MR. HUMPHREY:
Thank you so much for your consideration. Again, my name is Thomas Humphrey, I'm with LION, Long Island Organization Network. The Reverend Charles A. Coverdale is our President and {Kay Pearl} is our lead organizer and {Sinta Terler} is our Suffolk County organizer.

Again, we both live in Amityville, Dora and I. We are here on behalf of LIONs -- again, LIONs is Long Island Organization Network -- to ask that you vote against IR 1105. LION is a faith-based organization made up of unions, congregations, community and civic groups, united to improve Long Island. LION has consistently opposed efforts by Suffolk County to pass legislation that scapegoats immigrants and that is our reason for being here today.

First, let us say that we were totally supportive one part of this bill, that every employee needs to play by the rules. Pay in Social Security, State and Federal unemployment, Medicare and all taxes required by law. We even go further; we think every employer should also be required to pay minimum wages, workman's compensation premium and overtime for all of their workers. We support a serious effort by Suffolk County to ensure that these are the laws that will be obeyed, not just what people seek in license but for every contractor they employ for Suffolk County work.

This bill, however, is not a serious bill. If the author of this bill were serious, they would be asking for money to hire staff to enforce this bill, not just asking sixteen of 100 license holders to pay a lip service to the law. Thank you very much.

MS. MYLES:
Good afternoon. Once again, my name is Dora Myles. If this bill was just about lip service and about the part that Mr. Humphrey described, no one would be here to oppose it. What we oppose is the other half of the bill, an attempt to get Suffolk County to enforce immigration policy; on this we speak out.

In our local communities and in our congregations, people of all races and countries are trying to get along, trying to raise families, trying to work together. Take my family for example. I'm the 2nd Vice-President for Central Long Island Branch, NAACP, so you probably think of me as just an African-American, but what most people don't realize is I was born in Panama, like John McCain. I moved here two years -- when I was two years old, my family was working ever since to get everyone in to the same place. Some of us have become citizens, others have struggled for years to get through the bureaucratic nightmare this country has created for people who want to become citizens. When you pass bills like IR 1105, you don't solve the problems you say you want to solve, what you do is drive a wedge into the heart of my family and many other families made up of both

legal and undocumented members. So-called illegals are not some alien species, they are hard working members of our families and our communities. Don't subject us to another media circus that pits neighbor against neighbor. Vote no on IR 1105. Thank you.

Applause

CHAIRPERSON NOWICK:
Thank you. Anthony Wolbert.

MR. WOLBERT:
Hello. My name is Anthony, I am a small business owner. I come from Mattituck, it's past the end of the Expressway, it's pretty far out there but not as far out as this bill. This bill is ridiculous and there are a lot of issues with it on so many levels, it's just wrong in so many ways. I realize that you guys have some things to try to figure out how to solve, but this bill doesn't address them properly. Thank you.

Applause

CHAIRPERSON NOWICK:
Thank you. Ruth Mulford.

MS. MULFORD:
Good afternoon, Ladies and Gentlemen of the Legislature. Thank you for the opportunity to speak with you today. I've been here once or twice before.

I am the Regional Vice-President of the Associated Builders and contractors of the Empire State. ABC is a not-for-profit national organization which provides support to the merit shop contractor community. If you don't know what merit shop is, it means harmony between union and non-union, equal competition, level playing field.

We're very, very against this bill, this piece of legislation; I want to go on public record as stating that. And it's not because we don't believe that the laws that are already on the books at the Federal and State levels should be enforced, we absolutely encourage our members, of which there are 700 companies employing thousands of people in Long Island and across New York State. We believe and we encourage that they abide by all the laws and regulations, whether they be good or bad, and we all know there's both. We don't see this necessarily as being really entirely about immigration; if it was then immigrant leaders such as are here in this room would have been at the table discussing it prior to it reaching this level. What we really think this is from our position as ABC is an independent contractor reform bill. We see this as an opportunity, if you will, for special interest groups to be able to wreak havoc with the 75% majority of the construction community.

We have several questions about this bill. One question is that, number, why is it leveled at just construction? But more importantly, why does it only talk about electricians and plumbers? If it's truly about immigration, why is it such a narrow scope? There are many, many people in construction that require licensing. So we're very, very concerned about that.

I don't know -- some of you are aware, no doubt, and some of you aren't aware that the way this bill can be manipulated, it really is -- somebody mentioned earlier, it really is about certified payrolls, it's about those kinds of issues. It's a continuation of a process that's begun here in Suffolk County to document workers, it's part of that whole package. All that has to happen to an independent contractor -- and by the way, an independent contractor makes up 75% of the construction workforce in New York State. Across the country, the union numbers are 14%, all the other 86% are non-union contractors. And in Suffolk County it's much higher, it's 25% union, 75% non-union. Why would a bill be even brought forward that affects and why would it be recommended, why would the only people at the table recommending pertaining to this bill be the 25% minority instead of somebody being at the table representing the 75% of the construction industry that's in Suffolk

County. This bill will enable someone to report -- this is how it will be enforced.

CHAIRPERSON NOWICK:
We need you to wrap it up, your time is up.
MS. MULFORD:
Okay, I'll go quick. All someone needs to do is to report a contractor as doing something out of compliance with this piece of legislation and opens an investigation that requires him to hire an attorney, it will cost him thousands of dollars in lost work time, possibly put him out of business. And the law will not stop it, we know that, it will be -- it will evolve into something other than it is now. Please, take a look at your constituents, do your due diligence and represent the public trust. That's all we ask of you. Thank you.

CHAIRPERSON NOWICK:
Thank you. Thank you very much.

Now, that's all the cards that we have. I know -- is there anybody else in the audience that wishes to be heard? If not, I'm going to ask the Consumer Commissioner; Charlie, do you have anything that you want to talk to us about today, or does anybody have any questions of the Commissioner?

DIRECTOR GARDNER:
Well, not unless -- we talked about it at the last committee meeting, there were several questions posed to me, mainly relative to the enforcement capability or the effect on staffing a budget. So nothing has changed since those -- if there are any further questions.

CHAIRPERSON NOWICK:
Since last week, a few weeks ago, nothing has changed. Does anybody have any questions? Did you want to ask some questions, Legislator Browning?

LEG. BROWNING:
Yeah, please. Yeah, there was a gentleman that talked about Prince William County, they needed $800,000 to start up the plan to do this enforcement. How can Suffolk County do this without costing us anything?

DIRECTOR GARDNER:
As we discussed at the last committee, the implementation of this legislation, if it were to be passed, would just require us to add a couple of assurances of compliance concerning the relative provisions of the law, you know, payroll and employees. That would simply be added to our application forms, as we do now where we ask about prior convictions, judgements, child support, etcetera, etcetera. So that would not be a burden.

The end result if this legislation were to be passed, about revocation, the suspensions and/or penalties, we could conduct hearings, listen to the evidence and make a decision. A Hearing Officer would make a decision and make a recommendation to me concerning the status of the license.

It's the in-between part that we talked about that our office would not be able to do, the actual investigation of immigration violations or payroll violations.

The analogy is that today, and I believe somebody mentioned before, we do have the power to revoke, suspend and/or assess penalties upon contractors for violations of State, Federal or local codes that relate to their licensing activities. We don't do those investigations; meaning, for instance, I might get documentation from the Town of Brookhaven's Chief Building Inspector or the Town of Smithtown Building Department, etcetera, that so and so contractor, whether he or she be an electrician, plumber, home improvement, it doesn't matter, they did or did not do something that they were supposed to do according to town code, the building code, etcetera. You know, I mean, it might be something as simple as backfilling a foundation prior to the inspection, the water proofing

inspection. It might be something -- they might have failed to file a permit, something that they either did do or did not do that they were required to do by code.

My people, our investigators don't do that investigation. We don't say that so and so violated Town of Brookhaven building code; Town of Brookhaven does, they present that to us. They might even have an investigator from their department or an inspector from their department be present at the hearing, produce the documentation and evidence as to how or why or where the building code was violated, and then the Hearing Officer makes a decision.

So in that type of scenario and using that as an analogy, that would be how we would enforce it. Just don't -- in other words, if we had to do that investigation, which we have neither the expertise nor the knowledge nor, I believe, the jurisdiction or authority to do, that obviously would have a major impact on staff and budget.

LEG. BROWNING:
Okay, another question. I'm a contractor, a small contractor, I own a roofing business, electrical business; I can get insurance for my business without a license; correct? I can insure my business --

DIRECTOR GARDNER:
You can get insurance without a license but you can't get a license without insurance.

LEG. BROWNING:
Okay. So now I -- because of this law I'm going to say, "You know what, I'm not going to get a license. I'm going to operate without a license." What's the penalties if you're caught and you don't have a license?

DIRECTOR GARDNER:
Unclassified misdemeanor, penalty is up to a $5,000 fine and/or one year in jail.

LEG. BROWNING:
Okay. And with IR 1105, if we have that law, what's the penalties on that?

DIRECTOR GARDNER:
Well, the penalty section would be -- in other words, if there were documentation and/or evidence supplied to, you know, prove a violation of the Federal -- United States Code or payroll, etcetera, and a Hearing Officer found that it did exist, the Hearing Officer could recommend a revocation and/or suspension and a fine of up to $750 for the first offense, $1500 for a second offense. So that's a suspension, a revocation or a penalty or a combination; that would be a recommendation to me, I make the final decision.

LEG. BROWNING:
Okay. So --

DIRECTOR GARDNER:
And then if the license were revoked, obviously that contractor would now no longer be legally able to operate within the County of Suffolk. And if he or she were caught operating, then they would be subject to the unclassified misdemeanor, $5,000 and/or a year in jail.

LEG. BROWNING:
If I don't have a license and now you find out I don't have a license and I get a fine, am I prohibited from ever applying for a license?

DIRECTOR GARDNER:
Not, not necessarily. It's not a permanent revocation. You know, there are people who come back kind of with their hat in their hands and they do what they have to do. They might have some

outstanding penalties, violations, open complaints, etcetera, they might resolve them and, you know, they've seen the light and they make assurances of compliance and a new license is granted.

LEG. BROWNING:
And basically what you're saying is with this law, you can't enforce it because it's a Federal -- it's a Federal offense and there's nothing you can do?

DIRECTOR GARDNER:
We don't have the staff to make a determination as to what is a violation of the United States Code. We don't have the staff, the expertise, the knowledge, as I said, I don't even believe the authority to determine for what is a payroll violation. Somebody else who has -- from those departments or those areas could supply us with the information, the documentation and the evidence and then we would be able to -- if this legislation were to pass, then we would have to take action, issue a notice of violation for violating that.

LEG. BROWNING:
But I can do that now. If I reported to you that someone was hiring someone illegally, not paying payroll taxes, if I report that to you, you're going to do exactly what you just said.

DIRECTOR GARDNER:
If you reported that us and had the appropriate paper work to back it up, the documentation from whatever agency has the authority, yes, we could do that.

LEG. BROWNING:
Okay, thanks.

CHAIRPERSON NOWICK:
Legislator Mystal?

LEG. MYSTAL:
No.

CHAIRPERSON NOWICK:
No? Okay.

LEG. EDDINGTON:
I've got a question.

CHAIRPERSON NOWICK:
Legislator Eddington.

LEG. EDDINGTON:
Yeah, I'd like to ask Counsel just for some clarification. Because I heard terms today, "immigrants" and "refugees" and I want -- because my understanding is that that would -- this law wouldn't impact them. So I wanted to get the definition of what an immigrant is, what a refugee is. And I would ask you illegal immigrant, but I think that's incongruent, it would have to be illegal aliens, but I'd like for you to give me a definition for those three terms.

MR. NOLAN:
Well, let me just narrow it to what the -- to who the bill really applies. Applicants for licenses will have to make a representation that they're in compliance with Title 8, Section 1324A of the United States Code with respect to the hiring of employees. And that section of the United States Code has to do with unauthorized aliens, people who cannot demonstrate that they are in the country legally for permanent residence or legally qualify to be employed in the country. And that's what the representation is going to be about, in addition to the additional representation that the employer is

paying all their taxes, payroll taxes, etcetera.

LEG. EDDINGTON:
So that's what we're hearing, there's a lot of advocates for unauthorized aliens.

MR. NOLAN:
Well --

LEG. EDDINGTON:
That's what I'm getting, because otherwise I don't see the problem.

MR. NOLAN:
I won't characterize what they're talking about, I'm just talking about what the law applies to which is the representation that's made as to the hiring of unauthorized aliens.

LEG. EDDINGTON:
Okay.

MR. NOLAN:
That they're not doing that.
LEG. EDDINGTON:
Thank you.

D.P.O. MYSTAL:
Through the Chair? Legislator Eddington, since you're sitting with two immigrants next to you, Kate is an immigrant and so am I; an immigrant is somebody who comes here and the status of that immigrant is undetermined, it could be -- you could come here legally with papers or we could come here undocumented, but we are both immigrants. A refugee, which also I am, is somebody who left their country because of political reasons and were granted asylum either because of economic trouble or political trouble and I'm a refugee and an immigrant. So that's the difference between the two.

What I think the speakers were speaking about is that in the fact that an employer who, faced with penalty and severe economic problems with the government, they will not stop at trying to determine who is legal, who is illegal, they just say, "The heck with it, I'm not going to hire anybody who doesn't look white, who doesn't speak English well. If they speak with an accent, either they're from Haiti or from Guatemala, I'm not going to hire them because it could be a problem. If they don't speak English the right way, I don't want to take a chance," that's what I think they were referring to in terms of an immigrant being in trouble and being discriminated by in general. Whether that person is from Africa or Guatemala, they don't speak English the right way, they don't look white, they don't have the proper English accent that Mr. Buckley would have, they say, "I'm not going to hire them."

CHAIRPERSON NOWICK:
How did you get this job?

D.P.O. MYSTAL:
I got the job because I got hit on. (SHOULD I PUT THIS IN)?

LEG. BROWNING:
We got papers.

D.P.O. MYSTAL:
I got papers, that's why I got the job.

LEG. EDDINGTON:

And that's what we want everybody to do.

CHAIRPERSON NOWICK:
Thank you, Legislator Mystal. We appreciate that. If there are no further questions of Charlie Gardner, we will go on to the agenda, unless there's anybody else that wants to speak on this.

Introductory Resolutions

1105-08 - Adopting Local Law No. 2008, a Local Law to promote fair business practices by strengthening requirements for occupational licenses (Beedenbender). For the audience's information, this resolution must be tabled for public hearing. So today I'll entertain a motion to table for public hearing.
LEG. BARRAGA:
Madam Chairman, can I speak on the bill?

CHAIRPERSON NOWICK:
Yes, can we do the --

LEG. BARRAGA:
I'm sorry.

CHAIRPERSON NOWICK:
I will make a motion to table for a public hearing, second by Legislator Browning. All in favor? Opposed? And Legislator Barraga would like to speak on the bill.

LEG. BARRAGA:
On the bill, thank you, Madam Chairman. When I take a look at any piece of legislation, I really -- over the years, I don't look so much at the sponsor, I take a look at the merits of the bill and read the bill and make a decision accordingly. And I'd really like to talk with reference to this legislation with regard to two elements, economics and immigration. The economic aspects associated with a bill like this and how it affects the people of Suffolk County.

Now, Suffolk County, as you well know, has a population of close to 1.4 or 1.5 million people; that's in excess of the population of 20 states. And when you take a look at what's happening regionally and nation wide, I think you can see that economically this country has some serious challenges it currently faces. Certainly you're familiar with the sub-prime crisis that's developed and how that has affected housing, not only in terms of current stock but in terms of future housing needs, future construction and how that's had a negative effect right across the board. And as that continues, that has negative affects in other areas as well from a consumer perspective. There's less volume going to be done at a Home Depot or a Lowe's, people are going to be hurting.

When you take a look at the banks, many banks have had tremendous write-offs, billions and billions of dollars because of poor loans associated with the sub-prime crisis. FDIC banks, banks that insure your savings, have had an 84% drop in profits in the last quarter, and that exist today because of defaults, basically. In some states the defaults are tremendous, and bad loans.

Now, with a credit crunch and everything else that's going, we are not immune to that in Suffolk County. If our population is in excess of 20 states, we're going to be affected by that. We see defaults, for example, increasing dramatically; we see the price of food and gasoline and everything else going up. Consumer sediment in this country is at the lowest level, it's now, according to the Conference Board, at 75 in February, it was at 87 in January, the lowest level since the beginning of the Iraq War. Because people have serious doubts as to what's going to happen in the next three, six and nine months. If you speak to economists, some will say we are already in recession, others will say, "Well, we may be in recession." The last quarterly GDB figure which came out this morning put the growth with the last quarter at .06%; we are stagnating.
The point of all this is that we should not be entertaining any legislation that puts further

impediments to the economic well-being of Suffolk County and this bill does that.

UNKNOWN AUDIENCE MEMBER:
That's right.

Applause

We in Suffolk right now -- and we don't know, we may be facing a deficit of 100 million, 150 million. There are some difficult decisions that have to be made and they will be made over the next couple of months, because our goal here in Suffolk County is to continue vibrance as far as economics goes, but at the same time make sure that in the end, if we do have a deficit, it doesn't come at the expense of increasing property taxes or laying off people. Anything that deters us from that is not worthwhile taking up. I understand the sponsor's intent, but the reality is we should be doing this bill from an economic perspective. It is not in the best interest of the people of Suffolk County at this moment, from an economic perspective.

From an immigration perspective, I dread going through another public hearing on this subject. We've got the same people coming back on the same side of the issue. The hard realty is that it is a Federal issue, it always has been. We can jawbone all we want here, but we don't have the power to really do anything. And you know something? You will hear a figure in this country of twelve million undocumented immigrants in this country; that is wrong. That's a figure that came about between 1994 and the year 2000. Right now in this country we have close to 20 million, approximately, of undocumented immigrants in the United States, and they're not going anywhere. The Congress had a golden opportunity to do something in the spring of last year and they walked away from the issue.

And think of it this way; do you really think the Federal government is coming in here and is going to sweep up all these people and send them back to wherever they're going? They're not going to do that and I'll tell you why, because of money. They're part of the economic base of the United States. A hundred years ago we had the Carnegies, we had the Morgans, we had the Rockefellers, do you think any of those barons wanted any immigrant to be shipped back, legal or illegal? They wanted every single one of them to buy their products. Today we don't have them. We have Home Depot, we have Lowe's, we have McDonald's, we have large corporations that are generating bottom line profits through their stockholders from these twenty million. That's just the way it is. It is what it is.

To spend more time on this issue at the local County level is a mistake. I wish I had the power, but I understand I don't at this level of government, to kill a bill. This thing has to be tabled, then you have to have a public hearing.

Applause

For all those interests, economically as well as from an immigration perspective, this thing should be defeated. That's enough.

Applause

CHAIRPERSON NOWICK:
Okay, thank you, Legislator Barraga.

D.P.O. MYSTAL:
Motion to table.

MR. NOLAN:
It's tabled already.

D.P.O. MYSTAL:
We tabled it already?

MR. NOLAN:
We tabled it.

CHAIRPERSON NOWICK:
Yes, we did.

Home Rule Messages

Home Rule Message No. 07-2008 - Home Rule Message requesting --

DIRECTOR GARDNER:
Madam Chairman?

CHAIRPERSON NOWICK:
Yes.

DIRECTOR GARDNER:
May I -- I did forget, there was one comment I wanted to make, just for clarification purposes. We have -- there has been -- most of the emphasis, most of the talk has been about electricians and plumbers and home improvement contractors. I just want to make sure that everybody realizes that this affects all of the licensed occupations covered under 345; meaning home appliance repair, precious metals dealers, secondhand dealers, tax grievance consultants, commercial painters, liquid waste haulers, they are all covered under 345. I just wanted to make that point, because we have had so much discussion about electricians, plumbers and home improvement contractors.

CHAIRPERSON NOWICK:
Thank you, Charlie.

DIRECTOR GARDNER:
Thank you.

CHAIRPERSON NOWICK:
Okay, Home Rule Message requesting --

MS. ORTIZ:
I'm sorry, you just didn't call the vote on the record for the tabling.

CHAIRPERSON NOWICK:
Yeah, I thought I did.
LEG. BROWNING:
No, I don't know if you did.

MS. ORTIZ:
We didn't get it.

CHAIRPERSON NOWICK:
Well, we'll do it again. Okay, I have a motion --

MS. ORTIZ:
We got the first and second. We got the first and second, we just need you to call the vote.

CHAIRPERSON NOWICK:
All in favor? Opposed? **1105 has been tabled for a public hearing (VOTE: 5-0-0-0).**

Okay, **Home Rule Message No. 07-2008 - Home Rule Message requesting New York State Legislature to amend the General Municipal Law in relation to the regulation of taxicabs and limousines (Assembly Bill A.8873)(Romaine).** I will make a motion to approve.

LEG. EDDINGTON:
Second.

CHAIRPERSON NOWICK:
Second by Legislator Eddington. All in favor? Opposed?
HR 07 is approved (VOTE: 5-0-0-0).

LEG. EDDINGTON:
List me as a cosponsor, please.

CHAIRPERSON NOWICK:
And with no further business, this --

D.P.O. MYSTAL:
Motion to adjourn.

CHAIRPERSON NOWICK:
-- committee meeting is adjourned.

(THE MEETING CONCLUDED AT 2:07 PM)

{ } DENOTES SPELLED PHONETICALLY