

## 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 March 13, 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:**

Presiding Officer William J. Lindsay  
Ricardo Montano, Ninth District  
Brian Beedenbender, Fourth District  
George Nolan, Counsel to the Legislature  
Renee Ortiz, Chief Deputy Clerk  
Ben Zwirn, Deputy County Executive  
Charles Gardner, Director of Consumer Affairs  
Rosalind Gazes, Budget Review Office  
Debra Alloncius, AME Legislative Director  
April Ortiz, County Executive Assistant  
Paul Perillie, Aide to Minority Leader  
Bob Martinez, Aide to Leg. Montano  
William Shilling, Aide to Presiding Officer  
Linda Bay, Aide to Minority Leader  
Melissa Sostrin  
Nadia Marin-Molina  
James Claffey  
DiLuis Valenzuela  
Elaine Kahl  
Vanessa Crilly

**ALSO PRESENT: (Continue)**

Maritza Silva Farrell  
Milan Bhatt  
Ruth Mulford  
Kevin MacLeod  
Greg Maney  
Rony V. Martinez  
Seth Muraskin, Suffolk NYCIU  
Cesar A. Malaga  
Domenico Romero  
Frank Nitto  
Antonio Palacios  
Paul Forthmuller  
Mario Mattera  
Kevin Harvey  
Simeon Young  
Russ McCarmick  
Stephanie Urio

**MINUTES TAKEN BY:**

Diana Kraus - Court Stenographer

**MINUTES TRANSCRIBED BY:**

Donna Catalano - Court Stenographer

(\*THE MEETING WAS CALLED TO ORDER AT 1:12 P.M.\*)

**CHAIRPERSON NOWICK:**

Good afternoon. We'll start the meeting today with Salute to the Flag led by Legislator Eddington.

**SALUTATION**

Welcome, everybody, to the Consumer Protection Committee. We have several cards here, and I'm going start this immediately.

**PUBLIC PORTION**

Domenico Romero. Mr. Romero? Mr. Romero, going once. Okay. The next person that filled out a card is Seth Muraskan.

**MR. MURASKAN:**

Good afternoon. My name is Seth Muraskan. I'm the Executive Director of the Suffolk NYCLU. And on behalf of my 4200 members, we are in opposition to IR 1105. Briefly, because you've heard before what I've said, and there are many people that need to speak again, Hauppague does not have to pick up the slack for Washington, DC. This body does not have to do the work of Washington DC in terms of a failed immigration policy. We would ask that you lead in terms by way of example and let the Federal Government and the State Government be responsible for that which they're responsible to do.

The bill was not enforceable from the beginning. The amendments itself are still -- it's an unenforceable bill. It's something that only is going to cause more decisiveness and hatred in this county, something we don't need. And for the economic impact, with a potential budget deficit between 150 and \$200 million, it's not a practical solution to a problem that frankly doesn't exist. Thank you.

**CHAIRPERSON NOWICK:**

Thank you. I didn't want to miss Mr. Romero in case he walked back into the room. Mr. Romero. Okay. Here's Mr. Romero.

**MR. ROMERO:**

Thank you very much. Sorry for the delay. My name is Domenico Romero. I'm the Director of Long Island Civic Participation Project. The Participation Project is an initiative that brings together labor unions and community partners, promote and protect immigrant and workers' rights.

I'm here to read a statement cosigned by four labor unions: The Service Employers International Union, Local 32 BJ, ACLU 32 B87J, the ACLU Local 1199, United HERE New York State Council and the Laborers Local 78. These are four unions that represent thousands of workers in Long Island. And this is their statement, "Once again, we are very disappointed that the Suffolk County Legislature is choosing to spend its time and research on yet another anti-worker, anti-immigrant and anti-community bill, IR 1105-2008.

Contrary to its name, this bill places an unnecessary burden on employers by asking them to take the role of federal immigration agents facilitating discrimination against Latinos, whose economic contribution to Long Island has been demonstrated in a 2007 Adelphi University Report and diverting energy and resources from the real needs that Suffolk County residents face during these hard economic times.

We see the bill for what it is. It's nothing more than an attempt by some Legislators to score political points by scapegoating immigrants. The elements of this bill related to the improvement in the working conditions of workers may be positive, but unnecessary, as they are already covered by State Law. On the contrary, this bill could have a significant negative impact as it threatens one of our most vulnerable sectors, housing, and may result in discrimination against one of Long Island's important economic engines; immigrant workers. For this reason, we consider that this type of lawmaking is just distracting and not constructive.

Suffolk County and the nation as a whole are facing tough economic times, and this is not the time to play politics with people's lives, but to get our communities working together in the search for alternatives that will improve the situation of all the workers. If the Suffolk County Legislature is really concerned about workers, it should focus on proactive laws that uphold workplace standards for all workers, like enforcing minimum wage and overtime pay laws, and set a positive tone demonstrating that different communities can come together to build a stronger and better future. The cumulative effects of a series of initiatives targeting a particular group is division, fear and mistrust. These are not ideal conditions for advancing labor rights, civil rights or human rights.

As labor unions representing workers across Long Island, it's our responsibility to stand up for our workers, regardless of their race, ethnic or religious background or immigration status. When immigrant workers are targeted and attacked, the standards for all working people are put at risk." Thank you very much. Please vote -- we hope that you vote no for 1105 today. Thank you.

**CHAIRPERSON NOWICK:**

Thank you. Cesar Malaga.

**MR. MALAGA:**

Good morning. My name is Cesar Malaga. I'm the President of the Hispanic-American Association here in Suffolk County. IR 1105 should not be passed by the Legislators of the County nor by the Consumer Protection Committee. The Legislator who introduced this resolution IR 1105 is not familiar with the contribution of Hispanics, legal or undocumented, here in Suffolk County.

We need workers here in Suffolk County so our county can continue to progress. We would not have workers who can take care the landscaping, construction or even grocery stores. Workers for these grocery stores are transported from other areas of Suffolk County as you probably are familiar, the East End. The County and towns benefit from the labor of undocumented workers who build homes, and now the towns and County collect taxes from these areas.

We need the workforce here. Let's nor discriminate against an ethnic group such as Hispanics. Let's remember that immigration issues as indicated is an issue of the Federal Government, not the County. Let's remember that many of these undocumented workers have children who are born here in the United States, and these children are US citizens. These workers need to work to care for their families. If you pass IR 1105, Suffolk County will have to spend money to care for the families and the children. So one thing is left. Let's, you know, think about what are we doing with 1105. You should not be passing this law. It's not in the benefit of Suffolk County. Thank you very much.

**CHAIRPERSON NOWICK:**

Thank you. Rony V. Martinez.

(\*THE FOLLOWING TESTIMONY WAS TRANSLATED THROUGH AN INTERPRETER\*)

**MR. MARTINEZ:**

Good afternoon. My name is Rony Martinez, and I'm speaking on behalf of the Workplace Project. Our organization has members in both Nassau and Suffolk County. In name of the entire organization and in name of all the immigrants workers on Long Island, we ask that you as

legislators vote against 1105 and that you don't let it come out of this committee.

This legislation is going to be an economic disaster for this County, because it's an attack against businesses. And it's also an attack on immigrants. But there are many contractors who are going to increase their cost or they're going to work without licenses. And this isn't good whether it's for the worker or for the client or for the consumer. And besides, we know that we as immigrants have contributed a great deal to the economy here on Long Island. And if immigrants start to flee from this area, as happened in New Jersey and in Oklahoma, this is going to have an impact in the economy.

Everybody knows, especially immigrants, that what is needed is an immigration reform that allows immigrants to legalize. And that way, we can have both the rights and responsibilities like those who were born here. If the Legislature of Suffolk County really wanted to support workers, you would be supporting -- promoting laws to enforce the minimum wage and overtime, not attacking immigrants.

**CHAIRPERSON NOWICK:**

I'm sorry, but your bell has gone off, your time is up.

**MR. MARTINEZ:**

We know that this law doesn't do anything other than divide the communities, and we ask for an end to the tactics of division. Let's seek understanding and mutual support for all us who live and work here. Thank you.

**LEG. EDDINGTON:**

Excuse me. I'd like to ask a question, please.

**CHAIRPERSON NOWICK:**

Excuse me. Legislator Eddington has a question.

**LEG. EDDINGTON:**

I was just wondering how long Mr. Martinez has been in the United States?

**MR. MARTINEZ:**

More than 12 years.

**LEG. EDDINGTON:**

More than 12 years. And I'm assuming that he's -- he's an immigrant, obviously, but a legal immigrant.

**INTERPRETER:**

I'm sorry. You're assuming what?

**LEG. EDDINGTON:**

I'm asking if he's a legal immigrant.

**INTERPRETER:**

He said, "Actually, I am a documented immigrant, but I have been undocumented previously, and I know what it feels like to be under attack.

**LEG. EDDINGTON:**

Thank you very much. Twelve years, okay. Thank you.

**CHAIRPERSON NOWICK:**

Greg Maney.

**MR. MANEY:**

Good afternoon. I think it's questions like that that often create a climate of fear which is precisely why I urge you not to vote for IR 1105. My name is Dr. Gregory Maney. I'm an Associate Professor of Sociology at Hofstra University. I'm also a member of the Immigration and Social Services Committee of the Irish-American Society of Nassau, Suffolk and Queens Counties.

I'm here today to urge you to not pass IR 1105 out of your Committee. If enacted, this legislation will have to severely negative consequences for human rights, for labor rights and for ethnic group relations in Suffolk County. This bill scapegoats undocumented workers for failing businesses and lack of employment benefits for workers in Suffolk County. Yet these problems will not disappear if these workers leave the County. These problems stem from widespread resistance by employers to unionization and the government's failure to provide adequate resources for the enforcement of labor laws.

The solution to these problems is to support the rights of all workers, regardless of ethnicity, race, national origin or legal status. Research on hate crimes shows that when authorities point a damning finger at a marginalized and vulnerable social group, they encourage prejudicial, discriminatory and even violent behaviors. Those who vote for IR 1105 point a damning finger at refugees who are the victims of a global economy where corporations have more rights than people.

The law would contribute to abuses not only against immigrants, but also against US born citizens belonging to ethnic groups whose members are often immigrants. The passage of the bill would further signal that those perceived to be undocumented immigrants are without rights or values, a value which must be respected. As such, it would contribute to a poisonous environment that has already bred vicious hate crimes against immigrants on Long Island.

With St. Patrick's Day approaching, and as a sociologist who studies ethnic group relations, I'm aware of the tremendous suffering that starving Irish immigrants in the US faced as a result of being scapegoated for a myriad of social problems such as unemployment, crime and poor housing conditions. As an Irish-American, this historical knowledge makes me determined to ensure that no economic or political refugee to our shores will ever again have to face such injustices. As member of the Irish community on Long Island, I'm acutely aware of how this legislation would negatively impact Irish businessowners and workers. I ask you this month to do more than march and hoist a pint in support of the Irish community.

I'll wrap it up. The main economic consequence of passing this bill into law would be to give unscrupulous employers another tool for pressuring undocumented workers to work for lower wages in unsafe working conditions. By driving down wages further, this bill will give even more of a competitive advantage to employers hiring undocumented workers.

**CHAIRPERSON NOWICK:**

Your time is up.

**MR. MANEY:**

Thank you. If you want to find more about my research in this regard, if you type in "day labor report" on the Hofstra University main website, you'll get that report. Thank you very much.

**CHAIRPERSON NOWICK:**

Thank you. Kevin MacLeod.

**MR. MACLEOD:**

Good afternoon, Legislators. I'm Kevin MacLeod, and I'm from the Suffolk County Electrical Contractors Association. And I represent over 400 electrical -- master electrician contractors. And I also represent -- I'm the Chairman of Long Island Solar Energies Industries Association, LISEA, which represents 85% of all the solar energy contractors here on Long Island.

I've got to tell you, it's, like, I came to the General Meeting, and I have heard all the comments. We've been called "mini-me's" and lackeys and all these insulting comments. And, obviously, this is part of the process when you have a controversial issue like this that comes up. But I'm hoping today that this will be voted down, and I can go back to the quieter pastures of renewable energy and not have to worry about this again.

But what I want to talk briefly about today is the humanitarian issue of this bill. All right? Now, I'm an -- talking on my personal experiences, I'm an electrician here in Suffolk County. And I'm not going to use these workers to wire outlets or splice widgets or hang fixtures or even mount solar panels. However, when it comes down to an issue of, like, I have to dig -- hang dig the last 50 foot of a ditch 24 inches deep, I can't get anybody to do this, I mean. And what's the problem with using these people and paying them the \$100 for the day to hand dig this? If they want to do it and we can't find somebody to do it, what's wrong with that? Okay? At least we know that he's going to take the \$100 and he's going to go back to his family and he's going to feed his family. I would rather see that than have a situation because he can't feed his family and he breaks my windshield to steal my GPS. All right?

These people are being used as pawns. And the real issue has to do with big bullying union labor trying to tackle nonunion contractors. That's what it comes down to. All right? And who is the one who's going to be making the complaints when they don't win the jobs and we win the jobs and the rat goes up? Them. They're going to complain about us, even if it's unjustified that they don't have -- we're hiring undocumented labor. And this is what the whole thing is about. So what I'm asking you to do today, think about this. Okay? This has nothing to do with undocumented workers. It has to do with the unions versus the nonunions. I ask you to vote no on this today. Thank you.

**CHAIRPERSON NOWICK:**

Thank you, Mr. MacLeod. Ruth Mulford.

**MS. MULFORD:**

Good afternoon, again, Ladies and Gentlemen of the Suffolk County Legislature. Much has happened in the past two weeks since I addressed you. We're in turmoil it seems at the state and national level. And it appears -- I just came back from my association's national conference in Puerto Rico. And apparently while I was there, much happened in Suffolk County last week here at this chamber.

As you know, I'm the Vice-President of Associated Builders and Contractors. We're a national organization, non-for-profit, representing close to 25,000 employer contractors nationally. The average employer contractor in our membership employs 50 plus workers in Suffolk County. We have about 150 of those contractors. And we at no time have ever encouraged the hiring of folks that were illegal, undocumented whatsoever.

Our position is a little -- maybe different in that we feel that this is a way to declare open season on the shops that are too competitive to fight the special interest groups. The special interest groups want them out of business. And if someone looks different working on that workforce, this opens them up for a charge from the Department of Labor. The Department of Labor then can go in, do an investigation. That investigation requires the contractor to open up a case file with a lawyer. He may lose his terminals from his computers. He may lose his books. And in the end, he may be found completely innocent. Meanwhile, he's incurred tremendous amounts of costs and lost his credibility and his work staff. And none that is recoupable.

And so we really feel that this bill is not about the folks behind me, although, I have a personal feeling about that as well. It really -- and clearly, no matter what you tell me, clearly in this bill, it talks about electricians and plumbers. And why is it zeroing in on construction if it's not about construction? And there's fringe parts of construction such as the landscapers and the others, as somebody else already mentioned. Certainly there's plenty of people out there that simply want to

work and feed their families. And there are no workers to take those jobs.

So what it clearly is, is another way to form a workers rights bill. The people that I represent don't pay minimum wage. They pay much better than minimum wage. Most of them provide benefits for the people that work for them and will continue to do so. And we will continue to encourage our members to comply with the law, whatever it is. But we strongly urge you to, please, kill this bill.

1105 is not -- from my personal opinion now -- because we all stood up here and Pledged Allegiance to the Flag. The last part of the Pledge of Allegiance says, "with justice and liberty for all." When I came to Suffolk County, I didn't realize until about two or three months ago how biased the County is.

**CHAIRPERSON NOWICK:**

Thank you. Your time is up.

**MS. MULFORD:**

Please vote against this bill.

**CHAIRPERSON NOWICK:**

Miland Bhatt.

**MR. BHATT:**

Good afternoon. My name is Milan Bhatt. I'm the Workers' Rights Advocacy Coordinator at the New York Immigration Coalition. I would echo most all the sentiments that were made this morning. And like others, we also a couple weeks ago appeared before the Committee to voice our strong opposition to IR 1105. I want to restate that opposition in the strongest possible terms and just say that we need to once and for all stop allowing bills like this one to distract us from the larger solution, which is the need for a comprehensive immigration reform that respects immigrants as human beings and recognizes their many contributions to our communities.

We need immigrants in our communities if we want to retain a vibrant economy. I urge you to look at the message, the measures like IR 1105 send and to move away from misguided piecemeal legislation that scapegoats and discriminates against hardworking immigrants. Instead, we should develop and support policies for realistic, just and comprehensive solutions to fix our nation's broken immigration system. On behalf of our 200 plus members across the State of New York, I strongly urge you to oppose IR 1105. Thank you for your attention.

**CHAIRPERSON NOWICK:**

Thank you. Maritza Silva-Farrell.

**MS. SILVA-FARRELL:**

Good afternoon, everyone. My name is Maritza Silva. I'm an immigrant, and I work with the Long Island Progressive Coalition. I'm a community organizer. As we spoke before, the Long Island Progressive Coalition is strongly disagreeing with this bill, and we would like to have the commission voting it off. Why? Because this is important to keep our workers in the area. We need to increase our income. And our family is a whole household. And as an immigrant, I understand the struggles that we have every single day.

I live here. I have to move out of Long Island because I really can't afford to live here. And the people who are living here are struggling every single day whether they are documented or undocumented. And I think it's important to have these people keeping their jobs. And the Long Island Progressive Coalition once again is strongly disagreeing with this position, and we hope the commission will vote it off. Thank you.

**CHAIRPERSON NOWICK:**

Thank you. Vanessa Crilly.

**MS. CRILLY:**

Good afternoon, everyone. Legislator Nowick, I want to thank you for the last Consumer Protection Committee, I think, it was when she brought the -- her legislation about Salvia to our attention. It's been a very interesting topic for a lot of the membership in our organization.

My name Vanessa Crilly, Director of Jobs With Justice, Long Island. And although I do not like aligning myself with somebody as anti-union as Mr. MacLeod here, this makes me very disheartened to find myself on the same side of him sometimes, but I have to in this regard. We are here again strongly opposing IR 1105. I've just come from my executive board meeting. And our membership wholeheartedly agrees that we should be opposing this legislation today because it does not protect workers; and instead, pits one worker against the other.

And many of our plus 20 labor unions including Laborers 66, Electricians IBEW, 1049, would love to come to the table with the Legislators if you'd like to work on legislation that enforces minimum wage, ensures worker comp issues are dealt with properly. But today we are opposing this legislation strongly again. And we urge you to kill it today in Committee. Thank you.

**CHAIRPERSON NOWICKL**

Elaine Kahl, K-a-h-l, Kahl.

**MS. KAHL:**

Good afternoon. I am here today supporting our group, Suffolk County Coalition for Legal Immigration-No Amnesty. And I'm here coupled with the Long Island Coalition as well. We're covering Nassau and Suffolk County.

I would like to say that we are totally -- our total group supports Brian's 1105 to level the playing field. I really have to seek all of your votes today, because today I want to talk about safety. Today I want to talk about the rule of law, which everybody said is a coin word, but with me, it's what I've respected all of my life as a citizen of the United States of America.

If you look at the law and you read it as written, what I have perceived to be real truth is this determines that Federal Law requires businesses -- now, I'm going to repeat that -- Federal Law requires businesses to verify their employees. Now, how in Heaven's name are we supposed to support that? If you don't support 1105, how can we support that requirement from the Federal Government?

Also, I'd like to tell you that many of you represent specific communities with specific needs as I do. But having said that, my main concern and our concern is the safety of everyone; the safety of wages, the safety of the homeowner who requires services of the labor unions, of the other unions, of whatever. But I cannot, as I stand here and look at you today, and say, no, I'm not going to support it, because it's a start.

It's a start to bring Suffolk County back in line with legal licenses. We know who we have on the books, who's good and who's bad. And also the workers become ensured in terms of paying in, supporting Suffolk County through the taxes, supporting their families, and it goes on and on. I do take offense that people come forward that have entered here without being a legal immigrant requesting a legal piece of paper. We have laws here. We welcome everyone, but we have laws. We have the Constitution. And this is what I would like to be -- see respected.

But I'm here today to plead with all of you to please look at it from a safety point of view. Suffolk County has a contractors licensing computer. We've accessed it many times. Why not enforce it and legalize it across, again, with some finer points? I say let's go for it. And the fact that you will support it because of the security, the health, and the safety of our communities is why you're here today, the consumer protection. And I take that literally. If you vote against this, I will -- I will honestly have to talk to you personally because I will have to go back and say they didn't look at the

security part of it. Thank you.

**CHAIRPERSON NOWICK:**

Thank you. Dr. Luis Valenzuela.

**DR. VALENZUELA:**

Hi, distinguished Ladies and Gentlemen. Thank you for the opportunity. My name is Luis Valenzuela. I'm the Executive Director of the Long Island Immigrant Alliance and the President of the National Association of Puerto Rican-Hispanic Social Workers.

You know, we're a nation of laws. And historically when we have bad laws, we have pulled together and corrected those bad laws. You know, in 1986, Congress passed the Immigration Reform and Control Act. And they recognized that the law potentially could lead to discrimination. And they put a clause in there, an anti-discrimination clause. And they further thought that perhaps that was not enough, that it would still lead to discrimination.

So they commissioned a study to look at the effects of the bill. And believe it or not, what they found was that discrimination indeed occurred. And discrimination occurred against people who had foreign sounding names, in the majority, Spanish names, and people who spoke Spanish. Employers admitted to discriminating for fear of being subjected to the penalties of the law. And so it's interesting that among the Latino population that was discriminated against through this law, the largest group were Puerto Ricans; Puerto Ricans who have been citizens, whether they were born here or born in Puerto Rico since 1917.

So when we say that this bill can have unintended consequences, we are speaking from experience. The Federal Government has done the study. You guys can look at it. It was done by the JAO. And it's easily researchable.

Again, I'm asking that this bill not leave this Committee; that this bill die in committee. There is no need for this bill. These laws already exist on the books. Immigration is the purview of the Federal Government. I don't see how Suffolk County can usurp the authority of the Federal Government. And, again, please recall that at the penultimate hearing on this bill, the Commissioner of this Committee said he doesn't have the resources and nor do they have the ability, nor perhaps the authority to enforce this bill. Please kill this in committee. Thank you, again.

**CHAIRPERSON NOWICK:**

Thank you, Doctor. James Claffey.

**MR. CLAFFEY:**

Yes. Good afternoon. My name is Jim Claffey. I work at the Long Island Community Foundation, which is a public charity that funds many non-profits and many projects across the Island. I also work with the Long Island Immigrant Alliance.

I'd like to urge you to defeat this bill, 1105. You know, we all know it's a very contentious -- the whole issue of immigration and immigrant rights is obviously an emotional, contentious, it's also very complicated.

It can only be resolved as the previous speaker said, Luis, it can only be resolved at the Federal level. And the problem is when the Federal Legislators return home to their home district and they pick up on the emotion of the community, people all riled up about the issue; signs, for example, out on the East End saying, "Deport Tim Bishop," things like that, then it becomes very difficult for them to go back to Congress and actually hammer out a comprehensive immigration reform bill. So when Congress does not pass it, then it pushes down to the local level issues that can only be resolved on the upper level.

The problem is you cannot resolve these issues at the local level such as the Suffolk County

Legislature. It seems to me it's a waste of our time and our energy. You've heard a major labor union like SEIU come out opposed to it. Your own Commissioner said it's unenforceable. We have many testimony from other parts of the country with similar bills leading to greater discrimination. It adds to the fear in the community. If you want to do something really positive, you should enforce wage laws and overtime pay for all workers. You should give all workers the right to organize. You should pass legislation that protects workers with their safety and health protections on the job. That would be something very positive you could do to protect the workforce in Suffolk County. This is a waste of your time. It only adds to the fear and discrimination in the community. I'd ask you to please reject Bill 1105. Thank you.

**CHAIRPERSON NOWICK:**

Thank you. Nadia Marin-Molina.

**MS. MARIN-MOLINA:**

Actually, I have a letter written by the National Employment Law Project, which they asked us to bring to the legislators. It's already been sent directly to Legislator Beedenbender and to the Presiding Officer Lindsay. It comes from the National Employment Law Project, and it says, "We write to comment on IR 1105, a bill currently being considered by Suffolk County. We have particular interest in this debate since it appears that advocates for the bill are using a recent report that we coauthored to make their cause. But as we explain below, the findings from our report do not in any way support the policy proposed by IR 1105."

In fact, they suggest quite the opposite. The report in question, "Unregulated Work in the Global City: Employment and Labor Law Violations in New York City" was published last June while our lead author was the Deputy Director at NYU's Brennan Center for Justice. The purpose of the report was to document working conditions in low wage industries across New York City's economy with a particular focus on the extent to which employers were or were not complying with core employment and labor laws.

I'm going to skip a few of the paragraphs, but I'm going to turn this in to you so you can have it. But I'll go to the end of the letter. A central finding from our research is that public policy has been part of the problem, but it is also part of the solution. Most important is that we reverse the recent trend of weak, ineffective enforcement of worker protections likes employment and labor laws at the Federal, State and local levels. This means shifting to a proactive strategy, one that sends an unmistakable signal to employers throughout the labor market that compliance with workplace standards is not optional.

By contrast, IR 1105 will do nothing except exacerbate the problems identified in our report. The bill wrongly focuses on immigration enforcement when the real problem is unscrupulous employers actively deciding to cut costs by ignoring the most fundamental worker protections. In our research, we found a wide range of workers and jobs affected by workplace violations, not just undocumented immigrants, but also legal permanent residents, naturalized citizens and US-born Americans. This is not a story about immigrant workers driving down labor standards. It is a story about the low road workplace practices that unscrupulous employers adopt when worker protections are not enforced.

To claim that IR 1105 is somehow about protecting workers is disingenuous. To claim that it is supported by our research is just plain dishonest. Our findings point to one clear lesson; strong enforcement of minimum wage, overtime or other standards is the best policy tool we have to ensure that all workers, whether born here or abroad have full protections on the job. Any other strategy creates a second class of workers in terms of labor rights.

**CHAIRPERSON NOWICK:**

Thank you.

**MS. MARIN-MOLINA:**

I'll turn the full letter in to you.

**CHAIRPERSON NOWICK:**

Antonio Palacios.

**LEG. BARRAGA:**

May I?

**LEG. NOWICK:**

Yes. Certainly.

**LEG. BARRAGA:**

I would just like to make one comment with reference to the last speaker. Are you still there? May I suggest in the future that whether it's your group or the group that you just read the letter for or any other group, if they're going to send any letters in, they should send their letters to the Chairperson of the Committee. I don't care who else they copy, but it should go to the Chairperson, because this is the Committee that, you know, this particular legislation is going forward. You don't want to find yourself in a situation in the future where you don't get an outcome because, you know, the Chairperson was unaware of your letter or your position. Okay?

**MS. MARIN-MOLINA:**

Sorry. That's absolutely a good point. I think that that letter was sent to the Presiding Officer and to the Legislator who proposed it, and we didn't think to send it to the Chair of the Committee. But that's a -- for the future, we certainly will.

**LEG. BARRAGA:**

I understand. But future letters should always be sent to the Chairpersons of the Committees where the bills are going.

**CHAIRPERSON NOWICK:**

Thank you, Legislator Barraga. Antonio Palacios.

**(\*THE FOLLOWING TESTIMONY WAS TRANSLATED THROUGH AN INTERPRETER\*)**

**MR. PALACIOS:**

Thank you for giving me the chance to speak today. I want to speak about the difference that are in our communities. In the last years, we have seen a lot of things. We can see differences. We can see the economy going down. We can see differences between our jobs, differences between the benefits. The schools are getting cuts. All this has been affecting a lot of our communities in these past years.

And that has not been benefitting the country; it has been taking it down.

It is very important in the job and in the schools that our kids can learn to progress and to come together instead of promoting hate and fear. It is very important that our authorities understand that the law is important and coming together is important, and that they focus on laws that are good for everyone and not on laws that are just dividing and different laws for people depending on their race, their color, their ethnicity, their language.

Among all races, we have people who can be very good at promoting unity and doing all kinds of jobs and helping the country to grow and to help other jobs very well. We face many years of war in El Salvador. And that war was promoted by the US. Now that we are here under protection -- we are supposed to be here under protection, but we are being attacked again and our communities are being attacked. And we are supposed to be together in the goods ones and in the bads ones.

**CHAIRPERSON NOWICK:**

Your time is up, but we do have a question from Legislator Eddington.

**LEG. EDDINGTON:**

I just had one question. When I studied sociology, we talked about acculturation and assimilation. I'd like to ask this gentleman the same question. How long has he been in our country?

**MR. PALACIOS:**

Twenty years.

**LEG. EDDINGTON:**

Twenty years. Okay. Thank you very much.

**CHAIRPERSON NOWICK:**

Frank Nitto.

**MR. NITTO:**

How are you doing? My name is Frank Nitto. I reside in Commack, 10 Ron Court, Commack, New York. The issue that's brought today is really nothing about immigration. It's basically about competition between -- I forgot your name, Tom? Kevin. He basically said in his statement that what's wrong with hiring somebody -- paying them \$100 and having them dig a ditch? That's basically what this law is all about. This law is about having everybody on the same level playing field. If you're a contractor and you are abiding by the law and you get beat out by one of these contractors that doesn't abide by the law, that is exactly what this whole thing is all about. It's not about immigration. It's about exactly -- this guy made the best argument for the -- to pass this law.

That is what this bill is all about, everybody being on the playing field, a level playing field. And if you abide by the law, you'll be -- you'll win the contract. Not if you break the law that you have a better shot at getting the contract. I mean, that's basically what this law is all about. It's not about immigration. It's about contractors like him not doing the right thing. Thank you very much.

**LEG. NOWICK:**

Thank you. Paul Forthmuller.

**MR. FORTHMULLER:**

Good afternoon, Legislative Body. My name is Path Forthmuller, and I'm representing the New York Patriots Association. I don't even know where to start with, there are so many things here. First of all, I belong to You Don't Stand For Me. I am Spanish. My mother is Puerto Rican. And should she be alive today, she'd be right behind me supporting me with what I'm going to tell you. We are in a constitutional crisis in this country. We, fortunately, still are a sovereign nation, but this is fastly and quickly eroding because our rule of law is not respected. And this is causing tremendous grief.

I've said to various politicians way in the past that the biggest issue in this country is immigration. This is going back many years. And sure enough it is. Whether or not people want to admit it. They think it's the economy, they think it's the war, many other things. I have been able to show and tie in how all these things would be eased up if our borders were secured. And this -- this bill would go a long way in making sure that the people who are in this country are here legally and that they're working here legally. Because when they first came across the border illegally, that was the first violation that they broke.

The second violation would be when they start to work here. That's the next violation. And what we have then is just an ongoing violations of the law eroding our whole system of justice, eventually our constitution. And that's why I'm in full support of this bill.

I was going to read an article that I have entitled, "Largest US Underground Welfare State." It comes from [www.secureoursovereignusa](http://www.secureoursovereignusa) by Gabriel DelGato. And on it, it shows how there are many, many -- ten cities being put up throughout the border states being paid for, believe it or not, by our Federal Government to enable illegal aliens to live here, paid for by the citizens.

Now, what this law will do is help stop ten cities that are sprouting up all over the woodlands in Suffolk County. They're there. I know it. I've seen them. And what this bill will make sure of is that people are here legally and they get a fair -- fair shake with the amount of money that they're making because the law will protect them and they'll be able to pay into the system. And that's basically what I want to say. So I'm just going to submit this article that I have into the record.

**CHAIRPERSON NOWICK:**

Thank you, sir. Mario Mattera.

**MR. MATTERA:**

Good afternoon, Chairman -- Chairperson -- Chairwoman, Legislators. Thank you very much for letting me speak on this very, very important topic. I'm the business agent for Plumber's Local Union 200. I represent approximately 1200 members, 80 of them -- 80% of them live in Suffolk County. Resolution 1105 is a very important -- not just for the legitimate contractor, but for the local economy. What's upsetting today is that -- in other words, I'm listening to people get up about illegal situations. This bill has nothing to do with race or illegal immigration. This is a contractor exploiting the worker.

And this is where we're getting -- we're getting too far ahead with this. And this is what this law is about. And everybody needs to realize that. Did anybody read this resolution? It's about the contractor that needs to document the people that work for them, that pay taxes and everything else like that. So I don't understand why the race issue is coming in this. And I say it again for the tenth time, this is not about white, black, or -- this is green. This is about greed. This is about the contractor exploiting the workers.

My contractors, I have about 85 contractors. And all of them, as soon as a man goes to work or a woman goes to work, they -- Workman's Comp comes into effect, the taxes are being paid out, unemployment insurance, Workman's Comp, FICA, Social Security going -- paid to the person, not to some illegal Social Security number. This is going to a person that's actually putting money back into the local economy. Does everybody not understand that? The local economy is very important. We need to keep our young people here so this way we continue, because Suffolk County is in serious trouble. Everybody sees the foreclosures that are out there. You see people moving to North Carolina and Arizona. For what reason? Because our taxes are crazy. If everybody didn't have to pay taxes, everybody would be great.

So what do I do? Do I go back to my contractors and basically tell them, guess what, you can pay half cash on the books -- half cash in the pocket and half on the books? Is that what we have to do? Do we have to boycott taxes? I mean, I wish we didn't -- I didn't have to pay taxes, but we have to. Listen to me. There's a couple of things in life; pay taxes and you die. I feel bad by saying it. That's what happens in life.

The local money needs to stay here. We need to enforce this problem. My union, we have a target fund. I said it last time I got up. I have a target fund that I have to actually help my contractors out to get jobs in the private sector. The target fund is actually something where I'll be losing jobs by 30%. And one of the reasons why is I know who's paying cash. This has nothing to do who are they pay paying cash to. But guess what? My contractors can't pay -- they have to pay all their full tab. I'm sorry.

**CHAIRPERSON NOWICK:**

I'm sorry, Mario. Your time is up.

**MR. MATTERA:**

Okay. Okay. I just want to say Brian did a great job with this. And please, we need to have 1105 passed. Any questions, anybody?

**CHAIRPERSON NOWICK:**

Thank you.

**MR. MATTERA:**

Thank you.

**CHAIRPERSON NOWICK:**

Kevin Harvey.

**MR. HARVEY:**

Good afternoon, members of the Legislature. My name is Kevin Harvey, and I'm a member of Local 25 of the IBEW. And I'd like to take just a few moments to speak on behalf of Legislator Beedenbender's pending legislation.

My organization is in support of this pending resolution. We believe the law will guaranty that businesses in Suffolk County engage in fair, yet competitive business environments. Hopefully, it will minimize as much as possible abuses with regard to Social Security taxes, Medicare taxes, Workman's Comp and unemployment taxes.

We all realize these abuses occur everyday. Deceitful and unscrupulous contractors continually try to find additional ways by which to beat the system. The desire within the business community should be to build a better, profitable business through ingenuity and better business management rather than through the scheming and cheating of monies through workers be it state and county mandated rules. When you think about the stark reality of the system, why shouldn't legitimate contractors abide by the law if the County continues to allow deceitful contractors the avenues by which they can cheat their clients without consequences?

Our organization has close to 125 contractors in Nassau and Suffolk County with whom we have -- which whom we are signatory. They try to conduct their daily businesses within the confines and frameworks of agreements with us and with the Suffolk County Department of Consumer Affairs. These laws are broken -- when these laws are broken, all fairness is eliminated and money benefit -- monies that are benefitted on behalf of the workers are lost. With the breaking of these laws, there should be penalties in effect, because legal businesses that abide by them directly suffer the loss of business.

This bill provides fairness to the business community and to the labor movement, whether it be union or nonunion. I would appreciate it and ask the Committee to take this pending legislation to the full body. Thank you.

**CHAIRPERSON NOWICK:**

Thank you. Melissa Sostrin.

**MS. SOSTRIN:**

Thank you. I wasn't going to speak today. I represent American-Jewish Committee, Long Island. We have Nassau and Suffolk. American-Jewish Committee, since its founding, has worked to work for more pluralistic and democratic society. Immigration, of course, has been a concern for us for obvious reasons. When some people get up here and say that race is not an issue, it seems to me that in it's an issue when people are asked how long they've been here. And I have to say, my grandfather was ordained as a rabbi in Europe. When they were finally able to come here, he had to leave his sister and her family behind. They could not get documents. They died in the ovens.

My grandfather was trained as a rabbi. He came and drove a grocery truck. Could he speak English? No. He spoke enough to make his deliveries. Did my grandmother ever speak English to me? No. Did they pay taxes? Yes. Did they raise a generation of doctors and lawyers and business people? Yes. Is there a third generation now who are doctors, lawyers, business people, social workers? Yes. That's all I have to say.

**CHAIRPERSON NOWICK:**

Okay. Thank you. That's the end of the public portion. I would like to ask Commissioner Dow from the Labor Department to come up for a little while. Good afternoon, Commissioner. How are you?

**COMMISSIONER DOW:**

Good afternoon, Honorable Legislators and Chairperson Nowick.

**CHAIRPERSON NOWICK:**

Commissioner, I asked you to come today because I know that this 1105 was amended. And I see that the Labor Department -- Department of Labor is authorized to investigate violations of the law at the request of the Director of Consumer Affairs. And my question to you is if you could just tell me, do you feel that your department has the personnel, the expertise or the ability to handle these violations?

**COMMISSIONER DOW:**

Okay. To the first question, yes, we have the ability, because you well know, all the Legislators know we are responsible in our Local Law Compliance Unit to administer and monitor the Living Wage Law and also the recent law to start in 2007, Local Law 52, which is the Lawful Hiring of Employees Law, also. So, yes, we have the ability with regards to having the personnel that's qualified to do this.

**CHAIRPERSON NOWICK:**

So you have the ability, you have enough personnel, and you --

**COMMISSIONER DOW:**

Well, I quite -- if I could just clear that or make clear that I know about this bill. And I also know that it appears that it's on a complaint-only process, which I'm understanding the bill to be that if the Commissioner or the Director of Consumer Affairs called and requested us to go monitor, it would be on a complaint. What I don't know is how many complaints a year we would actually have. And based on the amount of complaints would really be my answer to whether or not we have adequate staff currently or we'd need additional staff.

**CHAIRPERSON NOWICK:**

Oh, okay. That's a fair answer. Does anybody -- yes. Legislator Browning has a question.

**LEG. BROWNING:**

Yes. If you could explain the Living Wage Law, because I believe the Living Wage Law is if you have a contract with a government entity, the Living Wage Law applies. So, for example, down here on Vets Highway, Local 66 is picketing outside, they're building, I think, a Walgreens or something and they're using nonunion labor, if someone called and reported that to you, does the Living Wage Law apply to that facility or --

**COMMISSIONER DOW:**

Absolutely not. You are correct in saying that, Legislator Browning, that the Living Wage Law is based on just contracts with Suffolk County. And we monitor only direct contracts with Suffolk County. And I believe there's a threshold of ten thousand dollars also that's part of the contract. If the not-for-profit or business is -- has a contract with Suffolk County, it's over \$10,000, then they would be filling out an affidavit saying they're paying the living wage. And then we would go and monitor on a basis that not everyone gets monitored, but they know that there will be a monitoring, you know, on the basis of a three-year contract, they'd be monitored.

The lawful hiring is the same way. It's based on 100% funded County contract. And it's also based on DPW construction contracts. So it is not on the Walgreens or on private sector jobs that the County has no contract with.

**LEG. BROWNING:**

So now with 1105, if 1105 became law and somebody reported to you that they are using off-the-books workers, can you do anything?

**COMMISSIONER DOW:**

Well, someone wouldn't report to us, but the Director of the Consumer Affairs would call us and ask us to go monitor -- and I'm assuming, based on a complaint. And then we would -- based on -- and I know this is forward of the current legislation, but I know that the Consumer Affairs would promulgate rules and regulations to have the ability -- I know there's a fine set already, but the Director of Consumer Affairs would promulgate rules and regulations to give us the ability to go and to to monitor. And I believe also in the law that we would actually have some rules that we would also make that are accustomed to when laws are basically written that we would make rules that would work with our administrating and monitoring particular laws.

**LEG. BROWNING:**

And this does not apply to -- I report a local deli and I feel that there's undocumented people, people working off the books at a local deli, a restaurant, you can't do anything about it; correct?

**COMMISSIONER DOW:**

Well, that's correct, because I believe the law is just specifically for license holders, which would be, like, an electrician, plumber, home improvement or whatever are the licenses that the Consumer Affairs gives to individuals.

**LEG. BROWNING:**

Okay. Thank you.

**COMMISSIONER DOW:**

Thanks.

**CHAIRPERSON NOWICK:**

Are there any other questions for the Commissioner? Thank you, Commissioner. You'll be around a little while, right?

**COMMISSIONER DOW:**

Yes. Thank you.

**CHAIRPERSON NOWICK:**

Thank you. Commissioner Gardner.

(\*PRESIDING OFFICER LINDSAY ENTERED THE MEETING 2:13 P.M.\*)

Good afternoon, Commissioner. How are you?

**DIRECTOR GARDNER:**

Good afternoon.

**CHAIRPERSON NOWICK:**

Do you have anything that you would like to discuss with the committee today?

**DIRECTOR GARDNER:**

Well, the process as far as the investigative part of the -- you know, determining whether or not there are any violations of Title 8 US Code or making proper payroll deductions, which this law addresses, whether it's -- it would be a Federal agency, the points -- the point that I made prior was that our people, regardless of whether we have five or eight or 50 additional staff, we do not have the expertise, the jurisdiction, most importantly in the legal sense, the authority to make a determination of whether or not a violation exists.

So if the Commissioner of Labor -- let's say I did get a complaint or an allegation from someone. The process is that I have a hearing officer. I assign a hearing officer. I usually have an investigating officer. There would be a contractor, and in this case, almost certainly the contractor's attorney at the hearing. And it would be based on the documentation that is produced, whether it's from Commissioner Dow or from one of the Federal agencies mentioned in the law. It's that documentation and that type of evidence that would have to be produced at the hearing in order for the hearing officer to make a determination. And you can bet that a contractor's attorney is not -- in other words, if the hearing officer, let's say just say, based on whatever occurred at the hearing, the hearing officer made a decision to revoke the license, I mean, the contractor's attorney is not going to just say, "Okay. Thank you. We'll turn the license in."

They're going to want to make -- I mean, as part of the hearing, it's who has the authority to make that determination. As long as it's -- if Commissioner Dow has that authority, that's fine. It just depends on where that documentation and where the evidence is coming from and is produced at the hearing. And then it's up to the hearing officer to make that decision.

**CHAIRPERSON NOWICK:**

But the hearing would be in the Department of Consumer Affairs?

**DIRECTOR GARDNER:**

That's correct.

**CHAIRPERSON NOWICK:**

And you have hearing officers in place, you can do -- you can handle something like that?

**DIRECTOR GARDNER:**

Yes. I mean, at this point when I have the authority to promulgate rules and regulations, as most laws give me the authority to do so, I don't anticipate the need at this point to promulgate any rules and regulations. If the law were to be passed, we would -- as we go forward and we come upon happenstances, we would decide whether or not we had to promulgate and rules and regs. But as far as the hearing process and all that occurs before and after it, we already have those in place. I just wanted to kind of elaborate on the process itself. That's how it goes.

Whatever violation is alleged, whether it would be this, if this law were to be passed, or any other in the County Code, that's how we proceed. A hearing officer makes it. And by the way, the hearing officer's decision is then a recommendation to me. I make the final decision based on the recommendation of the hearing officer.

**CHAIRPERSON NOWICK:**

Thank you, Commissioner. Does anybody have any questions for the Commissioner?

**P.O. LINDSAY:**

Yes, I do.

**CHAIRPERSON NOWICK:**

Legislator Lindsay.

**P.O. LINDSAY:**

Yeah, Charlie, if you had a contractor, say, that was convicted of income tax invasion, do you feel that you have the authority to revoke the license?

**DIRECTOR GARDNER:**

There is a section in the law which speaks about --

**P.O. LINDSAY:**

Well, this would be a new section, assuming this passed.

**DIRECTOR GARDNER:**

Yes. If this passed, yes. Yes. If this law were to pass, and then it would -- again, whether it's making an improper or not making required payroll deductions or any violation of Title 8 US Code and it was proven at the hearing that that violation existed, if this law were to be in effect, I could revoke, suspend and/or penalize a licensed contractor.

**CHAIRPERSON NOWICK:**

Thank you, Commission. Did you say you have a question?

**P.O. LINDSAY:**

No.

**CHAIRPERSON NOWICK:**

Okay. Are there any more questions for the Commissioner? Thank you, Commissioner Dow. Thank you, Commissioner Gardner.

**DIRECTOR GARDNER:**

You're welcome.

**TABLED RESOLUTIONS**

**CHAIRPERSON NOWICK:**

All right. We are going to go to the agenda.

**Tabled Resolution 1105, adopting Local Law Number -2008, a Local Law to prohibit fair business practices by strengthening requirements for occupational licenses.  
(Beedenbender)**

**LEG. MYSTAL:**

Madam Chair, I make a motion to table subject to call.

**LEG. BARRAGA:**

I second the motion.

**CHAIRPERSON NOWICK:**

We have a motion to table subject to call, which does take precedence over any other motion and a second by Legislator Barraga. All in favor?

**P.O. LINDSAY:**

Wait a minute. You have to see if there's any motion to approve.

**CHAIRPERSON NOWICK:**

Okay. Is there a motion to approve?

**P.O. LINDSAY:**

I make a motion to approve.

**CHAIRPERSON NOWICK:**

Okay. We have a motion to approve by Legislator Lindsay.

**LEG. EDDINGTON:**

Second.

**CHAIRPERSON NOWICK:**

And a second by Legislator Eddington. All in favor? Wait. I'm sorry. We also -- the subject to call does take precedence, as I just said. We have a motion and a second for the tabling. Anybody on the motion would like to be heard on the tabling?

**LEG. BEEDENBENDER:**

Madam Chairwoman.

**CHAIRPERSON NOWICK:**

Legislator Beeden --

**LEG. BEEDENBENDER:**

Bender. I appreciate it.

**CHAIRPERSON NOWICK:**

Although not on the committee, would like to have a moment.

**LEG. BEEDENBENDER:**

And I appreciate that, Madam Chairwoman, for allowing me to speak, even though I'm not on the committee. I just want to address a couple of things that have been discussed today and a couple of topics that have been out there for a while and I really haven't, at this body, addressed.

First, to the personnel that we've been discussing, you know, in each department. I have said, I said it to the TV cameras before and I have said it over and over, if as -- if we get to the point that more personnel are required to enforce this bill, whether -- because you have to remember that it's as licensees renew, so on average, we'll get about 500 renewals a month, maybe one or two -- one to 200 applications for new licenses. So each month, more and more licensees would fall under this law.

So if we go forward and it gets to the point that Consumer Affairs or the Labor Department requires more personnel to enforce this law, I have said, and I'll say it again today, that I will be happy to support -- to put forward the resolution to find a way to pay for the personnel to enforce the law. I just don't think we should dump an arbitrary number of people into a program before we know what the true needs are.

So that aside, a couple of comments from earlier today. There was one comment that the problem doesn't exist. And I really don't even have anywhere to go with that. You can disagree over the facts, but -- I mean, disagree over opinion, but you can't disagree over the facts. The problem exists. And to address another one of the comments, what's the problem with hiring -- without paying taxes or hiring illegal worker? It's illegal. I mean, I know that's very simplistic, but it is.

Also, there is -- there's been many comments made over the past couple of weeks that, you know, that somehow I'm carrying water for labor unions. And my comment would be, where does that show in the bill? Where does this say this is only for labor unions? It says it's for everybody. So labor unions have a vested interest. And, in fact, we have -- and if we want to talk about labor unions, we'll talk about them. One of the representatives from the Plumber's Union says today that he takes a payroll deduction out of all of his members salaries in order to start a fund that he can go to businesses that he knows are cheating and say, "Listen, we'll come in and replace that money." So if you think of the absurdity of that that you have a worker who's taking a payroll deduction out of his own salary so his representatives can go to business and say, "Listen, we know you're cheating. We'll give you the money to make up what it cost to hire somebody legally and pay the taxes." It's just a theory of the absurd.

And I guess the question that I have, despite all the things have been said, and, you know, the very,

very quick lesson in politics and what it really is that I've gotten in the past couple of months, is what do I say, what do we say to the small businessowner -- I've heard from a lot of them -- who follows the law and has gone out of business? Now I've been asked questions, well, what about the effect this is going to have? Well, what about the effect that this problem has already had? It's a devastating effect. And I reject the argument that simply because this problem is so ubiquitous, that it's so widespread that we can't do anything about it so we should somehow ignore it or we should say, and this is a popular argument that this is a federal problem. You know what? The federal government has failed abysmally. And you know what? I haven't been in politics too long, but I'm not going to hold my breath and wait for the federal government to do anything.

We have payroll tax laws and we have legal workers laws. And they've been on the books for decades. And nobody is suggesting that we should get rid of them. So to suggest that we shouldn't enforce them, I don't understand. And I will just leave it at this. Lots of people have suggested, lots of individuals, lots of organizations have suggested what this bill is about. And I will say very simply what this bill is about. It's about leveling the playing field and addressing the defiance of a whole host of laws in a never ending, disgusting pursuit of greed. That's what this is about. This is about somebody saying, "I'm going to ignore the laws, I don't care about the guy across the street who does it the right way, because I want the money, I want the business." And that's wrong.

That's what this bill is about. Any other suggestion is distracting from the issue. And to suggest that it doesn't exist is just befuddling to me. And I would ask this committee to approve this. And as I've said before, I will be working with -- if it doesn't approved, I'll be working to get a petition together that -- to bring it to the floor for a vote of the full Legislature.

I thank you, Chairwoman, for the indulgence of her time, and I appreciate it.

**CHAIRPERSON NOWICK:**

Is there anybody else? Okay. We have a motion to table subject to call. Roll call, please. All in favor?

**LEG. BROWNING:**

Yes.

**LEG. MYSTAL:**

Yes.

**CHAIRPERSON NOWICK:**

Opposed?

**CHAIRPERSON NOWICK:**

Motion fails.

**(Legislators Browning, Mystal and Barraga voted yes. Legislators Lindsay, Nowick and Eddington voted no re: Tabled subject to call)**

**CHAIRPERSON NOWICK:**

We have a motion to approve.

**LEG. MONTANO:**

Madam Chair, may I be recognized?

**CHAIRPERSON NOWICK:**

Okay. On the motion to approve, Legislator Montano would like to be recognized.

**LEG. MONTANO:**

Yes. I guess it's evident that the motion to table subject to call did not pass because of the tied vote; is that correct, Mr. Counsel?

**MR. NOLAN:**

That is correct.

**LEG. MONTANO:**

I'm asking you what will happen if the motion to approve results in the same vote with respect to the bill?

**MR. NOLAN:**

If there's a tie vote, the motion fails.

**LEG. MONTANO:**

What happens with the bill, must it be reintroduced at that point?

**MR. NOLAN:**

No. The bill would not appear on this committee's agenda again, but pursuant -- subject to the Six Month Rule, a legislator would still have the option of circulating a petition to discharge to get it out of committee before the full Legislature. This is a longstanding practice at the County Legislature.

**LEG. MONTANO:**

Could you, Counsel, point to the rule and read the rule that you refer to? I have a copy of the rules here. And I want to make sure that that is what is included in the rules.

**MR. NOLAN:**

It does not state it expressly in the rules.

**LEG. MONTANO:**

So if it's stated in the rules, on what do you base your opinion?

**MR. NOLAN:**

Thirty years practice that --

**LEG. MONTANO:**

Practice of what?

**MR. NOLAN:**

Hold on. That the Legislature has never used the committee structure to frustrate the will of the entire body. And that's been the practice.

**LEG. MONTANO:**

That's an argument, that's not in the rules. I would challenge this very clearly. I've looked at the rules. And I must say, speaking more as an attorney than as a Legislator, you do not get two bites at the apple. It is my position, and I will challenge this, that if the motion to approve does not pass, the bill dies. You cannot revive it. You must reintroduce it and go through the process of public hearing.

I ask you again, can you point to a section in the rule -- in the Rules of the Legislature that support your interpretation? Because we went through this same argument at the Budget and Finance Committee last week.

**MR. NOLAN:**

We did.

**LEG. MONTANO:**

And we ultimately tabled the bill, because I said very clearly that I did not support that argument, and I did not want to prejudice the rights of the person who sponsored the bill; that if they push for a motion to approve, and it failed, that then they would not be able to seek a motion to discharge without challenge. And I see that we're in this position again.

**MR. NOLAN:**

We are.

**LEG. MONTANO:**

So I will ask you for the third time, where in the rules does it say or what supports your interpretation? Not a 30 year practice. I want to hear something --

**MR. NOLAN:**

That's what supports it.

**LEG. MONTANO:**

-- from the rules.

**MR. NOLAN:**

Legislator Montano, I have stated already the other day, and I'll state it again, it is not stated in the rules. It is a 30 year practice of this body. If they want to undo that practice, I think that would have to be -- should have been done in the rules to state that this will no longer be the practice of the County Legislature. But after 30 years, that's the practice, that's the rule. That's my ruling. You're entitled to challenge it.

**LEG. MONTANO:**

Obviously, there's something wrong. I will challenge it, because I think it's inappropriate. We don't get a second bite at the apple. If I have been doing something wrong for 30 years, it doesn't mean I should continue to do it. I would need some indication in the rules to convince me that if the motion to approve does not pass, the bill or the sponsor of the bill would get a second bite at the apple. I have been Counsel to the Legislature in Albany. And I do not believe that the rules in Albany work in that fashion. Mr. Barraga --

**MR. NOLAN:**

That's completely different. That's a given.

**LEG. MONTANO:**

I'm going to ask --

**MR. NOLAN:**

They won't bottle up stuff up in Albany in committee.

**LEG. MONTANO:**

I'm going to ask Legislator Barraga --

**MR. NOLAN:**

That's never been done before, Rick.

**LEG. MONTANO:**

I'm going to ask Legislator Barraga, who has been in the Assembly, if he knows, if a bill is voted upon and it does not pass, what is the result of that bill? Do you know, Legislator Barraga?

**P.O. LINDSAY:**

Through the Chair.

**LEG. MONTANO:**

Through the Chair, if I may. Legislator Nowick?

**CHAIRPERSON NOWICK:**

Sorry.

**LEG. MONTANO:**

I would like to direct that question, if he knows -- and I don't mean to be in a -- I just want to get some guidance from someone that we know has been at the Assembly.

**LEG. BARRAGA:**

Usually in the committee system, we've never really technically voted a bill to kill a bill. We usually vote to hold a bill. All right? And that's usually an indication to the sponsor that, you know, just don't come back until maybe the next session the following January. But that's the way we usually handle it.

**LEG. MONTANO:**

Okay. If I may, Madam Chair. Then I think this a procedural issue that does not need to bog down the Committee. I would -- this issue came up before my committee on Tuesday. I maintained the same position with respect to another bill. And I guess it's something that's going to come before the Legislature. In my committee, we simply voted to table the bill so that we did not prejudice the right of the sponsor to seek a discharge.

**CHAIRPERSON NOWICK:**

Legislator Montano.

**LEG. MONTANO:**

Thank you for the opportunity to present this.

**CHAIRPERSON NOWICK:**

Okay. We do have another committee coming in here. And having said that, do I have a motion? Legislator Eddington.

**LEG. EDDINGTON:**

Just on the motion, two things. One is that -- you know, I'm going to withdraw my motion to approve and support tabling.

**LEG. MYSTAL:**

It wasn't your motion to withdraw.

**LEG. EDDINGTON:**

I said approve.

**MR. LAUBE:**

It was the Presiding Officer's motion.

**LEG. EDDINGTON:**

Well, I do have a problem, and this is kind of just a personal thing. I don't like the game being changed -- the rules of the game being changed in the middle. There are Legislators here that haven't been here 30 years, but certainly more than the two years or three years that I have been here. And now all of sudden, the rules are changing for a new Legislator. And I just find that appalling. I think that if you want to change the rules, then let's get a meeting -- a committee together, let's change the rules. But in the middle of the game, to change the rules, I think is

absolutely outrageous, and it's not fair to a new Legislator. But I will follow the instruction and the advise of what they do in Albany, because I'm sure they know how to deal with these problems much more effectively.

**LEG. BARRAGA:**

Everything you said was correct until the end.

**LEG. EDDINGTON:**

That was for my wife.

**CHAIRPERSON NOWICK:**

So we have to withdraw the other motion?

**LEG. MONTANO:**

The second was withdrawn.

**CHAIRPERSON NOWICK:**

Motion to approve has been withdrawn and we have --

**LEG. EDDINGTON:**

The second.

**CHAIRPERSON NOWICK:**

The second has been withdrawn.

**MS. ORTIZ:**

The Presiding Officer made the motion. Is he withdrawing it?

**CHAIRPERSON NOWICK:**

Yes.

**P.O. LINDSAY:**

No. The second withdrew it. It doesn't have a second.

**LEG. MONTANO:**

It doesn't have a second.

**LEG. MYSTAL:**

It doesn't have a second, so it dies.

**CHAIRPERSON NOWICK:**

Okay. This is very clear. Now, we have a motion by Legislator Eddington to --

**LEG. EDDINGTON:**

I'd like to make a motion to table.

**CHAIRPERSON NOWICK:**

-- to table.

**LEG. EDDINGTON:**

Right.

**CHAIRPERSON NOWICK:**

Second by Legislator Lindsay?

**P.O. LINDSAY:**

Yes.

**CHAIRPERSON NOWICK:**

All in favor? Opposed? The motion to table has been **APPROVED.**

**(VOTE: 6-0-0-0. Presiding Officer Lindsay voted)**

With no further business, I'm going to take a motion to adjourn by Legislator Mystal. Thank you.

**(\*THE MEETING WAS ADJOURNED AT 2:31 P.M.\*)**

**{ } DENOTES BEING SPELLED PHONETICALLY**