

**HUMAN SERVICES COMMITTEE
OF THE
SUFFOLK COUNTY LEGISLATURE**

A regular meeting of the Human Services 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 Monday, March 19, 2012 at 10:00 a.m.

MEMBERS PRESENT:

Legislator DuWayne Gregory, Chair
Legislator Kara Hahn, Vice Chair
Legislator Kate Browning
Legislator Lou D'Amaro
Legislator Ed Romaine

ALSO IN ATTENDANCE:

George Nolan, Counsel to the Legislature
Renee Ortiz, Chief Deputy Clerk, Suffolk County Legislature
Diane Dono, Budget Review Office
Craig Freas, Budget Review Office
Michael Pitcher, Aide to Presiding Officer Lindsay
Paul Perillie, Aide to Legislator Gregory
Justin Littell, Aide to Legislator D'Amaro
Ali Nazir, Aide to Legislator Kennedy
Ben Zwirn, Assistant County Executive
Greg Blass, Commissioner, Suffolk County Department of Social Services
Linda O'Donohoe, Suffolk County Department of Social Services
Martha Kahan, Health Department
Vanessa Pugh, Town of Babylon
Other Interested Parties

TAKEN AND TRANSCRIBED BY:

Lucia Braaten, Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 10:00 A.M. *)

CHAIRMAN GREGORY:

Good morning, everyone. Welcome to today's Human Services meeting. We're going to get started with the Pledge of Allegiance.

(*Salutation*)

Okay. Is Martha Kahan here?

MS. KAHAN:

Yes.

CHAIRMAN GREGORY:

Okay. Hi.

MS. KAHAN:

Good morning.

CHAIRMAN GREGORY:

Good morning. Since we don't have any other cards and you had actually reached out to our office as well, we invite you to come up and give a few minutes discussion on the BOCES contract.

MS. KAHAN:

Right.

CHAIRMAN GREGORY:

Right?

MS. KAHAN:

Thank you.

CHAIRMAN GREGORY:

Okay.

MS. KAHAN:

And I guess formally I should just say that my name is Martha M. Kahan, K-A-H-A-N. I work for Eastern Suffolk BOCES, Student Assistant Service. We're the contract agency with the Health Department to provide services to schools throughout Suffolk County. And, yes, I did talk to Jason about -- it was very last minute I got the agenda for today and asked if I could come and speak. I've also reached out to the Health Committee where I'm doing a presentation. So some of you will be very tired of seeing me, but I feel very passionately about this. So I'm grateful for the opportunity to come before you to just tell you a little bit about what we are seeing and, hopefully, you're hearing something from your constituents as well about their disappointment about the cancellation of our service.

We've been working with the Health Department for ten years to provide school-based health education services. Currently, we work with over 50 school districts on our Health Smart Program alone. We also provide many other services, youth empowerment and peer education programs. All of this was stopped overnight and we were really taken aback. Our contract formally ended in

December and we had been -- we had participated in an RFP process. We won that bid and all signs pointed to us getting an executed contract, and we were operating in good faith these past few months expecting a new contract to be executed. We've held five teacher trainings in January and February alone. We -- once we were told overnight that there would be no contract, we canceled our bullying conference, our tobacco peer education conference. Some of your districts in your Legislative -- some of your school districts, I should say, in your Legislative districts were signed up to attend these conferences and we had to pull the rug overnight.

We hope that you're hearing -- we're asking your constituents to call you and share their disappointment with you. And I hope that you don't mind that we're doing that, but we feel so passionately about the need for these programs that we're asking schools to let their Legislators know how important, how vital these services are, especially in the -- in this year, the first year where there's a 2% cap on school budgets. We know there's less money than ever for schools to run these kinds of programs. They didn't run them before, they're definitely not going to run them, and especially now also, given the current conversation.

I just watched a video with the President and the First Lady talking about bullying. I mean, this is a conversation that we're having on the national level, and it's certainly a topic that needs to continue to be addressed. And our bullying conference for middle school, there were 15 districts signed up to attend March 30th, we had to cancel that, but that's just one piece of what we do in the area of bullying. Our comprehensive health education program, Health Smart, addresses bullying K through 12.

And, you know, the U.S. Surgeon General's report just came out about teen smoking. We're lucky in our area that we have lower rates than the national average, and that's the result of Suffolk County being the progressive County that we've always been in the area of tobacco control, and that has to do with taxes, clean indoor air legislation and education. And, you know, the whole impetus for this initiative came about after the master settlement agreement. Unfortunately, we don't get that money earmarked for tobacco prevention and cessation anymore because that money has gone into the General Fund. That was a decision that was made, you know, because of fiscal issues. And I'm well aware of the County's fiscal problems, but we cannot let up on these -- on these areas of risk behavior. And we know what causes morbidity and mortality. We know it's not -- you know, the Surgeon General report is not -- shouldn't be real news to us, but I think what should be news is that, in spite of the fiscal climate, there are just certain things that just should not be cut.

And, you know, just as an aside, and I guess I'll close with this, I didn't -- I didn't really come here with a formal presentation. I wasn't sure if I would be here or there, but just speaking very passionately because I so believe in this topic. And just off the record -- well, I guess it's on the record, but as an aside I'll say. You know, I'll have a job, I'm very lucky. I work for Eastern Suffolk BOCES and I'm old enough that I have a lot of seniority, so I'll be -- I'll have a job somewhere. I'm not doing this to save my job, I'm saving this -- or I'm trying to save this program because I really honestly, earnestly believe in what we do and that we do a really good job and we do it for very little money, all things considered.

This contract was only three hundred and -- I say only 350,000. That's not a lot for working with 50 school districts on just Health Smart alone, and it's half of what it was originally when we were first funded. We were funded at almost twice that back in 2002 when we started originally.

And just as a final aside, I was talking to my sister, who -- and telling her about what was happening. She lives in New Jersey, and not that that's relevant, but she was saying -- you know, I was explaining the fiscal problems in the County, and she said, "You know, it just doesn't seem right. Everybody's going through fiscal problems, but you never take cuts from education? So I just -- you know, that's kind of where I'm left asking you. And I know this is the Human Services

Committee, but when I checked the website, it says anything related to funding for children, families and -- women, children and families, so I thought, "Okay, I can could make the argument that this is relevant to you."

So -- and just one last thing. You know, Mr. Gregory, we -- I've been begging to get Copiague, Amityville and Wyandanch into our program. You know, we just started training Copiague teachers March 7th, and then I had to call them and say, "I'm sorry, the April 3rd and May 22nd Health Smart teacher trainings are cancelled." We had Amityville teachers attending. We've just renewed that relationship with them, Mrs. {Branning} from William Floyd. They were coming to the Teens as Teachers of -- and I had a parent call me and say can I pay for her to go to this training, and I said, "There's no training to go to." And her daughter came home and said, "Oh, I think it was just that they didn't have money for the bus." I mean, parents don't even understand what's being cut."

So, you know, each of you, and, Mr. Romaine, you know, Southold Mattituck were planning to come to the bullying conference, so each of you has, you know, districts that are invested in what we do. So, I know, because Mr. Romaine told me that the County Executive -- the Legislature can't compel the County Executive to spend money, but I hope you don't -- I hope that you will consider educating him, because I don't even know if he knows as a new person what it is that he's cutting. And you all know me and you know our program, so -- excuse me. I'm hoping that you can at least educate him so that he's clear about the decision that he's making, because I don't know that he even knows.

So that's it for me. I feel defeated, but I'm not giving up. So thank you for your time. And I appreciate your listening and your support through the years, because, you know, you've really been there for us at other times, like in 2007, when the County Executive did away with the DARE Program and we developed Police Smart to compliment Health Smart. So I'm not really clear even where we go with that, but I know you'll help us figure it out, so thanks.

LEG. ROMAINE:

If I could.

CHAIRMAN GREGORY:

Okay. Thank you. And excuse me for my voice, I'm recovering from something. But Legislator Romaine has a question.

LEG. ROMAINE:

Just real quickly, I just will reaffirm with Budget Review Office the facts that I had sent you by email, which is -- in fact, this is a lump sum item in the budget, not a line item in the budget, and it was a lump sum, which you were funded out of. And I guess there was a decision made that that money would not be used for Health Smart, which replaced the DARE Program. And I'm going to ask Budget Review to confirm that, just so for my colleagues to know. I've been back and forth on this item because I tried to track it down and see if it was a lump -- if it was a line item that was not -- it was a lump sum. I think it was \$560,000, or something of that magnitude, that was in, in which this program was to be funded out of.

MS. DONO:

Ed, I've asked Craig Freas to come in, because he's the Health Department analyst. I don't know anything about this, I'm Social Services, so I've asked him to come in.

LEG. ROMAINE:

Okay. I don't want to delay the proceedings, but Gail sent me the e-mail, which I forwarded to you, concerning this matter, because I thought it was important and it was a decision that was made by the Administration. It's hard for me to be critical of the Administration because of the financial

burden that the County is facing. But, nevertheless, I think you make a very good point that there is long-term and short term consequences. And while the short term might help the bottom line, the long-term consequences might cost the County a great deal more in the long-term. It's difficult. I would not want to be in Mr. Bellone's position, I understand. But, hopefully, I've provided you all the information that you needed, how this came about.

CHAIRMAN GREGORY:

As you alluded to, I mean, with this -- the fiscal crisis that we face today, we're going to have to make some grim decisions and --

LEG. ROMAINE:

This may be one of them.

CHAIRMAN GREGORY:

A lot of those decisions have not been aired, but, you know, we may have to consolidate our centers, we may have to close DSS centers. I mean, there's a whole host of things that we're going to have to review and make decisions on, one of which is contracts with contract agencies and programs that we're going to have to review and prioritize and reprioritize, or and whatever the case may be. And, unfortunately, this program may be a casualty to that analysis. But Craig's here to add to the discussion, I guess. Legislator Romaine had some questions for you.

LEG. ROMAINE:

No. I just wanted confirmation that, in fact, money was included in this program, but it's part of a lump sum, not a line item, in which it was theoretically thought that the money could be taken from there.

MR. FREAS:

Oh, this is for --

LEG. ROMAINE:

Health Smart. Health Smart, the successor to DARE.

MR. FREAS:

No, I don't believe there would be a --

LEG. ROMAINE:

Check with Gail, because she sent me the e-mail.

MR. FREAS:

Okay.

CHAIRMAN GREGORY:

Yes, Legislator D'Amaro.

LEG. D'AMARO:

Good morning. I just feel like I need to tell you that I agree with you, that the program was very effective. And, I know, I think we all admire -- I know we all admire your dedication to it. And my thought this morning is that, you know, there was a severe meltdown of our economy caused by a lot of people that were never really held accountable, and now this is the end result where the kids suffer. And, you know, there's a long story to tell in between those two comments, the beginning and the end, but I have to tell you, it's just not fair what's happening here. But, unfortunately, we're placed in a position where we have to set those priorities.

Now, I will tell you that when I got the e-mail explaining to me what happened here, I was a little surprised only because there was no explanation given to me before it happened. And also, not that it shouldn't be done and not -- like Legislator Romaine says, it's very difficult to be critical at this point, because we're in the process of going through just how we're going to respond to the budget crisis that we have, but there's been really no explanation as to why this particular program at this time, and also, is there any intention to scale it back, replace it? Are there other companies being considered? Is there a future plan? I mean, there's a lot of open-ended questions, and we're going to have those questions for many programs that may be affected by the budget model that we ultimately come up with. But I think we need to start asking those questions. So I appreciate you being here very much. This was 100% County-Funded program; is that correct?

MS. KAHAN:

Correct

LEG. D'AMARO:

Through your contract, right? And it's going to have an impact on kids who are at a very impressionable and vulnerable stage of their lives. And I think this program has really been making a difference with many of them. So, again, like my colleague points out, you know, short-term gain, long-term consequence. But I think we're going to face this type of situation in many, many other areas going forward. But, you know, again, I just -- it's very unfortunate that at the end of the day, it's people like you and I that are the ones that are going to pay for all of this, and our kids are the ones that are going to suffer because of it when there's really been no accountability right up the chain. It's just not fair.

With that said, as we go through the budget process, I have your e-mail.

MS. KAHAN:

Thanks.

LEG. D'AMARO:

I will keep it very much in mind. And I can't make you any promises, obviously, but I know we'll all stay focused on it and do the best we can.

MS. KAHAN:

Thank you.

LEG. D'AMARO:

You're welcome.

LEG. ROMAINE:

By reference, this is a -- RFP was done in the Fall of this year for this program. Once again, Eastern Suffolk BOCES won, not just for the eastern part of this County, but to provide that service throughout the County of Suffolk. The County Attorney's Office drafted a contract. A contract was sent to Eastern Suffolk BOCES. They signed that contract, it came back to the County, and a decision was made, I assume, because, as a Legislator, one of the policy-makers of the County government, no one informed me, as I'm sure they informed no one else of my colleagues around this horseshoe not to renew that contract, although it was assumed, based on past practices, because the County was always late in getting their contracts. So the service kept on being provided, and then someone woke up and said, "Wait a second. We don't have a signed contract." And there's been a Legislative meeting on February 7th and there was no resolution. And wait a second. I don't see anything in the packet for March 13th, so whoops. And then they began to check and determined that with the Health Department, that no contract was renewed. And this really is less a human services committee matter than a Health -- Health Committee matter.

I spoke with the Superintendent of Eastern Suffolk BOCES. I made inquiries with Dr. Tomarken, who informed me they were not renewing the contract. I then inquired with Gail Vizzini and Gail sent me an e-mail, said, "Yes, the money is there." It's in a lump-sum appropriation, but I guess there was a decision not to bring forward that resolution. And, again, I'm one of 18 Legislators, and I certainly don't have all the equities laid out for me on how I'm managing or going to manage the County's budget issues, but I guess the Executive Branch made a decision that this was one program that, one, they were not going to renew at all, not scale back, provide no services and it was going to end. This is the successor, as we know, to the DARE Program.

CHAIRMAN GREGORY:

And I feel compelled to add that I recall, after the November election, the transition team for the current Administration had sent a request to the previous -- the prior Administration to not enter into any new contracts, and I guess the prior Administration, you know, did what they thought was, you know, in their best interest, or whatever, that they weren't -- decided at the time. Unfortunately, that doesn't necessarily marry up to the current Administration's feelings on that issue. I think that's important to put on the record. And I would shut up so I won't have you suffer listening to me anymore. But thank you, Miss Kahan, for coming forward and bringing this issue to our attention.

That's the last card that we have. Does anyone else want to come forward and speak?

MS. KAHAN:

At the risk of overstaying my welcome, I did plan to come to the Health Committee on -- I think it's the 22nd, Thursday.

LEG. BROWNING:

Thursday.

LEG. ROMAINE:

Thursday at what, two o'clock?

MS. KAHAN:

I don't want to be anymore annoying than I already am, so if some of you who are members of that committee who are here today think it's -- enough is enough, I'll certainly yield to your advice and pass on that. But if you think it's valuable for me to come and maybe to share something else, I don't know, you know.

CHAIRMAN GREGORY:

That's perfectly fine.

MS. KAHAN:

Okay.

LEG. ROMAINE:

That would be fine. And after many years, I've learned it's the squeaky wheel that gets the grease.

MS. KAHAN:

Well, I'm trying. Thank you very much for your time.

CHAIRMAN GREGORY:

All right. Thank you. I see the Commissioner is here. Do you have anything you want to add or any comments?

COMMISSIONER BLASS:

Yes, please. Good morning, Mr. Chair, and Members of the Committee. I just wanted to briefly discuss one point with you with that has indicated an emerging difficulty in the department and that relates to the prompt payment bill -- actually, the Prompt Payment Law. We have complied with that law consistently since the law's enactment until the appropriation ran out in the last quarter of 2011. Well, I must tell you now that in the -- owing to the restrictions on overtime, we have come to the conclusion that in a very short time we will not be able to comply with the Prompt Payment Law for the foreseeable future. And I would also indicate that in a matter of -- if this week or, at the latest, next week, we will already be over 30 days, not only for the child care providers, but also for all other vendors, the not-for-profit vendors to which the law applies.

I can tell you that the Department has made consistent efforts to enact reforms to overtime policy long before any directives were handed down to do so. We had managed it pretty well, but one of the difficulties with the Finance Division is that we haven't had hirings there since the last quarter of 2011. And owing to the particularly acute fiscal issues that have arisen in the past couple of weeks, our overtime availability is even more limited and we don't have the personnel and the overtime funding that made the compliance with the Prompt Payment Law possible of late. To project when we will be able to restore compliance is not possible at this time.

CHAIRMAN GREGORY:

So you're not only referring to prompt payment for the child care providers, but for all contract agencies?

COMMISSIONER BLASS:

Yes, we're going to be behind, if we're not already behind for every --

CHAIRMAN GREGORY:

Your mic's not on. Legislator D'Amaro has a question for you.

LEG. D'AMARO:

Good morning, Commissioner.

COMMISSIONER BLASS:

Yes, sir. How are you?

LEG. D'AMARO:

Nice to see you. So the compliance with the requirement of the Prompt Payment Bill or Law was only met -- we were only meeting the requirements of that legislation because of overtime?

COMMISSIONER BLASS:

Lately, yes.

LEG. D'AMARO:

Yeah? So --

COMMISSIONER BLASS:

And that's because of staff allocation to our Finance Division. We have vacancies there that haven't been filled of late, and we also had attrition. This is really not unique to the Department, and it's not the fault of the current Administration, nor the past one. It's simply the fact of the matter is that the very same things that are making all the contract agencies so busy and the Department so busy, namely the economy, the economic situation, the spiralling caseloads, the -- are also making it difficult to have the funding for overtime, and also making it difficult to have adequate funding for

staff.

LEG. D'AMARO:

Right, and I understand. And I'm not looking to affix blame. I understand it's just the function of personnel and the funding available. But was there ever a time that we were able to comply with the requirements of that law without overtime?

COMMISSIONER BLASS:

Yes, that was earlier in the -- 2011, and before that, since the law's enactment. We were able to hold our own pretty much without overtime. But towards the middle of 2011 and then the last quarter of 2011, things converged, not the least of which was the appropriation for child care running out, so we were not in compliance there. That caught up, and just as we caught up, then the overtime crisis emerged, which was probably January for us.

LEG. D'AMARO:

Okay, I understand that. And how far behind are we now, and how far behind do you anticipate we will be in making payment?

COMMISSIONER BLASS:

I regret to say at that we are approaching the 30-day mark as of this week, if not next week. I think that it won't be long, all things being equal, that we will be up to 45 days in the not-too-distant future, and it could go beyond that.

LEG. D'AMARO:

Okay. I appreciate you keeping us posted on that. Thank you. Thank you, Mr. Chairman.

COMMISSIONER BLASS:

I felt it was better you heard it from the Department rather than from others.

LEG. D'AMARO:

Yeah, that's the right way. I appreciate that.

CHAIRMAN GREGORY:

Legislator Romaine.

LEG. ROMAINE:

Yes, good morning.

COMMISSIONER BLASS:

Good morning.

LEG. ROMAINE:

Let me ask you about staffing. How many vacancies overall does Social Services have? If you don't have an exact number, if you have an approximate number, that would be -- now, these are vacancies that were in the budget, that were funded in the budget, supposedly. How many vacancies do we have now, approximately?

COMMISSIONER BLASS:

We were funded for and we have in the budget 1828, 1830 positions. We are now around the low 1600s.

LEG. ROMAINE:

So you have approximately 200 vacancies in Social Services and these vacancies come from

positions that are in the budget, and then theoretically in the budget you would say, theoretically, assume that they're funded, taxes and monies being collected and revenues based on that budget.

I appreciate you coming here today because you make a compelling case, that this Legislature has to make a decision, and that decision is very simple, a decision of whether we follow the laws that we enact, or we secede to fiscal crisis. My way of thinking, and my colleagues could certainly disagree, there are some core missions that the County government has to fulfill, and then there are other missions that are less critical to the existence of County government. Social Services falls into the core mission. It is absolutely essential, and it is an essential duty and responsibility of this government. We passed a law, Prompt Payment, that said if we hire vendors, we're going to pay you, not 30 days from the -- from when you perform the service, which we all understand, it's 30 days from after you render as a bill, which may be sixty days after you perform the service. And now, because of vacancies and because of the restrictions on overtime, you will not physically be able to meet and comply with the prompt payment. And you project that payment could be delayed 45 to 60 days for not-for-profits, people that don't have -- not a for-profit business with a reserve, with profits that they have from previous years, but a government is dealing with these not-for-profits that are month-to-month type of operations. And there's a huge uptick in caseloads and in services.

What would the cost be to County government if we did not have not-for-profits and still have to provide those services?

COMMISSIONER BLASS:

If we provided the services that the nonprofit contract agencies provide, and DSS has hundreds of such contracts, we would sink. We would not be able to -- we have to have the contract agencies because they are literally partners in the provision of services.

LEG. ROMAINE:

I guess the next question is many of these not-for-profits, because they are in no better shape than the County government fiscally, because they deal with the poor and they are not-for-profits, many of these may not be able to sustain a period of time where they don't get paid after they perform the services for 60 to 90 days, because again, it's not when they perform the services, it's when they bill. Have you any -- have you reflected on what it would mean for some of these not-for-profits? Would this make them financially unstable and unable to perform these services?

COMMISSIONER BLASS:

They will be hurt in proportion to the delay that develops. If we go to 45 days, it's going to hurt them again. If we go past that to 60, it will -- they'll even suffer more. We haven't measured the exact fate because their own financial situations are cyclical. We do know that there is in the Prompt Payment Law a penalty provision.

LEG. ROMAINE:

And we'll be subject to those penalties?

COMMISSIONER BLASS:

Yes. The Department --

LEG. ROMAINE:

Whether we have a financial crisis or not, no court is going to relieve us of the penalties in our own law; is that correct?

COMMISSIONER BLASS:

Well, as long as the law endures, the penalty is an entitlement to the contract agency.

LEG. ROMAINE:

So it would only add to the financial burden of they County by not paying this promptly?

COMMISSIONER BLASS:

I would certainly say yes to that. And if -- speaking only from the perspective of the interest of the Department's ability to administer its contract agency obligations, maybe it would be prudent -- and I only make this as a suggestion. This is for the Committee and the Legislature to consider as the policy-making body, but maybe it would be prudent to suspend the applicability of the Prompt Payment Law until the Department is in a fiscal position to comply with it, but that's just a suggestion.

LEG. ROMAINE:

Thank you, Commissioner. I have just a few other questions that go to other staffing at the administrative level of Social Services. You were appointed to a five-year term; is that correct?

COMMISSIONER BLASS:

Yes, sir, that's correct.

LEG. ROMAINE:

The only reasons that you could be removed would be for cause?

COMMISSIONER BLASS:

That's correct.

LEG. ROMAINE:

I understand that one of your Deputies was removed over the weekend. You removed Mr. Hernandez?

COMMISSIONER BLASS:

I did not remove him. He was -- he was replaced by the Executive on Friday.

LEG. ROMAINE:

I would acquaint you with Civil Service Law, that you are the only authority that can remove a Deputy. The Executive cannot remove a Deputy. Are you aware of Civil Service Law in?

COMMISSIONER BLASS:

I am, but I would respectfully invite to your attention, Legislator Romaine, that the situation with Dr. Hernandez raises two observations, if I might share them.

LEG. ROMAINE:

Sure.

COMMISSIONER BLASS:

First, we will miss him deeply. He was a valuable member of our team. We refer to him as our Henry Kissinger. I miss having -- not having him right here. There's no question about how valuable he was to us.

LEG. ROMAINE:

His absence was discussed on Friday at the Republican caucus meeting.

COMMISSIONER BLASS:

Well -- but my second observation is this, and that is that the Administration was elected by the

people of Suffolk County. There are very rare instances where a new administration can present and, if you will, introduce its mandate to the different departments in as much as the personnel of those departments are primarily civil service. Where the management of the departments come in, it is altogether fitting and appropriate that the appointments that are made by a previous administration can and will be replaced. I've been in this line of work a long time, as do all of us have and we recognize that. I don't question the prerogative of the Executive to make the replacement, but he will be missed.

LEG. ROMAINE:

Right, neither do I. I just would inform you under Civil Service Law you're the only one that can make that decision, not the Executive. Only department heads under Civil Service Law can fire, not Executives, except for the people that work closely in the Executive Branch. So I would take a look at that. I would ask George if he would wish to opine on that. I know I'm asking you off the top of your head.

MR. NOLAN:

I can't opine on it right now. If you wanted me to, I'd be glad to do -- come back to you.

LEG. ROMAINE:

I would ask you to take a look at that, because it's my understanding under Civil Service Law only department heads can hire and fire.

COMMISSIONER BLASS:

Let's assume for the sake of argument that you are correct, and I certainly accept the role of the Commissioner of the Department of Social Services as the final hiring authority, I can spare Legislator -- I'm sorry, Counsel Nolan and the other --

LEG. ROMAINE:

You are, obviously, going to comply with the Administration. And I understand the Administration, and I've always supported every administration in their appointments.

COMMISSIONER BLASS:

I appreciate it. Let me -- but let me just finish this point. I don't want this to become an issue of research, or an issue of speculation, or an issue of what is right and what is wrong. I will accept the Administration's decision as to whom they wish to replace, the non-termed management of the department. And I don't expect to try to exercise technical authority that I might share, share in relation to whether one would go and one would arrive.

LEG. ROMAINE:

Thank you, Commissioner.

CHAIRMAN GREGORY:

Okay. Thank you. Kate? Legislator Browning?

LEG. BROWNING:

Thanks, Ed. I think you've asked a couple of my questions. However, when it comes to the Prompt Payment bill, George, I thought there was a clause, when there are financial and fiscal issues, that the Prompt Payment bill -- Prompt Payment Law, we do have some exemptions, that we would not be held accountable for the fines. Is that only if we don't have the money to pay to the contract agencies, or is that if we don't have money, period?

MR. NOLAN:

There are exemptions that would let the County off the hook, but I don't think they would kick in in

the scenario that Mr. Blass is talking about, where he just doesn't have sufficient personnel, apparently, to process the invoices. So I'm looking at the exemptions now and I don't think they apply.

CHAIRPERSON BROWNING:

Exemptions don't apply?

MR. NOLAN:

It says the County would not be required to make payment within 30 days of receiving an invoice when the necessary appropriation required to authorize payment has not been enacted when there's not an appropriation, but there is an appropriation, or the County is entitled to a set-off against the invoice, which is probably not the case, or statutory or contract -- contractual provisions make payment within 30 days impossible. So, again, I don't know that that's applicable here. Or that the invoice amount is going to be withheld to satisfy a claim the County has against the provider. So those are the exemptions, and I just -- based on what the Commissioner has testified, I don't believe they're applicable here.

COMMISSIONER BLASS:

The appropriation that is lacking would be for the actual contract, the means by which the contract is paid, the revenue that would go to the -- that would constitute the payment that would go to the contract agency. But the personnel difficulties and the cash flow problems, and all those other issues that relate to overtime problems and staff problems, those don't -- those don't apply to the exemptions that -- as we see it, so the Department and Counsel concur.

MR. NOLAN:

Yeah, I agree.

CHAIRMAN GREGORY:

Okay? Are you done?

LEG. BROWNING:

Yeah, because -- well, I'm just curious with our contract agencies, how many of them are basically getting the same amount of money every month every time they submit their contract; that they're getting basically the same amount of money, or is it -- or do they change dramatically each time we pay them?

COMMISSIONER BLASS:

Their billings vary. We get them from placement agencies like the Timothy Hill Children's Ranch, or from the child care providers, or from those who provide training to staff, and all -- those who provide housing services. We have in just the Family and Children's Services Division alone, we have several hundred contracts. It is a very large component of the Department's budget and the Department's provision of services. They don't have -- I don't think any one will have the same amount every month. If there are, they're few and far between.

LEG. BROWNING:

I was just wondering if there was a way we could -- if there was, is there something that we could do? Because you're still having to process their paperwork when you know that "X" amount of dollars, that's what they're going to be requesting every month. But, again, as far as your staffing's concerned, obviously, the people who are paying out those contracts, are there other departments where there's a possibility of shifting some people from other departments, or are you basically just tight for staff everywhere?

COMMISSIONER BLASS:

I think that all the departments share the same problem and it would be robbing Peter to pay Paul. But I do want to emphasize something that's relatively unique about the Department of Social Services and that is this: We have a spiralling level of caseloads and applications, no sign of anything letting off. At the same time, we have a declining staff, just with attrition alone. Burnout is contributing to that attrition more than it ever has. We also have statutory time frames where applications have to be determined, or services have to be provided, or investigations of child or adult protective issues have to be completed within 30 days, sometimes within 45 days, such as with some Medicaid applications. So, when you consider the spiralling caseload, the declining staff, the time frames that are immutable, they are provided by law, not by regulation, and eager advocacy groups bringing lawsuits against the Department whenever they wander from that time frame, as has happened with Medicaid and food stamps, and for which there is a contempt motion pending now, which has been publicized, seeking, among other things, to have a special master appointed, which is the equivalent of an oversight board for a whole county. This would be the equivalent of an oversight board for the Department if the court finds that we have not complied with the stipulation that arose from the federal lawsuit about food stamps and Medicaid. So all those things considered -- and there's just one other factor that is making it very hard to keep up with what's going on, and that is the computer systems, the -- what the State calls its systems of record, which are called -- they're known as connections, they're known as BICS, they're known as assets, they're known -- there's so many others that are used for the various transactions within the department.

These State mandated systems of record, these technologies that we have given us -- I shouldn't say "given", that they've imposed on us, are a mess. They are useless. We spend enormous amounts of time developing work-arounds just to get simple tasks done. So all of those things combined I think are unique to the Department of Social Services from the others. And that is why we're seeing cracks in the seams and one of them in the Prompt Payment Law. I'm confident that we can get through this. I've told staff that they should hold onto their high professional standards, that we're very -- we're still very proud of the work that they're doing under increasingly difficult positions and conditions, rather, but we are facing some real difficult times in the Department now. We struggle with management efficiencies. We have special teams that deal with emerging backlogs wherever we can identify them before they get serious, but it's shoveling against the tide as of now, and I can't be anymore candid than that.

CHAIRMAN GREGORY:

Okay. Thank you. Legislator Hahn?

LEG. HAHN:

I think, certainly, this is a case of, you know, efficiency and trying to make sure that, you know, we don't want to be spending overtime if hiring the staff is cheaper to do, etcetera. And we don't want to be paying fines if hiring the staff is cheaper to do. Is there -- I hope I didn't miss this. How many staff have you lost since you were able to handle everything without overtime?

COMMISSIONER BLASS:

We have had overtime as an integral part of the Department's operations in various divisions, since I became Commissioner in 2009. The Finance Division in the particular case of the Prompt Payment function, became more reliant on overtime more recently in an a relative sense. But this hasn't as much as all to do with staffing, it also has to do, as I said with the climbing demands on the department. The same conditions that are creating all the problems for the Department are the same conditions that are bringing people seeking help because they have nowhere else to turn. And the amazing statistic is 60% we're finding of the --

LEG. HAHN:

But are the same people who pay, let's say, the child care centers the ones taking applications for

new cases?

COMMISSIONER BLASS:

No.

LEG. HAHN:

No. So we have a pot of staff that handles payment to the finance team that handles payment to these day-care centers and social service providers. So I'm talking about that staff. How many of that pool of staff have we lost recently?

COMMISSIONER BLASS:

We have, I believe, eight staff that are budgeted for the Finance Division that fulfill the function of Prompt Payment at any given time, and we are short approximately -- I believe the vacancy situation there is two or three. But the -- even when it was full, they were -- they were dealing with overtime as a stopgap.

LEG. HAHN:

How much are the fines?

COMMISSIONER BLASS:

Say again.

LEG. HAHN:

How much are the fines that we would pay if we're late with the Prompt Payment laws?

COMMISSIONER BLASS:

I don't have the formula off the top of my head, but it is -- it is not an enormous amount, it is a reasonable amount. It's less than the amount it would cost to provide the overtime. If you would look at it strictly in a dollars-and-cents comparison, we would be better off paying the penalty than spending the overtime.

LEG. HAHN:

I think Kate was on to something earlier, though. I know that you said very rarely does one contract agency wind up billing for exactly the same number of dollars and cents month to month, but I am sure that the delta isn't huge in many, many, many cases, and that there may be a way to come up with something for many of the organizations that we really rely on to provide our services as -- I don't know if's the lowest they were paid last -- in the last year as something that's kind of a steady payment to them, and then we can take the 60 days to work out the difference. I don't know -- I think there might be something we need to work out with these organizations. We can't just move forward saying, "Well, times are tough, we're going to take as long as we need to pay you," because I know firsthand my child care center, who does rely on the County, maybe even just for a few children of payments, but they're already losing parents just because of the economy.

Parents have lost their jobs and they shut down three or four classrooms in the center because they just don't have the kids to fill it. And it would be devastating to myself and to all the other parents should that center close down, and I'm sure that they're hanging on at the moment. And, you know, we do -- they provide that service, they watch the children. They have to pay their staff, and the staff are leaving because -- because of these kinds of issues. And it's really devastating, and there are such ripple effects to what we do. And so I think we have to think outside the box as to -- you know, if we're going to pay a thousand a month, when maybe they're owed thirteen hundred, but if they get the thousand, you know, on a regular basis and we work -- and we spend the time to figure out the exact dollar and cents that's above, you know, whatever the minimum we should pay is, maybe that will help keep things going.

COMMISSIONER BLASS:

Well, I will certainly abide your intent and look into that particular approach. I can say that much of the payment process is driven by regulation, and that an exact bill is necessary for an exact payment. Otherwise, Audit and Control and the Treasurer's Office, which are an integral -- which are integral parts of the process won't honor the billing. I don't know if that particular approach will be doable, but I'll certainly explore it with the Finance Division.

CHAIRMAN GREGORY:

Okay. Legislator D'Amaro?

LEG. D'AMARO:

Yeah. I'm not sure, Commissioner. My reaction, I said to Legislator Browning, was, you know, then you get into audit issues and regulations that prohibit payments at certain times without the necessary backup invoices, but it's certainly an idea that would merit looking into. It would help to keep the agencies operating with some certainty, and, at the same time -- I just don't know if the County is in a position to do that, can legally do it, or whether or not it's even in our best interest to do that, because then you get into audit issues as well, I think. If you advance funds, then they have to come back. How do we know? And it puts an awful lot of layers on top of just paying an invoice as it comes in.

COMMISSIONER BLASS:

That's correct. Because, remember, we're dealing with a child care block grant. That's a State fund that hovers between 28 and 34 million dollars a year. It's all State money, and like all the revenue streams, they come with strings attached, and those strings include, as Legislator D'Amaro points out, all kinds of regulations that speak to a particular billing process that may or may not be open to the suggestion you're offering. But, as I said, I'll look into it and I will communicate with the committee as to the outcome of that investigation.

LEG. D'AMARO:

Okay. And one other thing I had on my mind, a question I had on my mind was you had mentioned earlier as a suggestion, you know, considering suspension of the Prompt Payment requirements, and I agree with you. But I was wondering whether or not the contract agencies would waive the penalties, rather than have to formally review -- repeal the penalties. Because I think, in the fiscal climate we're in, I believe your department will always do the best that it possibly can to make payments as promptly as possible. But to meet a 30-day deadline when it might take 35 days or 45 days in this climate I don't think is really fair to taxpayers also to be paying those penalties. It's not something that we're doing intentionally, it's not where we want to be. I mean, obviously, we passed a law to require the prompt payment, you know, so our heart was in the right place, but the fiscal realities are trumping all of that. And is it possible to get some -- I don't know how you'd do it with all the contract agencies you need to administer, but is it possible to reach out to that community in some way to see whether or not a waiver of those penalties would be considered as opposed to a repeal? And what's your thoughts on that?

COMMISSIONER BLASS:

I have never considered that, but I know we're all thinking out of the box here today. We could try it. I don't know what their reaction will be, because I do know when we start getting late, as we did last time with the child care amounts because of the appropriation, and there were no penalties required, there was still a very high level of anxiety and resentment that the Department, for whatever the reason was, when we explained it, it sounded like a lot of red tape and gibberish to them. And maybe it was, but it was what the law provided and what the appropriation situation was. So, if we attempt this with them, I would not necessarily be optimistic, because maybe with the larger agencies whose fiscal cushion is stronger, but I fear that the vast majority of them are

really small-time operations with limited budget situations. And if they're going to be delayed in the payments to which they've become accustomed since the law was enacted, I'm not optimistic that they would waive some form of revenue to make up for it, but we'll try it.

LEG. D'AMARO:

What's interesting about it, just conceptually, is that the payment -- the intent of the penalty, rather, is to induce the County to make the payment on time.

COMMISSIONER BLASS:

Right.

LEG. D'AMARO:

And we're not doing that.

COMMISSIONER BLASS:

Right.

LEG. D'AMARO:

So it's not working. The penalty provision is just not working, and it doesn't help a contract agency or provider, even a small contract agency, if you tell them, "Look, I need to delay your payment, it's going to have a severe impact on your ability to survive, but I'll give you an extra, you know .5% or 1% 90 days from now." I just don't see how on either side this penalty is solving any of the problems because of the realities that we're facing.

COMMISSIONER BLASS:

Right.

LEG. D'AMARO:

So I appreciate your thinking about perhaps repealing that requirement at this time, if even maybe temporarily, as something we should consider. But I would also ask that the contract agencies think it through a little bit also, because the penalty clause is not helping them.

COMMISSIONER BLASS:

We meet with them on occasion, Legislator D'Amaro, and we have communication going with them I think very well now compared to previous years and we'll broach the subject. But many of them depend upon their association's counsel or their own individual firm's counsel for advice, and counsel's obvious statement will be, "Legally you have a right to something." Morally you can make a decision outside of the confines of the law, but the law entitles you to this penalty amount.

LEG. D'AMARO:

My last comment is Legislator Hahn had touched on this, trying to put, you know, how many people are we talking about, what's the dollar cost of that. But I would like to know what the -- put a number on the penalties you're anticipating. Because if we're going to make a -- just a cost benefit analysis, then we need numbers on both sides of that equation.

COMMISSIONER BLASS:

We're going to -- we expect within -- starting this week, next week the latest, to be out of compliance with payments to all of the hundreds of contract agencies, nonprofits that we're in contract with. So I think it will be a pretty simple calculation to make.

LEG. D'AMARO:

Do you have -- what's the total contract amount that we'll be behind on and what's the percentage? Can we do that right here and now, do you know?

COMMISSIONER BLASS:

I'm afraid I could generally, but I'd rather have the specifics to you, and I'll email them to you before the end of the day today.

LEG. D'AMARO:

Very good, Commissioner. Thank you very much. Thank you, Mr. Chairman.

CHAIRMAN GREGORY:

Okay. And Legislator Romaine has one quick question, he says.

LEG. ROMAINE:

Actually, a couple. Number one, most of these not-for-profits don't have assets. So when you don't make prompt payments, they still have to pay their bills. They have to pay their electric, they have to pay their rent, they have to pay their staff. Many of them, if I'm not mistaken, take out loans. Many of them, when they take out these loans from banks, if they can get an institution to fund them as a community service, get charged interest rates. I doubt the banks are going to waive their interest rates, and I doubt when we pay late they're going to say, "Oh, that's okay, you don't have to pay the penalty," because they are already losing part of their grant because of the interest they have to pay on the loans that they have to take.

My question: Caseloads obviously have increased, there's no question, per social service worker. And I think that's important because I don't know how many cases a particular social service worker can handle, depending on whatever area they're in. But let's go to the Empire Justice lawsuit. If we are found not in compliance of that lawsuit, besides appointing a special master, can the court mandate overtime as a curative to resolve this? Can the special master and/or the court mandate overtime and the County be forced to pay?

COMMISSIONER BLASS:

The answer is yes, the special master could mandate the -- could literally take over the administration of those programs.

LEG. ROMAINE:

And the County would have to pay. Same thing for vacancies, the court would -- could mandate the filling of budgeted, but unfilled, positions?

COMMISSIONER BLASS:

Conceivably, yes. But I would point out to you that this would be limited to the programs that are --

LEG. ROMAINE:

Right.

COMMISSIONER BLASS:

-- the subject of the lawsuit, food --

LEG. ROMAINE:

Are subject to the lawsuit.

COMMISSIONER BLASS:

Food stamps and Medicaid.

LEG. ROMAINE:

That I understand, which is a large part of your department. But, nevertheless, you know, I understand the financial difficulties this County is facing, but Social Services is part of that core mission that I view as County government. There's things that we have to do, and we have no choice, and are things that are optional. Social Services is not an option. We've got to get this right. Prompt payment is not an option. When government stops paying its bills promptly, it speaks to the character of that government, just as it speaks to the character of a person who doesn't pay his bills or her bills on time, regardless of the circumstances. Because, let me tell you, there are some that would only look at it from the Suffolk County point of the view. What about the not-for-profit point of view? What about the services they provide? Where are they supposed to invent money from? And if they can't pay their electric, and they can't pay their rent, and they can't make payroll, their only hope is to try to go to a bank and get -- pay an interest rate and have the bank loan them the money. They're not going to waive, in my view, the penalties, because that would only diminish the amount of money that they would have to work with, and make their institution, their not-for-profit less financially stable.

But thank you for the testimony, you've painted a picture. And, obviously, as a Legislator, hopefully, we can come together and deal with our Executive on this issue, because this is a challenge that we must meet now. You say to me we're not going to be able to comply with the laws of Suffolk County within a week. I think that that is something that we need as a body. Maybe this committee needs to meet with the Executive and/or his representatives and discuss this situation and determine what we're going to do. And as far as the other end of your department, to ensure that we're capable of meeting whatever the courts have required us in fairness to do. But thank you for bringing this to our attention. This, obviously, is a crisis coming to a head at this moment.

COMMISSIONER BLASS:

Just -- Mr. Chairman, if I may, just to catch up on the compliance issue with the lawsuit. We are in very good shape with Medicaid. We're about 95 to 98% compliant with the time frames that underlay the lawsuit when it was commenced. However, food stamps program is a different story. We're in the neighborhood of lower compliance.

CHAIRMAN GREGORY:

Okay. Thank you. Legislator Hahn.

LEG. HAHN:

Not to belabor the point, but I just want to make sure, when you're going to get back to us on the cost of the fines, I want to understand, is it a one-time fine that's assessed once we're late, or is it like a certain percentage or amount for every day it's late?

COMMISSIONER BLASS:

It's a percentage based upon the excess of 30 days of the amount due at that particular time for -- so it's a percentage of the bill that's due that's late multiplied by the number of days late.

LEG. HAHN:

Okay. So every day it's late it's more?

COMMISSIONER BLASS:

Correct.

LEG. HAHN:

All right. Just remind me about the computerized -- do we have -- don't we have this computerized?

COMMISSIONER BLASS:

For prompt payment? Yes, we have the --

LEG. HAHN:

For the contracts and for how they submit, and so --

COMMISSIONER BLASS:

Oh, yes.

LEG. HAHN:

Okay. So just remind me a little bit about that system.

COMMISSIONER BLASS:

Well, the --

LEG. HAHN:

Is it KinderCare, KinderTrack? Is that what -- something like that?

COMMISSIONER BLASS:

Oh, that's for child care. K.

LEG. HAHN:

Right.

COMMISSIONER BLASS:

Yes, KinderAttend and -- KinderAttend, by the way, was working very well on Suffolk County. We're very proud of it with -- and Budget Review complimented it in their reports. It was one that we developed ourselves. But the State told us a couple of years ago that, "Get ready, we're going to come in with a statewide system." And they actually were here to visit us and expressed considerable admiration and compliments about the way we were doing it. They decided to go with the same vendor, basically the same system. But when it was enacted, they changed it in various ways to make it utterly inefficient, and it has been a nightmare with the State system. However, as I said before, we've done what we call our work-arounds to get these basic tasks done. The child care providers adjusted to it reasonably well. There was a good rapport and cooperative effort between the Department and the providers in Suffolk to try to make this new State system work, but it still is replete with shortcomings. And that, by the way, is not the only way that we do all the systems for all the contract agencies, depending upon whether they're in shelter provision or child protective services, or whatever. They have different systems. The State has a myriad of technology systems that we have to work with.

LEG. HAHN:

Sorry about that. I wish it was different. Thank you.

CHAIRMAN GREGORY:

Okay. Thank you, Commissioner.

COMMISSIONER BLASS:

Thank you very much to everybody.

TABLED RESOLUTIONS

CHAIRMAN GREGORY:

All right. We're going to get to the agenda. We have tabled resolutions.

I.R. 1072 - Enhancing safeguards at sex offender emergency housing facilities (Schneiderman). I'm going to make a motion to table.

LEG. HAHN:

Second.

CHAIRMAN GREGORY:

Second by Legislator Hahn. All in favor? Opposed? Abstentions? ***(Vote: Tabled 5-0-0-0)***

INTRODUCTORY RESOLUTIONS

Introductory Resolutions. ***I.R. 1234 - Directing the Department of Social Services to close the sex offender trailer in Westhampton in the Town of Southampton (Schneiderman).***

LEG. BROWNING:

Table.

CHAIRMAN GREGORY:

Motion to table by Legislator Browning.

LEG. D'AMARO:

I'll second.

CHAIRMAN GREGORY:

Second by Legislator D'Amaro. Now this -- Counsel, this bill directs the closure of the one trailer, but not the other?

MR. NOLAN:

Right. This would direct the closure of the Westhampton trailer within 45 days of the effective date of the resolution.

CHAIRMAN GREGORY:

Okay. It doesn't make any provisions to transfer those occupants to the other trailer in Riverside?

MR. NOLAN:

No. No, it's silent on that.

CHAIRMAN GREGORY:

Okay. Any other discussion? No? Okay. All right. We have a motion to table. All in favor? Opposed? Abstentions?

LEG. ROMAINE:

Opposed.

(1234 - Vote: Tabled 4-1-0-0 Opposed: Leg. Romaine)

CHAIRMAN GREGORY:

I.R. 1237 - Amending the 2012 Adopted Operating Budget to accept and appropriate 100% additional State Aid from the New York State Office of Mental Health for Family Support Programs (Co. Exec.). I make a motion to approve.

LEG. D'AMARO:

Second.

CHAIRMAN GREGORY:

Place on the Consent Calendar. Second by Legislator D'Amaro. All in favor? Opposed?
Abstentions? **(Vote: *Approved 5-0-0-0*)**

That is our agenda. We stand adjourned. Thank you.

(THE MEETING WAS ADJOURNED AT 11:05 A.M.)