

**RULES COMMITTEE  
of the  
SUFFOLK COUNTY LEGISLATURE**

**Minutes**

A regular meeting of the Rules 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 Wednesday, **April 14, 2004**.

**MEMBERS PRESENT:**

Legislator Allan Binder, Chairman  
Legislator Michael Caracciolo, Vice-Chairman  
Legislator Jon Cooper  
Legislator Andrew A. Crecca  
Legislator William J. Lindsay

**ALSO IN ATTENDANCE:**

Leg. Joseph T. Caracappa, Presiding Officer  
Mea Knapp, Legislative Counsel  
Alexandra Sullivan, Chief Deputy Clerk  
Ellen Martin, Aide to Leg. Binder  
Meghan O'Reilly, Aide to PO  
Lance Reinheimer, Budget Review Office  
Linda Burkhardt, Chief of Staff, PO's office  
Lisa Keyes, Aide to Leg. Caracciolo  
Bob Garfinkle, Board of Elections  
Anita Katz, Board of Elections  
Elizabeth Harrington, County Attorney's Office  
Frank Tassone, Aide to Leg. Crecca  
Linda Bay, Aide to PO's Office

**MINUTES TAKEN BY:**

Diana Kraus, Court Stenographer

**(THE MEETING CONVENED AT 10:14 AM)**

**CHAIRMAN BINDER:**

Please rise for the Pledge of Allegiance.

**(SALUTATION)**

**CHAIRMAN BINDER:**

The Rules Committee will now come to order. We have one presentation. We don't have a card, but I know the County Attorney's Office asked to speak on a resolution.

**MS. HARRINGTON:**

I can wait until the resolution is called.

**CHAIRMAN BINDER:**

No, you may as well just come up and make the presentation this way --

**MS. HARRINGTON:**

Yes, good morning, Mr. Chairperson. My name is Elizabeth Harrington. I'm the Deputy County Attorney. And I've been asked by Christine Malafi to make a presentation this morning with regard to IR 1282 regarding a proposed amendment to adding a five PM deadline. It is the opinion of the County Attorney that such proposal is, in fact, an amendment to the County Charter in that the County Charter provides that no proposed local law or resolution may be enacted unless it's been on the table seven calendar days prior to the meeting.

In addition, New York General Construction Law provides that a calendar day runs from midnight. Accordingly, the County attorney is of the opinion that the proposed resolution is unenforceable in its present form.

**CHAIRMAN BINDER:**

Let me ask on that subject, Counsel, since you usually look at legal questions here, if Counsel can address County Attorney's concerns.

**MS. KNAPP:**

Now, I should have been paying closer attention. Did I understand you to say that it's preempted by state law?

**MS. HARRINGTON:**

Well, actually what she said was twofold, that it's preempted by the New York State General Construction Law and that's it's really in effect an amendment of the County Charter; not just an amendment of your own rules.

**MS. KNAPP:**

I would strongly disagree with the preemption argument. While I haven't reviewed the cases recently, it's my recollection that when a preemption argument is made, it's because the statutory scheme is so comprehensive, that it evidences the state's desire to occupy the field. I did look this morning at the section of the General Construction Law at section 19. It's one sentence, about 12 words. It's hardly occupying the field.

**MS. HARRINGTON:**

Actually, Counsel, she was looking at General Construction Law 110. And, again, the issue was that this is actually in effect an amendment to the County Charter, which is not permissible other than by local law.

**MS. KNAPP:**

I think that's a very strained construction. I disagree with it.

**LEG. CRECCA:**

May I?

**CHAIRMAN BINDER:**

Legislator Crecca.

**LEG. CRECCA:**

Can I just ask one clarification on this?

**MS. HARRINGTON:**

Sure.

**LEG. CRECCA:**

The law requires that it be before us for seven days.

**MS. HARRINGTON:**

Calendar days is the actual wording of the Charter.

**LEG. CRECCA:**

But, if anything, we're raising the burden of how long it's going to be because by making it 5:00 instead of midnight, it would actually be before us longer theoretically if something was filed at 5:00 as opposed to 11:59 PM.

**MS. HARRINGTON:**

I think the issue is not longer or shorter. It's seven calendar days. And calendar days is defined as midnight to midnight. And, so you're making it shorter by defining it at five PM for the person submitting it.

**LEG. CRECCA:**

No, you're making it longer. How do you figure it making it shorter?  
That's what I don't understand.

**MS. HARRINGTON:**

It's otherwise a 12 AM deadline.

**LEG. CRECCA:**

Let me finish, please.

**MS. HARRINGTON:**

Certainly.

**LEG. CRECCA:**

If I file a resolution at 5:00 --

**MS. HARRINGTON:**

Ah-huh.

**LEG. CRECCA:**

And Legislator Binder files one at 11:59 PM, which is practically impossible because no one's here at 11:59 if it has to be filed with the Clerk, which is one of the reasons this rule is trying to comply with -- actual practice and what should be happening. But my bill would be before the Legislature for six hours approximately more than Allan's would be. Seven hours, actually. So,

how would it be a shorter period of time?

**MS. HARRINGTON:**

No. What I said was that you are putting a restraint on it. You're making it shorter for the person filing. Obviously it's before you longer. But you're restraining what would otherwise be a 12 AM deadline.

**LEG. CRECCA:**

So, you're saying that we can't control our rules; that the state law preempts our -- if we wanted to make it Friday, we could make it Friday. We could have a longer requirement.

**MS. HARRINGTON:**

No. The issue is not that you're preempting your own rules. Certainly an argument can be made that that's permissible. But the argument she's making is that you are changing the Charter, which you cannot do by an amendment to this other than by local law. So I think -- I think we're confusing your rules and the County Charter.

**LEG. CRECCA:**

And, with all due respect, and we've this discussion --

**MS. HARRINGTON:**

We have.

**LEG. CRECCA:**

I spoke to Ms. Malafi yesterday, I just think this is -- you know, I'm an attorney. And I looked at the statute yesterday that you're talking about. I absolutely don't even see the argument on your side here at all.

**CHAIRMAN BINDER:**

Let me ask you a question.

**MS. HARRINGTON:**

Certainly.

**CHAIRMAN BINDER:**

What would you say -- what would the County Attorney's Office say the intent was behind the Charter Law? Why is it there? Why do we have it? Give me -- what would be the intent of the

Legislature?

**MS. HARRINGTON:**

Well, I don't know what the intent of the Legislature was. I was --

**CHAIRMAN BINDER:**

Why do we have a seven-day rule? Why do we have a rule for filing?

**MS. HARRINGTON:**

The issue is that the Charter as it stands, regardless of intent, says calendar days, which is defined by New York State Law as midnight to midnight. And that's her argument. If -- if you -- we've discussed this as well. But if you choose to disagree, that's certainly your option.

**CHAIRMAN BINDER:**

So, the reason that we would put such a law in, is to, you would think that we'd give ourselves time. In other words, we give a deadline so we would then be able to process that as an institution. We'd be able to process the filing to make sure that members were able to see the filing, be able to look at the law, and to be able to put it on an agenda and do whatever we have to do with it. That would be the intent of what it was there for. If we were expanding -- it wasn't the intent -- I wouldn't think it would be the intent of the Legislature, in passing such a rule, or a Charter Law, it wouldn't be our intent to aim it at the person who's filing it. It would be for the benefit of the institution.

**MS. HARRINGTON:**

I would assume if that was the intent, it wouldn't say calendar day in the Charter. But, again, policy is, it's up to you.

**CHAIRMAN BINDER:**

Let me ask you. Does it say -- does it say just seven calendar days or it just says at least seven calendar days? What does the Charter Law say?

**MS. HARRINGTON:**

It says at least seven calendar days.

**CHAIRMAN BINDER:**

So at least.

**MS. HARRINGTON:**

Which is defined as midnight to midnight. And, again, the issue is not that you can't change your own rules; it's that you can't amend the County Charter.

**CHAIRMAN BINDER:**

No, at least. At least means at least. We -- why would we be proscribed from going more? If it says at least --

**MS. HARRINGTON:**

And you can. As long as you do it by local law. But that's not what this resolution is.

**CHAIRMAN BINDER:**

That's all right. We got you on the record.

**MS. HARRINGTON:**

Thank you.

**CHAIRMAN BINDER:**

Is there -- I would -- I'm looking --

**LEG. CRECCA:**

Let's debate it when we get to it.

**CHAIRMAN BINDER:**

Right. You know what I think? I think, as far as I'm concerned -- right, the office closes at five. If the County Attorney and the County Executive wants to sue the Legislature in Court because we didn't give them a few hours to file, I'd love -- I'd love to have that debate in front of a judge and talk to the people of Suffolk County about how we're spending money.

**LEG. CRECCA:**

Legislator Binder, with all due respect, the County Executive doesn't have the -- the County

Executive technically doesn't even really have the ability to file a resolution with the Clerk; only the Presiding Officer does. As a courtesy, we accept filings from the County Executive. It has to go through the Presiding Officer any way. And, by the way, the intent behind this rule since we're talking about it now, was -- the problem is, is that the Clerk's Office goes home at 5:00. And it became very questionable how you file after 5:00 if there's nobody here from the Clerk's Office. In the past, I was led to believe that some of the prior practice was that people who are not on the Clerk's staff would go and clock things in at the Clerk's Office.

**CHAIRMAN BINDER:**

Who would do that?

**LEG. CRECCA:**

I don't know and it's not important who would do that at this point. But the bottom line is, is that's really not filing with the Clerk. And that's -- this would allow us to at least -- and it applies to the Legislature fully, ourselves, having to file by 5:00. And it was -- the Clerk was in support of this resolution and it certainly -- it makes it cleaner and clearer when things have to be filed by. That's all.

**CHAIRMAN BINDER:**

Okay. And if the County Executive wants to bring an action that we proscribe, as you say, ourselves from filing early, then, I guess he could bring an action in court and engage attorneys and we can --

**LEG. COOPER:**

Mr. Chair?

**CHAIRMAN BINDER:**

-- and have costs to the County. Legislator Cooper.

**LEG. COOPER:**

Assuming that the arguments put forth by the County Attorney are correct, though, I have a question for Counsel. Is there a way that a resolution could be drafted to address those concerns, but also accomplish the goals of the sponsor of this resolution?

**MS. KNAPP:**

Certainly, a local law could be introduced that -- that might address whatever concerns are being raised by the County Attorney. But I have to reiterate, that -- I mean, I really believe that this is -- is not a viable, legal theory that's being put forth. In addition to which you're amending your own rules. I mean, there's a separation of powers argument here, you know. It's not -- I don't believe that an intelligent debate can be had on this subject.

**LEG. COOPER:**

Well, that's never stopped us in the Legislature before.

**CHAIRMAN BINDER:**

Legislator Cooper --

**MS. KNAPP:**

But the answer is certainly we could introduce a local law. I would be hard put, quite frankly, to draft that local law; but certainly, you know, if we could -- I could work with the County Attorney on drafting a local law if you wish.

**LEG. COOPER:**

Thank you.

**CHAIRMAN BINDER:**

Legislator Cooper, here's my concern. If we were to wait for a local law, we can have a number of months before this gets in, before we have our discussions, before we pass it and put it forward. In that time, we have a Clerk's Office who is going to have the problem between 5:00 and 12:00 when they're not there. If there are decisions to file by whether it's us or the County Attorney, whoever decides to file in that time. Now, what I would suggest is we pass this. We live by it in our own house. And if someone else wants to -- is concerned about if the Charter Law or some other question, then, we can file another resolution. In the meantime, I think we need to live by a law or a rule that is comfortable for our Clerk's Office. If they can be here, they don't have to stay here 'til 12 because they get a call and say, you know, at 4:49, listen, I'll be there in a little while, we need to file something. And, it could keep going on 'til 12 so we can be paying people 'til 12:00 literally to be here waiting for someone to file a bill. So, I think we have to accommodate our Clerk's Office, it would seem to me. And, if someone wants to do it some other way to work with the County Attorney's Office on that, then, so be it and we can deal with it then. That's what I would suggest; when we get to it in the agenda, that we pass it

out. Okay.

We will go to the agenda if there are no more -- are there any other comments? Anyone else wish to approach the Committee?

**LEG. CARACCIOLO:**

I was present.

**CHAIRMAN BINDER:**

It's okay. We're just going to the agenda right now. I was waiting for you walk in.

**1194-04 adopting a local law to further strengthen the County Code of Ethics.** Counsel, if you want to discuss any concerns, if there are any legal concerns.

**LEG. LINDSAY:**

If I might, Mr. Chairman, I'm at a disadvantage. I didn't bring my book with the bills. Could we ask for an explanation?

**CHAIRMAN BINDER:**

Counsel will explain the resolution. The bill's in front of you.

**MS. KNAPP:**

1194 is the resolution that was spoken about at some length at the -- I believe the Ways and Means Committee when we had the members of the Ethics Commission there. 1194 would add a new Section E to the section of the code that contained prohibited activity; that's the Ethics Section. And, this new Section E would prohibit any full-time paid, exempt employee of Suffolk County -- and, it's been amended to make it very clear that doesn't included elected officials -- to engage in the private practice of law for any client other than the County of Suffolk. At the moment, the County Attorneys are all prohibited as are District Attorneys from engaging in the private practice of law. This would extend that prohibition to all other attorneys such as myself. I do not have a private practice.

**LEG. COOPER:**

I have a question to the Chair. Why would we want to have an exemption for full-time elected officials? If it applies to full-time appointed, shouldn't it apply to full-time elected?

**CHAIRMAN BINDER:**

Because elected officials get elected. And, so there's a public scrutiny that wouldn't hold by people who are appointed. See, people who are appointed, the only scrutiny is that appointing authority.

**LEG. CRECCA:**

I would support that, though, if they raised our salaries.

**CHAIRMAN BINDER:**

No, but those who are elected have financial disclosures. Every elected official has a financial disclosure. Has to disclose any outside business, outside income and holds themselves out for election. And, any question as to the propriety of anything they're doing becomes a publish issue. Could be in the newspapers, could -- and it would be during an election. Someone who is appointed, the only scrutiny may be by that person -- that appointing authority. And, that's a very big difference between appointed and elected. Legislator Caracciolo.

**LEG. CARACCIOLO:**

It should be noted, however, with respect to public disclosure that there really isn't full public disclosure on our disclosure forms because the vital information that the public should be entitled to is redacted.

**LEG. BINDER:**

That's -- actually my understanding is it's going to be changed so --

**LEG. CARACCIOLO:**

Good.

**CHAIRMAN BINDER:**

Right. That's going to be changing. Okay. Having legal questions -- and there was an amendment just for anyone that want's to know, it wasn't clear as to who would be covered by this and who wouldn't be covered by this. And, so there was a clarifying -- just to make it absolutely clear, it was -- it was, you know, they be exempt -- all the exempts -- you know, the appointed officials are.

**LEG. CARACCIOLO:**

Mr. Chairman, again, just for purposes of clarification, the essence of this resolution is to do exactly what? And, how does that compare to the --

**LEG. BINDER:**

Bar outside practice of law by appointed officials in the County. Exempt officials. Right, full-time exempt appointments because --

**LEG. CARACCIOLO:**

Who would that currently constitute?

**LEG. BINDER:**

I don't know. I didn't do a survey in Suffolk County. But, that's a lot of people.

**LEG. CARACCIOLO:**

Legislative Counsel?

**MS. KNAPP:**

It includes us.

**LEG. CARACCIOLO:**

It would include you?

**MS. KNAPP:**

Yes.

**LEG. CARACCIOLO:**

Okay.

**CHAIRMAN BINDER:**

Your staff, if they're an attorney.

**LEG. CARACCIOLO:**

The former legislative Counsel had a law practice. Does he still maintain one?

**CHAIRMAN BINDER:**

I don't know. It's none of my business.

**LEG. CARACCIOLO:**

Okay. So, he would be included in this?

**CHAIRMAN BINDER:**

If he has one, sure.

**LEG. CARACCIOLO:**

Okay. Right.

**CHAIRMAN BINDER:**

Anyone who does. That's across the board. It's every department. It's just that what happens in -- I don't want to get into the crux of the bill particularly, but the practice is something that is somewhat opaque. You can't really see what's going on in a practice. You could be ending up having to -- representing people because of your connection to county government. And, often it might -- the connection couldn't be seen.

**LEG. CARACCIOLO:**

I understand that. Now, with reference to the redacting and the elimination of that current practice, where is there legislation to do that?

**CHAIRMAN BINDER:**

I'm pretty sure that was -- no, no, no, no, no. I think the current board is going to be changing that practice on their own initiative. I think they can. The question of redaction -- the redacting of information is -- or has been basically an opinion of the board. That the legislation provides for or allows for the redacting of the specific numbers and financial information. I think that -- my understanding is that's going to be changing, going forward. And, then there is some other legislation coming over. I don't know if it's over now. I don't know if Counsel knows. If the County Executive has laid some legislation on the table to change some of the reporting. I think that's all going to happen. There are very big changes coming from my understanding in terms of the Ethics Commission.

**LEG. CARACCIOLO:**

Is that correct, Counsel?

**MS. KNAPP:**

There was a local law introduced. But my understanding is that it has not gotten out of committee yet.

**LEG. CARACCIOLO:**

Is that in Ways and Means?

**MS. KNAPP:**

I believe it's in Ways and Means.

**LEG. CARACCIOLO:**

I don't think it will come out.

**LEG. COOPER:**

Mr. Chairman?

**CHAIRMAN BINDER:**

Legislator Cooper.

**LEG. COOPER:**

I'd like to revisit my earlier question. I don't understand why -- the logic behind differentiating between appointed and elected officials. If you're an elected official, let's say County Executive, and if you had a private law practice, there would be potentially many opportunities for conflict of interest and ethical violations that could arise. And, wouldn't it make sense if we wanted to carry through this logic to prohibit anyone who has a full-time county position whether it be appointed or elected, and they're supposed to be working full-time for the County, to prohibit them from having a second job particularly one that would be so ripe, I think, for potential ethics violations.

**CHAIRMAN BINDER:**

That could be a debate on the floor. I gave my answer as to why I thought there was a difference. And, then, on the floor we can debate why one and why not the other. We could have that discussion. I'm going to have a motion to report. Thank you. I couldn't think of the word. That's what happens after an eight day holiday. Motion to report 1194 by myself, second

by Legislator Crecca. All in favor? Opposed? **1194 is reported out to the full floor to the next meeting. (Vote: 5-0)**

**Local law 1197-04 to amend Local Law 37-1987 to permit seizure of vehicles of unlicensed home improvement contractors.** Counsel, are there any questions on the legality at this point? I know there were questions last time about seizure law.

**MS. KNAPP:**

And, there were amendments made to it and I believe it's in perfect form.

**LEG. CRECCA:**

Motion to report out.

**CHAIRMAN BINDER:**

Motion by Legislator Crecca to report, second by Legislator Cooper. All in favor? Opposed? **1197 is reported out to the next meeting. (Vote: 5-0)**

**1203 adopting local law, a charter law to eliminate one year residence requirement for Parks Commissioner appointment.** Are there any questions of law? Obviously this is to -- this was a concern with the law itself. And --

**LEG. CRECCA:**

Was there a public hearing on this already?

**CHAIRMAN BINDER:**

Legislator Crecca asked Counsel was there a public hearing. I assume that since it's here, it had a public hearing.

**MS. KNAPP:**

Yeah. The public hearing, I believe, was closed. It shouldn't be on this agenda if it hasn't been.

**LEG. CRECCA:**

That's why I'm asking. Has it been?

**CHAIRMAN BINDER:**

Either in Parks or in the full Legislature. Does anyone have a record? I mean, that's important. We should know that before we pass it out of here. Why don't we jump over that while that's

being checked. We'll go to **1237. 1237-04, adopting --**

**MS. KNAPP:**

Excuse me. While we wait for final confirmation, my notes indicate that the public hearing on this was closed on March 17th.

**CHAIRMAN BINDER:**

Okay. That'll be good. **1237 adopting a local law reforming and strengthening of procedure used in connection with the "DWI Seizure Law"**. Again, this is the same question, Counsel, on whether it has been amended or does it comply with what we were concerned about it.

**MS. KNAPP:**

Legislator Alden has worked very closely with the County Attorney's office on this and with myself. And, I believe that this one is acceptable. We also worked with the District Attorney's office on it. And, I believe it's acceptable to all.

**CHAIRMAN BINDER:**

Great. Motion to report by Legislator Caracciolo, second by Legislator Crecca. All those in favor? Opposed? **1237 is reported. (Vote: 5-0)**

**1278-04 adopting a local law amending a local law 20-2002 to provide accurate and truthful public disclosure by county election campaign finances.** There's a motion by Legislator Caracciolo, second by myself. Legislator Cooper.

**LEG. COOPER:**

I have a couple of questions for Counsel. I'm reviewing the statement -- reviewing the statement that was presented before the Ways and Means Committee from the campaign finance board. And, they raised a couple of concerns regarding IR 1278. One of them, if I may, I'll just read a couple of sections. "Immediately after passage of the 2002 bill, the Board contacted the BOE to seek their input in cooperation in implementing the program for Suffolk's residents." This is the program that created the computer data base. "They never responded." They, the BOE never responded. "It may be of interest to the Legislators that the Technology Division of the New York State Board of Elections in Albany cooperated fully with the Campaign Finance Board in creating the new system for Suffolk. The CFB opposes 1278 for at least two reasons. First, since the BOE has indicated no desire to be involved in the County's EFS after being transferred, the system may not be utilized, robbing the voters of an important tool for

democracy. Not to mention wasting the relatively small expenditure the taxpayers have already made to create it. Second, since the local Board of Elections is a state entity, there is some doubt that this Legislature has the authority to impose any mandate on it. Legislation in years past has demonstrated this situation. So passage of this bill would likely result in no EFS being available at all."

I had a question of Counsel. Is that concern that was expressed by the Campaign Finance Board valid?

**MS. KNAPP:**

I believe that the Campaign Finance Board refers to several years ago when they were two different election Commissioners. I think that the election Commissioners now have shown themselves to be far more responsive. And, to the extent that he raises the legal question, I would say that is moot in that the two Commissioners have evidenced a desire to do this and are willing to do it.

**LEG. COOPER:**

But --

**CHAIRMAN BINDER:**

Maybe we can get them on the record.

**LEG. COOPER:**

But that's really not the question. And, I have no problem what so ever with the current Commissioners. I had some problems in the past but not currently. My question -- -

**CHAIRMAN BINDER:**

I like both of them.

**LEG. COOPER:**

My question is whether -- whether as the Campaign Finance Board, the entire Campaign Finance Board, this is a vote by the majority of the Board that sent the statement, their concern that the Legislature has the authority to impose this mandate, which is what the resolution would do, if they were going to do it voluntarily, great. There would be nothing that would preclude a future Commissioner from taking a different position. So, my question is whether we do in deed have the authority since the BOE is a state entity.

**MS. KNAPP:**

I have not researched the specific question of whether or not we have the authority. I know that our jurisdiction over the state -- over the Board of Elections is in some respects limited. However, they are a County agency. And, we do fund them. It's a similar discussion that's had with the Community College. We clearly have some authority over them. The limits of our authority have to be tested in each instance. And I don't know whether or not we have ever tested -- at least the courts have ever tested this particular one.

**LEG. COOPER:**

I have another question. But just based on that answer alone, I think that it might be wise for the Rules Committee to not report this particular resolution until we can try to get some confirmation that we do indeed have the legal authority at the County level to make any demands upon the BOE.

Another question I had was if you look at resolution 1076-98, the Charter Law that authorized public financing of county election campaigns with the tax check off system. And ethics reform for campaign financing, which was enacted in 1998, one section of that resolution said the "Campaign Finance Board shall develop a computer data base that shall contain all information necessary for the proper administration of this article including information on contributions to and expenditures by candidates in their authorized committees and distributions of monies from the fund. Such data base shall be accessible to the public upon the payment of such fees as may be set by the board to reimburse the County for the administrative costs of providing such information."

So, clearly as a result of that earlier resolution, this Charter Law that was approved in '98, it gave responsibility for development and maintenance and oversight of the computer data base to the Campaign Finance Board. As drafted right now, does this resolution -- is this resolution written properly because it refers, I believe, to amending my bill of last year. But, it doesn't amend the 1998 Charter Law. And, wouldn't you need to do both concurrently for the current resolution to be able to take effect?

**MS. KNAPP:**

It's a -- it's a -- they're both local laws. And, this one is later in time. However, I don't know whether or not there's anything that would stop Campaign Finance Board from doing posting themselves.

**LEG. COOPER:**

So, what's being envisioned --

**MS. KNAPP:**

We're just imposing this on BOE.

**LEG. COOPER:**

Right. So what Legislator Binder -- question for the Chair -- so your idea is to have two separate web sites and computer data bases, one maintained by the CFB and one by the BOE?

**LEG. BINDER:**

The law in 1998 as passed obviously had to be complied with between that time and the time that your resolution passed. They obviously found a way to comply without us filing over them. What they did was, they were able to go and request what information was necessary to compile a data base. They compiled a data that base and made it available in whatever form it was. It doesn't say that it has to do on line -- that the Campaign Finance Board has to do on line filing. It doesn't say -- it just says that they have to compile a data base and make it available to the public. They can do that. That would be a separate function; and they can do it and they can make their report, and they can comment on it, whatever they do. But, I think historically -- and this is my argument when you took -- when you lifted the on line filing out of my bill and put it into yours and then made that into the -- put into the Campaign Finance Board. But that was your original idea, is to have filing there. My comment then and it is now is that the Board of Election is fully equipped to be able to have an on line system where we would be responsible to report to one place, stop the redundancy, give them the information, let them go and post it and do what they have to do as a Board of Election. And at that point the Campaign Finance Board, which acts completely separately and supposed to be autonomous has the same access to the information that everyone else does. They can go to the Board of Election, they can get the information. They can data base it. They can ask for -- the Board of Election, can you give it to us in digital formats so we can put it into our data base and then we can manipulate it and report on it, and put it into graphs and charts to see who's giving it, how they're giving it -- however they want to put that together and then make that available to the public.

So, the 1998 law would be fulfilled in that if they're doing their job, they can create their data base from the information we're giving to the Board of Election. The Board of Election has two

very good Commissioners and I think will continue to, who are the check and balance to make sure that it's done correctly; that neither side does something the other side could be offended with. I think we're seeing obviously that there is no check and balance on a Campaign Finance Board who can print a report, make serious allegations, not check them out and then have to apologize later. That wouldn't happen with the Commissioners that we have here. And so --

**LEG. COOPER:**

But what if there are new Commissioners --

**CHAIRMAN BINDER:**

And I think we're going to make sure that we -- that's up to us to make sure we have Commissioners of the caliber that we have now. If we're going to put Commissioners in this place, then, they have the responsibility for this. So, we're going to have the Commission of the caliber that we have currently.

**LEG. COOPER:**

But again what --

**CHAIRMAN BINDER:**

But, the point is that the 1998 law can completely be complied with as it did until your law passed. It was completely complied with before we were filing there redundantly. And, there was a redundant filing. And, I think it's onerous. And, when a County Executive comes into office and tells us that he wants to reform the system and take redundancy out of the system, this is a great place to take redundancy out of the system. And, it's still -- the Campaign Finance Board can still do the job that the voters voted for them to do.

**LEG. COOPER:**

Question of the Chair. How is it redundant? It's only redundant if you require the BOE to establish the same computer data base. If the BOE does not have a data base and a website, but the non-partisan Campaign Finance Board does, I don't see the redundancy.

**CHAIRMAN BINDER:**

It's redundant --

**LEG. COOPER:**

And, second question is, I think clearly the intent of the 1998 law, and I believe the voters

overwhelmingly -- I think the 70% margin was before my time, supported creation of the public campaign finance system and the Campaign Finance Board. That law could easily have been written to give the responsibility for oversight and maintenance of the commuter data base to the BOE. They chose not to do that. They put that in the hands of the Campaign Finance Board. And mistakes can be made whether it's the BOE or the CFB, mistakes can be made. Clearly I think the Chairman would be the first to admit as other Republican members of this Committee admitted that there have been problems in the past with previous Commissioners at the BOE. And, my question once again is even though I have a great deal of respect for the two existing Commissioners, I have no idea who their replacements will be. And, I have a great deal of concern about putting this responsibility into the hands of individuals in the future that are unknown at this point that may be less willing to do the right thing and comply with the will of the people.

**CHAIRMAN BINDER:**

I'll take your last point first. I have more of a problem with Lee Lutz who is appointed by a group of people who might have been good, might not have been good. But, in my opinion I picked the wrong person in that particular case even now. So, we put the responsibility in their hands.

Secondly, talking about the data base, BOE has a data base. I would assume you have a data base. In fact, I think if we would go to BOE right now and ask for information off their computers, we can find out who voted, when they voted. We can get information -- unfortunately a lot of its paper. There data base might be in paper because it might be paper filings. There is nothing wrong with the Board of Election moving up as they have always been in the forefront of technology. The first returns you will find back in New York State are often -- in fact maybe every time come out of Suffolk County. And, that even pre-dates the current Commissioners. So for them to be completely up to date and have their data base, which they have digitalized in the sense that the filings become electronic and instantly put on -- why don't I do that? Why don't I ask the Commissioners to come up here? They're sitting on the edge of their seats. And, they probably want to talk about what they have the ability to do. Why don't you sit down and make yourself comfortable.

It would seem to me that we already have a data base going. This would just enhance your ability to manipulate the data base. And, then at that point the Campaign Finance Board can do what they have to do. But let me -- let the Commissioners speak.

**MR. GARFINKLE:**

Two issues. One I'd like to address first that was raised by Legislator Cooper. And, that is both Commissioner Katz and myself have agreed and stated that not only -- that we endorse and support the resolution. Number two, to address Legislative Cooper's concern about future Commissioners, what Commissioner Katz and I have agreed to do, is to adopt a resolution by the two Commissioners to fully comply with this resolution upon it's adoption. For that non-compliance to ever occur in the future, you would need two commissioners to rescind that resolution. One Commissioner alone could not. So that with respect to any future Commissioners that come before you for appointment or potential Commissioners, one of your questions could be, would you continue to support this resolution. So the issue of preemption really fades. Its a non-issue.

**MS. KATZ:**

And, this would get out of the issue of the legality of you instructing us to do it. We take it on our own as a recommendation from the Legislature.

**MR. GARFINKLE:**

Or as law. I mean we're not -- we're not litigating whether it's -- can be mandated or not. We will accept it, we will pass an internal resolution. And, then, the only way it can ever be rescinded is by two future Commissioners rescinding it.

**MS. KATZ:**

That is the way the business of the Board is always done; by passing minutes that we would both vote on.

**LEG. COOPER:**

Through the Chair, I have a question.

**CHAIRMAN BINDER:**

Sure.

**LEG. COOPER:**

Maybe you can clarify for me. How does it work at the BOE right now? Does the Republican Commissioner have oversight for Republican candidates and the Democratic Commissioner for Democratic candidates? Or does the Democratic Commissioner have oversight of the Republican and vice versa so you don't have the fox watching the chicken coop?

**MR. GARFINKLE:**

As they initially come into the office, they are broken out, the two major parties by the Republican Commissioner, the Democratic Commissioner. The minor party really who's willy nilly. It was just a workload. But, before any decision or action can be taken on any of those things, there is a bipartisan team. If they can't agree upon what action should be taken, then it goes up to the Commissioners for a decision.

**MS. KATZ:**

So, for instance --

**MR. GARFINKLE:**

Bipartisan.

**MS. KATZ:**

Right. If someone foils a candidate's filings, that would be -- the foil is signed by both Commissioners. And, then it's simply goes to the person who has those records, which would be, in this case, you're correct; the Democrats to the Democrats, the Republicans to the Republicans.

**LEG. COOPER:**

The point that you just raised about the foil request, what happens if there's a disagreement between the Republican and the Democratic Commissioner? One of them accedes to the foil request, one of them opposes the foil request? What's done?

**MS. KATZ:**

I think one of the very strong benefits of having it on line, is that that would no longer be an issue because as everyone says, we get along, we both feel very strongly that the foil system is not an option. Whether we like the foil request or we don't, that's a mandated law and we comply.

**LEG. COOPER:**

Which is refreshing. And it's very different from what happened in the past and I can speak from personal experience.

**MS. KATZ:**

Understood. But, if it's on -- if it's posted, that would not be an issue for future Commissioners.

**LEG. COOPER:**

Well -- but the responsibility for oversight of the posting, once again, is that -- would you have responsibility for just the Democratic candidates? And, would you have responsibility for Republican --

**MR. GARFINKLE:**

If I can answer your question with the information that at least I believe I have, is that the vast, vast majority of the filings would be done electronically. So it wouldn't really be --

**LEG. COOPER:**

They could be. I don't --

**MR. GARFINKLE:**

The vast majority -- and the reason I said the vast majority, is most candidates today have typed reports. It becomes much easier typing it electronically where you -- if something comes in, then, sending in a hard copy. But those candidates whether they be for the more minor offices or the less well-financed or the less sophisticated, that to do a hard copy, and the two Commissioners have discussed this, we would be scanning it. And, that be would be on a bipartisan basis. It would not be Republican doing Republican, a Democrat doing a Democrat. If that's -- if that's the tenor of your question, that would be done on a bipartisan basis.

**LEG. COOPER:**

Right. Although my concern was actually the Chairman who pointed this out initially. I think to quote "the BOE has the ability to manipulate the data base." This is also a concern -- that was a direct quote. That's also a concern at the national level as we're moving to computerized voting.

**LEG. BINDER:**

Let me take a point of personal privilege so I can clarify my words. When I meant manipulate -- and manipulating a data base is not changing the numbers within the data base. I would think even Mr. Lutz -- even Mr. Lutz might hesitate to do that. What I mean by manipulate is to be able to look at the numbers in such fashion that you can pull out all the people who gave certain amounts or all the people who took a certain amount or all of them, they were packs. So manipulating data generally is known to be something where you can parse it and look at it in different ways to see what the data says. But not to change the data itself. That's not what

manipulation is. So I just want to make that clear.

**LEG. COOPER:**

That certainly is what manipulation is.

**CHAIRMAN BINDER:**

It's not what data manipulation is. At least that's not what I meant and I don't want my words to be misunderstood.

**LEG. COOPER:**

I didn't mean to imply that that's what you meant by manipulation. But it would indeed be possible to manipulate the data. Not that either one of the existing Commissioners would, but --

**MR. GARFINKLE:**

I don't understand --

**LEG. COOPER:**

Well, first of all there may well be candidates that do not file electronically. And the resolution permits those that do not have the technology available to continue to file through paper. So --

**MR. GARFINKLE:**

They would be scanned. So they would ultimately -- they would be posted electronically by the Board of Elections.

**LEG. COOPER:**

Right. Well, I don't know how easy it would be to scan handwritten documents and how -- I mean there would have to be some oversight of that.

**MR. GARFINKLE:**

And that would be on a bipartisan basis. That's exactly what I'm saying, Legislator Cooper.

**LEG. COOPER:**

That's my question. So, again, if you can just walk me through the process. You get a handwritten campaign finance disclosure statement from a political campaign committee treasurer.

**MR. GARFINKLE:**

From you. From any Legislator here. From any candidate running in Suffolk County.

**LEG. COOPER:**

Right. So, who would that go to at the BOE?

**MR. GARFINKLE:**

Under this local law, the way the operation would be, if it was done by hand, it would come in to the Board of Elections. The files themselves are maintained the way you indicated before. But, then you would have a Republican and a Democrat look at that document, okay, agree upon what it says, and have it scanned into the electronic data base for electronic -- viewing it electronically by the public. It would be done by a bipartisan team. Just as election votes are counted by a bipartisan team.

**LEG. COOPER:**

But again, if something is -- it's one thing if it's filed electronically where unless there's an intentional -- unless there's clear intent to deceive, it should be pro forma and problem free. If, however, there is still handwritten or typed documents that are submitted, I guess you can try to scan it. But then someone, I would hope, would be reviewing it for accuracy. But failing that, it would have to be manually entered. And my question again, is, I'm not trying to be confrontational, I'm trying to understand this, would you have a Republican since the BOE unlike the Campaign Finance Board, which is supposed to be non-partisan, the BOE is bipartisan, and the way it's set up right now is you have republican oversight of republican candidates and democratic oversight of democratic candidates. If it was vice versa, I'd have no issue with this. But, someone is going to have to have responsibility for making sure that the information in the paper filings are entered accurately into the data base. And that's where the potential arises for mischief. And, again, just for the record I have no problem with either -- I had serious problems with the previous Republican Commissioner. And I know there have been assurances from the Chair that the problems will never arise again somehow. But I don't know how we can preclude that. But, anyway, to answer the question, who would have oversight?

**MR. GARFINKLE:**

The way it's precluded, is that for that document to appear electronically that's hand filed, that's hard copy filed, a Republican and a Democrat would agree upon the line by line entry. So, if an entry comes in that says \$100 for Mr. A, the Republican and the Democrat would agree that that says \$100 for Mr. A as a contribution. That would be posted. So line by line there would be a

review by a bipartisan team; just as in other areas, whether they be the tally of election votes or whether they be the review of petitions, they are done on a bipartisan way. It would be the normal operating process of the Board of Elections. It would not be something out of the ordinary. And that's what -- the process is. I could tell you as a Republican Commissioner, I would not want the responsibility of taking a Republican's hard copy and posting it without a Democrat signing off on it. Because God forbid there was a mistake. And I would assume that Commissioner Katz would say the same thing. And I would think that most any Commissioner would say that. I would not want that responsibility, Legislator Cooper.

**CHAIRMAN BINDER:**

Could you make that part of your resolution?

**MR. GARFINKLE:**

Yes.

**CHAIRMAN BINDER:**

Could you make it part of the resolution that it would be bipartisan agreement on all postings of non-electronic -- non-electronically filed --

**MR. GARFINKLE:**

Yes.

**MS. KATZ:**

Yes.

**LEG. COOPER:**

I have another question, if I could. It's not on this resolution but it's related.

**CHAIRMAN BINDER:**

Let me get to it after. Legislator Caracciolo.

**LEG. CARACCIOLO:**

Thank you, Mr. Chairman. Both Commissioners, what we're really talking about here is a change in process. Instead of electronic filings going to the Campaign Finance Board, they would be filed with the Board of Elections; correct?

**MR. GARFINKLE:**

Yes.

**LEG. CARACCIOLO:**

Just to take us through that process once these reports are received, first of all, there are periodic filings and deadlines. I know currently you monitor that. And you notify candidates or campaign treasurers when those filings are late; correct?

**MR. GARFINKLE:**

Correct.

**LEG. CARACCIOLO:**

What is the usual time you allow for a late filing?

**MR. GARFINKLE:**

It's a short period of time generally. What happens -- we'll use the Legislator Towle example, the worst example that came before us. Okay. A significant portion of that problem was, we call up the treasurer and the treasurer says, I called up the candidate and he's out of town. Okay. The people have other businesses to conduct and things like that. And more time was given and more assumptions as to the validity of rationales for the delays were given. That process has changed. What we've done now is prior to the filing times, we've been more diligent in notifying the campaign treasurers. If there is a truly -- someone is ill, if an accountant is out of town and if the accountant is ill -- whoever the treasurer is, there may be a week, week and a half filing time. But the date that that comes in, is the date that's there. So anybody who wants it, will know it is a late filing. If it goes beyond a reasonable period of time where there is no justified -- not even a rational basis for it, an obviously rational basis, then, we go after them and that has not been a problem recently.

**LEG. CARACCIOLO:**

Is that practice embodied somewhere in a BOE resolution that you wait 24 hours, 48 hours, 72 hours? I'd like to see some uniformity with that. So, I'd like to see that incorporated in any resolutions that are adopted in -- you know, in addition to what's been stated a moment or two ago. But let me ask you, one of things that the Campaign Finance Board has reported presently and in the past, is they've called into question campaign expenditures that were not completely accounted for in the report as well as Newsday when they have foiled these reports. They have written stories about Legislators apparently taking expenditures for what appear to be personal

use rather than anything legitimately associated with running the political campaign. Does the Board intend to look at that? Because if not, I'm not going to support this resolution.

**MR. GARFINKLE:**

Does the Board intend to look at --

**LEG. CARACCIOLO:**

At expenditures and the validity of expenditures?

**MR. GARFINKLE:**

We always look at the validity under the election laws, certainly. For example --

**LEG. CARACCIOLO:**

In other words, there have been newspaper accounts of Legislators purchasing ball game tickets. That's a valid expense?

**MR. GARFINKLE:**

That can certainly can be a valid expense.

**LEG. CARACCIOLO:**

In what sense?

**MR. GARFINKLE:**

In the sense that they are taking out people who would be supporting certain ideas that they represent, a way of discussing any -- like a business lunch. That could be at a ball game. Specifically, Legislator Caracciolo, the act itself may or may not be valid. It depends on what the intent is many of the times. If the intent is to use it as a personal expense account, no, that's not valid. As to -- if it's used for a legitimate campaign purpose, then it is valid. So that --

**LEG. CARACCIOLO:**

I look at these reports all the time. And I have to tell you I see some expenditures that just boggle my mind.

**MR. GARFINKLE:**

But, then, have the state law change to say certain things can't be done. Even Suffolk County Campaign Finance Board can't restrict that under its current authority.

**LEG. CARACCIOLO:**

Let me stop you there and ask Counsel. Are we empowered here at the local level to add limitations to campaign finances and expenditures? Can we do a local law that prescribes how and for what purposes those expenses can be made?

**MS. KNAPP:**

I would have to look very carefully at the state laws governing these kind of expenditures. However, I would fall back on the comment I made earlier in connection with the preemption argument. If the state law is so comprehensive that it evidences a desire to occupy the field, then, we cannot. But I have never looked at that specific issue. I can do that.

**LEG. CARACCIOLO:**

My point is simply this. We shouldn't have to rely on the media to bring to light some of these abuses. And I'd like to see -- I'd like to have a level of comfort that the Board of Elections, if this is where this is going, which I would be inclined to support, is basically going to have -- have in place safeguards to assure myself and every elected official as well as the public that those types of things are not going to be overlooked.

**MR. GARFINKLE:**

I think there are two legitimate ways of looking at this. And they both get you the same result. Number one, is by the posting. The public is going to see where the expenses are, whether they are for ball tickets and things like that. So that the elected official is then accountable to the public because there'll be public dissemination of that. That's one issue.

The second is to the extent that you may or may not have the authority, and your Counsel will look into it, as to what type of expenses a county-wide candidate or county candidate may spend money on, that's a separate issue that could be handled under a separate resolution of local law. The two need not -- need not be treated necessarily in the same resolution. So, that if it takes some time for the County -- for Legislative Counsel to do the research on this, and it is, I would suggest is a very serious preemption question that has to be resolved, that this type of -- the current resolution not be delayed. The other one, if you come to the conclusion is within your jurisdiction, then handle that and say this kind of expense is not authorized.

**LEG. CARACCIOLO:**

What's the urgency of passing this today?

**MR. GARFINKLE:**

Well, the urgency --

**MR. GARFINKLE:**

The next filings not due until July.

**MR. GARFINKLE:**

The urgency is -- due July 15th.

**LEG. CARACCIOLO:**

Right.

**MR. GARFINKLE:**

From the time we get the access codes for the current computer system, we would like approximately -- we could get it up and running within a short period of time. But to run the tests and everything to make sure it's within our system, we would like one month. So realistically number one, people file -- some campaign treasurers file early on the first day that they're authorized to rather than the last day so that we can get the public dissemination there more quickly. Because you are dealing with the computer system. And if there are any glitches, we would like to have it resolved within that 30 days. So, you're talking July 15 realistically to have the access codes in place for us by -- really by June 1st. So that by July 1st, people can start filing. And then with the discussions that might need to go on between the County's computer people and our computer people, you know, when you're dealing with the computer system, a little bit more leeway is sometimes a lot better.

**LEG. CARACCIOLO:**

Just walk us through the process of this local law if it's approved. I don't know how many candidates' files you maintain, but they're probably numerous.

**MR. GARFINKLE:**

Yes, they are.

**LEG. CARACCIOLO:**

And under this -- if this procedure were changed that substituted the Board of Elections instead

of Campaign Finance Board to be the recipient of electronic campaign finance disclosure filings, just explain how that would be accomplished within the Board of Elections.

**MR. GARFINKLE:**

We would be using the same program.

**LEG. CARACCIOLO:**

I understand that. I mean in terms of the personnel involved.

**MR. GARFINKLE:**

There would be no additional costs. It would be the existing personnel. You would have the people dedicated to campaign finance reporting, the Republican and the Democrat. You have the bipartisan computer team. That's one of the best in my opinion in the state headed by what I think is really the best computer person in the state, {B. Jay Kumar}. And it would be that same group of people.

**LEG. CARACCIOLO:**

Now, let's say it's July 15th. You receive a hundred reports for example. What happens? They come over the web --

**MR. GARFINKLE:**

It doesn't work exactly that way for those who file electronically. The person -- the treasurer gets a PIN number or an access number, an access code number. And they type in their -- they log on with that PIN number, a format comes up. And they type in the numbers and then they send it. And then it gets posted. So all of those that are being done electronically that are being filed, really just pass through our system and then get posted on the internet. The other issue that comes up is what Legislator Cooper brought up, those people who filed hard copies who take a little, because just as we do now we'd be reviewing them and they would be entered by our data entry people where they can be scanned accurately, fine. I would suspect initially rather than scanning we would rather redo them and enter them electronically ourselves just for accuracy purposes. And that would be done by bipartisan board with the people that are already there.

**LEG. CARACCIOLO:**

Okay. Now, in terms of those that were transmitted electronically, is there a review team at the Board of Elections who are going to take a look to make sure that everything is --

**MR. GARFINKLE:**

Yes. Yes, they are. And just as they are now on the hard copy -- so for example, I may have had some discussions with some elected officials, a report will come in, an American Express bill for \$100. There'll be \$80 worth of itemized receipts or itemization and \$20 inadvertently is missing. It's never been anything to any degree. A call will go up saying, you know, where's the other receipt? Just forward it to us, please. So that has to be done.

**LEG. CARACCIOLO:**

And that will be done?

**MR. GARFINKLE:**

And that will be done.

**LEG. CARACCIOLO:**

Okay. Thank you.

**CHAIRMAN BINDER:**

Legislator Lindsay.

**LEG. LINDSAY:**

Again, I apologize. I only have the synopsis of the bill before me. But doesn't this legislation call for both electronic and hard copy filing? It isn't either or? It isn't optional? Am I correct?

**MR. GARFINKLE:**

We would be doing those that didn't submit the electronic filing, the small -- whether it be a village candidate or town council person who's running without major party endorsement or something, we would file it electronically.

**MS. KATZ:**

But I believe it does require both a hard copy and an electronic copy as well. So they would just print it out, mail it in as a backup.

**LEG. LINDSAY:**

And I appreciate the efforts to try and help a candidate that doesn't have the ability to file

electronically, but the bill does call for both.

**MR. GARFINKLE:**

Yes.

**LEG. LINDSAY:**

And I think you've already answered this. You don't envision any start-up costs to the Board of Elections to do this?

**MR. GARFINKLE:**

Not really, no. Assuming we get the access codes that the County already paid for in setting up the current system.

**LEG. LINDSAY:**

And I want to go back through the chain if this bill was to pass. We would instead of reporting twice, once to the Board of Elections and once to the Campaign Finance Board, the candidate would only have to report to the Board of Elections. And they would electronically transfer the information to the Campaign Finance Board?

**MR. GARFINKLE:**

I think that would be up to the treasurer really just to -- I'm not sure the way the bill is written but I think that would be up -- I'm sorry?

**MS. KNAPP:**

The bill no longer requires a filing with the Campaign Finance Board. The filing would be done in two formats to the Board of Elections. Now a candidate makes one filing with the Board of Elections and a different filing with the Campaign Finance Board. Under this change, only one filing would be made to the Board of Elections. I think the comment was made that Campaign Finance could request information if they wished to continue to operate.

**CHAIRMAN BINDER:**

To fill in -- right, the Campaign Finance Board would request as they did after 1998 law passed, they requested information from the BOE to put together the required data base. So what they would do is they would request of the BOE information. The difference now, though, would be because of the electronic filing, the ease of transmission would be a lot different. I think you

had to probably deliver in the past paper. And then they had to take it, they had to then key punch it in and try to put together a separate data base. I think basically the data base could come over to them complete because it's already in digital form and already put together as is filed. So you can just put it on some kind of -- some disk or some kind of electronic transmission and get it to them when requested. And then they could use what exists. So really it's -- it's --

**LEG. LINDSAY:**

I'm -- you know, I'm looking for an ease of operation here instead of this double filing and --

**CHAIRMAN BINDER:**

Well, that's what this is for.

**LEG. LINDSAY:**

You know. But I'm not looking -- you know, the Campaign Finance Board is there. It's there by virtue of a referendum. It's not going away. It's going to maintain its website, I assume of -- for the public to dial in on that one. I'm just looking for some cooperation between the Board of Elections and Campaign Finance Board; that this is smoothed out and there's disclosure on, you know, no matter what website you key into, this information will be available to the public. But in a way that it makes it a little bit easier on the candidates that have to go through all this filing.

**LEG. BINDER:**

That's exactly what this is for. It makes it a lot easier. You file one place. The thing is that if people -- if the public's looking, you would think the first place they're going to think is Board of Elections. That's where they look for something.

**LEG. LINDSAY:**

Correct. Correct.

**CHAIRMAN BINDER:**

So they would go to the website. And the instantaneous filing that they could see and have access to would be at the Board of Elections. There would be a time lag between that filing and then the Finance Board requesting the information to create their data base. So they have access to instantaneous filing. Legislators and other candidates and everyone running wouldn't

have this multiple filing thing and then have to look at the front page of the Long Island Press and see that they didn't. And all the data that they -- that exists at the BOE -- and I would ask, then, to just follow-up for Legislator Lindsay's case, how hard would it be for the Campaign Finance Board to get what they need to create their legally mandated data base and to maintain it, how hard would it be to get that information from you? How hard would you make it? Would you say --

**MS. KATZ:**

Currently we give them all the -- not all. We give them a great deal of their information now. I can certainly speak for the person who works on our side. And we are constantly copying and sending over for treasurers that do not file with the Campaign Finance Board. So we have always cooperated.

**LEG. LINDSAY:**

Yeah. I'm looking for a seamless program where a request doesn't even have to come in. You file with Board of Elections, they automatically -- you guys automatically copy Campaign Finance Board. It's done. Requirement's done. The posting can be on two sites. Full disclosure is there.

**CHAIRMAN BINDER:**

Could you do that? Could you do that?

**MR. GARFINKLE:**

Yeah. To the extent that the technology is there, we will be doing it. And I go under the assumption the technology is there.

**CHAIRMAN BINDER:**

Right. And the question -- really the only question that will probably arise is for paper filings. And what would happen is, you'd have the bipartisan input; and then upon the input, then, that information as it was now posted --

**LEG. LINDSAY:**

Electronic filing, there's no option. I mean if they wanted --

**CHAIRMAN BINDER:**

No, I know. But there is a waiver as -- there is a current waiver. In Legislator Cooper's bill there is a waiver. I wouldn't suggest any candidate doing it, but there are hardship waivers because in the event -- what you don't want to do is take a candidate who has absolutely no computer technology, the treasurer doesn't, they can't do, so there are going to be a few. And that's still happening now. And so --

**MS. KATZ:**

There's not many.

**CHAIRMAN BINDER:**

There's not many, right. So, the few that will come in, once they're posted, they can make sure as part of their SOP to make sure that there's immediately filed as -- or sent over to the Campaign Finance Board. But part of the idea is that historically candidates have gone to one place. You go to the Board of Elections. That's where you file one place. And every candidate would continue to do what they've done throughout history; but then it would now be on the responsibility -- and we can do that. I think you can create an SOP that -- without a request, that the Campaign Finance Board gets the information as it's posted; comes in and it gets -- it gets transferred. That really -- electronic transferring is instantaneous. There's not really much of a problem. But it would take -- and this is really what we're talking about, is taking the burden off the candidates, stopping the redundancy. That's what this is all -- that's what this reform is about, is to -- exactly, make this seamless, make this easier on those who have the burden. When you're running, as you know, it's a very hard thing when your treasurer's going in a number of directions. And that was my concern when we passed this. And I think it just makes sense that the main responsibility and the legal responsibility -- New York State responsibility for filing is where it should be, at Board of Election. And since they have the ability electronically to move it over, then, we'll make sure that that's done.

**MR. GARFINKLE:**

Legislator Lindsay, to the extent that the law authorizes us to, I think the BOE has a tradition of attempting to, in most cases successfully attempting to make candidates' lives easy as far as what they need to do at the BOE as far as giving them information as far as trying to help them through the process. Because it's a very technical process. To the extent that there is anything that we can be doing to make a candidate's life or an elected officials' life easy with respect to what needs to be done at the BOE, there are certain instances that are now going to coincide with the Campaign Finance Board, we're going to be doing it. It's that simple. And part of it is

because that's our job quite candidly.

**CHAIRMAN BINDER:**

You also have the -- you have the technical staff to be able to do that.

**MR. GARFINKLE:**

We've got it.

**CHAIRMAN BINDER:**

Where the Campaign Finance Board probably doesn't. The number of technical people that they have doing computer operations over there, having the ability to help candidates make this an easy process far exceeds the capabilities that a finance board would have.

**MR. GARFINKLE:**

By the way, there's also another reason why we'd like to make it easy. Because then if something is done improperly, it tends to say it was done improperly because there may -- there's more likely to being intentional. You open up the door for what a -- what you were saying to be seamless, it becomes very transparent. And if someone abuses it, that also becomes -- becomes obvious. So, we don't want to create obstacles where someone could say, well, gee, I didn't -- there was this problem because it was overly-technical. We want to make it easy. We want to make it simple. We also want it to obviously comply with the law. But within those parameters, whatever it takes to make it easy, we attempt to do.

**LEG. LINDSAY:**

If I may, Mr. Chairman, just one other line of questioning. It came up before about who makes the determination whether an expense, for example, is inappropriately spent or maybe the contribution end is over the limits. Does -- you know, what role does the Board of Elections play in that?

**MS. KATZ:**

I think you have two very distinct issues. The issue of the level of a contribution is a very black and white thing. A corporation can give \$5,000. They can't give \$5,000 and one.

**LEG. LINDSAY:**

Okay.

**MS. KATZ:**

It's very easy and very black and white. And I think I can speak for both of us our people review that, call up -- it happens frequently unfortunately, call up the treasurer, perhaps you didn't realize and so on and so forth, explain to them that they have to give the money back and make an amended filing. The question of the appropriateness of an expenditure by a candidate is a much more gray area. The New York State law just talks about expenditures in furtherance of their being an elected official. So even our previous comment about the question of baseball tickets, if you have a campaign volunteer who's a young person, who goes out and get's you a thousand signatures when you're running for office, you could have a contest, you may want to reward one of those volunteers, you might take that young person to a ball game. That could be depending upon who you ask a legitimate expense. That's different than perhaps you and your child going to a ball game and buying the tickets from your campaign funds, which is not an appropriate use. So, the area is so gray, it's almost unrealistic to think of any employee being able to make those fine distinctions because when the treasurer files, they will write, let's say the two tickets, the costs, and in the little box they'll put "gift for campaign volunteer." There's no way for us to know whether or not it was a reward for getting a thousand signatures or an improper use. And that's where the problem is.

**LEG. LINDSAY:**

Who would make a determination whether an expense like that was inappropriate or not?

**MS. KATZ:**

The District Attorney frankly. I mean this is something we struggle with frequently. It is a very difficult issue. For instance, another example, if a Legislator writes down that they spend at Joe's Pizza \$100, and they write "food for volunteers", we don't get receipts. We assume that you had a mailing at your headquarters and this is pizzas for all the volunteers who helped. Or an inappropriate use where you and a friend went out to dinner; an inappropriate personal use. It is a very unrealistic requirement because the law is so gray.

**LEG. LINDSAY:**

Is the Campaign Finance Board endowed with any powers that the Board of Elections does not have? I mean --

**MS. KATZ:**

That's the New York State election law so I wouldn't think so.

**LEG. LINDSAY:**

So they don't have any ability to make these determinations unilaterally? Just like the Board of Elections doesn't.

**MR. GARFINKLE:**

The State Board may have some -- excuse me, Legislator Lindsay. The State Board may have some investigatory if a specific complaint is there and they have reason to believe that there's a basis for the validity. They may have investigatory powers on something such as that. I'm not sure, but I believe they may.

**LEG. LINDSAY:**

So the process, and I know I'm belaboring this, but just to get it clear in my mind, if a report comes into the Board of Elections and there's something that looks out of place, whether the contribution level is higher than permitted or an expense seems really outrageous, you would notify the campaign that there seems to be a problem with the reporting and, you know, maybe you should look about correcting it. If they refuse to do that, what do you do with it then?

**MR. GARFINKLE:**

If they refuse to correct it and it's an identifiable deficiency, then we would report it to the County Attorney's Office. Okay?

**LEG. LINDSAY:**

To the County Attorney or the District Attorney?

**MR. GARFINKLE:**

The District Attorney. If it was an area, for example, that Legislator Caracciolo was referring to, we would not -- the baseball tickets, on its face if it said -- if the box is filled for volunteers, we do not go further than that. The way the law is written, that unless there's a basis to challenge it, then that person is signing a sworn statement that it's used for the legitimate purposes. If it's found it was a false statement, then, it's a crime.

**LEG. LINDSAY:**

Okay, thank you.

**CHAIRMAN BINDER;**

Legislator Cooper, let's see if we can wrap this up. This is how we don't discuss.

**LEG. COOPER:**

I must respectfully disagree with the statement that the Republican Commissioner just made. Are you aware that under New York State Election Law, although you're able to charge an expenditure to a credit card, you have to break out when you submit your filing to the BOE line item of exactly what the expenditures were?

**MR. GARFINKLE:**

That was the example that I gave. A credit card came in for a hundred dollars, there were only \$80 worth of line items.

**LEG. COOPER:**

No, that's not my question. If -- and there were several -- couple of former Legislators that were guilty of violating New York State Election Law in this regard, Fred Towle being one of them, where campaign finance documents were submitted giving information about expenditures, charges that were made via a credit card. \$10,000, \$20,000 American express, \$18,000 Discover. But then no attempt was made to line item what the money was actually spent for. All the information that was provided which say \$10,000 dollars to American Express, and it didn't break out that of that, \$800 was spent on flowers, \$200 was spent at a restaurant. So it wasn't that some of the information was missing. It was that all of the information basically was missing. And that was a clear violation of New York State Election Law.

And, actually I have a resolution that unfortunately I've been unable to get out of committee for the past several months, that would direct the Board of Elections to audit campaign finance documents, look for violations of New York State Election Law, notify the Committee Treasurer if there were any apparent Election Law violations, give them fifteen days to amend the filing. And, then, if that amendment is not received, you would be required to refer to the District Attorney, which is what you say that you're doing right now. But unfortunately has not been done. It was not done in the case -- and actually I had met with the District Attorney in regards to my resolution. I drafted it with his support. First of all, he was incredulous that it wasn't already being done by the BOE. It's not just the Suffolk BOE. There's no BOE in New York state. And we checked with Common Cause. There's no BOE to --

**CHAIRMAN BINDER:**

This is not about this legislation. I'd like to move -- go to a vote on this.

**LEG. COOPER:**

I have to address -- excuse me.

**CHAIRMAN BINDER:**

I know, but the problem is the points have been way off the mark. And, they're not about this legislation. The question is about a legal --

**LEG. COOPER:**

They're entirely about this legislation.

**CHAIRMAN BINDER:**

No, no, it's not. Because it's not about what their board -- what they're doing, what they're doing to find out --

**LEG. COOPER:**

Can I have 30 seconds to finish the question?

**CHAIRMAN BINDER:**

If you'd like. I'd like to wrap it up, if you could.

**LEG. COOPER:**

So, there were instances, Fred Towle one of them, Marty Haley another. There may be others as well, where the candidates were in clear violation of New York State Election Law. The Campaign Finance Board was aware of this. I was aware of this. The District Attorney is now aware of it, which is why he's strongly in support of my resolution. And he said that if my law had been in effect, we wouldn't have had the Fred Towle scandal in the first place. But, why is it, if this information was provided to the BOE, and it was obvious to others that there was a violation of New York State Election Law, why did you not do what you just said that you would do which is report it to the District Attorney?

**CHAIRMAN BINDER:**

All right. Let me say, that's for a hearing. If one of the committees have jurisdiction over the Board of Elections here, wants to have a hearing and wants to go back and forth with the BOE on that, that's proper at that time. Right now there's a question of where we're going to file. Legislators -- what place. There's a redundancy in the system. There's a bill before us that Counsel is comfortable with in terms of legality. And the legality was addressed by the Commissioners because they're not going to question the legality as Legislator Cooper said in his bill. He wants to force you to do something also that he's -- but, if you're not going to question the legality --

**LEG. COOPER:**

If that's permitted.

**CHAIRMAN BINDER:**

Well, if it's not going to be questioned, then, there's not going to be a question of the legality. And, so since we know that --

**LEG. COOPER:**

Well, no, I'm not a lawyer.

**CHAIRMAN BINDER:**

I've got the floor. Since we know that the Board of Elections is not going to question what might be a question in terms of our ability to tell you to do something, it probably would be, in this case, a question of -- a new question for a court anyway. It hasn't been litigated. You're not going to question it anyway. You're going to take a position. You're saying that you're going to go and accept this as a recommendation any way. So we can go forward on this. The legality problem is, I think, taken care of it. And so we have a motion by Legislator Caracciolo --

**LEG. COOPER:**

But I disagree. Legislative Counsel said that there's still a question regarding legality. The fact that the Commissioners said that voluntarily they'll comply, the question arises as to whether the Legislature can enact a law which may indeed be illegal. And to address --

**CHAIRMAN BINDER:**

I'll answer that. I can answer the question.

**LEG. COOPER:**

No, you can't.

**CHAIRMAN BINDER:**

I can answer the question. I'll take the floor. I will take the floor. I will take the floor as the Chairman. We can -- when a Legislature passes a law and there's a question as to its legality because it hasn't been litigated, it is -- it is per se assumed to be legal until it is then in court and questioned. And then we lose in a court of law. Since there is no question that's out there and since we know that it won't be questioned, we're going to assume -- we can assume and I think the Legislature can assume and this committee as a Rules Committee can assume, that we have a legal basis to pass this Legislation and to reform and take redundancy out of the system. I'll let you get a last shot in and then I want to --

**MS. KATZ:**

Very quickly just as a reminder of our earlier conversation here, that we've agreed to pass minutes which is our legal vehicle to say that we will be glad to put these on line. So that we're not speaking to the legality. We will do what --

**LEG. COOPER:**

But then again --

**CHAIRMAN BINDER:**

No, I'm not giving up the floor. At this point I have a motion to report out of Committee. I'm a second. All those in favor? Opposed?

**LEG. COOPER:**

Opposed.

**CHAIRMAN BINDER:**

Legislator Cooper is opposed. It is reported out of Committee and will be on the agenda the next meeting. **(Vote: 4-1-0-0)**

We'll go back to 1237 which my understanding was -- I'm sorry, **1203** the hearing was closed March 17th. Motion to report by Legislator Caracciolo, second by Legislator Lindsay. Are there any questions of legality in our ability to do this? None. Then we have a motion, a second. All those in favor? Opposed? **1203 is reported to the next full Legislature. (Vote: 5-0)**

We are now jumping down to **1282-04 to amend resolution 13-2004**, which changes to the 5:00. We have the comments we know of. Motion by Legislator Caracciolo, second by Legislator Crecca. And we already have Counsel's comments. Legislator Lindsay?

**LEG. LINDSAY:**

Just again, for personal clarification here, this amendment would modify the rules of the Legislature to say that the filing date is 5:00 on the seventh day before --

**LEG. CRECCA:**

The Monday before a Tuesday meeting. But, yes.

**MS. KNAPP:**

Amended copies.

**LEG. CRECCA:**

For amended copies.

**MS. KNAPP:**

Amended copies must be filed by 5:00.

**LEG. LINDSAY:**

In practicality, I mean, it's almost like we're regressing in time, we're arguing over what is a day. In the past, the practice had been -- it did set seven days, but the office closes at 5:00.

**LEG. CRECCA:**

Yeah. In the past, the only thing's that's been different there in practice was, was that the Clerk's been either asked to stay; or like I said, it may even be in the past that things were clocked into the Clerk's Office after the Clerk's office was closed, which is really questionable in and of itself. We want to have some definite time so that everybody's on notice; the Legislators, Counsel, the County Executive's Office that 5:00 is the time to file by. And that makes sense. Because you got to file with the Clerk.

**LEG. LINDSAY:**

But what initiated this? Has there been a problem with this?

**LEG. CRECCA:**

Yes, there has been. And, I -- just so you know, historically last year I had a problem with this on a number of occasions where bills were being clocked in that hadn't even been -- that weren't fully drafted yet. There was bills being filed at 10:00 at night when there was no representative from the Clerk's Office in the building. In addition, during this last budget process, you know, bills were -- the Clerk's Office was asked to stay late by the County Executive's Office. And, there's nothing wrong with that. And, they did stay, you know. But the bottom line is, there's got to be some sort of cut off because people have to know when they're going home. And, also, the Clerk shouldn't have to stay 'til midnight because, you know, I couldn't get my stuff done by 5:00. And that's really all this is about. It's not partisan or anything else like that. Apparently Legislator Bishop disagrees with me. Yeah, you did. How is this partisan by making a 5:00 deadline?

**CHAIRMAN BINDER:**

No, no, no, no. Let's --

**LEG. CRECCA:**

No, I'm asking a Legislator a question.

**CHAIRMAN BINDER:**

I know, but he's not a member of the Committee.

**LEG. CRECCA:**

How is it partisan to make it 5:00?

**CHAIRMAN BINDER:**

If he'd like to respond, Legislator Bishop, you have to be --

**LEG. CRECCA:**

If it is partisan, I'd like to know because --

**LEG. BISHOP:**

To me it's indicative of a whole mood that has occurred this year in the Legislature where people have personal grievances and frustrations and are going to file bills to address them, what nonsense. The day ends at midnight. If somebody's here and wants to work hard, let them file the bill. It serves no purpose. What is it really protecting?

**CHAIRMAN BINDER:**

The Clerk's office.

**LEG. BISHOP:**

The 5:00 day? Is that something we want to -- is it a labor law issue?

**LEG. CRECCA:**

No. Do you believe those should be filed with the Clerk, though?

**LEG. BISHOP:**

All bills are filed with the Clerk.

**LEG. CRECCA:**

David, you and I both know that that's not the case. That bills were filed at 10:00 at night. And it's not -- I'm not pointing to anybody. It has nothing to do with a Democrat or a Republican. It was done by both sides of the isle. Bills were left on the Clerk's desk that were clocked in after --

**LEG. BISHOP:**

What was the great harm?

**LEG. CRECCA:**

What's that?

**LEG. BISHOP:**

Where was the harm?

**LEG. CRECCA:**

Because the law says you have to file with the Clerk of the Legislature.

**LEG. BISHOP:**

It was filed at 10:00 at night, was it not?

**LEG. CRECCA:**

But the Clerk's not there. It's ridiculous. It's binding on every Legislator here, whether they're Democrat, Republican or otherwise.

**CHAIRMAN BINDER:**

Legislator Caracappa, Mr. Presiding Officer, you have --

**P.O. CARACAPPA:**

Thank you. I just want to weigh in quickly on this. It comes down to a labor issue. It is for me. And that's why I wanted to do the rule change because we have members of the Clerk's

Office, who, you know, have a personal life outside of this place, believe it or not. Some of us do. And when we get phone calls to the Legislature at 5:00 saying we'll be over there in ten minutes with a bill or it's going to be done in ten minutes and they wait. And then they call back a half hour later say wait another ten minutes. And then they don't come for another two hours or they don't come for another four hours. And we have people with children and families who are waiting for them in the Clerk's Office being told that bills will be over in ten minutes to be filed. And they don't come for hours and hours. Meanwhile, these people sit -- they have to change their whole plans. It's just uniformity. It's makes sense for the employees of this building to have a 5:00 deadline. That's why I'm asking for the rule change. It's not partisan, trust me.

**CHAIRMAN BINDER:**

Thank you, Mr. Presiding Officer. That's exactly why I know you put it in. And I appreciate your comments. We have a motion and a second to report. All those in favor? Opposed? **The bill is reported to the next legislative meeting. (Vote: 5-0)**

We have **Sense Resolution number 1 - memorializing resolution requesting State of New York to establish school district subsidy for affordable workforce housing.** I'm not going to make a motion on that again.

**Sense 17 - memorializing resolution requesting that the New York State Legislature ban the use of Mobile infrared transmitters.**

**LEG. CRECCA:**

Motion.

**CHAIRMAN BINDER:**

We don't even have to worry about legalities on this. Motion to report by Legislator Crecca, second by Legislator Caracciolo. All those in favor? Opposed? **Sense 17 is reported. (Vote: 5-0)**

**Sense 18 - memorializing resolution in support of State legislation to amend the composition of the Long Island Power Authority.**

**LEG. COOPER:**

Second.

**CHAIRMAN BINDER:**

Motion by Legislator Caracciolo, second by Legislator Cooper.

**LEG. CRECCA:**

On the motion.

**CHAIRMAN BINDER:**

On the report Legislator Crecca.

**LEG. CRECCA:**

I didn't read the bill so I apologize. Can you tell me in two sentences or less what it does?

**LEG. COOPER:**

Counsel, if you have the resolution. It basically tries to provide balance to the LIPA board, provide equal representation to the Suffolk County members and the Nassau County. It's more than that, but that's the main gist of it.

**LEG. CRECCA:**

Thank you.

**CHAIRMAN BINDER:**

And there's certainly no legal impediment to that. All those in favor? Opposed? **It's reported out to the next meeting. (Vote: 5-0)**

**Sense 19 - memorializing resolution supporting New York State legislation that would provide oversight for the Long Island Power Authority.** Motion by Legislator Cooper.

**LEG. CRECCA:**

Second.

**CHAIRMAN BINDER:**

Second by Legislator Crecca. For reporting that out. There's no legal question. All those in favor? Opposed? **It's reported out. (Vote: 5-0)**

**Sense 20 - memorializing resolution in support of raising the minimum wage in New**

**York State.** Motion by Legislator Cooper to report. Second by Legislator Lindsay to report. All those in favor? Opposed? **Sense 20 is reported out. (Vote: 5-0)**

**Sense 21 - memorializing resolution requesting the New York State Legislature to amend the Retirement and Social Security Law for Suffolk County Park Police Officers.** Motion by Legislator Caracciolo, second by Legislator Cooper to report. All those in favor? Opposed? **Sense 21 is reported to next meeting. (Vote: 5-0)**

**Sense 23 - memorializing resolution requesting Long Island Power Authority (LIPA) to select the "North Bellport Energy Center" as the location for the new power project.** Motion by Legislator Caracciolo, second by Legislator Lindsay to report. All this in favor? Opposed? **Sense 23 is reported to the next meeting. (Vote: 5-0)**

**Sense 24 - memorializing resolution requesting the New York State Legislature enact Long Island Workforce Housing Incentive Program.** Motion by Legislator Caracciolo, second by Legislator Crecca to report. All those in favor? Opposed? **Sense 24 is reported to the next meeting. (Vote: 5-0).**

**Sense 25 - memorializing resolution requesting federal government to enforce immigration laws.** Motion by Legislator Caracciolo, second by myself to report out. All those in favor? Opposed? **Sense 25 is reported out to the next meeting. (Vote: 5-0)**

We're adjourned.

**(THE MEETING WAS ADJOURNED AT 11:43 AM)**