

**WAYS AND MEANS**

**COMMITTEE**

**of the**

**SUFFOLK COUNTY LEGISLATURE**

**Minutes**

A regular meeting of the Ways and Means Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on Thursday, September 14, 2006.

**MEMBERS PRESENT:**

Legislator Lou D'Amaro • Chairman

Legislator Elie Mystal • Vice•Chairman

Legislator Steve Stern

Legislator Ricardo Montano

Legislator John Kennedy

Legislator Edward Romaine

**ALSO IN ATTENDANCE:**

George Nolan • Counsel to the Legislature

Gail Vizzini • Director, Budget Review Office

Rich Baker • Deputy Clerk of the Legislature

Ben Zwirn • County Executive's Office

Pat Zielenski • Real Estate Division

Christine Malafi • County Attorney

Legislator Viloría • Fisher

Dr. Luis Valenzuela • Long Island Immigrant Alliance

Cesar A. Malaga • Hispanic American Association

Carmen Maquilon • Catholic Charities

John Kennedy • Building Trades Council

Donald Cusick • Iron Workers Local 361

Jim Castellane • Local 12

Paul Zimmermann • Local 25

James Crawford • Local 25

Helen Fitzgerald • South Fork LIPC

Daniel Hilton • Local 25

James Dell'Amore • Local 25

Matthew Chartrand • Local 361

Michele Lynch • 1199 SEIU

Ben Wright • SC Public Works

James Morgo • Commissioner • Economic Development

Marge Acosta • New York Verified Voting

Jim McAsey

William Newhoff

Alexander Strauss

Walter Barrientos

Reinaldo Torres

Thomas Smith

Joseph Mullen

Wayne Hedlund

All other interested parties

**MINUTES TAKEN BY:**

Donna Catalano • Court Stenographer



**(\* THE MEETING WAS CALLED TO ORDER AT 10:35 A.M. \*)**

**CHAIRMAN D'AMARO:**

Okay. Ladies and gentlemen, good morning and welcome to the Ways and Means Committee of the Suffolk County Legislature. I apologize for the delay. I'd like to get started promptly. So if you'd all please rise, join us in the Pledge of Allegiance led by Legislator Stern. Thank you.

**SALUTATION****CHAIRMAN D'AMARO:**

Okay. Just a procedural note before we turn to our agenda, there will be •• just for committee members •• there will be no Executive Session of the Ways and Means Committee after our regular session. Once again, good morning to everyone. I'd like to turn now to our agenda this morning and start off with the •• there's no correspondence for the record so we'll go right to the public comments portion of the meeting, where any member of the public, of course, may address the committee for a maximum of three minutes. And we have several cards that have been filled out. If you would like to address the committee and haven't already done so, please obtain one of these yellow cards and fill it out for us, and we will make sure that you get heard. With that said, I'd like to turn to the first card, which is •• the first speaker rather, which is Ben Wright from our Suffolk County Department of Public works. Mr. Wright, good morning.

**MR. WRIGHT:**

Good morning. I wanted to make brief comments about IR 2073, which authorizes acquisition of six acres of land from the Town of Smithtown for use with our Sewer District Number 18. And it's in order to expand capacity as well as the service after within the Hauppauge Industrial Park. The town has already authorized conveyance for a waived fee of one dollar, and DPW

supports the IR. And the project has also received support from County Executive, the Legislators involved, the town, Hauppauge Industrial Association and the business owners. So I just wanted to convey our support and see if there were any questions on this particular IR?

**CHAIRMAN D'AMARO:**

Thank you, Mr. Wright. Are there any questions from the members of the committee on this bill? Okay. Thank you for being patient.

**MR. WRIGHT:**

Thank you.

**CHAIRMAN D'AMARO:**

Okay. The next speaker for the committee this morning is Mr. Jim Morgo, who is our Suffolk County Commissioner of Economic Development, Department of Economic Development. Mr. Morgo, good morning.

**COMMISSIONER MORGO:**

Good morning, Chairman D'Amaro. Good morning, members of the committee. I'm Jim Morgo, Commissioner of Economic Development, Workforce Housing. I'm here to speak to you on IR 2087. It's a ministerial resolution. It authorizes public hearings for the acquisition of property in East Patchogue. I regret that I can't be here for the agenda. In fact, I'm going to be visiting two of our downtowns to try to attract a national restaurateur to locate in those downtowns.

Last evening, the County Executive had a summit of Chambers of Commerce throughout the County focused on the revitalization of our downtowns. And one of the things that was mentioned several times was that when we get a national chain, when we have a destination attraction, it brings all the other businesses up. The rising tide lifts all the boats, as one of the great Presidents of this country once said. Conversely, when you have a blight, when you have something that's been a real stain on the community, as the Plaza Theater has been in East Patchogue for more than two decades, revitalization can occur.

So these public hearings would be for the authorization of negotiations and eminent domain if necessary for the acquisition of the Plaza Theater. Legislator Jack Eddington has been a leader in revitalizing this section of East Patchogue. It's unincorporated, it's not part of the village. And it's something that •• it's a long process, but we urge you today to begin that process. Thank you.

**CHAIRMAN D'AMARO:**

Okay. Thank you, Commissioner Morgo. We appreciate your comments on that resolution. The next speaker I'd like to Carmen Maquilon. Please, go ahead.

**MS. MAQUILON:**

Good morning. My name is Carmen Maquilon, and I am the Director of Immigration Services at Catholic Charities. For the past 45 years, Catholic Charities has been providing recidivism services to refugees and asylees at the request of the Federal Government. And during the past five •• ten years

have also worked with the New York State Bureau of Refugee and Immigration Affairs in providing work assistance to refugees, asylees, victims of human trafficking, AmerAsians, just to name a few.

Through various programs, it is our job to assist these groups in obtaining employment and job counseling that will lead these new immigrants to provide for themselves and their families without additional financial assistance from their local, state or Federal Government. This is the reason for my presence here today. As many of you might have noticed Catholic Charities, has remained silence in this subject. However, I have come today together with some of our clients, who I'm going to ask for them to stand up •• thank you. These persons, protected classes, as the I•9 in this bill refers to them, the bill is 2025, have been granted political asylum, some of them are from Haiti, some from Columbia, others are victims of human trafficking brought to the United States under forced labor.

Catholic Charities is very proud of its accomplishments. Nearly 95% of immigrants assisted under these federal and state programs in partnership with Catholic Charities earn incomes 125% above the federal poverty guidelines, Within three months of arrivals are granted status and obtain self •sufficiency shortly after. This translates into 95% of immigrants assisted by Catholic Charities not receiving public cash assistance. Asylees and refugees are work authorized in status. This means that they do not need a separate work authorization document to prove that they can work in the United States.

However, an employer will have to read additional documentation that is not found regularly on an I•9 form instructions to find this out. In the past, this issue has not been a problem, because it was easy for us to show the employers the section of law under which they qualify. However, during the past few weeks as our office has tried to place these new asylees and

refugees for employment, they have begun to feel the pressure that this sort of bill is sending, and that in some cases, employers that might have contracts with Suffolk County are nervous and might want to over document an I-9. And when I say over document, it's asking for more documents than the law requires, or employers abusing this enhancement might use it as an excuse to discriminate against immigrants. To this you might say that there are provisions within the bill to provide protection against discrimination, but as previously stated by Mr. Levy, the reason for this bill is because the Federal Government has not been doing its job in enforcement.

**CHAIRMAN D'AMARO:**

I'm going to ask you to please sum up. Just that the three minutes has expired.

**MS. MAQUILON:**

Yes. Two seconds, please.

**CHAIRMAN D'AMARO:**

Yes. Thank you.

**MS. MAQUILON:**

This means •• what this makes •• what makes you think that if the Federal Government is not working to protect the other workers, what is •• what makes you think that it's going to protect refugees and asylees? These has •  
• this is making us obtain additional documentation that postpone the

employment of asylees and refugees forcing them to obtain or request public assistance, cash assistance, to which they are legally entitled to. However, even if 10% of our clients are affected by this, it would amount to approximately \$93,630 every three months of County money at the expense of the taxpayer.

**CHAIRMAN D'AMARO:**

Okay. Thank you.

**MS. MAQUILON:**

To this, I would ask you to reconsider this bill and table it.

**CHAIRMAN D'AMARO:**

Thank you. And before you leave the podium, I believe Legislator Stern had a question.

**LEG. STERN:**

Thank you, Mr. Chair. Good morning.

**MS. MAQUILON:**

Good morning.

**LEG. STERN:**

I understand that when someone is granted status as a refugee or receives asylum, that person is not considered an undocumented or illegal alien ••

**MS. MAQUILON:**

Absolutely not.

**LEG. STERN:**

•• at that point. But I do understand that there is kind of this time lag between being granted that status and maybe getting the documentation that's necessary to comply with the requirements of the I•9. Any idea at this point in general what that time period is?

**MS. MAQUILON:**

They are immediately upon granted status or arriving in the United States as refugees they are granted what is called an I•94 or a letter from the immigration judge or the asylum office. In this letter it says that the person is clearly employment authorized. However, sometimes to get additional documentation, it might take three months, four months.

In the mean time, the government allows them to access public assistance if they cannot find employment. Our job is to make sure that they find employment upon arrival or upon entry knowing that they are work authorized. The Social Security card which we can obtain within a week or

two is not restricted, meaning that they can use that work authorization with the immigration document. However, when you see the I-9, it's not clearly stated there. It doesn't •• it's nowhere in the I-9 instructions that will tell this to the employer.

**LEG. STERN:**

So it's an issue really of maybe better communication or explaining it maybe a little more clearly to the employer, but I just wanted to be clear that when someone achieves that status and granted that status, they do receive the necessary documentation to seek employment. The concern in your testimony is really one of a possibility of over documentation or employers really not knowing what it is that they are supposed to be looking at or what is sufficient documentation.

**MS. MAQUILON:**

They have sufficient documentation upon granted asylum or granted refugee.

**LEG. STERN:**

They receive sufficient documentation, but you're concern is one of employer knowing that it's sufficient documentation.

**MS. MAQUILON:**

Exactly. Because it's not stated on I-9 form.

**LEG. STERN:**

Very good. Thank you.

**MS. MAQUILON:**

Even if we want to sue the employer or, you know, bring some kind of remedy, it takes too long. The Federal Government takes too long to being •  
• and the County bill does not provide for any kind of protection against this type of discrimination. They refer the client back to the Federal Government. Thank you so much.

**CHAIRMAN D'AMARO:**

But doesn't that problem exist whether or not Suffolk County goes ahead and enacts this legislation?

**MS. MAQUILON:**

It has always existed, however ••

**CHAIRMAN D'AMARO:**

Okay. So it's not this bill that's creating that problem.

**MS. MAQUILON:**

It is creating it, though.

**CHAIRMAN D'AMARO:**

How do you figure that?

**MS. MAQUILON:**

During the past •• since July, our clients, every single refugee and asylee that we have received, that we have been looking for work in Suffolk County, as we make phone calls to refer the client for employment to go and apply, the employer is telling us ahead of time, "Bring your I•94 and bring your work authorization document, bring your green card, because otherwise, I cannot employ you." So by the time we go there, try to explain this the employer saying talk to Suffolk County. We say, "This is not an issue of Suffolk County, this is an issue of the Federal Government."

So it becomes back and forth. Now we are having these clients having to go and apply for public assistance, public cash assistance, that, you know, that's not what they want to do. That's not our job, and, you know, it's kind of ruining our record after 45 years of not having people working within arrival of the United States.

**CHAIRMAN D'AMARO:**

Okay. But as Legislator Stern had pointed out, that's really just •• it's not that the law does not permit those granted, let's say, asylum in this country

from working or being employed. It's just the clarity of the explanation as to how to get through the I•9 process is really something that's problematic.

**MS. MAQUILON:**

But it's also the message that the bill is sending.

**CHAIRMAN D'AMARO:**

But wasn't that message sent by the bill when it was enacted in the Federal Government?

**MS. MAQUILON:**

The bill is sending more of a message of punishment, which, you know, I give you the right to do. I do not know. I'm coming here to do that. What I'm coming here to explain is that there are no provisions for protection against the protected classes. They are protected classes. Refugees, there's no protection ••

**CHAIRMAN D'AMARO:**

That's just not true. The bill itself contains anti discriminatory language in it that subjects anyone who violates that language to the same penalties as for failure to file the affidavit and some additional penalties under the County's other Civil Rights Laws. So I don't see how you could say that.

**MS. MAQUILON:**

But it's only for those that violate the law by hiring people who are not entitled to work. It doesn't mention what kind of penalties you will have under County Law to punish those that are discriminating against the protected classes.

**CHAIRMAN D'AMARO:**

Well, I think that's absolutely not •• that's incorrect.

**MS. MAQUILON:**

What the bill says is go back to the Federal Government. You're ••

**CHAIRMAN D'AMARO:**

I don't think so.

**MS. MAQUILON:**

There is no provision that says we are going to punish you, we're going to fine you if you •• the same way that you will fine the others if they are found in violation of the I•9 rule. There is no punishment, at least not in what I read, that says if you also discriminate unfairly against protected classes, we are going to fine you, we are going to send you to jail. There's nothing that • there's no provision in the County bill to punish employers that abuse the law.

**CHAIRMAN D'AMARO:**

Ma'am, I completely disagree with you.

**MS. MAQUILON:**

Will you show me where that is?

**CHAIRMAN D'AMARO:**

My understanding of the bill is that if a protected •• if an individual who is part of a protected class is discriminated against or even coerced or intimidated even, that the employer or the person committing that unlawful act would be subjected to the very same penalties that are in this bill. That is my understanding.

**MS. MAQUILON:**

Well, you know, I would •• I read it, it says chapter three, that part, there is no provision. There is •• I haven't seen.

**LEG. MONTANO:**

Why don't we let Counsel deal with this instead of ••

**CHAIRMAN D'AMARO:**

Well, I don't want to have Counsel deal with it.

**LEG. MONTANO:**

- you as Chairperson going after the speaker.

**CHAIRMAN D'AMARO:**

Legislator Montano. I'm not going after the speaker.

**LEG. MONTANO:**

If we're talking legal issues here, we should do that.

**CHAIRMAN D'AMARO:**

I am not •• I resent the fact that you say I'm going after the speaker. We're just having a discussion on what we believe the bill says. And I think that's important.

**LEG. MONTANO:**

We're debating the bill. You're debating the bill with the speaker, and there are plenty of speakers. All I'm saying is that if we're going into the legal issues as to what the provision are for discrimination that may occur under the bill, that's why we have Counsel here. And I'd like to hear on that. But I don't think that this witness or the person testifying is the one that really should debate those aspects of the bill. That's for us to resolve.

**CHAIRMAN D'AMARO:**

Well, I disagree with you also then.

**LEG. MONTANO:**

Well, you're allowed to disagree with whomever you want, but the point is that I think that we've got a list of speakers here and we should move forward on this instead of bogging down this particular person who spoke on one particular issue.

**CHAIRMAN D'AMARO:**

Thank you for your opinion. I appreciate the opinion of the any Legislator. But the fact remains that we disagree on what we believe an important provision of this bill is.

**LEG. MONTANO:**

We disagree on a lot of things, but the issue is whether or not we should continue to have this person at the podium and be asked these kinds of questions.

**CHAIRMAN D'AMARO:**

Okay. What's your opinion on that, no? Is that your opinion.

**LEG. MONTANO:**

It's my opinion we should move on, have the other speakers come forward, and then we can debate the bill with ourselves and with Counsel.

**CHAIRMAN D'AMARO:**

Okay. Are there any other questions?

**LEG. KENNEDY:**

Mr. Chair.

**CHAIRMAN D'AMARO:**

Yes. Mr. Kennedy.

**LEG. KENNEDY:**

My question for the speaker has nothing to do with the legality associated with this. And I look forward to being able to go ahead and get into this later on, because every one of the people around this horseshoe I've talked with at length. My question to you, ma'am, is what type of employment is it that generally wind up obtaining for your clients or the folks that come through Catholic Charities? Give me an example.

**MS. MAQUILON:**

We represent over 100 different nationalities, so it all depends. Asylees can be a person with absolutely no skills to persons who are professionals in their country with the language skills that are necessary. So we are talking anywhere from minimum wage unskilled labor to very highly skilled jobs, you know, professional jobs; dentists, architects, engineers, somebody who works at Burger King, somebody who works at a warehouse here in Suffolk County, somebody that does home health aide kind of jobs. So it's across the board. It's not just, you know ••

**LEG. KENNEDY:**

You don't focus in any one particular area? You don't focus in health care or restaurants or construction or anything like that?

**MS. MAQUILON:**

No. No.

**LEG. KENNEDY:**

You're across the board?

**MS. MAQUILON:**

It's across the board.

**LEG. KENNEDY:**

And you're experiencing this kind of reticence on the part of employers now where prior to this, you had had a good and harmonious relationship?

**MS. MAQUILON:**

Exactly.

**LEG. KENNEDY:**

Thank you.

**CHAIRMAN D'AMARO:**

Thank you very much for your time, I appreciate it.

**MS. MAQUILON:**

Thank you.

**CHAIRMAN D'AMARO:**

Thank you. Okay. The next speaker for the committee is John M. Kennedy, Representing, of course, the Nassau•Suffolk Trades.

**MR. KENNEDY:**

Good morning.

**CHAIRMAN D'AMARO:**

Good morning.

**MR. KENNEDY:**

Mr. Chairman, members of the committee, I'm here to talk about 2025. I'm here to lend support. And hopefully you people will vote in it today, take it out of committee and bring it to the full Legislature.

Some of the highlights that I'd like to talk about, we believe that the intent of the bill, it's not intended as an immigration bill, it's a fair business, fair labor bill. We think that the bill will actually help curb worker exploitation. The bill will help construction unions regain market share lost over the last 15 years due to the failed US Trade Policy such as NAFTA and CAFTA. Also the Federal Government, the Federal Government does nothing at all to enforce the existing laws. It's as if there is no law. We think that this will only help augment the federal law.

The notion that illegal immigrants are doing work that Americans don't want to do, we believe is false. If you pay American workers a living wage and benefits, we think that they would probably gladly do the work. We think that paying members their union scale and union benefits, they will gladly cut lawns or rip off roofs. Look around Long Island for the last 15 years, the ten years, 15 years. The face of America and the face of Long Island has

certainly changed drastically. And so has our work opportunity.

Every day we see that our market share is getting less and less and less. And we believe, we believe that a lot of this is due to exploitation of working people, unfortunates that are being paid below minimum wage, very, very poor safety standards or working conditions, the worst that you could ever want to dream of. And that's an invasion, that's an invasion on what we've done historically. We built everything that there is on Long Island, and we see it slipping through our fingers.

We believe, we believe that this bill if passed will help some of that. And again, I urge you to look at the bill and to help pass it on our behalf. We've been here a long, long time. We built this building that we are sitting in right now, and we want to be around for a lot longer, so please help us. Thank you.

**CHAIRMAN D'AMARO:**

Thank you, sir.

**APPLAUSE**

**CHAIRMAN D'AMARO:**

All right. The next speaker is Donald Cusick.

**MR. CUSICK:**

Thank you. Good morning. I appreciate this opportunity to speak before you. I'm here in support of IR 2025. Is this the be all and end all bill that's going to help immigration reform in this country? Certainly not. We live in the greatest country in the world. And the big reason we live in the greatest country in the world is because we are a country of laws.

The constitution, the law of the land. You are Legislators, you write the laws. There was a law written in 1986, the Simpson•Mizzoli Law, which covered a lot of provisions. One of the things it covered was 2.7 million undocumented workers were granted amnesty and citizenship in this country. It covered a lot of things. The other thing it created was the I•9 form, which is •• it's a federal law, it's been in existence for 20 years. For whatever reason, it's not enforced.

The laws that govern this country are being laughed at. What IR 2025 attempts to do is give Suffolk County the ability to enforce that law. The taxpayers of Suffolk County are looking to you for leadership. There's a segment of this population today as we speak that aren't paying taxes. Their taxes are being deducted from their salaries and pocketed by unscrupulous contractors.

Another group, they're just not paying taxes. They're working off the books. That's not fair to the taxpayers of Suffolk County. And again, we look to the Legislature to pass this bill. It's not going to solve every problem, but it's going to help. I urge you to support 2025. Thank you.

**APPLAUSE**

**CHAIRMAN D'AMARO:**

Next speaker, Wayne Hedlund.

**MR. HEDLUND:**

Good morning. I'd like to speak in support of 2025. My name is Wayne Hedlund, and I've worked and paid taxes in Suffolk County as a member of Local 25 of the International Brotherhood of Electrical Workers for 45 plus years. This legislation seems like a no-brainer to me as similar legislation already exists at the federal level, although our government cannot and will not enforce it, perhaps because it's become a political hot button issue.

This will bring it to the County level where we can deal with it. Suffolk County, as far as I know, is totally in charge of who it does business with insisting on certain criteria being maintained in order to contract for County jobs. These things include licensing, insurance, performance bonds, etcetera. This legislation would simply add another requirement to the list in order to be approved to execute contracts.

This is not an issue of discrimination or persecution. In fact, I see it in my life more as an issue of survival. It holds no penalty or fine for the employee, only the dishonest employers who chose to hire the undocumented in order to avoid paying income tax, health benefits, Workers Compensation, pension costs, vacation pay, holiday pay and so on. And what honest employer could possibly compete on a lopsided playing field such as that?

I ask only to be afforded the opportunity to work at my trade, pay my taxes, volunteer in my community, and not be driven out because a few unscrupulous people will hire workers who are willing to work at a third of my salary with no benefits or security in substandard conditions all for the enrichment of a dishonest few. Something certainly needs to be done to ease the plight of the undocumented worker, but I'm not willing to give up my livelihood to do it. At least on the jobs that we can control, County jobs, that are paid for taxpayers, we need to make sure that everyone that is hired is having taxes paid for them and that their health care needs are being met and that they're working in safe conditions. We need to make sure they're being paid fairly as well. Undocumented workers need those protections as well, but I feel that that is well beyond the scope of the Suffolk County Legislature. This bill will simply ensure that a few foxes will not run away with the entire hen house. Thank you.

**CHAIRMAN D'AMARO:**

Thank you, sir.

**APPLAUSE**

**CHAIRMAN D'AMARO:**

Okay. Next I'd like to call Cesar A. Malaga. Mr. Malaga, welcome and good morning.

**MR. MALAGA:**

Thank you very much. My name is Cesar A. Malaga. I'm the President of the

Hispanic American Association. Let me start saying that immigration is a job of the Federal Government, not the County. So the law protects all the people that come to this country. Now, we ask you to kill or table the so-called Levy Worker Bill. This bill, 2025, is anti immigrants, legal or illegal. It discriminates against Latinos. It's not in the best interest of our County.

Someone mentioned there's already a Federal Law, Title 8 of the United States Code USA, Section 1324•A. Now, this law was supposed to be enforced by the •• this law is supposed to be enforced by the Federal Government, not the County. The County can follow. Now, the laws of our country protects immigrants here who are legal or illegal, protects all the immigrants of •• citizen of other countries. Now, the Federal Government is the one who is supposed to enforce immigration, not the County.

Now, our country is a country of immigrants. Most of you are descendants of immigrants. Your families were allowed to work and accomplish the American dream. The proposed Levy's Worker Bill, IR 2025, is directed to people who are to offer their services, and in return, get head paid to provide food and other necessities to their families. If approved, this bill will deny any work to good honest people who care for their families. And many of these people who you call illegals, they do have children who were born in the United States of America. And these people have to be able to work to support their families.

I ask you once again to table or kill this Bill 2025. Our country welcomes immigrants. If you've visited the island •• if you've visited the Island where the Statue of Liberty stands, you might have read the words, "Give me your poor." It also mentions, "Send us the homeless, tempest-tossed to me." County Executive Levy's IR 2025 wants to ignore what our country stands for. We ask you to kill or table IR 2025.

Now, as someone mentioned, I don't know whether any of you spoke to the {zander command} immigrants or people looking for work. NAFTA, NAFTA and CAFTA are the problems why these people are here in the United States looking for work. There are many farmers who can no longer farm in Mexico, because the products that we subsidize here in the United States and send to Mexico, it's much cheaper to buy there, so the farmer in Mexico cannot sell the products out there.

So that's why I said immigration is the job of the Federal Government, not the County. We should not be •• you know, the County should not be looking into enforcing immigration. Now, it's the Federal Government's job, so let's not duplicate a law that already exists on the federal books. Let them enforce us, not us. Let's not create another bill that Suffolk County Executive is trying to duplicate what the Federal Government stands for. Thank you very much.

**CHAIRMAN D'AMARO:**

Thank you, sir.

**APPLAUSE**

**CHAIRMAN D'AMARO:**

Next speaker is Joseph Mullen.

**LEG. MONTANO:**

Mr. Chairman. Maybe I would suggest that we ask the audience not to participate by clapping for either side. Let's just hear the speakers. This is not a show. Let's just respect all the speakers. We understand your position. You know, I would ask •• we've done that at other meetings so we don't have •• we're not taking sides here. We're listening to all of you. We want to respect all of you. Please respect the speaker.

**CHAIRMAN D'AMARO:**

Thank you, Legislator Montano. And I would echo those comments from Legislator Montano. Please refrain from indicating approval or disapproval. That's a point well made. Thank you. Go ahead.

**MR. MULLEN:**

Good morning. My name is Joseph Mullen. I live in Hampton Bays in the Town of Southampton. I'd like to address this bill, IR 2025, in that when I first •• when I first looked at the handout, it struck me right away as being redundant, because of there being the federal legislation.

However, when you think a little more about it, all over the country there are towns and •• acting on it and towns not acting on the situation of illegal immigration, illegal workers, because this isn't a bill that is aimed at anybody who is here legally. It's only •• and it's not even aimed at the people who are here illegally, it's only aimed at employers of people who are here illegally. So it's not really redundant in that that has nothing to do with the federal laws. It's just what can we control in our County, because if you look

down the line, the towns aren't doing anything. And some of the them are being •• are finding themselves with problematic situations as far as housing and schools and things of that nature. Putting that all aside, what can we do? We can at least control something of what's being done for our County and what's being paid for with our taxes. And that's why I would hope that you move on this bill today. Thank you.

**CHAIRMAN D'AMARO:**

Thank you, sir. Next speaker is Jim Castellane.

**MR. CASTELLANE:**

Good morning. I'd like to thank you for this opportunity to speak. My name is Jim Castellane. I represent Local 12 of the Installers, and I've been working with the Building Trades for quite some time. I just •• I just •• I'm having a little bit of a problem as I hear what's going on, because this is not directed at immigrants, legal or otherwise. This is directed at the contractors that hiring them. This is for our contractors to go and bid this type of work, because of the wages that they pay with benefits. You guys and ladies have heard this before. It is impossible to compete with them.

And many of these contractors that I have spoken to that have exploited these immigrant workers have been charging the same prices as the union contractors, and they're putting that money away. Can I prove it right now? No. Can I give you a name right now? No. But rest assured, it's going on. And when we try to picket these jobs and we have our men standing outside working of these gates, knowing that the men that are working on the other side of the gate are getting a third of their wages and these mens are losing their homes, losing their wives, it's leading to alcoholism, it creates unemployment on Long Island. And this is why our younger generation is

flying out of here.

This is really not a complicated issue. It's not that we're attacking any immigrant workers. We all come from immigrants. We want the contractors to play on a level playing field. We will organize them workers, we will bring them into unions and our families. But this way we can't even organize them. They get paid cash, they don't have to pay taxes, and they are on their way.

That's why we urge you to help us with this and support this. And I commend Mr. Levy for taking a stand on a situation like this. But I want to repeat it one more time. This is not against immigrant workers. This is against the bosses and the contractors that are getting rich off their backs. And if I was an immigrant out there now, I would want this passed so that I can assure myself and my family that I'm going to make a better living than what I'm making now. We urge you to support this bill. Thank you.

**CHAIRMAN D'AMARO:**

Thank you, sir. Next speaker is Dr. Luis Valenzuela.

**DR. VALENZUELA:**

Thank you. I want to begin by, again, reaffirming that the bill is unnecessary. The bill does not speak at all to the problem that it's supposed to solve. What is the magnitude of the problem? Is Suffolk County in fact employing undocumented workers? How many? You know, I've tried to look

for that data, I can't find it. Maybe you can help me.

Another question the first speaker, Ms. Maquilon •• a question occurred to me, and maybe you can help me. Is a Certificate of Citizenship sufficient to be employed? The last time •• or the penultimate time that I was here, I spoke about veterans being asked to go home, Latino veterans. And I have a letter from one who is a businessman and is afraid of retribution, and I'd like to read it.

"As a businessman in Suffolk County, I strongly object to the Bill IR 2025, to hold contractors liable for the verification of worker status as I find it to be redundant in nature and self•servant. The bill can only lead to dividing our community by promoting hatred, not only against our vulnerable undocumented workers, but also against all Hispanics who have long since been here for many years. The Hispanic community not only has contributed to our economy, but has also proven itself in the military service for all to benefit. Have we forgotten the many Hispanic heroes who have died in all our wars? God, I hope not."

"Our business consists of hiring these workers after they have been acclimated into our mainstreamed and have become American citizens. This has been so because we have been given them a chance to prove them self. This continues to be the case. Hispanics are people who for the lack of not being able to further themselves in their own countries come here for help. They see that Great Lady in our Harbor who invites the hungry, the poor, the tired, and that is why they are here."

"I, therefore, ask you again that you in good conscience must refuse this. Do we send them back? By promoting this bill, we send a message of

intolerance against all of our Hispanic people. Therefore, as a taxpayer and a Hispanic businessman, I urge to reconsider this bill and work toward uniting all people. Let's remember Lincoln's last few lines in the Gettysburg Address where he recalls, "that a Government of the People, by the People and for the People shall not perish from the earth." Are we still that government?"

"The bill is redundant, it's unnecessary, it's divisive. You can see that play out after every hearing here. You see the unions are divided. So it's not only dividing the larger community. We live in the third most segregated region in the nation. Our schools are segregated more now than they were in the 1954 before Brown Versus Board of Education. And we are going down a path that is not pretty. I urge you, again, kill this bill." Thank you.

**CHAIRMAN D'AMARO:**

Thank you, Doctor. Next speaker is Thomas Smith.

**MR. SMITH:**

Good morning. I'm here to speak about this bill, IR 2025. Many times I've seen people stand on a job site that look like a deer that had the headlights put on it. It's obvious that they feel that's something not wrong •• that they don't belong there. Many of these people are Polish, Irish and from other parts of Northern Europe. Some are Latino. One thing in common is they were all apparently not supposed to be there.

I have family members whose names are in Ellis Island, my wife has the same. We all come from some place, but we file the paperwork and grind through the system and try to do it right. You come here, all of a sudden,

wages fall, because are people willing to whatever. They come on jobs that are supposed to be prevailing wage. These people are entitled to get whatever position they're working in. I don't care if they're polka-dotted, stripped, wherever they come from, whether they're legal or not, they're supposed to get that wage.

In the past, the District Attorney out here before the present one seems to have winked at it. Everyone had a blind eye to this. Ah, it's just the workers, don't worry about it. Well, guess what? The children don't want to be here. This bill is going to protect me, it's going to protect my children, it's going to keep dishonest workers and dishonest contractors from doing the wrong thing. A log keeps honest people honest. This bill will help to keep the honest contractors honest. Dishonest contractors are going to do anything they want any way they want. This is not going to stop them.

There is a point where the government appears to be in bed with certain contractors in the past. It's frustrating, it is frustrating beyond anything I can put into words. I am not eloquent. Someone sends these people to these contractors, unless they have their own entire network to pick these people up. And I'm not talking about just people that are Central or South America, I'm talking about Northern Europe, I'm talking from all over.

People are always on the move in this world. Spain has a massive problem they're trying to deal with it, but they don't have the INS. The Keystone Kops look like a real organized group compared to the INS. It is frustrating as a person to be stepped on constantly and be considered lower than dirt, because here's a law that says you have to pay this wage, and this contractor is laughing as he's buying his new yacht. Please protect me. Please protect my children. Thank you.

**CHAIRMAN D'AMARO:**

Thank you, sir. Please refrain from clapping. We appreciate it. Next speaker, Paul Zimmermann.

**MR. ZIMMERMANN:**

Good morning, ladies and gentlemen. My name is Paul Zimmermann. Thank you for hearing me this morning. To the people who have spoken before me, I'm sympathetic to your concern that we hear this morning having to discuss this issue, the 2025 Bill.

The Office of the County Executive issued this piece of paper, okay? And on the front of it, it's pretty much cut and dry of what we're doing here this morning. Let me make perfectly clear that this is not an attack on people who are •• who are immigrants, because let's face it, somewhere along the line, we're all immigrants here. Suffolk County and the United States of America is part of the melting pot of this great country. As far as I know, we don't see anybody trying to tunnel out of this country this morning. People are trying to come in. Many are coming in to try to help and share their skills that they've learned, okay, and want to make a better life for themselves, and that's very honorable.

Some people might be here for a different agenda. We're in a tough situation, this is a very tough topic. On this piece of paper in front of me it says we have the power as a County to place conditions on those who wish to contract with the County and do business with the County. That's why we're here, okay? Unfortunately, people that do business with the County, contractors, not all of them, some are unscrupulous.

I spoke on behalf of the construction union, Local 25, International Brotherhood of the Electrical Workers. I'm a taxpayer here in Suffolk County. I've been a member in good standing with my organization for 23 years. I get up every morning, I go to work, I pay my taxes. I'm a volunteer with the Boy Scouts of America. I try to make the place I live in a little bit better each day than it was the day before.

In this news •• in this newsletter, there are certain concerns and certain points which Mr. Levy is trying to help the taxpayers of Suffolk County. He states that it's not an intention as an immigration bill, okay? That's a situation in itself. It's for fair business and a fair labor bill, okay? The bill will help the construction unions in the region to regain market shares, which I belong to. We spend our tax dollars, we help make our community better by keeping the money here and raising the standards of every individual that works for a living, especially in the concerns of safety. The people that have that •• that do not have that protection are being exploited to the points that you can't even imagine.

I'd like to take the time to say thank you to the members before this •• standing before me to here my voice and my concern on this •• on this bill that should be passed. It's a start. Is it a fix? No. But it's a start in the right direction, okay? And I would like to thank you very much for hearing my concern. Thank you.

**CHAIRMAN D'AMARO:**

Thank you, Mr. Zimmermann. Next speaker is James Crawford. James Crawford. One more time, James Crawford. Okay. Next is Helen Fitzgerald.

**MS. FITZGERALD:**

Good morning. My name is Helen Fitzgerald. I live in East Hampton. I'm a member of the South Fork Chapter of the LIPC, and I'm representing them here today on Bill Number 2025. Our mission at the LIPC is to support sustainable policies that affect the quality of life in East Hampton and Southampton Towns and particularly to fight for the hopes and aspirations of the less powerful in our community.

I understand that you have held two open meetings on this bill, which basically drew two opposing positions. It is a very contentious issue. This bill does nothing to lower the heat. Since the law, as others have said, already requires employers to solicit identification from their new hires, this bill would be redundant. And if the present system seems not to solicit verifiable documentation because bosses do not have the resources or interest to play detective, what reason is there to assume that the new one will? In that way, it's unenforceable.

So why pursue this if it merely exacerbates things?

As with so many laws and bills on immigration, they seem mainly to have motives connected to domestic politics. This country is still carrying the stigma of racism, and that poison continues to allow those who are privileged to feel justified to exploit and dehumanize people who provide cheap labor and simultaneously to blame them for their situation. Our economy for over 200 years was based on Black African slavery which allowed great profits to be made. And today, globalism is responsible for the vast upheaval of immigrants from south of the border seeking to become the new cheap labor.

Policies like farm subsidies and NAFTA, as others have said, have destroyed

the farming way of life there, driven thousands into the cities where they find no jobs except at the slave wages paid the women in the maquiladoras. The corporate titans write the policies, and they care nothing for the dignity of workers, they care for profit only. The problem was designed on the national level, and it will not be solved by Suffolk County. We must see that labor standards and wages are raised on both sides of the border through reform of international trade policies.

We must protect local economies in smaller countries rather than international corporations. We must guarantee every US worker the right and protection to organize. Instead of economic exploitation and racism, we must form one movement for human dignity and opportunity for all. I beg you not to report this flawed bill out of committee. Realize that if you do, no man or woman with brown skin or a Hispanic surname regardless of their history here will feel secure in his job. You might as well say as they did to my grandfather in his time, "No Irish Need Apply." Now, no Hispanic need apply. Thank you.

**CHAIRMAN D'AMARO:**

Thank you. All right. Next speaker is Reinaldo Torres.

**MR. TORRES:**

Good morning, Mr. Chairman.

**CHAIRMAN D'AMARO:**

Good morning.

**MR. TORRES:**

My name is Reinaldo Torres, and I'm a member of Sheet Metal Workers Local 28, New York and Long Island. I am in support of this Bill IR 2025 100%. But before I go into my remarks, I just wanted to read a newspaper article that I picked up a couple of years ago. I thought it would come in handy one day. It's from the Staten Island Advance. And this is under "Services Offered." And the ad goes like this. "Mexican available, males and females, everything from cleaning, babysitting to repair, very cheap," and there's a phone number there.

Now, if we don't think that there's a problem here, you know, we got to stop sticking our heads in the sand and start paying attention to what's going on. We're becoming desensitized with what's going on out with the outdoor hiring halls that are in many of our communities. We are not paying attention enough to what's going on. And this bill is starting somewhere.

Most of the culprits here •• it's really the employer, the employer is the one that we're trying to go after with this bill. We're trying to make him a legitimate employer. The employer is the one that is exploiting the workers. This bill on this County level will put these employers on notice, okay? I'm not sure exactly what's going to happen with it if passed, and I hope it does get passed. But putting them on notice is going to do something rather than doing nothing, because there's a lot of money. If you're funding a project or if you are funding this employer who wins these bids 100%, and he's hiring illegals to come in, well, this employer is hitting the jackpot every time he gets a contract because he knows not going to pay these individuals whoever they are; Mexicans, Northern Europeans, Chinese.

I've been out on the street for ten years full time, and I've seen how this problem has mushroomed. Ten years ago, it wasn't so bad. Today it's an incredible problem. Our schools, I'll just give one example. Our schools are suffering big time. When you're an undocumented worker, most probably you're not paying taxes, you're working off the books. But you start a family and you have children and you're sending them to school. Well, what's happening? The schools are becoming over crowded, and it's very, very difficult to teach under these conditions when you have classes that are over capacity. So it just mushrooms into a bigger problem. Our children are not getting the education they need. And us as taxpayers, we are subsidizing all these workers that aren't paying taxes, and that's a tremendous problem.

Something has got to be done. And I know there's a lot of people that are against this bill, they're calling it racists, whatever. I'm Hispanic myself. I don't think it's racist. I think it's a fair deal. We're trying to get all these employers on a level playing field, because there's a lot of good employers out there that do hire immigrants, but these immigrants that they have working for them are legal, and they pay taxes just like me. I don't have a problem with that. The problem is the ones that are working off the books. They pay their bills, that's great, but you're not paying taxes. And the County is going to suffer big time. If you think you're having a problem now, wait another ten years, you will see how big the problem is. Please take this into consideration and pass this bill. Thank you.

**CHAIRMAN D'AMARO:**

Sir, just before you go. Oh, no, I apologize, I thought there was a question. Thank you for your comments. Next speaker is Walter Barrientos.

**MR. BARRIENTOS:**

Good morning. My name is Walter Barrientos. And I thank you for your time. I work for the New York Immigration Coalition, which represents approximately 160 throughout the state that promote justice and opportunities for immigrants and refugees. But today, I'm not speaking to you on behalf of the New York Immigration Coalition. I am speaking to you as someone who had grown up here on Long Island.

My family's migration to Long Island dates back several decades. My first relatives to arrive here like many of today's immigrants on Long Island did not speak English, were uneducated, worked in construction and lacked immigration status. It goes without saying that as new comers and people who had yet aculturated, they were subject to abuse by their employers, landlords and people from the community who did not treat them as human beings. But my relatives arrived here to Long Island, they were determined to work hard so that their children would have a better life. Even though they were aware that not everyone welcomed them, the belief that hard work is dignifying and that they had come to this, the land of freedom, opportunity and justice inspired them to keep working.

Today, two or three generations later, I am proud to say most of my relatives have become citizens and speak English. Among their children, we now have an assistant professor, a bioengineer, several nurses and a high school guidance counselor to name a few, and most of which work here on Long Island. I tell you this because none of the people who abused or made them feel unwelcome when they first arrived here, could have every imagined the contributions that my relatives and their children would have in their communities and to this, our Long Island.

Today, I'm not presenting you with any statistics, results of a study or anything of that sort. I am presenting you with the story that started here on Long Island with three hard worker •• hard working undocumented

immigrants who made tremendous progress and whose families have contributed tremendously to the development of Long Island and this, our nation.

It is my hope that you will use your vote in opposition of IR 2025 to keep the American legacy of progress, opportunity •• progress and opportunity alive here in Suffolk County and in this country just the way it was for my family and the way it has always been for immigrant families across the country. I would also like to comment on the previous speeches. If the concern is really that employees are not getting the money that employers are being paid by the County, why are we not passing a law that requires employers to channel the exact amount of money that they are paid by the County to their workers regardless of immigration status, because this is going to continue happening? If the problem is that employers are making money off immigrant workers, why are we not passing a law where immigrant workers can come forward regardless of immigration status and report that they have not been getting paid the amount they were supposed to get paid on their County contract? Thank you.

**CHAIRMAN D'AMARO:**

Sir, thank you. All right. Next speaker is Daniel Hilton. Mr. Hilton.

**MR. HILTON:**

Good morning, Mr. Chairman.

**CHAIRMAN D'AMARO:**

Good morning.

**MR. HILTON:**

Good morning, Mr. Chairman and County Legislators. My name is Dan Hilton, and I'm for this bill, 2025. I was a little bit discussed with this past speaker. I am an electrician, and I recall one job I was at where there were redoing a boiler room, which is common now a days. A lot of these schools were build in the '60s. And I went down to the boiler room, and there was a bunch of workers ripping out asbestos, no protection, nothing. This was a prevailing wage job. I know there weren't getting prevailing rate. And I believe there is a union official here that represents the asbestos and installation workers.

They are not going to say anything, because they're going to get fired. These workers •• I was angered in one way, because I missed a day's pay, I couldn't work, but I felt sorry for these workers also, because they had to feed their families. They are not going to speak up, because they'll be down the road. And there is 20 others that will take his position. My grandfather was an immigrant who worked on the Empire State Building. I have family that worked on the Verrazano Bridge, World Trade Center. And growing up at the Thanksgiving Dinner table, I don't recall ever hearing an immigration problem on the jobs. This is somebody that is really exploded, and the county needs a backup system to the Federal Government. I'm hoping this panel will act swiftly on this bill for the betterment of Suffolk County. Thank you.

**CHAIRMAN D'AMARO:**

Thank you. Next speaker is James Dell'Amore.

**MR. DELL'AMORE:**

Good morning. My name is James Dell'Amore. I live in West Islip. I'm a member of Local 25 IBEW. The undocumented workers, how •• I ask myself, how will this affect me? I'm one •• I'm one of hundreds, I'm one of thousands in the County, I'm one of millions in the country, how are these affecting me in my life? I have to go out of town. I haven't worked on Long Island since August of last year. I don't expect to see work until next spring if I'm lucky. How will this affect me? How will this affect all of us that are in my situation?

The level playing field hit me hard. I say, "Wow, that's a breath of fresh air to me." I like to hear that. Contractors, nonunion contractors, I had an issue, I was involved with a job that was a nonunion job, I was working for the man. He wanted me to tie in an 800 ample feeder, a 200 amp off an 800 amp main. I'm an electrician. This is the kind of safety that are issues involved. I said where's •• can you shut it down. That was not an option. We couldn't shut it down. I don't know why not, but we couldn't shut it down.

I asked for personal active equipment. He says, if you can't do it, I'll get somebody who will. That's what goes on out there. And this is what I want to attest to you, this is what goes on. The safety issue is an important part, not only in my trade, all trades. If you can't do it, we'll get somebody who will. And somebody will do it, and somebody will get hurt. That's all I have to say.

**CHAIRMAN D'AMARO:**

Thank you. Next speaker, Alexander Strauss.

**MR. STRAUSS:**

Good morning, Mr. Chairman. My name is Alex Strauss. I live on Radio Avenue in Miller Place. Thank you for the opportunity to speak to you today. I must be missing something, because this bill seems to be a bill that would make the hiring of an employer, everybody on the same field. When I go to work at Nassau Coliseum or if I go to work at Brookhaven National Lab, when I walk in there, the first thing they want is proof of identification. If you don't have that, you can't work there. It doesn't matter whether I'm black, green, orange, purple, any color, it doesn't matter. You have to have the documentation. If you don't have the documentation, they tell you to please leave. I don't think that's not fair. I think that's the way it should be.

If I'm paying a contractor a wage and he supposed to have people that are documented working for him, and if he doesn't do that, then you should be able to fine him. And as far as people saying that the government already has a law like this, well, whoppy•do•da. They have a law, but nobody cares about it. They don't care about anything to do where big business gets hurt. This Administration could care less. And this is the people, it's not business, it's the people, the guys that work for people. If they're undocumented and they're being paid below wage, they can't even speak out, because they're afraid of their jobs. And I think this law will help level the playing field. And I hope that you vote it out of committee and it gets passed by the Legislature. Thank you very much for your time, I appreciate it.

**CHAIRMAN D'AMARO:**

Thank you, sir. Next, Matthew Chartrand.

**MR. CHARTRAND:**

Good morning, gentlemen. I represent the Iron Workers Local 361, about 700 active workers. I'm here to today to commend you guys. You listened to this for at least six hours that I've been involved in. You know what? You guys got a tremendous responsibility on your hands. What I think you need to do is vote it out of committee, bring it to the full Legislature and let everybody debate on the issues. I commend you on what you have done so far. Thank you.

**VICE•CHAIR MYSTAL:**

Thank you very much. The next speaker is Michele Lynch.

**MS. LYNCH:**

Good morning. Thank you for this opportunity to speak. I'm a resident of Suffolk County. I'm representing 1199 SCIU. And I just want to say that this bill will do little to protect the rights of workers, and it will do much to divide the community. This bill is duplicative, unconstitutional. It's the role of the Federal Government to enforce immigration.

Some say we need to push the Federal Government to do its job, but we have to be careful not to push in the wrong direction. 1199 supports our brothers and sisters in the Trades. We want them to get every job they bid for. We want a level playing field where prevailing wages are paid, taxes are paid and standards are protected. But this bill is not it way. Please table 2025.

**CHAIRMAN D'AMARO:**

Thank you. Next speaker is William Newhoff.

**MR. NEWHOFF:**

Good morning. My name is William Newhoff. I'm a resident of the Town of Smithtown. I'm 38 years old. I have been living here all my life. I've been an electrician for the past 15 years, and of those past 15 years, three years now, I've been trying to go into my own business, all right? When I do look for jobs, and I do get jobs, I go down and I look for hired skilled workers, all right, that they're qualified, they're trained, they're a citizen. And I put them on my payroll, and we pay taxes, okay? I don't care if you are black, white, a woman, if you're skilled and you are qualified to do my job, I hire you.

I've been a tax paying citizen all my life. I have been trying to always do the right thing and competing with other contractors that are on the level playing field, okay? If I lose the job to another contractor, I take it on the chin. But a lot of our contractors, we're competing against these other guys who don't pay their workers the fair share. I pay benefits, Workman's Comp, liability. All those things I have to include into my package, all right? These other guys aren't paying that, but yet they're putting the money in their pocket, okay?

Now, if we all put them all on the same playing field, that's great. We all can compete at the same prices, plus or minus in the same area. If I lose it, I lose it, but at least we've all done the right thing. I spend a lot of time in administrative hours trying to bid these jobs and losing a lot of money, and then I don't get these jobs due to these situations. Like I said, my family

here •• I have three young beautiful children. I've been in the Town of Smithtown all my life. If this continues to go on, me as a hard working tax paying citizen in this community, in this County, my wife and I, we put all our money back into this County, you are going to lose a good person that's going to have to get up and leave Suffolk County, leave Long Island, leave New York. I will take my business down to North Carolina somewhere, give them my business, give them my taxes, build that county back up.

I need to put it •• I want to keep my kids here. I have grown up here. I love this island. It just gives us the chance to compete with everybody else. If I don't get the job, that's me, that's my business. I estimated wrong or whatever. But put us on the same playing field, put everybody, because I'm solvent just like these other workers I hire. I can't give it to them, they can't work, they don't •• they pay their taxes, then their taxes ain't coming back to the county as well. My money I bring in, I pay taxes. The money I give to my employees, they pay taxes. It all comes back here. You're forcing a good person to leave. Thank you. I support 2025.

**CHAIRMAN D'AMARO:**

Thank you. Okay. The next card is from Cesar A. Malaga. Mr. Malaga, good morning, again. You are here once again before the committee to speak on a separate bill; is that correct?

**MR. MALAGA:**

Yes. 1782.

**CHAIRMAN D'AMARO:**

All right. Usually in the public portion, you are afforded three minutes to address the committee on all matters that are of concern to you. But in light of the fact that you may have not been aware of that rule, I will permit you to go forward, but please keep your comments brief. Thank you, sir.

**MR. MALAGA:**

I have worked, you know, to collect signatures from block to block, and I see that, you know, the dividing boundaries of Legislative Districts are not what it should be. And when we said that you will have a nonpartisan, fair and objective process, it should be a nonpartisan. There should be no gerrymandering for the boundaries of these legislative Districts. We must divide the Legislative Districts by use of the streets rather than dividing the blocks in two.

Before the final natural boundaries for each Legislative District is approved, is done, is approved, the public should be invited to view the boundaries of the Legislative Districts. The people working in this, you know, new •• deciding these new boundaries, they all should be nonpartisan, because if we have, you know, Republican workers, sometimes, you know, they tend to, you know, follow more where the Democrats live or more Republicans live. So we should stop with this gerrymandering. It is a must that prior to enforcing these Legislative Districts, people should be invited to view the boundaries of each district. That's it. Thank you.

**CHAIRMAN D'AMARO:**

Sir, thank you again. All right. The last card I have this morning is issued by Marge Acosta. Good morning.

**MS. ACOSTA:**

Good morning. My name is Marge Acosta. I'm representing New Yorkers for Verified Voting and the Long Island Progressive Coalition. We just found out that our Election Commissioners have been asked to choose the new voting systems replacing our levers by October 31st, 2006, before the machines are even certified. This is an outrage.

After months of hearing expert testimony, the New York State Board created a very stringent set of standards for voting machines that gave us some confidence in their security and reliability. Now the State Board is circumventing the entire process. And even many Commissioners are disturbed by this turn of events. After all, what would be the purpose of having Commissioners choose the machines before certification, if not to give preference in testing to those machines chosen?

Another disturbing aspect of this preliminary choice is that Commissioners were awaiting results of the user ability portion of the testing to determine the number of DREs needed to replace each lever machine. This is a big factor in the Commissioners' decision. Preliminary testing has shown that disabled voters may take anywhere from 30 minutes to an hour to vote. That leaves us with two very undesirable choices for DREs. Since many of our EDs represented have •• presently have only one lever machine, we would either have one DRE replacing each lever and lines out the door with many voters leaving the pole sites disenfranchised, or we would have to double the number of DREs per lever machine making the cost over \$26 million and three times as much as optical scanners. We only get 15 million from HAVA Funds.

So why not choose optical scanners? All the reports say they're more secure and reliable and the rigorous testing of DREs is necessary. One argument

against the scanners has been the cost of the ballots. I obtained two New York City full•faced ballots, one from the November 2004 Presidential Election and received current cost estimates for similar ballots for Suffolk County. In black and white, they would be 29 cents each, a far cry from the 60 cents to a dollar cost the vendors were touting. I will distribute those.

Why am I telling you this if the Commissioners make the decision? Because they don't make it in a vacuum. As our elected officials, it is your responsibility to protect our vote as well as your own and help maintain an affordable system. I'm asking you in the next month to go to votersunite.org and read the failures by state and by vendor and see the disasters that are occurring every week on these DRE machines. Go over the costs that were given by the vendors of the July demonstration and do the math, then do whatever you feel is in your power to obtain the right voting system for Suffolk County. Contact your Party Leaders and Commissioners, write the New York State Board, issue a Legislative letter detailing your concerns, because if you do nothing and a DRE system is chosen where Suffolk residents have the same chaotic election experiences of other DRE counties and the same financial consequences ••

### **VICE•CHAIR MYSTAL:**

Please wrap up.

### **MS. ACOSTA:**

•• it would appear that you did nothing to prevent it. And Suffolk voters will not accept the excuse, it wasn't my job. I'm giving Legislator D'Amaro a compelling DVD that gives both sides of the issue. And Dr. {Shamus}, who's a very staunch advocate of DRE, who is saying this is a mess, these DREs are a mess. Please look at it as well as look at the site.

**CHAIRMAN D'AMARO:**

All right. Thank you, Ms. Acosta. Thank you for bringing us up to date. We appreciate that you are very interest in that issue as all of us are. At this time, I have no other cards filled out for addressing the committee. Is there anyone else present who would like to do so at this time?

**MR. MCASEY:**

Hi.

**CHAIRMAN D'AMARO:**

Good morning. Just state your name for the record.

**MR. MCASEY:**

Jim McAsey.

**CHAIRMAN D'AMARO:**

Mr. McAsey, please go ahead.

**MR. MCASEY:**

Thank you for this opportunity. We would have ask that you table this bill at this time. We believe that the unfair advantage should be addressed and can be addressed in better ways. We feel that there are better ways to level the playing field. We need to ensure that OSHA Laws are protected, we need to ensure that prevailing rate is paid. And we believe that all workers should be on the books and pay taxes.

This bill is not the best way to ensure those rights. We would posit that the best way to ensure these rights is to support our union brothers and sisters in the trades, get every bid that they deserve. This bill is not a substitute for the trades getting those jobs. We're concerned with what this bill may stir up and what this bill is stirring up. At the last hearing, we were joined by extremists, it's far•right wing malitia groups that have come out to support the bill. These same groups have targeted unions in the past such as the Laborers saying that, quote, these groups will pay for their stands.

And since we suffer from a growing number of hate crimes, we're worried that this would take us in a dangerous direction. Just this week, two extremists charged into a Latino•run business on the East End, tried to rob them while screaming racial slurs and then proceeded to stab several of the patrons. I would also add that I want to mention something about the Federal Department of Labor. It's run by a man called {Earv Mill Joner}, a good man in my view. He tells us that they have an agreement with ICE that they will not work with immigration. And the reason that is is because when workers are not paid, the DOL will go in there and try to get back wages for these workers. Now, if they're undocumented and they work with Immigration, how are they going to work •• how are these immigrant workers going to work with the Department of Labor? They have the foresight to understand if they did, their legitimacy would be cut, and they wouldn't be able to help these workers. And as a result, standards would be driven down for all workers, because when some workers aren't paid, it drives down standards for us all. I would ask the Department of Labor here in Suffolk County to recognize that same fact.

Let's find ways to unite the community, bring people together and find solutions so that we can move forward in a positive way. Let's work together to make sure that all workers are protected in their rights. Please table this bill. Thank you.

**CHAIRMAN D'AMARO:**

Thank you. Okay. That is going to conclude the public portion of our meeting this morning. Is there •• just before we close that portion out, is there anyone else who would like to address the committee at this time? Okay. Being none, we will conclude our portion public portion and turn to our agenda. And due to the, of course, interest in IR 2025, I will offer •• excuse me •• a motion at this time to take that bill out of order, is there a second.

**LEG. MYSTAL:**

Second.

**CHAIRMAN D'AMARO:**

Seconded by Vice•Chair Mystal. All in favor? Any opposed? Okay. IR 2025, (A Local law to require companies doing business with the County to certify compliance with Federal Law with respect to lawful hiring of employees), is now before the committee.

**LEG. MYSTAL:**

May I be recognized?

**CHAIRMAN D'AMARO:**

Yes, Legislator Mystal.

**LEG. MYSTAL:**

I would like to say that a simple thing to the audience. Many accusations have been thrown around. Just because somebody supports this bill does not make that person a racist, and I want to make that perfectly clear at least from this side of the horseshoe. I don't know of any Legislators who are whose supporting this bill who is a racist. And I don't like the characterization that because so and so is a supporter of this bill, then so and so must be a racist.

On the other hand, just because somebody does not support this bill does not make that person unpatriotic. And again, we have to understand, we have differences. I'm going to make a motion to table this bill and I need a second.

**LEG. MONTANO:**

I will second it.

**LEG. VILORIA • FISHER:**

On the motion.

**LEG. MYSTAL:**

On the motion.

**CHAIRMAN D'AMARO:**

Okay. There is a motion made by Vice•Chair Mystal to table the bill. It has been seconded by •• was it Legislator Montano?

**LEG. MONTANO:**

Yes.

**CHAIRMAN D'AMARO:**

Legislator Montano. All right. And Legislator Viloría•Fisher would like to be recognized. Please, go ahead.

**LEG. VILORIA•FISHER:**

Thank you, Mr. Chair. And is my mike working? Okay. I have a problem with this bill, and I support the tabling motion, not because I don't agree with the many people who have said that they believe that when we have bidders who come to the County bidding on a project that everyone should not be on a level playing field, I completely concur with you. Everyone should be on level playing field when you're coming to the County as a bidder.

To that end, I have introduced legislation that expands our responsible bidder definition, including as a non•responsible bidder any bidder who is in violation of Title 8 Sections 1324•A or 1324•B of the United States Code. And using that determination, a bidder who is in violation, and that's the Code to which 2025 refers, any bidder who is in violation of that would be a non•responsible bidder. I have laid this on the table because I believe that 2025 is a disingenuous piece of legislation. It's leading people and you workers who have taken time from your day to say look we need to protect our rights as responsible workers who play fairly. It's telling you that this is going to solve a problem or as many people have said, begin to solve a problem.

Most of the examples that I've heard you cite have been examples of projects that are in schools. The county isn't contracting those •• those particular contracts. This legislation, 2025, refers to contracts that are 100% County funded. There are very few of our large contracts that are 100% County funded, so this would not have impact on those. I still believe, although Counsel has said differently, I have heard other attorneys say that we are preempted from enforcing federal law on the County level. So I have a problem with that, whereas, my legislation we have a right to define a non•responsible bidder as a bidder who is in violation of federal law.

I have not yet seen any data that will indicate to me how often that County is encountering the problem of having contractors who are hiring off the books. I haven't seen any numbers on that. So I don't want to support a piece of legislation that is not supported by data. I believe this is smoke and mirrors, and I believe it's not really going to help. I do want you to take a look at the legislation that I have proposed on non•responsible bidders, which deals directly with the problem and which •• for which we already have the authority. The County has the authority forbidding non•responsible bidders to be involved in the bidding process.

So I've tried •• I've looked at this very rationally, and rationally, I have opposing to this legislation. So I hope that this committee will table piece of legislation until we can hold it side to side with the resolution that I have laid on the table. Thank you, Mr. Chair, for the opportunity to speak.

**CHAIRMAN D'AMARO:**

Thank you, Legislator Vloria•Fisher. At this time, I just wanted to briefly ask the Budget Review Office if they would give us the courtesy of summarizing their comments indicated in a memo issued to all Legislators dated September 8th, 2006. Ms. Vizzini, this goes to the fiscal impact of implementing this bill, and I'd appreciate if you'd bring us up to speed on that.

**MS. VIZZINI:**

Thank you, Mr. Chairman. At the request of Legislator Romaine, we reviewed the fiscal impact that the County Executive. We've indicated that the fiscal impact of implementing the bill will, of course, depend upon the extent of the enforcement and the extent of the resources dedicated to it. Also highlighted in the County Executive's fiscal was impact was that the impact on the Labor Department would be reviewed and addressed in the 2007 Operating Budget. We have not been privy to that document as yet, so we don't know if there is any additional resources or transferred resources for that situation.

Our memo that we issued, we did some research in terms of the literature available, and we provided a lot of information regarding the demographics, the growth of the immigrant population, which was significant from the 1990s into the 2000s and summarized some of the literature regarding the

economic impact of a pro restriction stance versus a against restrictions stance. There is some fiscal impact in that regard. In the interest of time, I would like to fast forward to some of the precise fiscal impact on the County, including the intended and the unintended consequences.

It's really difficult to determine to what extent the problem currently exists. By that I mean the contractors that we do business with, there are probably contracts ranging from 2500, if you take into consideration every agency, not-profit agency that's identified in the Operating Budget and you add to that all the contractors with whom we do business in the Capital Program. A number was printed in Newsday to the tune of 6000.

Amongst those contractors with whom we do business, we cannot quantify how many may be benefitting from a situation where they are workers who are not here legally. So we really don't know the magnitude of the situation. The bill as currently drafted, although there were efforts to clarify, is a little bit confusing in terms of who is covered, but my understanding is that it does certainly include all Public Works contracts, which are either 100% funded or otherwise and all contracts that 100% funded, meaning probably non-profit. The unintended consequences of the action, unfortunately, as the Government Accounting Office study pointed out when they reviewed the implications of the original Simpson-Mizzoli Law, unfortunately, that law did lead to widespread discrimination. However, the study also determined that it was not necessarily an unfair burden placed on the employers, nor did it necessarily result in frivolous complaints.

Getting down the business of how this is going to impact the County. There's likely to be legal challenges. Many of the speakers, as well as •• it's my understanding that Counsel has addressed some of the legal concerns, I know the County Attorney was before you during the public hearing to address those concerns. Whether they have merit or they may be frivolous,

it's likely that there will be legal challenges, and this will place some burden on the County Attorney's Office and possibly some cost relative to outside counsel.

As far as the enforcement and implementation on the County, it really will depend to what extent we dedicate resources. A large portion of, you know, just adding another document to the contract, that in and of itself, and once the Labor Department designs the document and once the Labor Department assigns however many individuals •• individual or individuals may be assigned to answer questions regarding the rules and regulations, to clarify things, some of that can be absorbed by existing staff. But if it is our posture to at least have spot checks going on, have a concerted effort, we believe that at a minimum, one position would be necessary to be responsible for this particular function.

We're not Civil Service, we don't know exactly what title or what have you, but probably commensurate with a contract Examiner at least to assure that the proper documentation is there, the proper record keeping, respond to question, etcetera. So we figure that that one person will probably a salary of 43,000 plus additional benefits would be a total of 63,000. If we were going to do an all out assertive implementation reviewing the documentation of 6000 contracts, over time, this staff could grow to what we would think would be maybe a maximum of six people. Whether this involves the filling of vacancies, the reassignment of current staff would be a policy decision.

As far as the revenue, again, we could not project it. The revenue generated from the fines of this will certainly be directly correlated to the extent of enforcement efforts, so we made no particular assumptions there. There is the economic impact, which is in some of the studies as well. Basically the concerns there are the current •• people who are currently employed under these circumstance and if they're no longer employed or discriminated

against and, therefore, not employed, there is some likelihood that although illegals are not entitled to welfare, that there could be associated costs with the unemployment and the potential •• and once you have increased unemployment, you may have increased criminal activity, which would put a burden on our Public Safety and possibly our Social Services agencies.

**CHAIRMAN D'AMARO:**

Okay. Thank you. Gail, we appreciate your thoroughness as usual. And does anyone have any questions of BRO on this bill or on their comments or on their memorandum that was issued to the committee?

**LEG. KENNEDY:**

Mr. Chair.

**CHAIRMAN D'AMARO:**

Legislator Romaine.

**LEG. ROMAINE:**

Just one question. You say for this bill to be properly enforced that they would need if they were going to do a maximum effort, and I assume government should always try to do the maximum in terms of law enforcement, they would need six positions?

**MS. VIZZINI:**

If we assume that the 6000 number is correct, once you do your public education effort and once the contractors know that they need to comply with this, and if we want to do on-site investigations, it could other time lead to a maximum of six positions. Right away that is not likely to be the case.

**LEG. ROMAINE:**

How much money or positions are provided for the enforcement of this bill as it currently stands?

**MS. VIZZINI:**

Well, the bill as its currently drafted does not address ••

**LEG. ROMAINE:**

Enforcement.

**MS. VIZZINI:**

Correct.

**LEG. ROMAINE:**

Thank you.

**CHAIRMAN D'AMARO:**

Okay. Legislator Kennedy, did you have a question?

**LEG. KENNEDY:**

My questions were similar to what Legislator Romaine has posed, that, in fact, I read your memo as well. We talked about it yesterday, and as a matter of fact, I think you did an excellent job in trying to access some of the cost that was in there. We also had the conversation about what the opportunity cost would be if the County Attorney's Office is compelled to go ahead and defend on a challenge, which is absolutely guaranteed in this case as we've heard from many of the speakers, that eight plus hours of testimony that we've all sat through.

And I don't not want to debate the legal issues with you. I plan on having an extensive conversation with Ms. Malafi on the legal aspects. But we also agree that there's a cost that we bear when we set out to enact knowing that, in fact, there is going to be a challenge and we must commit resources from our County Attorney's Office. That does not come for free. There is also the discussion we had as to how to begin to approximate that. Maybe after we've talked to Ms. Malafi, we will have a better idea what that cost might be. Thank you.

**CHAIRMAN D'AMARO:**

All right. Thank you. There is a motion pending before the committee right

now, which I believe was also seconded, to table.

**LEG. VILORIA • FISHER:**

I'm sorry, Mr. Chair, I had another question that I forgot to ask earlier. Thank you. Is there someone from the Labor Department here? Maybe Ms. Malafi or Mr. Sabatino could answer the question. We currently have a Living Wage Law, and we enforce that law, and we take it very seriously. In determining whether or not a contractor is providing living wage, do we have the ability to request the I•9s?

**MS. MALAFI:**

No.

**LEG. VILORIA • FISHER:**

We have a prohibition? I understood from someone in the Labor Department that we could look at the I•9s and the enforcements of the living wage. How do we determine what people are being paid and who's being paid what under Living Wage?

**MS. MALAFI:**

Payroll records.

**LEG. VILORIA • FISHER:**

Payroll records.

**MS. MALAFI:**

That's my understanding, that they look at payroll records, and they might even look at pay stubs and things like that. But I've never been told that they use the I-9s. You'd have to ask Bob Dow that.

**LEG. VILORIA • FISHER:**

And he's not here. Do the payroll records not have Social Security numbers, for example?

**MS. MALAFI:**

They should have Social Security numbers, but the backup for the veracity of the Social Security numbers would not be included with the Living Wage documents that are reviewed. That's my belief. I can't tell you specifically. I'm not there when the Living Wage Unit does that.

**LEG. VILORIA • FISHER:**

Yeah. I'm going to the issue of our ability already to enforce the kind of oversight that we're looking for in 2025. I believe we already have that ability, especially with the Living Wage Law. Thank you.

**CHAIRMAN D'AMARO:**

Okay. Legislator Mystal.

**LEG. MYSTAL:**

I just wanted to ask a question. If we are finished with BRO, anybody questioning BRO? We would like to move to the other side of this issue, which is the legal issue. This is why the County Attorney is here, and we also have our own attorney. To open the discussion and the legal issue, we all get a memo from our own Counsel, and I would like for him to summarize briefly, you know, what the memo said. The memo was, you know, passed out to everybody. I believe •• let me ask a straight question to our Legal Counsel. In your •• in the last page of your memo, you said that, in the conclusion •• and I don't know if Ms. Malafi had a copy of that. Could somebody get a copy of that memo to Ms. Malafi, please.

**LEG. MONTANO:**

I just wanted to ask if she has seen it before.

**LEG. MYSTAL:**

No, she hasn't seen it. I'm going to get her a copy. On the last page of this memo under the heading conclusion, our Counsel says, "IR 2025•2006 is not, repeat, is not preempted by the United States Constitution, a federal statute or regulation." This is part one of it. Part two of that statement says, "Several sections of the law may be preempted by federal or state law." First, I would like for Mr. Nolan to clarify that statement and then Ms. Malafi to respond.

**MR. NOLAN:**

Yes. Last week, a number of Legislators approached me and asked me to address this question of federal preemption that has been mentioned during the public hearings. I apologize to members of the committee that I could not get that to you before this morning, but it was a big job. Essentially in looking at the law, the federal courts had devised a three part test to determine if a law touches upon or may touch immigration is preempted by either by the Federal Constitution or by federal law.

In looking at that and applying the three part test, and I should say before going ahead that this local law is a unique statute. I was unable to find a case that discussed a statute, a local law like this. So I didn't have case law that I could really upon to that was on point to this particular statute. But applying three part test, I've determined I've reached a conclusion that it is not preempted as a whole.

And however, there are several provisions I think may be problematic. The Federal Law 1324•A that is really at the heart of the local law that we're asking employers to certify their complying with has an express preemption clause in it that states that localities may not pass a law that penalizes employers for employing undocumented workers. And in our penalties provision, I believe there's one provision that does that, and I think that is going to be the potential •• it may be subject to challenge.

Additionally, the law applies to IDA loans. And in my opinion, state law governs the regulation of IDAs. And I don't think we have the authority to apply this law to our local IDA.

**LEG. MYSTAL:**

I'm going to relinquish the floor to anybody else.

**CHAIRMAN D'AMARO:**

All right. Before we go ahead, Legislator Kennedy, you wanted to speak on the preemption issue I would assume. Do you want the County Attorney to address Mr. Nolan's comments first? Whatever your preference is.

**LEG. KENNEDY:**

Predicate would say that our expert speaks first, and then I'll have an opportunity to go ahead and speak after.

**CHAIRMAN D'AMARO:**

Ms. Malafi, would you like to speak to respond to Mr. Nolan or give us your opinion?

**MS. MALAFI:**

I agree with Mr. Nolan that as a whole the law is not preempted. I think that the expressed preemption clause in the federal statute says that state or local governments can impose laws that touch on the I•9 Law through licensing and other similar laws, that's exactly what the federal law says. I believe that this law is a similar law and that you are not preempted from doing it.

I have a second department case that specifically says, and I just want to read one sentence from it, "Standing alone, the fact that aliens are subject of

a state statute does not render it a regulation of immigration." And it upheld a Department of Parol •• Division of Parol regulation that affected aliens in a different way then it affected other people who were not aliens.

And the Court •• the second department in 1992 upheld it saying that it does not expressly regulate immigration, and therefore, is not not preempted by the Federal Government. So I don't not believe that it is violative. I also do not quickly •• this is the first time I'm seeing this •• but Section 8, Paragraph B of the law saying notwithstanding any provision of the law to the contrary, anyone who violates the law shall be subject to a penalty, I believe that that expressly refers to anyone who violates the certification requirements of the County law. And therefore, it's also not preempted.

I have the upmost confidence in this law that if we are challenged that we will be upheld. My office is ready, willing and able to hold •• to handle a defense of the county in this lawsuit without hiring any new attorneys or without hiring outside counsel. And I think that answers the question.

**CHAIRMAN D'AMARO:**

Thank you, Ms. Malafi. Legislator Kennedy.

**LEG. KENNEDY:**

Thank you, Mr. Chair. Like you, I've read this extensively. As a matter of fact, I was in a law library again last night until nine o'clock or so. Like our Legislative Counsel, it is frustrating, I think, in the fact that there is no case law that I was able to find that's immediately on point, save for cases from Louisiana and {Romoda} cases. The Supreme Court case that you cite as far

as setting out the three preemption statutes in your memo was case law that occurred prior to the enactment of 1324•A. And so since that time, Congress has acted through URCA and several other acts of Congress to fill a void in a field that was silent or had large holes.

So to look at applying those three tests as the Supreme Court standard gives rise to whether or not a judge today would hold to that same standard that was set some 30 years ago. The preemption issue, I believe, is something that we have continued to look at. But I also think that there are other things that we look at in the legal area. And I'm going to ask Counsel whether or not she's familiar with Labor Law.

**MS. MALAFI:**

Yes.

**LEG. KENNEDY:**

Okay. You know about prevailing wage?

**MS. MALAFI:**

Yes.

**LEG. KENNEDY:**

You know about the penal sections for violation on part of a municipal contractor who files a false instrument?

**MS. MALAFI:**

Yes.

**LEG. KENNEDY:**

So in essence, isn't this law doing the same thing that is not only on the federal books but on the state books that yet another level of government refuses or chooses not to act on, is that the case?

**MS. MALAFI:**

It applies in different circumstances. The section of the Labor Law and Prevailing Wages does not apply to every County contract by any means.

**LEG. KENNEDY:**

How could that be, this is for municipal contracts?

**MS. MALAFI:**

Because it only applies •• I'm assuming you're talking about Section 220 Labor Law, that only applies to certain construction contracts.

**LEG. KENNEDY:**

Primarily construction contracts, doesn't it?

**MS. MALAFI:**

Yes.

**LEG. KENNEDY:**

Which is much of where we see in this bill that the application is, because it's the only section in the bill that deviates from the 100% requirement; isn't that correct?

**MS. MALAFI:**

The only portion of this bill that deviates from the 100% is DPW contracts, yes.

**LEG. KENNEDY:**

Absolutely. So we have a remedy that in place that's not enforced now, not only at the federal level, but also at the state level. And through eight hours, I did not hear one individual talk about one name of one contractor who's violative or one individual who's reached out to one state representative, one federal representative, one any level of enforcement where they were not getting what's on the books already.

And yet here we are today now contemplating adopting something that every

day we sit here and talk about whose level of government is the responsibility for, as down to as simple as sidewalks when it comes to our towns and our villages and our state. I truly believe that when we look at this bill that we have serious complications and consequences in here. Let me ask you about what it costs to have your office defend •• tell me about the Fair Share.

**MS. MALAFI:**

Can I address one thing first?

**LEG. KENNEDY:**

Please do.

**MS. MALAFI:**

The Prevailing Wage and Labor Law 220 actions that I've been involved in, we've never asked for any of this documentation. And to my knowledge, neither has the Labor Department. So it's not exactly duplicative. In the Living Wage, we look for the listing of who's working •• who have we been told is working and what are they getting paid and who is actually working and what were they getting paid. As far as I know, nobody has asked for, and it's never come up, and I've been involved in three or four projects so far where the Labor Law 220 has come up as being violated. The documentation that's requested in this bill is not requested in the Labor Law 220 lawsuits that we've been involved in.

The second thing on the cost, it's built into my office. That's what my office is there for, to defend the County. The {Wryler} suit is •• had, I think, more

problems than this bill, and we are vigorously defending the County. We're preparing motions to dismiss the complaint. {Wryler} is preparing motions for summary judgment. We anticipate that the motion papers will be submitted by October, maybe November the latest. And it's a required effort of numerous attorneys in my office, including myself, about four or five of us are working on it, it's not full time, it's not the only thing that anyone works on. That's what my office is there for. We are given the appropriate number of attorneys. If something happened that required us to hire another attorney, I would make a request without hesitation. But this is something that •• this is what my office is there for, to defend something that is passed by the Legislature.

**LEG. KENNEDY:**

How many hours would you estimate, just approximately?

**MS. MALAFI:**

On what, {Wryler}?

**LEG. KENNEDY:**

Yeah.

**MS. MALAFI:**

Hundreds.

**LEG. KENNEDY:**

Hundreds of hours.

**MS. MALAFI:**

To date.

**LEG. KENNEDY:**

What does the firm bill out for when we have to go for outside counsel.

**MS. MALAFI:**

For something like that?

**LEG. KENNEDY:**

{Prow, Fritz}, any major firm, I guess, litigation firm that we would look to go ahead and retain.

**MS. MALAFI:**

For that specific lawsuit? I would say between 250 and 450 an hour, depending on how much we were willing to pay.

**LEG. KENNEDY:**

So we could be talking about tens of thousands of dollars, upwards maybe of a hundred thousand dollars in order to defend.

**MS. MALAFI:**

No, because I'm not sending it to outside counsel. I'm doing it, it's built into my budget.

**LEG. KENNEDY:**

But there's an opportunity cost. And as a matter of fact, the legal hours associated with what you devote your counsel to in your shop takes away from all of those thousands of contracts that need to be processed ••

**MS. MALAFI:**

Separate bureau. It has nothing to do with the contracts that go out. Separate bureau. The people who do my contracts and do my legal opinions and things of that nature are completely separate and distinct from my litigation bureaus. What the litigation bureau does has nothing to do with my municipal law bureau.

**LEG. KENNEDY:**

I'm not going to dispute with you how you do or don't operate your office. However, it has taken almost a year to get a simple contract with the Health Department through because of the fact that there are few attorney hours

committed as far as resources go.

**MS. MALAFI:**

I'm not going to argue with you about that. I have to see the facts. And I will tell you that we have cut down by more than half the time a contract takes to get out of my office. And with all due respect, my office gets blamed for a lot of stuff that is not their fault. And if you want to argue about that, you can tell me which contract and I will look at the history of it and I'll tell you what happened.

**LEG. KENNEDY:**

I'd be happy to talk to you after the fact. My point is simple, it's that there are a finite number of hours associated with your office and that if, in fact, we go down a course in order to •• where we know full well we are going to go ahead and be challenged in court, it's going to required the commitment of additional attorney hours, unless •• I don't know. I haven't seen a budget yet, maybe the Exec is planning on going ahead and filling the County Attorney Office with more positions in anticipation.

**MS. MALAFI:**

I will tell you this. My office and all the lawyers I have hired and are working in my office right now are ready, willing to able to put in any extra hours that need to be put in. My office is not a nine to five office, and everyone who works for me knows that. As lawyers, when things come up they need to get done and they get done. And that's what my office is about.

**LEG. KENNEDY:**

It's kind of like being a Legislator to a certain extent. Thank you, Counselor. I'll defer to the Chair.

**CHAIRMAN D'AMARO:**

All right. Thank you, Legislator Kennedy. Once again, there is a motion pending on the floor to table this bill, it has been seconded. Legislator Mystal, did you another comment or question. Oh, Legislator Montano, I apologize.

**LEG. MONTANO:**

That's okay. I have some questions, but in terms of order, it looks like the Deputy County Executive is poised to make a presentation; am I correct there?

**MR. SABATINO:**

I'm here to make a brief statement and to answer any questions.

**LEG. MONTANO:**

I'll hold my questions until •• with respect to your presentation until after I hear your presentation, and then maybe I'll ask to be able to ask more questions of the County Attorney. But just in reference to what you said so far, is there similar legislation anywhere in the country at a local level to this piece of legislation that has been put forward?

**MS. MALAFI:**

Not that we were able to find, no.

**LEG. MONTANO:**

Okay. I'm under the impression that there is a •• or was a similar statute that passed in Pennsylvania, I think it was Hazelton, Pennsylvania.

**MS. MALAFI:**

My knowledge of the Hazelton, Pennsylvania law was that it did not affect contracts. That's all this law affects is County contracts with County money. What the Hazelton Pennsylvania law tries to do •• attempts to do ••

**LEG. MONTANO:**

Well, let me ask you this, if I may.

**MS. MALAFI:**

•• it goes directly after the employers regardless of whether the do work with the city or the town.

**LEG. MONTANO:**

Have you seen the Hazelton legislation?

**MS. MALAFI:**

Portions of it in some news articles.

**LEG. MONTANO:**

All right, but I'm talking about the legislation itself, not a synopsis in a newspaper.

**MS. MALAFI:**

We didn't get it from anywhere.

**LEG. MONTANO:**

Now, my understanding is, and I have this understanding from a previous public hearing where one of the speakers was an attorney and said that he was involved in litigation with respect to the Hazelton statute and that, in fact, the court •• under the supervision of the court, there was an agreement that the statute would not be enforced pending this litigation. I presume it as because as an attorney, I assume more than likely the court was ready to issue an injunction. My question •• you're saying no, no to what?

**MS. MALAFI:**

That's not what I was told.

**LEG. MONTANO:**

Hold on. I'm not saying what you were told, I'm saying what I was told at this public hearing. My understanding was that the municipality agreed not to seek further enforcement of this law until they had worked out some of the legal issues. And my question to you simply is whether or not you've seen the statute, which I think you have already said you have not seen.

And, you know, my other questions is are you familiar with the legal issues involving that case? And have you seen any of the papers or have reached out to any of the litigants? Because this legislation if, in fact, it is similar could be subject to the same kind of challenge and the same kind of issues. So I'm asking where you stand as a law office with respect to, you know, a precedent •• a possibly precedent case when you stand here or you sit here and say you are ready, willing and able to defend something, and I'm wondering if you've done all the research for that.

**MS. MALAFI:**

We've done research. We have not reached out to Hazelton, Pennsylvania, the town or the municipality yet, because we will wait to see if this passes before we expend the energies to do that. Our reading of the news articles on Hazelton, Pennsylvania, is that it was agreed that the law would not be implemented because the municipality made changes to it just much like we did in {Wryler} in anticipation of the law •• during the course of the lawsuit some of the issues that were raised, and we would reach out to them just like we have in {Wryler} with the other municipalities that have passed similar

laws.

**LEG. MONTANO:**

The problem that I have with that is that as an attorney, why would you wait until after we passed the bill if, in fact, there are questions about the bill that could be answered and addressed to us as Legislators before we make a decision as to whether or not to pass a bill that in my mind has some serious legal issues. And I haven't made a decision as to which way, you know, I stand on the legal issues. But it seems to me that we would ••

**MR. SABATINO:**

One point I can add is that I actually saw the Hazelton ••

**LEG. MONTANO:**

Can I finish, Paul? Can I finish, Paul?

**MR. SABATINO:**

Hazelton Bill, that bill ••

**LEG. MONTANO:**

Can I finish, Paul.

**CHAIRMAN D'AMARO:**

Mr. Sabatino, just let Legislator Montano finish, please.

**LEG. MONTANO:**

This is a dialog between myself and the County Attorney at the moment. We will be able to dialog later. My point is, you know, as a Legislator, making a decision on something that I consider important, on a piece of legislation that has sparked enormous hours of public hearing, enormous debate, what I consider a tremendous amount polarization, you know, accusations pro and con, I would like to know exactly what the legal issues are that we may or may not have to address.

And what I'm seeing is that you come here before us, you make the presentation, you say we're gun ho, ready to, you know, go into court, but we may have some •• the possibility of getting some information that would affect my decision, possibly some of the other Legislators, and you don't have before us. And I would like to see that. I'd like you to reach out to Counsel. And I believe that one of the agencies that was involved as a litigant was in this auditorium making comments on this bill. And, you know, I'd like to get some further information from you and your office with respect to the legal issues so that we can make more a intelligent decision when we vote on this.

**MS. MALAFI:**

And that's fine. I just can tell you that I read enough about the Hazelton Law to say that it does not do what this law does. It does not only affect contracts, and that's why that was not done before.

**LEG. MONTANO:**

I've heard enough about it on TV and I've read something about it also, but that's not first-hand knowledge. And I certainly wouldn't go into court saying I read a news clipping and this is what the bill said, because without reading the bill you really don't know. And I think you know that Counsel. So I think we're on the same page with that.

**MS. MALAFI:**

I absolutely agree with you. We're not in litigation right now.

**LEG. MONTANO:**

And that's not •• well, yes, but we're at the point where we're discussing the possibility of litigation, and before I go into battle as a litigant, I want to know exactly what I'm facing. So it seems to me that if I were •• and I don't mean this as a criticism •• but it seems to me that it's an easy task to have one your attorneys reach out, get some of the briefs that may have been filed, get a copy of the complaint and see the statute and say whether or not this statute that we're debating today has any similarity or any of the legal issues that pertain to that case in a Federal Court might pertain to a case here. And maybe we would want to amend the statute, maybe we want to do other things. That's the point that, you know, I'm raising as an attorney.

I have some other issues •• some other questions on preemption, but I'll hold them until after the presentation.

**CHAIRMAN D'AMARO:**

Thank you, Legislator Montano. I also had a couple of questions from the County Attorney. Look, I think we all agree that the Federal Government really needs to deal with this immigration policy in this country, but I think Suffolk County has an opportunity under this bill to perhaps lead by example. And I think we owe to our constituents to also lead. I'm not impressed with arguments that the bill is preempted. I don't believe it is. I think this bill is really very simple.

I think it says if you want to do business with Suffolk County, you need to obey the law. It's very simply. I don't believe that this bill is legislating immigration policy in any way, shape or form. What it's really doing is saying if you want to do business with the County, you need to comply with existing law.

Now, a lot of arguments have been made as to why we need the bill or why we don't need the bill or what it fosters, I happen to believe that this particular bill will level the playing field and it does go to competitive disadvantage of those who do agree to comply with the law. I think this bill will also help to protect employees. I think it's also •• we owe to our taxpayers to make sure that when we collect their County tax dollars that those funds are spent in return legally and appropriately.

**LEG. MONTANO:**

May I respond?

**CHAIRMAN D'AMARO:**

But those are issues that have been debated at length through the public

hearing, the hours that we've referred to. What I wanted to ask the County Attorney about more was about the discrimination impact or the potential for discrimination, because I think that is an important issue that needs to be addressed by all of us. The GAO had done a study when the original federal law had been enacted that seems to indicate that there is potential or there was discriminatory actions that can be traced back directly to this law.

So what I'd like to ask from the County Attorney's Office if you could explain to us what safeguards and protections are built into this law to ensure that it doesn't happen on the County level should this law be enacted and the County starts to enforce it?

**MS. MALAFI:**

A number of things. The definition of a protected individual contained in Section 2 Subdivision I includes citizens, aliens lawfully admitted for permanent residence or temporary residence, people admitted to the country as refugees or people who are granted asylum. So all of those people are granted protected status under this law.

And then in the requirement section, Section 3, there are requirements that covered employers and their owners do not discrimination against people with respect to the hiring, recruitment, referral of a few or an applicant for employment or discriminate with respect to discharge of the employee because of race, color, creed, national origin, sex, age, gender, disability, sexual orientation, military status, marital status, or in the case of a protected individual, because of such individual's citizenship status. So it protects that way.

There's also a paragraph that protects people from being intimidated, threatened, coerced or retaliated against for filing complaints, testifying, assisting or participating in any investigations of discrimination alleged under this law. The law contains penalties for violating Section 3 of the law of which the discrimination is a part of in Section 8. And in addition, in Section 9, the Department of Labor is required to promulgate rules and regulations that would refer all allegations of discrimination to the Human Rights Commission, which does this regularly, and also specifically refers to Section 89•13 of the Suffolk County Code, which is employment the Employment Discrimination Law of the County of Suffolk.

**CHAIRMAN D'AMARO:**

All right. So to cut through that, there is a protected class, if you will, of individuals under this bill that are protected against discriminatory practices by employers, and even beyond discriminatory practices, protected against coercion intimidation whether in hiring or in firing. And should those provisions be violated, this bill provides one remedy, which would •• what would the penalties actually be should an employer actually be found to have violated this particular statute?

**MS. MALAFI:**

First violation, a penalty of anywhere between 250 to \$1000 for each day that there is a violation.

**CHAIRMAN D'AMARO:**

So it's up to a thousand dollars a day if you are ultimately determined to have engaged in a discriminatory act that violates this bill?

**MS. MALAFI:**

Yes. And then if you •• if a employer commits a second violation within a year, the civil penalty can be between 2000 and \$5000 a day.

**CHAIRMAN D'AMARO:**

Is that also under this bill?

**MS. MALAFI:**

Yes.

**CHAIRMAN D'AMARO:**

All right. And then you had mentioned that there was another provision under the County Charter that would provide additional remedies, can you tell us about that?

**MS. MALAFI:**

The human rights •• I'm sorry, I didn't bring it with me, but the Human Rights Law has a housing discrimination prohibition in it as it stands now. Section 89•13 of the Code provides for penalties for discriminatory. I believe in the first instance, it can be up to \$5000 a day.

**CHAIRMAN D'AMARO:**

And that's already on the books in Suffolk County?

**MS. MALAFI:**

I shouldn't say a day. Just for the discrimination, it could be up to \$5000 on the first instance.

**CHAIRMAN D'AMARO:**

So as a mechanism or as a policy to try and deter discriminatory practices, which I think everyone in the room would agree needs to be eradicated and which is ugly. This bill provides for substantial penalties for violating the anti discrimination language of this bill.

**MS. MALAFI:**

I should say one more thing. If a covered employer violates the law more than two times, the contract can be voided also.

**CHAIRMAN D'AMARO:**

Again, going to the penalties that could be imposed. And I think that's important to point out, because, you know, a lot of what we heard through the public hearings raised this issue and rightfully so. It is an issue that we should not run from or hide from. We need to talk about whether or not a law on its face, although it looks benign, could, in fact, lead to discriminatory practices. And if there is a potential for that to happen, I think the best

safeguard against that is to make sure that there are substantial penalties in place so it gets out there that the County of Suffolk means business.

If you are going to engage in any kind discriminatory conduct, if you as an employer are going to seek County contracts and coerce or intimidate your employees based on their race or national origin or other protected classes, then this County means business. You will be substantially fined on a daily basis, and you will be putting at risk ever doing business with the County of Suffolk again. I think that is truly a laudable safeguard that this bill has built into it. And frankly, I was one of those Legislators that asked that those safeguards be increased and more mirror the federal law as opposed to the first version of the bill that was submitted by the County Executive.

I just want to also pick up a little bit on what Legislator Mystal had said earlier. Sitting through with all my colleagues the eight hours of public testimony, which I think most of which was very informative, but some of which really made me saddened and some of which really made me angry. I don't want to speak to everyone who addressed the committee, I appreciate that everyone takes the time to do that. It's the only way that we can really be effective as your representatives. But, you know, I was really saddened, because many in favor of the bill are really just missing the point here. And I do not identify with those that came before this committee to attack immigrants, whether they're legal or not legal.

In my mind, this bill is about enforcing the law. It's not about attacking immigrants, legal immigrants, illegal immigrants, aliens, whatever label you want to put to them. All people deserve that respect from us, they deserve a right to make a living, and they deserve to be respected. And certainly they are hard working individuals who are just simply looking for a better way much like my grandparents had done when they emigrated to this country.

So I'm really saddened by the comments that I've seen and I've heard throughout those eight hours that somehow attack an individual for wanting to today better for themselves, okay? That's not what this bill is about. This bill is about enforcing a law, an immigration policy perhaps, but a law nonetheless that we as Legislators have an oath under the County and have an obligation to enforce.

I was angry at some of the testimony because some of the speakers who are against the bill seem to somehow equate support for this legislation with being anti immigrant, and I also take issue with that, that is just simply unfair. I support this bill because I believe that no one is above the law and that this bill in effect just says if you want to do business with Suffolk County, you need to comply with the existing law. So I take exception to those comments as well.

Again, I have to emphasize I don't believe that every speaker was taking that tact on either side. I think most people had very understandable arguments, very cogent arguments and made some very good arguments. But I really have to say this that bill does not have to be as divisive as it's been presented by some of the fringe elements that have come up to that podium to address this committee, and I do not identify with those comments.

But I do urge my colleagues to consider the fact that the cost of enforcing this bill is really going to be nominal at first. Whether or not we need to hire more employees remains to be seen to enforce. But frankly, if we need to hire a few more employees to do it, I think given the multiple goals of this bill of leveling the playing field for those doing business with Suffolk County and the other goals of this bill, I think it's probably worth the cost. So I would urge my colleagues to vote against tabling this legislation today. Legislator

Romaine.

**LEG. ROMAINE:**

Yes. Well, first of all, let me just say it's always a pleasure to serve on a committee with you, because you have made a compelling argument and in an intelligent way, and I'm always enlightened when you speak. And it actually relieves me of my obligation of adding any more to the testimony. I only had one quick question that I wanted to ask the attorney. As the law is currently written, are undocumented aliens given protective status in terms of discrimination?

**MS. MALAFI:**

Do you mean people who are here illegally? I don't know mean by ••

**LEG. ROMAINE:**

Yes. I'm sorry. People that enter the country illegally.

**MS. MALAFI:**

No, they're not given protective status. You need to be here legally to have protective status.

**LEG. ROMAINE:**

How does that affect •• if I may ask, how does that affect potential

discrimination against these people?

**MS. MALAFI:**

The I-9 Law, the Federal I-9 Law then discriminates against people who are here illegally. In order to comply with the federal law, you have to have the proper documentation to be employed. So really •• I don't think I understand the question.

**LEG. ROMAINE:**

For not understanding it, you've given me answer. Thank you.

**CHAIRMAN D'AMARO:**

Thank you, Legislator Romaine. And I too appreciate the comments always. Thank you for your kinds words. Just a procedural note, the committee is running, of course, overtime. I just want to announce for anyone else who is here for the next committee meeting, Health and Human Services, will commence immediately following the conclusion of this hearing. Next on our list was Legislator Stern.

**LEG. STERN:**

Thank you, Mr. Chairman. And so many of your very eloquent statements I agree with wholeheartedly. It's important to protect the rights of all workers really. And I just like my colleagues am disgusted by discrimination in all of its forms, personally abhorrent and in no way encourage such behavior. And when we see it, we have to speak out against it and do all that we can to

bring those violators to justice.

In fact, I joined the Chairman and many of my colleagues in insisting that there be anti discrimination nation language within this legislation and strongly considered the possibility of tabling this proposal until that discrimination •• anti discrimination language was included, and I believe it has been. I believe that there are adequate protections. I do believe that there are procedures in place to protect those who are exposed to that type of discrimination.

But it's also important to follow the law and to teach our children respect for the law. And it's important not to allow exceptions for flouting the law. This is an extremely difficult issue, but from my perspective a very simple piece of legislation, and that is merely requiring those companies doing business with Suffolk County to follow what is the law. I think that more than that anything else for me, it is a labor bill and ensures that those who play by the rules will not be adversely affected by those who do not. Simply, it levels the playing field for all of those doing business with the County and for the workers that they employ.

Those companies that do the right thing by their employees, that provide insurance, provide Worker's Compensation benefits, medical benefits and pay a living wage to their employees, provides appropriate protection from being under cut by those who unscrupulously hire undocumented workers and exploit them because they know that they can turn on them with threats and doing all of the types of intimidating things that quite frankly I think that this legislation sets out to prevent.

But I think that from a personal perspective •• I'm an employer myself. And

as an employer, I have to comply with all applicable laws. When I am setting out to hire a new employee, I have to ensure that they are here legally, that they can provide those services legally. I have to check their documentation. I have to make sure that the I-9s are in place and are appropriate, otherwise as an employer, I would be fined. I would be subject to the kinds of penalties that are in place. Employers that break the law should be penalized. And I think that this is a way to do just that within our, quite frankly, very limited scope of jurisdiction over this much, much larger issue that I think we all agree none of us are going to be able to come close to solving today.

But I do believe that this an important step. I think it's an important step in sending the right message. I think it's an important step in providing adequate protections for those that do play by the rules, that do comply with our laws. I also think that at the end of the day, those that we do business with work for us, work the government, and the government, of course, works for the people that we represent.

In my private life, I comply with the law. So often we hear that government should operate much more like a business, and we might all do a much, much better job of representing those that we work for. I don't know if government can always operate like a business, but I think here it is certainly something that we can do. I think it's something that we are expected to do. And if it's something that I do in my private life, I would expect no different from myself in my public life.

**CHAIRMAN D'AMARO:**

Thank you, Legislator Stern. Legislator Montano.

**LEG. MONTANO:**

Yes. Thank you.

**LEG. STERN:**

Oh, you know what?

**LEG. MONTANO:**

Go ahead.

**LEG. STERN:**

It's a follow up on that. Ms. Malafi, one of my concerns that I have with this legislation, I think perhaps, it might just be a misconception out there in the public, but maybe you can speak to the standard that is imposed on an employer in reviewing a potential employee or a current employee's documentation, what standard of review an employer is being held to, what you believe the interpretation of the standard that employers are held to really are provided for within the statute. And I ask that question because as an employer, I want to do what's right, and I want to comply with the law, but I also don't want to be subjected to an undue burden on operating my business and going ahead and employing those who are here legally and who do comply with the law and can provide documentation to that end. And perhaps you can speak to the standard that this legislation imposes on the employer.

**MS. MALAFI:**

It imposes a good•faith standard on the current employer to comply with the federal law, which our research and what we have seen, indicates is an employer who in good faith takes a Social Security card, let's say, as one of the pieces of documentation. As long as that card •• Social Security card on its face appears valid, that's enough. You do not have to check to make sure that that is a valid Social Security card. We keep using the example of if somebody gives you a Social Security card that obviously the name has been erased and a new name typed in, that in all probability would not be held to be good•faith compliance with the law.

If the documents don't all have the same name on them •• and I'm not talking about a slight misspelling, I'm talking about, you know, the person standing in front of you is Bob Smith and the papers say Bob Jones, that might not be good faith. But it's a good•faith standard which is not hard to comply with. It requires some effort, but it is not a high burden.

**LEG. STERN:**

Is there some level •• some level of good faith that is defined in the federal law? Is the standard defined anywhere else?

**MS. MALAFI:**

No. Just •• the standard is good faith, which is interpreted by the courts.

**LEG. STERN:**

So do you believe that this legislation imposes any type of additional burden on the employer that is not already there?

**MS. MALAFI:**

You mean other than the certification to the County? No.

**LEG. STERN:**

Thank you.

**CHAIRMAN D'AMARO:**

Legislator Montano, please, go ahead.

**LEG. MONTANO:**

I'm going to resist the temptation to make a policy speech one way or the other, because the hour is late, and I think that the dye is cast with respect to whether or not this bill is going to be tabled or come out of committee.

I have some serious questions about the bill itself, but I don't think we have the time to go into that. And not only in this case, but there have been other bills, pieces of legislation, put before this committee where I have felt the rush to vote simply because of good politics and not good policy. And I sense the same atmosphere in this bill. Being that as it may, though, you mentioned •• I have a couple of questions. I will be brief. You mentioned earlier about the penalty stage, and the penalty, as I understand it, is a thousand dollars a day; is that correct?

**MS. MALAFI:**

No.

**LEG. MONTANO:**

Then explain that to me, please.

**MS. MALAFI:**

The penalties are for the first violation of somewhere between •• to be set by the Department of Labor •• between \$250 and a thousand dollars, so it could be as low ••

**LEG. MONTANO:**

So the maximum penalty is a thousand dollars a day.

**MS. MALAFI:**

For the first violation, yes.

**LEG. MONTANO:**

Right. Now, just so I understand this as an attorney, hypothetically, I'm an employer. Someone comes to my office, his name is John Smith, he gives

me an I-9, I hire him, he goes out and he works. Someone comes in and says, "Mr. Smith is in the country illegally." I get notified from the County Attorney's Office or the County Department of Labor. I go into a hearing. I think I exercised good faith, but obviously, I was wrong, Mr. Smith is here illegally. I am now sanctioned. Now, when does my •• and in the mean time, I keep Mr. Smith in my employ, because as far as I'm concerned as the employer, I exercised good faith and I believe that Mr. Smith is here legally. But it turns out that after a hearing that he is wrong •• or that I'm wrong.

What's my penalty? Is it a thousand dollars a day from the day that the Labor Department says, "Mr. Smith must be fired," or is it a thousand dollars a day from the day that I employed Mr. Smith or is it a thousand dollars a day from the day that someone told me that Mr. Smith was possibly here illegally?

**MS. MALAFI:**

From the date you're held to be in violation.

**LEG. MONTANO:**

Okay. So then I can terminate Mr. Smith and not have a penalty?

**MS. MALAFI:**

Yes.

**LEG. MONTANO:**

Pay my thousand dollars on that day •• or actually, not pay a penalty, because in reality, if I fire him on the spot, I'm not in violation of the statute; am I correct?

**MS. MALAFI:**

Correct, because the statute says upon a violation, you're subject to a penalty for each day that the current employee remains employed. So that means from the date of the violation.

**LEG. MONTANO:**

Thank you.

**MS. MALAFI:**

That you're to have violated.

**LEG. MONTANO:**

Let me ask you this, with respect to •• and, you know, I'm going to rush through these things •• with respect to the County's ability to contract, and if we're entering into a contract with employer, aren't we allowed to ask the employer whether or not his employers are legal, and isn't he required to keep the I•9? Do you know that?

**MS. MALAFI:**

He's required to keep the I•9 under federal law.

**LEG. MONTANO:**

Under federal law, he's required to keep that. So in essence ••

**MS. MALAFI:**

I know the auditing ability of the County to get all the documentation that we need, there is •• we are frequently involved in questions with the contractors who say, "Nope, it's not in the contract that I have to show you that form and I'm not showing you that form."

**LEG. MONTANO:**

I'm sorry. Could you repeat that?

**MS. MALAFI:**

Unless it's in our contract that we ••

**LEG. MONTANO:**

That's what I'm saying. Okay. Good. I'm glad you said that.

**MS. MALAFI:**

The people will •• the contractors will say, "I'm not showing you whatever form it is that you want, because in the contract, it doesn't say I have to you show that form."

**LEG. MONTANO:**

Right. But in a contract, if we're contracting with an entity, couldn't we simply put a clause in the contract that they shall maintain their I•9 forms and that they shall be available to the Department of Labor for inspection pursuant to our ability to have arm's length contract with that particular individual or entity or employer; am I correct there?

**MS. MALAFI:**

Yes.

**LEG. MONTANO:**

Couldn't we also put in the contract a simple clause that says upon review, if we find that you have employed anyone who is here illegally, we can void the contract?

**MS. MALAFI:**

That would be more broad than this bill, but, yes, we can do that.

**LEG. MONTANO:**

We could do that? So in reality, we already have the power to enforce that and to look at that. We really didn't need this legislation if we chose that •• if we chose that tactic or that approach; am I correct?

**MS. MALAFI:**

Yes, in a way. The problem is that ••

**LEG. MONTANO:**

Yes, in a way. I'm not sure what yes, in a way means.

**MS. MALAFI:**

If I have a local law to go back to it's non•negotiable. If I only tell someone I want to put it in a contract, it's considered •• the contract, we will consider it negotiable, and we'll go back and forth on it, and a lot of times certain provisions, the •• if the contractor has been awarded a contract or wants to have the contract, they'll say we're not signing it with that and months may go by ••

**LEG. MONTANO:**

Well, fine, if they don't sign the contract, then they don't work for the County, because that could be a clause that any attorney could put into a

contract and say, "If you don't like the contract the way it's written, go somewhere else, because we're the person that's letting the contract and these are the terms under which we want to let the contract."

**MS. MALAFI:**

I agree, but the contract wouldn't provide for civil penalties.

**LEG. MONTANO:**

I understand that, exactly. The difference in that approach would be that there would be no penalty, there would be no hearing stage, there would be no administrative process.

**MS. MALAFI:**

Correct.

**LEG. MONTANO:**

It would simply be anyone that wants to work with the County and anyone who comes to the County for employment through a contract must make available their I-9 forms. And if we find that they're in violation of any federal law or any policy that we have •• and we wouldn't even be dealing with the federal law •• we would be dealing with our contracted self and we would void the contract on the basis of the contract itself.

**MS. MALAFI:**

Yes.

**LEG. MONTANO:**

Okay. Thank you. I have some more questions, but I'm going to let it go. I think Mr. Sabatino wanted to make a remark. I'm just going to step back if you still want to make it, Paul. I'm not taking the Chair's prerogative, I'm saying that we had discussed this earlier where you said you were going to •• you were poised to make a presentation.

**CHAIRMAN D'AMARO:**

Legislator Montano, thank you. Mr. Sabatino, would you like to address the committee?

**MR. SABATINO:**

I'd just like to make a few comments with the permission of the other Chair. County Executive Steve Levy ••

**LEG. MONTANO:**

No. He's the Chair. He's not the other Chair, he's the Chair.

**MR. SABATINO:**

With permission of the Chair.

**LEG. MONTANO:**

I thought you said the other Chair.

**LEG. VILORIA • FISHER:**

With permission of the Chair.

**LEG. MONTANO:**

I apologize, Paul. I thought you said the other Chair. I apologize.

**MR. SABATINO:**

I'm sorry if I misunderstood.

**LEG. MONTANO:**

No. I misunderstood that. I thought it was being a little bit sly.

**CHAIRMAN D'AMARO:**

Frankly, I thought you said that also.

**LEG. MONTANO:**

I think you did, Paul, but that's all right.

**MR. SABATINO:**

I talk fast. When I talk fast sometimes the ••

**CHAIRMAN D'AMARO:**

I don't mind having Legislator Montano as a Co•Chair.

**LEG. MONTANO:**

I actually have my own committee.

**LEG. MYSTAL:**

What am I, chopped liver?

**LEG. MONTANO:**

You're chopped liver, Elie.

**MR. SABATINO:**

County Executive Steve Levy wants to thank the Legislature for its patience in dealing with a very contentious issue, for taking the time to give the kind of review and scrutiny and due diligence and evaluation of the bill, which a bill of this magnitude deserves. I know some comments were made to the affect of we spend eight hours •• I would say that the significant legislation in the history of this County has gone through the extensive public hearing process; the smoking bill, cell phone legislation, ephedrine legislation. We're talking about numerous hours. In fact, the steel door trap legislation took an entire day and an entire morning. So we commend you for taking the time and being patient.

Frankly, we think •• we think the public hearing process worked. As I stated at the public hearing last week on September 5th, the public hearing process worked, because comments were made, observations were brought to our attention with regard to where the bill could be stronger, where there were some potential weaknesses. And we listened, we paid attention, and we made the changes I outlined the other day. They've been repeated today in one form or another, but again, the good faith, the anti discrimination clauses, the double barrel criminal and civil penalties for people who do engage in discriminatory acts, clarification of definitions, the affirmative defense provisions.

We think those are all things that clearly arose out of the dialog, the public hearing process, and again, we think that process worked. But now we're at a point where, you know, the process has worked. We've made the changes, we think we've accommodated what's reasonable in terms of suggestions that were made. We would just at this juncture ask for an up or down vote on the merits. We think we've reached a point where it's timely to say either yes or no to the concept of •• you know, we want to establish a standard here in

Suffolk County that we're going to try to lead by example, try to send a message to the Federal Government that something has to be done with this national issue and abiding by the rule of law.

But in the context of that, I just want take a moment to look at the issue of preemption, because preemption seems to be dominating the discussion and the debate today. I just want to give you the benefit of the 30 years I've had in County Government dealing with the issue of preemption. And the one thing I can tell you with absolutely certainty about preemption is that it's one of most difficult areas of the law to really wrap your arms around. Like I said the other day, it's like trying to nail jello to the wall with yogurt, because the courts are all over the place.

Quite frankly, right here in Suffolk County •• in 1980, Suffolk County passed a statute, it was called the Cesspool Additives Law, which believe it or not was word for word identical, it was word for word with what the state statute already on the books stated. So everybody said, including myself, this is going to be tough. You know, how can you beat preemption when it's word for word repetition? Well, lo and behold, it's a famous case now. It's called the {Janson} Case, it went all the way up to the Court of Appeals, and the case was upheld. Then, 1986, we're sitting here with LIPA, major contentious issue. We're taking on LILCO and the big guys. We've got them, we're at the edge of total complete victory, because we've got local legislation adopted in July of 1986. We go •• we wound up in the Court of Appeals though.

We go through the entire court process, and the courts determined that we are preempted by a statute that wasn't even in effect because the LIPA statute wasn't going to kick in until January 15th of 1987. So a reasonable person looking at the law, looking at the statute, including myself, was absolutely certain and positive that because we were going to conclude the

transaction, we were going to take over LIPA right here in Suffolk County long before January 15th of 1897, that there was no preemption.

Then we had the famous, you know, Ephedrine Law, we had the Cell Phone Law that Legislator Cooper sponsored. And I tell you with absolute certainty in those cases •• first of all, what's interesting about the one case is, in ephedrine, it was based at the time on one incident in Suffolk County. It wasn't based on a thousand cases that came before us, that goes to a comment that was made earlier that, well, you know, could we identify and quantify situations or violations. Not all Suffolk County laws are based on a thousand violations.

In fact, earlier this year, you passed a bill to regulate nursing homes, which is a major industry. That was based on one incident that was reported in the public hearings and made part of the Legislative intent. And by the way, on the nursing home legislation, just so you know, after the hearings were concluded and the bill was adopted 18•0, the nursing home industry showed up at the County Executive's public hearing with a nine page brief as to why it was preempted.

You know, so the law of preemption is something that's very, very difficult to wrap your arms around. It's not as clear cut as some people would indicate except, except in those cases where you actually have a decision that deals with the very statute that you wrote. So, for example, in 1982, you've got the Pesticide Notification Law that was actually struck by the Appellate Division in the Second Department. So you know when you go to pass the Pesticides Law in 2004, as somebody tried to do in this Legislature, that you are preempted, because the court has ruled on the actual language that you are talking about.

So what do we have here? What we have here right now is we've got the County Attorney, who did an excellent job of researching this, finding an Appellate Division case in the Second Department. It's the only case we've got to deal with right now that at least talks about the implications of the statute, and that decision says we can go forward. Now, with respect to something that Legislator Kennedy said before, with all due respect, Legislator Kennedy, you kind of lost me, because you are saying to me that after spending no time at all asking any questions about the Fair Share for Health Care Act that was adopted 18•0 a year ago, which we all knew was going to be the subject matter of a lawsuit, because Wal•Mart announced that they were going to sue us the very next day, you are saying now that notwithstanding the fact that you asked no questions on that, based on a number of hours that were devoted to that case, we shouldn't pass this law because we're going to be sued the day after we adopt this law. I don't follow the logic of that, you know, with all due respect.

And I can also say, again, based on my 30 years of experience that this County Attorney and this County Attorney's Office, unlike the predecessor County Attorney's Office, A, shows up for work and puts in not just a full day but also, you know, a day and a half, but secondly, we're not sending cases out to outside counsel on a regular routine basis, which was the case with the prior County Attorney.

So the point of my preemption discussion is to simply conclude by saying that if you allow preemption to become the driving force in a legislative process when you don't have a case that's actually dealing with the kind of language and the actual legislation you're talking about, you'll be frozen in place for life, because you never would have passed the Cell Phone Law, you never would have passed the Smoking Bill, you never would have passed the ephedrine legislation, you never would have passed a lot of other bills that are significant, including the Fair Share for Health Care Act that passed 18•0, the nursing home regulations that were passed earlier this year 18•0.

So in closing, I would simply ask that again, you know, people can, you know, vote their conscience, you can vote your philosophy, you know, you vote what you believe with respect to the law, the County Executive believes this is the right law, the right place at the right time, and we'd like to see it go to a vote on the merits. Thank you very much for your time.

**CHAIRMAN D'AMARO:**

Thank you, Mr. Sabatino, for your comments. Vice•Chair Mystal.

**LEG. MYSTAL:**

At the risk of preempting all these eloquent speeches, I'd like to remind this panel that you're a half hour into my meeting. So not align myself with Mr. Sabatino, which is not a bad thing, but we have a motion on the floor. And if its at all possible, let's vote, because people have been sitting here for a long time. And let's get down to the business the County.

**2025, A Local Law to require companies doing business with the County to certify compliance with Federal Law with respect to lawful hiring of employees.**

**CHAIRMAN D'AMARO:**

Okay. Thank you, Vice•Chair Mystal. I concur. There is a motion pending. Any other Legislator have any comment before we proceed? All right. There is a motion pending before the committee to table this resolution made by

Vice•Chair Mystal, it has been seconded by Legislator Montano. I will call the vote. Roll call.

**(THE ROLL WAS CALLED BY RICHARD BAKER • DEPUTY CLERK OF THE LEGISLATURE)**

**CHAIRMAN D'AMARO:**

Yes on the motion •• I'm sorry, I'll vote no on the motion to table. I vote no to table.

**LEG. MYSTAL:**

Yes.

**LEG. MONTANO:**

Yes to table.

**LEG. ROMAINE:**

Abstain.

**LEG. KENNEDY:**

I'll abstain.

**LEG. STERN:**

No to table.

**MR. BAKER:**

Motion failed.

**CHAIRMAN D'AMARO:**

Motion fails.

**LEG. ROMAINE:**

I'll make a motion now. I believe that we have had all the testimony, we've heard all the debate. There isn't going to be •• we could go on infinitum, but I agree, it is time for a vote. I move to vote this out without recommendation so the entire body can consider it on Tuesday.

**CHAIRMAN D'AMARO:**

All right. Motion has been made by motion by Legislator Romaine to discharge the legislation without recommendation.

**LEG. KENNEDY:**

I'll second that motion. On the motion.

**CHAIRMAN D'AMARO:**

Legislator Kennedy has seconded the motion to discharge without recommendation. Legislator Kennedy, go ahead.

**LEG. KENNEDY:**

It's my belief that this resolution and this legislation should go out to the full floor. I think that there are still several issues that need to be resolved reflective of certainly Legislator Montano's comments about the Hazelton, Pennsylvania, legislation and the out course of it.

I've seen the brief. I'll also say to Mr. Sabatino, with all due respect, I got elected, and I got elected with a lot of the help and the support of the people in this room. And I believe that that was important to go ahead and represent their issues as well as the issues across the board. But I also took an oath. As you know, I administered many and I took many. And the first line in it says, "That I'll uphold the Constitution of the United States." So I don't think discussing preemption is a trite matter or a mild matter or something to be dismissed frivolously.

And when contemplating it, I believe that we have to go at exhaustively, because any time that we are compelled to spend, and our County Attorney does do an excellent job, she puts in hours well, but it comes at a cost. So that is the reason why I deliberate, and I deliberate extensively about

preemption and fair share and all the other matters that we can bring to bear about what the cost will be.

**CHAIRMAN D'AMARO:**

Thank you, Legislator Kennedy. Vice•Chair Mystal, please.

**LEG. MYSTAL:**

Legislator Kennedy, I'm in full support of what you said, but also in looking at it, whatever side of the bill that you are on, one of the proudest things that I have about this Legislature is the fact that it does thing regardless of what any other municipality or other government does. And one of the proudest things •• what I'm proudest of the most is the fact that we as a Legislature have been maverick, we have been irreverent, and we have said many times, "If you don't like it, sue me."

So although I do understand what you are saying. I take it to heart. But I also will have to side with Mr. Sabatino by echoing what he has said. This Legislature, if it was for the threat of a lawsuit, we would have never passed some of the landmark bills that we've had in this County. And that is a proud moment for us. We have had the national •• we've had this country follow our lead on many, many, many occasions. So for me, my objection to the bill has nothing to do with preemption, because I don't care if they want to sue us.

**CHAIRMAN D'AMARO:**

Thank you, Legislator Mystal. Legislator Montano.

**LEG. MONTANO:**

Just let me address that issue, because here I have to agree with my colleague, Legislator Kennedy. I take nothing away from the fact that this Legislature is innovative, progressive, has come forward with landmark legislation, and I don't have a problem with the attitude of, "So, sue me." I'm an attorney, I've been in litigation many times. But at the same time, when we pass legislation, even if it's cutting edge, innovative, progressive, there's no excuse to not go through the full dialog to deal with all the issues presented and then, you know, deliberate responsively and vote accordingly.

So to rush into something simply because it's good politics or bad politics or we want to be the first, we want to •• that's not what we're saying. What we're saying when we raise these issues very clearly is that we understand that, you know, we have a responsibility to the people and to yourselves as elected official, we deal with politics because we are elected, but, you know, once we take the attitude that we're going to go into something simply because we're first and we want to take this, you know, bring it on attitude, the problem we're going to have is we're going to at some point start crossing that line and passing irresponsible legislation. And I think we need to have a conscious when we do that.

There are some issues here. I'm going to vote to discharge this without recommendation so we can continue that debate, but I don't want to hear the argument, and I've this before, oh, we're so innovative we can do anything we want. No. We can't lose sight of the fact that we've got to be responsible.

**CHAIRMAN D'AMARO:**

Thank you. Legislator Stern, please go ahead.

**LEG. STERN:**

Thank you, Mr. Chair. I want to echo much of what my colleagues have said. And I have to tell you, as someone who has literally spent thousands and thousands of hours doing legal research on various issues throughout my career, I have to say thank you to Legislator Kennedy for his efforts and for bringing his findings before us and I think adding nothing but positive to the debate as we've gone through it.

I'm going to vote to support a discharge motion as well, because I think that

- I know that with the many, many hours of debate and hearing from the public before not just this committee but the entire Legislature, I do believe that we owe it to your colleagues to allow them the opportunity and allow their voices to be heard on this very important issue as well.

**CHAIRMAN D'AMARO:**

All right. Thank you, Legislator Stern. I just also want to chime on that issue very briefly, that this has been a very informative, to say the least, debate. I think there have been very, very valid arguments made on both sides, that's what making policy is all about. Should this bill be discharged without recommendation to the committee, for those that are present, just for your own information, it means the bill is not being either approved or disapproved by this committee, but merely sent to the full consideration of the Legislature on the meeting that is coming up this Tuesday in Riverhead.

It's an important bill, it's an important issue. Everyone needs to be heard on

this issue, therefore, I will also support the motion to discharge the bill from this committee without recommendation. But I also want to just take a very brief final moment to thank everyone throughout the public hearing process who has contributed to the policy debate. That's what government is all about. It's certainly why I got involved in government, and that's not just lip service, it's not platitudes, it's really how we function best.

So I want to thank everyone in the public on either side of this issue for taking the time out of your schedule and coming to address, whether it was this committee or the full Legislature at the public hearings that proceeded this committee's meeting. With that said, I will also call for a vote on the motion that is pending to discharge without recommendation made by Legislator Romaine and seconded by Legislator Kennedy. Mr Clerk, if you could call the vote.

**(\* ROLL CALLED BY RICHARD BAKER • DEPUTY CLERK OF THE  
LEGISLATURE\* )**

**CHAIRMAN D'AMARO:**

Yes.

**LEG. MYSTAL:**

Yes.

**LEG. STERN:**

Yes.

**LEG. MONTANO:**

Yes.

**LEG. KENNEDY:**

Yes.

**LEG. ROMAINE:**

Yes.

**MR. BAKER:**

Six.

**CHAIRMAN D'AMARO:**

Okay. The motion carries and is approved. The bill is **DISCHARGED WITHOUT RECOMMENDATION** on unanimous vote **(VOTE: 6•0•0•0)**.

Ladies and gentlemen, I'll ask you to quickly clear the room if you're not interested in the committee's business. We still have a full agenda to go

through. I'd appreciate if the conversations could be taken outside. Thank you. Okay. I'm going to ask Legislators on the committee to report back immediately. We want to get through the agenda. All right, ladies and gentlemen we're going to continue on with the agenda.

**1392, Instituting a six•month moratorium on Local Law 13 Sales.**

**LEG. MONTANO:**

Motion to table.

**CHAIRMAN D'AMARO:**

Motion to table by Legislator Montano, seconded by Vice•Chair Mystal. All those in favor? Opposed? Abstentions? **Tabled (VOTE: 6•0•0•0).**

**1395, A Local Law to amend the Suffolk County Code of Ethics and the Suffolk County Financial Disclosure Law.**

**LEG. MONTANO:**

Motion to table.

**CHAIRMAN D'AMARO:**

Motion by Legislator Montano to table, I'll second. All in favor? On the

motion, anyone? All in favor? Opposed? Abstentions? **Tabled (VOTE: 6•0•0•0).**

**1397, A Local Law amending the composition of the Suffolk County Space Management Steering Committee.**

**LEG. KENNEDY:**

Motion to table.

**LEG. MYSTAL:**

Second.

**CHAIRMAN D'AMARO:**

Motion by the sponsor Legislator Kennedy to table, seconded by Vice•Chair Mystal. All in favor? Opposed? Abstentions? **Tabled (VOTE: 6•0•0•0).**

**1410, A Local Law to enact a Campaign Finance Reform Act to limit campaign contributions from County contractors.**

**LE MYSTAL.**

Motion to table.

**CHAIRMAN D'AMARO:**

Motion by our Vice•Chair to table, I'll second. On the motion, anyone? I'll call the vote. All in favor? Opposed? Abstentions? **Tabled (VOTE: 6•0•0•0•0).**

**1792, A Charter Law to ensure a non•partisan, fair, and objective process by which Legislative Districts are reapportioned.**

It requires a public hearing. Motion by Legislator Montano to table, seconded by Vice•Chair Mystal. All in favor? Any opposed? Abstentions? **Tabled (VOTE: 6•0•0•0•0).**

**1793, A Local Law prohibiting the impermissible use of copyrighted materials on County owned or operated facilities.**

**LEG. MYSTAL:**

Motion to table.

**CHAIRMAN D'AMARO:**

Motion by Legislator Mystal to table, seconded by Legislator Stern. All in favor? Opposed? Abstentions? **Tabled (VOTE: 6•0•0•0•0).**

**1797, Repealing in part Resolution No. 1010•1972 and lifting the ban imposed thereby on all assignments of real property tax liens by the County of Suffolk to third parties so as to permit assignments to third parties of those tax liens acquired by the County of Suffolk on properties commonly referred to as brownfield properties.**

**LEG. MONTANO:**

Motion to table.

**CHAIRMAN D'AMARO:**

Motion made by Legislator Montano to table.

**LEG. KENNEDY:**

I'll second.

**CHAIRMAN D'AMARO:**

Seconded by Legislator Kennedy. I'll call the vote, all in favor? Opposed? Abstentions? **Tabled (VOTE: 6•0•0•0).**

**M. 60, Memorializing resolution in support of the inclusion of a secure, transparent and economical voting system for New York State.**

**LEG. MYSTAL:**

Motion to table.

**LEG. MONTANO:**

Second.

**CHAIRMAN D'AMARO:**

Motion is made to table by Legislator Mystal, seconded by Legislator Montano. All in favor? Opposed? Abstentions? **Tabled (VOTE: 6•0•0•0).**

**2041, Authorizing certain technical corrections to the 2006 Adopted Operating Budget for the contracted agency OLA of Eastern Long Island.**

**LEG. MYSTAL:**

Motion to approve.

**CHAIRMAN D'AMARO:**

I'll offer a motion to approve and place on the Consent Calender, seconded

by Legislator Montano. I'll call the vote. All in favor? Opposed? Abstentions? Motion carried. **APPROVED** and placed on the **Consent Calender (VOTE: 6•0•0•0)**.

**2042, Authorizing certain technical corrections to Adopted Resolution No. 692•2006.**

**LEG. ROMAINE:**

Motion.

**LEG. MYSTAL:**

Second.

**CHAIRMAN D'AMARO:**

Motion by Legislator Romaine, seconded by Vice•Chair Mystal. Mr. Zwirn, please.

**MR. ZWIRN:**

Mr. Chair, Pat Zielenski is here from the Real Estate Department. There's still •• the technical correction needs a technical correction.

**CHAIRMAN D'AMARO:**

Technically speaking.

**MS. ZIELENSKI:**

The number correctly should read 047.001.

**LEG. ROMAINE:**

Well, since my staff did this, and I assume they spoke with your office prior to doing this, and you say that now it's not correct, I'll make a motion to table, and I'll have a correction made.

**MR. ZWIRN:**

You can table still, and we can still see if we can do something about it, because it's a technical •• maybe we can talk and we can ••

**LEG. ROMAINE:**

I'll make a motion to table. And what I would suggest to you, Ms. Zielenski, if you would be so kind is to speak to Lisa Keyes in my office.

**MS. ZIELENSKI:**

Okay.

**MR. ZWIRN:**

We'll see if we can ••

**LEG. ROMAINE:**

I guarantee you I'll never get a CN. I'll make a motion to table.

**CHAIRMAN D'AMARO:**

All right. Motion to table by Legislator Romaine, seconded by Legislator Mystal. I'll call the vote. All in favor? Opposed? **Tabled (VOTE: 6•0•0•0).**

**2073, Authorizing the acquisition of lands from the Town of Smithtown pursuant to Section 72•h of the General Municipal Law, in connection with the acquisition of property for the reconstruction of Sewer District No. 18 Hauppauge Industrial, Town of Smithtown, Suffolk County, New York (SCTM No. 0800•181.00•02.00•007.000) (CP 8126).**

**LEG. KENNEDY:**

Motion to approve.

**LEG. MYSTAL:**

Second.

**CHAIRMAN D'AMARO:**

Motion by Legislator Kennedy to approve, seconded by Legislator Mystal. I'll call the vote. All in favor? Opposed? Abstentions? **Approved (VOTE: 6•0•0•0).**

**CHAIRMAN D'AMARO:**

The next bill is **2079, authorizing the Suffolk County Executive's office to act as signatory for the Brownfield Cleanup Agreement for the Suffolk County Canine Kennel Site.**

Before we entertain any motions on this bill, it's been brought to my attention that there is not an available, at this time, fiscal impact statement, is that accurate?

**MR. ZWIRN:**

It was received this morning by the Clerk's Office, I believe. If they'll check.

**CHAIRMAN D'AMARO:**

And we had the same question on the next bill, 2087 as well.

**LEG. ROMAINE:**

Can we get a copy of the fiscal impact statement that was submitted?

**MR. ZWIRN:**

Sure. I would ask Rich to maybe get it from the Clerk's Office.

**CHAIRMAN D'AMARO:**

All right. So the Clerk has confirmed that I misspoke, and we did, in fact, receive the fiscal impact statement, because we all know we cannot vote without a fiscal impact statement thanks to me.

**MR. ZWIRN:**

A rule that the County Executive fully supports.

**CHAIRMAN D'AMARO:**

All right. So let's go back to our agenda.

**2079, Authorizing the Suffolk County Executive's Office to act as signatory for the Brownfield Cleanup Agreement for the Suffolk County Canine Kennel Site.**

**LEG. MYSTAL:**

Motion to approve.

**CHAIRMAN D'AMARO:**

Motion by Legislator Mystal to approve, I'll second.

**LEG. ROMAINE:**

On the motion. Could I have an explanation of this and what the role is of the Treasurer and the Comptroller and what their role would have been if law isn't passed and what the role now would be of the Chief Deputy County Executive.

**LEG. MYSTAL:**

Ask the Chief Deputy.

**LEG. ROMAINE:**

I'm asking Counsel.

**MR. NOLAN:**

I think there's been a series of these resolution having to do with brownfield sites. And all the resolutions indicate that the County has to designate somebody to be a signatory. And I believe there have been a series of resolutions that have been designated the Deputy County Executive to be the signatory on these brownfield agreements. I think the state requires this; am I correct, Ben?

**MR. ZWIRN:**

Yes, that's correct. They have to designate somebody individually.

**LEG. MONTANO:**

You mean you have to someone by title?

**MR. ZWIRN:**

Yes. I remember Vincent Minei came in and spoke on it, because we had some issue about it early on, but this has happened on a regular basis.

**MS. BIZZARRO:**

Absolutely. We just don't put the name in it, it just states the Deputy County Executive.

**LEG. MONTANO:**

I'm sorry, I didn't hear it. Do we put the name in or the title?

**MS. BIZZARRO:**

Just the title.

**LEG. MONTANO:**

Okay.

**MS. BIZZARRO:**

And they had asked us to remove the name on previous resolutions.

**LEG. MONTANO:**

Yes. Is the name in this one? I'm sorry, I'm confused. Mr. Chairman, if I may? Is the name in this resolution or is it not in this resolution?

**MS. BIZZARRO:**

The title Chief Deputy County Executive is in this resolution.

**LEG. MONTANO:**

Right. The title is, but not the person occupying the position?

**MS. BIZZARRO:**

Correct.

**LEG. MYSTAL:**

Not Paul Sabatino.

**LEG. ROMAINE:**

Could I ask a question? Prior to this, who was the signatory? Was the Comptroller or the Treasurer ever a signatory to these agreements?

**MS. BIZZARRO:**

I don't know. I don't have that information.

**LEG. MYSTAL:**

I guess I have to say it again, is this state regulation?

**MR. ZWIRN:**

Yes. The state has asked us to do this.

**LEG. MYSTAL:**

Okay. Let's move on.

**CHAIRMAN D'AMARO:**

I'll call the vote. There's a motion pending to approve. All in favor?  
Opposed? Abstentions?

**LEG. ROMAINE:**

Abstention.

**CHAIRMAN D'AMARO:**

Legislator Romaine abstains. The motion carries and the bill is **approved**  
**(VOTE: 5•0•1•0)**

**2087, Authorizing Public Hearings pursuant to Article 2 of the Eminent Domain Procedure Law of the State of New York in connection with the acquisition of property to be acquired to alleviate blight for Downtown Economic Development Revitalization, Town of Brookhaven, Suffolk County, New York (Plaza Theater • SCTM No. 0200•977.50•04.00•038.000).**

I will offer a motion to approve.

**LEG. ROMAINE:**

I will second that motion.

**CHAIRMAN D'AMARO:**

Seconded by Legislator Romaine. All in favor? Opposed? Abstentions?  
Motion carried. The bill is approved out of committee. **APPROVED (VOTE:  
6•0•0•0).**

Vice•Chair Mystal would like to make just a brief statement.

**LEG. MYSTAL:**

For those of you who are waiting for the Health and Human Services  
Committee, we will take a short break, because some of us have been here  
since nine o'clock listening to, you know, many debates and all the eloquent  
speeches, but we are still hungry.

**CHAIRMAN D'AMARO:**

Thank you, Legislator Mystal. If there is no further business before the  
committee, I'll entertain a motion to adjourn. We are adjourned.

**(\* THE MEETING WAS ADJOURNED AT 1:34 P.M\*)**

**{ } DENOTES BEING SPELLED PHONETICALLY**