

A local law setting forth an agreement by the common council of the city of Buffalo, the legislature of Erie county, and the legislature of Niagara county, under provisions of the New York State Off-Track Pari-Mutuel Betting Law creating the Buffalo, Erie county and Niagara county off-track pari-mutuel betting commission, also to be known as "BENCO", for development and operation of a system of off-track pari-mutuel betting in Buffalo, Erie county and Niagara county, or in any one or two of these municipalities.

Became a law with the approval of the executive, December 20, 1971. Passed by the local legislative body of the county of Erie. Filed in the office of the secretary of state December 22, 1971.

*Be it enacted by the legislature of the county of Erie as follows:*

Section 1. Effective date of "BENCO". "BENCO" shall be

considered in effect when the parties to this agreement shall have notified each other of their original membership appointees, as specified herein, by certified copies of the appointments sent by each clerk of the appropriate legislative bodies to the other.

"BENCO" shall also be considered in effect for operation by either one or more of the three mentioned municipalities, in the event of approval of this agreement by one or more of the three mentioned municipalities, followed by failure within a prescribed time by the second or third of the municipalities herein mentioned to approve this agreement. The "prescribed time" within which a municipality mentioned may join in the original formation of "BENCO" shall be considered as elapsed if thirty calendar days transpire after approval of this agreement by the first municipality to so approve without the agreement being voted on favorably by the second or third of the municipalities mentioned, unless the time is extended by vote of the legislative body or bodies of the municipality or municipalities which have duly approved this agreement. Once the operation of "BENCO" is commenced by approval of this agreement by one or more of the three mentioned municipalities, the one or two not initially joining may at any future time apply for admission to "BENCO" and may join in "BENCO" upon approval of a majority of the existing commissioners of "BENCO".

§ 2. Composition of "BENCO". "BENCO", if initially approved by all three of the mentioned municipalities shall consist of nine members to be known as commissioners of "BENCO"; four to be appointed by the Erie county executive with confirmation by the Erie county legislature; three to be appointed by the common council of the city of Buffalo; and two to be appointed by the Niagara county legislature.

Each term shall be for a period of five years and shall expire on the last day of the fifth calendar year, except that the first four members appointed by Erie county shall serve for five, four, three and two years, respectively; the first three members appointed by the city of Buffalo shall serve for five, four and three years, respectively; and the first two members appointed by Niagara county shall serve for five and four years respectively.

In the event Erie county should be the only municipality mentioned which approves this agreement, "BENCO" will initially consist of four members to be appointed for terms as stated above, and members will be added from one or both of the other mentioned municipalities if they subsequently join, in the number and for the terms mentioned in paragraph one of section two.

In the event the city of Buffalo should be the only municipality mentioned which approves this agreement, "BENCO" will initially consist of three members to be appointed by the common council of the city of Buffalo for terms as stated above.

In the event Niagara county should be the only municipality mentioned which approves this agreement, "BENCO" will initially

consist of three members to be appointed by the Niagara county legislature for terms of five years, except that the first three shall be appointed for terms of five, four, and three years, respectively. In the event Erie county and/or the city of Buffalo subsequently joins with Niagara county in the operation of "BENCO", the number of commissioners representing Niagara county shall be reduced to two, by removal of the last one appointed by Niagara county.

Any of the three mentioned municipalities not involved in the original formation of "BENCO", upon subsequently being approved for participation in "BENCO", shall be entitled to the number of commissioners allocated to them in paragraph one of section two.

Commission members shall serve without compensation, but may be paid necessary expenses incurred in the performance of their official duties.

The "BENCO" commission members shall be empowered to prepare by-laws for the conduct of its business by vote of a majority of the commission, and shall have power to approve or disapprove by majority vote any actions of the general manager of "BENCO".

§ 3. General manager to be chief executive officer of "BENCO". A general manager, who shall be the chief executive officer of "BENCO", shall be appointed by a majority of the "BENCO" commissioners to serve at their pleasure, shall be in charge of the administration of the affairs of "BENCO", and shall perform any other duties assigned to him by the commissioners. He shall function under direct supervision and control of the commissioners and shall give full time to his duties. He shall be compensated at an annual salary to be established by the "BENCO" commission with approval of the legislative bodies of the participating municipalities.

In the event "BENCO" shall have been initiated by only one or two of the municipalities mentioned, and a manager shall have been appointed by the commissioners representing the initiating one or two municipalities, he shall not be subsequently removed except with consent of all the commissioners representing, at the time of removal, the municipalities whose commissioners appointed him.

§ 4. Powers of general manager. (a) The manager shall issue such regulations, with approval of a majority of the "BENCO" commission, and in keeping with the New York State Off-Track Pari-Mutuel Betting Law, as may be necessary for establishing, subject to approval of the New York State off-track pari-mutuel betting commission, a system of off-track pari-mutuel betting for Buffalo, Erie county and Niagara county, and for placing into effect such system.

(b) The manager shall have power, in the name of "BENCO" to acquire, hold, lease, rent, and dispose of personal property for

the established purpose of "BENCO". The manager also shall have power to acquire in the name of "BENCO", by lease, purchase, condemnation, grant, devise, or otherwise, and to use, real property which is necessary or convenient for carrying out the established purpose of "BENCO".

(c) The manager shall have power to appoint officers, agents, and employees; to prescribe their qualifications; and to fix their compensation.

(d) The manager shall have power to make contracts for personal services, and to execute all instruments necessary and convenient to accomplish the established purpose of "BENCO".

(e) The manager shall have power to construct such buildings, structures and facilities as may be necessary, all to be held in the name of "BENCO".

(f) The manager shall have power to accept grants, loans and contributions from the United States, the State of New York, or any agency or instrumentality of either of them, or from any of the three participating municipalities, or from any person, including gifts or transfers by bequest or otherwise, and to use the same for the established purpose of "BENCO".

§ 5. Financing of "BENCO"; division of profits and expenses.  
(a) The operations of "BENCO" shall be initiated by an allocation of one hundred fifty thousand dollars, the allocation to be shared equally by the city of Buffalo, Erie county, and Niagara county.

This original allocation of funds from the three participating municipalities shall be repaid to them from the income of "BENCO" as soon as available after payment of expenses of developing and instituting the system of off-track betting, and of any other payments required by the New York State Off-Track Pari-Mutuel Betting Law.

In the event that "BENCO" shall be initiated by only one or two of the mentioned municipalities, the original allocation of funds shall still consist of what the share would have been under paragraph one, subsection (a) of section five. Any of the three mentioned municipalities not involved in the original formation of "BENCO", upon subsequently being approved for participation in "BENCO", shall be required to contribute to the general fund of "BENCO" what would have been its original allocation under provisions of paragraph one, subsection (a) of section five, this allocation to be repaid as provided in paragraph two, subsection (a) of section five.

(b) The gross receipts accruing to "BENCO", after repayment of the original allocations made by each participating municipality, shall be divided as follows:

Niagara county shall receive a share of the gross receipts based on its proportionate share of the gross handle of betting in all three municipalities.

Seventy-five percent of the balance of gross receipts shall be divided between Erie county and the city of Buffalo based on the proportionate share of each in the latest decennial census of population for both municipalities, computed to the nearest one-tenth of one percent.

Twenty-five percent of the balance of gross receipts after payment of Niagara county's share shall be divided between Erie county and the city of Buffalo based on their proportionate share of the gross handle of betting in Erie county and the city of Buffalo.

(c) Each participating municipality shall pay from its share of gross receipts the cost of establishment, maintenance and operation of betting parlors located within that municipality.

All general expenses, including the establishment and maintenance of the principal office of "BENCO", the salary of the manager of "BENCO", the salaries of any other personnel employed in the principal office of "BENCO", and payments required by the New York State Off-Track Pari-Mutuel Betting Law shall be apportioned among the participating municipalities under the same formula provided for payment to them of gross receipts.

§ 6. Annual and special reports. By May first of each year, the commissioners of "BENCO" shall submit to the chief executive officer and/or legislative body of each of the participating municipalities a complete and detailed report setting forth the following data regarding "BENCO":

(a) details as to its operations and accomplishments during the preceding fiscal year;

(b) a summary of the volume of betting, receipts and expenditures during the preceding fiscal year;

(c) its assets and liabilities at the end of the preceding fiscal year;

(d) details regarding number and location of betting parlors in existence, being constructed, or being planned;

(e) such other information relating to its operations as may be deemed pertinent or as may be requested by the chief executive officer or legislative body of any of the participating municipalities.

§ 7. Inconsistent provisions of other laws superseded. Insofar as the provisions of this local law are inconsistent with any local laws of the city of Buffalo, Erie county or Niagara county, the provisions of this local law shall be controlling.

§ 8. Withdrawal from "BENCO". Any of the participating municipalities may withdraw from "BENCO" upon ninety-day written notice by transmitting a certified copy of its legislative resolution of termination to the clerk of the legislative body of the other participating municipalities. The withdrawing municipality shall be liable for "BENCO's" outstanding liabilities on the date of withdrawal in accordance with the provisions for sharing expenses and profits set forth in this agreement.

§ 9. Effective date. This local law shall take effect immediately.