

**RECOMMENDATION TO AMEND THE ERIE COUNTY CHARTER
ERIE COUNTY CHARTER REVISION COMMISSION OF 2016**

Recommendation Intro. No. 149

Recommendation No. 23

Introduced by Commission Member & Budget Subcommittee Member Cheryl Meyers Buth

The Erie County Charter Revision Commission of 2016 does hereby recommend that Section 2508 be amended to read as follows:

2508. ADOPTION OF A BUDGET

- A. The County Legislature after one or more public hearings herein, may strike items of appropriation from the tentative budget or reduce items therein, excepting appropriations required by law or for debt service. The county legislature, after one or more hearings, may add items to or increase items in such budget, provided that such additions or increases are stated separately and distinctly. Decreases shall not require executive approval except a decrease in the risk retention allocation as further described in this section.

The report of the budget committee to the county legislature concerning amendments to the county executive's tentative budget shall be presented to the legislature and laid on the table at least forty eight hours prior to the annual meeting for budget adoption as prescribed in this section.

Budget amendments proposed subsequent to the tabling of the budget committee report or less than forty eight hours prior to the annual meeting, shall be considered separately with each line item voted on individually on the floor of the legislature.

- B. If the budget is passed by the county legislature with no additions or increases, or any decrease in the risk retention allocation (hereafter referred to collectively as "adjusted items"), such budget shall be deemed to have been adopted with out any further action by the county executive; if, however, the budget as passed by the county legislature contains any such ~~additions or increases~~ adjusted items, the same shall be presented by the clerk of the legislature to the county executive not later than the Wednesday following the first Tuesday in December, for his or her consideration. ~~of such additions or increases~~ If the county executive approves all ~~additions and increases~~ adjusted items, he or she shall affix

his or her signature to a statement thereof and return the budget and such statement to the clerk of the legislature. The budget, including the ~~additions and increases~~ adjusted items as part thereof, shall then be deemed adopted.

- C. The county executive may object to any one or more of such ~~added or increased~~ adjusted items and in such case shall append to the budget a statement of ~~the added or increased~~ such items to which he or she objects with the reasons for his or her objections, and shall return the budget with his or her objections to the clerk of the county legislature who shall present the same to the county legislature on or before the Monday preceding the second Tuesday in December. The county legislature shall thereupon enter the objections upon its journal and proceed to reconsider the ~~additions and increases~~ adjusted items so objected to. If upon such reconsideration two thirds of all members of the county legislature vote to approve such ~~additions and increases~~ adjusted items, or any of them, the budget with any adjusted items so approved, together with any ~~additions and increases~~ adjusted items not so objected to by the county executive, shall be deemed adopted.
- D. If a budget with ~~additions or increases~~ adjusted items is not returned by the county executive to the clerk of the legislature with his or her objections on or before the Monday preceding the second Tuesday in December, it shall be deemed adopted.
- E. If a budget has not been adopted as herein provided, on or before the second Tuesday or December in each year, then the tentative budget as submitted by the county executive, plus all ~~additions and increases~~ adjusted items to which he or she has failed to object, shall be the budget for the ensuing fiscal year.
- F. ~~Four~~ Three copies of the budget as adopted shall be certified by the county executive and by the clerk of the county legislature. One such copy shall be filed in the office of the county executive, and one each in the offices of the county comptroller, ~~the commissioner of the finance~~ and the clerk of the county legislature. ~~The budget so certified shall be printed or otherwise reproduced and copies shall be made available.~~ The budget shall simultaneously be made available on the county's website.

**INTRODUCER'S MEMORANDUM TO
RECOMMENDATION INTRO. NO. 149**

SPONSOR: CHERYL MEYERS BUTH

This amendment is proposed to address underfunding or overfunding of the Risk Retention Fund as part of the Erie County budget process.

Since 1995, the Division of Risk Retention in the General Fund has been the account designated from which the payment of losses due to litigation is paid (does not include personal services budget for County Law Department). According to general accounting principles, each year the amount budgeted is established through a review of claims asserted against the County and the application of historical experience to outstanding claims.

In the 2016 budget, the County Executive recommended \$2 million dollars in Risk Retention funding. The 2015 amount adopted was \$2 million dollars and in 2014 the Actual appropriation was \$1.89 million dollars. In 2016 the Legislature approved half of the requested amount, \$1 million dollars. This has left the Risk Retention Fund with a significant shortfall, the consequence of which is that the County Attorney's Office may be unable to settle cases for which there is potential liability on the part of the County, the timing of which would save taxpayer dollars. It also creates uncertainty as to whether and how much the Legislature will supplement the fund with for the remainder of the year.

While this situation can be addressed through surplus or as part of a balanced budget amendment, we do not believe that practice is in the best interests of the public. Responsible financial management calls for the most accurate estimate of loss liabilities during the budget process. Not only is this good government, it provides transparency for taxpayers into the County's actual expected losses at the time the budget is passed and an ability to reasonably account for losses from year to year. The Risk Retention Fund is unlike other budgetary items that govern, for example, personnel or the allocations to individual departments. A shortfall in the Risk Retention Fund affects how our County Government as a whole meets its legal obligations. A shortfall could potentially have a negative effect on the County's bond rating if, for example, a bond has to be floated to cover a settlement or the Fund is consistently short year to year. Likewise, by overestimating the amount necessary other budgetary items may be underfunded based on an apparent lack of available resources.

To ensure that the amount allocated to the Risk Retention Fund meets the goals above, this amendment would allow for a line-item veto by the County Executive if the Legislature increases **or decreases** the amount requested. Currently, the County Executive can only object to additions or increases to his/her proposed budget. This narrow amendment would now allow for objections to a decrease in the Risk Retention Fund which objection could then be overridden by a 2/3 majority of the Legislature.

This proposed Amendment unanimously passed the bipartisan Budget Committee on May 2, 2016.

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Erie County Charter Revision Commission of 2016**

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	YES	NO	NOT PRESENT	ABSTAIN
Todd J. Aldinger	✓			
Joseph T. Burns		✓		
Tara Cadmus	✓			
Diana K. Cihak	✓			
Keith E. Dash	✓			
Kenneth J. Farrell	✓			
Peter J. Galie	✓			
Christina G. Holdsworth	✓			
Timothy M. Hudson	✓			
Matthew J. Kibler	✓			
Peter M. Kooshoian	✓			
Rashied McDuffie	✓			
Cheryl Meyers-Buth	✓			
Sibu S. Nair	✓			
Tiffany R. Perry	✓			
David Pollack	✓			
Myra E. Robinson-Moses	✓			
Mary A. Stang-Cooke	✓			
Jeanne M. Vinal	✓			

AYES 18

NOES 1