

January 24, 2019

ENERGY & ENVIRONMENT COMMITTEE  
REPORT NO. 2

ALL MEMBERS PRESENT, EXCEPT LEGISLATOR MILLS.

1. RESOLVED, the following items are hereby received and filed:
- a. COMM. 11E-10 (2018)  
COUNTY EXECUTIVE: “ECSD No. 6 - Pumping Station Electrical Upgrades”  
(Chair’s Ruling)

b. COMM. 17M-3 (2018)  
CJ BROWN ENERGY, PC: “Letter to Chair Savage Concerning the Energize NY Benefit Financing Program”  
(Chair’s Ruling)

c. COMM. 17M-4 (2018)  
SOLAR LIBERTY: “Letter to Legislator Miller-Williams Concerning the Energize NY Benefit Financing Program”  
(Chair’s Ruling)

d. COMM. 2E-9 (2019)  
COUNTY EXECUTIVE: “ECSD Nos. 1, 4, & 5 - Engineer Term Contract Agreement”  
(Chair’s Ruling)

e. COMM. 2M-1 (2019)  
SOLAR LIBERTY: “Letter of Support for Local Law Intro. 9-1 (2018) - Energize NY Benefit Financing Program Law of Erie County”  
(Chair’s Ruling)

f. COMM. 2M-3 (2019)  
NYSDEC: “Public Comment Invitation - Brownfield Application & Draft Investigation Plan for Site on Southwestern Blvd., Town of Orchard Park”  
(Chair’s Ruling)

g. COMM. 2M-4 (2019)  
NYSDEC: “Certification Concerning Cleanup Requirements - Brownfield Site on Harlem Rd., Cheektowaga”  
(Chair’s Ruling)

- h. COMM. 2M-5 (2019)  
NYSDEC: “Certification Concerning Cleanup Requirements - Six Brownfield Sites in Buffalo”  
(Chair’s Ruling)
2. RESOLVED, the following item is hereby received, filed and printed:
- a. COMM. 2D-2 (2019)  
DEPARTMENT OF LAW: “Opinion as to Form Local Law Intro. No. 9-1 - 2018”  
(Chair’s ruling)

January 11, 2019

Via Email Only  
Hon. Peter J. Savage, III, Chairman  
Erie County Legislature  
Old Erie County Hall  
92 Franklin Street, 4<sup>th</sup> Floor  
Buffalo, New York 14202

Re: Opinion as to Form Local Law Intro No 9-1 – 2018

Dear Chairman Savage:

In accordance with the obligations of the Erie County Attorney set forth in subsection 3, Section 204 of Article 2 of the Erie County Charter, this legal opinion concerns Local Law Intro No. 9-1-2018 (9-1).

Preemption

Under New York state law, preemption occurs when a local law directly conflicts with a state statute, or where a state statute expressly states that local laws on a given subject matter are preempted. Preemption can also occur where the State Legislature has assumed full regulatory responsibility in a field related to the proposed local law.

Here, New York State General Municipal Law Section 119-gg specifically states that “The legislative body of any municipal corporation may, by local law, establish a sustainable energy loan program...”. Since 9-1 is specifically authorized in this manner, there are no preemption issues to discuss.

### Grammar and Intent

The purpose of 9-1 is to achieve energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy by providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy efficiency measures. We find the grammar and usage of 9-1 is sufficient to achieve the stated purpose.

### Ambiguities

While every hypothetical circumstance or eventuality cannot be addressed in the scope of this opinion, 9-1 does not present any facial ambiguities that would frustrate its implementation and enforcement.

### Conclusion

We find that the Local Law Intro 9-1-2018 is sufficient as to form.

Very truly yours,

MICHAEL A. SIRAGUSA  
Erie County Attorney  
By: GREGORY P. KAMMER  
Assistant Erie County Attorney

**JOHN BRUSO**  
**CHAIR**