

STATE OF NEW YORK

LEGISLATURE OF ERIE COUNTY CLERK'S OFFICE

BUFFALO, N.Y., OCTOBER 22, 2015

TO WHOM IT MAY CONCERN:

I HEREBY CERTIFY, That at the **19th** Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the **twenty-second** day of **October, 2015 A.D.**, a Resolution was adopted, of which the following is a true copy:

AYES: 11
NOES: 0

LOCAL LAW TO BE ENACTED BY THE ERIE COUNTY LEGISLATURE IN THE COUNTY OF ERIE

LOCAL LAW INTRO. – NO. 4-2 - 2015

LOCAL LAW – NO. _____ - 2015

A Local Law Amending the Erie County Code of Ethics

Section 1: Intent

It is the stated intent of this body to amend the Erie County Code of Ethics to reflect the highest standards of integrity and morality displayed by elected officials within the County of Erie.

To that end, several sections of the Code of Ethics are amended to ensure that all financial documents are submitted by every elected official who serves in a given year, regardless of whether they are still serving on the date the documents are due.

These changes will ensure that during the transitions of government officials the process remains transparent and taxpayers are assured that they are fairly represented by elected officials.

Section 2: Erie County Local Law number ten of nineteen hundred eighty-nine, as amended by Local Law number four of nineteen hundred ninety four, constituting the Erie County Code of Ethics, is hereby amended as follows:

Section *three-f* shall be amended to read as follows:

- 3(f). The term “officer or employee” shall mean the head or heads of any department, division, special district or other administrative unit of county government and their deputies and assistants; and such others who hold policy- making positions as annually determined by the appointing authority and set forth in a written instrument which shall be filed with the Erie county board of ethics during the month of February. Said designation of those employees and officers as “policy making” may be challenged by the designated employees or officers upon filing a written petition in opposition to such designation within thirty days from the date of the filing of such designation with the Erie County Board of Ethics. The aforementioned Board of Ethics shall upon receipt of a petition in opposition promptly make a determination as to the petition's merits upon a majority vote of a quorum of the Board, and shall notify all interested parties within ten days of its decision. The term “officer or employee” shall also mean those individuals defined herein who shall serve or have served at any time, regardless of duration, during the calendar year for which disclosure is sought regardless of whether they are affiliated with the County at the time the request for disclosure is made.

ATTEST



KAREN M. McCARTHY

Clerk of the Legislature of Erie County

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[] bracketed material is deleted; underlined material is to be added

Section four shall be amended to read as follows:

Financial disclosure:

Every elected official, employee, and each political party official subject to the reporting provisions of this section, shall, on or before the fifteenth day of May in each year, file with the Erie county board of ethics an annual statement of financial disclosure containing the information and in the form set forth in section seven of this local law. Such information shall relate to the calendar year immediately preceding the year of filing. Such disclosure shall be filed regardless of whether such individual is employed, a member of a Board or Commission, or otherwise affiliated with the County at the time the request for disclosure is made.

[] bracketed material is deleted; underlined material is to be added

Section eight shall be amended to read as follows:

Annual financial disclosure statement:

Commencing with the calendar year next succeeding the calendar year in which this local law is adopted, the following form of financial disclosure shall be annually filed by all persons required to file financial disclosure statement under this local law. Such disclosure shall be filed regardless of whether such individual is employed, a member of a Board or Commission, or otherwise affiliated with the County at the time the request for disclosure is made. The form of the financial disclosure statement required under this local law of all current and former individuals required to file same shall be as determined annually by the Board of Ethics which shall maintain the authority to modify same as may be deemed necessary.

[] bracketed material is deleted; underlined material is to be added

Section nine shall be amended to read as follows:

Penalties:

A reporting individual, as defined in sections three and four of this law, who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly and willfully with intent to deceive makes a false statement or gives information which such individual knows or should have known to be false on such statement of financial disclosure filed pursuant to this section, shall be assessed a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty hereunder shall be made by the Erie county board of ethics. For a violation of this subdivision, other than for conduct which constitutes a violation of subdivision twelve of section seventy-three of the public officers law, the board of ethics may, in lieu of a civil penalty, refer violation to the district attorney and upon such conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor. A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such

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reported information is knowingly understated Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for failure to file or for false filing of such statement, except that the appointing authority may impose disciplinary action as otherwise provided by law. The Erie county board of ethics shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties herein authorized. Such rules shall provide for due process procedural mechanisms substantially similar to those set forth in article three of the state administrative procedure act but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty shall be final unless modified, suspended or vacated within thirty days of imposition and upon becoming final shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the Erie county board of ethics, pursuant to article seventy-eight of the civil practice law and rules.

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Section ten-h shall be amended to read as follows:

10(h). [The County Executive and the County Legislature will make available any support staff necessary for the Board of Ethics to carry out its duties and functions.] The County Executive shall, subject to section 19 of the Erie County Code, provide staff and supplies necessary for the ethics board to perform its stated objectives. The District Attorney shall be responsible for investigating any claims made by the board.

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Section 3: Severability

If any clause, sentence, paragraph, section or article of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such determination shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the proceeding in which such adjudication shall have been rendered.

Section 4: Effective Date

This law becomes effective upon its filing with the Secretary of State.

Sponsored By:

Legislator Kevin R. Hardwick

Co-Sponsored By:

Legislator John J. Mills

Legislator Lynne Dixon

Legislator Joseph C. Lorigo

Legislator Edward A. Rath III

Legislator Ted B. Morton

REFERENCE: LOCAL LAW INTRO. 4-2 (2015)

ATTEST



KAREN M. McCARTHY

Clerk of the Legislature of Erie County