

**ERIE COUNTY LEGISLATURE**  
**SPECIAL MEETING**  
**MEETING NO. 17**  
**AUGUST 15, 2011**

The Legislature was called to order by Chair Miller-Williams.

All members present.

An Invocation was held, led by Ms. Whyte, who read a short prayer.

The Pledge of Allegiance was led by Mr. Mills.

**COMMUNICATIONS DISCHARGED FROM COMMITTEE**

Item 1 – MS. WHYTE moved to discharge the PUBLIC SAFETY COMMITTEE of further consideration of COMM. 15E-11 (2011). MR. MILLS seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 151

RE: Health Services at EC Holding Center  
(COMM. 15E-11, 2011)

MS. WHYTE moved to amend the item. MS. GRANT seconded.

CARRIED UNANIMOUSLY.

Insert the Following Resolution:

WHEREAS, the Erie County Sheriff is responsible for health care at the Erie County Correctional Facility and the Erie County Holding Center; and

WHEREAS, the Erie County Department of Health provides medical oversight and medical staffing to provide health care at the Erie County Correctional Facility and Erie County Holding Center under an Interdepartmental Agreement with the Erie County Sheriff; and

WHEREAS, due to the high cost of providing inmate medical care, which is also driven by State and Federal mandates, anticipated year-end expense for the provision of medical services will exceed budgeted appropriation and will need to be adjusted; and

WHEREAS, unanticipated revenues are available in the Department of Social Services in Account 466180 Unanticipated Prior Year Revenue to fund this request.

NOW, THEREFORE, BE IT

RESOLVED, that the Director of Budget and Management is authorized to make the following budget adjustments:

Fund 110 -  
Fund Center 120 – Department of Social Services

<u>Revenue</u>		<u>Increase</u>
466180	Unanticipated Prior Year Revenue	\$1,583,245

Fund 110  
Fund Center 12700 – Health Division

<u>Appropriations</u>		<u>Increase/(Decrease)</u>
516020	Professional Svcs Contracts Fees	1,583,245
912700	ID Billing Health Services	(\$1,583,245)

Fund 110  
Fund Center 116 – Jail Management

<u>Appropriations</u>		<u>Increase</u>
912700	ID Billing Health Services	\$1,583,245

and be it further

RESOLVED, that the Director of Budget and Management is hereby authorized to make all necessary interdepartmental billing adjustments between the Health Department and Jail Management in order to properly reflect all medical service expenses in the Jail Management Budget; and be it further

RESOLVED, that certified copies of this resolution will be forwarded to the Erie County Sheriff, the County Executive, the Office of the Comptroller, the Department of Personnel, the Director of Labor Relations, the Division of Budget and Management, the Department of Law and to Dr. Anthony J. Billittier, IV, Commissioner, in the Erie County Department of Health, 9<sup>th</sup> Floor, Rath Building.

MS. WHYTE moved to approve the item as amended. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

\*\*\*\* CHAIR MILLER-WILLIAMS directed that the Legislature enter into recess at 1:55 P.M., for fifteen minutes.

\*\*\*\*CHAIR MILLER-WILLIAMS reconvened the Legislature at 2:16 P.M.

All members present.

Item 2 – MS. WHYTE moved to discharge the FINANCE & MANAGEMENT COMMITTEE of further consideration of COMM. 16E-3 (2011). MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 152

RE: Declaration of Need for Revenue  
Anticipation Note  
(COMM. 16E-3, 2011)

RESOLVED, the Erie County Legislature hereby approves the following Declaration of Need for Revenue Anticipation Note:

DECLARATION OF NEED

I, Chris Collins, County Executive of the County of Erie (the "County"), a municipal corporation of the State of New York, acting pursuant to Title 3 of Article 10-D of the New York Public Authorities Law (the "Act"), and further pursuant to the Financing Agreement dated as of May 1, 2009, as amended, between the Erie County Fiscal Stability Authority, a public benefit corporation of the State of New York (the "Authority") and the County (the "Agreement"), HEREBY DETERMINE AND CERTIFY as follows:

1. A need for financing assistance, as described in Section 3961(1) of the Act, is hereby determined and declared to exist. The amount of the Financeable Costs hereby requested to be undertaken is \$90,000,000 for cash flow needs of the County.
2. The County represents and affirms that the foregoing financing of Financeable Costs by the Authority is authorized by the Act and is consistent with the current adopted County budget and that such Financeable Costs meet the requirements of Section 4.01(f) of the Agreement, as applicable.
3. The County reaffirms the provisions of the Agreement, including but not limited to each of the covenants, agreements and indemnities therein and agrees herein to provide prompt notice of any fact or circumstances which would with the passage of time or otherwise give rise to any violation or contravention of the terms of this Declaration of Need, the Agreement or any financial plan submitted to or approved by the Authority.
4. Pursuant to the Act, the financing plan reflected in this Declaration of Need and the Agreement, the Authority is hereby requested to finance, in whole or in part, the Financeable Costs set forth herein. In no event shall the amount of such financing in any fiscal year exceed the amount of the Declaration of Need for such year, as it may be amended from time to time by an amended Declaration of Need.
5. The County understands and agrees to provide the Authority with any supporting data, descriptions or materials which the Authority requests in connection with any Financeable Costs referred to in this Declaration of Need.

All terms in this Declaration of Need not otherwise defined herein shall have the meanings set forth in the Agreement.

MS. WHYTE moved to approve the item. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

Item 3 – MS. WHYTE moved to discharge the PUBLIC SAFETY COMMITTEE of further consideration of COMM. 16E-10 (2011). MS. DIXON seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 153

RE: Appointment to the Position of  
Commissioner of Probation  
(COMM. 16E-10, 2011)

RESOLVED, the Erie County Legislature hereby confirms the appointment of the following individual to the position of Commissioner of Probation:

Mr. Brian McLaughlin  
1 Niagara Plaza  
Buffalo, NY 14202

MS. WHYTE moved to approve the item. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

Item 4 – MS. WHYTE moved to discharge the FINANCE & MANAGEMENT COMMITTEE of further consideration of COMM. 16E-11 (2011). MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 154

RE: Additional Sales Tax Extension  
(COMM. 16E-11, 2011)

MS. WHYTE moved to amend the item. MS. GRANT seconded.

CARRIED UNANIMOUSLY.

Insert the Following Resolution:

#### RESOLUTION

of the

Legislature of Erie County, amending the Erie County Sales and Use Tax Resolution which imposes taxes on sales and uses of tangible personal property and on certain services, and on occupancy of hotel rooms, admission charges and club dues, pursuant to Article 29 of the Tax Law of the State of New York, to continue the imposition of the additional 1% rate of tax and the additional ¾% rate of tax, pursuant to Article 29 of the New York Tax Law.

Be it enacted by the Legislature of the County of Erie, as follows:

Section 1. The first sentence of section two of the Erie County Sales and Use Tax Resolution, being a resolution adopted by the Board of Supervisors of the County of Erie as Item 8 of Meeting Number 31, held July 27, 1965, Supervisors Proceedings, page 666, as amended, is amended to read as follows:

SECTION 2. Imposition of sales tax. On and after March first, nineteen hundred eighty-nine, there is hereby imposed and there shall be paid a tax of three percent upon, and for the period commencing March first, nineteen hundred eighty-nine and ending November thirtieth, two thousand [eleven,] thirteen, there is hereby imposed and there shall be paid an additional tax of one percent upon:

Section 2. Subdivisions (h) and (i) of section three of the Erie County Sales and Use Tax Resolution, being a resolution adopted by the Board of Supervisors of the County of Erie as Item 8 of Meeting Number 31, held July 27, 1965, Supervisors Proceedings, page 666, as amended, are amended to read as follows:

(h) With respect to the additional tax of 1 percent imposed for the period commencing March 1, 1989, and ending November 30, [2011] 2013, the provisions of subdivisions (a), (b), (c), (d), (e), (f) and (g) of this section apply, except that for the purposes of this subdivision, all references in said subdivisions (a), (b), (d) and (e) to an effective date shall be read as referring to March 1, 1989, all references in said subdivision (a) to the date four months prior to the effective date shall be read as referring to November 1, 1988, and the reference in subdivision (b) to the date immediately preceding the effective date shall be read as referring to February 28, 1989.

Nothing herein shall be deemed to exempt from tax at the rate in effect prior to March 1, 1989, any transaction which may not be subject to the additional tax imposed effective on that date.

(i) The taxes imposed under subdivisions (a), (c) and (d) of Section 2 shall be paid at the rate of 3 percent upon all sales made and services rendered on or after December first, two thousand [eleven] thirteen. With respect to the tax rate of 3 percent effective December first, two thousand [eleven] thirteen, the provisions of subdivisions (b), (c), (d), (e) and (f) of this section apply, except that for the purposes of this subdivision, all references in said subdivisions (b), (c), (d) and (e) to an effective date shall be read as referring to December first, two thousand [eleven] thirteen, and the reference in subdivision (b) to the date immediately preceding the effective date shall be read as referring to November thirtieth, two thousand [eleven] thirteen. Nothing herein shall be deemed to exempt from tax at the rate in effect prior to December first, two thousand [eleven] thirteen, any transaction which may not be subject to the lowered tax rate in effect on that date.

Section 3. Section four of the Erie County Sales and Use Tax Resolution, being a resolution adopted by the Board of Supervisors of the County of Erie as Item 8 of Meeting Number 31, held July 27, 1965, Supervisors Proceedings, page 666, as amended, is amended to read as follows:

SECTION 4. Imposition of compensating use tax.

(a) Except to the extent that property or services have already been or will be subject to the sales tax under this resolution, there is hereby imposed on every person a use tax for the use within this taxing jurisdiction on and after March first, nineteen hundred eighty-nine, except as otherwise exempted under this enactment, (A) of any tangible personal property purchased at retail, (B) of any tangible personal property (other than computer software used by the author or other creator) manufactured, processed or assembled by the user, (i) if items of the same kind of tangible personal property are offered for sale by him in the regular course of business, or (ii) if items are used as such or incorporated into a structure, building or real property, by a contractor, subcontractor or repairman in erecting structures or buildings, or building on, or otherwise adding to, altering, improving, maintaining, servicing or repairing real property, property or land, as the terms real

property, property or land are defined in the real property tax law, if items of the same kind are not offered for sale as such by such contractor, subcontractor or repairman or other user in the regular course of business, (C) of any of the services described in paragraphs (1), (7), and (8) of subdivision (c) of section 2, (D) of any tangible personal property, however acquired, where not acquired for the purposes of resale, upon which any of the services described under paragraphs (2), (3) and (7) of subdivision (c) of section 2 have been performed, (E) of any telephone answering service described in subdivision (b) of section 2, and (F) of any computer software written or otherwise created by the user if the user offers software of a similar kind for sale as such or as a component part of other property in the regular course of business.

(b) For purposes of clause (A) of subdivision (a) of this section, the tax shall be at the rate of four percent, and on and after December first, two thousand [eleven] thirteen, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for such property, or for the use of such property, including any charges for shipping or delivery as described in paragraph three of subdivision (b) of section one, but excluding any credit for tangible personal property accepted in part payment and intended for resale.

(c) For purposes of subclause (i) of clause (B) of subdivision (a) of this section, the tax shall be at the rate of four percent, and on and after December first, two thousand [eleven] thirteen, the tax shall be at the rate of three percent, of the price at which items of the same kind of tangible personal property are offered for sale by the user, and the mere storage, keeping, retention or withdrawal from storage of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him.

(d) For purposes of subclause (ii) of clause (B) of subdivision (a) of this section, the tax shall be at the rate of four percent, and on and after December first, two thousand [eleven] thirteen, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for the tangible personal property manufactured, processed or assembled into the tangible personal property the use of which is subject to tax, including any charges for shipping or delivery as described in paragraph three of subdivision (b) of section one.

(e) Notwithstanding the foregoing provisions of this section, for purposes of clause (B) of subdivision (a) of this section, there shall be no tax on any portion of such price which represents the value added by the user to tangible personal property which he fabricates and installs to the specifications of an addition or capital improvement to real property, property or land, as the terms real property, property or land are defined in the real property tax law, over and above the prevailing normal purchase price prior to such fabrication of such tangible personal property which a manufacturer, producer or assembler would charge an unrelated contractor who similarly fabricated and installed such tangible personal property to the specifications of an addition or capital improvement to such real property, property or land.

(f) For purposes of clauses (C), (D) and (E) of subdivision (a) of this section, the tax shall be at the rate of four percent, and on and after December first, two thousand [eleven] thirteen the tax shall be at the rate of three percent, of the consideration given or contracted to be given for the service, including the consideration for any tangible personal property transferred in conjunction with the performance of the service and also including any charges for shipping and delivery of the property so transferred and of the tangible personal property upon which the service was performed as such charges are described in paragraph three of subdivision (b) of section one.

(g) For purposes of clause (F) of subdivision (a) of this section, the tax shall be at the rate of four percent, and on and after December first, two thousand [eleven] thirteen, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for the tangible personal property which constitutes the blank medium, such as disks or tapes, used in conjunction with the software, or for the use of such property, and the mere storage, keeping, retention or withdrawal from storage of computer software described in such clause (F) by its author or creator shall not be deemed a taxable use by such person.

Section 4. The Erie County Sales and Use Tax Resolution, being a resolution adopted by the Board of Supervisors of the County of Erie as Item 8 of Meeting Number 31, held July 27, 1965, Supervisors Proceedings, page 666, as amended, is amended by amending section 4-A thereof to read as follows:

**SECTION 4-A. Imposition of additional rate of sales and compensating use taxes.**

In addition to the sales and compensating use taxes imposed by sections 2 and 4 of this resolution, there is hereby imposed and there shall be paid an additional three-quarters of one percent rate of such sales and compensating use taxes, for the period beginning December 1, 2009 and ending November 30, [2011] 2013. Such additional taxes shall be identical to the taxes imposed by such sections 2 and 4 and shall be administered and collected in the same manner as such taxes. All of the provisions of this resolution relating or applicable to the administration and collection of the taxes imposed by such sections 2 and 4 shall apply to the additional taxes imposed by this section, including the applicable transitional provisions, limitations, special provisions, exemptions, exclusions, refunds and credits as are set forth in this resolution, with the same force and effect as if those provisions had been incorporated in full into this section and had expressly referred to the additional taxes imposed by this section; provided that net collections from such additional rate shall be set aside for county purposes as provided in subdivision (f) of section 14 of this resolution.

Section 5. Subdivisions (D) and (E) of clause (1) of Section 11 of the Erie County Sales and Use Tax Resolution, being a resolution adopted by the Board of Supervisors of the County of Erie as Item 8 of Meeting Number 31, held July 27, 1965, Supervisors Proceedings, page 666, as amended, are amended to read as follows:

(D) With respect to the additional tax of one percent imposed [effective] by section 4 of this resolution for the period beginning March first, nineteen hundred eighty-nine, and ending November thirtieth, two thousand [eleven] thirteen, in respect to the use of property used by the purchaser in this County prior to March first, nineteen hundred eighty-nine.

(E) With respect to the additional [taxes imposed at the rate] tax of three-quarters of one percent imposed by section 4-A of this resolution, for the period beginning [January 15, 2006] December 1, 2009 and ending November 30, [2011] 2013, in respect to the use of property used by the purchaser in this county prior to January 15, 2006.

Section 6. Subdivision (f) of section 14 of the Erie County Sales and Use Tax Resolution, being a resolution adopted by the Board of Supervisors of the County of Erie as Item 8 of Meeting Number 31, held July 27, 1965, Supervisors Proceedings, page 666, as amended, is amended to read as follows:

(f) Net collections from the additional three-quarters of one percent rate of taxes imposed during the period commencing [January 15, 2006] December 1, 2009 and ending November 30,

[2011] 2013 by section 4-A of this resolution shall be paid to the county and shall be used by the county solely for county purposes and shall not be subject to any revenue distribution agreement entered into pursuant to the authority of subdivision (c) of section 1262 of the Tax Law. Nor shall any part of such net collections, or other County revenues, be subject to the revenue sharing formula set forth in a resolution adopted by the Erie County Legislature on December 7, 2004, relative to twelve million five hundred thousand dollars.

Section 7. Subdivision (g) of section 14 of the Erie County Sales and Use Tax Resolution, being a resolution adopted by the Board of Supervisors of the County of Erie as Item 8 of Meeting Number 31, held July 27, 1965, Supervisors Proceedings, page 666, as amended, is amended to read as follows:

(g) The County shall allocate each calendar year the first twelve million five hundred thousand dollars (\$12,500,000) of the net collections from the additional one percent rate of sales and compensating use taxes imposed during the period commencing December 1, [2010] 2011, and ending November 30, [2011] 2013, by sections 2 and 4 of this resolution to the cities of the County and the area in the County outside the cities and such net collections shall be applied or distributed in the same manner and proportion as the net collections for such cities and area are applied or distributed under the revenue distribution agreement entered into pursuant to the authority of subdivision (c) of section 1262 of the Tax Law in effect on January 1, 2006, and shall be subject to all provisions of such agreement governing the net collections for such cities and area, and the County shall retain the remainder of such net collections which shall be used by the County for any County purpose and such remainder shall not be subject to any revenue distribution agreement entered into pursuant to the authority of subdivision (c) of section 1262 of the Tax Law.

Section 9. This enactment shall take effect December first, two thousand eleven.

MS. WHYTE moved to approve the item as amended. MR. MAZUR seconded.

CHAIR MILLER-WILLIAMS directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. FUDOLI, MR. HARDWICK, MR. MILLS, MR. RATH, MR. WALTER, MS. BOVE, MS. GRANT, MR. KOZUB, MR. LOUGHRAN, MS. MARINELLI, MR. MAZUR, CHAIR MILLER-WILLIAMS, MR. WHALEN and MS. WHYTE. NOES: None.  
(AYES: 15; NOES: 0)

CARRIED UNANIMOUSLY.

### **COMMUNICATIONS FROM ELECTED OFFICIALS**

#### **FROM CHAIR MILLER-WILLIAMS**

Item 5 – (COMM. 17E-1) Calling Special Meeting on 8/15/11

CHAIR MILLER-WILLIAMS directed that the item be Received, Filed and Printed.

GRANTED.

August 10, 2011

Robert M. Graber, Clerk  
Erie County Legislature  
92 Franklin St., 4th Floor  
Buffalo, N.Y. 14202

Dear Mr. Graber:

Please be advised that there are several pressing matters before the Erie County Legislature that need immediate attention. Therefore, there is a need to call a Special Meeting of the Legislature.

Accordingly, pursuant to Rule 2.02 of the Rules of Order of the Erie County Legislature, you are hereby directed to call a SPECIAL MEETING of the Erie County Legislature to be held on MONDAY, AUGUST 15, 2011 at 1:30 O'CLOCK in the afternoon of that day in the Chambers of the Legislature, 4th Floor of Old County Hall, 92 Franklin St., Buffalo, N.Y.

The purpose of the Special Meeting will be the consideration of four (4) items to be discharged from Legislature committees. To wit:

- COMM. 15E-11 (2011) from the Public Safety Committee.  
RE: Health Services at EC Holding Center;
- COMM. 16E-3 (2011) from the Finance & Management Committee.  
RE: Declaration of Need for Revenue Anticipation Note;
- COMM. 16E-10 (2011) from the Public Safety Committee.  
RE: Appointment to the Position of Commissioner of Probation;
- COMM. 16E-11 (2011) from the Finance & Management Committee.  
RE: Additional Sales Tax Extension.

The items on the agenda of the Special Meeting will include the above four (4) Discharge items; my letter to you directing the calling of the Special Meeting; and your Memo as Clerk of the Legislature to Members of the Legislature calling the Special Meeting.

Thank you for your prompt attention to this matter.

Sincerely,

Barbara Miller-Williams, Chair  
Erie County Legislature

**COMMUNICATIONS FROM THE DEPARTMENTS**

**FROM THE CLERK OF THE LEGISLATURE**

Item 6 – (COMM. 17D-1) Special Meeting Notice

CHAIR MILLER-WILLIAMS directed that the item be Received, Filed and Printed.

GRANTED.

August 10, 2011

TO: ALL MEMBERS OF THE ERIE COUNTY LEGISLATURE

FROM: ROBERT M. GRABER, CLERK

SUBJECT: SPECIAL MEETING NOTICE FOR AUGUST 15, 2011

PLEASE TAKE NOTICE that pursuant to Rule 2.02 of the RULES OF ORDER OF THE ERIE COUNTY LEGISLATURE, and under the direction of Chair Barbara Miller-Williams, there will be a SPECIAL MEETING of the Erie County Legislature on MONDAY, AUGUST 15, 2011 at 1:30 O'CLOCK in the afternoon of that day in Chambers of the Erie County Legislature, 4th Floor of Old County Hall, 92 Franklin St., Buffalo, N.Y.

The purpose of the Special Meeting will be the consideration of four (4) items to be discharged from Legislature committees. To wit:

- COMM. 15E-11 (2011) from the Public Safety Committee.  
RE: Health Services at EC Holding Center;
- COMM. 16E-3 (2011) from the Finance & Management Committee.  
RE: Declaration of Need for Revenue Anticipation Note;
- COMM. 16E-10 (2011) from the Public Safety Committee.  
RE: Appointment to the Position of Commissioner of Probation;
- COMM. 16E-11 (2011) from the Finance & Management Committee.  
RE: Additional Sales Tax Extension.

The items on the agenda of the Special Meeting will include the above four (4) Discharge items; Chair Miller-Williams' letter to me directing the calling of the Special Meeting; and my Memo as Clerk of the Legislature to Members of the Legislature calling the Special Meeting.

Thank you.

### **ANNOUNCEMENTS**

None.

### **MEMORIAL RESOLUTIONS**

Item 7 – Legislator Hardwick requested that when the Legislature adjourns, it do so in memory of Annette M. Trabucco; Ralph B. Levere, Sr.; Julia Heithecker; Donald E. Barnaby; and Louis Montante.

Item 8 – Legislator Rath requested that when the Legislature adjourns, it do so in memory of Dorothy Davis; Robert Emmett Dawson; Frank C. Harding; Dr. Robert J. Russo; and Josephine (Castiglione) Russo.

Item 9 – Legislator Mazur requested that when the Legislature adjourns, it do so in memory of Hon. H. Buswell Roberts, Retired Buffalo Chief City Judge.

**ADJOURNMENT**

Item 10 – At this time, there being no further business to transact, CHAIR MILLER-WILLIAMS announced that the Chair would entertain a Motion to Adjourn.

MR. MAZUR moved that the Legislature adjourn until Thursday, September 8, 2011 at 2:00 p.m. Eastern Standard Time. MR. WALTER seconded.

CARRIED UNANIMOUSLY.

CHAIR MILLER-WILLIAMS declared the Legislature adjourned until Thursday, September 8, 2011 at 2:00 p.m. Eastern Standard Time.

**ROBERT M. GRABER**  
**CLERK OF THE LEGISLATURE**