

**A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS LORIGO AND MILLS**

Re: Review of Use of Outside Counsel by the Erie County Attorney

WHEREAS, at the beginning of County Executive Poloncarz's first term in office, he passed Executive Order #005 to address the use of outside counsel by the County Attorney; and

WHEREAS, the Executive Order indicated that the County Attorney's office may be over-reliant on expensive outside counsel, which increases costs to the county for the handling of routine county legal issues; and

WHEREAS, the Executive Order requested that a study be conducted to determine whether the heightened costs in the County Attorney's office were in fact due to the extensive use of outside counsel and what could be done to correct this spending by the County Attorney; and

WHEREAS, the County Attorney's office recently engaged outside counsel for review of various issues relating to recommendations made by the Charter Revision Commission; and

WHEREAS, this was arguably a waste of taxpayer dollars, the County Attorney's office should not be hiring outside counsel for simple questions regarding the legality of charter amendments, there is no requirement to hire outside counsel for every legal question; and

WHEREAS, this honorable body seeks to determine if the County Attorney's office is utilizing its resources as efficiently as possible and whether there has been any improvement in its approach to protecting the county from liability.

NOW, THEREFORE, BE IT

RESOLVED, that this honorable body hereby requests the initial report, which was submitted to the County Executive's office in 2012 by the County Attorney's office, be submitted to the Legislature for review at the first session in October 2016; and, be it further

RESOLVED, it is hereby ordered that the County Attorney conduct a new study to be submitted to the County Legislature reviewing the time period that begins from the end of the previous report in 2012 to include the most recent information available. The report shall at least include all data presented in the 2012 report to the County Executive pursuant to Executive Order #005. This shall include, but not be limited to, the following:

- a. A complete list of any outside counsel that was retained since the drafting of the report created pursuant to Executive Order #005;
- b. A detailed description of all cases handled by outside counsel, including whether such representation potentially involves litigation;

- c. If litigation is involved, who commenced the action, the identity of the defendant and what relief is being sought, include the outcome of any resolved matters;
- d. If the County of Erie is not the defendant, but an individual associated with the county is the defendant, determine if the provisions of the Public Officers law that authorizes or requires defense and indemnity for governmental employees have been complied with;
- e. A determination if an RFP was used for the procurement as required by law;
- f. A description of the original estimate of the cost for the representation and a statement of all expenses and costs that have been incurred and are expected to be incurred for each;
- g. A determination of the status of all open representations including the amount sought from the county, or sought by the county, and the best available schedule for their completion;
- h. A determination of the level of risk and the best estimate for the likely outcome of each representation;
- i. A recommendation if there should be any changes in current representations;
- j. A recommendation of the best way that the county should proceed in the future; and
- k. A list of all recommendations made pursuant to Executive Order #005; include whether the recommendations have been enacted, if the recommendations have been enacted a summative evaluation of the enacted policies should be included, and if they have not been enacted include an explanation for why they were not enacted; and, be it further

RESOLVED, that the County Attorney will be responsible for indicating if any portion of the report must be exempt from public disclosure due to the sensitive nature of on-going litigation. Should certain information not be disclosed, the County Attorney shall prudently prepare the report so that it can be made public; the protected material shall be kept confidential but may be presented at an Executive Session to the Legislature; and, be it further

RESOLVED, that the County Attorney shall submit the new report required by this Resolution by November 17, 2016; and, be it further

RESOLVED, that certified copies of this resolution be sent to County Executive Mark Poloncarz's office, the County Attorney's Office, and any party deemed necessary and proper.

Fiscal Impact: None