

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

LOCAL LAW INTRO. NO. 6-1 - 2018

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FILED JUL 15 2018

## The Erie County Campaign Finance Reform Act, Ending Pay to Play

Submitted by Legislator Patrick B. Burke

### Section 1. Title

This Local Law shall be known as "The Erie County Campaign Finance Reform Act, Ending Pay to Play."

### Section 2. Legislative intent

Erie County has a \$1.7 billion budget. The county issues significant public resources to private contractors for necessary public work. Pay to play scandals have not been an issue in Erie County government but have been highlighted in state and local government. To build public trust in governmental institutions, and to ensure that pay to play schemes are not an issue in Erie County, this legislation is designed to increase the transparency of relationships between county government contractors and county government officials and to also limit the political contributions from county government contractors to those seeking election or reelection to county government office.

### Section 3. Definitions

- A. **Candidate** - Any person seeking election to any County position, as defined by the New York State Election Law, within the County of Erie, including any political committee formed for the sole purpose of electing one or more candidates, as defined herein.
- B. **Donation** - The transfer, to a candidate, of any tangible or intangible property, including but not limited to cash, check, money order, ticket or admission to social, artistic or sporting event, use of office space, equipment or postage, whether temporary or permanent, and any other real or private property for the purpose of obtaining election to any county government position.
- C. **Election** - The calendar year in which any primary, general or special election takes place.
- D. **Eligible Voters** - Those persons eligible to vote in a specific election, as defined by the Erie County Board of Elections.
- E. **Government Contractors** - Individual, Corporation, Lobbyist, or other entity doing business with County. Includes those individuals or organizations appearing on the County's vendor's list or contract agencies list; or those who are acting as contractor or supplier for which role they are paid County funds. However, this definition shall specifically exclude individual employees and their immediate family who are not beneficial owners of more than 10% of a corporation or other for profit entity doing business with the County.

- F. **Lobbyist** - Any individual who, for remuneration of any kind, influences or attempts to influence any County official. Any such lobbyist shall register, on a form provided by the Clerk to the Legislature, as such lobbyist for any calendar year in which said lobbyist performs such lobbying service for remuneration of any kind.
- G. **Spend** - Transfer any tangible or intangible property, including but not limited to cash, check, money order, ticket or admission to social, artistic or sporting event, use of office space, equipment or postage, whether temporary or permanent, or any other real or personal property for the purpose of obtaining election to any county position.
- H. **Contract** - Any claim, act or demand against or agreement with a municipality, express or implied, in excess of \$5,000 or several "contracts" within a period of one year amounting in the aggregate in excess of \$5,000. "Contracts" with other municipal bodies or agencies or nonprofit organizations are excluded.

#### **Section 4. Prohibited Acts**

##### **A. Donations**

- 1. No individual, corporation, lobbyist or other entity doing business with the County of Erie shall make a donation, in the aggregate, of more than \$100 to any candidate during any primary, special or general election campaign.
- 2. No candidate shall knowingly accept any such donation in excess of \$100.

#### **Section 5. Vendor's list and Contract agencies list**

- A. The County Executive shall, on a quarterly basis, direct the Erie County Director of Purchasing to compile a list of names, based on the County's records, listing those individuals, corporations or other entities doing business with the County of Erie, as defined in this local law. This list shall be available for public viewing in the office of the Erie County Board of Elections.
- B. The County Executive shall, on a quarterly basis, also direct the Erie County Director of Budget and Finance to compile a list of those contract agencies that receive funding from the County of Erie. This list shall be available for public viewing in the office of the Erie County Board of Elections.

#### **Section 6. Transparency provisions of political contributions from government contractors**

- A. **Entering into contract** - All corporations, partnerships or individuals, prior to entering into a contract with the County of Erie in excess of \$5000 shall file an affidavit of disclosure with the Clerk of the Legislature containing a list of contributions made by the firm or any director or policymaking officer or majority shareholder or the individual, directly or indirectly, to any person or organization for any political party or for any individual running for public office or for a committee for an individual running for public office or for any public officer in Erie County, or in a district in which Erie County is located, for a period of three years prior to the date thereof. Such affidavit of

disclosure shall be filed annually thereafter by December 31 until the contract is completed. No such corporation, partnership or individual shall be required to file such affidavit more than once a year.

- B. Submitting Bids** - All corporations, partnerships or individuals, prior to submitting a bid to the County of Erie in excess of \$5,000, shall file an affidavit of disclosure with the Clerk of the Legislature containing a list of contributions made by the firm or any director or policymaking officer or majority shareholder or the individual, directly or indirectly, to any person or organization for any political party or for any individual running for public office or for a committee for an individual running for public office or for any public officer in Erie County, or in a district in which Erie County is located, for a period of three years prior to the date thereof. Such affidavit of disclosure shall be filed annually thereafter by December 31 by the successful bidder until the contract is completed. Each bidder is required by this section to file one affidavit of disclosure during each calendar year.
- C. Current Contracts** - All corporations, partnerships or individuals presently under contract with the County of Erie, if the contract is in excess of \$5000, shall file an affidavit of disclosure with the Clerk of the Legislature containing a list of contributions made by the firm or any director or policymaking officer or majority shareholder or the individual, directly or indirectly, to any person or organization for any political party or for any individual running for public office or for a committee for an individual running for public office or for any public officer in Erie County, or in a district in which Erie County is located, for a period of three years prior to the date thereof. Said affidavit of disclosure shall be filed by December 31, 2018, and annually thereafter until the contract is completed. No such corporation, partnership or individual shall be required to file such affidavit more than once a year.

### **Section 7. Enforcement of Section 6 "Transparency Provisions"**

Prior to approving payment to any of the aforementioned corporations, partnerships or individuals, or prior to the depositing of moneys, the Erie County department head who has responsibility for the contract and/or bid or the deposit of moneys shall verify compliance with this chapter. The Clerk to the Legislature shall furnish, upon the request of the appropriate department head, confirmation that an affidavit of disclosure has been filed.

### **Section 7. Penalties**

Violation of this local law shall be punishable, for the first offense, by a fine of not less than \$250 or three times the amount illegally contributed, whichever is greater, and each subsequent violation shall be punishable by a fine not less than \$500 or four times the amount illegally contributed, whichever is greater, to be enforced through a civil procedure by the County Attorney.

## **Section 8. Complaints**

Any complaints of alleged violations of this local law may be made to the Clerk of the Erie County Legislature, who shall notify the Board of Elections, County Executive, the Chairman of the County Legislature, and the County Attorney that a complaint has been received alleging a violation of this local law. The Board of Elections and or the Erie County Legislature may then proceed to investigate whether in fact this local law has been violated and may make a determination. If the Board of Elections and or the Erie County Legislature determines that this chapter has been violated, the person or committee who allegedly violated this chapter shall be given 15 days' notice to return the money or correct the violation. If said party fails to do so within 15 days the matter shall be referred to the County Attorney's office for enforcement of a civil proceeding to collect an appropriate civil penalty, which will be payable to the County of Erie.

## **Section 9. Effective Date**

This local law shall be effective upon filing with the Secretary of State.

## **Section 10. Severability**

If any clause, sentence, paragraph, subdivision, section or part of this Local Law or the application thereof, to any person, individual, corporation, firm, partnership, entity or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional such order of judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local Law or its application to the person, individual, corporation, firm, partnership, entity, or circumstances directly involved in the controversy in which such judgment or order shall be rendered.