

COUNTY OF ERIE

LOCAL LAW NO. 3-1988

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ERIE COUNTY
LEGISLATURE

LOCAL LAW INTRO. NO. 5 (Print No. 1) - 1988

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A LOCAL LAW amending Local Law No. 1-1959, constituting the Erie County Charter, as amended, and amending Local Law No. 1-1960, constituting the Erie County Administrative Code, as amended, in relation to the powers and duties of the commissioner of finance, the comptroller, and the county executive.

BE IT ENACTED BY THE ERIE COUNTY LEGISLATURE AS FOLLOWS:

Section 1. Section 302 of Article III of Local Law No. 1-1959, constituting the Erie County Charter, as amended, is hereby amended to read as follows:

Section 302. Powers and duties. The county executive, in addition to any other powers and duties provided by this charter shall:

g. [Designate] Annually designate one or more depositories located within the county for the deposit of all moneys received by the commissioner of finance.

h. Examine and approve or disapprove the sufficiency of sureties on official bonds and undertakings.

i. Report to the county legislature annually at the close of the fiscal year or, soon thereafter as practicable, but in no event later than the first day of March, the activities of the several administrative units of the county during the preceding fiscal year in such detail as the county legislature shall direct.

j. Appoint a member of the county legislature to serve as chairman of such legislature (1) for the remainder

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of the calendar year in case the county legislature has failed to select a chairman on or before February first, or (2) for the unexpired term of the previous chairman in case the county legislature has failed to select a chairman within thirty (30) days after a vacancy has occurred in the office of chairman.

k. Perform such other duties and have such other powers as may be prescribed for him by law, administrative code, county ordinance or resolution.

l. In addition to the powers set forth in this charter, have and be responsible for the exercise of all executive and administrative powers in relation to any and all functions of county government not otherwise specified in this charter.

m. Have all necessary incidental powers to perform and exercise of the duties and functions specified above or lawfully delegated to him.

n. Subject to Section 1902, Section 1813 and Section 211 of this charter, contract with a firm of certified public accountants to perform an annual independent audit of county financial accounts to be completed and delivered to the county legislature within five (5) months after the end of each fiscal year.

o. Determine annually the amount of capital borrowings required to fund capital projects which were approved by the legislature in the current or prior year budgets.

p. Provide the comptroller by February fifteenth, or as soon as possible thereafter, of each year with a listing of the capital projects the county plans to initiate during the fiscal year. Said listing shall describe each project, start-up date, and the annual cash requirements until completion. Changes to this listing are to be provided throughout the fiscal year, as required.

g. Periodically advise the comptroller of short-term borrowing needs due to requirements that the comptroller may not be aware of.

r. After preparation by comptroller, approve as to content all official statements necessary for the county to issue bonds or notes.

s. Not be an officer, director, or stockholder of any depository or depositories designated by him pursuant to this section.

Section 2. Article IV of Local Law No. 1-1959, constituting the Erie County Charter, as amended, is hereby amended to read as follows:

ARTICLE IV

DEPARTMENT OF FINANCE

Section 402. Powers and duties.

Section 402. Powers and duties. Except as otherwise provided in this charter, the commissioner of finance shall:

[a. be the chief fiscal officer of the county and have charge of the administration of all its financial affairs.]

[b.] a. collect, receive, [have custody of] deposit, [invest] and disburse all fees, revenues and other funds of the county [or] for which the county is responsible and report all such transactions to the comptroller on a daily basis in the format prescribed by the comptroller for the accounting thereof.

b. have custody of the county's vendor bank account, disburse from this account all vendor payments prepared by the comptroller's office, and advise the comptroller of cash requirements for this bank account on a weekly basis to ensure that adequate cash is on deposit to cover expenditures.

c. perform all duties, including but not limited to the collection of taxes, required by any law to be performed by a county treasurer or county sales tax director.

d. perform all duties in relation to the extension of taxes and the issuing of tax bills heretofore performed by the clerk of the county legislature.

e. keep a record of the transfer of title to real property and immediately notify the town clerk or the city board of assessors of all such transfers in each town or city, as the case may be.

f. make available a consultation and advisory service to assist local assessors in the performance of their duties and in the establishment and maintenance of suitable procedures and facilities to improve assessment records and practices.

g. submit annually to the county executive proposed county tax equalization rates consistent with standards prescribed by the legislature.

[h. Notwithstanding subdivision of Section 1202 of the Charter, the commissioner of finance, as the chief fiscal officer, shall have the power to issue and to certify any official statement necessary for the county to issue bonds or notes.]

h. report all transactions involving deposits, revenues, and appropriations to the comptroller on a daily basis in the format prescribed by the comptroller for the accounting thereof.

i. review and evaluate the comptroller's annual investment plan. Submit to the county executive, director of budget and management, and the comptroller the results of this review and any proposed changes. This review will be based on anticipated revenues and borrowings. As a part of the budget process, the county executive shall consider the commissioner of finance's evaluations and recommendations in the preparation of his tentative budget.

[i.] j. submit to the county legislature and county executive reports and interpretations thereof as requested on a timely basis.

Section 3. Section 1202 of Article XII of Local Law No. 1-1959, constituting the Erie County Charter, as amended, is hereby amended to read as follows:

Section 1202. Powers and duties. The comptroller shall:

a. be the chief fiscal, accounting, reporting and auditing officer of the county[.], and oversee the fiscal affairs of the county including the sale of all bonds and notes and the investment of proceeds thereof and the investment of agency and trust funds, as well as general and operating fund revenues.

b. maintain [total and complete] the official accounting records for all receipts and disbursements of the county, including liabilities, fund balances, encumbrances, expenditures, appropriations, revenues and estimated revenues and prescribe approved methods of accounting for county officers and administrative units in accordance with standards and policies prescribed by the New York state comptroller and the Governmental Accounting Standards Board.

c. examine all requisitions for the encumbering of funds for the expenditure of which the county is responsible, and certify as to the availability of funds therefor.

d. audit and certify for payment all lawful claims, or charges against the county or against funds for which the county is responsible.

e. conduct financial and compliance audits of the records and accounts of all officers and employees charged with any duty relating to county funds or funds for which the county is responsible in conformity with generally accepted auditing standards as prescribed by the American Institute of Certified Public Accountants and the comptroller general of the United States, and submit such audit reports to the legislature.

f. procure statements from all depositories of county funds and funds for which the county is responsible, and reconcile such statement with county accountants.

g. conduct management and performance audits of county administrative units and county funded programs in conformity with generally accepted auditing standards as prescribed by the American Institute of Certified Public Accountants and the comptroller general of the United States and submit such reports to the legislature.

h. provide such other accounting reports and interpretation thereof to the county executive and legislature as requested on a timely basis.

i. submit to the county legislature and county executive and the independent auditor hired by the county pursuant to Charter Section 1902 monthly accounting reports of appropriations, encumbrances, expenditures and revenues

on an accrual basis from the county's computerized accounting system, monthly statements from all depositories of county funds and funds for which the county is responsible, quarterly financial statements for the first three quarters of each fiscal year and annually a comprehensive financial statement containing a balance sheet and statement of revenues, expenditures and changes in fund balance.

[j. perform such additional and related duties as may be prescribed by local law.]

j. provide all records and reports requested or required by New York State, the independent auditor for the annual audit of the county's financial statements, and other independent auditors under contract with the County of Erie.

k. with the assistance of the county attorney or his designee, prepare bond resolutions for approval by the county legislature and secure funds from the bond market for approved capital projects. Notification of plans to secure bond funds shall be provided to the county executive and the legislature fifteen (15) days in advance of borrowing. A report of funds secured shall be provided to the county executive, legislature, finance commissioner, and budget director within fifteen (15) days after funds are secured. This report shall disclose the type of instrument used, all costs associated with the borrowing interest rate, and repayment schedule. In addition, once the Erie County Legislature and County Executive approve the bond

resolution, the Comptroller must, as requested, seek financing of said bond resolution. Furthermore, after the required approvals by the Erie County Legislature and the County Executive, funds approved for capital projects must be released by the Comptroller.

l. prepare annual cash flow statements, monitor cash flow, and when necessary, secure short-term funds. Notification of plans to secure short-term funds shall be provided to the county executive and the legislature fifteen (15) days in advance of borrowing. A report of funds secured shall be provided to the county executive, legislature, finance commissioner, and budget director within fifteen (15) days after funds are secured. This report shall disclose the type of instrument used, all costs associated with the borrowing, interest rate, and repayment schedule.

m. issue and certify any official statement necessary for the county to issue bonds or notes, provided such statement must have been approved as to content by the county executive and as to form by the county attorney or his designee.

n. provide the director of budget and management, the finance commissioner, and the county executive with complete debt service information for the annual budget, information on the monthly cash flow statements, and other reports as required, in accordance with time guidelines established by the budget director.

o. transfer cash from appropriate accounts upon the request of the commissioner of finance to the county vendor bank account under the control of the commissioner of finance.

p. perform such additional and related duties as may be prescribed by local law.

q. as a part of the budget process, provide the finance commissioner and budget director with an annual plan of investment and interest earnings.

r. have custody of all accounts, except the vendor bank account which is in the custody of the commissioner of finance.

Section 4. Section 4.01 of Article 4 of Local Law No. 1-1960, constituting the Erie County Administrative Code, as amended, is hereby amended to read as follows:

Section 4.01. Organization. The department of finance shall be headed by a commissioner, who shall organize it under the supervision and direction of the county executive into: (1) a division of treasury and [,] (2) a division of real property tax [, and (3) a division of sales tax].

Section 5. Section 4.02 of Article 4 of Local Law No. 1-1960, constituting the Erie County Administrative Code, as amended, is hereby amended to read as follows:

Section 4.02. Powers and duties of commissioner of finance.

a. The commissioner of finance shall have all the powers and duties and shall be subject to all the obligations and liabilities heretofore or hereafter lawfully granted or imposed by the county charter, by this code, by local law, ordinance or resolution of the county legislature, by order or direction of the county executive, or by any applicable provision of any act of the legislature not consistent with the county charter or this code. Such powers, duties, obligations and liabilities shall include, but shall not be limited to any power, duty, obligation or liability now or hereafter required by any law to be performed by or imposed upon a county treasurer [, the chief fiscal officer of a county] or a director of [sales tax.] real property tax.

b. The commissioner of finance shall have the power to appoint a deputy, who shall, to the extent that the commissioner shall delegate the same, have his powers and duties.

[b.] c. The commissioner of finance shall maintain an inventory of all county real property and shall have custody of all [insurance policies,] surety bonds, deeds to county property and such other instruments as the county executive may direct.

[c. The commissioner of finance shall be responsible for reviewing, signing and mailing or assuring the appropriate signing and mailing of all claims which are prepared by county departments and for the receipt, deposit

of cash in payment of claims and preparation of accounting input documents to reflect the deposit and allocation of all cash received.]

Section 6. Section 4.03 of Article 4 of Local Law No. 1-1960, constituting the Erie County Administrative Code, as amended, is hereby repealed.

Section 7. Section 4.04 of Article 4 of Local Law No. 1-1960, constituting the Erie County Administrative Code, as amended, is hereby repealed.

Section 8. Section 4.05 of Article 4 of Local Law No. 1-1960, constituting the Erie County Administrative Code, as amended, is hereby renumbered Section 4.03 and reads as follows:

Section [4.05] 4.03. Submittal of proposed equalization rates. The commissioner of finance shall, not later than October fifteenth in each year, submit to the county executive proposed county tax equalization rates, together with the documentary evidence used in determining the proposed rates and any other information which the county executive shall request in connection therewith.

Section 9. Section 4.06 of Article 4 of Local Law No. 1-1960, constituting the Erie County Administrative Code, as amended, is hereby renumbered Section 4.04 and amended to read as follows:

Section [4.06] 4.04. Division of treasury. The division of treasury shall [be headed by a deputy commissioner who shall have charge of] be responsible for

the collection, receipt, [custody,] and deposit [, investment and disbursement] of all fees, taxes, revenues and other funds of the County or for which the County is responsible and shall have charge of the performance of all other duties required by any law to be performed by a county treasurer [or the chief fiscal officer of a county] not inconsistent with the county charter or this code. [The deputy commissioner of finance in charge of the division of the treasury shall possess at least three years of practical experience in public accounting and be a certified public accountant licensed by the State of New York and/or shall have three (3) years of administrative experience in the area of finance or shall possess a combination of said requirements. The division of treasury shall not have charge of the collection of sales and compensating use taxes.]

Section 10. Section 4.07 of Article 4 of Local Law No. 1-1960, constituting the Erie County Administrative Code, as amended, is hereby renumbered Section 4.05 and reads as follows:

Section [4.07] 4.05. Division of real property tax.

a. The division of real property tax shall be headed by a [deputy commissioner who shall organize it into a bureau of tax equalization and a bureau of tax preparation.] director of real property tax.

b. The [bureau of tax equalization shall be headed by an assistant deputy commissioner who] director of real property tax shall (1) keep a record of the transfer of title to real property and immediately notify the town clerk and the town board of assessors or the city board of assessors of all such transfers in each town or city, as the case may be; (2) provide a consultant and advisory service to assist local assessors in the performance of their duties and in the establishment and maintenance of suitable procedures and facilities to improve assessment records and practices; (3) make such investigations and hold such hearings and assemble and compile such data and information as may be necessary for the preparation of proposed county tax equalization rates and submit the same, together with his recommendations thereon, to the commissioner of finance.

c. The [bureau of tax preparation shall be headed by an assistant deputy commissioner who] director of real property tax shall (1) perform all the duties heretofore permitted or performed or required to be performed by the clerk of the county legislature pursuant to the provisions of the Erie county tax act, being chapter eight hundred twelve of the laws of nineteen forty-two as amended, in relation to ascertaining, spreading, entering and extending laws levied by the county legislature for all state, county, town and special district purposes and shall prepare and issue bills for the same; (2) when authorized by the commissioner of finance, prepare the annual school district

tax bills for any school district in the county which has made a written request for the preparation thereof. The actual cost of procuring and preparing such tax bills shall be a charge upon the county and shall be reimbursed by such school district for such cost as provided in section 4-3.1 of the said Erie county tax act; and (3) assist in the preparation of or prepare village, town, city and county assessment rolls in the manner and under the conditions set forth in section 3-2.1 and 3-2.2 of said Erie county tax act.

Section 11. Section 4.08 of Article 4 of Local Law No. 1-1960, constituting the Erie County Administrative Code, as amended, is hereby repealed.

Section 12. Section 4.09 of Article 4 of Local Law No. 1-1960, constituting the Erie County Administrative Code, as amended, is hereby renumbered Section 4.06 and reads as follows:

Section [4.09] 4.06. Seal of commissioner of finance.

a. The seal of the department of finance shall consist of two circles, one within the other, with the words "COMMISSIONER OF FINANCE-ERIE COUNTY, NEW YORK" around the outer circumference of the inner circle, and in the center of the inner circle the word "SEAL."

b. The following design is hereby adopted as the official and standard design of such seal:

c. The commissioner is hereby authorized and empowered to affix such seal upon all instruments requiring the same, including but not limited to any instrument requiring the seal of a county treasurer.

Section 13. Article 12 of Local Law No.1-1960, constituting the Erie County Administrative Code, as amended, is hereby amended to read as follows:

ARTICLE 12

COMPTROLLER

- Section 12.01 Election.
- 12.02 Powers and duties.
- 12.03 Deputies and Organization.
- 12.04 Bond of comptroller.
- 12.05 Financial reporting.
- 12.06 Depository Undertakings.
- [12.06] 12.07 Seal.

Section 12.01. Election.

Section 12.02. Powers and duties. The comptroller shall have the powers and duties conferred or imposed upon him by the County charter or by this code and shall:

a. Examine and audit all claims or payrolls for services rendered the county, or for salaries of any county employee or county officer and furnish one certified transcript of such payrolls as approved to the commissioner of finance. All original payrolls shall be filed in the office of the comptroller. Before presentation to the comptroller of such payrolls, they shall be certified by the head of the appropriate administrative unit or his deputy in the manner and form prescribed by the comptroller. The comptroller shall not approve any payroll or item thereof until the commissioner of personnel shall have certified that the persons named therein are employed in their respective positions in accordance with law and rules made pursuant to law.

b. prescribe, with the approval of the county attorney the procedure and form for the submission of claims or charges against the county or against funds for which the county is responsible. Such forms shall be in accordance with the requirements of any law, rule or regulation applicable to the form, certification or payment of such claim or charge.

c. make available to the county legislature, the county executive and the head of any administrative unit of

the county any information from the records and accounts of the comptroller's office which they may require to assist them in the performance of their duties.

d. prepare and submit to the [budget] director of budget and management annually on such date as he shall designate and on forms prescribed by him, the information required by the [budget] director of budget and management to assist him in the preparation of the proposed tentative operating and capital budget.

e. prepare and sign all checks for the payment of the payroll and all other lawful claims or charges against the county or against funds for which the county is responsible and deliver the same to the commissioner of finance.

f. prescribe and issue procedures to all county departments for the preparation of input documents and for the accounting of all appropriations, encumbrances, expenditures and revenue.

g. as chief fiscal, accounting, reporting and auditing officer maintain records of the County's accounting transactions as processed in the County's computerized accounting system; and designate in writing, where appropriate, if selected source documents are to be filed in other county departments.

h. not be an officer, director, or stockholder of any depository or depositories designated by the county

executive, pursuant to subsection g of Section 1302 of the County Charter.

i. be responsible for reviewing, signing and mailing, or assuring the appropriate signing and mailing of all claims which are prepared by county departments, and for preparing accounting input documents to reflect the allocation of all cash received.

j. have custody of and disburse all fees, revenues, and other funds of the county or for which the county is responsible, except for funds within the county vendor bank account which are under the jurisdiction of the commissioner of finance.

k. transfer cash to the county vendor bank account upon request of the commissioner of finance.

Section 12.03. Deputies and Organization. The comptroller shall [, within the appropriations provided therefor,] have the power to appoint [deputies who shall, to the extent that the comptroller shall delegate the same, have his powers and duties, an accounting deputy] a deputy for accounting, investment and cash management, and an auditing deputy and shall within the appropriations provided therefor, appoint associate deputies. The deputies who are appointed by the comptroller shall, to the extent that the comptroller shall delegate the same, have the comptroller's powers and duties. Such appointment and delegation of duties shall be in writing and filed in the office of county clerk. The comptroller's office shall be headed by an

independently elected comptroller, who shall organize it into (1) a division of internal audit, (2) a division of accounting, and (3) a division of investment and cash management.

Section 12.04. Bond of comptroller. The comptroller and his deputies shall each give a surety bond to the county in a sum fixed by the county legislature conditioned for the faithful performance of his duties, which bond shall be approved as to form by the county attorney and as to sufficiency of surety by the county executive and filed in the office of the county clerk.

Section 12.05. Financial reporting. In addition to the financial reports required by paragraph [1] i. of section twelve hundred two of Article XII of the county charter, the comptroller shall also provide such other information as the county executive may request or the county legislature by resolution may direct.

Section 12.06. Depository Undertakings.

a. Each depository designated by the county executive, pursuant to subsection g of Section 3.02 of the county charter, shall, for the benefit of the security of the county and before receiving any such deposit, give to the county a good and sufficient undertaking, approved as to sufficiency of surety by the county executive and as to form by the county attorney. The undertaking shall specify the amount which such comptroller shall be authorized to have on deposit at any one time with such depository, and shall

provide (1) that such depository shall faithfully keep or pay over, on the order or warrant of such comptroller or other lawful authority, such deposits and the agreed interest thereon, and (2) for the payment of such bonds or coupons as by their terms are made payable at a bank or banks for the payment of which a deposit shall be made by such comptroller with such depository. The comptroller may increase the amount which any such depository is authorized to have on deposit at any one time and require additional undertaking therefor. Each such undertaking shall be filed by the comptroller in the office of the county clerk.

b. In lieu of such undertaking, a depository may execute its own undertaking in such form and upon such conditions as may be prescribed by law, and as collateral thereto shall deposit with the comptroller outstanding unmatured bonds or other obligations of the United States of America, State of New York, or any county, town, city, village, or school district in the State of New York authorized to be issued by law in the face amount of all times at least equal to the amount on deposit less the amount certified by the depository as covered by insurance under the Federal Deposit Insurance Act. The collateral shall be approved as to amount and sufficiency by the comptroller accepting the same. The depository shall deposit with the comptroller an assignment in blank of such collateral. The comptroller shall deliver a certificate of deposit containing a description of the bonds or other

securities so deposited as collateral. In the event of a default on the undertaking of any depository and the consequent necessity to complete the assignment in blank, the comptroller shall complete the assignment and shall be deemed to be the agent of the assignor for such purpose. The comptroller may from time to time require the depository to increase the amount of securities deposited and may from time to time release securities whenever the amount of the balance on deposit shall be lawfully reduced. Upon the withdrawal of all moneys from any depository and the closing and settlement of the account thereof, the comptroller may require the surrender of the certificate of deposit and thereupon shall return the securities so deposited as collateral. Whenever in the judgment of the comptroller it appears that additional facilities for the safeguarding of the securities deposited with him are essential, such comptroller may lease or rent a safety deposit box and the cost thereof shall be audited and paid as a county charge. The depository, with the consent of the comptroller, may deposit such securities in a safety deposit box maintained by the depository under the joint control of the depository and the comptroller, or if such depository has and maintains a separate trust department, may with the consent deliver such securities to said trust department, may with like consent deposit securities in escrow in the trust department of any other bank within the State to be held by it subject to the joint order of the depository and the comptroller,

and all expenses in connection therewith shall be borne by the depository.

The comptroller shall not be liable for the loss of public funds of the county by reason of the default or insolvency of a designated depository, provided such funds have been deposited in accordance with the provisions of this section. In the event that securities have been deposited as provided in paragraph b. of this section, the comptroller shall be liable to the extent of any loss in excess of the face amount of such securities on deposit at the time of such insolvency.

Section [12.06] 12.07. Seal.

a. The seal of this comptroller shall consist of two circles, one within the other, with the words "COMPTROLLER-ERIE COUNTY, NEW YORK" around the outer circumference of the inner circle and in the center of the inner circle the word "SEAL."

b. The following design is hereby adopted as the official and standard design of such seal:

c. The comptroller shall affix or imprint such seal upon any and all instruments requiring the same.

Section 14. This local law shall be placed before the voters of the County of Erie at a general election to be held at least sixty (60) days after the adoption hereof. If approved, this local law shall take effect on the first day of January next succeeding said general election.

LEONARD R. LENIHAN

ROGER I. BLACKWELL

MICHAEL A. FITZPATRICK

G. STEVEN PIGEON

THOMAS J. MAZUR

BERNARD J. WOJTKOWIAK