

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee recommends passage of "A LOCAL LAW amending the Laws of Westchester County, in relation to the Board of Acquisition and Contract."

Your Committee is informed that Chapter 107 of the Laws of Westchester County ("LWC") addresses the power of the County Board of Legislators ("County Board"). Section 107.01 of the LWC sets forth the general powers of the County Board and provides that the legislative body of Westchester County "shall be vested with all the powers and duties of the county". Furthermore, Section 107.21 of the LWC sets forth the specific powers of the County Board and vests it with the power to "alter...boards...." 107.21(1).

Your Committee is further informed that Section 161.01 of the LWC confers on the County Board of Acquisition and Contract ("A&C") the power and duty to award on behalf of the County all contracts, with a few limited exceptions. Currently, A&C is comprised of three members --- the County Executive, the Commissioner of Public Works and the Chairman of the County Board. This Local Law would amend the composition of A&C by substituting the Budget Director for the Commissioner of Public Works as the third member of A&C.

Additionally, this Local Law would except from the approval authority of A&C contracts required to be approved by the County Board, with the exception of contracts required by law to be approved by A&C under section 3307 of the Public Authorities Law or any other New York State Law. Those contracts or amendments would only necessitate County Board approval. This Local Law would also exempt contracts which are solely

approved by the County Board from the contract execution requirements of Section 161.11 of the LWC and instead require that the legislation authorizing those contracts include a specific designation of execution authority. Moreover, this Local Law would require that Acquisition and Contract resolutions for the procurement of services added by the Westchester County Board of Legislators which appear in a finally adopted County budget Act shall be advanced to the Acquisition and Contract agenda by March 31st of the budget year consistent with requirements of Westchester County Procurement policy. Finally, this Local Law would provide that, should an Acquisition and Contract resolution for the procurement of service items fail to be advanced to the agenda of the Board of Acquisition and Contract agenda by March 31st of the budget year or within one quarter of the expiration of an existing contract for the same service item, the Chairman of the County Board may place an Acquisition and Contract resolution for the procurement of service item on the Acquisition and Contract agenda at any time during that budget year consistent with requirements of Westchester County procurement policy.

Your Committee finds that these particular changes have become necessary to, *inter alia*, address the County Executive's failure to submit to or advance contracts through A&C the funding for which has been authorized by the County Board by Act 168-2010 (As Amended), the 2011 Westchester County Budget. Act 168-2010 (As Amended) was finally adopted on December 23, 2010, after the County Board overrode approximately 246 of the County Executive's vetoes by a two-thirds majority. While LWC Section 161.01 unequivocally provides that A&C ". . . shall contract for and acquire by purchase or condemnation all lands, buildings and other real property, the acquisition of which has been

authorized by the County Board, and *shall* award on behalf of the county all contracts....” (*emphasis added*), there is nothing in LWC Chapter 161 much less the “Rules of the County Board of Acquisition and Contract” which authorizes the County Executive to ignore the legislative will of the County Board as manifested by the finally adopted 2011 Westchester County Budget and refuse to expend appropriated funds by failing to submit and/or advance contracts through A&C. Indeed, LWC Section 233.01 provides that A&C “. . . shall be subject to all the obligations and liabilities heretofore or hereafter lawfully granted or imposed by the County Charter, by local law, act or resolution of the County Board or by any lawfully imposed controlling provision of any act of the legislature.”

Given that the County Executive “shall be subject to all the obligations and liabilities heretofore or hereafter lawfully granted or imposed by the County Charter, by local law, act or resolution of the County Board, or by any applicable provision of any act of the legislature” (LWC Section 213.01); and that “it shall be the duty of the County Executive: . . . (5) To see that the county officers, boards, agencies, commissions and departments faithfully perform their duties; and (6) To see that the . . . acts and resolutions of the County Board and duly enacted local laws are executed and enforced within the county” (LWC Section 110.11); the County Executive’s failure to submit to or advance contracts through A&C and expend funds authorized by the County Board by Act 168-2010 (As Amended) amounts to nothing more than an illegal veto and “a usurpation of the powers of the Legislative branch”. Civil Service Employees Ass’n, Inc. v. O’Rourke, 173 Misc. 2d 460, 466, 660 N.Y.S.2d 929, 933 (Sup. Ct., West. Co. 1997)(“County Executive is *limited* under County Charter §167.101 to vetoing additions to his proposed Budget.”) (*emphasis added*), judgment aff’d, 240 A.D.2d 572, 659 N.Y.S.2d 794 (2d Dep’t 1997), motions denied, 90 N.Y.2d 808, 664 N.Y.S.2d 270 (1997);

Henry v. Noto, 74 A.D.2d 604, 605, 424 N.Y.S.2d 506 (2d Dep't 1980)(condemning *unilateral action* which frustrated legislative action as "an illegal veto power"). At the very minimum, the County Executive's actions amount to an illegal impoundment of appropriated funds. See Oneida County v. Berle, 49 N.Y.2d 515, 404 N.E.2d 133, 427 N.Y.S.2d 407 (1980)¹; see also Westchester County Board of Legislators v. Astorino, Index No. 21154/10 at 8 (Sup. Ct. West. Co. April 11, 2011).

Finally, this Local Law would mandate that, prior to the approval of an amendment to the cost of any contract, A&C require the submission of a schedule or backup information, which shall consist of: (1) the contract number; (2) the date when A&C awarded the original contract and the amount of the original contract; (3) a brief description of the need for the change order; (4) the total amount of the increase; and (5) the revised contract amount which includes the amount of the increase.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act ("SEQRA") and its implementing regulations. See Title 6, Part 617 of the New York Code Rules and Regulations ("NYCRR"). The Commissioner of Planning has reviewed the applicable SEQRA regulations, and has concluded that this proposed legislation has been classified as a Type II action, pursuant to Section 617.5(c)(20)

¹ Here, the Legislature added \$14 million to the Governor's recommendation for the sewage treatment works reimbursement program. As a legislative addition, the \$14 million was subject to executive veto. The Governor elected to approve the measure, however, and it became law. A duly enacted statute, "once passed, cannot be changed or varied according to the whim or caprice of any officer, board, or individual. It remains fixed until repealed or amended by the Legislature."

49 N.Y.2d 515, 523, 404 N.E.2d 133, 137, 427 N.Y.S.2d 407, 411-412 (citations omitted).

of Title 6 of the NYCRR relating to “routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment,” and Section 617(c)(27) of Title 6 of the NYCRR relating to the “adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list.” As such, no further environmental review is required.

Your Committee concludes that the proposed Local Law, if adopted, is not subject to a mandatory referendum pursuant to Section 209.171(2) of the LWC as Section 199.61 of the LWC, which was adopted by the County Board 23 years later, establishes the exclusive procedure by which the County Board may modify or amend the LWC. Section 199.61 of the LWC provides, *inter alia*, that: “Pursuant to the provisions of Article 9 of the state Constitution, this act and the form of county government provided hereby may be modified or amended.... [b]y local law adopted by the County Board under the powers conferred by the state legislature pursuant to [Article 9].” Article 9(h)(2) of the New York State Constitution provides that:

After the adoption of an alternative form of county government by a county, any amendment thereof by act of the legislature or by local law which abolishes or creates an elective county office, changes the voting or veto power of or the method of removing an elective county officer during his or her term of office, *abolishes, curtails or transfers to another county officer* or agency any power of an elective county officer or changes the form or composition of the county legislative body shall be subject to a *permissive referendum* as provided by the legislature. (*emphasis added*).

The provision was enacted to conform the LWC to the powers granted to the County Board by Article 9 of the Constitution. Section 199.61 was first proposed by the County of Westchester Charter and Administrative Code Revision Committee (the “Revision

Committee”) in 1961 in its Second Report. The Revision Committee explained in its Report that:

This is a new section which the committee recommends be added to the Charter to spell out the methods by which it may be amended. The question has several times been raised by persons and organizations interested in county government, at it seems practical to include this, or similar, language to dispel any further uncertainty on this point.

Id. at 45. (*emphasis added*).

On September 5, 1961, the County Board Committee on Legislation voted to hold a public hearing on the Local Law proposed by the Revision Committee, No. 10-1961, “which would *put into effect the recommendations of the Revision Committee* for amendment of the County Charter....” (*emphasis added*). The Committee on Legislation further:

noted that proposed Local Law 10-1961, adding a new [Section] to the Charter relative to the methods of amending same, has been reworded to some extent but does not differ in substance from the amendment proposed by the Revision Committee. Your Committee believes that the change offers clearer and more precise wording to *achieve the intent of this legislation*.

Id. (*emphasis added*).

On October 2, 1961, a public hearing was held during which a “communication commending the [County] Board in respect to Local Law No. 10-1961 and suggesting the procedure for future amendments to the Charter and Administrative Code” was read. Id. at 202. On November 20, 1961, Local Law No. 10-1961, “A LOCAL LAW amending the Westchester county charter in relation to methods and modification or amendment thereof,” was passed. Id. at 277.

Based on the foregoing, Your Committee concludes that Local Law No. 10-1961 --- Section 199.61 --- was obviously intended to supersede Section 209.161 of the LWC or

repealed it by implication² as there is such an obvious irreconcilable conflict between the two statutes that they simply cannot stand together. See In re Tiffany, 179 NY 455, 72 NE 512 (1904)³; Iazzetti v. City of New York, 94 NY2d 183, 189, 723 NE2d 81, 85, 701 NYS2d 332, 336 (1999)(a statute generally repeals a prior statute by implication only if the two are in such conflict that it is impossible to give some effect to both); Town of Brookhaven v. New York State Bd. of Equalization and Assessment, 88 NY2d 354, 361, 668 NE2d 407, 411, 645 NYS2d 436, 440 (1996) (“a statute is deemed impliedly repealed by another statute only if the two are in such conflict that it is impossible to give some effect to both.”). Accordingly, assuming, *arguendo*, that the proposed Local Law curtails the power of the Westchester County Executive, it is not subject to a *mandatory referendum*.

Further, assuming that Section 209.161 of the LWC has not been superseded or repealed by implication, Your Committee also concludes that proposed Local Law is not subject to a mandatory referendum because it does not curtail the power of the County Executive. In 2007, the Court of Appeals in Mayor of City of New York v. Council of City of New York, 9 NY3d 23, 33, 874 NE2d 706, 711, 842 NYS2d 742, 747 (2007), clarified courts’ longstanding interpretation of the meaning of “curtailing any power of an elective

² Consequently, the savings clause in Article IX section 3(b) of the New York State Constitution is inapplicable.

³The Court of Appeals held that:

When...two statutes are so hostile that both cannot stand, or the later covers the entire ground of the earlier, or is obviously intended as a substitute therefor, the last enactment of necessity governs, for it is presumed to express the last intention of the lawmakers. In order to have this effect, the repugnancy must be so palpable that, upon reading the two acts together, it is obvious, without the aid of elaborate argument, that both could not have been intended to remain in force at the same time. If, by any fair construction, whether strict or liberal, a reasonable field of operation can be found for both acts, that construction should be adopted. In other words, if the old and the new law, by any reasonable interpretation, can stand together, there is no repeal by implication.
Id. at 179 NY at 457, 72 NE at 512-513.

officer” holding that “[t]he requirement of a referendum for legislation that ‘curtails any power of an elective officer’ must be read as applying *only* to legislation that impairs a power conferred on the officer as part of the framework of local government. For example, a local law limiting the power of New York City’s Mayor to appoint commissioners, or to prepare a budget, or to create or abolish positions within his executive office would require a referendum (citations omitted). But, as a general rule, a law that *merely regulates* the operations of city government...is not a curtailment of an officer’s power.” *Id.* (*emphasis added*). Like the Second Circuit in Molinari v. Bloomberg, 564 F3d 587, 612 -613 (2d Cir. 2009), and the United States District Court in Molinari v. Bloomberg, 596 FSupp 2d 546, 576 (EDNY 2009), the only two (2) reported cases that have discussed and adopted the Court of Appeals’ holding in Mayor of City of New York v. Council of City of New York, Your Committee finds the Court’s holding “persuasive”.

Applying the Court of Appeal’s holding to that portion of the Local Law which amends LWC Section 161.01⁴ and replaces the Commissioner of Public Works with the Budget Director as one of the three members of A&C, Your Committee finds that the County Executive’s power would not be curtailed because the proposed amendment would not impair a power conferred upon him as part of the framework of local government. A review of the legislative history reveals that the relevant language of the applicable sections of the LWC,

⁴ LWC Section 161.01 provides that:

There shall be a Board of Acquisition and Contract which shall consist of the County Executive, the Commissioner of Public Works and Transportation and the Chairman of the County Board.... The Board of Acquisition and Contract shall contract for and acquire by purchase or condemnation all lands, buildings and other real property, the acquisition of which has been authorized by the County Board, and shall award on behalf of the county all contracts, including but not limited to contracts for the construction, reconstruction, repair or alteration of all public works or improvements....

Sections 161.01, 113.11⁵ and 110.21⁶, have remained intact since their adoption in 1937. It also reveals and that the Commissioner of Public Works was likely made one of the three members of A&C because of his proscribed duties in the areas of construction, reconstruction, repair or alteration of all public works or improvement, etc. See LWC Section 131.11(A). There is certainly nothing in the legislative history to suggest that the County Board included the Commissioner of Public Works as one of the three members of A&C because he could be dismissed at will by the County Executive pursuant to Section 110.21 of the LWC. Accordingly, Your Committee finds that the County Executive's ability to dismiss the Commissioner at will removing him from the A&C was a not power conferred upon him by the County Board when it adopted LWC Section 161.01 but "merely a consequence of legislative policymaking". See Mayor of City of New York v. Council of City of New York, 9 NY3d 23, 33, 874 NE2d 706, 711, 842 NYS2d 742, 747.

Finally, Your Committee finds that all of the provisions of the proposed Local Law *merely regulate* the operations of County government --- the manner in which contracts are entered into by or on behalf of the County of Westchester --- and, consequently, do not curtail the County Executive's power. See id. Moreover, the County Executive's statutory powers with respect to the hiring and firing of Commissioners and the Budget Director remain intact.

⁵ LWC Section 113.11 provides that: "[t]he Budget Director shall be appointed for the term of the County Executive. He may be removed by the County Executive in the same manner as other department heads, provided, that no such removal shall take effect unless approved by a two-thirds vote of all members of the County Board."

⁶ LWC Section 110.21 provides that, "[t]he County Executive shall appoint to serve at his pleasure, except as otherwise provided in this act, and subject to confirmation by the County Board, the head or acting head of every department and office, the Chairman of the County Tax Commission and members of county boards and commissions...."

See id.⁷ Accordingly, Your Committee concludes that the proposed Local Law is not subject to a *mandatory referendum*. See id. To conclude that Section 209.161 of the LWC mandates otherwise would result “in more referendums than [][][the County] could well manage.” Id.

Your Committee concludes, however, that proposed Local Law, if adopted, is subject to permissive referendum pursuant to Sections 199.61 and 209.171(2) of the LWC and Sections 24(2)(b) and 34(4) of New York State Municipal Home Rule Law as these proposed amendments would change a provision of law relating to public bidding, purchases or contracts. In accordance with the provisions of LWC Section 209.141, a vote of not less than a majority of the voting strength of the County Board of Legislators is required to pass this Local Law.

Your Committee, after careful consideration, recommends adoption of this Local Law.

Dated: November 21, 2011
White Plains, New York

William R. ...
District ...

⁷ Any attempt to modify Section 110.21 of the LWC that would in any way encumber the County Executive's ability to unilaterally remove a commissioner would, on the other hand, require a mandatory referendum, because it would impair a power conferred upon the County Executive as part of the framework of local government. The County Executive's power to appoint and remove commissioners pursuant to Section 110.21 is not “merely a consequence of legislative policymaking”. Mayor of City of New York v. Council of City of New York, 9 NY3d 23, 33, 874 NE2d 706, 711, 842 NYS2d 742, 747.

LOCAL LAW INTRO. NO. 4115 -2011

A LOCAL LAW amending the Laws of Westchester County, in relation to the Board of Acquisition and Contract.

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. Section 161.01 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 161.01. Board created; powers and duties.

There shall be a Board of Acquisition and Contract which shall consist of the County Executive, the Budget Director[Commissioner of Public Works] and the Chairman of the County Board. In the event of absence from the county or disability of the Chairman of the Board of Legislators, the Vice Chairman of the County Board may act as a member of the Board of Acquisition and Contract in the place and stead of the Chairman of the County Board. In the event of absence from the county or disability of both the Chairman of the Board of Legislators and the Vice Chairman of the County Board, the majority leader of the County Board may act as a member of the Board of Acquisition and Contract in their place and stead. The Board of Acquisition and Contract shall contract for and acquire by purchase or condemnation all lands, buildings and other real property, the acquisition of which has been authorized by the County Board, and shall award on behalf of the county all contracts, including but not limited to contracts for the construction, reconstruction, repair or alteration of all public works or improvement, and

excepting: (1) contracts authorized under section 161.11 to be executed by the Bureau of Purchase and Supply[, and excepting also]; (2) contracts authorized under section 161.11 to be made by the head of any department, board or commission for matters relating to the maintenance and/or operation of such department, board of commission; and (3) contracts which are required to be by New York State Law to be approved by the County Board of Legislators, such as inter municipal agreements, but not excepting contracts required to be approved by the Board of Acquisition and Contract under section 3307 of the Public Authorities Law or any other New York State Law. The Board of Acquisition and Contract shall require, prior to the approval of an amendment to the cost of any contract, the submission of a schedule or backup information which shall consist of: (1) the contract number; (2) the date when the Board of Acquisition and Contract awarded the original contract and the amount of the original contract; (3) a brief description of the need for the change order; (4) the total amount of the increase; and (5) the revised contract amount which includes the amount of the increase.

Section 2. Section 161.11 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 161.11. Execution of contracts and bidding procedure.

1. All contracts entered into by or on behalf of the County of Westchester, with the exception of contracts which solely require the approval of the County Board of Legislators pursuant to Section 161.01 of this Chapter, shall be executed in accordance with one of the following methods:

a. The authority to execute contracts for the purchase, sale, rental, maintenance or repair of supplies, materials, and equipment and the services incidental thereto is delegated to the Bureau of Purchase and Supply, except that with respect to the Westchester Community College, such authority is delegated to the President of Westchester Community College or his duly authorized designee, subject to the approval of the Board of Trustees of the Westchester Community College, to be exercised in accordance with the procedures prescribed by law; provided, however, that the authority delegated hereunder shall not extend to contracts for the rental, leasing or licensing of equipment at a rate of \$3,000.00 or more per month.

b. All contracts, except those contracts to be executed in the manner provided by subsection a. hereof relating to matters which have been the subject of an appropriation by the board of legislators and which have been approved by the Board of Acquisition and Contract and the office of the County Attorney, may be executed by the head of the appropriate department, board or commission pursuant to a written authorization signed by the County Executive. Such authorization shall require the approval of the Board of Acquisition and Contract and, in addition, may contain such other limitations as the County Executive deems appropriate.

c. Notwithstanding the foregoing, the County Executive may, by written authorization, empower the head of any department, board or commission to execute contracts on behalf of his department, board or commission, without the need for approval by the Board of Acquisition and

Contract, provided such contracts do not exceed in total amount the maximum set forth in said written authorization, which authorization shall have been previously approved by the Board of Acquisition and Contract.

d. No contract shall be executed on behalf of the county until it has been approved as to substance and as to form by the office of the County Attorney.

2. All contracts that are solely approved by the County Board of Legislators shall, in the legislation approving the contract, designate who shall be responsible to take such actions and execute such documents as may be necessary and appropriate to effectuate the purpose of such contract authorization.

[2]3. Whenever any contract for public work involves the expenditure of more than \$20,000.00, the contract shall be awarded to the lowest responsible bidder by sealed bids or proposals, made in compliance with the public notice published at least once in a newspaper published in the county designated by the Board of Acquisition and Contract at least ten days prior to the day on which such sealed bids or proposals are to be opened. The bids or proposals shall be opened publicly in the presence of at least two members of the Board of Acquisition and Contract or their representatives. The successful bidder must give security for the faithful performance of his contract, the adequacy and sufficiency of which shall be approved by the Board of Acquisition and Contract; provided, however, that the Board of Acquisition and Contract may, in its discretion, waive security requirements for contracts which are not in excess of \$15,000.00 in amount. A copy of each such contract when executed shall be filed with

the Commissioner of Finance together with a copy of any act, other than the annual appropriation act, upon which the right to make such contract rests.

Section 3. A new section 161.41 is hereby added to the Laws of Westchester County to read as follows:

Sec. 161.41. Board of Acquisition and Contract Meeting Schedules.

On or before January 15th of each year, the Board of Acquisition and Contract shall, by resolution, adopt a schedule of the dates and times of all meetings of the Board of Acquisition and Contract for the calendar year. Any change to such this schedule, other than a change due to extreme weather conditions or other emergency situations which makes a meeting of the Board of Acquisition and Contract physically impractical to attend, must be obtained at least seventy-two (72) hours prior to such meeting.

Section 4. A new section 161.51 is hereby added to the Laws of Westchester County to read as follows:

Sec. 161.51. Acquisition and Contract resolutions for the procurement of services added by the Westchester County Board of Legislators which appear in a finally adopted County budget Act.

Acquisition and Contract resolutions for the procurement of services added by the Westchester County Board of Legislators which appear in a finally adopted County budget Act shall be advanced to the Acquisition and Contract agenda by March 31st of the budget year consistent with requirements of Westchester County Procurement policy. Should an Acquisition and Contract resolution for the procurement of such

service items fail to be advanced to the agenda of the Board of Acquisition and Contract agenda by March 31st of the budget year or within one quarter of the expiration of an existing contract for the same service item, the Chairman of the County Board may place an Acquisition and Contract resolution for the procurement of service item on the Acquisition and Contract agenda at any time during that budget year consistent with requirements of Westchester County procurement policy.

Section 5. Section 167.171 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 167.171. Emergency appropriations and contracts.

1. The County Board, during a fiscal year, may make additional appropriations or increase existing appropriations to meet emergencies or unforeseen circumstances requiring action to protect the interests of the county and its citizens, the funds therefor to be provided from unappropriated revenues, if any, or made available pursuant to the Local Finance Law.

2. Notwithstanding the provisions of section 161.11 of this act, in an emergency the County Executive, with the approval of the Board of Acquisition and Contract, may execute a contract or contracts without receiving bids therefor.

3. No Resolution for the approval of an emergency contract may be voted upon unless and until the County Executive, or his duly authorized designee, submits a written declaration of the emergency to the members of the Board of Acquisition and Contract.

4. No emergency contract shall have a term in excess of one year.

5. For the purposes of this section, the term "emergency" shall mean a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants of the County of Westchester, which would require immediate action which cannot await competitive bidding.

Section 5. A new section 233.02 is hereby added to the Laws of Westchester County to read as follows:


Sec. 233.02. The listing and posting of all County contracts.

A list of all contracts executed on behalf of Westchester County, including short form contracts, are to be included on the agendas of the Board of Acquisition and Contract for information purposes and said listing must be posted on Westchester County's website for the Board of Acquisition and Contract.

Section 6. The Clerk of the Board, as soon as practicable after the adoption of this Local Law, shall cause a notice to be published at least once, in one or more newspapers published in the County of Westchester, selected by the Clerk for that purpose, said notice to contain the number, date of adoption and a true copy of this Local Law and a statement that this Local Law, which changes a provision of law relating to public bidding, purchases or contracts, is subject to a referendum on petition pursuant to the provisions of Sections 199.61 & 209.171(2) of the Westchester County Administrative Code and Sections 24(2)(b) and 34(4) of the New York State Municipal Home Rule Law.

Section 7. This Local Law shall take effect sixty (60) days after its adoption.

TO: Kenneth Jenkins, Chairman
Board of Legislators

FROM: Edward Buroughs, AICP 
Acting Commissioner

DATE: November 29, 2010

SUBJECT: **SEQR DOCUMENTATION FOR A&C REFORM LEGISLATION**

In response to your request, the Planning Department has reviewed the above referenced action with respect to the State Environmental Quality Review Act and its implementing regulations, 6NYCRR Part 617 (SEQR).

The action involves a local law that would amend Chapter 161 and 233 of the Laws of Westchester County, relating to the Board of Acquisition & Contract (A&C). Chapter 161 would be amended to replace the Commissioner of Public Works with the Budget Director as a member of the board, exempt from A&C approval contracts requiring expenditures of more than ten million dollars and provide additional rules/procedures for emergency contracts and any contract/agreement amendments. Chapter 233 would be amended to require all contracts, including short-form contracts, to be listed on the agenda and posted on the A&C website.

Since the action pertains to modifications in government procedures, the proposed local law has been classified as a Type II action, pursuant to section 617.5(c)(20), "routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment," and 617.5(c)(27), "adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list." As such, no further environmental review is required.

Please contact my office if you need any additional information regarding this classification.

EEB/cnm

cc: Lila Kirton, Chief of Staff, Board of Legislators
Linda Trentacoste, Associate County Attorney
David Kvinge, Director of Environmental Planning

FISCAL IMPACT STATEMENT

SUBJECT: A Local Law Amendment to the Board of A & C NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

(To be completed by operating department and reviewed by Budget Department)

A) GENERAL FUND AIRPORT SPECIAL REVENUE FUND (Districts)

B) EXPENSES AND REVENUES

Total Current Year Cost \$ TBD

Total Current Year Revenue \$ 0

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: 101 10 4250

Potential Related Operating Budget Expenses: Annual Amount \$ TBD

Describe: A Local Law amending the Laws of Westchester County, in relation to the Board of Acquisition and Contract. Potential Related Operating Expenses: Advertising related fees associated with a permissive referendum.

Potential Related Revenues: Annual Amount \$ 0

Describe:

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: \$ 0

Next Four years: \$ 0

Prepared by: Patricia Haggerty

Title: Sr. Budget Analyst

Department: Budget

Reviewed By: _____

Budget Director

If you need more space, please attach additional sheets.

STATE OF NEW YORK)
) ss.
WESTCHESTER COUNTY)

I HEREBY CERTIFY that I have compared the foregoing Local Law, Local Law Intro No. 4115 - 2011, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Local Law, which was duly adopted by the County Board of Legislators, of the County of Westchester on November 29, 2011, vetoed by the County Executive on December 10, 2011, and deemed approved by a veto override vote of 12 - 5 on December 22, 2011.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 27th day of December, 2011.



Tina Seckerson

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

(seal)

