

SPECIAL SESSION – MONDAY, JULY 27, 2020

The Yates County Legislature met in special session Monday, July 27, 2020 at 6:00 p.m. in the Legislative Chambers. Chairman Paddock presided and Legislator Killen was absent.

Chairman Paddock opened the public hearing on proposed Local Law 6-20 entitled: A Local Law Retaining The Elected County Treasurer And Assigning Certain Powers And Duties To An Appointed Director Of Finance.

Nonie Flynn, County Treasurer/Administrator made the following comment.

Having spent over the last seven (7) years in the position of Treasurer, and examining the operations of Yates County and the State of New York, I believe that now is an appropriate time for the Legislature to consider a change from a full-time elected Treasurer position to a combination of a part-time Treasurer with diminished responsibilities and a full-time Director of Finance for the term beginning January 1, 2022. This structure change will provide for the most efficient service to better serve the needs of today's office and our citizens.

Yates County is increasingly being required to administer various programs that are either unfunded or not adequately funded by the State and Federal governments. Such mandates, together with the revenue constraints of the County and the size of our over \$46 million budget, require the best financial administration possible. An appointed position of Director of Finance would ensure the effective management of our County's fiscal responsibilities. The Legislature would require a Director of Finance to have professional qualifications and a professional background and would be able to provide increased transparency and better direction, control, and coordination of governmental finances.

I also would like to address a couple of the concerns that have been brought to my attention regarding this transfer.

1. Having an appointed person managing the finances as opposed to an elected person ensures effective management because if an appointed person is ineffective, the Legislature can terminate the person at any time with due process. An ineffective elected individual could not be removed prior to his/her four year term of office.
2. The Legislature has no control over the level of transparency with an elected person, however, an appointed person would have to be fully transparent in sharing the financials with, at the very least, the Legislature.

I have made available to the public, a chart showing the positives and negatives comparing the Elected Treasurer position to the Elected Treasurer and Finance Director positions.

Thank you for your consideration of this very serious proposal.

Comparison of Finance Positions

Elected Treasurer		Elected Treasurer/Finance Director	
Positives	Negatives	Positives	Negatives
Directly accountable to voters	No professional qualifications required	Accountable to voters for some responsibilities	No direct accountability to voters for some responsibilities
	No legislative control or oversight	Qualifications can be stated and evaluated during hiring process	Increased cost for part-time Treasurer
	No requirement to report on the County's fiscal position	If Director is not capable/effective, can be removed at any time with due process	
	No mandate for transparency	Legislature can require ongoing financial information	
	If person is not capable/effective, must wait until next election to change	Increased oversight, accountability and transparency	

Based on a review of NYSAC's 2020 Directory, of the 57 counties outside New York City, 39 have elected Treasurers, 10 have elected Comptrollers, 7 have Directors of Finance and 17 have Auditors. Not counting Yates, 44 list 2 or more separate and distinct Finance-related positions; only 8 list the Treasurer as the only Finance-related position. Ontario and Seneca Counties both have an elected Treasurer and a Director of Finance. Ontario passed its Local Law in 2003 and Seneca in 2016.

PUBLIC COMMENTS

Connie Hayes, Clerk of the Legislature read a letter from the Genesee County Treasurer, Scott German who urged the Legislature not to pass the local law.

Correspondence was received from Nancy Buck, Sullivan County Treasurer and Michael Diskin, Essex County Treasurer agreeing with the Genesee County Treasurer.

Correspondence was received from Gary Baxter, President of the New York State County Treasurers' and Finance Officers' Association urging the Legislature to keep the Treasurer's position full time.

Taylor Fitch, Dr. Timothy Dennis, Rich Stewart and John Prendergast all spoke in favor of the proposed law.

James Multer spoke out against the law.

Chairman Paddock closed the public hearing at 6:35 pm.

RESOLUTION NO. 286-2020

Mr. Holgate offered the following resolution and moved its adoption, seconded by Ms. Chilson.
DISCUSSION:

Mr. Cutler stated he appreciates the comments both from the public and Mr. Multer. At the level of our budget we owe it to the voters to have a responsible financial manager for the county. This is a responsibility on the part of the Legislature. Also, under these circumstances we will have a Treasurer that can focus on the taxpayer.

Mr. Bronson stated we shouldn't get hung up on the part-time issue. Whoever is elected Treasurer can put in as much time as they so choose. It is their option.

Mr. Banach stated he questioned the Treasurer position moving to part-time. After listening to the comments, Mr. Banach is going to vote in favor of the local law and leave it up to the voters to make the final decision.

Ms. Chilson agrees with Mr. Banach that it needs to go to the voters.

Mr. Multer stated he is not in favor of this and feels there are some problems with the way the law is written. He stated he will vote for it but, as Mr. Banach stated he will leave it up to the voters to decide.

Mrs. Percy stated the more she thought about this law, she feels it is the best thing for the County.

Mrs. Church stated she highly recommends following the recommendation of the County Administrator/Treasurer.

Chairman Paddock stated with the letter from Genesee County, he took the liberty of contacting a colleague in Genesee County; there is a back story. Chairman Paddock stated he also spoke with Jack Marren, president of NYSAC and the Chairman of the Ontario County Board of Supervisors. He was very impressed with the way their treasurer is able to work with taxpayers to help them pay their taxes in various ways. Chairman Paddock stated that Ms. Flynn put the

proposed law together after viewing how the operation has changed over the years, and what responsibilities are. It was not put together as the County Administrator trying to build a bigger empire. It was put together as a finance person who reviewed operations and said this is the best way to go about it.

Mr. Willson stated as long as there an elected official like the treasurer, who has complete access to books and can review them and make known to the public any discrepancies or whatever, he does not feel this will become an issue.

ADOPT LOCAL LAW 6-20 ENTITLED: A LOCAL LAW RETAINING THE ELECTED COUNTY TREASURER AND ASSIGNING CERTAIN POWERS AND DUTIES TO AN APPOINTED DIRECTOR OF FINANCE

WHEREAS, proposed Local Law 6-20 “Entitled: A Local Law Retaining the Elected County Treasurer and Assigning Certain Powers and Duties to an Appointed Director of Finance” was introduced at the July 13th meeting; and

WHEREAS, a public hearing was duly held on July 27, 2020;

NOW, THEREFORE, BE IT RESOLVED, that proposed Local Law 6-20 entitled “A Local Law Retaining the Elected County Treasurer and Assigning Certain Powers and Duties to an Appointed Director of Finance” is hereby adopted; and be it further

RESOLVED, that a copy of this resolution be given to the County Attorney and the Secretary of State.

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY

Local Law Filing
12231 (Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underling to indicate new matter.

County
City of Yates
Town
Village

LOCAL LAW 6-20 ENTITLED: LOCAL LAW RETAINING THE ELECTED COUNTY TREASURER AND ASSIGNING CERTAIN POWERS AND DUTIES TO AN APPOINTED DIRECTOR OF FINANCE

Be it enacted by the Legislature of the

County
City of Yates as follows:
Town
Village

SECTION 1. LEGISLATIVE PURPOSE

It is the desire of the Yates County Legislature, in its continuing efforts to upgrade the administration of County government, to legally define, clarify and improve the management structure of the financial operations of the County of Yates.

SECTION 2. POWERS AND DUTIES RETAINED BY COUNTY TREASURER

- A. The elected position of County Treasurer will continue as the chief fiscal officer of the County and continue with the powers and duties specified by this law. The Treasurer will provide checks and balances on powers and duties assigned to the Director of Finance and the Department of Finance.
- B. The Treasurer will continue to be responsible for administration, collection and enforcement of real property taxes, including foreclosures and administration of estates that, as important public functions, require the accountability of an elected position. The Treasurer shall appoint, supervise, discipline, and, if necessary, remove employees reporting to the Treasurer, and assign and reassign powers and duties to such employees, have charge and control of employees reporting to the Treasurer in accordance with sound management principles, County policies, Civil Service Law, and other administrative policies and procedures. The Treasurer shall continue with the powers and duties set forth in the laws of New York, with the exception of those that are specifically assigned to the Director of Finance by this local law.

SECTION 3. DIRECTOR OF FINANCE; APPOINTMENT; TERM; DEPUTY

- A. Effective January 1, 2022, there shall be a Department of Finance headed by the Director of Finance, who shall be appointed by the County Legislature, as set forth herein, on the basis of his or her professional, educational, and administrative qualifications and will serve at the pleasure of the Legislature. The Director of Finance shall serve in a policy influencing, confidential capacity to the County Legislature. The Director of Finance shall report to the Legislature through the County Administrator. The term of office of the Director of Finance shall be two years, as follows: On or after January 1, 2022 the Director of Finance shall be appointed by the County Legislature for a two year term from and including January 1, 2022 and ending on December 31, 2023. And similarly thereafter, the Director of Finance shall be appointed by the County Legislature on or after January 1 of an even numbered calendar year for a two year term from and including January 1 of said even numbered calendar year and ending on December 31 of the following odd numbered calendar year.
- B. The Director of Finance shall appoint a deputy director of finance to perform the duties of the Director during the temporary absence or inability of the Director to act. That appointment shall be made from the existing staff of the Department of Finance, and the designation shall carry no additional salary. Such appointment shall be in writing and be filed and recorded in the office of the County Clerk. In the event of a vacancy in the Director position, the deputy director shall possess the powers and perform the duties of the Director until a successor is appointed, and after a period of no longer than thirty (30) days, shall be additionally compensated at the base salary of the Director of Finance.

SECTION 4. POWERS AND DUTIES OF THE DIRECTOR OF FINANCE

- A. The Director of Finance shall appoint, supervise, discipline and, if necessary, remove employees of the Department of Finance, and assign and reassign powers and duties to such employees, have charge and control of employees of the Department of Finance in

accordance with sound management principles, County policies, Civil Service Law and other administrative policies and procedures.

- B. The Director of Finance shall be responsible for the administration of the Department of Finance, shall have general superintendence over the fiscal affairs of the County, and shall manage the County budget. The Director of Finance will provide checks and balances on powers and duties retained by the Treasurer. The Director of Finance shall have the following powers and duties:
- a. Accounting:
 - i. Keep records of revenues, appropriations, encumbrances and expenditures, and prescribe approved methods of accounting for County officers and administrative units.
 - ii. Review all requisitions to determine that sufficient funds exist with which to pay them.
 - iii. Keep separate accounts for each County officer and department and maintain the funds of the County as prescribed by law and in accordance with the directives of the County Legislature.
 - iv. Prepare monthly financial reports of the revenues, expenses and balances of the County.
 - b. Audit all claims, accounts and demands that are lawful County charges and present to the County Legislature for review and authorization for payment.
 - c. Subject to the provisions of the Civil Service Law, prepare payrolls and pay the salaries and wages of officers and employees paid from County funds or delegate and authorize an officer or employee of the department to certify the correctness of payrolls.
 - d. Manage the recording and investment of cash.
 - e. Administer and account for court and trust funds.
 - f. Monitor the County sales tax program, ensuring that all sales taxes collected are remitted to and received by the County.
 - g. Administer the County occupancy tax program, ensuring that all occupancy taxes are collected and are remitted to and received by the County.
 - h. Monitor and analyze the current financial position of the County and forecast future results.
 - i. Administer the issuance of bonds and notes as approved by the County Legislature.
 - j. Administer existing County fiscal/financial policies and create new policies as required.
 - k. Require, as appropriate, any County officer or head of a department to furnish an inventory of supplies and equipment on hand and necessary purchases contracted for or contemplated.
 - l. Pay all lawful claims or charges against the County for which the County is responsible and preserve all claims, accounts and demands as required by law.
 - m. Periodically audit the cash and fiscal records of all County departments and implement fiscal efficiencies in all of the County operations and enterprises
 - n. Review and analyze departmental budgets, identifying variances and recommending necessary corrective action to the departments and the County Administrator.
 - o. On or before March 1st each year, submit financial reports to the County Legislature summarizing the fiscal condition of the County at December 31st of the previous year.

Furnish such additional reports and graphs from time to time as needed by the County Administrator and the County Legislature.

- p. Prepare the annual financial report for the NYS Comptroller.
- q. Manage the County fund balances to ensure that they are adequate and sufficient to meet operating needs.
- r. Keep a record of all bonded indebtedness and other loans and conduct the sale of all bonds pursuant to the provisions of the Local Finance Law.
- s. Determine and report the financial and budgetary impact on the County of
 - i. all proposed County policy decisions,
 - ii. changes in state and federal budgets and
 - iii. any changes in environmental factors.
- t. Additional and related duties as may be directed by the County Legislature.

SECTION 5. ACCESS TO RECORDS

Notwithstanding any other provision of law, the Director of Finance and the County Treasurer shall have full access to all financial books and records of the County and of their respective offices.

SECTION 6. SEVERABILITY

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 7. MANDATORY REFERENDUM

This Local Law shall be subject to a mandatory referendum, and shall be submitted for the approval of the electors of the County of Yates at the next general election to be held November 3, 2020, and shall take effect when approved by said electors in the manner set forth in §23 of the Municipal Home Rule Law, filed in the office of the Secretary of State and as provided in §3 of this local law.

VOTE: Unanimous

RESOLUTION NO. 286-20

Mr. Holgate offered the following resolution and moved its adoption, seconded by Mr. Willson.

SET DATE FOR PUBLIC HEARING ON PROPOSED LOCAL LAW 4-2020 ENTITLED “RENEWING A LOCAL LAW ESTABLISHING AN ADDITIONAL MORTGAGE TAX FOR MORTGAGES ON REAL PROPERTY SITUATED IN YATES COUNTY”

BE IT RESOLVED, that the Clerk of the Yates County Legislature is directed to advertise a public hearing on proposed local law 4-2020 entitled “Renewing A Local Law Establishing An Additional Mortgage Tax For Mortgages On Real Property Situated In Yates County”; and be it further

RESOLVED, said public hearing shall be held August 10, 2020 during the regularly scheduled meeting in the Yates County Legislative Chambers, 417 Liberty Street, Penn Yan, NY and will also be available by Zoom meeting.

NEW YORK STATE DEPARTMENT OF STATE
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City of Yates
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LOCAL LAW 4-20 ENTITLED “RENEWING A LOCAL LAW ESTABLISHING AN ADDITIONAL MORTGAGE TAX FOR MORTGAGES ON REAL PROPERTY SITUATED IN YATES COUNTY”

Be it enacted by the Legislature of the

County
City of Yates as follows:
Town
Village

SECTION 1. Pursuant to §253-t of the Tax Law, and commencing December 1, 2020, there is hereby imposed in Yates County a tax of twenty-five cents (\$0.25) for each one hundred dollars (\$100.00) and each remaining major fraction thereof of principal debt or obligation which is or under any contingency may be secured at the date of execution thereof, or at any time thereafter, by a mortgage on real property situated within such county and recorded on or after the date upon which such tax takes effect and a tax of twenty-five cents (\$0.25) on such mortgage if the principal debt or obligation which is or by any contingency may be secured by such mortgage is less than one hundred dollars (\$100.00). This local law hereby continues without interruption the imposition of the Yates County Mortgage Recording Tax as authorized by Yates County local law number 1 of 2005.

SECTION 2. The taxes imposed under the authority of this local law shall be administered and collected in the same manner as the taxes imposed under subdivision 1 of Section 253 and paragraph (b) of subdivision 1 of Section 255 of the Tax Law. Except as otherwise provided in this section, all the provisions of the Tax Law relating to or applicable to the administration and collection of the taxes imposed by such subdivisions shall apply to the taxes imposed under the authority of this section with such modifications as may be necessary to adapt such language to the tax so authorized. Such provisions shall apply with the same force and effect as if those provisions had been set forth in full in this local law, except to the extent that any provision is either inconsistent with a provision of this local law or not relevant to the tax authorized by this local law. For purposes of this section, reference in this article to the tax or taxes imposed by Article 11 of the Tax Law shall be deemed to refer to a tax imposed pursuant to this local law, and any reference to the phrase “within this state” shall be read as “within Yates County”, unless a different meaning is clearly required.

SECTION 3. Where the real property covered by the mortgage subject to the tax imposed pursuant to the authority of this local law is situated in this State but within and without Yates County, the amount of such tax due and payable to Yates County shall be determined in a manner similar to that prescribed in the first paragraph of Section 260 of the Tax Law, which concerns real property situated in two or more counties. Where such property is situated both within Yates County and without the State, the amount due and payable to Yates County shall be determined in the manner prescribed in the second paragraph of Section 260 of the Tax Law, which concerns property situated within and without the State. Where real property is situated within and without Yates County, the recording officer of the jurisdiction in which the mortgage is first recorded shall be required to collect the taxes imposed pursuant to this section.

SECTION 4. A tax imposed under the authority of this section shall be in addition to the taxes imposed by Section 253 of the Tax Law and shall take effect on December 1, 2020 and shall expire and be deemed repealed on December 1, 2023.

SECTION 5. Notwithstanding any provision of Article 11 of the Tax Law to the contrary, the balance of all moneys paid to the recording officer of the County of Yates during each month upon account of the tax imposed pursuant to the authority of this local law, after deducting the necessary expenses of his or her office as provided in Section 262 of the Tax Law, except taxes paid upon mortgages which under the provisions of this section or Section 260 of the Tax Law are first to be apportioned by the New York State Commissioner of Taxation and Finance, shall be paid over by such officer on or before the tenth (10th) day of each succeeding month to the Treasurer of Yates County and, after the deduction by such County Treasurer of the necessary expenses of his or her office provided in Section 262 of the Tax Law shall be deposited in the general fund of the County of Yates for expenditure on any county purpose. Notwithstanding the provisions of the preceding sentence, the tax so imposed and paid upon mortgages covering real property situated in two or more counties, which under the provisions of this section or Section 260 of the Tax Law are first to be apportioned by the New York State Commissioner of Taxation and Finance, shall be paid over by the recording officer receiving the same as provided by the determination of said Commissioner.

SECTION 6. Any local law imposing a tax pursuant to the authority of this local law repealing or suspending such a tax shall take effect only on the first day of a calendar month. Such a local law shall not be effective unless a certified copy thereof is mailed by registered or certified mail to the New York State Commissioner of Taxation and Finance at the Commissioner's office in Albany at least thirty (30) days prior to the date the local law shall take effect.

SECTION 7. Certified copies of any local law described in this section shall also be filed with the County Clerk of the County of Yates, the Secretary of State and the State Comptroller within five days (5) after the date it is duly enacted.

VOTE: Unanimous

Mr. Willson moved to enter into executive session to discuss:

1. collective bargaining involving CSEA union with members of the legislature, County Administrator and the County Information Technology Director present by phone or Zoom access;
2. the employment and/or financial history of a particular person or persons, with members of the legislature, County Administrator and County Information Technology Director present by phone or Zoom access.

It is not anticipated that there will be any resolutions forthcoming after the conclusion of the executive sessions. Seconded by Mrs. Percy.

VOTE: Unanimous

Meeting adjourned at 7:10 p.m.