

Intro. Res. No. 1300-2018
Introduced by Legislators Berland and Spencer

Laid on Table 4/24/2018

**RESOLUTION NO. 520-2018, ADOPTING LOCAL LAW
NO. 20 -2018, A LOCAL LAW TO CLARIFY HOTEL/MOTEL
TAX LAW**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on April 24, 2018, a proposed local law entitled, "**A LOCAL LAW TO CLARIFY HOTEL/MOTEL TAX LAW**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 20 -2018, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO CLARIFY HOTEL/MOTEL TAX LAW

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the State of New York authorizes the County of Suffolk to collect a hotel/motel tax, which is set at 3% of the per diem rental rate for each hotel or motel room.

This Legislature further finds that the authorizing State legislation provides a formula for how the revenue from the hotel/motel tax shall be used and distributed. While this formula contains several broad categories of funding (i.e. 10% to support cultural programs, 20% for the care, maintenance and interpretation of historic structures and unique natural areas managed by the County), the State law also specifically earmarks funding for two entities, the Suffolk County Vanderbilt Museum and the Walt Whitman Historic Birthplace.

This Legislature also finds that the Suffolk County Comptroller is authorized and empowered to audit agencies that receive funding from the County of Suffolk.

This Legislature further determines that should the Comptroller find that a County funded agency spent monies in an unauthorized or inappropriate manner, he or she may seek to reclaim or recoup these monies under statutory or contractual provisions.

This Legislature finds and determines that there is an inherent conflict between the provisions of State law which specifically provide that the Suffolk County Vanderbilt Museum and the Walt Whitman Historic Birthplace will receive a set allowance from hotel/motel tax revenue and other statutory and contractual provisions which authorize the Comptroller to audit these agencies and seek redress in the event an audit discovers irregularities.

This Legislature concludes that in resolving this conflict, the County of Suffolk should accommodate the clearly expressed policy preferences of the New York State Legislature and provide the agreed upon level of funding to the entities that are specifically designated to receive distributions from the hotel/motel tax.

This Legislature believes that in the event a County audit reveals that the Suffolk County Vanderbilt Museum or the Walt Whitman Historic Birthplace charged expenditures to the County that are not in accordance with their contract and/or applicable rules and regulations, and the Comptroller seeks to withhold or recoup monies from these agencies, the Comptroller should release these monies once the agency has corrected the deficiencies identified in the audit.

Therefore, the purpose of this local law is to establish a procedure that will allow the Suffolk County Vanderbilt Museum and the Walt Whitman Historic Birthplace to receive hotel/motel tax revenues they are entitled to under State law once they correct deficiencies identified in an audit conducted by the Suffolk County Comptroller.

Section 2. Amendments.

Chapter 523-16 of the SUFFOLK COUNTY CODE is hereby amended as follows:

§ 523-16. Rules and regulations.

- A. The County Comptroller, or the successor in interest to that office, is hereby authorized to promulgate any rules and regulations deemed necessary to effectuate the purposes and provisions of this article and consistent therewith.
- B. In the event a Comptroller audit of the Suffolk County Vanderbilt Museum or the Walt Whitman Historic Birthplace determines that entity's actions did not comply with its County contract or violated the Comptroller's rules and regulations, and the Comptroller seeks to recoup monies previously paid to that entity or withhold monies budgeted for that entity, the Comptroller shall hold such monies in escrow. The Comptroller shall release these monies to that entity if the Comptroller determines, within one (1) year of the date of the release of audit, that the entity has corrected the deficiencies identified in the audit report.
1. If the Suffolk County Vanderbilt Museum or the Walt Whitman Historic Birthplace asks the Comptroller to release the escrowed monies, that entity shall submit a written plan for corrective action demonstrating that it has taken or will take the necessary action or actions to cure the deficiencies identified in the audit. The Comptroller shall, within 30 days of his or her receipt of the plan, either accept the plan as sufficient to warrant the release of the escrowed monies or reject the plan as inadequate and specify the continuing deficiencies. The Comptroller shall notify the entity in writing of his or her determination.
 2. In the event the Comptroller rejects a corrective action plan, the Suffolk County Vanderbilt Museum or the Walt Whitman Historic Birthplace may submit a revised plan to the Comptroller that seeks to cure the deficiencies identified in the Comptroller's rejection of the initial plan. The Comptroller shall, within 20 days of his receipt of the revised plan, either accept the plan as sufficient to warrant the release of the escrowed monies or reject the plan as inadequate and specify the continuing deficiencies. This Comptroller shall notify the entity in writing of his or her determination and a rejection of the revised plan shall be deemed final.

3. The Comptroller will not release monies to the Suffolk County Vanderbilt Museum or the Walt Whitman Historic Birthplace under the terms of this section if that entity's actions violated a federal, state or local law that provides for criminal penalties or if the audit found that the County paid that entity more than it was entitled to under the funding formula set forth section 1202-o of NEW YORK TAX LAW.

Section 3. Applicability.

This law shall apply to audit reports issued by the Comptroller on or after January 1, 2018.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this 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 or 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 law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

This law shall take effect immediately upon its filing in the Office of the Secretary of State.

___ Underlining denotes addition of new language

DATED: June 19, 2018

APPROVED BY:
/s/ Steven Bellone
County Executive of Suffolk County

Date: July 13, 2018
After a public hearing duly held on July 5, 2018
Filed with the Secretary of State on August 1, 2018