

**RESOLUTION NO. 722 -2018, ADOPTING LOCAL LAW
NO. 23 -2018, A LOCAL LAW TO ENHANCE LEGISLATIVE
OVERSIGHT OF ASSET FORFEITURE FUNDS**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on June 19, 2018, a proposed local law entitled, "**A LOCAL LAW TO ENHANCE LEGISLATIVE OVERSIGHT OF ASSET FORFEITURE FUNDS**"; now, therefore be it

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

LOCAL LAW NO. 23 -2018, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO ENHANCE LEGISLATIVE OVERSIGHT OF
ASSET FORFEITURE FUNDS**

**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 County of Suffolk receives significant sums of money from New York State and the federal government through asset forfeiture.

This Legislature also finds that forfeiture monies are not deposited in the General Fund, are considered "off budget" items and are held and expended at the discretion of the County's law enforcement agencies -- the Police Department, Probation Department, the Sheriff and District Attorney.

This Legislature finds that in an effort to increase transparency, accountability and oversight of asset forfeiture monies, the County Legislature enacted Local Law No. 6-2017. This local law restored the County Comptroller's authority to audit forfeiture funds held by the Police Department, Probation Department, Sheriff and District Attorney and determine "the regularity, legality and correctness of appropriations and expenditures made in connection with such funds".

This Legislature also determines that since Local Law No. 6-2017 was enacted, it has been reported by the news media that the former District Attorney used forfeiture monies to pay "bonuses" to certain assistant district attorneys. These bonuses were apparently paid at the sole discretion of the former District Attorney without the knowledge, much less the approval, of the County Legislature, the policymaking and appropriating body of the Suffolk County government.

This Legislature also finds that while the payment of these so-called bonuses may have been technically permissible under federal and state guidelines, they have skewed and distorted the County's salary plan by rewarding certain exempt employees in a department that has access to forfeiture monies.

This Legislature concludes that it is now exceedingly clear that stronger legislative oversight of asset forfeiture monies is required to ensure transparency and guarantee that forfeiture monies are used in an appropriate manner.

Therefore, the purpose of this local law is to prohibit the use of asset forfeiture monies to pay employee salaries, unless approved by the County Legislature, and to establish rules and procedures to ensure that these monies are spent in a lawful and appropriate manner.

Section 2. Amendments.

I.) A new Article II of Chapter 86 of the Suffolk County Code is hereby added as follows:

**CHAPTER 86.
FINANCES**

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**ARTICLE II.
ASSET FORFEITURE FUNDS**

§ 86-4. Definitions.

As used in this law, the following terms shall have the meanings indicated:

CHAIRPERSON - the Chair of the Public Safety Committee of the Suffolk County Legislature or any successor committee thereto.

COMMITTEE - the Public Safety Committee of the Suffolk County Legislature or any successor committee thereto.

FEDERAL ASSET FORFEITURE FUNDS - federally forfeited property shared with participating state and local law enforcement agencies authorized by federal law and guidelines.

GUIDELINES - the United States Department of Treasury "Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies" and the United States Department of Justice "Guide to Equitable Sharing for State and Local Law Enforcement Agencies" together with any supplement or successor to either guide.

NEW PURCHASE – the purchase of any item or service by a recipient agency with federal or state asset forfeiture funds which has not been subject to the review process established under this Article.

PRESIDING OFFICER – the Presiding Officer of the Suffolk County Legislature.

RECIPIENT AGENCY - every County department, office or agency entrusted with federal or state asset forfeiture funds.

STATE ASSET FORFEITURE FUNDS - property claimed under Article 13-a of the New York Civil Practice Law and Rules.

§ 86-5. Recipient Agency powers.

Subject to the provisions of section 86-7 of this Article, a recipient agency may only expend federal or state asset forfeiture funds for law enforcement purposes permissible under federal and state laws, rules, regulations and guidelines now existing or hereinafter promulgated governing the use of federal or state asset forfeiture funds and as consistent with this Article. Nothing within this Article shall be construed to authorize the purchase of any goods or services which does not conform with applicable federal or state law or any rule, regulation or guideline governing the use of asset forfeiture funds.

§ 86-6. Legislative review.

A.) Any recipient agency which wishes to expend asset forfeiture funds on a new purchase of an item or service priced at more than \$20,000, must prior to making such purchase, provide written notice of its intent to purchase to the County Executive, the Presiding Officer and the Chairperson. Such notice shall include the name or title of item or service, the cost of the purchase, the quantity of each item or service, the vendor from whom the purchase shall be made and a description of the law enforcement purpose of each item or service purchased.

B.) The head of a recipient agency may apply to the County Executive, the Presiding Officer and the Chairperson for confidentiality in the submission of a written notice of the intent to make a new purchase. Such application shall be made by affirmation, supported with reasonable detail, explaining why confidentiality in the review of the purchase is necessary. Review of the application shall be conducted by the County Executive, Presiding Officer and Chairperson in-camera and shall not divulge sources and methods that in the judgment of the head of the recipient agency will compromise the mission or safety of law enforcement or government personnel or civilians.

C.) Upon receipt of a notice to make a new purchase, the County Executive, the Presiding Officer or the Chairperson may respond in writing directing the recipient agency to delay the purchase pending approval of the Public Safety Committee. The delayed purchase must be considered by the Public Safety Committee at its next regularly scheduled meeting. If neither the County Executive, the Presiding Officer nor the Chairperson responds to the written notice within six (6) business days of their receipt of notice, the recipient agency may proceed with the purchase.

E.) If a new purchase is referred to the Public Safety Committee for consideration, the recipient agency may request that the proposed purchase request be discussed in executive session. The Committee may grant the request if it determines that an executive session is appropriate under the NEW YORK OPEN MEETINGS LAW.

F.) If the Public Safety Committee rejects the proposed purchase, the recipient agency may request that the purchase be considered for approval by the full Legislature at its next general meeting via the enactment of a procedural resolution.

G.) A recipient agency may apply to the County Executive, the Presiding Officer and the Chairperson, under emergency circumstances, for an expedited approval of a new purchase. Such application shall be submitted to all three officials and made by affirmation, supported with reasonable detail, explaining the emergency circumstances which make an expedited approval necessary. Such application may be approved by the signed authorization of two of the

following individuals: the County Executive, the Presiding Officer and the Chairperson. In the event the application for an expedited approval of a new purchase is approved pursuant to this paragraph, the County Executive, the Presiding Officer or the Chairperson may refer the purchase to the Public Safety Committee for its review and consideration.

§ 86-7. Travel.

Notwithstanding the provisions of section 86-6 of this Article, separate application of approval for payment of all tuition expenses and attendance of County officers and employees at schools, seminars, institutes and the like conducted for the betterment of municipal government are subject to the provisions of sections A2-17 and A3-1 of the Administrative Code.

§ 86-8. Procedure.

Committee procedures under this Article shall conform to applicable state and local law and resolutions and the rules of the Suffolk County Legislature.

II.) A new Article III of Chapter 205 of the Suffolk County Code is hereby added as follows:

**Chapter 205.
SALARIES AND COMPENSATION**

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**ARTICLE III.
ASSET FORFEITURE FUNDS**

§ 205-8. Definitions.

FEDERAL ASSET FORFEITURE FUNDS - federally forfeited property shared with participating state and local law enforcement agencies authorized by federal law and guidelines.

GUIDELINES - the United States Department of Treasury "Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies" and the United States Department of Justice "Guide to Equitable Sharing for State and Local Law Enforcement Agencies" together with any supplement or successor to either guide.

RECIPIENT AGENCY - every County Department, Office or Agency entrusted with federal or state asset forfeiture funds

STATE ASSET FORFEITURE FUNDS - property claimed under Article 13-a of the New York Civil Practice Law and Rules.

§ 205-9. Compensation prohibited.

No recipient agency entrusted with federal or state asset forfeiture funds may use asset forfeiture property to compensate any employee unless it is found permissible under federal and state laws, rules, regulations and guidelines now existing or hereinafter promulgated governing use of federal or state asset forfeiture funds, and is authorized by the County Legislature via a resolution duly adopted pursuant to section C2-12 of the SUFFOLK COUNTY CHARTER.

Section 3. Applicability.

This law shall apply to the use or expenditure of asset forfeiture proceeds occurring on or after the effective date of this law.

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 and not before January 1, 2019.

___ Underlining denotes addition of new language

DATED: September 5, 2018

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: September 24, 2018

After a public hearing duly held on September 20, 2018
Filed with the Secretary of State on October 10, 2018