

LOCAL LAW PERMANENT 8 OF 2010

Local Law Intro No. 10 Of 2010

Amending The Broome County Charter And Code To Create The Office Of Management And Budget

BE IT ENACTED, by the Legislature of the County of Broome as follows:

Section 1. Section C105 of the Broome County Charter and Code is hereby amended to read as follows:

Section 1. Section C105 of the Broome County Charter and Code is hereby amended to read as follows:

§C105. Definitions.

Whenever used in this Charter, unless otherwise expressly stated, or unless the context or subject matter otherwise requires, the following terms shall have the meanings indicated:

ADMINISTRATIVE CODE – The Broome County Administrative Code and all amendments thereto.

ADMINISTRATIVE HEAD – The head of any administrative unit.

ADMINISTRATIVE UNIT – Any department, executive division, institution, office or other agency of County government, except a bureau, division, section or other subordinate part of any of the foregoing.

AUTHORIZED AGENCY – Any agency authorized by this Charter, Administrative Code or applicable law, including but not limited to those authorized by § 224 of the County Law, to receive and expend County funds for a County purpose.

CHARTER AND COUNTY CHARTER – The Broome County Charter and all amendments thereto.

COUNTY – The County of Broome.

COUNTY LEGISLATOR – A person elected from a Legislative District to represent it on the County Legislature.

COUNTY LEGISLATURE – The elective legislative body of the County of Broome.

EXECUTIVE DIVISION – Includes but is not limited to the Division of Information Technology and such other divisions of the Executive Department as may be hereinafter authorized.

LEGISLATIVE DISTRICT – A geographical area of Broome County which is entitled to elect a County Legislator.

QUORUM – A majority of the whole number of members of the County Legislature and a majority of the whole number of the membership of the commission, body or other group of person or offices charged with any County public power, authority or duty to be performed or exercised by them jointly, and not less than a majority as required herein may perform and exercise such power, authority or duty.

Section 2. That Section C302 (F) and (G) of the Charter and Code are amended to read as follows:

(F) Designate one (1) or more depositories located within the County for the deposit of all moneys received by the Director of the Office of Management and Budget, and determine what funds may be invested and in what securities, according to law.

(G) Examine and approve or disapprove the sufficiency of sureties on official bonds and undertakings of the Directors of the Office of Management and Budget and the Division of Information Technology. The sufficiency of

sureties of all other official bonds and undertakings shall be examined and approved or disapproved by the County Legislature.

Section 3. Section C307 of the Charter and Code is repealed.

Section 4. Section C311 of the Charter and Code shall be amended to read as follows:

§C311. Administrative heads; interim appointment; appointment of other officers and employees.

Except as otherwise provided in this Charter, the County Executive shall appoint to serve at his pleasure, or for such term as may be specified in this Charter, the head of every department or other administrative unit not administered by an elective official. The appointment by the County Executive of the head of each department or other administrative unit shall be subject to confirmation by the County Legislature, except for the Division of Solid Waste Management. The County Executive may appoint one (1) head for two (2) or more departments or other administrative units, subject to all requirements as to qualifications, or may himself so serve. All appointments shall be in writing, signed by the County Executive and filed in the office of the Clerk of the County Legislature and the County Clerk within ten (10) days after the date of appointment. No such appointee shall hold office beyond the term of the County Executive by whom the appointment was made, except that, unless removed, he shall continue to serve until his successor is appointed and has qualified or until an interim appointment is made, unless otherwise provided in this Charter. Upon confirmation by the County Legislature and qualifying for the office, an appointee to the position of head of a department or other administrative unit shall enter upon the duties thereof. In the event that the County Legislature has neither confirmed nor rejected by majority of the whole number of members of the County Legislature an appointment by the next regular meeting occurring more than fifteen (15) days after the filing of appointment with the Clerk of the County Legislature, such appointment shall be deemed to be confirmed. Awaiting action by the County Legislature, the County Executive may designate a qualified person to serve as such head. All other officers and employees of each department or other administrative unit shall be appointed by the head thereof, unless otherwise provided by this Charter.

Section 5. Article V of the Charter is hereby amended to read as follows:

ARTICLE V

Office of Management and Budget

§ C501. Office of Management and Budget; Director; appointment; qualifications; elective office of Treasurer abolished.

There shall be an Office of Management and Budget headed by a Director who shall be appointed by the County Executive, subject to confirmation by the County Legislature, and shall serve at the pleasure of the County Executive. The elective office of County Treasurer shall be abolished as of January 1, 1969.

§ C502. Powers and duties.

The Director of Management and Budget shall:

- (A) Be the chief fiscal officer of the County and have charge of the administration of all its financial affairs.
- (B) 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.
- (C) Submit to the County Legislature annually on or before the first day of April and at such other times as such Legislature may require a complete financial statement containing a general balance sheet for the County.
- (D) Perform all the duties, including, but not limited to, the collection of taxes required by any law to be performed by a County Treasurer.

- (E) Submit annually, on or before the first day of September, to the County Executive proposed County Tax Equalization Rates consistent with standards prescribed by the Legislature of the State of New York.
- (F) Perform all duties in relation to the extension of taxes and such other and related duties in connection therewith as shall be prescribed by the County Executive or County Legislature.
- (G) Perform such other and related duties as shall be required or delegated to him by the County Executive or County Legislature.
- (H) Have all the powers and duties conferred upon a public administrator pursuant to the Surrogate's Court Act of the State of New York.
- (I) Assist the County Executive in the preparation and administration of the operating and capital budgets, the capital program and in the study of administrative efficiency.
- (J) Initiate such studies as the County Executive, the County Legislature or he himself may deem necessary, except that any such studies shall have some bearing or relation to County government.
- (K) Be vested with authority, direction and control over a department, and have the power and authority to appoint and remove officers and employees therein.

Section 6. Section C602 of the Charter and Code is amended to read as follows:

§ C602. Preparation of proposed budget and capital program.

The Director of the Office of Management and Budget shall prepare a proposed budget and capital program for submission to the County Executive in such manner and form as shall be prescribed by this Charter and the Administrative Code.

Section 7. Section C607(G) of the Charter and Code is amended to read as follows:

- (G) Five (5) copies of the budget, as adopted, shall be certified by the County Executive and by the Clerk of the County Legislature, and one (1) each of such copies shall be filed in the office of the County Executive, the Comptroller, the Director of Management and Budget, the Clerk of the County Legislature and the Department of Audit and Control, State of New York. The budget, as so certified, shall be printed or otherwise reproduced and copies shall be made available.

Section 8. Section C2302-A(3) of the Charter and Code is amended to read as follows:

3. The Board of Trustees shall have the authority to authorize the Treasurer to establish and maintain petty cash funds, not in excess of two hundred dollars (\$200) each, for specified college purposes or undertakings from which may be paid, in advance of audit, properly itemized and verified or certified bills for materials, supplies or services furnished to the college for the conduct of its affairs and upon terms calling for the payment of cash to the vendor upon delivery of any such materials or supplies or rendering of such services. Lists of all expenditures made from such petty cash funds shall be presented to the Trustees at each regular meeting thereof together with the bills supporting such expenditure, for audit, and the Board shall direct the reimbursement of such petty cash funds from the appropriate budgetary item or items in an amount equal to the total of such bills which the Board shall so audit and allow.
Any such bills or any portion of any such bills as shall be disallowed upon audit shall be the personal responsibility of the Treasurer, and such Treasurer shall forthwith reimburse such petty cash fund in the amount of such disallowances.

The Treasurer shall file a report with the County Director of Management and Budget and the Comptroller detailing the expenditures in each petty cash fund within ten (10) days of the Board meeting where such expenditures were presented for audit and allowance.

Section 9. Section C2604 of the Charter and Code is amended to read as follows:

§C2604. Classified service; exemptions.

All positions in all departments, officers, institutions and agencies of the County shall be in the classified service, except those held by the following: (1) elective officers; (2) heads of departments; (3) members of all boards, commissions and committees; and (4) the Commissioner of Jurors. For the purpose of this section, the heads of the divisions within the Executive Branch, including but not limited to [Budget and Research] the Division of Information Technology [and the Division of Solid Waste], shall be deemed to be heads of departments. The following positions in the classified service shall be included in the exempt class: (1) deputies who are authorized to act generally for and on behalf of their principals; (2) the confidential secretary to any officer or department head; (3) calendar clerk; (4) Personnel Officer; (5) Assistant District Attorney; (6) Assistant County Attorneys; (7) Assistant Public Defenders; and (8) contractors and their employees engaged to perform specified services.

Section 10. Section A105 of the Charter and Code is hereby amended to read as follows:

§ A105. Definitions.

Wherever used in this Code, unless otherwise expressly stated or unless the context or subject matter otherwise requires, the following terms shall have the meanings indicated: ADMINISTRATIVE HEAD – The head of any administrative unit.

ADMINISTRATIVE UNIT – Any department, executive division, institution, office or other agency of County government except a bureau, division, section or other subordinate part of any of the foregoing.

AUTHORIZED AGENCY – Any agency authorized by the Charter, Code or applicable law, including but not limited to those authorized by § 224 of the County Law, to receive and expend County funds for a County purpose.

CHARTER AND COUNTY CHARTER – The Broome County Charter and all amendments thereto.

CODE – The Broome County Administrative Code and all amendments thereto.

COUNTY – The County of Broome.

COUNTY LEGISLATOR – A person elected from a Legislative District to represent it on the County Legislature.

COUNTY LEGISLATURE – The elective legislative body of the County of Broome.

EXECUTIVE DIVISION – Includes but is not limited to the Division of Information Technology and such other divisions of the Executive Department as may be hereinafter authorized.

LEGISLATIVE DISTRICT – A geographical area of Broome County which is entitled to elect a County Legislator.

QUORUM – A majority of the whole number of members of the County Legislature and a majority of the whole number of the membership of the commission, committees, body or other group of persons or officers charged with any County public power, authority or duty to be performed or exercised by them jointly, and not less than a majority as required herein may perform and exercise such power, authority or duty.

Section 11. Section A203(H) of the Charter and Code is hereby amended to read as follows:

(H) To fix the amount of bonds of officers and employees paid from County funds and to examine and approve or disapprove the sufficiency of sureties on all official bonds or undertakings of County officers and employees, except those for Director of Office of Management and Budget and Director of Information Technology.

Section 12. Section A216(C) of the Charter and Code is hereby amended to read as follows:

- (C) Upon audit of bills, the petty cash fund shall be reimbursed from the appropriate budgetary item or items in the amount equal to the amount audited and allowed. The Comptroller immediately shall notify the Director of Management and Budget, in writing, of the disallowance of any such bills or any portion thereof, stating the amount in each case disallowed and the reason therefor. Any of such bills or any portion thereof as shall be disallowed upon audit shall be the personal liability of the official responsible for the use of the petty cash fund from which payment on account thereof was made. Such official, upon direction of the Comptroller, shall forthwith reimburse the petty cash fund in the amount disallowed. If such reimbursement is not promptly made, the amount thereof shall be deducted from the official's salary by order of the Comptroller and paid into the petty cash fund until repaid in full.

Section 13. Section A302(D), (K) and (L) of the Charter and Code is hereby amended to read as

follows:

- (D) Determine and fix real property tax equalization rates among the various taxing districts of the County for County purposes. On or before the first day of November in each year, after reviewing the proposed County tax equalization rates submitted to him by the Director of Management and Budget, and after obtaining such additional information or holding such hearings thereon as he may deem necessary or advisable, the County Executive shall file said rates, together with an abstract of evidence upon which the rates are based, with the County Legislature. The proposed rates shall be subject to confirmation and revision by the County Legislature, and the County Executive shall have no veto power over the final determination by the County Legislature. If the County Legislature fails to act by a majority vote upon these proposed rates by the 20th day of November, the determination by the County Executive of the tax equalization rates shall be final. The documentary evidence used in determining the County equalization rates shall be preserved by the County Executive, and an abstract of the same shall be published with the County equalization rates in the proceedings of the County Legislature.
- (K) Designate one or more depositaries located within the County for the deposit of all moneys received by the Director of Management and Budget and determine what funds may be invested and in what securities, according to law.
- (L) Examine and approve or disapprove the sufficiency of sureties on official bonds and undertakings of the Directors of the Office of Management and Budget and Division of Information Technology.

Section 14. Section A305 of the Charter and Code is repealed.

Section 15. Section A309(A) of the Charter and Code is hereby amended as follows:

§A309. Administrative heads; interim appointment.

- (A) Except as otherwise provided in the Charter, the County Executive shall appoint, to serve at his or her pleasure, or such term as may be specified in the Charter, the head of every administrative unit not administered by an elected official. The appointment by the County Executive of the head of each administrative unit shall be subject to the confirmation by the County Legislature, except for the Director of Purchasing. The County Executive may appoint one head for two or more departments or other administrative units, subject to any and all requirements as to qualifications and confirmation, or may himself or herself so serve without such confirmation all without substantial salary for so serving.

Section 16. Section A402(B), (F), (G)(1), (2), (6) and (J) of the Charter and Code is hereby

Amended to read as follows:

- (B) The Comptroller shall approve and certify all payrolls for salaries and compensation of all County employees and officers; he shall furnish a certified transcript of said payrolls, as approved, to the Director of Management and Budget. All original payrolls shall be filed with the Comptroller. Before the payrolls are presented to the Comptroller, they shall be certified, in writing, by the head of the appropriate administrative unit or his deputy to the effect that each person named therein was properly appointed to the position set forth therein and that the salary or compensation stated in such payroll is true and correct. Such certification shall be in the manner and form prescribed by the Comptroller. The Comptroller shall not approve any payroll or item thereof until the Personnel Officer shall have certified that the persons named therein are employed in their respective positions.
- (F) The Comptroller shall prepare and submit to the Director of Management and Budget, annually on such date and on such forms as the Director shall designate and prescribe, the information required by the Director to assist him in the preparation of the proposed budget and capital program.
- (G) (1) At least monthly, procure bank statements for all depositaries of funds under the custody and control of the Director of Management and Budget and reconcile such statements with the Director's books, and periodically procure bank statements from all other depositaries of County funds and funds for which the County is responsible and reconcile the statement with the books of such administrative unit. The Comptroller shall have access to the books of the Director of Management and Budget and other administrative units at all times.
 - (2) Audit and review the records of the Director of Management and Budget with respect to all moneys and funds of whatever name or nature received and disbursed by the Director of Management and Budget and for that purpose he shall procure, daily, statements from the Director of Management and Budget showing funds and moneys so received and disbursed in such forms as the Comptroller shall direct.
 - (6) Procure from the Director of Purchasing at least annually a certified copy of the inventory maintained by such Director pursuant to § A306(2)(A)(9) of this Code and, in accordance with good accounting practices, periodically verify the accuracy of the same. The certified copy of such inventory and the record of action taken by the Comptroller to determine and certify the same as prescribed herein shall be maintained as a permanent record of his or her Department. The Comptroller shall prescribe the procedure and method for the making of inventories by the head of each administrative unit and by the Director of Purchasing and a copy of such procedure shall be filed with the Legislative Clerk.
- (J) The County Executive shall make the services of the Director of Purchasing in relation to purchasing or procurement functions available to the Comptroller in the preparation of any reports prescribed in the Charter and Code.

Section 17. Section A405 of the Charter and Code is hereby amended to read as follows:

§ A405. Bond of Comptroller.

The Comptroller and such of his Deputies, officers and employees as may be required by the

County Legislature shall furnish a surety bond to the County in a sum fixed by the County Legislature, conditioned for the faithful performance of his duties. Each bond shall be approved as to form by the County Attorney and as to the sufficiency of surety by the County Legislature and filed with the Office of Management and Budget.

Section 18. Article IV of the Administrative Code is hereby amended to read as follows:

ARTICLE IV

Office of Management and Budget

§ A501. Office of Management and Budget; Director; appointment; qualifications

The Office of Management and Budget shall be headed by a Director. The method of choosing a Director shall be as provided in § C501 of Article V of the Charter. The qualifications of the Director shall be as follows:

- (1) Graduation with a bachelor's degree from an accredited college having a four-year program, with major work in accounting, together with four years of experience in the accounting field, two of which preferably with a municipality;
- (2) Graduation from a standard senior high school, together with eight years of experience in the accounting field, two of which preferably with a municipality;
- or
- (3) Any equivalent combination of experience and training indicating ability to do the work.

§ A502. Powers and duties of Director of Management and Budget

- (A) The Director of Management and Budget 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 Charter, this Code, local law, ordinance or resolution of the County Legislature, order or direction of the County Executive or any applicable provision of any act of the State Legislature not inconsistent with the 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 other County officer in relation to the collection of taxes.
- (B) The Director of Management and Budget shall
 - (1) Have custody of all surety bonds and such other instruments and contracts as the County Executive may direct to remain on file in his office as a public record.
 - (2) Make and file with the Comptroller, daily, statements of all funds and moneys received and disbursed, of whatever name or nature, in such form as the Comptroller shall direct.
 - (3) Have charge of the collection, receipt, custody, deposit, investment and disbursement of all fees, taxes, revenues and other funds of the County or for which the County is responsible.
 - (4) Perform such other related duties as the County Executive or the County Legislature may prescribe.
 - (5) Assist the County Executive in the preparation of the proposed budget and capital program in accordance with Article VI of this Code;
 - (6) Investigate and analyze the operation of administrative units to determine budgetary needs;
 - (7) Maintain necessary contacts in cooperation with organizations and individuals interested in the industrial and commercial development of Broome County;

- (8) Under the supervision and direction of the County Executive:
 - (a) Hold budget hearings on request of administrative units;
 - (b) Control the operation of the budget and capital program by requesting reports and examining records of administrative units; and
 - (c) Issue policy statements to administrative units to establish guides in preparation of their budgets.
- (9) Have the powers and duties set forth in § C306 of Article III of the Charter.

§ A503. Statement of financial condition.

- (A) In addition to the annual report required by § C502(C) of Article V of the Charter, the Director of Management and Budget shall, and at such other times as the County Executive or the County Legislature may by resolution direct, submit to the County Executive, the Comptroller and the County Legislature a statement of the financial condition of the County.
- (B) In addition to the foregoing, the statement of financial condition shall:
 - (1) Set forth all revenues received by the County.
 - (2) Set forth for each appropriation account the amount appropriated, the amount encumbered but remaining unexpended, the aggregate expenditures and the unencumbered balance.
 - (3) Include such other information as the County Executive may order or the County Legislature by resolution may direct.

§ A504. Rules and regulations.

The Director of Management and Budget may, except where otherwise provided by law, make rules and regulations relative to the conduct of his Department. The rules and regulations shall not be effective until they have been approved by the County Executive and filed with the Clerk of the County Legislature.

§ A505. Depositary undertakings.

- (A) Each depositary designated by the County Executive pursuant to § C302(F) of Article III of the 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 the sufficiency of surety by the County Executive and as to form by the County Attorney.
An undertaking shall:
 - (1) Specify the amount which the Director of Management and Budget shall be authorized to have on deposit at any one time with such depositary.
 - (2) Ensure that the depositary shall faithfully keep and pay over, in the order or warrant of the Director of Management and Budget or other lawful authority, such deposits and in the agreed interest thereon.
 - (3) Provide for the payment of 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 the Director of Management and Budget shall file each undertaking with the Comptroller.
- (B) The County Executive may increase the amount which any depositary is authorized to have on deposit at any one time and require additional undertaking therefor. The Director of Management and Budget shall file each undertaking with the Comptroller.
- (C) In lieu of each undertaking, a depositary may execute its own undertaking in such form as is approved by the County Attorney and upon such conditions as may be prescribed by law and, as collateral thereto, shall deposit with the

Director of Management and Budget outstanding unmatured bonds or other obligations of the United States of America, the State of New York or of any County, town, city, village or school district in the State of New York authorized to be issued by law in the face amount at 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 and Insurance Act. The collateral shall be approved as to amount and sufficiency by the Director of Management and Budget. The depository shall deposit with the Director of Management and Budget an assignment in blank of each collateral. The Director of Management and Budget shall deliver to the depository a certificate of deposit containing the 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 Director of Management and Budget shall complete the assignment and shall be deemed to be the agent of the assignor for such purpose. The Director of Management and Budget 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 therefor, the Director of Management and Budget may require the surrender of the certificate of deposit and thereupon shall return the security so deposited as collateral. Whenever in the judgment of the Director of Management and Budget it appears that additional facilities for the safeguarding of the securities deposited with him are essential, he may lease or rent a safe-deposit box, and the cost thereof shall be audited and paid as a County charge. The depository, with the consent of the Director of Management and Budget, may deposit such securities in a safe-deposit box maintained by the depository under the joint control of the depository and the Director of Management and Budget, or, if such depository has and maintains a separate trust department, said depository may with like consent deliver such securities to said trust department or may with like consent deposit said securities in escrow in the trust department of any other bank within the State of New York, to be held by and subject to the joint order of the depository and the Director of Management and Budget, and all expenses in connection therewith shall be borne by the depository.

- (D) The Director of Management and Budget shall not be liable for loss of public funds of the County by reason of the default or insolvency of a designated depository, provided that such funds have been deposited in accordance with the provisions of this section. In the event that securities have not been deposited as provided in Subsection (C) of this section, the Director of Management and Budget shall be liable to the extent of any loss sustained.

§ A506. Sale of bonds.

The Director of Management and Budget shall be responsible for the conduct of the sale of all bonds or other obligations as prescribed by the Local Finance Law.

§ A507. Preparation and signing of checks.

The Director shall sign all checks for the payment of payroll and all other lawful claims against the County or against funds for which the County is responsible. No check shall be executed by him for the payment of any claim against or obligation of the County unless the check states the funds against which it is drawn and the appropriation account chargeable therewith. No fund or appropriation account shall be overdrawn, nor shall any check be drawn against a fund or appropriation account to pay a claim properly chargeable to another fund or appropriation account. All County officers and employees shall be paid biweekly.

§ A508. Bond of Director of Management and Budget.

The Director of Management and Budget and such of his deputies, officers and employees as the County Legislature shall require 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. Each bond shall be approved as to form by the County Attorney and as to the sufficiency of surety by the County Legislature and filed with the Office of Management and Budget.

§ A509. Deputies

The Director of Management and Budget shall appoint such Deputies as shall be authorized by the County Legislature. All Deputy Directors shall serve at the pleasure of the Director of Management and Budget and shall have the authority to act generally for and in place of said Director. The designation or designations shall be in writing and filed in the Department of Records, and copies thereof shall be filed with the County Executive and with the Clerk of the County Legislature.

Section 19. Section A602 of the Charter and Code is hereby amended to read as follows:

§ A602. Preparation of proposed budget and capital program.

The Director of the Office of Management and Budget, pursuant to § C602 of Article VI of the Charter, shall prepare the proposed budget and capital program for submission to the County Executive as hereinafter set forth:

- (A) Submission of capital program requests. On or before March 15 in each year, or such earlier date as the Director of Management and Budget may prescribe, and upon receipt of at least 15 days' written notice of the Director, the administrative heads shall furnish to the Commissioner of Planning a description, justification and estimate for each project in the capital program which he proposes for development during one or more of the ensuing six fiscal years. Each capital project request shall show recommended priority; development time schedule; estimated useful life, in years; estimated cost for planning, site or right-of-way, construction, equipment and other features; status of plans and land acquisition; anticipated effect of the project on an annual operating budget; proposed method of paying for the project; possible sources of financial aid; recommended expenditures, by years, including total expenditures remaining beyond the six-year period of the capital program, if any; and such other information as the Director may prescribe.
- (B) Capital program advisory committee. To assist in the consideration of capital projects and capital program, there shall be a Capital Program Advisory Committee consisting of the County Executive, the Director of Management and Budget, the Commissioner of Planning, the Commissioner of Public Works and such other administrative heads as the County Executive may designate and the following members of the County Legislature: the Chairman, the Chairman of the Finance Committee and the Chairman of the Public Works Committee. The County Executive shall be responsible for the capital program as submitted to the County Legislature, and no member of the County Legislature shall be obliged to support any capital project by reason of membership on the Capital Program Advisory Committee. The County Executive shall be the Chairman and the Director of Management and Budget shall be the Vice Chairman of the Committee.
- (C) The Commissioner of Planning shall review the capital project requests submitted by the administrative heads. His review shall include consideration of comprehensive plans for the County and for any affected municipality therein. On or before July 1, the Commissioner shall forward his comments and

recommendations regarding each proposed capital project to the Director of Management and Budget. On or before July 15, the Director of Management and Budget shall forward to the Capital Program Advisory Committee all departments' capital requests for the ensuing six fiscal years, as well as the comments and recommendations of the Commissioner of Planning. The Director shall submit his own comments and recommendations to the Capital Program Advisory Committee on or before August 15. The Committee shall consider all requested capital projects and, on or before September 1, shall submit its recommendations to the County Executive.

- (D) Proposed capital program. On or before September 15, the Director of Management and Budget shall prepare and submit to the County Executive a proposed capital program for the next six fiscal years, arranged in such manner as to indicate the order or priority of each project, and to state for each project:
 - (1) A description of the proposed project and the estimated total cost thereof.
 - (2) The proposed method of financing, indicating the amount proposed to be financed by direct budgetary appropriation or duly established reserve funds; the amount, if any, estimated to be received from the federal and/or state governments; and the amount to be financed by the issuance of obligations, showing the proposed type or types of obligations, together with the period of probable usefulness for which they are proposed to be issued.
 - (3) An estimate of the effect, if any, upon operating costs of the County within each of the three fiscal years following completion of the project.
- (E) Budgetary appropriation in tentative budget. The tentative budget shall include the amount proposed for the capital program to be financed by direct budgetary appropriation during the next fiscal year.
- (F) Proposed capital budget. The first year of the proposed capital program, covering the ensuing fiscal year, shall be incorporated in a proposed capital budget for such year. The capital budget shall indicate debt service charges for previous projects; proposed down payments and other expenditures for new projects and/or for any project continued from prior years; those expenditures, including debt service, if any, expected to be incurred against such projects during the next fiscal year; and the recommended sources of all proposed capital financing, including but not limited to capital reserve funds, sinking funds, current revenues, temporary borrowing, bond sale and federal and state grants loans or advances.

Section 20. Section A603 of the Charter and Code is hereby amended to read as follows:

§ A603. Preparation of proposed budget.

The Director of Management and Budget pursuant to § C602 of Article VI of the Charter, shall prepare the proposed budget for submission to the County Executive.

- (A) On or before July 15, or such earlier date as the Director of Management and Budget may prescribe, the administrative head or authorized agency receiving County funds pursuant to contract or otherwise during the current fiscal year, or any other authorized agency applying for County funds, shall furnish to the Director an estimation of revenues and expenditures of his respective administrative unit or authorized agency for the ensuing fiscal year, exclusive of any capital projects. The estimate shall show the sources of revenues and itemize the character and object of expenditures, together with any additional information as the Director shall prescribe.

- (B) Not less than 30 days prior to the date fixed pursuant to Subsection (A) of this section, the Director shall notify, in writing, all administrative heads or authorized agencies of:
 - (1) The date fixed pursuant to Subsection (A) herein; and
 - (2) The form and information to be contained in the estimate.
- (C) The Director, upon receipt of the estimates, shall proceed to make such review and investigations and conduct such hearings thereon as he may deem necessary. If an administrative head or other authorized agency fails to submit an estimate by the date specified, the Director shall prepare the estimate.
- (D) On or before September 1, the Director of Management and Budget shall furnish to the Clerk of the County Legislature, for review by the County Legislature, a copy of the estimations and other information, including sources of revenue and itemization of the character and object of expenditures, submitted by administrative heads and authorized agencies.
- (E) After completion of the review and investigation from the administrative heads and authorized agencies, the Director shall prepare and submit to the County Executive the proposed operation and maintenance expense budget in the form as prescribed for a tentative budget in § 355 of the County Law, except for such modifications as may be directed by the County Executive.

Section 21. Section A604(E) of the Charter and Code is hereby amended to read as follows:

- (E) Capital program. The County Executive shall review the proposed capital program as prepared by the Director of Management and Budget. He shall, after making such changes as he may deem advisable, arrange it so as to set forth clearly:
 - (1) Each pending capital project, the amount of all liabilities outstanding, the unencumbered balances of authorization and estimated additional authorizations required for its completion.
 - (2) Each new capital project recommended, the year in which it is recommended to be undertaken and the estimated cost.
 - (3) Each pending or recommended project, a brief description, the estimated date of completion, the amount of liabilities estimated to be incurred in each fiscal year to completion, the estimated useful life in years, the amounts, nature and terms of obligations recommended to be authorized and the estimated annual operating and maintenance charges such project will entail.
 - (4) Recommendations that a pending project be modified, postponed or abandoned.
 - (5) Other information that the County Executive may deem advisable.

Section 22. Section A1004 of the Charter and Code is hereby amended to read as follows:

§ A1004. Rules and regulations.

The County Legislature shall have the power by resolution, local law or ordinance to establish such rules, regulations and charges relating to the Department of Public Transportation as it may deem necessary. Any such rules, regulations or charges so established shall become valid upon being filed with the County Executive, the Commissioner of Public Transportation and the Office of Management and Budget.

Section 23. Section A1004-A of the Charter and Code is hereby amended to read as follows:

§ A1004-A. Rules and regulations.

The County Legislature shall have the power by resolution, local law or ordinance to establish such rules, regulations and charges relating to the Department of Aviation as it may deem necessary. Any such rules, regulations or charges so established shall become valid upon being filed with the County Executive, the Commissioner of Aviation and the Office of Management and Budget.

Section 24. Section A1305 of the Charter and Code is hereby amended to read as follows:

§ A1305. Social services rates and charges.

The Commissioner shall, when submitting the estimate of revenues and expenditures for the Department of Social Services to the Director of Management and Budget, include therein a statement of the rates fixed by the state to be paid by the County to hospitals, institutions for the aged, institutions for children, nursing homes, correctional institutions and foster homes and other institutions and a recommendation as to any rates not fixed by the state to be paid by the County for services rendered for the care and maintenance of persons for whom the Department of Social Services is responsible. Such rates, once approved by the County Executive, shall be included in the tentative budget. The County Legislature shall, by resolution and as part of the budget procedure, approve the rates fixed by the state and determine, fix and establish the rates to be paid by the County for services where the rates are not fixed by the state.

Section 25. Section A1306 of the Charter and Code is hereby amended to read as follows:

§ A1306. Accounting for fees and funds.

All moneys to which the Social Service District may be entitled under and by virtue of the laws of the State of New York or which the Commissioner may receive for services performed by his Department shall belong to said district and be collected by such Commissioner, accounted for and paid over to the Director of Management and Budget by a written statement within 10 days after the expiration of each month. Each monthly statement shall have attached thereto a certification by said Commissioner to the effect that the same is in all respects a full and true statement of all such moneys received by him for the preceding month. At the time of rendering any such statement, the Commissioner shall pay to the Director of Management and Budget all moneys received by him since the last preceding monthly statement. Other funds or fees collected by the Commissioner shall be paid over and reported to the Director of Management and Budget as above provided, except where otherwise specifically provided by statute.

Section 26. Section A1504 of the Charter and Code is hereby amended to read as follows:

§ A1504. Planning and Economic Development Advisory Board.

There shall be a Planning and Economic Development Advisory Board, consisting of three voting ex officio members: the Chair of the County Legislature, the Chair of the Environmental Management Council and the Regional Planning and Development Supervisor for the New York State Department of Transportation; seven voting members who shall be residents of Broome County and shall be appointed by the County Executive, subject to confirmation by the County Legislature; and two nonvoting ex officio members: the Commissioner of Public Works, the and the Director of the Division of Solid Waste Management.

The members appointed by the County Executive, subject to confirmation by the County Legislature, shall be appointed for terms of four years, except that of those first appointed, two shall be appointed for one-year terms, two for two-year terms, two for three-year terms and one for a four-year term.

If the County Executive fails to fill a vacancy on the Planning and Economic Development Advisory Board within 60 days after a vacancy occurs, the County

Legislature may proceed to fill such vacancy in the same manner as provided herein. Whenever a vacancy occurs by expiration of a term, a member may continue his or her office for a period not to exceed 60 days or until an appointment is made thereto.

The Planning and Economic Development Advisory Board shall be advisory to the Planning and Economic Development Commissioner in matters related to comprehensive metropolitan, regional, County and municipal planning.

The Planning and Economic Development Advisory Board shall elect each year, on or before the 15th day of January, a Chairperson, Vice Chairperson and Secretary. Meetings of such Board shall be held at the call of the Chairperson of the Planning and Economic Development Advisory Board or the County Executive on at least three days' written notice, mailed to the last known address of such Board members. The Board shall adopt rules of procedure for the conduct of its meetings and shall establish its regular meeting dates.

The members of the Planning and Economic Development Advisory Board shall receive no salary or compensation for their services, but shall, within the appropriations provided therefor, be entitled to actual and necessary disbursements and expenses in performing the duties of their office.

Section 27. Section A1505 of the Charter and Code is hereby amended to read as follows:

§ A1505. Accounting for fees.

All moneys to which the County may be entitled under and by virtue of the laws of the State of New York or which the Commissioner of Planning and Economic Development may receive for services or sale of work performed by his Department shall belong to the County and be collected by such Commissioner, accounted for and paid over to the Director of Management and Budget by a written statement within five days after the expiration of each month. Each monthly statement shall have attached thereto a certification by the Commissioner of Planning and Economic Development to the effect that the same is in all respects a full and true statement of all moneys received by him for the preceding month. At the time of rendering any such statement, the Commissioner of Planning and Economic Development shall pay to the Commissioner of Finance all moneys received by him since the last preceding monthly statement. Other funds or fees received or collected by the Commissioner of Planning and Economic Development shall be paid over and reported to the Director of Management and Budget as above provided, except where otherwise specifically provided by statute.

Section 28. Section A1805 of the Charter and Code is hereby amended to read as follows:

§ A1805. Disposition of money or property found on deceased.

- (A) Money and other property found upon the body of the deceased not required for the purposes of the investigation shall be delivered to the Director of Management and Budget. Unless claimed in the meantime by the legal representatives of the deceased, articles held for the purposes of the investigation, except such writing of the deceased as may be relevant to the diagnosis of means of manner of death, shall be delivered to the Director of Management and Budget at the conclusion of the investigation.
- (B) Upon the delivery of money to the Director of Management and Budget, he must place it to the credit of the County. If other property is delivered to him, he must, within one year, sell it at public auction upon reasonable public notice and must, in like manner, place the proceeds to the credit of the County.
- (C) If the money in the treasury is demanded within six years by the legal representatives of the deceased, the Director of Management and Budget must pay it to them, after deducting the amount of expenses incurred in connection

- therewith, or it may be so paid at any time thereafter, upon the order of the County Legislature; provided, however, that such money may be so paid at any time upon the written order of the Surrogate of the County.
- (D) Before auditing and allowing the account of the Coroner, the County Legislature must require from him a statement, in writing, of any money or other property found upon persons whose deaths he has investigated, verified by his oath to the effect that the statement is true and that the money or property mentioned in it has been delivered to the legal representatives of the deceased or to the Director of Management and Budget.

Section 29. Section A2005 of the Charter and Code is hereby amended to read as follows:

§ A2005. Account for fees.

All moneys to which the County may be entitled under and by virtue of the laws of the State of New York, or which the County Clerk may receive for services performed by his Department, shall belong to the County and be collected by such Clerk, accounted for and paid over to the Director of Management and Budget by a written statement within five days after the expiration of each month. Each monthly statement shall have attached thereto a certification by said County Clerk to the effect that the same is in all respects a full and true statement of all moneys received by him for the preceding month. At the time of rendering any such statement, the County Clerk shall pay to the Director of Management and Budget all moneys received by him since the last preceding monthly statement. Other funds or fees received or collected by the County Clerk shall be paid over and reported to the Director of Management and Budget as above provided, except where otherwise specifically prescribed by statute.

Section 30. Section A2306 and A2307 are hereby amended to read as follows:

§ A2306. Accounting for fees and funds.

All moneys to which the County may be entitled under and by virtue of the laws of the State of New York or which the Sheriff may receive for services performed by his office shall belong to the County and be collected by the Sheriff, accounted for and paid over to the Director of Management and Budget by a written statement within five days after the expiration of each month. Each monthly statement shall have attached thereto a certification by the Sheriff to the effect that the same is in all respects a full and true statement of all such moneys received by him for the preceding month. At the time of the rendering of any such statement, the Sheriff shall pay to the Director of Management and Budget all moneys received by him since the last preceding monthly statement. Other funds or fees collected by the Sheriff shall be paid over and reported to the Director of Management and Budget as above provided, except where otherwise specifically provided by statute.

§ A2307. Bond of sheriff.

The Sheriff, Undersheriff and such of his deputies, officers and employees as the County Legislature shall require 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. Such Bond shall be approved as to form by the County Attorney and as to the sufficiency of surety by the County Legislature and filed with the Office of Management and Budget.

Section 31. Section A2302-A(3) is hereby amended to read as follows:

3. The Board of Trustees shall have the authority to authorize the Treasurer to establish and maintain petty cash funds, not in excess of \$200 each, for specified college purposes or undertakings from which may be paid, in advance of audit, properly itemized and verified or certified bills for materials, supplies or services furnished to the college for the conduct of its affairs and upon terms calling for

the payment of cash to the vendor upon delivery of any such materials or supplies or rendering of such services. A list of all expenditures made from such petty cash funds shall be presented to the Trustees at each regular meeting thereof, together with the bills supporting such expenditure, for audit, and the Board shall direct the reimbursement of such petty cash funds from the appropriate budgetary item or items in an amount equal to the total of such bills which the Board shall so audit and allow.

Any such bills or any portion of any such bills as shall be disallowed upon audit shall be the personal responsibility of the Treasurer, and such Treasurer shall forthwith reimburse such petty cash fund in the amount of such disallowances. The Treasurer shall file a report with the County Director of Management and Budget and the Comptroller, detailing the expenditures in each petty cash fund, within 10 days of the Board meeting where such expenditures were presented for audit and allowance.

Section 32. Section A2303-A(3)(a) is hereby amended to read as follows:

- (a) Annually the Board of Trustees shall furnish to the Director of Management and Budget a description, justification and estimate for each project in the capital program which it proposes to develop during one or more of the ensuing six fiscal years of the County. Such capital project requests and their consideration, approval and budgeting of said projects shall be made pursuant to the County Administrative Code and Charter. All capital projects approved for Broome Community College shall be a part of the County's six-year capital program and County budget. All projects within the capital program shall be developed in accordance with a Facilities Master Plan for the college. The Trustees shall consult with the Commissioner of Public Works in developing the capital program for the college.

Section 33. Section A2303-A(4)(a) and (d) are hereby amended to read as follows:

- (a) On or before May 1, the Board of Trustees shall furnish to the Director of Management and Budget a proposed budget for operation of the college for the ensuing fiscal year, exclusive of any capital projects. In any year when the budget of the State of New York is approved after May 1, the college is authorized to submit to the Director of Management and Budget a revised tentative budget within a reasonable time after approval of the state budget to reflect the state aid actually appropriated. In no event may a revised tentative budget be submitted after June 15. The proposed operations and maintenance budget shall be submitted in a format prescribed by the Director of Management and Budget; however, in no event shall this format be more inclusive than the format required of other County departments.
- (d) The County Executive shall review the Board's proposed operation and maintenance expense budget and the comments of the Director of Management and Budget and shall prepare the proposed budget for the college for the ensuing fiscal year for current operating purposes. The budget prepared by the County Executive shall be in a format prescribed by § C603 of the Charter.

Section 34. Section A2303-A(5)(g) of the Charter and Code is hereby amended to read as follows:

- (g) Six copies of the college budget, as adopted, shall be certified by the County Executive and by the Clerk of the County Legislature, and one each of such copies shall be filed in the office of the County Executive,

the County Comptroller, the Director of Management and Budget, the Clerk of the County Legislature, the President of Broome Community College and the Department of Audit and Control, State of New York. The budget as so certified shall be printed or otherwise reproduced and copies shall be made available.

Section 35. Section A2303-A(6)(a) of the Charter and Code is hereby amended to read as follows:

(a) The Board of Trustees shall cause the Treasurer to file an annual audited financial statement with the County Executive and the Clerk of the Legislature. This statement shall be in a format acceptable to the County Director of Management and Budget and the Comptroller. This statement shall, at a minimum, include income statements and a balance sheet and shall show in a separate column amounts budgeted and actual expenditures for each budget line.

Section 36. Section A2303-A(8)(b) of the Charter and Code is hereby amended to read as follows:

(b) The Board of Trustees shall have the authority to transfer funds within budgetary

lines, except for the limitations on transfers of personnel and fringe benefits contained in the following paragraph, provided that said transfers are reported by the Trustees to the County Executive and the Clerk of the County Legislature on a monthly basis in a format designated by the Director of Management and Budget and the County Comptroller.

The Board shall have the authority to transfer funds contained in personnel and fringe benefit lines up to a total of 5% of each division line per year. Any transfers from a personnel or fringe benefit line in excess of 5% per year shall be approved by the County Legislature.

The Board shall report all transfers from personnel and fringe benefit lines to the County Executive and the Clerk of the Legislature in the format designated by the Director of Management and Budget and the County Comptroller.

Section 37. Section 19-6(2) of the Charter and Code is hereby amended to read as follows:

(2) The following heads of agencies, departments, divisions, councils, boards, commissions or bureaus and their deputies and assistants:

Aging, Office for

Director of Office for Aging

Deputy Director of Office for Aging

Audit and Control

Comptroller

Deputy Comptroller

Director of Weights and Measures

Aviation

Commissioner of Aviation

Deputy Commissioner of Aviation

Broome Community College

President of Broome Community College

Vice President of Academic Affairs

Vice President for Administration and Financial Affairs

Vice President for Student Affairs

Central Foods

Director of Central Food and Nutrition Services

Community Alternative Systems Agency

CASA Director

County Clerk

Executive Deputy County Clerk

Deputy County Clerk

Records Management Officer

Deputy Clerk — DMV

County Executive

Deputy County Executive

Administrative Assistant to County Executive

Executive Assistant to County Executive (2)

Communications Director

Director of Greater Binghamton Coalition

District Attorney

Chief Assistant District Attorney

Elections

Commissioners of Elections

Deputy Commissioners of Elections

Emergency Services

Director of Emergency Services/Fire Coordinator

Deputy Director of Emergency Services

Employment and Training

Employment and Training Director

Deputy Employment and Training Director

Office of Management and Budget

Director of the Office of Management and Budget

Deputy Director of OMB – Treasury

Deputy Director of OMB – Budget

Deputy Director of OMB – Accounting

Health

Public Health Director

Deputy Public Health Director

Historian

County Historian

Information Technology

Director of Information Technology

Assistant Director of Information Technology

Law

County Attorney

Chief Assistant County Attorney

Deputy County Attorney (DSS)

Legislature

Clerk of County Legislature

Deputy Clerk of County Legislature

2nd Deputy Clerk of County Legislature

Legislative Assistant

Library

Library Director

Mental Health

Commissioner of Community Mental Health Services

Deputy Commissioner of Community Mental Health Services

[Director of Drug Awareness Center]

Nursing Home

Willow Point Nursing Home Administrator
Deputy Nursing Home Administrator — Fiscal Services
Deputy Nursing Home Administrator — Health Services

Parks and Recreation

Commissioner of Parks and Recreation
Deputy Commissioner of Parks and Recreation
Arena Manager
Events Coordinator
Director of Recreation

Personnel

Personnel Officer
Director of Employee Relations
Equal Employment Opportunity Compliance Officer

Planning and Economic Development

Commissioner of Planning and Economic Development
[Director of Economic Development]

Probation

Probation Director
Deputy Probation Director

Public Defender

Public Defender
Chief Assistant Public Defender

Public Transportation

Commissioner of Public Transportation
Deputy Commissioner of Public Transportation

Public Works

Commissioner of Public Works
Deputy Commissioner of Public Works/Buildings and Grounds
Deputy Commissioner of Public Works/Engineering
Deputy Commissioner of Public Works/Highways
Director of Security
Director of Solid Waste Management

Purchasing

Purchasing Agent

Real Property Tax Service

Director of Real Property Tax Services
Assistant Director of Real Property Tax Services

Risk and Insurance

Manager of Risk and Insurance

Sheriff

Undersheriff
Corrections Major

Social Services

Commissioner of Social Services
Deputy Commissioner of Social Services
Deputy Commissioner of Social Services — Temporary Assistance
Deputy Commissioner of Social Services — Administrative Services

Stop-DWI

STOP DWI Coordinator

Youth Bureau

Executive Director of Youth Bureau

Section 38. Section 38-1 of the Charter and Code is hereby amended to read as follows:

§ 38-1. Payments into credit unions; regulations.

The Director of Management and Budget of the County of Broome is hereby authorized to deduct from the wages or salary of any employee of the county such amount that such employee may specify, in writing, filed with such appropriate fiscal officer, for payment to or deposit in any duly organized or existing credit union and to transmit the sum so deducted to said institution, as specified by the employee, for application to the account of that employee. Any such written authorization may be withdrawn by such employee at any time by filing written notice of the withdrawal, and the withdrawal shall be effective upon the filing thereof.

Section 39. Section 52-3(C) and (D) of the Charter and Code are amended to read as follows:

C. The moneys in such fund shall be deposited in one or more of the banks or trust companies designated in the manner provided by law as depositories of the funds of the County of Broome. The Director of Management and Budget may invest the moneys in such fund in obligations specified in the General Municipal Law. Any interest earned or capital gain realized on the money so deposited or invested shall accrue to and become part of such fund.

D. The Director of Management and Budget shall account for this fund separate and apart from all other funds of the County of Broome. Such accounting shall show: the source, date and amount of each sum paid into the fund; the interest earned by such fund; capital gains or losses resulting from the sale of investments of this fund; the order, source thereof, date and amount of each payment from this fund; and the assets of this fund, indicating cash balance and a schedule of investments. The Director of Management and Budget, within 60 days of the end of each fiscal year, shall furnish a detailed report of the operation and condition of this fund to the County Legislature.

Section 40. Sections 52-3(C) and (D), 52-7, 52-8, 52-13 and 52-14 of the Charter and Code are hereby amended to read as follows:

§ 52-3. Payments into fund.

A. There may be paid into such fund:

(1) Such amounts as may be provided by the budgetary appropriations.

(2) Amounts from any other fund authorized by the General Municipal Law by resolution subject to permissive referendum.

(3) Such other funds as may be legally appropriated.

B. The cash balance of such fund at the end of any fiscal year shall not exceed \$1,000,000 or 10% of the total budget for such fiscal year, whichever is the greater amount. The amount paid into such fund during any fiscal year shall not exceed \$500,000 or 5% of the total budget for such fiscal year, whichever is the greater amount.

C. The moneys in such fund shall be deposited in one or more of the banks or trust companies designated in the manner provided by law as depositories of the funds of the County of Broome. The Director of Management and Budget may invest the moneys in such fund in obligations specified in the General Municipal

Law. Any interest earned or capital gain realized on the money so deposited or invested shall accrue to and become part of such fund.

- D. The Director of Management and Budget shall account for this fund separate and apart from all other funds of the County of Broome. Such accounting shall show: the source, date and amount of each sum paid into the fund; the interest earned by such fund; capital gains or losses resulting from the sale of investments of this fund; the order, source thereof, date and amount of each payment from this fund; and the assets of this fund, indicating cash balance and a schedule of investments. The Director of Management and Budget, within 60 days of the end of each fiscal year, shall furnish a detailed report of the operation and condition of this fund to the County Legislature.

§ 52-7. Accounting.

Where an expenditure from the fund is authorized as provided herein:

- A. Payment shall be made upon the audit and warrant of the Comptroller; and
B. Upon such audit and warrant, the Director of Management and Budget shall transfer the amount of such expenditure from the fund to the appropriate departmental budget line and shall thereupon debit such expenditure from said budget line.

§ 52-8. Discontinuance.

If, after the establishment of such fund, the County of Broome determines that such fund is no longer needed, the moneys remaining in such fund may be transferred to any other reserve fund of the County of Broome authorized by the General Municipal Law that is comprised of moneys which were raised on the same tax base as the moneys in the reserve fund established under this Article, only to the extent that the moneys in this fund shall exceed the sum sufficient to pay all liabilities incurred or accrued against it. Prior to the discontinuance of such fund, the Director of Management and Budget, Comptroller and County Attorney shall certify to the County Legislature the amount that may be necessary to retain in such fund to satisfy all liabilities incurred or accrued against it, and such sum shall be retained in the fund for payment of such amounts or until later certified that such funds are no longer needed.

§ 52-13. Investment of funds.

The money in the Contingency and Tax Stabilization Reserve Fund shall be deposited in one or more of the banks or trust companies designated as depositories of the County funds. The Director of Management and Budget may invest the money in such fund in obligation(s) specified in § 11 of the General Municipal Law. Any interest earned or capital gain realized on the money so invested shall accrue to and become part of the Contingency and Tax Stabilization Reserve Fund.

§ 52-14. Fund accounting.

The Director of Management and Budget shall account for the Contingency and Tax Stabilization Reserve Fund pursuant to § 6-e of the General Municipal Law.

Section 41. Sections 72-3, 72-4 and 72-5 of the Charter and Code are hereby amended to read as follows:

§ 72-3 Travel Advance Fund.

The County Comptroller and the County Director of Management and Budget are hereby authorized to establish a cash account entitled "Travel Advance Fund" in the amount of \$8,000. The Comptroller is hereby further authorized and empowered to establish and promulgate rules, regulations and procedures in such manner as he may deem necessary to implement the intent and purpose of this Article. The County Comptroller shall further have the power, in exceptional cases, to extend the period of time within which the officer or employee receiving the advance payment must file the statement or

accounting provided for above and shall also have the power, in exceptional cases, to advance travel expenses in a sum exceeding the limitation of \$250 set forth above.

§ 72-4. Deductions from salary.

If such county officer or employee shall fail to make an accounting and repay any cash advances made which shall exceed actual and necessary expenses as aforesaid, unless such delay is otherwise extended by the Comptroller pursuant to this Article, the Director of Management and Budget and the Comptroller are hereby authorized and empowered to deduct such cash advances, in whole or in part as the case may be, from such officer's or employee's salary or pay for the payroll period immediately following the expiration of said time limitation, and if such deductions from said payroll period are insufficient to cover the amounts owing the county, the Director of Management and Budget and the Comptroller are further authorized to deduct additional amounts from such officer's or employee's salary or pay on succeeding payroll periods until such refund or obligation is satisfied.

§ 72-5. Vouchers for payments of balances and deductions.

The Comptroller and the Director of Management and Budget are hereby authorized to deduct any advances made pursuant to § 72-1 of this Article and to pay the balance, if any, after audit and approval of a proper voucher, to the officer or employee submitting the same.

Section 42. Section 72-6(B) of the Charter and Code is hereby amended to read as follows:

Those county officers and employees who have been in office or employed by the county for at least one year but have not averaged at least 250 miles per month of reimbursable travel over the previous twelve-month period, and county officers and employees who have been in office or employed by the county for at least six months but less than one year, may be eligible for said cash advance if said officer or employee has averaged at least 250 miles per month of reimbursable travel over the previous six-month period and the Director of the Division of Management and Budget and the Director of Personnel approve said cash advance.

Section 43. Section 72-10 and 72-12 of the Charter and Code are hereby amended to read as follows:

§ 72-10. Payment of outstanding claims.

- A. If an officer or employee who has received a cash advance terminates his or her office or employment with the county, said officer or employee, prior to receipt of any pay or salary due at the time of termination, shall settle with the Comptroller and Director of Management and Budget all outstanding claims involving the cash advance. If said officer or employee fails to make such settlement, the Comptroller and Director of Management and Budget are empowered to deduct the amount of the cash advance from such officer's or employee's salary or pay, and if said deduction is insufficient to cover the amount owing to the county, the Comptroller and Director of Management and Budget are empowered to pursue said repayment by all legal means.
- B. If an officer or employee who has received a cash advance is decertified as eligible for said advance, said officer or employee shall settle with the Comptroller and the Director of Management and Budget all outstanding claims involving the cash advance. If said officer or employee fails to make such settlement, or if an officer or employee fails to submit a statement in accordance with § 77-9, the Director of Management and Budget and the Comptroller are authorized and empowered to deduct such cash advance, in whole or in part as the case may be, from such officer's or employee's salary or pay for the payroll period immediately following the expiration of the time established by the

Comptroller to make such settlement or submit such statement, and if such deductions from said payroll period are insufficient to cover the amounts owing the county, the Director of Management and Budget and the Comptroller are further authorized to deduct additional amounts from such officer's or employee's salary or pay on succeeding payroll periods until such refund or obligation is satisfied.

§ 72-12 Mileage Advance Fund.

The County Comptroller and the County Director of Management and Budget are authorized to establish a cash account entitled "Mileage Advance Fund" in the amount of \$17,500.

Section 44. Section 76-9 of the Charter and Code is amended to read as follows:

§ 76-9 Payment of benefits.

The Director of Management and Budget shall pay to claimants workers' compensation benefits as provided in § 25 of the Workers' Compensation Law upon order of the Secretary of the plan. Other payments of liabilities of the plan shall be made by the Director of Management and Budget upon vouchers duly audited by the Committee appointed to supervise the plan.

Section 45. Sections 115-10, 115-11 and 115-12 of the Charter and Code are hereby amended to read as follows:

§ 115-10. Director of Management and Budget authorized to review decisions.

The Broome County Director of Management and Budget is authorized to review decisions of Town Assessors or other designated town officials regarding claims made pursuant to Agriculture and Markets Law § 125.

§ 115-11. Investigations.

- A. The Broome County Director of Security, upon request of the Broome County Director of Management and Budget or the claimant, shall, within 20 days of receipt of such request, cause an investigation of the facts and circumstances surrounding a claim made pursuant to Agriculture and Markets Law § 125.
- B. The Director of Security, upon receipt of such request from the Director of Management and Budget or the claimant, shall cause an investigation to be made of the alleged attack upon the claimant's domestic animals, the facts surrounding such attack and the amount of damage incurred by the claimant thereby for which indemnification should be made.
- C. The claimant shall permit the Director of Security or his authorized representative to enter the premises on which the attack is alleged to have occurred and shall furnish the Director of Security or his authorized representative whatever information and proof may be available to the claimant and may be necessary for the Director or his authorized representative to complete his investigation. Upon completion of his investigation, the Director shall decide whether the attack was in fact made by a dog upon a domestic animal, as defined in § 108 of the Agriculture and Markets Law, and whether the owner had taken reasonable steps to prevent the damage done.
- D. If the Director so finds, he shall recommend confirmation or denial of the determination of the Town Assessor or designated town official. The Director may also recommend modification of the decision of the Town Assessor or designated town official as may appear proper in view of the facts. The recommendations of the Director shall be in writing and forwarded to the Director of Management and Budget and the claimant.

§ 115-12. Result of investigation; report to claimant.

Upon receipt of the recommendation of the Director of Security, the Director of Management and Budget will confirm or deny these recommendations in writing. The Commissioner will forward a copy of said confirmation or denial to the claimant within 20 days of receipt of the recommendations of the Director of Security. The Director of Management and Budget will also enclose a certificate of indemnity due the claimant.

Section 46. Section 120-5 of the Charter and Code is hereby amended to read as follows:

§ 120-5. Collection agent.

The service supplier shall act as collection agent for Broome County and shall remit the funds collected as the surcharge to the Director of Management and Budget of the County every month. Such funds shall be remitted no later than 30 days after the last business day of such month.

Section 47. Sections 125-1, 125-2 and 125-3 of the Charter and Code are hereby amended to read as follows:

§ 125-1. Charges established.

Pursuant to the authority contained in § 106-a of the General Municipal Law, the County of Broome does hereby establish the following service charges as fees for handling securities in lieu of retained percentages. The service charges will apply to all securities transferred to the Director of Management and Budget pursuant to § 106 of the General Municipal Law for all public improvement contracts:

- A. A service charge of \$20 shall be assessed for the initial acceptance of securities allowable under § 106 of the General Municipal Law.
- B. A service charge of \$10 shall be assessed for each occasion that a contractor under a public improvement project may request delivery of redeemable coupons from bonds deposited with **the Director of Management and Budget.**
- C. A service charge of \$15 shall be assessed for each instance in which additional securities are delivered in exchange for retained percentages, and a service charge of \$15 shall be assessed each time the type or types of security originally deposited with the Director of Management and Budget are changed.
- D. A service charge of \$15 shall be assessed for the Director of Management and Budget's return of securities to the contract upon the contractor's satisfactory completion of the public improvement project.

§ 125-2. Authorization to collect.

The Director of Management and Budget is hereby authorized to collect all service charges assessed pursuant to § 125-1.

§ 125-3. Deductions from other funds; release of securities.

All service charges assessed upon a given project pursuant to the exchange of securities for retained percentages on public improvement projects shall be deducted from those amounts of funds remaining as retained percentages with the Director of Management and Budget upon the completion of the public improvement project. Where there are no such retained percentages remaining at the completion of a public improvement project and/or where all such retained percentages have been exchanged for acceptable securities, the Director of Management and Budget shall not release any such securities to the contractor, or to any bank assisting in the exchange, until all said service charges have been paid in full.

Section 48. Section 125-29(C) of the Charter and Code is hereby amended to read as follows:

- C. The County Executive of Broome County is hereby authorized and directed to negotiate and enter into an agreement with the Commissioner of the New York State Department of Motor Vehicles for the implementation of this chapter, and such agreement shall provide for the exclusive method of collection, custody and remittal of the proceeds of any such fee and for the payment by the County of the reasonable expenses incurred by the New York State Department of Motor Vehicles in connection with the collection and administration of said fee. Such agreement shall also provide that the Broome County Director of Management and Budget, upon request, not more frequently than once in each calendar year, at a time agreed upon by the State Comptroller, shall audit the accuracy of the payments, distributions and remittances to Broome County pursuant to this chapter.

Section 49. Sections 185-1, 185-2, 185-3 and 185-4 of the Charter and Code are hereby amended to read as follows:

§ 185-1. Requests from villages.

Notwithstanding any general, special or local law to the contrary, upon receipt of a village ordinance, local law or resolution of a village within Broome County requesting the County of Broome to collect delinquent village taxes subsequent to the effective date of this article and upon certification of correctness of such unpaid taxes by the village authorities, the Director of Management and Budget of Broome County may collect such village taxes, provided that said certificate by the village authorities is received by the Director of Management and Budget no later than the 15th day of November following the levy of taxes.

§ 185-2. Payments to village authorized.

The Director of Management and Budget shall, on or before the first day of April following the receipt of the certification as provided in § 185-1 of this article, pay to the officer charged by law with the custody of village moneys, moneys of the county appropriated therefor. If the amount appropriated for such purpose shall be insufficient, it shall be the duty of the County Legislature to increase such appropriation by the amount necessary. The moneys to meet such increase shall be provided from moneys not otherwise appropriated or committed from relevy or collection of delinquent village taxes, from moneys appropriated for a contingent fund or pursuant to the Local Finance Law.

§ 185-3. Relevy of taxes.

Such statement and certificate shall be transmitted by the Director of Management and Budget to the County Legislature, which shall cause the amount of such unpaid taxes, with 7% of the amount of principal and interest in addition thereto, to be relevied upon the real property upon which the same were imposed. When collected, the same shall be returned to **the Director of Management and Budget** to reimburse the county for the amount advanced, with the expenses of collection.

§ 185-4. Payments to county.

Any person whose real property is levied against may pay the amount of taxes levied thereon,

with 5% added thereto, to the Director of Management and Budget at any time before the County Legislature shall have directed the same to be relevied, except as otherwise provided in Subdivision 2 of § 1432 of the Real Property Tax Law in relation to the payment of interest in lieu of such 5%.

Section 50. Section 185-9 of the Charter and Code is hereby amended to read as follows:

§ 185-9. Definitions.

When used in this article, the following terms shall mean:

DIRECTOR OF MANAGEMENT AND BUDGET – The Director of Management and Budget of Broome County

COMPTROLLER — The Comptroller of Broome County.

HOTEL or MOTEL — A building or portion of it which is regularly used and kept open as such for the lodging of guests. The term "hotel" or "motel" includes an apartment hotel, motor court or inn, boardinghouse or club or similar hotel or motel type of accommodations by whatever name designated, whether or not meals are served.

OCCUPANCY — The use or possession, or the right to use or possess, any room in a hotel or motel.

OCCUPANT — A person who, for a consideration, uses, possesses or has the right to use or possess any room in a hotel or motel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

OPERATOR — Any person operating a hotel or motel in the County of Broome, including but not limited to the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such hotel or motel.

PERMANENT RESIDENT — Any occupant of any room or rooms in a hotel or motel who maintains occupancy for at least 30 consecutive days shall be considered a "permanent resident" with regard to the period of such occupancy.

PERSON — An individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

RENT — The consideration received for occupancy valued in money, whether received in money or otherwise.

RETURN — Any return filed or required to be filed as herein provided.

ROOM — Any room or rooms of any kind in any part or portion of a hotel or motel which is available for or let out for any purpose other than a place of assembly.

Section 51. Sections 185-14, 185-15, 185-16, 185-17, 185-18, 185-19, 185-21, 185-23, 185-24, 185-25, 185-27 and 185-28(A) of the Charter and Code are hereby amended to read as follows:

§ 185-14. Registration.

- A. Within 10 days after the effective date of this article or, in the case of operators commencing business after such effective date, within three days after such commencement or opening, every operator shall file with the Director of Management and Budget a certificate of registration in a form prescribed by the Director of Management and Budget. The Director of Management and Budget shall, within five days after such registration, issue without charge to each operator a certificate of authority empowering such operator to collect the tax from the occupant and duplicate thereof for each additional hotel or motel of such operator. Each certificate or duplicate shall state the hotel or motel to which it is applicable. Such certificates of authority shall be prominently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such certificate shall be nonassignable and nontransferable and shall be surrendered immediately to the Director of Management and Budget upon the cessation of business at the hotel or motel named or upon its sale or transfer.

§ 185-15. Administration and collection.

- A. The tax imposed by this article shall be administered and collected by the Director of Management and Budget of the County of Broome or other fiscal officers of the county as he may designate by such means and in such manner as are other taxes which are now collected and administered by such officers in accordance with the County Charter or as otherwise are provided by this article.
- B. The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof at the time when the occupancy is arranged or contracted for and charged for and upon every evidence of occupancy or any bill or statement or charge made for said occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the county and the operator shall be liable for the collection thereof and for the tax. The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this article, and the operator shall have the same right in respect to collecting the tax from the occupant, or in respect to nonpayment of the tax by the occupant, as if the tax were a part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that he may have in the event of nonpayment of rent by the occupant; provided, however, that the Director of Management and Budget or other fiscal officer or officers, employees or agents duly designated by him shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.
- C. Where the occupant has failed to pay and the operator has failed to collect a tax as imposed by this article, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the occupant directly to the County Director of Management and Budget, and it shall be the duty of the occupant to file a return thereof with the County Comptroller and to pay the tax imposed thereon to the County Director of Management and Budget within 15 days after such tax was due.
- D. The Director of Management and Budget may, wherever he deems it necessary for the proper enforcement of this article, provide by regulation that the occupant shall file returns and pay directly to the Director of Management and Budget the tax herein imposed, at such times as returns are required to be filed and payment made over by the operator.
- E. The tax imposed by this article shall be paid upon any occupancy on and after October 1, 2007, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date. Where rent is paid or charged or billed, or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period on and after October 1, 2007. Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the Director of Management and Budget may by regulation provide for credit and/or refund of the amount of such tax upon application therefor as provided in § 185-21 of this article.
- F. For the purposes of the proper administration of this article and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established, and the burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator, except that, where by regulation pursuant to Subsection D of this section an occupant is required to file returns and pay directly to the Director of Management and

Budget the tax herein imposed, the burden of proving that a rent for occupancy is not taxable shall be upon the occupant. Where an occupant claims exemption from the tax under the provisions of § 185-12 of this article, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption a certificate duly executed by an exempt corporation or association certifying that the occupant is its agent, representative or employee, together with a certificate executed by the occupant certifying that his occupancy is paid or to be paid by such exempt corporation or association, and is necessary or required in the course of or in connection with the occupant's duties as a representative of such corporation or association. Where deemed necessary by the operator, he may further require that any occupant claiming exemption from the tax furnish a copy of a certificate issued by the Director of Management and Budget certifying that the corporation or association therein named is exempt from the tax under § 185-12.

§ 185-16. Recordkeeping.

Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon, in such form as the Director of Management and Budget may by regulation require. Such records shall be available for inspection, examination and audit at any time upon demand by the Director of Management and Budget or his duly authorized agent or employee and shall be preserved for a period of three years, except that the Director of Management and Budget may consent to their destruction within that period or may require that they be kept longer.

§ 185-17. Returns.

- A. Every operator (except exempt operators as provided in §§ 185-10 and 185-14 above) shall file with the Director of Management and Budget a return of occupancy and of rents and of the taxes payable thereon for the periods ending on the last day of February, May, August and November of each year, on and after January 1, 1978. Such returns shall be filed within 20 days from the expiration of the period covered thereby. The Director of Management and Budget may permit or require returns to be made by other periods and upon such dates as he may specify. If the Director of Management and Budget deems it necessary in order to ensure the payment of the tax imposed by this article, he may require returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this subsection and upon such dates as he may specify.
- B. The forms of returns shall be prescribed by the Director of Management and Budget and shall contain such information as he may deem necessary for the proper administration of this article. The Director of Management and Budget may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.
- C. If a return required by this article is not filed, or a return when filed is incorrect or insufficient on its face, the Director of Management and Budget shall take the necessary steps to enforce the filing of such a return or of a corrected return.

§ 185-18. Payment of taxes.

- A. At the time of filing a return of occupancy and of rents, each operator (except exempt operators) shall pay to the Director of Management and Budget the taxes imposed by this article upon the rents required to be included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions of this article. Where the Director of Management and Budget in his discretion deems it necessary to protect revenues to be obtained under this article, he may require any operator required to collect the tax imposed

by this article to file with him a bond, issued by surety company authorized to transact business in this state and approved by the Superintendent of Insurance of this state as to solvency and responsibility, in such amount as the Director of Management and Budget may fix to secure the payment of any tax and/or penalties and interest due or which may become due from such operator.

- B. In the event that the Director of Management and Budget determines that an operator is to file such bond, he shall give notice to such operator to that effect, specifying the amount of the bond required. The operator shall file such bond within five days after the giving of such notice, unless within such five days the operator shall request, in writing, a hearing before the Director of Management and Budget at which the necessity, propriety and amount of the bond shall be determined by the Director of Management and Budget. Such determination shall be final and shall be complied with within 15 days after the giving of notices thereof. In lieu of such bond, securities approved by the Director of Management and Budget, or cash in such amount as he may prescribe, may be deposited which shall be kept in the custody of the Director of Management and Budget, who may at any time without notice to the depositor apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by him at public or private sale without notice to the depositor thereof.

§ 185-19. Determination of taxes by Director of Management and Budget.

- A. If a return required by this article is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the Director of Management and Budget from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as the number of rooms, the location, the scale of rents, comparable rents, the type of accommodations and service, the number of employees and/or other factors.
- B. Notice of such determination shall be given to the person liable for the collection and/or payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after giving of notice of such determination, shall apply to the Director of Management and Budget for a hearing, or unless the Director of Management and Budget of his own motion shall redetermine the same. After such hearing, the Director of Management and Budget shall give notice of his determination to the person against whom the tax is assessed. The determination of the Director of Management and Budget shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by proceeding under Article 78 of the Civil Practice Law and Rules if application therefor is made to the Supreme Court within 30 days after the giving of the notice of such determination.
- C. A proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted

unless the amount of any tax sought to be reviewed, with penalties and interest thereon, if any, shall be first deposited with the Director of Management and Budget and there shall be filed with the Director of Management and Budget an undertaking, issued by a surety company authorized to transact business in this state and approved by the Superintendent of Insurance of this state as to solvency and responsibility, in such amount as a justice of the Supreme Court shall approve to the effect that if such proceeding is dismissed or the tax is confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of the proceeding; or, at the option of the applicant, such undertaking filed with the Director of Management and Budget may be in a sum sufficient to

cover the taxes, penalties and interest thereon stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the applicant shall not be required to deposit such taxes, penalties and interest as a condition precedent to the application.

§ 185-21. Refunds.

- A. In the manner provided in this section, the Director of Management and Budget shall refund or credit, without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the Director of Management and Budget for such refund shall be made within one year from the payment thereof. Whenever a refund is made by the Director of Management and Budget, he shall state his reason therefor in writing. Such application may be made by the occupant, operator or other person who has actually paid the tax. Such application may also be made by an operator who has collected and paid over such tax to the Director of Management and Budget, provided that the application is made within one year of the payment of the occupant to the operator, but not actual refund of moneys shall be made to such operator until he shall first establish to the satisfaction of the Director of Management and Budget, under such regulations as the Director of Management and Budget may prescribe, that he has repaid to the occupant the amount for which the application for refund is made. The Director of Management and Budget may, in lieu of any refund required to be made, allow credit therefor on payments due from the applicant.
- B. An application for a refund or credit made as herein provided shall be deemed an application for a revision of any tax, penalty or interest complained of, and the Director of Management and Budget may receive evidence with respect thereto. After making his determination, the Director of Management and Budget shall give notice thereof to the applicant, who shall be entitled to review such determination by a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, provided that such proceeding is instituted within 30 days after the giving of notice of such determination, and provided that a final determination of tax due was not previously made. Such a proceeding shall not be instituted unless an undertaking is filed with the Director of Management and Budget in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that, if such proceedings are dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.
- C. A person shall not be entitled to a revision, refund or credit under this section of a tax, interest or penalty which had been determined to be due pursuant to the provisions of § 185-19 of this article where he has had a hearing or an opportunity for a hearing, as provided in said section, or has failed to avail himself of the remedies therein provided. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the Director of Management and Budget after a hearing of his own motion or in a proceeding under Article 78 of the Civil Practice Law and Rules, pursuant to the provisions of said section, in which event refund or credit without interest shall be made of the tax, interest or penalty found to have been overpaid.

§ 185-23. Remedies to be exclusive.

The remedies provided by § § 185-19 and 185-21 of this article shall be exclusive remedies available to any person for the review of tax liability imposed by this article, and no determination or proposed determination of tax or determination on any application for refund shall be enjoined or reviewed by an action for declaratory

judgment, an action for money had and received or by any action or proceeding other than a proceeding in a nature of a certiorari proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that a taxpayer may proceed by declaratory judgment if he institutes suit within 30 days after a deficiency assessment is made and pays the amount of the deficiency assessment to the Director of Management and Budget prior to the institution of such suit and posts a bond for costs as provided in § 185-19 of this article.

§ 185-24. Proceedings to recover tax.

- A. Whenever any operator or any officer of a corporate operator or any occupant or other person shall fail to collect and pay over any tax and/or to pay any tax, penalty or interest imposed by this article as herein provided, the County Attorney shall, upon the request of the Director of Management and Budget, bring or cause to be brought an action to enforce the payment of the same on behalf of the County of Broome in any court of the State of New York or of any other state of the United States. If, however, the Director of Management and Budget in his discretion believes that any such operator, officer, occupant or other person is about to cease business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, he may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately.
- B. As an additional or alternate remedy, the Director of Management and Budget may issue a warrant, directed to the Sheriff, commanding him to levy upon and sell the real and personal property of the operator or officer of a corporate operator or other person liable for the tax, which may be found within the county, for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to the Director of Management and Budget and to pay to him the money collected by virtue thereof within 60 days after the receipt of such warrant. The Sheriff shall, within five days after the receipt of the warrant, file with the County Clerk a copy thereof, and thereupon such Clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the interest in real and personal property of the person against whom the warrant is issued. The Sheriff shall then proceed upon the warrant in the same manner and with like effect as that provided by law in respect to executions issued against property judgments of a court of record, and for services in executing the warrant he shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the Director of Management and Budget, a warrant of like terms, force and effect may be issued and directed to any officer or employee of the Director of Management and Budget, and in the execution thereof such officer or employee shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the Director of Management and Budget may from time to time issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the county has recovered judgment therefor and execution thereon has been returned unsatisfied.
- C. Whenever an operator shall make a sale, transfer or assignment in bulk of any part or the whole of his hotel or motel, of his lease, license or other agreement or right to possess or operate such hotel or motel or of the equipment, furnishings,

fixtures, supplies or stock of merchandise, or said premises or lease, license or other agreement or right to possess or operate such hotel or motel and the equipment, furnishings, fixtures, supplies and stock of merchandise pertaining to the conduct or operation of said hotel or motel otherwise than in the ordinary and regular prosecution of business, the purchaser, transferee or assignee shall, at least 10 days before taking possession of the subject of the sale, transfer or assignment or paying therefor, notify the Director of Management and Budget by registered mail of the proposed sale and of the price, terms and conditions thereof, whether or not the seller, transferor or assignor has represented to or informed the purchaser, transferee or assignee that it owes any tax pursuant to this article, and whether or not the purchaser, transferee or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing.

- D. Whenever the purchaser, transferee or assignee shall fail to give notice to the Director of Management and Budget as required by the preceding subsection, or whenever the Director of Management and Budget shall inform the purchaser, transferee or assignee that a possible claim for such tax or taxes exists, any sums of money, property or choses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferor or assignor shall be subject to a first priority right and lien for any such taxes theretofore or thereafter determined to be due from the seller, transferor or assignor to the county, and the purchaser, transferee or assignee is forbidden to transfer to the seller, transferor or assignor any such sums of money, property or choses in action to the extent of the amount of the county's claim. For failure to comply with the provisions of this subsection, the purchaser, transferee or assignee, in addition to being subject to the liabilities and remedies imposed under the provisions of Article 6 of the Uniform Commercial Code, shall be personally liable for the payment to the county of any such taxes theretofore or thereafter determined to be due to the county from the seller, transferor or assignor, and such liability may be assessed and enforced in the same manner as the liability for tax under this article.

§ 185-25. General powers of Director of Management and Budget.

- A. In addition to the powers granted to the Director of Management and Budget in this article, he is hereby authorized and empowered to:
- (1) Make, adopt and amend rules and regulations appropriate to the carrying out of this article and the purposes thereof.
 - (2) Extend, for cause shown, the time of filing any return for a period not exceeding 30 days and for cause shown, to remit penalties but not interest computed at the rate of 6% per annum, and to compromise disputed claims in connection with the taxes hereby imposed.
 - (3) Request information from the Tax Commissioner of the State of New York or the Treasury Department of the United States relative to any person, and to afford information to such Tax Commission or such Treasury Department relative to any person, any other provision of this article to the contrary notwithstanding.
 - (4) Delegate his functions hereunder to a Deputy Director or any employee or employees of the Office of Management and Budget.
 - (5) Prescribe methods for determining the rents for occupancy and to determine the taxable and nontaxable rents.
 - (6) Require any operator within the county to keep detailed records of the nature and type of hotel maintained, the nature and type of service rendered, the rooms

available and rooms occupied daily, leases or occupancy contracts or arrangements, rents received, charged and accrued and the names and addresses of the occupants, whether or not any occupancy is claimed to be subject to the tax imposed by this article, and to furnish such information upon request to the Director of Management and Budget.

(7) Assess, determine, revise and readjust the taxes imposed under this article.

B. Administration of oaths and compelling testimony.

(1) The Director of Management and Budget or his employees or agents duly designated and authorized by him shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this article. The Director of Management and Budget shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his duties hereunder and of the enforcement of this article and to examine them in relation thereto, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before him or excused from attendance.

(2) A Justice of the Supreme Court, either in court or at chambers, shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the Director of Management and Budget under this article.

(3) Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material matter pending before the Director of Management and Budget under this article shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than \$1,000 or imprisonment for not more than one year, or both such fine and imprisonment.

(4) The officers who serve the summons or subpoena of the Director of Management and Budget and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided. Such officers shall be the County Sheriff and his duly appointed deputies or any officers or employees of the Office of Management and Budget designated to serve such process.

§ 185.27. Penalties and interest.

A. Any person failing to file a return or to pay over any tax to the Director of Management and Budget within the time required by this article shall be subject to a penalty of 5% of the amount of tax due, plus interest at the rate of 1% of such tax for each month of delay, excepting the first month after such return was required to be filed or such tax became due; but the Director of Management and Budget, if satisfied that the delay was excusable, may remit all or any part of such penalty, but not interest at the rate of 6% per year. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this article. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this article.

B. Any operator or occupant and any officer of a corporate operator or occupant failing to file a return required by this article, or filing or causing to be filed or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this article which is willfully false, and any operator and any officer of a corporate operator willfully failing to file a bond required to be filed pursuant to § 185-19 of this article, or failing to file a registration certificate and

such data in connection therewith as the Director of Management and Budget may by regulation or otherwise require, or display or surrender the certificate of authority or exemption as required by this article, or assigning or transferring such certificate of authority or exemption, and any operator and any officer or a corporate operator willfully failing to charge separately from the rent the tax herein imposed, or willfully failing to state such tax separately on any evidence of occupancy and on any bill or statement or receipt of rent issued or employed by the operator, or willfully failing or refusing to collect such tax from the occupant, and any operator and any officer of a corporate operator who shall refer or cause reference to be made to this tax in a form or manner other than that required by this article, and any operator failing to keep the records required by § 185-16 of this article shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishment for which shall be a fine of not more than \$1,000 or imprisonment for not more than one year, or both such fine and imprisonment. Officers of a corporate operator shall be personally liable for the tax collected or required to be collected by such corporation under this article and subject to the penalties hereinabove imposed.

- C. The certificate of the Director of Management and Budget to the effect that a tax has not been paid, that a return, bond or registration certificate has not been filed or that information has not been supplied pursuant to the provisions of this article shall be presumptive evidence thereof.

§ 185-28. Returns to be confidential; penalties for disclosure.

- A. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Director of Management and Budget or any officer or employee of the Office of Management and Budget to divulge or make known in any manner the rents or other information relating to the business of a taxpayer contained in any return required under this article. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Director of Management and Budget in an action or proceeding under the provisions of this article, or on behalf of any party to any action or proceeding under the provisions of this article when the returns of facts shown thereby are directly involved in such action or proceeding, in either of which events the courts may require the production of and may admit in evidence, so much of said returns or of the facts shown thereby as are pertinent to the action or proceeding, and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his duly authorized representative of a certified copy of any return filed in connection with his tax, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the inspection by the County Attorney or other legal representatives of the county of the return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty. Returns shall be preserved for three years and thereafter until the Director of Management and Budget permits them to be destroyed.

Section 52. Section 185-49 of the Charter and Code is hereby amended to read as follows:

§ 185.49. Taxes apportioned; deposited; appropriated.

The balance of all moneys paid to the recording officer of Broome County during each month on account of the tax imposed pursuant to this article, after deducting the necessary expenses of his office as provided in § 262 of the Tax Law, except taxes paid

upon mortgages which under the provisions of this article or § 260 of the Tax Law are first to be apportioned by the Commissioner of Taxation and Finance, shall be paid over by such officer on or before the 10th day of each succeeding month to the Director of Management and Budget of Broome County and, after the deduction by such Director of Management and Budget of the necessary expenses of his or her office as provided in § 262 of the Tax Law, shall be deposited in the general fund of the County of Broome and shall only be appropriated by the County Legislature of the County of Broome to fund the Office for Aging of Broome County. 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 article or § 260 of the Tax Law are first to be apportioned by the Commissioner of Taxation and Finance shall be paid over by the recording officer receiving the same as provided by the determination of said Commissioner of Taxation and Finance.

Section 53. Section 185-50 of the Charter and Code is hereby amended to read as follows:

§ 185-50. Definitions.

When used in this article, unless otherwise expressly stated, the following terms shall have the meanings indicated:

CONSIDERATION — The price actually paid or required to be paid for the real property or interest therein, including payment for an option or contract to purchase real property, whether or not expressed in the deed or whether paid or required to be paid by money, property or any other thing of value. It shall include the cancellation or discharge of an indebtedness or obligation. It shall also include the amount of any mortgage, purchase money mortgage, lien or other encumbrance, whether or not the underlying indebtedness is assumed or taken subject to.

- A. In the case of a creation of a leasehold interest or the granting of an option with use and occupancy of real property, "consideration" shall include, but not be limited to, the value of the rental and other payments attributable to the use and occupancy of the real property or interest therein, the value of any amount paid for an option to purchase or renew and the value of rental or other payments attributable to the exercise of any option to renew.
- B. In the case of a creation of subleasehold interest, "consideration" shall include, but not be limited to, the value of the sublease rental payments attributable to the use and occupancy of the real property, the value of any amount paid for an option to renew and the value of rental or other payments attributable to the exercise of any option to renew less the value of the remaining prime lease rental payments required to be made.
- C. In the case of a controlling interest in any entity that owns real property, "consideration" shall mean the fair market value of the real property or interest therein, apportioned based on the percentage of the ownership interest transferred or acquired in the entity.
- D. In the case of an assignment or surrender of a leasehold interest or the assignment or surrender of an option or contract to purchase real property, "consideration" shall not include the value of the remaining rental payments required to be made pursuant to the terms of such lease or the amount to be paid for the real property pursuant to the terms of the option or contract being assigned or surrendered.
- E. In the case of the original conveyance of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the cooperative corporation or cooperative plan sponsor and the subsequent conveyance by the owner thereof of such stock in a cooperative

housing corporation in connection with the grant or transfer of a proprietary leasehold for a cooperative unit other than an individual residential unit, "consideration" shall include a proportionate share of the unpaid principal of any mortgage on the real property of the cooperative housing corporation comprising the cooperative dwelling or dwellings. Such share shall be determined by multiplying the total unpaid principal of the mortgage by a fraction, the numerator of which shall be the number of shares of stock being conveyed in the cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold and the denominator of which shall be the total number of shares of stock in the cooperative housing corporation.

CONTROLLING INTEREST —

- A. In the case of a corporation, either 50% or more of the total combined voting power of all classes of stock of such corporation or 50% or more of the capital, profits or beneficial interest in such voting stock of such corporation.
- B. In the case of a partnership, association, trust or other entity, 50% or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.

CONVEYANCE —

- A. The transfer or transfers of any interest in real property by any method, including but not limited to sale, exchange, assignment, surrender, mortgage foreclosure, transfer in lieu of foreclosure, option, trust indenture, taking by eminent domain, conveyance upon liquidation or by a receiver or transfer or acquisition of a controlling interest in any entity with an interest in real property. Transfer of an interest in real property shall include the creation of a leasehold or sublease only where:
 - (1) The sum of the term of the lease or sublease and any options for renewal exceeds 49 years.
 - (2) Substantial capital improvements are or may be made by or for the benefit of the lessee or sublessee; and
 - (3) The lease or sublease is for substantially all of the premises constituting the real property.
- B. Notwithstanding the foregoing, "conveyance" of real property shall not include the creation, modification, extension, spreading, severance, consolidation, assignment, transfer, release or satisfaction of a mortgage, a mortgage subordination agreement, a mortgage severance agreement, an instrument given to perfect or correct a recorded mortgage or a release of lien of tax pursuant to this article or the Internal Revenue Code.

GRANTEE — The person who obtains real property or interest therein as a result of a conveyance.

GRANTOR — The person making the conveyance of real property or interest therein. Where the conveyance consists of a transfer or an acquisition of a controlling interest in an entity with an interest in real property, "grantor" means the entity with an interest in real property or a shareholder or partner transferring stock or partnership interest.

INTEREST IN THE REAL PROPERTY — Includes title in fee, a leasehold interest, a beneficial interest, an encumbrance, development rights, air space and air rights or any other interest with the right to use or occupancy of real property or the right to receive rents, profits or other income derived from real property. It shall also include an option or contract to purchase real property. It shall not include a right of first refusal to purchase real property.

PERSON — An individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a

fiduciary or representative capacity, whether appointed by a court or otherwise, any combination of individuals, and any other form of unincorporated enterprise owned or conducted by two or more persons.

REAL PROPERTY — Every estate or right, legal or equitable, present or future, vested or contingent, in lands, tenements or hereditaments, including buildings, structures and other improvements thereon, which are located in whole or in part within the County of Broome. It shall not include rights to sepulture.

RECORDING OFFICER — The County Clerk of the County of Broome.

TREASURER — The Director of Management and Budget of the County of Broome.

Section 54. Section 185-60 of the Charter and Code is hereby amended to read as follows

§ 185-60. Deposit and disposition of revenue.

- A. All taxes collected or received by the Treasurer or his duly authorized agent under the provision of this article shall be paid over on or before the 10th day of each succeeding month to the Director of Management and Budget and shall be deposited into the general fund of the County of Broome and shall only be appropriated by the County Legislature to fund veterans' services programs within Broome County.
- B. The Director of Management and Budget shall maintain a system of accounts showing the revenue collected or received from the tax imposed pursuant to this article.

Section 55. Section 185-70 of the Charter and Code is hereby amended to read as follows:

§ 185-70. Installment agreement.

The Broome County Director of Real Property Tax Services, the enforcing officer of Broome County, is authorized to enter into an installment agreement providing for the payment of eligible delinquent taxes in installments with property owners. Such installment payment of eligible delinquent taxes shall be made available to each eligible owner on a uniform basis pursuant to the provisions of the New York State Real Property Tax Law and this local law. Such installment payments of eligible delinquent taxes shall commence upon the signing of an agreement between the Broome County Real Property Tax Service and the eligible owner. The agreement shall be kept on file in the office of the Broome County Real Property Tax Service, and copies of each agreement shall be provided to the Director of Management and Budget and the Comptroller.

Section 56. Section 225-2 of the Charter and Code is hereby amended to read as follows:

§ 225-2. Definitions.

For the purposes of this regulation, the following terms shall have the meanings indicated:

CLERK OF THE COUNTY LEGISLATURE – The Clerk of the Legislature of the County of Broome and any of her assistants designated by her to perform any or all of the functions hereunder.

COUNTY ATTORNEY – The County Attorney of the County of Broome and any of his assistants designated by him to perform any or all of the functions hereunder.

COUNTY OF BROOME – The County of Broome, a municipal corporation exercising all of the rights, privileges, functions and powers conferred upon it by the Broome County Charter and any other applicable statute not inconsistent with such Charter.

FISCAL OFFICER – The Director of Management and Budget and any of his assistants designated by him to perform any or all of the functions hereunder.

PAYROLL RECORD – An itemized record setting forth the name, department, title and salary of every officer and employee of the County of Broome.

RECORD or RECORDS – Any file, memorandum, document or other writing constituting:

- A. Final opinions and orders made in the adjudication of cases.
- B. Statements of policy and interpretations which have been adopted by the County of Broome and any statistical or factual tabulations which led to the formulation thereof.
- C. Minutes of public hearings held by the County of Broome.
- D. Internal or external audits and statistical or factual tabulations made by or for the County of Broome.
- E. Administrative staff manuals and instructions to staff that affect members of the public.
- F. The payroll record.
- G. Any other files, records, papers or documents required by any provision of law to be made available for public inspection.

RECORDS ACCESS OFFICER – The Clerk of the County Legislature as hereinbefore defined.

WORKDAY – Any day except Saturday, Sunday, a public holiday or a day on which the County

of Broome is otherwise closed for general business.

Section 57. This Local Law shall be effective on January 1, 2011.