

Board of Supervisors
WAYNE COUNTY

RESOLUTION NO. 529-11: ADOPT A LOCAL LAW AMENDING WAYNE COUNTY'S SELF INSURANCE PLAN FOR WORKER'S COMPENSATION

Mrs. Collier presented the following:

WHEREAS, a proposed local law relating to amending Wayne County's Self Insurance Plan for Worker's Compensation was presented to the Board of Supervisors on August 8, 2011; and

WHEREAS, a public hearing on the proposed local law was held by the Board of Supervisors on August 30, 2011 at 9:05 a.m., in accordance with the notice of hearing duly posted and published in the manner prescribed by law; now, therefore, be it

RESOLVED, that said local law is hereby adopted to read as follows:

COUNTY OF WAYNE - STATE OF NEW YORK

A Local Law Authorizing Amendment of the Wayne County Self Insurance Plan for Worker's Compensation.

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF WAYNE, as follows:

SECTION 1. LEGISLATIVE INTENT

"A Local Law amending Local Law No. 1 of 1956, and repealing Local Law No. 1 of 1964, Local Law No. 2 of 1970, Local Law No. 2 of 1979, Local Law No. 5 of 1991, Local Law No. 5 of 1992, Local Law No. 3 of 1995, Local Law No. 5 of 2001, Local Law No. 5 of 2002, and Local Law No.5 of 2007, establishing a plan of self-insurance as provided for in Article 5 of the Worker's Compensation Law, and providing for the administration thereof.

1. The plan of self-insurance provided by said Article 5 of the Worker's Compensation Law is hereby established and shall be known by the name of Wayne County Self-Insurance Plan.
2. The plan of self-insurance heretofore adopted pursuant to Article 5 of the Worker's Compensation Law and known as the Wayne County Self-Insurance Plan as set forth in Local Law No. 1 of 1956, is hereby amended as set forth herein, and Local Law No. 1 of 1964, Local Law No. 2 of 1970, Local Law No. 2 of 1979, Local Law No. 5 of 1991, Local Law No. 5 of 1992, Local Law No. 3 of 1995, Local Law No. 5 of 2001, Local Law No. 5 of 2002, and Local Law No.5 of 2007 are hereby repealed.
3. The plan of self-insurance hereby established shall be administered by Standing Committee No. 5 Government Operations Committee of the Wayne County Board of Supervisors.
4. The Committee is herewith granted the powers set forth in Section 64, Subdivision 1, of the Worker's Compensation Law with particular reference to the appointment or employment of such persons as may be deemed necessary for the operation of the plan and is herewith empowered to contract for the necessary actuarial or other professional services required in the administration of this plan.

The Committee is also herewith empowered to appoint a Director of such plan and the Director shall perform such duties as may be necessary to operate the plan in accordance with the Worker's Compensation Law; utilizing the services of a Third Party Administrator, the Director shall have the power to authorize payment of Worker's Compensation benefits to claimants as provided by Section 25 of the Worker's Compensation Law; utilizing the services of a Third Party Administrator, the Director shall have the power to authorize necessary medical care which appears from medical reports and/or information to be justifiable; the Director shall have authority to purchase supplies, stationery, forms books, equipment, etc., as may be necessary for the operation of said plan within the limits of the appropriation and subject to the approval of the Committee; and the Director shall have the responsibility to ensure that a report of the plan be prepared annually not later than 60 days following the close of the calendar year, such report to be filed with the Clerk of the Board of Supervisors and provided to each participant of the plan. The Director shall file with the Clerk of the Board on or before August 15 an estimate of need for the Plan for the ensuing year; each participant in the plan shall be notified in writing not later than September 1 of their assessment for the ensuing year.

5. The County of Wayne shall be a participant in the Plan.
6. Any of the Towns, Villages, or Union Free and Central School Districts may elect to become a participant in the plan hereby established by filing with the Committee on or before the first day of July of any year a certified copy of the resolution of its governing body electing to become a participant in the plan, with membership to become effective on the first day of January following such filing.

7. There shall be no entrance fee required for entry into this plan for new members. Previous members who have withdrawn from the plan and wish to reenter the plan shall pay an amount equal to twenty-five percent of the most recent plan assessment for that jurisdiction prior to withdrawing from the plan plus an assessment based upon the formulae contained herein for participating members for the year of re-entry.
8. Any participant shall be entitled to withdraw from participation in the plan by filing with the Committee on or before the fifteenth day of October of any year a certified copy of the resolution of its governing body electing to withdraw from the plan effective at the end of such year. The withdrawing participant shall be assessed an amount of money equivalent to its proportionate share of the value of all outstanding and unreserved liabilities of the plan as of the date of withdrawal. Outstanding and unreserved liabilities of the plan shall be calculated utilizing the actuarially determined "expected" midpoint of the discounted "Estimated Loss and ALAE Reserves including IBNR" at the year end for the current year. The date of withdrawing from the plan shall be the last day of the calendar year in which the notice to withdraw is received.

On or before September 1, an estimate of said amount may be requested by the withdrawing entity based upon the most recent completed year but is not a binding amount on the plan. The percent of equitable share shall be calculated by dividing the plan assessment for the jurisdiction for the current year by the assessment of all the participants in the plan for the current year, then multiplying that percentage times the difference between outstanding actuarially determined liabilities of the plan as of the date of withdrawing from the plan less the amount of the plan reserve as of that date. The actual amount shall be determined not later than June 1 of the ensuing year and the withdrawing jurisdiction shall remit the amount to the County not later than July 31. Failure to remit the full amount owed by July 31 shall cause the county to levy the unpaid amount in the next scheduled tax levy against property taxable by the participant responsible for the assessment.
9. The Committee is herewith empowered to require medical physical examinations of any or all employees of any participant as it shall deem necessary. This power shall include the right of examination of all active members of volunteer fire companies participating in the plan. The costs of such examinations shall be paid from the funds of the plan.
10. The Committee is herewith empowered to require the institution of safety programs with respect to any of the participants in this plan as it shall deem necessary.
11. The managing Committee is herewith empowered to require the participating members to promptly file reports of all accidents; to notify the Committee of the work status of any injured employee; to promptly file payroll information upon request, and to co-operate in every manner with the Committee and Director of the Plan.
12. For each infraction of Sections 10, 11 and 12 hereof, the offending participant may be assessed a fine in a sum to be determined by the Committee but which shall not in any event exceed \$25.00 for each infraction. The Committee is herewith empowered to suspend or excuse the assessment and/or the collection of such fines upon the proper showing by the offending participant. Any such penalty so assessed shall be collected at the same time and in the same manner as other charges against such participant as set forth in Section 15 of this law.
13. (a) Definitions
 - (i) "Annual Estimate" is the annual estimate prepared pursuant to Section 67 of the Workers' Compensation Law.
 - (ii) "Incurred loss experience" includes paid losses plus reserves.
 - (iii) "Plan Group A" includes all school districts in the Wayne County Self-Insurance Plan.
 - (iv) "Plan Group B" includes the County of Wayne and all Towns and Village participants in the Wayne County Self-Insurance Plan.
 - (v) "Plan Group A and B loss distribution factor" shall be 100% of the total Plan assessment.
 - (vi) "Plan Group A, and B three-year experience assessment" is the amount determined by multiplying fifty percent of the total annual estimate by the Plan Group A, and B three-year loss distribution factor.
 - (vii) "Participant's experience rating factor" for each Plan
 - (viii) Group A, and B participant is the participant's pro rata share, expressed as a percentage, of the incurred loss experience for all Plan Group A, and B participants in the three consecutive calendar years immediately preceding the year in which the annual estimate is prepared. The amount in excess of \$20,000 incurred for an individual claim in any calendar year shall not be used in determining a participant's loss experience for such calendar year.
 - (ix) "Participant's payroll rating factor" for each Plan Group A, and B participant is the participant's pro rata share, expressed as a percentage, of the total payroll for Plan Group A, and B participants for the year immediately preceding the year in which the annual estimate is prepared.
 - (x) "Plan Group A, and B payroll assessment" is the amount determined by multiplying twenty-five percent of the total assessment by the Plan Group A and, B loss distribution factor.
 - (xi) "Participant's taxable property value rating factor" for each Plan Group A and B participant is the participant's pro rata share, expressed as a percentage, of the total taxable property value for Plan Group A and B participants for the year immediately preceding the year in which the annual estimate is prepared.

For those Plan Group B town participants that have one or more village governments within their jurisdictions the equalized assessments of the participants shall not include the village equalized assessments in the town government assessments for the purpose of calculating equalized assessed value for the plan.

- (xii) "Plan Group A and B property value assessment" is the amount determined by multiplying twenty-five percent of the total assessment by the Plan Group A, and B loss distribution factor.
- (xiii) "Plan Group A property value assessment" is the amount determined by multiplying twenty-five percent of the total assessment by the Plan Group A loss distribution factor.
- (xiv) "Plan Group B property value assessment" is the amount determined by multiplying twenty-five percent of the total assessment by the Plan Group B loss distribution factor

(b) Apportionment of Costs

- (i) Twenty-five percent of the annual estimate of costs shall be apportioned to each Plan participant on a payroll rating basis. The share for each participant shall be determined by multiplying the participant's payroll rating factor by the participant's Plan Group payroll assessment.
- (ii) Fifty percent of the annual estimate of costs shall be apportioned to Plan participants on an experience rating basis. The share of each participant shall be determined by multiplying the participant's experience rating factor by the participant's Plan Group experience rating factor.
- (iii) The amount in excess of \$20,000 incurred for an individual claim in any calendar year shall not be used in determining a participant's loss experience for such calendar year.
- (iv) If the total amount apportioned to a participant in any year exceeds twice the amount apportioned to such participant in the immediately preceding year, the excess amount shall not be charged to the participant but shall be apportioned to all other participants utilizing the percent of each participants current assessment as a percent of the total assessments of all other participants, less the assessment for any participant that exceeds twice the amount apportioned, to apportion the excess amount to all other participants.
- (v) Twenty-five percent of the annual estimate of costs shall be apportioned to each Plan participant on a property value rating basis. The share for each participant shall be determined by multiplying each participant's equalized taxable property value rating factor by the participant's Plan Group property value assessment. For those Plan Group B town participants that have one or more village governments within their jurisdictions the equalized assessments of the participants shall not include the village equalized assessments in the town government assessments for the purpose of calculating equalized assessed value for the plan.

14. The amounts so proportioned to participating towns as provided in Section 13 hereof may be collected by inclusion in the scheduled tax levy against property taxable by the participant responsible therefore. Payment shall be made to the Wayne County Treasurer not later than thirty (30) days after the commencement of such participant's next fiscal year, as provided in Section 67 of the Workmen's Compensation Law.

Any amount proportioned to participating towns, villages, or school districts that is not remitted by the specified due date may be levied in the next scheduled tax levy for the year after it was due against property taxable by the participant responsible therefore. When collected, such amount shall be paid over to the Wayne County Treasurer and by him credited to the Wayne County Self Insurance Fund. For the failure of a participant to pay its share of an annual estimate within thirty (30) days after the commencement of its fiscal year, there shall be assessed a penalty equal to but not exceeding one per cent per month on the amount billed to the date of payment.

15. If at any time there are insufficient moneys in the Wayne County Self Insurance Fund, exclusive of the reserve, to operate the plan, the County Treasurer shall advance to such fund such amount from the General Fund of the County as shall be requested by the Committee and approved by resolution of the Board of Supervisors. Any such advance shall be repaid as soon as moneys are available therefore, but in no event later than the close of the calendar year succeeding the calendar year in which the advance was made. However, any such advance may be repaid not later than the close of the second calendar year succeeding the calendar year in which such advance was made, when made during such calendar year at a time subsequent to the preparation of the estimate by the Committee for the succeeding calendar year.

16. A self-insurance reserve in addition to the plan reserve for estimated loss and ALAE Reserves including IBNR in an amount not to exceed \$50,000 is hereby authorized to be established for the Wayne County Self-Insurance Plan. The funds for such reserve may be provided by (1) contributions to the reserve included in the annual estimate prepared by the Committee; (b) the transfer of moneys from the unexpended current fund balance upon authorization by the Committee, or (c) the accumulation of interest earned from the investment of reserve funds.

17. The Committee is herewith empowered to invest the reserve funds in accordance with Section 6-F of the General Municipal Law.

18. In the event of abandonment of the plan, all moneys remaining in such reserve in excess of an amount sufficient to satisfy all accrued and contingent liability shall be refunded to the participants in the same manner as collected by the most recent apportionment.

19. The committee, subject to the approval of the Board of Supervisors, may on behalf of the plan purchase excess or catastrophe insurance and the cost of such insurance shall be an administrative expense of the plan.
20. The Board of Supervisors may, by local law, provide for the abandonment of this plan. Such abandonment shall be effective as of the close of the calendar year in progress. Such plan, however, shall continue to operate thereafter until all liabilities of the plan incurred prior to such effective date shall have been satisfied and all advances to the Wayne County Self Insurance Fund repaid. Any assets of the plan remaining after the satisfaction of such liabilities shall be distributed among the participants, such participants to share in a pro rata basis on the equalized assessed valuation then effective.”

SECTION 2. EFFECTIVE DATE

This local law shall take effect immediately.

and be it further

RESOLVED, that the Clerk of the Board of Supervisors is hereby directed to number the local law in conformance with the filing requirements of the Secretary of State and to file the local law with the Secretary of State in accordance with the provisions of the Municipal Home Rule Law of the State of New York.

Mr. Groat moved the adoption of the resolution. Seconded by Mrs. Bender. Upon roll call, all Supervisors voted Aye. Supervisor Hammond Abstained from voting. Absent – Supervisor Crane. The Chairman declared the Resolution adopted.

WAYNE COUNTY
Board of Supervisors
LYONS, NEW YORK

This is to Certify that I, the undersigned, Clerk of the Board of Supervisors of the County of Wayne, have compared the foregoing copy of resolution with the original resolution now on file in this office and which was duly adopted by the Board of Supervisors of said County at a session held on the 30th day of August 2011 and that the same is a true copy of said original and of the whole thereof.

In Witness Whereof, I have hereunto subscribed my name and affixed the official seal of the Board of Supervisors of the County of Wayne, this 30th day of August 2011.

Clerk of the Board

