

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act which, if approved, would authorize (i) the County Attorney to compromise the County's claim to be reimbursed for health care expenditures and wage benefits paid to or on behalf of "J.V.," a former County employee who was injured in the line of duty, from a settlement against a third-party tortfeasor (the "Third-Party Action Piece"); and (ii) the County Attorney and the Commissioner of Finance to compromise the County's liability to pay a reduced lump sum in lieu of future payments owed to J.V. (the "Future Liability Settlement Piece"). Consistent with prior practice in similar cases, I have deleted the name of the employee to protect the individual's privacy. The name, of course, will be disclosed to the Board of Legislators if that is desired.

The Third-Party Action Piece

On February 17, 2017, J.V., a police officer in the Westchester County Department of Public Safety (the "Department"), slipped on ice in the driveway of 21 New Castle Drive, Mount Kisco, NY (the "Subject Property"). As a result of the fall, he injured his back, neck, and left wrist in the fall. J.V. never returned to work following his injury, and he retired from service on February 9, 2021.

Shortly after the fall, J.V. filed a claim for his injury with the NYS Workers' Compensation Board, which was not controverted. On a parallel track to his Workers' Compensation claim, J.V. commenced a personal injury action against three parties allegedly responsible for maintaining the Subject Property.

On June 28, 2021, the Westchester County Board of Legislators passed Act No. 117-2021, which, among other things: (i) authorized J.V. to settle his third party action against one of the three defendants for five thousand and 00/100 dollars (\$5,000.00); and (ii) deferred reimbursement

of the County's lien on such settlement proceeds pending resolution of the third party action as against the remaining defendants.

Recently, J.V. agreed in principle to settle his personal injury claim with the remaining defendants for four hundred twenty-five thousand and 00/100 dollars (\$425,000.00), pending the consent of the County.

The total proposed settlement in this matter is now four hundred thirty thousand and 00/100 dollars (\$430,000.00). In connection with the proposed settlement, J.V.'s counsel notified this Office that his costs and disbursements in this matter total one thousand two hundred eighty-five and 35/100 dollars (\$1,285.35) and that his fee totals one hundred forty-two thousand nine hundred three and 45/100 dollars (\$142,903.45).

Between the date of the accident and the date of the proposed settlement, the County expended medical benefits pursuant to the NYS Workers' Compensation Law ("WCL") to or on J.V.'s behalf in the amount of sixty-six thousand six hundred seventy-five and 49/100 dollars (\$66,675.49) and paid indemnity (lost wage) benefits in the amount of one hundred seventy-nine thousand eighty-seven and 10/100 dollars (\$179,087.10)—bringing the County's total expenditure in this matter to two hundred forty-five thousand seven hundred sixty-two and 59/100 dollars (\$245,762.59).

Based upon a review of the facts and circumstances of this matter, this Office seeks the authority to compromise the County's claim for reimbursement by reducing its lien by 33.54%, equaling a dollar reduction of eighty-two thousand four hundred twenty-eight thousand and 77/100 dollars (\$82,428.77). The County would thereafter accept in satisfaction of its present lien a total of one hundred sixty-three thousand three hundred thirty-three and 82/100 dollars (\$163,333.82).

After the County is reimbursed and counsel fees are paid, J.V. would recover one hundred twenty-two thousand four hundred seventy-seven and 38/100 dollars (\$122,477.38).

The Future Liability Settlement Piece

Pursuant to Section 32 of the New York State Workers' Compensation Law, the County is permitted to reduce the liability for ongoing benefits by paying a lump sum to the employee. When a County employee suffers a work-related injury, he or she qualifies for Workers' Compensation benefits. Once the Workers' Compensation Board issues a permanency finding, the County is obligated to make continuing payments. Pursuant to Section 32 of the New York State Workers' Compensation Law, the County is permitted to reduce its liability for ongoing benefits by paying the employee a reduced lump sum. As a result of this lump sum, future payments are eliminated and the County realizes substantial savings.

The Department of Finance, in its role as administrator of the County's Workers' Compensation Program, has negotiated, with the cooperation of the County Attorney's Office, lump-sum settlements with the attorneys for injured employees. Such settlements have been and remain subject to final approval in the interest of justice by the New York State Workers' Compensation Board.

Employee:	J.V.
Department:	Public Safety
Date of Injury:	February 17, 2017
Injuries:	Back, neck, and left wrist
Lump-Sum Settlement (Medical & Indemnity):	\$ 182,168.82

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Your Committee has carefully considered the matter and recommends (i) authorizing the County Attorney, pursuant to Section 158.11 of the Westchester County Charter, to compromise the County's right to be reimbursed for health care and wage benefits paid to or on behalf of J.V. from the settlement of his legal action against a third-party tortfeasor; and (ii) authorizing the County Attorney and the Commissioner of Finance to compromise the County's liability for J.V.'s future Workers' Compensation benefits by paying a lump sum.

An affirmative vote of a majority of the Board is required to pass this legislation.

Dated: White Plains, New York
March 21, 2022

Thomas J. Brilliano, Chairman
D. Miller (w/o prejudice)
Mary Jane Shinsky
D. Miller
J. Miller

D. Miller (w/o prejudice)
Mary Jane Shinsky

Budget & Appropriations







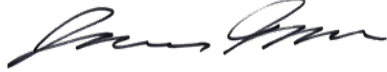

Law & Major Contracts

COMMITTEES ON

Dated: March 21, 2022
White Plains, New York

The following members attended the meeting remotely, as per Governor Cuomo's Executive Order 202.1 and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below

COMMITTEES ON

Law & Major Contracts

Budget & Appropriations

ACT NO. 2022

AN ACT authorizing the County Attorney to compromise the County's claim to be reimbursed for health care expenditures and wage benefits paid to or on behalf of a County employee from a settlement against a third-party tortfeasor and authorizing the County Attorney and the Commissioner of Finance to compromise the County's liability to pay a reduced lump sum in lieu of future payments

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

1. The County of Westchester is hereby authorized to compromise its right to be reimbursed for health care and wage benefits paid or owing to or on behalf of a County employee, identified as "J.V.," from a settlement of his legal action against a third party. The County's reimbursement is \$163,333.82, representing a 33.54% reduction of its lien, with full reservation of the County's right to set off J.V.'s net recovery against any future compensation in accordance with the provisions of New York State Workers' Compensation Law.
2. The County Attorney and the Commissioner of Finance are hereby authorized to compromise the County's right to pay Workers' Compensation benefits to J.V. by contributing \$ 182,168.82 towards a lump-sum settlement, thereby reducing the County's liability for ongoing benefits to and/or for the benefit of the employee.
3. The County Attorney or his designee and the Commissioner of Finance or her designee are hereby authorized to execute and deliver all documents and take such actions as the County Attorney and/or the Commissioner of Finance deem necessary or desirable to accomplish the purposes hereof
4. This Act shall take effect immediately.

FISCAL IMPACT STATEMENT

SUBJECT: Settlement of Workers Comp Lien (J.V.)

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

(To be completed by operating department and reviewed by Budget Department)

A) GENERAL FUND AIRPORT SPECIAL REVENUE FUND (Districts)

B) EXPENSES AND REVENUES

Total Current Year Cost \$ 182,169

Total Current Year Revenue \$ 163,334

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: 613-57-0017-4280

Potential Related Operating Budget Expenses: Annual Amount \$ _____

Describe: _____

Potential Related Revenues: Annual Amount \$ _____

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four years: _____

Prepared by: Michael Dunn

Title: Budget Analyst

Department: Budget

Reviewed By: _____

Budget Department

If you need more space, please attach additional sheets.