

Legislation Meeting Agenda



Committee Chair: Colin Smith

800 Michaelan Office Bldg.
148 Martine Avenue, 8th Floor
White Plains, NY 10601
www.westchesterlegislators.com

Monday, March 21, 2022

1:00 PM

Committee Room

CALL TO ORDER

Joint with the Committee on Human Services, Human Rights, and Equity

MINUTES APPROVAL

February 25, 2022 at 1:00 PM Minutes

February 28, 2022 at 1:00 PM Minutes

I. ITEMS FOR DISCUSSION

[2022-112](#)

**HON. MARYJANE SHIMSKY - PH- Amendments to County Charter
re: Language Change for Intellectual and Development Disabilities**

A RESOLUTION to set a Public Hearing on a "LOCAL LAW amending various sections of the Laws of Westchester County to change the language used in reference to individuals with intellectual/developmental disabilities and to employ the use of person-centered language." [Public Hearing set for _____, 2022 at _____ .m.]. LOCAL LAW INTRO: 2022-113.

**COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION AND HUMAN SERVICES,
HUMAN RIGHTS & EQUITY**

Guests: Westchester County Department of Community Mental Health - Commissioner Michael Orth; Westchester County Department of Law - Stacey Dolgin-Kmetz, Chief Deputy County Attorney, Shawna Macleod, Senior Assistant County Attorney

[2022-113](#)

**HON. MARYJANE SHIMSKY - LL - Amendments to County Charter
re: Language Change for Intellectual and Development Disabilities**

A LOCAL LAW amending various sections of the Laws of Westchester County to change the language used in reference to individuals with intellectual/developmental disabilities and to employ the use of person-centered language.

**COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION AND HUMAN SERVICES,
HUMAN RIGHTS & EQUITY**

Guests: Westchester County Department of Community Mental Health - Commissioner Michael Orth; Westchester County Department of Law - Stacey Dolgin-Kmetz, Chief Deputy County Attorney, Shawna Macleod, Senior Assistant County Attorney

[2022-99](#)**HOME RULE-A4017**

A New York State Home Rule Resolution requesting the enactment of Assembly Bill No. 4017/Senate Bill No. 1138 entitled, "AN ACT authorizing the commissioner of general services to convey real property in Westchester county to the county of Westchester."

COMMITTEE REFERRAL: COMMITTEE ON LEGISLATION

II. OTHER BUSINESS**III. RECEIVE & FILE****ADJOURNMENT**

MaryJane Shimsky
Legislator, 12th District

Committee on Public Works & Transportation

**Committee Assignments:**Budget & Appropriations
Health
Law & Major Contracts
Legislation
Parks & Recreation

To: Catherine Borgia, Chairwoman of the Board of Legislators
Sunday Vanderberg, Clerk of the Board of Legislators

FROM: MaryJane Shimsky, Legislator, 12th District

Date: March 2, 2022

RE: Amendments to the County Charter regarding language used to described those with intellectual and developmental disabilities

Please refer the attached Local Law with regard to amending various sections of the Laws of Westchester County to change the language used in reference to individuals with intellectual and developmental disabilities, and to employ the use of person centric language, on the March 7, 2022 Westchester County Board of Legislators agenda to the appropriate committees.

TO: BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee recommends adoption of “A LOCAL LAW amending various sections of the Laws of Westchester County, to change the language used in reference to individuals with intellectual/developmental disabilities, and to employ the use of person-centered language.”

Your Committee is advised that this proposed Local Law amends the Laws of Westchester County by eliminating the terms “mental retardation” and “mentally retarded” from various sections of Chapters 156 and 261 of the Laws of Westchester County. Since the time the legislation for these sections was originally enacted, these terms have been misappropriated and used in an increasingly derogatory manner. Indeed, the term “retarded” is now often dubbed the “R’ word”; has been used in common parlance in a disparaging way; and has become an offensive term regarding persons with intellectual/developmental disabilities.

Your Committee is further advised that in 2010, New York State enacted a law (L. 2010, Ch. 168) that, among other things, changed the name of the State’s “Office of Mental Retardation and Developmental Disabilities” to the “Office for People With Developmental Disabilities,” and clarified that the phrase “mental retardation” should be avoided, and not be used in any new or revised statutes, local laws, ordinances, charters, regulations, or publications of the state or any political subdivision, except when addressing clinical criteria for eligibility. Pursuant to the law, various sections of the New York State Mental Hygiene Law were amended to eliminate the term “mental retardation,” which was either deleted or replaced with “developmental disability” as appropriate.

Your Committee notes that in 2010, a federal law known as “Rosa’s Law” was enacted (124 Stat. 2643), which replaced numerous references to “mental retardation” in federal law

with the term “intellectual disability.” Also at the federal level, the U.S. “President’s Committee on Mental Retardation” was renamed the “President’s Committee for People with Intellectual Disabilities” by Executive Order 13309 in 2003. The Centers for Disease Control and Prevention also uses the term “intellectual disability.”

Your Committee further notes that there is a consensus among individuals with disabilities that using “person-centered” language is important when referring to persons with disabilities, including persons who have mental illnesses, intellectual/developmental disabilities, and addiction. Indeed, New York State’s “Person First” language law (L. 2007, Ch. 455) mandates that in statutory language, the emphasis should be placed on people, not their disabilities. Under the Person First law, political subdivisions, when referring to individuals with disabilities in new or revised statutes, local laws, charters, regulations, or other publications, should refer to persons with disabilities as persons first, and should avoid language that implies that a person as a whole is disabled; equates persons with their disabilities; is regarded as derogatory or demeaning; or has negative overtones.

Your Committee is informed that this proposed Local Law is consistent with the above-referenced New York State statutes. First, this proposed Local Law supplants the terms “mental retardation” and “mentally retarded,” which are regarded as demeaning, with forms of the term “intellectual/developmental disability.” Second, it eliminates language that may be construed to equate persons with their disabilities or signal that a person as a whole is disabled (e.g., “the mentally ill,” “the mentally disabled,” “substance abusers”), and instead uses person-centered language (e.g., “individuals with mental illness”; “individuals with mental disabilities”). Third, it removes phrases with negative overtones. For instance, this Local Law proposes replacing the phrase “in light of the problems of the mentally disabled, the mentally retarded, the developmental disability, and those suffering from alcoholism and

substance abuse” with the phrase “regarding individuals with mental disabilities, intellectual/developmental disabilities, and/or addiction.” Finally, the term “alcoholism and substance abuse” has been supplanted with “addiction,” which is the term currently used and preferred by the Westchester County Department of Community Mental Health.

Your Committee is aware that this Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”) and its implementing regulations. *See* Title 6, Part 617 of the New York Code Rules and Regulations (“NYCRR”). The proposed legislation does not meet the definition of an action under SEQRA and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning dated January 14, 2022, which is on file with the Clerk of the Board of Legislators.

In light of all of the foregoing, your Committee recommends passage of this Local Law.

Dated: _____, 2022
White Plains, New York

COMMITTEE ON

RESOLUTION NO. ____ – 2022

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2022, entitled “A LOCAL LAW amending various sections of the Laws of Westchester County, to change the language used in reference to individuals with intellectual/developmental disabilities, and to employ the use of person-centered language.” The public hearing will be held at __.m. on the ____ day of _____, 2022, in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

LOCAL LAW INTRO. NO. - 2022

A LOCAL LAW amending various sections of the Laws of Westchester County, to change the language used in reference to individuals with intellectual/developmental disabilities, and to employ the use of person-centered language.

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

Section 1. Section 156.01 of Chapter 156 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 156.01. - Department established; Commissioner of Mental Health.

There shall be a Department of Community Mental Health which shall develop all community preventive, rehabilitative, and treatment services offering continuity of care; the department shall have the responsibility to improve and to expand within departmental appropriations existing community programs for [the mentally ill, the mentally retarded and the developmentally disabled, and those suffering from the diseases of alcoholism and substance abuse] individuals with mental illness, intellectual/developmental disabilities, and/or addiction; to plan for the integration of community and state services and facilities for [the mentally disabled] individuals with mental disabilities and to cooperate with other local governments and with the state in the provision of joint services and sharing of manpower resources. The head of the department shall be the Commissioner of Community Mental Health. [He] The Commissioner shall be appointed by the County Executive with the approval of the County Board of Legislators. [He] The Commissioner shall have such other

qualifications as may be required by the County Board and the Laws of the State of New York.

Section 2. Section 156.11 of Chapter 156 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 156.11. - Powers and duties of the department.

The department shall have the duty and responsibility of managing, overseeing, and directing all mental health, [mental retardation,] intellectual/developmental disability, [alcoholism] and [substance abuse] addiction services under its jurisdiction or control as required by law.

Section 3. Subsections “1” and “2” of Section 156.31 of Chapter 156 of the Laws of Westchester County are hereby amended to read as follows:

Sec. 156.31. - Community Services Board established.

There shall be in the Department of Community Mental Health a Community Services Board. Such Board shall consist of 14 members to be appointed by the County Executive with the approval of the County Board of Legislators and one member shall be appointed by the [Chairman] Chair of the Board of Legislators.

1. Of the 15 members who form the Community Services Board, one member shall be a licensed physician, one member shall be a certified psychologist; of the remaining members at least two members shall be licensed physicians who shall have demonstrated an interest in the field of services for [the mentally disabled] individuals with mental disabilities; four members shall represent the voluntary sector, each to be chosen from a county-wide

voluntary agency serving consumers in the areas of mental health, [mental retardation,] intellectual/developmental disability, [alcoholism] and/or [substance abuse] addiction. One member shall be a certified social worker. Five members shall be consumers of mental hygiene services and shall represent the community interest [in light of the problems of the mentally disabled, the mentally retarded, the developmental disability and those suffering from alcoholism and substance abuse] regarding individuals with mental disabilities, intellectual/developmental disabilities, and/or addiction. The [Chairman] Chair of the Board of Legislators shall appoint a person who shall act as a liaison between the Board of Legislators and the Community Services Board.

2. The Community Services Board shall have separate sub[-]committees for mental health, [mental retardation and] intellectual/developmental disabilities, and addiction (i.e., alcoholism and substance abuse). [However, at the discretion of the board, the subcommittees on alcoholism and substance abuse may be one committee.] Each separate sub[-]committee shall have no more than nine members appointed by the Commissioner of Mental Hygiene and approved by the County Board of Legislators. Three members of each such subcommittee shall be members of the board and five members shall be appointed ~~[[[one each from the five area mental hygiene councils]]]~~ to each subcommittee. Each separate subcommittee shall be composed of persons who have demonstrated an interest in the field of services for the particular class of [mentally disabled] individuals with mental disabilities and shall include former patients, parents, or relatives of such [mentally disabled persons] individuals with mental disabilities and community agencies serving the particular class of [the mentally disabled] individuals with mental disabilities. Each separate subcommittee shall advise the Community Services Board and the Commissioner of Community Mental Health regarding the exercise of all policy making functions vested in

such board or commissioner, as such functions pertain to the field of services for the particular class of [mentally disabled] individuals with mental disabilities represented by such subcommittee.

Section 4. Subsection “5” of Section 156.41 of Chapter 156 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 156.41. - Powers and duties of the Community Services Board.

The Community Services Board shall have the powers and duties: . . .

5. To recommend such action as may be necessary or desirable with respect to the relationship between the department and nongovernmental agencies for the treatment of mental illness, [mental retardation,] intellectual/developmental disabilities, [alcoholism,] and [substance abuse] addiction;

Section 5. Subsection “2” and Subparagraph “a” of Subsection “6” of Section 156.61 of Chapter 156 of the Laws of Westchester County are hereby amended to read as follows:

Sec. 156.61. - Area mental hygiene councils established.

...

2. Each of the [four] categorical areas of mental health, [mental retardation and] intellectual/developmental disabilities, [alcoholism] and [substance abuse] addiction shall have representation on each area council.

...

6. The duties and responsibilities of the area mental health councils include the following:

a. To advise the commissioner of existing and prospective needs of the county and local communities thereof for services for the prevention and treatment of mental illness; [alcoholism; substance abuse; mental retardation and] intellectual/developmental disabilities; and addiction.

Section 6. Section 261.121 of Chapter 261, Article III, of the Laws of Westchester County is hereby amended to read as follows:

Sec. 261.121. - Powers and obligations of the Commissioner of Community Mental Health.

The commissioner's qualifications shall meet the standards fixed by the State Commissioner of Mental Hygiene, and the commissioner shall have the powers and duties of the Department of Community Mental Health and those powers conferred or imposed upon the Community [Mental Health, Mental Retardation, Alcoholism and Substance Abuse] Services Board, and the Director of a Community [Mental Health, Mental Retardation, Alcoholism and Substance Abuse] Services Board by the Mental Hygiene Law or any other applicable law. Except as otherwise provided by law, such powers and duties shall include, but shall not be limited to:

1. Determining the needs of [the mentally ill, mentally retarded, developmentally disabled, and those persons afflicted with alcoholism and substance abuse] individuals with mental illness, intellectual/developmental disabilities, and/or addiction in the county, which determination shall include the review and evaluation of all mental hygiene and [substance abuse] addiction services and facilities within the Commissioner's jurisdiction;

2. Engaging in short-range, intermediate-range, and long-range mental hygiene[,] [alcoholism] and [substance abuse] addiction planning which reflects the entire array of the county mental hygiene needs and mental hygiene resources, and [alcoholism and substance abuse] addiction needs and [alcoholism and substance abuse] addiction resources; to effect such planning the Commissioner shall have assembled and analyzed all proper relevant data from all providers of services;
3. Developing in conjunction with the Community Services Board and submitting to the County Executive and the County Board of Legislators a program for the delivery of services for [the mentally ill, mentally retarded,] individuals with mental illness, intellectual/developmental [disabled] disabilities, and/or [for those persons afflicted with alcoholism and substance abuse] addiction, including construction and operation of facilities;
4. Arranging, with the approval of the County Executive for the rendition of the services and operation of facilities by other agencies of the county;
5. Within the amounts appropriated therefor and with the approval of the Board of Acquisition and Contract, entering into contracts for the rendition [of] or operation of services and facilities on a per capita basis or otherwise;
6. Within the amounts appropriated therefor, executing such programs and maintaining such facilities as may be authorized under such appropriations;
7. It is in the public interest to have as much of the service delivery system in the voluntary sector as is possible and practical. Only where the voluntary sector

cannot provide a needed service should consideration be given to provision in the public sector;

8. Implementing and administering a countywide planning process for the delivery of services for [the mentally ill, mentally retarded, developmentally disabled and for those persons afflicted with alcoholism and substance abuse] individuals with mental illness, intellectual/developmental disabilities, and/or addiction; and designing and incorporating within the planning process, consistent with applicable law, standards and procedures for community participation at the county and local community level;
9. Encouraging the development and expansion of programs for the prevention, diagnosis, care, treatment, social and vocational rehabilitation, special education, and training [of the mentally ill, mentally retarded, developmentally disabled and for those persons afflicted with alcoholism and substance abuse] for individuals with mental illness, intellectual/developmental disabilities, and/or addiction, and for public education on mental disability and [substance abuse] addiction;
10. Establishing coordination and cooperation among all providers of services, coordinating the department's program with the program of the State Department of Mental Hygiene so that there is a continuity of care among all providers of services; and seeking to cooperate by mutual agreement with the State Department of Mental Hygiene and its representatives in preadmission screening and in posthospital care of [persons suffering from] individuals with mental illness, [mental retardation,] intellectual/developmental [disability] disabilities, [alcoholism] and/or [substance abuse] addiction;

11. Making policy and planning for, monitoring, evaluating, and exercising general supervision over all services and facilities for [the mentally ill, mentally retarded, developmental disability, alcohol and substance abusers] individuals with mental illness, intellectual/developmental disabilities, and/or addiction within the commissioner's jurisdiction; and exercising general supervisory authority, through the promulgation of appropriate standards consistent with accepted professional practices, over the care and treatment of patients within such services and facilities;
12. To the extent necessary to carry out the provisions of this chapter, the Mental Hygiene Law and other applicable laws and when not inconsistent with any other law, arranging for the visitation, inspection and investigation of all providers of services, by the department or otherwise;
13. Conducting or contracting for such research and studies as may be useful for the discharge of the commissioner's duties and for the promotion of mental health, and the prevention of mental illness, [mental retardation,] intellectual/developmental disability, [alcoholism] and [substance abuse] addiction;
14. Submitting all materials required by the Mental Hygiene Law for purposes of state reimbursement.

Section 7. No existing right or remedy of any character will be lost, impaired, or affected by reason of this Local Law.

Section 8. This Local Law shall take effect immediately.

HOME RULE REQUEST RESOLUTION NO. ____-2022

RESOLVED, that the Westchester County Board of Legislators approves the making of a Home Rule Request in the following format:

To the Legislature:

Pursuant to Article IX of the Constitution, the County of Westchester requests the enactment of Assembly Bill No. 4017/Senate Bill No. 1138 entitled "AN ACT authorizing the commissioner of general services to convey real property in Westchester county to the county of Westchester."

A necessity exists for the enactment of this legislation because the local government does not have the power to enact such legislation by local law.

Dated: 2022
White Plains, New York

Committee on Legislation

STATE OF NEW YORK

4017

2021-2022 Regular Sessions

IN ASSEMBLY

February 1, 2021

Introduced by M. of A. ABINANTI -- read once and referred to the Committee on Governmental Operations

AN ACT authorizing the commissioner of general services to convey real property in Westchester county to the county of Westchester

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The commissioner of the office of general services is
2 authorized and empowered to transfer and convey certain state property,
3 as further described in section two of this act, to the county of West-
4 chester for one dollar, upon such terms and conditions as such commis-
5 sioner may fix and determine.

6 § 2. The land authorized by this act to be conveyed consists of the
7 North County Trailway, and is generally described as follows:

8 A parcel of land located in the Towns of Mount Pleasant, New Castle,
9 Yorktown and Somers in Westchester consisting of approximately 20.8
10 miles with varying width, as described in the lease agreement dated
11 December 3, 2018 between the commissioner of transportation for the
12 people of the state of New York and the county of Westchester, as
13 described and on Exhibit A - Depiction of Proposed Lease Area delineated
14 on Sheet Nos. 1-40 of Map 1, Parcels 1-39 subject to any and all ease-
15 ments and conveyances granted by the state by and through the commis-
16 sioner; Exhibit B - Map of the existing North County Trailway; and
17 further described as:

18 From 110 feet south of old saw mill river road in eastview, north to
19 3,000 feet south of route 1117, a total distance of approximately 15,000
20 linear feet.

21 From route 117 to 350 feet south of route 9A for a total distance of
22 approximately 8,800± linear feet.

23 From a point 2,000± feet north of route 9A/100 intersection to camp-
24 fire road, approximately 4,000 linear feet.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD01695-01-1

1 From a point 2,000± feet south of route 133 in miliwood, north to the
2 south side of underhill avenue located in the hamlet of Yorktown
3 Heights, town of Yorktown, a distance of 52,400 linear feet.

4 From the north side of underhill avenue to the south side of hanover
5 street for a distance of 1,250± linear feet.

6 From hanover street, located in Yorktown Heights, north to the Putnam
7 county boundary, a total distance of approximately 28,000± linear feet.

8 The entire linear distance of the parcel of land is approximately 20.8
9 miles (109,530± linear feet).

10 § 3. The commissioner of the office of general services shall not
11 transfer or convey the aforesaid land unless application in a form
12 acceptable to the office of general services is made to the office of
13 general services by the county of Westchester which application must be
14 made within one year after the effective date of this act.

15 § 4. Any land transferred pursuant to this act shall be used and main-
16 tained by the county of Westchester for the purpose of a pedestrian and
17 non-motorized bicycle trailway, and upon termination of such use, title
18 to the land so transferred shall revert to the state of New York.

19 § 5. This act shall take effect immediately.

A04017 Memo:

NEW YORK STATE ASSEMBLY

MEMORANDUM IN SUPPORT OF LEGISLATION submitted in accordance with Assembly Rule III, Sec 1(f)

BILL NUMBER: A4017

SPONSOR: Abinanti

TITLE OF BILL:

An act authorizing the commissioner of general services to convey real property in Westchester county to the county of Westchester

PURPOSE OR GENERAL IDEA OF BILL:

To authorize the transfer of the North County Trailway from the State to Westchester County.

SUMMARY OF PROVISIONS:

Section 1 of the bill authorizes the commissioner of the office of general services to transfer and convey certain state property, as described in section 2 of this act, to the county of Westchester for one dollar, upon such terms and conditions as the commissioner may fix and determine.

Section 2 sets forth the legal description of the land authorized to be conveyed consisting of the North County Trailway, which the linear distance of the parcel of land consists of approximately 20.8 miles.

Section 3 provides that the commissioner of the office of general services shall not transfer or convey the land unless an application in a form acceptable to the office is made by the county of Westchester within one year after the effective date of this act.

Section 4 provides that any land transferred pursuant to this act shall be used and maintained by the county of Westchester for the purpose of a pedestrian and non-motorized bicycle trailway, and upon termination of such use, title to the land transferred shall revert to the state of New York.

Section 5 of the bill is the effective date.

JUSTIFICATION:

The County of Westchester operates two recreational trailways that span Westchester County along a former railroad line from the Putnam County border to Van Cortland Park in the Bronx. These trailways are a unique resource enjoyed by thousands of hikers, bicyclists, and park-goers each year.

Located north of Interstate Highway 1-287, the North County Trailway, consisting of approximately 20.8 miles with varying widths in the Towns of Mount Pleasant, New Castle, Yorktown and Somers, is leased to Westchester County by the State of New York for \$1.00 under a 25 year agreement since 1994. South of 1-287 the County both owns and operates the South County Trailway, having acquired this property from New York State in 1993.

This legislation would authorize the transfer of the North County Trailway from the State to Westchester County as was previously done for the South County Trailway. Under the terms of the lease agreement for the North County Trailway (the "Trailway), the County is responsible for the maintenance and

improvements of the Trailway. In addition, the County is required to defend and indemnify the State against any claims arising from the use of the Trailway, including personal injury, property damage, death or contamination to the environment.

Notably, the County is planning a substantial rehabilitation of the Trailway, for which it has authorized bond financing of \$8.75 million. However, the lease requires the County to obtain New York State approval prior to constructing improvements which will add another step and delay the completion of this improvement.

The County's acquisition of the Trailway would enable Westchester County to more efficiently implement improvements, as well as simplify County planning and operations overall. In addition, other significant lease provisions such as County defense and indemnification of the State are fully satisfied by County ownership of the Trailway.

PRIOR LEGISLATIVE HISTORY:

2019-20: A7207 referred to governmental operations, same as 55247

(Harckham) passed senate 2019, advanced to third reading 2020

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS:

Minimal

EFFECTIVE DATE:

This act shall take effect immediately.