

Kenneth W. Jenkins
County Executive

Office of the County Attorney

John M. Nonna
County Attorney

April 1, 2025

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue, 8th Floor
White Plains, New York 10601

Dear Honorable Members of the Board:

I respectfully request that your Honorable Board adopt “AN ACT authorizing a funding pool for the payment of invoices for Special District Attorneys appointed pursuant to New York State County Law Section 701.”

Since the Hon. Susan Cacace has taken office as Westchester County District Attorney, her office has been required to recuse itself in a number of cases, due to conflicts that have arisen from her time as a Westchester County Court Judge. To date, 75 cases have required the appointment of Special District Attorneys pursuant to New York State County Law (“NY County Law”) Section 701. Of those 75 cases, 25 have been assigned to other District Attorney Offices, and 50 to private practitioners. As additional conflicts arise, additional Special District Attorneys are expected to be appointed.

Under Section 701, after notice and an opportunity to be heard, your Honorable Board is required to authorize payment of fees and disbursements for Special District Attorneys as certified by the appropriate court. In order to expedite processing of invoices in these cases, the proposed Act creates a funding pool of \$1,500,000.00 for payment of invoices for Special District Attorneys who are not a part of another District Attorney’s Office in the State of New York, to be paid at a rate of \$400.00 per hour, plus reasonable and necessary disbursements and costs.

Under the proposed Act, my office will be tasked with reviewing invoices, determining if the County should avail itself of the opportunity to be heard under Section 701, and ensuring that invoices are appropriately certified by the courts. Once that is done, the invoices will be able to be submitted to the Commissioner of Finance for payment.

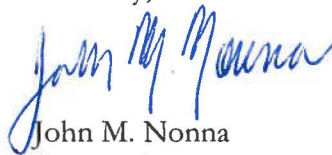
I would note that this Act is limited to the payment of private Special District Attorneys arising from the conflicts resulting from District Attorney Cacace’s time as a Westchester County Court Judge. If a Special District Attorney is required to be appointed for some other reason (such as a conflict stemming from the District Attorney’s Office itself), then separate payment authorization would be required. Similarly, if another District Attorney’s Office seeks compensation under NY County Law Section 701, separate payment authorization would be required. I would note that if another District

Attorney's Office seeks compensation (which is not required), that compensation is limited to the actual compensation paid by that office. NY County Law § 701(5).

Additionally, under the Act, my office will provide quarterly reports to your Honorable Board identifying the attorneys to which cases have been assigned, the number cases assigned to each attorney, and the total amounts paid to each attorney under this pool.

In consultation with the Court, we believe that this is the most efficient manner to process these mandatory payments. As such, I respectfully request that this Honorable Board adopt the proposed legislation.

Sincerely,



John M. Nonna
County Attorney

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

The Committee is in receipt of “AN ACT authorizing a funding pool for the payment of invoices for Special District Attorneys appointed pursuant to New York State County Law Section 701.”

Your Committee is informed that a number of Special District Attorneys have been, and will continue to be, appointed pursuant to New York State County Law (“NY County Law”) Section 701 due to conflicts that have arisen from District Attorney Cacace’s time as a Westchester County Court Judge. Annexed to the proposed Act is a table containing the names of those Special District Attorneys, and the number of cases assigned to each as of the date of the submission of this Act. For those Special District Attorneys who are in private practice, those services have been arranged to be paid at a rate of \$400.00 per hour, plus reasonable and necessary disbursements and costs.

Your Committee notes that under New York County Law § 701, this Honorable Board is responsible for authorizing the payment of fees and disbursements for Special District Attorneys, after certification by the appropriate court. In order to expedite processing of these invoices, the proposed Act creates a funding pool of \$1,500,000.00 for payment of invoices for Special District Attorneys who are not a part of another District Attorney’s Office in the State of New York, and charges the funding pool against the budget of the Westchester County District Attorney’s Office.

Your Committee further notes that this proposed act authorizes the County Attorney, or his designee, to review invoices and determine if the County shall avail itself of the notice and opportunity

to be heard on the invoice as set forth under NY County Law Section 701. The Act then provides that, upon certification by the court, in compliance with NY County Law Section 701, and review by the County Attorney, invoices may be submitted to the Commissioner of Finance for payment, so long as the rate of pay does not exceed \$400.00 per hour, and so long as the amount paid under this funding pool does not exceed \$1,500,000.00.

Your Committee recognizes that this Act applies only to the payment of invoices for Special District Attorneys appointed due to the conflicts that have arisen from District Attorney Cacace's time as a Westchester County Court Judge. Any other Special District Attorney appointment will require separate payment authorization from this Board. Additionally, in order to track the appointments and payments made under this funding pool, your Committee notes that the County Attorney's Office shall provide this Honorable Board with updates to the table annexed to the proposed Act, including the total amounts paid to each attorney as of the date of the update.

Your Committee is informed that the proposed project does not meet the definition of an action under New York State Environmental Quality Review Act ("SEQRA") and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning, dated January 14, 2025, which is on file with the Clerk of the Board of Legislators. Your Committee concurs in this conclusion.

The Committee, after careful consideration, recommends the adoption of this Act.

Dated: 2025
White Plains, New York

COMMITTEE ON

ACT NO. ____ - 2025

AN ACT authorizing a funding pool for the payment of invoices for Special District Attorneys appointed pursuant to New York State County Law Section 701.

Be it enacted by the Board of Legislators of the County of Westchester, as follows:

§ 1. The Board of Legislators has been informed that a number of Special District Attorneys have been, and will continue to be, appointed pursuant to New York State County Law (“NY County Law”) Section 701 due to conflicts that have arisen from District Attorney Cacace’s time as a Westchester County Court Judge. Annexed hereto is a table containing the names of those Special District Attorneys, and the number of cases assigned to each as of the date of the submission of this Act.

§ 2. For those Special District Attorneys who are in private practice, those services have been arranged to be paid at a rate of \$400.00 per hour, plus reasonable and necessary disbursements and costs.

§ 3. Pursuant to NY County Law Section 701, the Board of Legislators is charged with authorizing payment of invoices submitted by Special District Attorneys, which shall be certified by the appropriate court. In order to expedite processing, a funding pool of \$1,500,000.00 is hereby authorized for payment of invoices for Special District Attorneys who are not a part of another District Attorney’s Office in the State of New York. This funding pool shall be charged against the budget of the Westchester County District Attorney’s Office.

§ 4. The County Attorney, or his designee, is authorized to review invoices and determine if the County shall avail itself of the notice and opportunity to be heard on the invoice as set forth under NY County Law Section 701. Upon certification by the court, in compliance with NY County Law Section 701, and review by the County Attorney, invoices may be submitted to the Commissioner of Finance for payment, so long as the rate of pay does not exceed \$400.00 per hour, and so long as the amount paid under this funding pool does not exceed \$1,500,000.00.

§ 5. This funding pool shall be used solely for the payment of invoices for Special District Attorneys appointed due to the conflicts that have arisen from District Attorney Cacace’s time as a Westchester County Court Judge. Any other Special District Attorney appointment will require separate payment authorization from this Board.

§ 6. Once per quarter, beginning with the first quarter following the passage of this Act, the County Attorney’s Office shall provide this Board with updates to the annexed table, including the total amounts paid to each attorney as of the date of the update.

§ 7. Effective date. This Act shall take effect immediately.

APPOINTMENTS AS OF APRIL 1, 2025

Attorney/Firm	Number of Cases Assigned
Andrew Rubin	1
Courtney McGowan	1
Tobin, Bernardon & Wazny, LLP	19
James Byrne	3
Jeffrey A. Cohen	1
Lisa Colosi Florio	1
Jeffrey Gasbarro	1
Joshua D. Martin	2
Kevin Kennedy	1
Mark J. Fitzmaurice	1
Matthew Montana	1
Michael Borrelli	10
Patsy Bonanno	2
Rachel J. Filasto	1
Stefanie Denise	5
Bronx County District Attorney's Office	1
Dutchess County District Attorney's Office	1
Kings County District Attorney's Office	2
Nassau County District Attorney's Office	2
Queens County District Attorney's Office	14
Rockland County District Attorney's Office	2
Suffolk County District Attorney's Office	3

FISCAL IMPACT STATEMENT

SUBJECT: Legal Services, Special DA's

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ 1,500,000

Total Current Year Revenue \$ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: DA Technical Services

Fund 101 Dept 37 Unit 0010 Sub-Unit 1000 Object 4420

Potential Related Operating Budget Expenses: Annual Amount \$1,500,000.00

Describe: Legal services rendered by Special District Attorneys appointed pursuant to New York County Law Sections 701 due to conflicts that have arisen from District Attorney Cacace's time as a Westchester County Court Judge.

Potential Related Operating Budget Revenues: Annual Amount _____

Describe: _____

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

Current Year: N/A

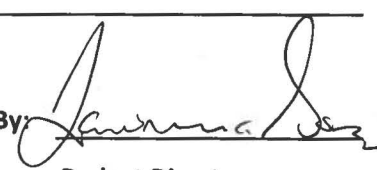
Next Four Years: N/A

Prepared by: Roberto Nascimento

Title: Sr. Budget Analyst

Department: Budget

Date: April 2, 2025

Reviewed By: 

Budget Director

Date: 4/2/24