


**SPECIAL MEETING
AGENDA
NIAGARA COUNTY LEGISLATURE
JUNE 3, 2013 – 6:00 P.M.**

Special Meeting – June 3, 2013

IL-030-13 Legislators Richard E. Updegrove & Paul B. Wojtaszek, re Urging the New York State Assembly to Take Up and Pass Senate Bill S.3457 Prior to the Completion of the 2013 Session, Granting Niagara County Home Rule Authority to Enact Legislation Restricting Sex Offenders from Residing Within 1500 Feet of Schools and Child Care Facilities


Mary Jo Tamburlin, Clerk
Niagara County Legislature

The next meeting of the Legislature will be held on June 18, 2013.



NIAGARA COUNTY LEGISLATURE
NIAGARA COUNTY COURTHOUSE
175 HAWLEY STREET
LOCKPORT, NY 14094-2740

WILLIAM L. ROSS
Chairman

MARY JO TAMBURLIN
Clerk

(716) 439-7000
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May 29, 2013

NOTICE OF SPECIAL MEETING

Special Legislature Meeting
Monday, June 3, 2013
6:00 p.m.
Niagara County Legislature Chambers
Courthouse
Lockport, New York

Agenda

Resolution - Legislators Richard E. Updegrave & Paul B. Wojtaszek, re Urging the New York State Assembly to Take Up and Pass Senate Bill S.3457 Prior to the Completion of the 2013 Session, Granting Niagara County Home Rule Authority to Enact Legislation Restricting Sex Offenders from Residing Within 1500 Feet of Schools and Child Care Facilities

NIAGARA COUNTY LEGISLATURE

FROM: Legislators Richard E. Updegrave & Paul B. Wojtaszek DATE: 06/03/2013 RESOLUTION # IL-030-13

APPROVED BY CO. ATTORNEY REVIEWED BY CO. MANAGER COMMITTEE ACTION LEGISLATIVE ACTION Approved: Ayes Abs. Noes Rejected: Ayes Abs. Noes Referred:

Handwritten signature and date 5/29/2013

RESOLUTION URGING THE NEW YORK STATE ASSEMBLY TO TAKE UP AND PASS SENATE BILL S.3457 PRIOR TO THE COMPLETION OF THE 2013 SESSION, GRANTING NIAGARA COUNTY HOME RULE AUTHORITY TO ENACT LEGISLATION RESTRICTING SEX OFFENDERS FROM RESIDING WITHIN 1500 FEET OF SCHOOLS AND CHILD CARE FACILITIES

WHEREAS, the Legislature of the County of Niagara did unanimously adopt, on June 17, 2008, a local law entitled "The Niagara County Pedophile-Free Child Safety Zone Act," and

WHEREAS, said law was filed pursuant to Section 27 of the Municipal Home Rule Law, and

WHEREAS, at a public hearing held at the Niagara County Courthouse prior to The Niagara County Pedophile-Free Child Safety Zone Act's enactment, not one citizen spoke in opposition to said law, and

WHEREAS, The Niagara County Pedophile-Free Child Safety Zone Act did prohibit Level II and Level III convicted sex offenders from residing within 1,000 feet of such areas and facilities as would provide them ready access to potential victims, to include public and private schools, child care facilities, parks, playgrounds, public and private youth centers, and public swimming pools, and

WHEREAS, in Terrance v City of Geneva, N.Y., 799 F Supp 2d 250, 257 [WDNY 2011], the Federal Court for the Western District of New York held that the State's legislative pronouncements to date establish that the regulation and management of sex offenders (including sex offender residency restrictions) is the exclusive province of the State. Thus, a local law for the City of Geneva [i.e. Municipal Code, Part II, General Legislation, Chapter 285], which was similar to "The Niagara County Pedophile-Free Child Safety Zone Act" was determined by the court to be preempted by New York State Law and therefore would not be given effect, and

WHEREAS, the Honorable George D. Maziarz did, at the request of the Legislature of the County of Niagara, introduce a bill, S.3457, that amends the New York State Corrections Law, § 168 to authorize the County of Niagara to enact a local law that prohibit Level II and Level III sex offenders from residing within 1,500 feet of child care facilities for the remainder of their natural lives, and such bill was subsequently passed by the New York State Senate on May 21, 2013, and

WHEREAS, S.3457 was subsequently delivered to the Assembly, where it was referred to the Committee on Correction on May 21, 2013, and

WHEREAS, there was no companion bill in the Assembly to S.3457 prior to the delivery of the same to the Assembly, and

WHEREAS, This Legislature stands ready to enact such local legislation as is defined under S.3457 upon the passage and enactment of the same, and

WHEREAS, the New York State Legislature's legislative calendar has designated June 20, 2013 as the last day that the Assembly shall be in session, after which date the passage of S.3457 by that Chamber will be precluded, now, therefore, be it

RESOLVED, that the Niagara County Legislature does express its gratitude to Senator Maziarz for his effective actions on this Deliberative Body's request, and be it further

RESOLVED, that the Niagara County Legislature does urge Member of the Assembly Robin Schimminger, who represents a portion of Niagara County in the New York State Assembly, and is also a senior member of the Majority Conference of said Chamber, with 36 years of service, and membership on both the powerful Committee on Codes and the Committee on Ways and Means, to shepherd said bill through the Assembly in the remaining days of this session, and be it further

RESOLVED, that the Niagara County Legislature calls upon the entire New York State Assembly to pass and enact S.3457, and all members of the Niagara County delegation to the Assembly to vote in the affirmative, and be it further

RESOLVED, that the County of Niagara shall forward copies of this Resolution to Governor Cuomo, Senate Vice President Pro Tem George D. Maziarz; Senate Temporary President Dean G. Skelos; Senate Deputy Majority Leader Thomas W. Libous; Member of the Assembly Robin Schimminger; Member of the Assembly Jane L. Corwin; Member of the Assembly John D. Ceretto; Member of the Assembly Ray Walter; Speaker of the Assembly Sheldon Silver; Assembly Majority Leader Joseph Morelle; Assembly Minority Leader Brian M. Kolb; Chairman of the Assembly Committee on Correction Daniel O'Donnell, and all others deemed necessary and proper.

LEGISLATOR RICHARD E. UPDEGROVE

LEGISLATOR PAUL B. WOJTASZEK