

Repealing Resolution No. 24 Of 2018, Establishing A Policy To Prohibit The Use Of Public Funds To Place The Likeness Or Name Of Elected Officials On Public Service Announcements, Non-Commercial And Non-Political Advertising By Ulster County

Referred to: The Laws and Rules, Governmental Services Committee (Chairman Roberts and Legislators Donaldson, Haynes, Heppner, and James Maloney)

Legislators Brian Woltman and Kathy Nolan offer the following:

WHEREAS, by Resolution No. 24 dated February 13, 2018, the Ulster County Legislature established a policy to prohibit the use of public funds to place the likeness or name of elected officials on public service announcements, non-commercial and non-political advertising by Ulster County; and

WHEREAS, Resolution No. 24 does not provide officials with clear standards of enforcement, leaving officials to make judgments on a subjective basis; and

WHEREAS, Resolution No. 24 potentially conflicts with State of New York *Public Officers Law §73-b* which provides:

1. *As used in this section:*

(a) *“Political subdivision” shall mean a county, city, town, village or district within the state.*

(b) *“Public authority” shall mean a public authority or public benefit corporation created by or existing under any law of the state, at least one of whose members is appointed by the governor (including any subsidiaries of such public authority or public benefit corporation), other than an interstate or international authority or public benefit corporation.*

(c) *“Appear” or “appears” shall mean to appear by likeness, picture or voice.*

(d) *“Candidate” shall have the meaning set forth in section 14-100 of the election law .*

2. *Notwithstanding any other provision of law to the contrary,*

(a) *no elected government official or candidate for elected local, state or federal office shall knowingly appear in any advertisement or promotion, including public or community service announcements, published or broadcast through any print or electronic media (including television, radio and internet) by any private or commercial entity or any other entity that publishes such advertisement for a fee, if the advertisement or promotion is paid for or produced in whole or in part with funds of the state, a political subdivision thereof or a public authority.*

Resolution No. 324 December 18, 2018

Repealing Resolution No. 24 Of 2018, Establishing A Policy To Prohibit The Use Of Public Funds To Place The Likeness Or Name Of Elected Officials On Public Service Announcements, Non-Commercial And Non-Political Advertising By Ulster County

(b) No person shall knowingly use the funds of the state, a political subdivision thereof or public authority to pay for or produce, in whole or in part, any advertisement or promotion that is prohibited by paragraph (a) of this subdivision. This prohibition shall not apply to otherwise lawful expenditures of public campaign funds specifically provided for under state, federal or local law.

3. Any person who violates the provisions of this section shall be liable for a civil penalty of not less than one thousand dollars nor more than five thousand dollars. The penalties prescribed by this subdivision may be recovered in a civil action brought by the attorney general.

; now, therefore be it

RESOLVED, Resolution No. 24 of 2018 is hereby REPEALED, effective immediately; and, be it further

RESOLVED, that in order to be in compliance with state law, elected officers of the County of Ulster immediately recommence following Section 73-b of the Public Officers Law,

and move its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

Postponed in Committee: Laws and Rules, Governmental Services on August 13, 2018 without consent

Postponed in Committee: Laws and Rules, Governmental Services on September 17, 2018 without consent

Postponed in Committee: Laws and Rules, Governmental Services on October 15, 2018 with consent

Postponed in Committee: Laws and Rules, Governmental Services on November 19, 2018 with consent

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Postponed in Committee: Laws and Rules, Governmental Services on December 17, 2018 with consent

Passed Committee: Laws and Rules, Governmental Services on _____.

FINANCIAL IMPACT:
NONE