

Township of West Milford

Passaic County, New Jersey

~ Resolution 2011 - 168 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY SUPPORTING S-2404 WHICH PROPOSES TO CAP ATTORNEY FEES IN LITIGATION AGAINST PUBLIC ENTITIES

WHEREAS, Public Officials and Employment practices claims against municipalities have increased dramatically over the past few years; and

WHEREAS, according to a ten year closed claim study recently completed by the Municipal Excess Liability Joint Insurance Fund, the cost of employment practices liability per employee was \$26 in the year 2000 and increased to \$125 per employee for most of the decade; and

WHEREAS, according to the same study, it increased 175% to \$354 per employee in just the past two years; and

WHEREAS, 65% of these claims are for police and the 2011 projected cost of these claims is \$740 per officer with legal fees historically representing over 70% of the cost; and

WHEREAS, provisions in various laws such as LAD and CEPA providing for fee shifting have encouraged attorneys to make unreasonable demands in otherwise minor cases.

WHEREAS, John Farmer, Dean of the Rutgers Law School and former NJ Attorney General stated: "Even cases with marginal relevance are now being presented by plaintiffs' counsel as having substantial settlement value." and;

WHEREAS, in a recent case, a NJ court awarded the plaintiff's attorney a fee of \$450,000 even though the jury awarded his client only \$20,000; and

WHEREAS, the explosion of employment practices cases will continue until reasonable caps are placed on legal fee applications:

NOW THEREFORE BE IT RESOLVED, by the Township Council of the Township of West Milford that the legislature is urged to adopt S-2404 placing a cap on attorney fee awards in fee shifting cases against public entities as follows:

- For awards (compensatory and punitive damages combined) of \$50,000 or less, the maximum fee award should be \$50,000, though a lower fee should be awarded if warranted based on considerations of reasonableness
- For awards over \$50,000, the fee award should not exceed the verdict, though a lower fee should be awarded if warranted based on considerations of reasonableness

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to the Governor Christopher Christie, Senator Joseph Pennachio, Assemblymen Alex DeCroce and Jay Weber, Senate President Sweeney, Assembly Speaker Oliver, Majority Leader Cryan, Minority Leader Kean Jr., the Municipal Excess Liability Joint Insurance Fund and the Morris County Joint Insurance Fund.

Adopted: May 4, 2011

Adopted this 4th day of May 2011
and certified as a true copy of an original.

Antoinette Battaglia, Township Clerk