



## Legislation Text

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### Int. No. 584-A

By the Speaker (Council Member Miller) and Council Members Rivera, Perkins, Weprin, Quinn, Monserrate, Koppell, Katz, Brewer, Clarke, Comrie, Dilan, Gentile, Gerson, James, Liu, Nelson, Palma, Reed, Reyna, Sanders Jr., Seabrook, Vann, Moskowitz, Gennaro, DeBlasio, Gioia, Vallone, Jr., McMahon, Stewart, Yassky, Boyland, Jackson, Barron, Gonzalez, Martinez, Recchia, Jr., Lopez and the Public Advocate (Ms. Gotbaum)

A Local Law in relation to the expenditure of payments in lieu of taxes and requiring a monthly report on the collection and use of all such payments to the City of New York.

Be it enacted by the Council as follows:

Section 1. Statement of legislative findings and intent. Legislative appropriation of public funds is a bedrock principle of representative democracy, enshrined in the Federal and State Constitutions and local governmental Charters across the country. Article 1 section 9 of the United States Constitution provides “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law”, while in New York, Article 7 Section 7 of the New York State Constitution provides that “no money shall ever be paid out of the state treasury or any of its funds or any of the funds under its management except in pursuance of an appropriation by law.” Similarly, the Charter provides “[n]o money...shall be paid from any fund under the management of the city, or any fund under the management of any agency or officer of the city, or any other entity, the majority of the members of whose board are city officials or are appointed directly or indirectly by city officials, except in pursuance of an appropriation by the council or other specific legal authorization....” (Charter §227(a)).

Unfortunately, recent reports indicate that, notwithstanding this basic principle, the Administration has expended, and intends to expend, payments in lieu of taxes (PILOTs) without the required Council appropriation or specific legal authorization. This violates not only the principle of legislative appropriation,

but also the specific Charter requirements that expenditures of municipal funds be made pursuant to Council appropriation or other specific legal authorization, as well as State law governing PILOTs.

The State General Municipal Law requires that any PILOT payments received by an industrial development agency be remitted to the affected tax jurisdiction within thirty days of receipt. The State Comptroller has opined that PILOTs due a municipality pursuant to an agreement by its industrial development agency constitute general revenues of the municipality. Thus, both State law and the City's Charter make clear that PILOTs must be paid into the City's general fund and can only be spent pursuant to a budgetary appropriation adopted by the Council or other specific legal authorization.

Because it appears that, in addition to having unlawfully spent PILOTs without required Council authorization, the Administration has failed to comprehensively account for PILOTs, the Council hereby exercises its existing legislative authority by reaffirming that no City funds be expended without Council authorization and taking a first step in ensuring accountability for these funds.

§2. Consistent with section one of this local law, no City funds, including but not limited to PILOTs, may be expended without an appropriation by the Council or other specific legal authorization in accordance with the Charter of the City of New York.

§3. Within 10 days of the effective date of this local law and no later than the first day of every month thereafter, the Mayor shall provide to the Council a report providing the following information with respect each payment in lieu of taxes (1) the amount of such PILOT; (2) the person or entity paying such PILOT; (3) the agency or entity that established such PILOT; (4) the amount of the real property or other tax for which the person or entity paying the PILOT would have been responsible were the property or transaction not the subject of the tax exemption and the difference between such amount and the PILOT; (5) the agency or entity collecting such PILOT; (6) the funds or accounts into which each such PILOT is paid; (7) if any such PILOT or portion of such PILOT has not been paid into the City's general fund, the use to which such PILOT or portion

thereof has been put. Provided, however, that if the first monthly report following the initial report due ten days after the effective date of this local law would be due within 15 days of such initial report, such first monthly report shall not be required. For purposes of this local law the phrase “payment in lieu of taxes” or “PILOT” shall mean any payment made to the New York City Industrial Development Agency, the New York City Economic Development Corporation or other local development corporation, or to the City or any agency or agent thereof, equal to the amount, or a portion of, real property taxes or other taxes, which would have been levied by or on behalf of the city on property or a transaction if such property or transaction was not tax exempt.

§4. This local law shall take effect immediately.