

For Immediate Release: December 3, 2018
Contact: Matt Richter
646-302-2220, mjr3@westchestergov.com

Statement from Minority Leader John Testa on “Ban the Box” Law

Testa warns legislative agenda is “Death by a Thousand Cuts” to Westchester County small businesses

The Democrat Legislators proposal to prohibit businesses in Westchester County from asking if a job applicant has been convicted of a serious crime is an outrageous overreach into private business and a continuation of their assault on the small business community. I disagreed with County Executive Latimer when he ordered that the county will not ask about job applicants’ criminal history but I accept that it is his prerogative as the executive branch of our government to set those policies for county employment. But to legislate that private businesses can no longer establish their own standards for what type of character and integrity they require in an employee- using past criminal activity as a guide- is a disturbing level of government interference in private business.

The legislation which has most often been called “ban the box” (referring to a box that must be checked on a job application related to criminal convictions) the current legislation has had a few name changes as the laws sponsors sought to make it sound like some moral imperative. Another name that the sponsors tried was “Fair Chance to Work Act”. They finally arrived at the current title, “Local Law to Prohibit *Discrimination* based on one’s criminal conviction”. Thankfully we have a number of federal employment protections for job applicants like race, color, religion, sex, national origin, age, disability, sexual orientation, birthplace, ancestry, culture, or linguistic characteristics common to a specific ethnic group. These are protected classes because they are characteristics not indicators of character. An individual who has committed a criminal act is not a member of a protected class and therefore a small business owner is not practicing discrimination if they choose to disqualify those applicants, this legislation also requires employers- who may have any number of applicants for a position to offer a ‘written analysis’ to job applicants if they are not hired. This is an affront to the notion of private enterprise.

I am all for giving individuals a second chance, it has been a mantra of mine my entire adult life as an educator and elected official and many business owners do

the same as a matter of choice. To legislate and force business to ignore criminal records of a prospective employee is overreaching at its worst.

New York State has long held the dubious distinction as the most inhospitable environment for small businesses in the United States. Unfortunately, since taking control of the Board of Legislators last year, after four years of bipartisan cooperation, my Democrat colleagues have embraced this anti-business posture in a series of legislative actions that hurt small businesses and put them at a competitive disadvantage in our region. Dictating what should be the purview of private business decisions like forcing small businesses with as few as 5 part-time employees to pay for sick leave will have a profound impact on a small business. (our request to negotiate a compromise that would exclude businesses with less than 10 employees was ignored) The sponsors of the paid sick leave must have understood the laws negative impact since they excluded Westchester County from following the paid sick leave law for hourly county employees.

Other legislative overreach into private business practices include legislation that prohibits small business owners from asking about a prospective employees prior salary, dictating application processes to private residential cooperative building associations, proposed red light cameras that will put further strain on commerce- especially Westchester County retail businesses, passing legislation that raises licensing fees for independent home improvement contractors both now and again in a year by almost 50%.

Small businesses are the real engine of employment in our county and I believe a continuation of this near-sighted agenda will result in a “Death by a Thousand Cuts” for some those businesses. It will also make it far more difficult for economic development organizations in our business community to attract and retain the critical small and mid-size businesses that are the lifeblood of our economy. It will cost jobs and further inhibit the success of local small businesses.

While social activism is an important function in society and the Democrats on the BOL have absolute control of the legislative agenda, handing over the reins of the legislative branch to social activists must be balanced against the needs of those who keep our economy going, the risk takers, the employers and entrepreneurs of Westchester County.

###