

Minutes of the Erie County Fiscal Stability Authority
Full Board Meeting
October 18, 2021

Present: Chair James Sampson, Vice-Chairman Peter Marlette, Director Craig Speers, Director Oliver Young, Director James Connolly and Executive Director Kenneth Vetter

Chairman Sampson: “So this should go quickly. I'd like to call to order this meeting of the Erie County Fiscal Stability Authority. And we've heard presentations from your community college and then also the budget from the budget director at Erie County, his deputy. But before we go into the actual business to draw people's attention to the in their last meeting, which I believe was in May of this year and you also received a copy, I would entertain a motion to accept them, please.”

Director Speers moved the motion and Director Young seconded.

Chairman Sampson: “Any corrections or discussion all in favor, say I, I. Motion carries. First order of business is to entertain the resolution that's contained in your packet. It is for Erie Community College. I would entertain a motion to accept that resolution.”

Director Speers moves and Director Youngs seconds.

Chairman Sampson “All in favor, say, I, I suppose I. You're opposed to it. I just want to make sure we're recording correctly.”

Resolution No. 21-10

COMMENTING ON THE 2021-22 ERIE COMMUNITY COLLEGE BUDGET

WHEREAS, Chapter 182 of the New York Laws of 2005 created the Erie County Fiscal Stability Authority (“ECFSA”) to serve as a corporate governmental agency and instrumentality of the State of New York, and as a public benefit corporation to “oversee [Erie] County’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term cash flow or capital needs; and, if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required step toward fiscal stability;” and

WHEREAS, section 3951 of the New York Public Authorities Law (“Public Authorities Law”) defines a “covered organization” as “any governmental agency, public authority or public benefit corporation which receives or may receive moneys directly, indirectly or contingently from the County;” and

WHEREAS, the ECFSA Board of Directors (“Board”) and staff have reviewed the 2021-22 Erie Community College (“ECC”) budget document, which was adopted by the Erie Community College Board of Trustees and subsequently approved by the Erie County Legislature; and

WHEREAS, the ECFSA Board and staff have identified a number of financial/organizational risk items for the College:

- An overall structure that is not conducive to the College fulfilling its educational and community role on a long-term basis
- A high reliance on declining tuition revenues
- Enrollment challenges in a declining traditional-student and COVID-19 environment
- A significant reliance on cost cutting initiatives

NOW, THEREFORE, BE IT RESOLVED that the ECFSA does view the currently adopted 2021-22 budget as in balance and achievable at this point, with the

infusion of significant federal COVID related revenues, a retraction of New York State funding cuts and increased financial support from Erie County.

BE IT FURTHER RESOLVED that the ECFSA recommends that there be a very public discussion about the future of ECC and how it fulfils its role in the region and within the network of higher education.

This resolution shall take effect immediately.

Chairman Sampson: “ All right, thank you. Motion carries. Ok. Now we go on to the Erie County fiscal plan and their budget entertain a motion that resolution.”

Director Young moves and Director Speers seconds.

Director Speers: “ I think taking into consideration what has happened over the last 18 months, I think it's truly heartening that we've been able to finish in in such a financial position. I think it's somewhat amazing, actually. I'm very, very pleased with it. I think we all have various questions or concerns about the county budget. I think we do every year and I think this is good. But I think overall, when you look at the overall picture and what the economy has gone through and what this county has gone through and specific, I think it's an incredible record of accomplishment. That's it, that's all I have to say.”

Chairman Sampson: “Thank you. All in favor say I. Motion carries.”

Resolution No. 21-11

FINDING THAT ERIE COUNTY'S 2022-2025 FINANCIAL PLAN IS COMPLETE AND COMPLIANT WITH NEW YORK PUBLIC AUTHORITIES LAW SECTION 3957, AND CONTINUING THE ADVISORY PERIOD UPON ERIE COUNTY

WHEREAS, Chapter 182 of the New York Laws of 2005 (the "ECFSA Act"), as amended, created the Erie County Fiscal Stability Authority ("ECFSA") to serve as a corporate governmental agency and instrumentality of the State of New York, and as a public benefit corporation to "oversee [Erie County's] budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term cash flow or capital needs; and, if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability;" and

WHEREAS Public Authorities Law section 3957(1) requires the Erie County Executive to "prepare and submit to the [ECFSA] a four-year financial plan and the County Executive's proposed county budget, not later than the date required for submission of such budget to the [Erie County] legislature pursuant to the county charter;" and

WHEREAS, the four-year financial plan, as defined by Public Authorities Law section 3951(14), is a "financial plan of [Erie County] and [its] covered organizations"; and

WHEREAS, pursuant to Public Authorities Law section 3957(2)(b), "[n]ot more than twenty days after submission of a financial plan, the [ECFSA] shall determine whether the financial plan is complete and complies with the provisions of [section 3957];" and

WHEREAS County Executive Mark Poloncarz duly submitted his proposed budget for Erie County (the "County") for fiscal year 2022 on October 4, 2021, and a four-year financial plan ("Plan") for fiscal years 2022-2025, to the ECFSA on October 4, 2021 (the "2022-2025 Plan"); and

WHEREAS fiscal years 2023 through 2025 constitute the “Out Years” of the 2022-2025 Plan: and

WHEREAS Public Authorities Law section 3957(1) requires that the 2022-2025 Plan “contain actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year:” and

WHEREAS Public Authorities Law section 3957(2)(b) instructs the ECFSA to determine on or before October 24, 2021, whether the 2022-2025 Plan complies with the provisions of the ECFSA Act, including section 3957: and

WHEREAS the members of the ECFSA Board of Directors have reviewed the 2022-2025 Plan: and

WHEREAS, the ECFSA has developed concerns regarding the reasonableness of the following assumptions underlying the Plan:

1. Erie County has benefitted directly from two pieces of COVID related federal legislation – the CARES Act and American Rescue Plan (ARP). The two have provided the county with over \$318 million in revenue over 3 fiscal years. That direct funding and ancillary federal support to buoy the economy has allowed the county to restore positions and funding cut during the pandemic. At some point, federal support will wane, and potential negative economic impacts could occur for the county; and
2. As federal support wanes, the need for county provided health and human service programs could increase, thereby changing the current downward trend in program usage the county has used as a base in its financial forecasts; and
3. With regard to the Erie County Medical Center Corporation (ECMCC), the county has crafted its budget and associated financial plan to reasonably reflect currently anticipated county liabilities to ECMC. However, given increases of \$17.4 million for 2022 and \$39.2 million over the 4-year period in ECMC related liabilities, as compared to the 2021 adopted version of the financial plan, there is a potential for further required hospital spending that could negatively impact the county’s financial position; and

4. Given the order of magnitude of sales tax revenues (33% of budget) and the current year unprecedented increases in this revenue source, thereby significantly increasing the base for 2022 and the out-years of the financial plan, there is a risk that the current positive trend may not continue. It would behoove the county to monitor this revenue and maintain contingency plans should it not meet budget; and
5. As the local sponsor for Erie Community College, the county provides almost \$20 million per year in financial support to the institution. ECC has experienced enrollment decreases of 45% since its high point in 2010. The decline is expected to continue, thereby making the college's long-term financial health untenable. In the college's transition to a sustainable educational and business model, the county may be called upon to provide increased operational and capital support, which could create fiscal pressure for the county's own budget; and
6. The Buffalo Bills have proposed a \$1.4 billion stadium to replace the current Highmark facility in Orchard Park. It is reasonable to expect the county will incur some liability with respect to the new facility; and
7. The county has retained vacancy savings as a budgeted savings in its 2022 budget and associated financial plan. Given ECFSA's monitoring of vacancy savings, those estimates are reasonable. However, maintaining this budgeted savings removes position vacancies as a potential gap filler if the county encounters unforeseen financial issues in the future; and

WHEREAS, the ECFSA has nonetheless determined that the 2022-2025 Plan fiscal year of the plan – including budget year 2022 and the Out Years – that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year: and

NOW, THEREFORE, BE IT RESOLVED that the ECFSA finds that the 2022-2025 Plan is complete and otherwise complies with the requirements of Section 3957 and the ECFSA Act: and

BE IT FURTHER RESOLVED that the ECFSA remains in advisory status, as described by Public Authorities Law section 3958; and

BE IT FURTHER RESOLVED that the ECFSA shall impose a control period upon the County whenever the ECFSA determines that any one of the six

circumstances listed in Public Authorities Law section 3959(1)(a) through 3959(1)(e) shall have arisen.

This resolution shall take effect immediately

Chairman Sampson: “The last order of business is pretty straightforward, and you have a resolution in your pocket to approve the Erie County Fiscal Stability Authority to enter into 457B deferred compensation program. Which is no cost to us and provide employees with the ability to donate money or pretax into investment retirement accounts, correct Ken.”

Executive Director Vetter: “Yes, Mr. Chairman.”

Chairman Sampson: “There’s a resolution in your packet authorizing the Authority to do that, I entertain a motion to approve that resolution.”

Director Speers moves and Director Young seconds.

Chairman Sampson: “Any discussion? All in favor, say I. Motion carries.

Resolution No. 21-12

Adoption of the State of New York Deferred Compensation Plan

Whereas, the Erie County Fiscal Stability Authority wishes to adopt the Deferred Compensation Plan for Employees of the State of New York and Other Participating Jurisdictions (the “Plan”) for the voluntary participation of all eligible employees; and

Whereas, the Erie County Fiscal stability Authority is a local public employer eligible to adopt the Plan pursuant to section 5 of the State Finance Law; and

Whereas, the Erie County Fiscal Stability Authority has reviewed the Plan established in accordance with Section 457 of the Internal Revenue Code and section 5 of the State Finance Law of the State of New York; and

Whereas, the purpose of the Plan is to encourage employees to make and continue careers with the Erie County Fiscal Stability Authority by providing eligible employees with a convenient and tax favored method of saving on a regular and long-term basis and thereby provide for their retirement;

NOW, THEREFORE, it is hereby:

RESOLVED, that the Erie County Fiscal Stability Authority hereby adopts the Plan for the voluntary participation of all eligible employees; and it is further

RESOLVED, that the appropriate officials of the Erie County Fiscal Stability Authority are hereby authorized to take such actions and enter such agreements as are required or necessary for the adoption, implementation, and maintenance of the plan; and it is further

RESOLVED, that the Administrative Services Agency is hereby authorized to file copies of these resolutions and other required documents with the President of the State of New York Civil Service Commission.

Adopted the 18th day of October 2021 at a meeting of the Erie County Fiscal Stability Authority.

I hereby certify that the Erie County Fiscal Stability Authority is a local public employer within the meaning of Section 5 of the State Finance Law and that the adoption of the Plan has received all required approvals of any local governing body or officer and otherwise complies with local law.

Witnessed by:

Erie County Fiscal Stability Authority

Consent of the Deferred Compensation Board of the State of New York to the Erie
County Fiscal Stability Authority's Participation

By: _____

*A local public employer eligible to adopt the Plan pursuant to Section 5 of the State Finance Law includes: a county, city, town, village or other political subdivision as defined by in Section 131 of the retirement and Social security law or civil division of the State; a school district or other governmental entity operating a public school, college, or university; a public improvement or special district, a public authority, commission, or public benefit corporation; or any other public corporation, agency or instrumentality or unit of government which exercises governmental powers under the laws of the State.

Chairman Sampson: "If there's no further business I will make a motion to dismiss."

Director Speers moved and Director Marlette seconds.

Respectfully submitted,

James Sampson, Chairman

October 18, 2021