

Erie County Fiscal Stability Authority

Resolution No. 07-09

AMENDING THE HIRING FREEZE UPON THE COUNTY OF ERIE

WHEREAS, Chapter 182 of the New York Laws of 2005 (the “ECFSA Act”) 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, the ECFSA first imposed a control period upon the County of Erie (the “County”) by adopting Resolution 06-49 on November 3, 2006; and

WHEREAS, incident to and in furtherance of the imposition of the control period, the ECFSA adopted Resolution 06-50, which imposed a hiring freeze upon the County, on November 3, 2006; and

WHEREAS, the ECFSA may impose such a hiring freeze during a control period pursuant to New York Public Authorities Law section 3959(2)(c); and

WHEREAS, on December 28, 2006, the ECFSA adopted Resolution 06-56, which continued and amended the hiring freeze originally imposed by Resolution 06-50; and

WHEREAS, pursuant to Resolution 07-04, adopted on January 11, 2007, the ECFSA renewed and continued the hiring freeze imposed by Resolution 06-56; and

WHEREAS, the ECFSA desires to clarify and, to the extent necessary, modify the hiring freeze to ensure that the County seeks and obtains the ECFSA’s prior approval to fill vacant positions in all cases, including, without limitation, in instances where it is the County’s intention to fill any such positions by transferring an existing County employee or changing the job title of an existing County employee; and

WHEREAS, the clarification and modification herein is directed to the discretionary determination by the County that it desires to fill a position or change a title, and not to the non-discretionary determination of who among the County’s employees must be designated to fill such position or assume such title pursuant to law (including, without limitation, obligations under the law arising pursuant to a collective bargaining agreement);

NOW, THEREFORE, BE IT RESOLVED that the ECFSA finds that continuing a hiring freeze upon the County remains essential and necessary to accomplish the purposes of the ECFSA Act; and

BE IT ORDERED that, in order to satisfy this purpose and avoid unnecessary increases in the County's payroll to the detriment of the County's taxpayers, the hiring freeze shall hereby be applied as of the date hereof to require the County to seek and obtain the ECFSA's prior approval to fill a vacant position in all cases including, without limitation, in instances where it is the County's intention to fill any such position by transferring an existing County employee or by changing the job title of an existing County employee; and

BE IT FURTHER ORDERED that the ECFSA may waive the hiring freeze on a case-by-case basis, pursuant to the procedure established by Resolution 06-56; and

BE IT FURTHER ORDERED that, notwithstanding any contrary provision of this ORDER, the hiring freeze shall not regulate any procedure, mandated by any contract or collective bargaining agreement binding the County, for determining priority among the County's employees to ascend to a vacant job title that the County chooses to fill after it has sought and obtained the ECFSA's waiver of the hiring freeze; and

BE IT FURTHER ORDERED that except as expressly clarified and modified hereby, the hiring freeze imposed by Resolution 07-04 shall in all respects continue; and

BE IT FURTHER ORDERED that the County Executive shall officially notify all Commissioners, Department Heads, and any other employee of the County who possesses the authority to hire, that the ECFSA has issued this ORDER, which continues and amends the hiring freeze originally adopted via Resolution 06-50 on November 3, 2006, amended via Resolution 06-56 on December 28, 2006, and renewed via Resolution 07-04 on January 11, 2007; and

BE IT FURTHER ORDERED that Resolution 06-50, Resolution 06-56, and Resolution 07-04, other than as expressly amended herein, retain full force and effect.

This resolution shall take effect immediately.

Stanley J. Keysa
Secretary

Date: March 2, 2007