

Erie County Fiscal Stability Authority

Resolution No. 08-90

**REJECTING PROPOSED PAYMENTS TO CURRENT
ACTIVE MEMBERS OF AFSCME LOCAL 1095**

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, this control period remains in effect, pursuant to Resolution 08-11, adopted by the ECFSA on January 4, 2008; and

WHEREAS, during a control period, the ECFSA “may review and approve or disapprove contracts or other obligations binding or purporting to bind the county or any covered organization,” pursuant to New York Public Authorities Law (“Public Authorities Law”) section 3959(2)(h); and

WHEREAS, incident to and in furtherance of the imposition of the control period, the ECFSA adopted Resolution 07-10 on March 2, 2007; and

WHEREAS, Resolution 07-10 authorized a process for ECFSA approval of contracts, settlements, or other obligations “binding or purport[ing] to bind the County” (the “contract approval process”);

WHEREAS, the Clerk of the County Legislature, as authorized by the Chair of the County Legislature, has submitted to the ECFSA a request for approval of one-time, \$600.00 payments (the “Proposed Payments”) to each of certain County employees represented by the American Federation of State, County and Municipal Employees (“AFSCME”) Local 1095 (the “AFSCME Employees”); and

WHEREAS, this request arose from the County Legislature’s adoption of a resolution, dated March 6, 2008 (the “Employee Payment Resolution”); and

WHEREAS, pursuant to the Employee Payment Resolution, the County Legislature (the “Legislature”) resolved that it “determine[d] that it is appropriate to give a one-time payment in the amount of \$600.00 to all current active members of AFSCME Local 1095 bargaining unit who were employed by the County, the Erie County Medical Center Corporation, the Erie County Home, Erie Community College and the Buffalo and Erie County Library System on December 31, 2005;” and

WHEREAS, section 202(f) of the County Charter empowers the Legislature to “fix the compensation of all . . . employees paid from county funds, except members of the judiciary;” and

WHEREAS, by its text, the Employee Payment Resolution did not purport to increase the compensation of the AFSCME Employees by \$600.00 per employee for calendar year 2008; and

WHEREAS, section 2613 of the County Charter provides conditions precedent, without which “[n]o payment shall be authorized or made and no obligation [shall be] incurred against the county;” and

WHEREAS, by its text, the Employee Payment Resolution did not authorize any payment or obligation to be made by the County; and

WHEREAS, Resolution 08-51 authorized the ECFSA to decline approval or rejection of proposed payments to current active members of AFSCME local 1095; pending submission from a “Responsible Official” as well as the lack of a resolution “binding or purporting to bind” the County.

WHEREAS, after deliberation with ECFSA Counsel and the Legislatures Counsel, Intro 15-6 was adopted “...directing the one-time payment in the amount of \$600.00 shall be made by Erie County to all current active members of the AFSCME Local 1095 bargaining unit who were employed...on December 31, 2005.

WHEREAS, a correspondence from ECFSA Counsel determined that the Chairwoman of the Legislature was in fact a “Responsible Official” and that this settlement was subject to Public Authorities Law §3959(2)(e) stating that the ECFSA “may review and approve or disapprove...other obligations binding or purporting to bind the County.”

WHEREAS, the ECFSA must review and approve any contract, settlement, or other obligation, valued at greater than \$50,000, that binds or purports to bind the County or a covered organization, before it takes effect; and

WHEREAS, the County Executive or a “Responsible Official,” as defined in Resolution 07-10, has duly submitted a request for review of the contracts, settlements, and other obligations listed on the attached document; and

NOW, THEREFORE, BE IT RESOLVED that the ECFSA disapproves the settlements on the attached document for the following reasons:

- 1) Despite the hard work and sacrifice of the AFSCME workforce, the ECFSA determines that Erie Counties fiscal situation is not stable. The fund balance is below Charter requirements and therefore should not be depleted.
- 2) The Erie County Executive should be given the opportunity to enter into negotiations with the officials of numerous unions to renegotiate nearly 18 years of expired contracts.
- 3) Approving said contract could set an undesirable precedent potentially resulting in additional impasse settlements.
- 4) Given the current state of the economy in the County and nationwide, the funds allocated for said settlement do not serve the best interest of the taxpayer

Department	Description	Amount
EC Legislature – Settlement of Legal Claim - AFSCME	Labor union settlement	\$816,000

This resolution shall take effect immediately.

Stanley J. Keysa
Secretary

Date: September 15, 2008