

Erie County Fiscal Stability Authority

Resolution No. 10-30

PROVISIONALLY FINDING THAT ERIE COUNTY'S 2011-2014 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 Christopher Collins duly submitted his proposed budget for Erie County (the "County") for fiscal year 2011, and a four-year financial plan ("Plan") for fiscal years 2011-2014, to the ECFSA on October 1, 2010 (the "2011-2014 Plan"); and

WHEREAS, fiscal years 2012 through 2014 constitute the "Out Years" of the 2011-2014 Plan; and

WHEREAS, Public Authorities Law section 3957(1) requires that the 2011-2014 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 21, 2010, whether the 2011-2014 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 2011-2014 Plan, and have provisionally determined that it contains actions sufficient to ensure with respect to the

major operating funds for each fiscal year of the plan – including budget year 2011 and Out Years 2012 through 2014 – that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year; and

WHEREAS, the 2011-2014 Plan is complete and otherwise complies with the requirements of Public Authorities Law Section 3957 (“Section 3957”) and the ECFSA Act; and

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

- (1) That sales tax revenues will increase by 3.1% in 2011 and by 3% during each of the Out Years, despite recent weaker growth;
- (2) That the County’s proceeds from the collection of real property taxes will increase by 2% in 2012 and by 3% during 2013 and 2014;
- (3) That overtime expenses will decrease during the Out Years;
- (4) That the County will not need to increase its annual financial contribution to Erie Community College (“ECC”), even though ECC has assumed that the County’s contribution will increase by \$500,000 during each of its next four fiscal years;
- (5) That the County will not need to budget for salary increases for labor unions that do not have contracts that are currently in effect;
- (6) That the County will not bear liability for any legal challenge made to the designation and use of regular part-time (“RPT”) employees;
- (7) That the County will have adequate fund balance to close budget gaps during fiscal year 2011 and during the Out Years, without violating the requirement of Erie County Charter Section 2605(b) that the “county executive shall maintain a balance in all funds established in the budget equal to or greater than five percent of the amount contained in the budget of each fund in the immediately preceding fiscal year;” and without detrimentally impacting the County’s credit rating, borrowing costs, or realization of revenue from investments;
- (8) That the County Executive and a supermajority of the County Legislature will support a “home rule” request to extend the extra 1% and extra 0.75% sales tax beyond November 30, 2011, that the New York State Legislature will adopt the extension and that the Governor will sign it into law; and
- (9) That the County will have continued access to ECFSA efficiency grants and will realize substantial savings from implementation of Six Sigma initiatives,

even though all ECFSA efficiency grants have been allocated and the County has yet to realize significant Six Sigma savings; and

WHEREAS, the ECFSA registers its objection to the virtual elimination of funds sufficient for the County Comptroller's Office to perform its statutorily required audit functions; and

WHEREAS, the ECFSA requires additional information and plans of action substantiating the reasonableness of the 2011-2014 Plan's assumptions;

NOW, THEREFORE, BE IT RESOLVED that the ECFSA provisionally finds that the 2011-2014 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 requests the County to submit in writing, no later than February 1, 2011, additional information, action plans, or other documentation demonstrating the reasonableness of the assumptions enumerated above; and

BE IT FURTHER RESOLVED that, in the absence of sufficient information substantiating those assumptions, or for any other reason, the ECFSA reserves the right to require the County to modify the 2011-2014 Plan subsequent to February 1, 2011, in such detail as the ECFSA may require, pursuant to Public Authorities Law section 3957(2)(f); 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 five circumstances listed in Public Authorities Law section 3959(1)(a) through 3959(1)(e) shall have arisen; and

BE IT FURTHER RESOLVED that the ECFSA shall evaluate these five circumstances, and adopt a resolution determining whether to re-impose the control period upon the County, no later than March 1, 2011.

This resolution shall take effect immediately.

Stanley J. Keysa
Secretary

Date: October 20, 2010