

SUSPENSION



COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

FM

November 28, 2012

Honorable Members
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Honorable Legislators:

I am writing in regard to the 2013 Budget amendment offered by the Minority Caucus at today's Finance and Management/Budget Committee.

That amendment purports to cut \$8,514,324 in spending from the 2013 Budget by reducing spending in the following areas:

- The complete elimination of all funding for the Department of Law's Risk Retention Fund totaling \$3,000,000;
- The reduction in budgeted overtime expense for the Sheriff's Division of Jail Management ("Jail Management") by \$812,750 and the Department of Public Works' Division of Buildings and Grounds ("B&G") by \$100,000;
- The reduction in budgeted fringe benefit expense for the Sheriff's Division of Jail Management by \$1,802,203 and the Department of Public Works' Division of Buildings and Grounds by \$347,418;
- The near 300% decrease in the Countywide Budget Accounts reductions in personal services account (turnover/vacancy control account);
- A \$1,923,116 reduction in appropriation for the Department of Social Services' ("DSS") Safety Net Assistance program.

As members of my administration cautioned at today's hearing, these cuts are both unrealistic and irresponsible and will cause the 2013 Budget to be out of balance. As such, they could lead the Erie County Fiscal Stability Authority ("ECFSA") to impose a control period on Erie County ("County") due to insufficient funding for the 2013 mandated costs along with significant funding gaps that will result for budget years 2014 - 2016.

These concerns were echoed and shared in part by ECFSA in their October 26, 2012 analysis of my administration's 2013 Budget and 2013-2016 Four Year Financial Plan. ECFSA repeatedly noted that our assumptions and 2013 budgeted numbers for overtime, the turnover account, and fringe benefits were "reasonable" and "conservative." They cautioned about any underfunding in overtime and

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expressed support for our modest turnover account. ECFSA also validated our fringe benefits assumptions and estimates for 2013.

The complete elimination of all funding for the Risk Retention Fund is reckless.

The County Attorney projects that the Department of Law's Risk Retention Fund will have \$1.7-\$1.8 million available at year-end 2012. In addition, that money may not be available for re-appropriation into 2013 depending on the County's overall 2012 Budget situation. The Minority Caucus' amendments completely eliminate funding for this account for 2013, the second straight year in which the Legislature did not budget any funds for Risk Retention. However, for 2012 approximately \$5 million was available to reapply from the end-of-year 2011 to the 2012 budget year, thereby justifying the elimination of the line for the 2012 Budget. As noted, it is anticipated only \$1.8 million will be available at the end of 2012, significantly less money than was spent in 2012 (and that does not include the money appropriated from the fund balance for the Morales litigation). Given ongoing litigation, the full elimination of budgeted funds for this account is short-sighted and will only lead to a need to significantly fund the account in mid-year 2013.

The reduction in budgeted overtime expense for Jail Management and B&G is imprudent.

As all legislators know, excessive, unbudgeted overtime expense in Jail Management has been a problem for decades, with continual overspending in the account and significant negative variances in the account. Notwithstanding the additional sworn positions in Jail Management for 2013 mandated by the New York State Commission of Correction, we (and ECFSA and the Sheriff) remain concerned about this account for 2013. The \$812,750 reduction in overtime in the proposed amendment will create the potential for an even larger negative variance in this account in 2013.

In addition, when combined with the significant increase in vacancy control (see below), the Minority Caucus' cuts in overtime will actually compound the problem. Cutting overtime and artificially increasing turnover savings might lead to more overtime expense and significant pressure to reduce overtime by filling vacant jobs. In short – you can't have it both ways. As such, the cuts to the overtime lines in both Jail Management and B&G are imprudent.

The near 300% increase in the Turnover Account is a sham.

The proposed Minority Caucus amendment triples the turnover account from a conservative \$600,000 (the same as 2012) to \$1,787,585. The County currently only has approximately 190 full time vacant positions in the General Fund as of today and about 40 of them are being eliminated in the 2013 Budget. For year-to-date 2012, the County is on pace to meet the \$600,000 turnover target for 2012 – but nothing beyond it. After factoring out vacant DSS positions and their associated federal/state reimbursements, the County could never meet the Minority Caucus' \$1.79 million turnover target in 2013. This type of last-minute gimmickry is not appropriate and a sham. ECFSA urged the County to keep "budgeted vacancy savings at minimal levels" and the 2013 Budget does just that. The Minority Caucus' amendments do the exact opposite and return the County to the days of fiscal gimmicks, not fiscal stability.

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The reduction in budgeted fringe benefit expense for Jail Management and B&G is unsound.

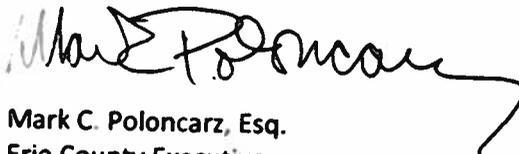
As you know from the lengthy and elaborate fringe benefit presentation which my administration made to your Honorable Body on November 15th, including involving the Personnel Commissioner and our outside healthcare consultant from Lawley Insurance, the County carefully projected our 2013 fringe benefits estimates for all departments. The Minority Caucus' \$2.1 million cut in fringe benefits for Jail Management and B&G is not based on any facts or analysis but is arbitrary and random. These two departments have significant health insurance and workers compensation expense, especially in Jail Management with the addition of many new employees to the workforce. Any cuts to such lines are unsound.

The reduction in appropriation for the Safety Net Assistance program has no basis in reality.

Finally, the \$1.9 million cut to Safety Net Assistance is not, contrary to the Minority Caucus' claims, based on actual caseloads/claims. As Commissioner Carol Dankert and her senior fiscal advisor Rick Paulson described today, the claims for Safety Net continue to flood DSS and more and more clients are seeking assistance from DSS. Further, we are legally required to provide this program: if the Legislature cuts the appropriation, we are still required by federal and state laws to provide the program and accept clients and incur expense. Thus, there is no factual basis for the proposed cut to the program and such cut would, in fact, be dangerous to the County's bottom line considering the increase in individuals seeking aid and our requirement to provide the assistance regardless of whether there are sufficient funds in the budget.

As County Executive, I pledged to engage in transparent budgeting, and realistic and appropriate fiscal practices. I vowed never to return to the type of budget gimmicks and risky schemes conducted by the former administrations that led to prior budget crises. The Minority Caucus' amendments are irresponsible and reckless and will create a significant budget shortfall on day one on January 1, 2013. When you consider any final amendments, I urge your Honorable Body to reject these amendments which would return the County to the days of fiscal instability and instead focus on continuing the recent trend of keeping the County on the road to fiscal success.

Sincerely yours,



Mark C. Poloncarz, Esq.
Erie County Executive

MCP/mt

cc: Hon. David Shenk
Erie County Fiscal Stability Authority