

SUSPENSION



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

FM

September 26, 2013

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

Re: State Comptroller Report on "Fiscal Stress"

Dear Honorable Legislators:

Yesterday, the Office of New York State Comptroller Thomas DiNapoli ("OSC") issued a report updating his Fiscal Stress Monitoring System with the latest list of counties, towns, cities and villages that OSC has reviewed. Using certain uniform measures, OSC has been reviewing local governments across the State this year to provide an 'early warning' system for municipalities that may be stressed, or susceptible to financial pressure.

In his latest report, the State Comptroller has reported that Erie County is "susceptible to fiscal stress." A copy of the report is attached for your review.

This is the first such statewide macro-level fiscal review of its kind by OSC in some time. We appreciate Comptroller DiNapoli's review and his office's offer of support to local governments. We also agree with his approach that local governments should engage in multi-year financial planning (as Erie County does with our Four Year Financial Plan), and that recurring revenues should match recurring expenses.

In a related development, on Monday, the New York State Financial Restructuring Board ("FRB") issued its first report reviewing localities and their status. Using its criterion, the FRB determined that Erie County was not fiscally stressed. The release of these two analyses has prompted me to write to your Honorable Body to discuss and explain what these two State agencies' statements mean for the County, but in short it is fair to say both reports indicate Erie County is financially sound and has financially, if not programmatically, recovered from the days of the "Red-Green Fiscal Crisis."

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OSC Affirms Positive Standing

The OSC pronouncement offers both good news and disconcerting news for Erie County. The good news is that Erie County is not considered by OSC to be experiencing “significant fiscal stress” or “moderate fiscal stress.” This contrasts with other counties in New York including Monroe, Suffolk, St. Lawrence, Franklin and Rockland that have been ranked as in significant fiscal stress, and Nassau, Albany, and Saratoga Counties, that have been ranked as in moderate fiscal stress. Other counties that are susceptible to fiscal stress are Cayuga, Broome, Sullivan, Schenectady and Rensselaer. Westchester County has not yet been rated.

The second somewhat positive element involves OSC’s rating for Erie County. The OSC system uses weighted points to determine a score; municipalities with a score of 65%-100% are considered to be in significant stress, 55%-64.9% as moderate stress and 45%-54.9% as susceptible to stress. Erie County’s score was 48.3%, meaning that we are just slightly above the level at which we would receive “no designation” and OSC would consider the County to have no fiscal stress. This indicates that the County’s fiscal situation at year-end 2012 is stable, even if certain risks are present or looming. Compared to the scores received by comparable counties in New York, Erie County’s fiscal position is much stronger and more positive.

OSC Measurements

However, as OSC has indicated, and based on their ranking system, there is some fiscal risk for the County moving forward. The State Comptroller’s rating system uses a complex matrix to determine a score. The factors driving the system are:

- Total fund balance for combined principal operating (General, Road, Sewer and Utility) funds
- Total fund balance for the General Fund
- Total unassigned fund balance for combined principal operating funds
- Total unassigned fund balance for the General Fund
- Operating deficit: looking at the past three fiscal years (2010, 2011 and 2012) and whether the combined funds had an operating deficit
- Cash ratio and cash position at year end as well as the cash available monthly compared to monthly expenditures
- Short term debt issuance in the prior fiscal year as well as the prior three years
- Trends in, and costs as a percentage of the budget of personal services and fringe benefits expense for the prior three years (2010, 2011 and 2012)
- Debt service expense as a percentage of revenue for the prior three years (2010, 2011 and 2012)

County Penalized for Fund Balance Levels

Critically, 50% of the County's total weighted score is based on the size of our fund balance – both the total and the unassigned fund balance. OSC in effect penalized the County for the size of our fund balance because we did not maintain a total fund balance equivalent to 10% of our General Fund budget at year-end 2012. At year-end 2012, we had a total fund balance amounting to about 8% of the General Fund Budget, which is very robust and appropriate. The County is well above the 5% fund balance requirement contained in Section 2505(b) of the Erie County Charter. In addition, the County is required by OSC to report more than \$300 million of sales tax revenue shared with local governments as part of our operating budget (even though we do not retain or use such funds). As members of your Honorable Body know, this is simply a pass-through transaction. If we were not required to report this shared revenue in our budget and financial statements, we would have met the 10% fund balance threshold and not been penalized by OSC's rating system.

As long as the County continues to utilize appropriated fund balance in its annual budget – which is a sound and appropriate fiscal practice and has been conducted by the former county administration as well as myself with the approval of your Honorable Body – the OSC measurement will penalize the County (and any municipality). In this regard, I partially disagree with OSC; the point of maintaining a fund balance is to allow its utilization to cover gaps in the budget as necessary. Arbitrarily maintaining a large reserve is unnecessary and does not well serve the taxpayers.

However, I do agree with OSC that recurring expense should be matched with recurring revenues, and structurally, only a modest amount of fund balance should be appropriated annually for budget purposes. If the County is compelled by political forces within the County Legislature to continue to utilize larger amounts of fund balance to balance budgets without real cuts in discretionary spending, the County will continue to receive low scores on OSC's annual ranking. More problematically, this becomes a structural problem for the County financially. This is a serious concern for me as the chief budget officer of Erie County and I urge your Honorable Body to work with me cooperatively in this regard.

Operating Deficit in 2011

Second, OSC penalized the County under the operating deficit measurement, reporting that in 2011, the County recorded a deficit in the combined funds of \$5.3 million. The utilization of fund balance in the 2011 Budget was recommended by the former county executive and approved by your Honorable Body and was reasonable. Because County policymakers agreed to use fund balance to balance the 2011 budget, the OSC rating system rebuked the County.

Cash Balance at Year End 2012

Third, OSC's formula penalized the County for lower cash balances in all funds at year-end 2012. As you know, in December 2012, in order to save on interest expense, and after consulting with the Office of the County Comptroller (who controls cash flow under Section 1802 of the County Charter), the County paid the annual employer contribution (pension payment) to OSC. The County saved several hundred thousand dollars in expense, but the effect was to reduce our cash balance. Under the OSC measurement, the County was penalized for this action.

If the County had maintained a cash balance in the combined funds of only \$80,479 more at year-end 2012, we would not have been penalized by OSC in this measurement and would have ended up with a score of 41.6%, which is under the OSC threshold for "susceptible to fiscal stress." In fact, if we had paid the retirement bill in February 2013, our score would have been even lower – at 35%, well below the fiscal stress cutoff level. In my opinion, this State Comptroller measurement, while well-intentioned, can be misleading and subjective because it does not take into account or examine each municipality's specific situation.

Other Factors

Finally, in the other indices, including short term debt, personal services/fringe expense and debt service, the County was not penalized by OSC and our 2012 year-end status did not affect our rating.

Financial Restructuring Board for Local Governments Report

Coincidentally, on September 23, 2013 the Financial Restructuring Board for Local Governments ("FRB"), which was created by the Governor and State Legislature earlier this year to assist fiscally "distressed" municipalities by developing targeted recommendations and assistance, including financial assistance, issued its first report. In that report, FRB noted that municipalities can be automatically eligible for FRB assistance in restructuring if they meet one of two criteria. The local government: (1) must have a five year average full value property tax rate above the 75th percentile for all municipalities statewide (greater than \$6.82 per \$1,000); and/or (2) must have a five year average General Fund balance below 5% of total expenditures.

Erie County does not meet either criterion, nor does Nassau or Westchester Counties. However, as noted in the FRB report, Monroe and Suffolk Counties automatically meet the FRB criterion for State assistance, as do the Towns of Amherst and Cheektowaga and the Cities of Buffalo, Rochester and Syracuse.

I mention the FRB report simply to point out that another State entity, which is designed to evaluate local governments' fiscal situation and distress (or lack thereof), of which the State Comptroller is a statutory member, is using a different ranking system

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than OSC to evaluate whether a local government is distressed and requires State assistance. It is interesting that two different, but related State initiatives, which have similar purposes as early warning systems for local governments, could reach such different conclusions about the fiscal standing of county, city, town and village governments' in the same week. This shows that defining "fiscal stress" at a macro level with a specific analysis of a local government's finances and legislative environment can result in somewhat distorted findings that lack the appropriate context.

Conclusion

I believe it is important to put the State Comptroller's report in its proper context. But for several minor, and hyper-technical issues, the County would have received a ranking below 45%, and not been listed as being susceptible to fiscal stress. In addition, a modest appropriation of fund balance is reasonable and appropriate in certain conditions. A municipality needn't maintain, for instance, a \$130 million fund balance merely for the sake of maintaining such a large reserve.

That being said, the State Comptroller's analysis offers constructive advice for the County for the 2014 Budget and moving forward in our Four Year Financial Plan. The County needs to carefully consider our options for maintaining current services and programs against the use of fund balance and the unwillingness of your Honorable Body to consider recurring revenues and real reductions in recurring discretionary spending. We cannot have it both ways and the County's fund balance is not unlimited.

If you have any questions concerning the OSC report or the FRB document, please do not hesitate to contact me at your earliest convenience.

Sincerely yours,



Robert W. Keating
Director of Budget and Management

RWK/tcc
Attachment

cc: Erie County Executive Mark C. Poloncarz
Erie County Comptroller Stefan Mychajliw
Erie County Fiscal Stability Authority

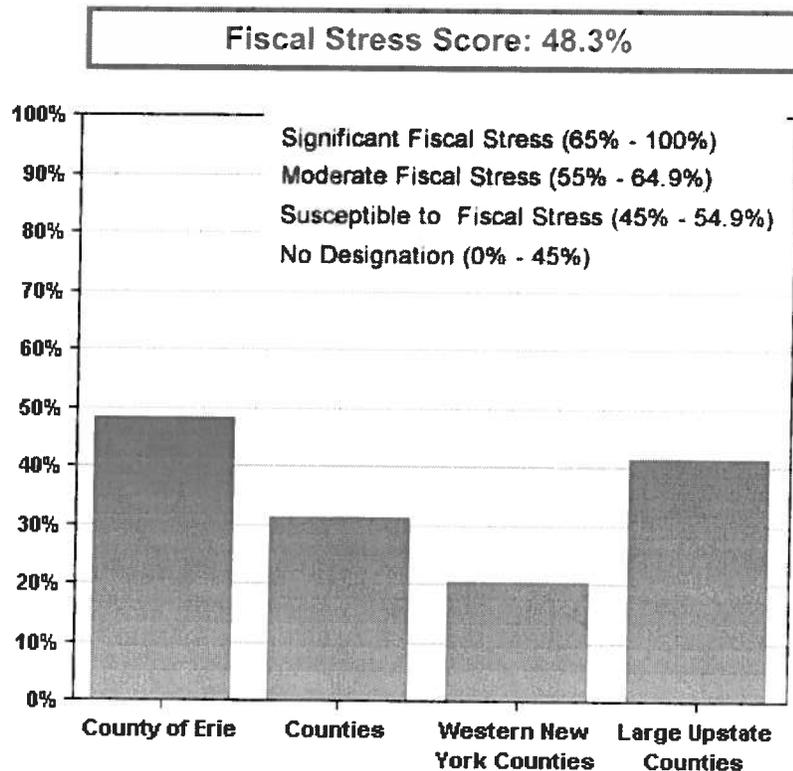
Fiscal Stress Monitoring System

Municipality Detail Report

Fiscal Stress Information for the County of Erie (County of Erie):

▸ [Municipality Detail Report \[.pdf\]](#)

This page contains information that is specific to your local government. The graph to the right shows the overall fiscal stress score for the selected locality along with three peer-group comparisons. The peer groups are generated using the number of localities for which a score has been calculated. These groups will increase in size over time as additional scores are released. For more detail see the [Chart of Peer Groups Used in Comparison \[.pdf\]](#).



County of Erie

County: Erie
MuniCode: 140100000000

Fiscal Year: 2012
Stress Level: Susceptible

Indicator	Description	Year	Data	Fiscal Stress		
				Points	Weight	Score
1	General Fund Only 3 Points ≤ 3.33% Last Fiscal Year 2 Points > 3.33% But ≤ 6.67% Last Fiscal Year 1 Point > 6.67% But ≤ 10% Last Fiscal Year	2012	Assigned Unassigned FB (Codes 915 & 917 General Fund)	1	50%	25.0%
			Assigned Unassigned FB (Codes 915 & 917 Combined Funds)			
			Gross Expenditures (General Fund)			
			Gross Expenditures (Combined Funds)			
2	General Fund Only 3 Points ≤ 10% Last Fiscal Year 2 Points > 10% But ≤ 15% Last Fiscal Year 1 Point > 15% But ≤ 20% Last Fiscal Year	2012	Assigned Unassigned FB / Gross Exp (General Fund)	1 pt		
			Assigned Unassigned FB / Gross Exp (Combined Funds)	0 pts		
			Account code: 8029 (General Fund)			
			Account code: 8029 (Combined Funds)			
3	Combined Funds Minus General Fund 1 Point = Combined Funds Calculation < General Fund Calculation	2012	8029 / Gross Exp (General Fund)	3 pts		
			8029 / Gross Exp (Combined Funds)	0 pts		
			Gross Revenues (Combined Funds)			
			Gross Expenditures (Combined Funds)			
4	Combined Funds 3 Points = Deficits in 3/3 Last Fiscal Years or a Deficit in the Last Fiscal Year ≤ -10% 2 Points = Deficits in 2/3 Last Fiscal Years 1 Point = Deficit in 1/3 Last Fiscal Years	2010	Gross Revenues (Combined Funds)	1	10%	3.3%
			Gross Expenditures (Combined Funds)			
			Deficit (Combined Funds)	0 pts		
			Gross Expenditures (Combined Funds)			
5	Combined Funds 3 Points ≤ 50% Last Fiscal Year 2 Points > 50% But ≤ 75% Last Fiscal Year 1 Point > 75% But ≤ 100% Last Fiscal Year	2012	Gross Expenditures (Combined Funds)	1		
			Deficit (Combined Funds)			
			Gross Revenues (Combined Funds)			
			Gross Expenditures (Combined Funds)			
6	All Funds 3 Points > 15% Last Fiscal Year 2 Points > 5% But ≤ 15% Last Fiscal Year 1 Point > 0% But ≤ 5% Last Fiscal Year	2012	Cash and Investment Account Codes 200-223,450,451	3	20%	20.0%
			Net Current Liability Account Codes 600-626 & 631-668 Less			
			Cash Investment / Current Liability			
			Cash Investment / Current Liability			
7	All Funds 3 Points = Issuance in Each of Last Three Fiscal Years or Issued a Budget Note in Last Fiscal Year 2 Points = Issuance in Each of Last Two Fiscal Years 1 Point = Issuance in Last Fiscal Year	2010 2011 2012	Debt Issued	0	10%	0.0%
			Total Revenues			
			Debt / Total Revenues (General Fund)			
			Debt Issued			

County of Erie

County: Erie
MuniCode: 140100000000

Fiscal Year: 2012
Stress Level: Susceptible

8	All Funds					
Personal Services and Employee Benefits	3 Points = Last Three Fiscal Year Average ≥ 75%	2010	Personal Services and Employee Benefits	336,029,970		
Employee Benefits	2 Points = Last Three Fiscal Year Average ≥ 70% But < 75%		Total Revenues - Debt Service Advance Refund Bonds	1,486,584,087		
	1 Point = Last Three Fiscal Year Average ≥ 65% But < 70%	2011	Pers Svc & Benefits / Net Revenues	22.6%		
			Personal Services and Employee Benefits	316,344,798		
		2012	Total Revenues - Debt Service Advance Refund Bonds	1,482,530,030	0	
			Pers Svc & Benefits / Net Revenues	21.3%		
			Personal Services and Employee Benefits	326,904,968		
			Total Revenues - Debt Service Advance Refund Bonds	1,480,452,776		
			Pers Svc & Benefits / Net Revenues	22.1%		
9	All Funds		Average Pers Svc & Benefits / Net Revenues	22.0%	0 pts	
Debt Service % Revenue	3 Points = Last Three Fiscal Year Average ≥ 20%	2010	Debt Services	67,392,503		
	2 Points = Last Three Fiscal Year Average ≥ 15% But < 20%		Total Revenues - Debt Service Advance Refund Bonds	1,486,584,087		
	1 Point = Last Three Fiscal Year Average ≥ 10% But < 15%	2011	Debt Services / Net Revenues	4.5%		
			Debt Services	75,026,810		
		2012	Total Revenues - Debt Service Advance Refund Bonds	1,482,530,030		
			Debt Services / Net Revenues	5.1%		
			Debt Services	91,471,079		
			Total Revenues - Debt Service Advance Refund Bonds	1,480,452,776		
			Debt Services / Net Revenues	6.2%		
			Average Debt Services / Net Revenues	5.3%	0 pts	
			TOTAL		11	48.3%

Percent Range
(out of 29 max pts)

65 - 100% Significant Fiscal Stress
55 - 64.9% Moderate Fiscal Stress
45 - 54.9% Susceptible Fiscal Stress
0 - 44.9% No Designation

General Fund
A
A, D, DM, FX, G, + All Enterprise

Gross Revenues = Revenues and Other Sources
Total Revenues = Revenues
Gross Expenditures = Expenditures and Other Uses
Total Expenditures = Expenditures