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ERIE COUNTY COMPTROLLER

HON. STEFAN I. MYCHAJLIW

March 7, 2016

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

Re: State Authorization for the Private Sale of Bonds by Negotiated Agreement

Dear Honorable Members:

Enclosed are recommended Home Rule Requests to the New York State Senate and the New York State Assembly to amend New York State Local Finance Law §54.50 to permit the continued underwriting and private sale of Erie County obligations through negotiated agreement until June 30, 2017. Copies of the related legislation introduced in the New York State Senate by Senator Patrick Gallivan (S-6788) and in the New York State Assembly by Assembly members Schimminger, Peoples-Stokes, Kearns, Corwin, Ceretto and DiPietro (A-9358A) are attached.

As outlined in the attached accompanying memorandum, this amendment will provide the County sufficient flexibility in the marketing of bonds. This flexibility allows the County the ability to adjust coupon rates and maturities to ensure a more successful sale of bonds. The County has utilized negotiated authority for many years, and unless the legislature acts, such authority will expire on June 30, 2016. A similar resolution to this is passed by your honorable body annually. Please note that while the County can benefit from such authority through lower prices and better terms, there may be circumstances and situations in which the county also engages in a competitive process.

I am available to answer any questions that you may have on this issue. Please feel free to contact me at 858-8400 and thank you in advance for your consideration of this request.

Sincerely yours,

STEFAN I. MYCHAJLIW
Erie County Comptroller

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MEMORANDUM

RE: State Authorization to Arrange for the Underwriting and Private Sale of Bonds through Negotiated Agreement

SUMMARY OF RECOMMENDED ACTION:

That Erie County requests the enactment of state legislation entitled "An Act to amend the local finance law, in relation to the sale of municipal obligations by the county of Erie."

FISCAL IMPLICATIONS OF PROPOSAL:

The underwriting of bonds at private sale through a negotiated agreement offers needed flexibility to adjust coupon rates and maturities in response to unexpected events and uncertain credit market conditions. This flexibility can ensure a more successful sale and lower borrowing costs.

REASON FOR RECOMMENDATION:

The current ability for Erie County to sell serial bonds at private sale expires on June 30, 2016.

BACKGROUND OF PROPSAL:

This method of marketing offers the advantage of greater flexibility. The structure of a bond issue or timing of a bond sale can be adjusted as necessary to respond to changing market conditions. Hence, the sale can be designated to meet investor needs and generate significant cost savings to the County.

CONSEQUENCES OF NEGATIVE ACTION:

The flexibility needed to ensure a successful sale will be lost, and the County may realize higher borrowing costs.

STEPS FOLLOWING APPROVAL:

Pursuant to Article IX of the New York State Constitution, Erie County will formally request enactment of State legislation to amend the New York State Local Finance Law.

STATE OF NEW YORK

6788

IN SENATE

February 23, 2016

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the local finance law, in relation to the sale of municipal obligations by the county of Erie

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 54.50 of the local finance law, as amended by chap-
2 ter 43 of the laws of 2015, is amended to read as follows:
3 § 54.50 Costs of sales; county of Erie. To facilitate the marketing of
4 any issue of serial bonds or notes of the county of Erie issued on or
5 before June thirtieth, two thousand [~~sixteen~~] seventeen such county may,
6 notwithstanding any limitations on private sales of bonds provided by
7 law, and subject to approval by the state comptroller of the terms and
8 conditions of such sale:
9 a. arrange for the underwriting of its bonds or notes at private sale
10 through negotiated agreement, compensation for such underwriting to be
11 provided by negotiated fee or by sale of such bonds or notes to an
12 underwriter at a price less than the sum of par value of, and the
13 accrued interest on, such obligations; or
14 b. arrange for the private sale of its bonds or notes through negoti-
15 ated agreement, compensation for such sales to be provided by negotiated
16 fee, if required. The cost of such underwriting or private placement
17 shall be deemed a preliminary cost for purposes of section 11.00 of this
18 chapter.
19 § 2. This act shall take effect immediately.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD14212-01-6

A09358 Text:

STATE OF NEW YORK

9358--A

IN ASSEMBLY

February 25, 2016

Introduced by M. of A. SCHIMMINGER, PEOPLES-STOKES, CERETTO, KEARNS, CORWIN -- Multi-Sponsored by -- M. of A. DiPIETRO -- read once and referred to the Committee on Local Governments -- recommitted to the Committee on Local Governments in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the local finance law, in relation to the sale of municipal obligations by the county of Erie

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 54.50 of the local finance law, as amended by chapter 43 of the laws of 2015, is amended to read as follows:

§ 54.50 Costs of sales; county of Erie. To facilitate the marketing of any issue of serial bonds or notes of the county of Erie issued on or before June thirtieth, two thousand [~~sixteen~~] seventeen such county may, notwithstanding any limitations on private sales of bonds provided by law, and subject to approval by the state comptroller of the terms and conditions of such sale:

a. arrange for the underwriting of its bonds or notes at private sale through negotiated agreement, compensation for such underwriting to be provided by negotiated fee or by sale of such bonds or notes to an underwriter at a price less than the sum of par value of, and the accrued interest on, such obligations; or

b. arrange for the private sale of its bonds or notes through negotiated agreement, compensation for such sales to be provided by negotiated fee, if required. The cost of such underwriting or private placement shall be deemed a preliminary cost for purposes of section 11.00 of this chapter.

§ 2. This act shall take effect immediately.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD14115-02-6

HOME RULE REQUEST-SENATE

WHEREAS, the County's authority to arrange for the underwriting of bonds or notes at private sale through negotiated agreement expires on June 30, 2016; and

WHEREAS, Senate Bill S-6788 and Assembly Bill A-9358A, now pending before the New York State Legislature, would authorize extension of the County's authority to arrange for underwriting of bonds or notes at private sale through negotiated agreement through June 30, 2017;

NOW THEREFORE, BE IT RESOLVED, THAT A HOME RULE REQUEST IS MADE TO THE NEW YORK STATE LEGISLATURE AS FOLLOWS:

TO THE LEGISLATURE:

Pursuant to Article IX of the Constitution, the County of Erie requests the enactment of Senate Bill S-6788, entitled "AN ACT to amend the local finance law, in relation to the sale of municipal obligations by the county of Erie."

It is hereby declared that a necessity exists for the enactment of such legislation, and that the facts establishing such necessity are as follows:

The local government does not have power to enact such legislation by local law.

Such request is made by the chief executive officer of such municipality, concurred with by a majority of the total membership of the local legislative body.

AND BE IT FURTHER RESOLVED, that the Clerk of the Legislature be directed to forward copies of this home rule request, certified by the Erie County Executive and the Clerk of the Erie County Legislature, two copies of the New York State Senate and two copies to the New York State Assembly.

HOME RULE REQUEST-ASSEMBLY

WHEREAS, the County's authority to arrange for the underwriting of bonds or notes at private sale through negotiated agreement expires on June 30, 2016; and

WHEREAS, Assembly Bill A-9358A and Senate Bill S-6788, now pending before the New York State Legislature, would authorize extension of the County's authority to arrange for underwriting of bonds or notes at private sale through negotiated agreement through June 30, 2017;

NOW THEREFORE, BE IT RESOLVED, THAT A HOME RULE REQUEST IS MADE TO THE NEW YORK STATE LEGISLATURE AS FOLLOWS:

TO THE LEGISLATURE:

Pursuant to Article IX of the Constitution, the County of Erie requests the enactment of Assembly Bill A-9358A, entitled "AN ACT to amend the local finance law, in relation to costs of sales in the county of Erie."

It is hereby declared that a necessity exists for the enactment of such legislation, and that the facts establishing such necessity are as follows:

The local government does not have power to enact such legislation by local law.

Such request is made by the chief executive officer of such municipality, concurred with by a majority of the total membership of the local legislative body.

AND BE IT FURTHER RESOLVED, that the Clerk of the Legislature be directed to forward copies of this home rule request, certified by the Erie County Executive and the Clerk of the Erie County Legislature, two copies of the New York State Assembly and two copies to the New York State Senate.