

SUSPENSION



ERIE COUNTY COMPTROLLER HON. STEFAN I. MYCHAJLIW

April 4, 2019

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, 2020. Copies of the related legislation introduced in the New York State Senate (S4159) by Senator Tim Kennedy and in the New York State Assembly (A3697) by Assembly Members Robin Schimminger and Crystal Peoples-Stokes.

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, 2019. 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 858-8404 and thank you in advance for your consideration of this request.

Sincerely yours

A handwritten signature in blue ink, appearing to read "Stefan I. Mychajliw", is written over a blue ink stamp of the same name.

STEFAN I. MYCHAJLIW
Erie County Comptroller

SUSPENSION

ACCOMPANYING 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 ability for Erie County to sell serial bonds at private sale expires on June 30, 2019. This is an annual process.

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.

SUSPENSION

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, 2019; and

WHEREAS, Senate Bill S4159 and Assembly Bill A3697 (attached), 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, 2020;

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 S4159, 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 two copies of this home rule request, certified by the Erie County Executive and the Clerk of the Erie County Legislature, to both the New York State Senate and the New York State Assembly.

SUSPENSION

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, 2019; and

WHEREAS, Assembly Bill A3697 and Senate Bill S4159 (attached), now pending before the New York State Legislature, would authorize extension of Erie County's authority to arrange for underwriting of bonds or notes at private sale through negotiated agreement through June 30, 2020;

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 A3697, 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 two copies of this home rule request, certified by the Erie County Executive and the Clerk of the Erie County Legislature, to both the New York State Assembly and the New York State Senate.

SUSPENSION

STATE OF NEW YORK

4159

2019-2020 Regular Sessions

IN SENATE

March 1, 2019

Introduced by Sen. KENNEDY -- 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 83 of the laws of 2018, 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 [~~nineteen~~] twenty 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.

LBD04227-01-9

SUSPENSION

NEW YORK STATE SENATE INTRODUCER'S MEMORANDUM IN SUPPORT submitted in accordance with Senate Rule VI. Sec 1

BILL NUMBER: S4159

SPONSOR: KENNEDY

TITLE OF BILL: An act to amend the local finance law, in relation to the sale of municipal obligations by the county of Erie

PURPOSE:

To provide Erie County with sufficient flexibility in its bond sales to maximize its return on bonds sold.

SUMMARY OF PROVISIONS:

Section 1 amends section 54.50 of the local finance law to permit the county of Erie to market serial bonds at private sale through the sunset date

Section 2 sets the effective date.

JUSTIFICATION:

In competitive sales, the date of bidding is determined once the first advertisement is made, unless the sale is withdrawn and a new one advertised. In negotiated sales, the timing of sales is announced as an objective, but the date of the sale can be changed as required. This flexibility allows the county of Erie to adjust coupon rates, maturities, and general conditions of the sales to ensure a more successful sale of the instruments.

LEGISLATIVE HISTORY:

2018:S.7547/A.9711- Chapter 83; 2017: S.4308/A.4901 -Chapter 75; 2016:S.6788/A.9358A-Chapter 85; 2015:S.4300/A.6245A- Chapter 43; 2014:S.6687/A.8864 -Chapter 74; 2013:S.4364/A.6354-Chapter 89; 2012:S.6606/A.9355-Chapter 80; 2011:S.2787/A.4215 - Chapter 63; 2010:Chapter 127; 2009:Chapter 39; 2008:Chapter 80; 2007: Chapter 87; 2006: Chapter 123; 2005: Chapter 113; 2004: Chapter 115; 2003: Chapter 405; 2002: Chapter 98; 2001: Chapter 57; 2000: Chapter 96; 1999: Chapter 406; 1998: Chapter 139; 1997: Chapter 148; 1996: Chapter 119

FISCAL IMPLICATIONS:

Produces lower interest rates for the county of Erie in negotiating the sale of their bonds.

EFFECTIVE DATE:

This act shall take effect immediately.

SUSPENSION

STATE OF NEW YORK

3697

2019-2020 Regular Sessions

IN ASSEMBLY

January 30, 2019

Introduced by M. of A. SCHIMMINGER, PEOPLES-STOKES -- read once and referred to the Committee on Local Governments

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 83 of the laws of 2018, 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 [~~nineteen~~] twenty 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.

LBD04227-01-9

SUSPENSION

NEW YORK STATE ASSEMBLY MEMORANDUM IN SUPPORT OF LEGISLATION submitted in accordance with Assembly Rule III, Sec 1(f)

BILL NUMBER: A3697

SPONSOR: Schimminger

TITLE OF BILL: An act to amend the local finance law, in relation to the sale of municipal obligations by the county of Erie

PURPOSE OF THE BILL:

To provide Erie County with sufficient flexibility in its bond sales to maximize its return on bonds sold.

SUMMARY OF SPECIFIC PROVISIONS:

§ 1- Amends Section 54.50 of the Local Finance Law to permit the County of Erie to market serial bonds at private sale through June 30, 2020.

§ 2- Effective date

JUSTIFICATION:

Recent swings in the stock market and confusion and uncertainty in the credit market mandate the need for greater flexibility in the marketing of bonds. In competitive sales the date of bidding is determined once the first advertisement is made, unless the sale is withdrawn and a new one advertised. In negotiated sales, the timing of sales is announced as an objective, but the date of the sale can be changed as required. This flexibility allows the County of Erie to adjust coupon rates, maturities and general conditions of the sales to ensure a more successful sale of the instruments.

PRIOR LEGISLATIVE HISTORY:

Chapter 83 of the Laws of 2018; Chapter 75 of the Laws of 2017; Chapter 85 of the Laws of 2016; Chapter 43 of the Laws of 2015; Chapter 74 of the Laws of 2014; Chapter 89 of the Laws of 2013; Chapter 80 of the Laws of 2012; Chapter 63 of the Laws of 2011; Chapter 127 of the Laws of 2010; Chapter 39 of the Laws of 2009; Chapter 80 of the Laws of 2008; Chapter 87 of the Laws of 2007; Chapter 123 of the Laws of 2006; Chapter 113 of the Laws of 2005; Chapter 115 of the Laws of 2004; Chapter 405 of the Laws of 2003; Chapter 98 of the laws of 2002; Chapter 57 of the Laws of 2001; Chapter 96 of the Laws of 2000; Chapter 406 of the Laws of 1999; Chapter 139 of the Laws of 1998; Chapter 148 of the Laws of 1997; Chapter 119 of the Laws of 1996.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENT:

Produces lower interest rates for the County of Erie in negotiating the sale of their bonds.

EFFECTIVE DATE:

This act shall take effect immediately.