

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

BILL NUMBER: S5695

SPONSOR: RULES

TITLE OF BILL: An act to amend the public authorities law and the tax law, in relation to creating the Buffalo fiscal stability authority

PURPOSE: This bill would provide for the creation of a Buffalo Fiscal Stability Authority ("Authority"). The bill would grant the Authority the power to supervise the fiscal affairs of the City of Buffalo ("City"), and would impose requirements on the City with respect to its budgetary operations and fiscal management. The Authority would also be authorized to issue bonds backed by city sales tax revenues and State aid, to provide continued financial market access and lower borrowing costs. Further, the Authority would be authorized to issue bonds to provide financial relief, in declining amounts during the City's next four fiscal years, to promote a transition to fiscal stability.

SUMMARY OF PROVISIONS: Section one of the bill declares the legislative findings.

Section two of the bill would amend Article 10-D of the public authorities law to create the Buffalo Fiscal Stability Authority. The following new sections would be created:

§ 3851 would provide definitions for this chapter.

§ 3852 would create the Buffalo Fiscal Stability Authority as a public benefit corporation, which would be in existence until June 30, 2037.

§ 3853 would provide that the authority be administered by a nine-member board of directors, seven of which would be appointed by the Governor, one such director would be a resident of the city of Buffalo; one such director would be appointed following the recommendation of the State Comptroller; and one such director would be appointed on the joint recommendation of the Temporary President of the Senate and the Speaker of the Assembly. The Erie County Executive and the Mayor of Buffalo would be ex-officio members. The Governor would appoint the chairperson and vice-chairperson.

? would provide for the general powers of the authority including the power to make by-laws, execute contracts, to borrow money and issue bonds, to procure insurance, to appoint officers and employees, and to invest the Authority's funds in qualified instruments.

? would provide for the terms and conditions of assistance to the Authority and employment thereto.

§ 3856 would require the city of Buffalo to submit a four-year financial plan for the city and covered organizations, including the school district, for the fiscal years 2003-04 through 2006-07 prior to September 1st, for review and approval or disapproval by the Authority. If the City is unable to develop, either initially or with modifications

following Authority review, a financial plan which meets the approval of the Authority, the Authority shall impose their own financial plan for the remainder of the city's 2003-2004 fiscal year.

§ 3857 would require the mayor to annually prepare and submit a 4-year financial plan for the city and covered organizations, including the school district, which must demonstrate that annual aggregate operating expenses would not exceed annual aggregate operating revenues for each fiscal year of the plan. The mayor must submit his proposed budget to the Authority for review as well. Limited levels of financial assistance may be provided by the Authority during the next four fiscal years, as long as the City meets certain annual targets for recurring budget savings actions. The Authority may approve or disapprove the City's financial plan, and must evaluate the reasonableness of revenue estimates. In addition, the mayor is required to make fiscal projections on a quarterly basis and alter such financial plan as necessary. The Authority is required to impose a financial plan if any financial plan, or modification, is not approved.

§ 3858 establishes a control period immediately, and also establishes criteria for the reimposition of a control period, such as failure to submit a reasonable financial plan, a budget deficit, or loss of financial market access. During a control period, the Authority may determine estimates of available revenues, and limit spending to an amount no greater than the available revenues. In addition, the Authority shall have the power to set a limit on the maximum level of spending for any proposed budget of any covered organization, impose a hiring and/or wage freeze, periodically evaluate the suspension of salary or wage increases, review and approve any collective bargaining agreement to be entered into by the city or any covered organization after the effective date of this act, act jointly with the city in selecting binding arbitration panelists and present information regarding the City's fiscal condition to arbitration panels, take any action necessary to implement the financial plan, review and approve contracts, require the city to undertake certain actions to advance serious and in-depth exploration of merger of services with the county, review and approve proposed settlements in excess of \$50,000, perform audits and reviews of the city or any covered organization, and issue orders to city officials to accomplish the purposes of this title.

The authority shall terminate the control period once the City has achieved three sequential balanced budgets (absent financial assistance from the Authority) and is assured of access to the financial market, at which point the City would enter an advisory period.

§ 3859 would establish an advisory period during which the authority would continue to review financial statements and projections by the City, and may comment and make recommendations to the City. The City is required to respond publicly to such recommendations.

§ 3860 would establish other additional rights and responsibilities of, and protections for, the Authority.

§ 3861 would require the City to declare its need for financial assistance from the Authority, thereby triggering the consideration of the request by the Authority. The Mayor is required to report annually to the Authority, the Legislature, the State Comptroller, City Council, City Comptroller, and State Director of the Budget regarding the provision of such financial assistance.

§ 3862 establishes limits on the manner in which the Authority may issue bonds and sets a cap of not more than \$ 175 million in bonds outstanding at any one time.

§ 3863 ensures the remedies of bondholders in the event the Authority fails to pay principal or interest on any debt.

§ 3864 provides for the interception by the State Comptroller of City sales taxes and State aid, and payment of these revenues to the Authority for the entire term of its existence.

§ 3865 provides for the Authority to receive, invest, and pay out its revenues. In addition, a first lien is established on such revenues for bondholders, after which the Authority may finance its own operations and return all remaining excess revenues to the City.

§ 3866 and § 3867 provide certain protections to bondholders that the state and the City shall not impair the flow of revenues to the Authority or otherwise impair the rights of bondholders.

§ 3868 establishes the Authority's bonds as legal investments and securities.

§ 3869 provides that the Authority shall be exempt from taxation, and that the bonds of the Authority shall, to the extent practicable, be exempt from taxation.

§ 3870 provides certain protections in the event legal action is taken against the Authority.

§ 3871 requires that the Authority be subject to audit.

§ 3872 provides that in the event that any provision of this title is inconsistent with other legal provisions, this act shall be controlling.

§ 3873 contains a separability clause.

Sections 3 through 5 of the bill amend the tax law to provide for the payment of tax revenues collected on behalf of the City to the Authority by the State Comptroller, under agreements for the sharing of taxes with cities in the county.

Section 8 makes this bill effective immediately.

EXISTING LAW: This bill is similar to Chapter 84 of the Laws of 2000, which established the Nassau Interim Financing Authority. Certain provisions of the bill are also drawn for laws establishing the Troy Municipal Assistance Corporation (Chapter 187 of the laws of 1995), the Yonkers Control Board (Chapter 104 of the Laws of 1984), and the Financial Control Board for the City of New York (Chapter 868 of the Laws of 1975).

STATEMENT IN SUPPORT: As a result of a weakened economy, population declines and job losses, the City of Buffalo has been in fiscal difficulty for several years. The State has provided significant fiscal assistance over the past five years, including \$51 million in increased State aid and \$26 million in budgetary relief from the acceleration of State aid. However, recently, the City's fiscal condition has weakened further, due to the impact of the national economic recession, and the State's inability to afford continued significant annual increases in aid to the City.

These factors have led to a structural imbalance between City revenues

and expenditures which, when combined with the City's limited ability to increase taxes on its residents, has resulted in the placement of Buffalo's bonds on credit watch with negative implications by independent bond rating services. The continued existence of the City's fiscal difficulties threatens the economic vitality of both western New York, and the State as a whole. Further, the uncertainty of the City's fiscal situation could lead to a loss of investor confidence, impacting not only bonds of the City, but those of other municipalities and State authorities as well.

Therefore, it is in the interest of all taxpayers that the State impose strict oversight of the financial affairs of the City to ensure the continuation of essential services to citizens of the City, restoration of the City's fiscal health, and maintenance of investor confidence -- each key to the continued overall economic and fiscal stability of the State.

BUDGET IMPLICATIONS: This bill would have no fiscal implications for the State, as no direct State financial assistance is provided. However, the City of Buffalo could benefit from approximately \$85 million in fiscal relief over the next four City fiscal years, to assist in reaching structural budget balance and returning the City to long-term fiscal stability.