

VETO MESSAGE:

VETO MESSAGE - No. 141

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 9048-B, entitled:

"AN ACT to amend the public authorities law, in relation to the Buffalo Fiscal Stability Authority (BFSA) financial crisis determinations"

NOT APPROVED

The Buffalo Fiscal Stability Authority (BFSA) was created in 2003 to provide financial assistance and fiscal oversight to the City of Buffalo, which was in the midst of a severe financial crisis. The BFSA enabling legislation placed the City in a control period, during which BFSA exercises substantial control over city finances, including approval of city budgets, financial plans, contracts and collective bargaining agreements. BFSA is also empowered, during a control period, to impose wage and hiring freezes for city employees and the employees of "covered organizations" such as the City's dependent school district. After the control period is ended, BFSA moves to an advisory period, in which it no longer is empowered to exercise these fiscal controls.

The City of Buffalo must meet two tests before BFSA can vote to lift the control period and shift into an advisory period: (1) it must have completed three consecutive years of balanced budgets without any authority assistance; and (2) it must have successfully issued bonds in the preceding fiscal year to meet substantially all of its capital and cash flow needs and must demonstrate a substantial likelihood of doing so in the current fiscal year.

This bill would amend the 2003 legislation with respect to the conditions that the City of Buffalo must meet before BFSA can shift from a control period to an advisory period. First, the term "any authority assistance" would be replaced by "BFSA assistance" in an effort to clarify that such assistance encompasses only BFSA's deficit financing on behalf of the City. Second, the City would need to demonstrate only that it could have sold bonds in the preceding fiscal year or that it could sell bonds in the current year, eliminating consideration of market access and the reasonableness of the terms of bond sales. In effect, this bill would allow the control period to be lifted at the start of the City's next fiscal year on July 1, 2008.

The City of Buffalo has made steady progress in addressing its financial problems during the past several years. Notably, under Mayor Brown's strong leadership and prudent fiscal management, the City has reduced its operating expenses and significantly increased its fund balance, and this improved financial situation has been recognized with upgrades to its credit rating. I fully expect that the Mayor and the City will continue to pursue these sound fiscal practices.

Nevertheless, I am constrained to disapprove this bill because of the imprudent precedent it would set. BFSA is not the first State financial oversight board nor, unfortunately, is it likely to be the last. The State puts these entities in place not only to impose budgetary discipline,

but also to access credit markets at terms more favorable than a financially distressed municipality otherwise could obtain. A State oversight entity's control period powers provide assurances to the credit markets that structural financial issues will be tackled and resolved, and a loosening of those controls is a sign that fiscal stability has been restored.

Although the State has occasionally extended the period during which a financial oversight board exercises an advisory role, the State has never before taken action to weaken the criteria for ending a financial control period. The bill could signal to the credit markets that the State could at any time decide that control periods should be determined by factors other than appropriate fiscal benchmarks, and this would undercut the confidence that financial oversight boards are established to provide. As a result, notwithstanding the excellent efforts of Mayor Brown, BFSA and the other leaders in Buffalo, approval of this bill could jeopardize the State's ability to intervene effectively if another municipality finds itself in severe financial distress.

The bill is disapproved.

(signed) ELIOT SPITZER
