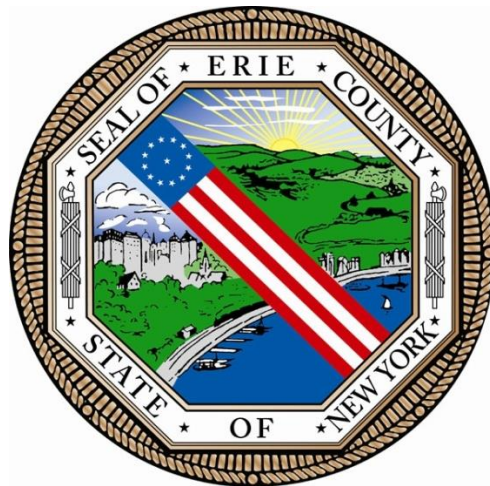


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## **A Report on New York State Budget Impacts on Erie County**



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**April 9, 2020**

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Dear Honorable Members:

On April 2, 2020, the New York State budget was approved by the New York State Assembly and Senate and signed into law by the Governor. Because New York State's fiscal year began on April 1, 2020, the budget was passed nearly in a timely fashion.

While timely, the budget was passed amid the most urgent public health crisis that the United States has ever experienced, with its epicenter in New York. The passage of the budget came just five days after the signing into law of the federal CARES Act, the largest aid package in United States history. It also was passed before the apex of COVID-19, with many uncertainties about the ultimate physical and fiscal impacts of the virus.

In contrast, the Erie County budget was passed by the Legislature on December 5, 2019 and the County Executive notified the Legislature of his acceptance of the budget as amended on December 12, 2019, weeks before news of COVID-19 began spreading outside of China.

When crafting the county budget, the Legislature must not only consider forecasting regarding the fiscal year ahead, which coincides with the calendar year, but it also must prognosticate about New York State's fiscal year, which commences the following April 1. Erie County relies significantly on revenue provided in the New York State budget.

Given recent events, it may be useful to consider certain aspects of the New York State budget which were unanticipated at the time of passage and implementation of the Erie County budget. In this way, Erie County can better prepare and make adjustments to ensure that a budget deficit be avoided.

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## Background

The timing of budgets can vary depending on the model it either chooses or is mandated to follow. Erie County and local governments budget according to a calendar year. School districts and colleges budget according to an academic year. New York State's fiscal year begins on April 1 each year.

Local governments and school districts tend to be intertwined with the New York State budget to varying degrees. Erie County relies on funds provided by New York State to a significant degree. So do local school districts and public colleges. As such, budgeting is frequently a challenge, requiring educated guesses as to whether New York State will include various funding which will be approved by elected officials. When these predictions turn out to be false, or other conditions arise, it may necessitate revisiting budgets to accommodate changes in expectations.

The New York State budget is a voluminous document that allocates over \$100 billion in expenditures. Many of these budgetary decisions will have a significant impact on Erie County finances, while others will have either trivial or no effect at all on Erie County finances. Some of these impacts were anticipated, while others were decidedly not.

The purpose of this report is to briefly examine a few of the more significant New York State budget items as they relate to Erie County. It is not intended to be a comprehensive analysis of the New York State budget. Rather, it is intended as a tool for use in monitoring and potentially adjusting the Erie County 2020 budget.

Because the New York State fiscal year runs from April 1, 2020 through March 31, 2021, this report will refer to the budget recently passed and adopted by New York State as the 2021 budget.

## Budget Balancing Failsafes

In order to help ensure that the New York State budget remains in balance, the budget director has been given authority to institute across-the-board spending cuts during certain periods and according to certain parameters. Although it is not entirely clear how these cuts will be made, the language offers some guidance that may assist local governments who rely on New York State assistance in anticipating impact on local budgets.

The New York State financial plan has been broken down into three measurement periods. We are currently in the first measurement period, which runs from April 1, 2020 through April 30, 2020. The second measurement period runs from May 1, 2020 through June 30, 2020. The third measurement period relevant to the 2020 Erie County budget runs from July 1, 2020 through December 31, 2020.

If the budget is out of balance during any measurement period, the budget director is authorized to reduce spending uniformly and across-the-board to bring the budget back toward being balanced. However, there are certain areas that are immune from spending cuts. These include:

- Public assistance payments for families and individuals and payments for eligible aged, blind and disabled persons related to supplemental social security;
- Any reductions that would violate federal law;
- Payments of debt service and related expenses for which the state is constitutionally obligated to pay debt service or is contractually obligated to pay debt service; and
- Payments the state is obligated to make pursuant to court orders or judgments.

It is somewhat unclear whether this refers to payments made directly by the state, or if it also includes payments through the county as a conduit. The distinction is somewhat moot, however, because if it refers to, for example, all public assistance payments regardless of ultimate issuing authority, the shortfall will simply be respread to eligible areas.

At this time, the Governor is anticipating a revenue shortfall of \$10 billion to \$15 billion. It should be assumed that triggering shortfalls will occur in each measurement period. As such, plans should be made to address a 10 to 15% decrease in New York State funding.

The 2020 Erie County budget anticipated the following revenue from New York State:

Social Services	\$79,183,440
Youth Detention	\$9,567,520
Youth Bureau	\$1,916,550
Health Department	\$4,451,119
Early Intervention/Special Needs	\$38,480,727
Mental Health	\$42,574,467
Probation	\$3,355,994
Sheriff Police Services/ Jail Management	\$357,869
Buildings and Grounds	\$2,206,672
All Other Departments	<u>\$445,581</u>
Total	\$182,539,939

The above figures do not include certain other sources of state funding, such as the road fund and certain other grants. Rather, they include sources of revenue for the operational budget. Erie County is also slated to receive \$15,119,445 in grant funding and \$26,788,880 in capital project funding from New York State and federal sources. Some of these funds may be impacted by budget director cuts.

Given the Governor’s anticipation of a 10% to 15% revenue shortfall, Erie County could see a decrease in revenue from New York State in the range of \$18,253,994 to \$27,380,991. It is important to note that this anticipated revenue shortfall is independent of revenue decreases speculated as the result of sales tax revenue decreases and other revenue sources.

## **Aid and Incentives to Municipalities**

Last year, during deliberations regarding the New York State 2020 budget, consideration was given to eliminating Aid and Incentives to Municipalities (AIM). Ultimately, New York State decided to maintain AIM, funding the program by intercepting sales tax revenues due to counties.

AIM was again included in the New York State budget at the same levels as last year. This is undoubtedly welcome news for Erie County's municipalities. The state clarified the mechanism for funding AIM for Erie County's municipalities, given the unique situation whereby sales tax flows through the Erie County Fiscal Stability Authority.

It is unclear whether the mechanisms authorizing the New York State budget director to uniformly reduce expenditures will affect AIM. Because the program is funded through sales tax owed to counties, reduction of AIM would not have an impact on New York State's budget. As such, it is unlikely that AIM would be reduced.

Because AIM is a fixed number for municipalities, the program could exacerbate Erie County's anticipated sales tax shortfall. Municipalities will be paid from a shrinking pool of available funds. Because the funding level is static, this will leave less resources ultimately available for county use.

## **Funding for Early Voting**

The New York State 2021 budget does not include funding for early voting, as was anticipated by some. This particular exclusion is not, in and of itself, remarkable. However, during budget deliberations about Erie County's 2020 budget, it was revealed that the budget numbers for the Board of Elections submitted in the proposed budget were not reflective of the actual elections calendar. While the Legislature made some adjustments, it was discussed that the Board of Elections budget would be revisited during the process of creating 2019 budget balancing amendments.

Of course, numerous events have occurred which effect the deliberations about the Board of Elections 2020 budget. For one, the prioritization of allocation of surplus funds from the 2019 budget may have been altered due to recent events. Further, the election year calendar has changed once, and may change again. For example, the special election for New York's 27<sup>th</sup> Congressional District was originally scheduled to coincide with the Democratic Presidential primary on April 28, 2020. Both of these elections have now been moved to coincide with all other offices which face primary elections, currently scheduled for June 23, 2020. This date may also be subject to change.

Regardless, the budget for the Board of Elections should be revisited as a result of COVID-19 impacts, as well as possible changes in expectations due to the final New York State budget and spending priorities.

## **Federal Medicaid Assistance Program**

Leading up to the passage of the New York State 2021 budget, there was discussion about raising the Medicaid cap on counties. For months, discussions were had regarding a multi-billion dollar deficit associated with the program. This would have the effect of increasing the costs for Medicaid to counties.

However, as a result of the COVID-19 pandemic, the federal government passed the first stimulus measure. This bill provided enhanced federal Medicaid matching funds. New York State seems to have accepted these funds, despite expressing concerns about some of the conditions associated with acceptance of the funds. The federal government has committed to providing funds for as long as the national public health emergency remains active.

New York State representatives elected to federal office have touted that this particular relief measure will provide \$6.7 billion in funds for New York State if the funds are made for the entirety of the year. The funds are slated to be paid quarterly, which amounts to approximately \$1.68 billion per quarter. Based on current federal requirements for sharing these funds, New York's counties and New York City are entitled to approximately 20% of these stimulus funds. However, the exact amount that Erie County will receive, and the mechanism and timing of the receipt, is not yet known.

## **Fiscally Distressed Health Facilities Pool**

The New York State 2021 budget includes a fund to assist fiscally distressed health facilities, such as hospitals and nursing homes. This fund will be partially funded with county share sales tax. The fund relies upon \$500 million collected over two years. New York City sales tax will fund \$400 million of the fund, while counties will fund \$100 million from their sales tax revenue.

The funds are intended to be diverted on April 15, July 15, October 15 and January 15. However, the first several collections will be deferred until January 15, 2021, at which time four payments will be due. However, this does not change that the obligations were accrued in 2020. Based on the fact that Erie County collects 9.7% of all sales tax outside of New York City, Erie County is expected to owe \$4,848,971 for New York State fiscal year 2021.

As such, Erie County faces the prospect of setting aside \$4.8 million from what is anticipated to be a smaller fund of sales tax revenue in 2020, or prepare to remit \$9.7 million to the fund in 2021. Either option deserves prospective discussion as part of a larger discussion regarding the budget.

## Consolidated Local Street and Highway Improvement Program

The New York State 2021 budget maintains Consolidated Local Street Highway Improvement Program (CHIPS) and Marchiselli program aid at 2020 levels. These are a pool of \$477.8 million from which Erie County can apply for assistance for highway projects. In addition, the \$100 million budgeted for the PAVE NY program and the \$100 million budgeted for BRIDGE NY program will be maintained at 2020 levels.

As stated above, these programs are subject to uniform cuts by the budget director. It is anticipated that the cuts will occur somewhere between 10% and 15%. As such, Erie County may have 10% to 15% less CHIPS, Marchiselli, PAVE NY and BRIDGE NY funds available. Given this significant reduction in funding, it is advisable for the Legislature to discuss the prioritization of highway projects and possibly the prioritization of funding projects in general, and where the highway infrastructure exists in those priorities.

## Sales Tax Extenders

Erie County is reliant on sales tax revenue to fund its annual budget. As been previously reported to the Legislature, it is anticipated that sales tax will not only fail to meet budgeted amounts, but will also fall short of last year's actual sales tax receipts.

It is apparent that not only Erie County is reliant on its share of sales tax. As stated above while discussing AIM and the fiscally distressed healthcare facilities pool, New York State is also becoming reliant on Erie County's share of sales tax revenue. Those programs are funded by sales tax revenue due to counties.

The base New York State sales tax is 4%. Counties are allowed to charge up to an additional 3% without making a home rule request for further taxation authority. Every county in New York State charges the additional 3%. With the exception of three counties, all other counties impose sales tax above the additional 3%. Erie County charges 8.75% sales tax, among the highest rates in New York State.

In order to have the authority to charge more than 7% sales tax, counties seek permission from New York State. Erie County recently took the first step toward extending the 8.75% sales tax. As part of the New York State 2020 budget, it appears that all county sales tax extenders are extended until 2023. This allows New York State to more easily depend on continued sales tax with which to finance AIM, and allows counties to continue to have access to this heightened revenue without voting to seek authorization from New York State to do so.

WE RECOMMEND that the Division of Budget and Erie County Attorney seek confirmation that steps need not be taken to extend the 8.75% sales tax, not just at the New York State level, but at the local level as well.



## Community College Funding

In the New York State 2020 budget, community college base aid was established at \$2,947/full time equivalent (FTE) student. The New York State 2021 budget maintains the \$2,947/FTE funding. However, unlike the New York State 2020 budget, the New York State 2021 budget eliminates a 98% floor. Last year, if a community college saw decreasing enrollments, its community college base aid from New York State would not be below 98% of the previous year's funding. Due to the elimination of the 98% floor, community colleges could realize a significant drop in aid from New York State. It is also not clear if community college base aid will be subject to reduction by the budget director.

A March 2019 report by this office described that SUNY Erie (ECC) has seen its enrollment drop 30.2% between 2010 and 2018. Anecdotal reports indicate that this trend has continued. As such, ECC may see significant revenue decreases as it prepares its next budget.

The Legislature approves the ECC budget. The consideration of the ECC budget typically occurs in May and June. ECC may, or may not, require or request additional local support as a result of decreased enrollment and consequent community college base aid. The Legislature must consider where ECC lies on its list of funding priorities.

## Other Funding Impacts

There are other items in the New York State 2021 budget which may not impact Erie County directly and immediately, but may have fiscal impacts that need addressing by the county over time. A sample of such items includes: a decrease in funding for rabies prevention programs; shifting of certain costs for caring for children with special needs from the state to school districts; and, increased aid for indigent criminal defense. These items, as well as many others in the budget, may have either positive or negative fiscal impact for the county in the future.

## Conclusion

The New York State 2021 budget will have an impact on Erie County's 2020 budget. It offers both revenue enhancers and items deleterious to revenue which need to be considered. The Erie County 2020 budget was passed before COVID-19 arrived on our shores. Regardless, its impacts, and the impacts of the New York State budget passed after the initial impact of the virus, must be addressed to provide Erie County taxpayers with fiscally responsible government.

As a positive, the expanded federal FMAP, which New York State appears willing to accept, will provide Erie County with some much-needed revenue to address certain revenue shortfalls. Such increased funds can prove very helpful. In response to the 2008 "Great Recession," the federal government provided enhanced FMAP funding. Erie County emerged from that crisis without a

property tax increase and having raised its fund balance from \$32,961,000 in 2007 to \$83,489,000 in 2011.

However, along with this fiscal assistance, the New York State 2021 budget also creates unfunded mandates and increased costs which may require adjustments to the Erie County 2020 budget. Revenue from New York State is not guaranteed and may be decreased if the state does not meet its own fiscal targets. Further, New York State will continue to fund AIM through sales tax intercepts, as well as intercept sales tax for a fund to address fiscally distressed health care facilities.

Potential decreases in funding may also require Erie County to revisit budget priorities to determine if adjustments are advisable to compensate a reduction in state funding. An example of such an area is the ECC budget.

As such, WE RECOMMEND that the Erie County Legislature consider the impacts of not just COVID-19, but also the New York State 2021 budget, and make adjustments as necessary.