

Buffalo Fiscal Stability Authority
Scott Mancuso
University at Buffalo Law Student

What is the BFSA's website and contact information?

www.bfsa.state.ny.us

info@bfsa.state.ny.us

Market Arcade Building, Suite 400

617 Main Street in Buffalo, New York 14203-1485

853-0907

fax: 853-9052

Media inquiries can be directed to Bryce Link at 716-941-7020¹

Over which entities does the BFSA have authority?

The BFSA's jurisdiction includes City of Buffalo and four other "covered agencies:" the Buffalo Public School District, the Buffalo Urban Renewal Agency (BURA), the Buffalo Municipal Housing Authority (BMHA) and the Joint Schools Construction Board (JSCB).²

Who runs the authority?

The BFSA is a "corporate governmental agency" and an "instrumentality" of the State of New York. It is run by nine directors. Only one of these directors need be a citizen of the City of Buffalo. The governor designates two of the nine directors as "chairperson" and "vice-chairperson," who preside over all meetings of the directors.³



How are the directors appointed?

The Governor appoints seven of the nine directors. One of these seven is appointed based on the recommendation of the State Comptroller. Another is appointed based on the joint recommendation of the Temporary President of the State Senate and the Speaker of the State Assembly. Each appointed director serves for a term of four years. The other two directors are the Mayor of Buffalo and the County Executive of Erie County.⁴

What legal provisions govern the authority's work?

State law governs the BFSA, and the key provisions are located in the Buffalo Fiscal Stability Authority Act, signed into law on July 3, 2003 as Chapter 122 of the Laws of 2003. That Act was amended on May 24, 2004 as Chapter 86 of the Laws of 2004. The New York State Legislature deemed the Act necessary after declaring that the City of Buffalo faced a "severe fiscal crisis," which "could not be resolved absent assistance from the State."⁵

What power does the authority have?

The BFSA has fiscal control over the City and the other covered agencies. This means that the Authority reviews four-year financial plans devised by the covered entities and has the power to ensure compliance with those plans. The BFSA also has the power to provide deficit-financing assistance. The BFSA may borrow at a lower rate than the City in order to reduce the City's borrowing costs and provide short-term budgetary assistance to the City. Where the City does still borrow on its own, the Authority has the power to approve or disapprove the terms of such borrowing. The BFSA may impose "financial control mechanisms" if the City is unable to adopt a balanced financial plan on its own. The BFSA may also review and approve or disapprove any contract made by the City. However, as a matter of practicality, the BFSA has decided, via resolution, to review only contracts over \$50,000.⁶ Finally, the BFSA may also impose a wage or hiring freeze with respect to employees of the City.⁷

In what way is the authority's power limited?

The BFSA currently acts under what is referred to as a "control period." This means the Authority has full power to organize and control the City's finances.⁸ Under the BFSA Act however, if the City's financial condition improves, the BFSA will move to an "advisory period."⁹ This period is projected to begin on June 30, 2011.¹⁰ At such time the BFSA will lose much of the power mentioned above and will be largely relegated to an advisory role, in which it will only review and comment on things like the City's borrowing practices or compliance with financial plans.¹¹ Further, the Authority shall cease to exist altogether on June 30, 2037.¹²

What staff does the authority employ?

The BFSA Act provides that the Authority may appoint officers and agents as it may require, and prescribe their duties.¹³ Currently, the BFSA retains an executive director, comptroller, a manager of administration and technology, a treasurer who also works as a principal analyst, and a senior analyst who also works as a media contact.¹⁴

What is the authority's annual budget?

The BFSA's projected budget for the fiscal year ending on June 30, 2008 was \$991,500. This accounts for the



authority's total operating expenses. In 2009, the BFSA is expected to have operating expenses totaling \$1,184,800.¹⁵

How is the budget funded?

The BFSA's budget is funded through the following sources of revenue: BFSA City Sales taxes, BFSA School District Sales Tax, State Aid revenue, Investment Income, and Minor Bond Interest.¹⁶

How is the budget spent?

The BFSA's budget is spent on operating expenses such as payment of salary, health insurance and other benefits to staff members, "communications expenses," office related expenses such as insurance and office supplies, expenses related to meetings such as travel and providing facilities, and professional fees such as those relating to accounting and litigation.¹⁷ The directors of the BFSA do not receive a salary, only compensation for those expenses incurred in carrying out their duties.¹⁸

What other services does the authority provide?

The BFSA issues an annual report on the City's financial situation. The Authority identifies areas where the City has high costs and suggests more cost-effective financial frameworks where possible.¹⁹



What are some recent actions taken by the BFSA?

According to the BFSA, their multi-year financial planning process represents the "core" of their financial planning process and is "one of the most critical components to Buffalo's financial stability."²⁰ The process is meant to address structural budget gaps and identify potential future fiscal challenges.

- The BFSA has reviewed and approved of a series of "four-year plans", the latest of which is the second consecutive plan to not rely on savings produced by a wage freeze.
- They have approved various City and School District budget modifications throughout the fiscal year.
- They have approved the City's capital improvement budget as having met its standard of reducing capital borrowing that is not supported by long-term physical assets.
- They have also reviewed and approved the borrowing of numerous funds by the City and its organizations.²¹
- For a full list of the Authority's latest actions, one can check the BFSA's website at <http://www.bfsa.state.ny.us/bfsaMeetings.html>.

How does the authority measure its success?

The BFSA measures its success based on how well it feels the City of Buffalo has progressed toward its goal of financial stability in the past year. In order to determine this, the BFSA evaluates things like the City's

credit rating and the City's and School District's unreserved, undesignated fund balances.²²

How does the authority report to the public?

The BFSA issues an annual report that can be found on the Authority's website.²³ The Authority also publishes annual Independent Audit Reports, annual Public Forum Reports, annual Reviews of Four-Year Financial Plans, annual Public Input Records, debt/disclosure reports, an annual budget report, its meeting minutes and resolutions, and sometimes posts videos of its meetings.²⁴



What policy issues are raised by the existence of a fiscal stability authority?

The BFSA's existence raises the issue of the necessity of a state instrumentality in approving every financial step that the City and its organizations may take. The issue is that while the Authority is meant to allow the City to reach a point of fiscal stability, its intervention in almost all governmental financial decision creates even more bureaucratic hoops to jump through, costs, and delays.

What controversial issues has the authority faced?

One of the largest issues the BFSA's work has raised was the legitimacy of its implementation of a wage freeze in 2004. The wage freeze eliminated salary increases for City employees while the freeze was in effect. The wage freeze was lifted in 2007 but created great controversy and some litigation while present.

- In 2005, the Buffalo Police Benevolent Association brought suit against the BFSA and others, arguing that the authority had exceeded its power under the BFSA Act in implementing the wage freeze. The state courts ultimately held that the authority did have the power to impose the freeze under the act.²⁵
- In 2006, the Buffalo Teachers Federation and other unions brought suit against the BFSA, arguing that wage freeze violated the United States Constitution. The Second Circuit Court of Appeals held that the wage freeze was constitutional as it was "reasonable and necessary." The Court said that a fiscal emergency existed in the City and that the wage freeze was necessary to protect the "vital interests of the community," especially where it was only temporary.²⁶
- There has also been some disagreement as to when the Authority will cease its control period and enter its advisory period. The

BFSA Act says that an advisory period may begin after three straight years of fiscal stability, without the use of “authority assistance.”²⁷ The BFSA took the position that the wage freeze qualified as “assistance” under the statute. The City disagreed, but chose not to litigate the issue. Assuming that the BFSA agrees that the City’s 2010-2011 budget balances without “assistance,” the advisory period will begin on June 30, 2011.²⁸

Are the authority’s meetings open to the public?

Last year the BFSA held ten public meetings of its Board of Directors, two public meetings of the Board’s Governance Committee, and four public meetings of its Audit, Finance, and Budget Committee. The times and places that future public meeting will be held are listed on the Authority’s website.²⁹



¹ <http://www.bfsa.state.ny.us/cont.html>
² BFSA Act, Section 3851.13, Definitions, Covered organization
³ BFSA Act, Section 3853, Administration of the authority
⁴ BFSA Act, Section 3853, Administration of the authority
⁵ BFSA Act, Section 3850-a, Legislative declaration
⁶ See, BFSA Resolution No. 03-14, clause 3
⁷ BFSA Act, Section 3854, General powers of the authority
⁸ BFSA Act, Section 3858, Control period
⁹ BFSA Act, Section 3851.1
¹⁰ BFSA Annual Report, 2008, pg 7
¹¹ BFSA Act, Section 3859, Advisory Period
¹² BFSA Act, Section 3853.8
¹³ BFSA Act, Section 3853.6
¹⁴ http://www.bfsa.state.ny.us/list_memb.html
¹⁵ BFSA 2009-2012 Budget and Four Year Plan, Can be found at:
http://www.bfsa.state.ny.us/budget/BFSABudget2009_2012And4YrPlan.pdf
¹⁶ BFSA 2009-2012 Budget and Four Year Plan
¹⁷ BFSA 2009-2012 Budget and Four Year Plan
¹⁸ BFSA Act, Section 3853.3
¹⁹ BFSA Annual Report 2008, pgs 7-8, 16
²⁰ BFSA Annual Report 2008, pg 10
²¹ BFSA Annual Report 2008, pg 12
²² BFSA Annual Report 2008, pg 9-10
²³ <http://www.bfsa.state.ny.us/bfsaReports.html>
²⁴ <http://www.bfsa.state.ny.us/bfsaMeetings.html>
²⁵ *Matter of Meegan v. Masiello*, 802 N.Y.S.2d 576 (4th Dep't 2005)
²⁶ *Buffalo Teachers Fed'n v. Tobe*, 464 F.3d 362 (2d Cir. N.Y. 2006)
²⁷ BFSA Act, Section 3851.1
²⁸ BFSA Annual Report, 2008, pg 7
²⁹ BFSA Annual Report 2008, pg 13



Partnership for the Public Good
237 Main St., Suite 1200, Buffalo NY 14203
www.ppgbuffalo.org
