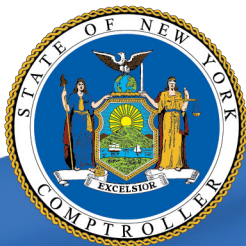


Sherrill City School District

Reserve Funds

FEBRUARY 2018



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Sherrill City School District

Audit Objective

Determine whether the Board of Education (Board) properly established reserve funds and maintained them at reasonable levels.

Key Findings

- The Board has not adopted policies for any of its reserve funds other than its health insurance reserve.
- The tax certiorari reserve is overfunded by \$4.5 million.

Key Recommendations

- Adopt policies for reserve funds other than the health insurance reserve that address the purpose of each reserve, optimal funding levels and conditions under which the reserves will be used.
- Use the surplus funds in the tax certiorari reserve to fund one-time expenditures, fund needed reserves, pay off debt or reduce property taxes.

District officials agreed with our recommendations and have initiated corrective action.

Background

The Sherrill City School District (District) is located in the Cities of Rome and Sherrill and the Towns of Kirkland, Verona, Vernon, Vienna, and Westmoreland in Oneida County and the City of Oneida in Madison County.

The nine-member Board is responsible for the general management and control of the District's financial and educational affairs. The Superintendent of Schools is the District's chief executive officer and is responsible, along with other administrative staff, for day-to-day District management. The Assistant Superintendent for Business and Assistant Superintendent for Instruction oversee business operations.

Quick Facts

Employees	417
Enrollment	1,873
2017-18 General Fund Appropriations	\$36.6 million
Reserve Funds as of July 31, 2017	\$10 million

Audit Period

July 1, 2015 - July 31, 2017

Reserve Funds

How Does the Board Ensure That Reserve Funds are Reasonable?

The Board may establish reserve funds and retain portions of fund balance for certain future purposes (for example, capital projects or certain retirement contributions).¹ Generally, school districts are not limited as to how much money they can maintain in reserve funds. New York State Education Law authorizes the Board to establish a tax certiorari reserve to pay for tax certiorari judgments and claims resulting from tax certiorari proceedings.² However, money in a tax certiorari reserve fund that will not be reasonably required to pay a tax certiorari judgment or claim must be returned to the general fund on or before the first day of the fourth fiscal year following the deposit of funds to the reserve. Money in a tax certiorari reserve fund are deemed “reasonably required” to pay a tax certiorari judgment or claim if the proceeding or claim has not been finally determined or otherwise terminated or disposed of after the exhaustion of all appeals.

It is important that the Board adopt a written policy that addresses the purposes for its reserve funds, the optimal funding levels and the conditions under which the reserves will be used. The Board should also periodically analyze the reasonableness of the balances in its reserves. The unrestricted portion of the general fund balance is limited to no more than 4 percent of the next year’s budgeted appropriations.

The Board Has Not Adopted a Reserve Fund Policy for all of its Reserves and its Tax Certiorari Reserve is Overfunded

As of July 31, 2017, the District reported four general fund reserve funds (health insurance, tax certiorari, employee benefit accrued liability and unemployment) with balances totaling approximately \$10 million.³ The District was authorized to establish the health insurance reserve fund pursuant to a special act of the State Legislature and the Board has adopted a written policy for the health insurance reserve that addresses its purpose, optimal funding level, the conditions under which the reserve will be used and required periodic analysis. However, it has not adopted any policies for the other reserve funds.

We analyzed the balances in each of these reserves and found the balances to be reasonable with the exception of the tax certiorari reserve.

1 For more information, please refer to our *Local Government Management Guide*: <http://www.osc.state.ny.us/localgov/pubs/lmgm/reservefunds.pdf>.

2 A tax certiorari is a judicial proceeding whereby a taxpayer who has been denied administrative relief may seek a reduction in his or her property tax assessment on the grounds that the assessment is unequal, illegal or misclassified.

3 All four of these reserves were properly established. Also, the District had a capital reserve during our audit period that was properly established, funded and used.

Tax Certiorari Reserve — Balances in tax certiorari reserves must be supported by actual tax certiorari challenges lodged in the year the money is deposited in the reserve and such money must be returned to the general fund if they are not expended for the payment of judgments and claims arising out of tax certiorari proceedings for the tax roll in the year the funds are deposited, or which will not be “reasonably required” to pay such judgments and claims. Money in a tax certiorari reserve fund is deemed “reasonably required” to pay any such tax certiorari judgment or claim if the proceeding or claim has not been finally determined.

The tax certiorari reserve had a balance of \$8,875,814 as of June 30, 2017. At that time, the District had no known tax certiorari claims. On July 1, 2017, the District transferred \$4,007,139 to the health insurance reserve leaving \$4,868,675. The District received notice on July 27, 2017 of tax certiorari claims totaling \$320,748. Therefore, as of July 31, 2017 the tax certiorari reserve was overfunded by \$4,547,927.

According to District officials, they maintain the balance in the tax certiorari reserve in excess of known claims in the event the District is required to return money to Oneida County.

In 2013, a settlement agreement was reached between the Oneida Indian Nation (OIN), New York State and Madison and Oneida counties. The settlement provides that certain OIN properties will not be taxable, including with respect to past taxes; rather the OIN makes a quarterly payment of the “net win⁴” which is paid to the State and the State allocates a percentage of the OIN payment to the counties. In 2015, the District and Oneida County signed an agreement that provides that Oneida County will make certain payments to the District; and the District agrees not to litigate tax grievance actions filed by OIN or challenge the settlement agreement. The agreement stipulates that if the District violates this agreement, it is required to pay back any proceeds it received, with interest.

Since the District entered into an agreement with Oneida County, there is no authority to hold the money in the tax certiorari reserve for purposes other than to pay tax certiorari judgments or claims resulting from tax certiorari proceedings.

As a result of these agreements, there is no longer a need to accumulate funds for the possibility of having to repay uncollected taxes to Oneida County. Furthermore, this is not a permissible use of the tax certiorari reserve. If the overfunded amount in the tax certiorari reserve were added to unrestricted fund balance in the general fund as of June 30, 2017, the unrestricted fund balance would have been about \$5.7 million, or 15.7 percent of the 2017-18 budgeted appropriations – nearly four times the legal limit.

⁴ Net win is defined as “the amounts wagered on [g]aming [d]evices less the payout from the [g]aming [d]evices, but before expenses, to be calculated on a quarterly basis.”

If the District continues to withhold excess funds from productive use in its tax certiorari reserve, it could result in higher real property taxes than necessary.

What Do We Recommend?

District officials should:

1. Adopt policies for reserve funds, other than the health insurance reserve, that address the purpose for each reserve, optimal funding levels and conditions under which the reserves will be used.
2. Return the excess amount currently in the tax certiorari reserve to the unrestricted fund balance of the general fund and use the surplus funds as a financing source for:
 - Funding one-time expenditures
 - Funding needed reserves
 - Paying off debt
 - Reducing District property taxes.

Appendix A: Response From District Officials



VERNON VERONA SHERRILL CENTRAL SCHOOL

City School District of the City of Sherrill

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Sherrill Elementary School

January 22, 2018

State of New York
Office of the State Comptroller
Syracuse Regional Office
State Office Building, Room 409
333 East Washington Street
Syracuse, NY 13202-1428

Dear Ms. Wilcox:

The following serves as the District's response to the preliminary findings as well as the Corrective Action Plan (CAP) of your agency's audit of the Sherrill City School District, 2017M-247. The District would like to thank the Office of the State Comptroller for their recommendations and for their professionalism and positive approach to assisting the District in identifying and correcting any areas of focus in this process. We sincerely appreciate the work of the team in providing their assistance and expertise. It is reassuring to School District Officials that there were no findings of improper or irresponsible accounting or financial management practices. This should also serve to reassure the school community that the School District takes its responsibility for fiscal accountability and the safeguarding of public funds with the utmost seriousness.

Below are the recommendations for improvement identified in your draft audit report along with the District's response to each of those recommendations.

Reserve Funds:

1. The Board has not adopted policies for any of its reserve funds other than its health insurance reserve.

While there are no laws or regulations, other than for health insurance reserves, which require school districts to adopt specific policies for its reserve funds, the District agrees that in

addition to its health insurance reserve policy, it would be prudent to adopt a general reserve policy, which addresses the purpose of each reserve, optimal funding levels, and the conditions under which the reserves will be used. *Please see Corrective Action Plan.*

2. The tax certiorari reserve is overfunded by \$4.5 million.

It is important to note that since the time the District established its tax certiorari reserve in 2005, for the purpose of mitigating a tax liability resulting from the March 29, 2005 Supreme Court decision, *In the Matter of the City of Sherrill v. Oneida Indian Nation of New York*, the District has undergone two audits by the Office of the State Comptroller. During each of these audits (2006 & 2010), the tax certiorari reserve was specifically reviewed and discussed with District Officials, with no findings of impermissibility or over-funding. In April 2015, as a result of the May 16, 2013 Oneida Nation Settlement Agreement, the District entered into a revenue sharing agreement with Oneida County. While providing a much needed and greatly appreciated resource and revenue to the District, Article 7.e of the Revenue Sharing Agreement creates an ongoing financial liability equal to the cumulative total of all payments made to date by Oneida County to the Vernon-Verona-Sherrill School District. Article 7.e specifically states that ... *In the event that the District take any such actions [above], the County's obligations hereunder shall cease and the District shall, within 30 days of demand therefor, refund to the County all payments previously made to the District pursuant to this Agreement, with statutory interest.* The District has a fiduciary responsibility to the school community to mitigate this liability, and was advised by counsel that absent any other permissible reserve, it would be appropriate to continue to use the tax certiorari reserve to do so. Until this most recent audit, the District believed that its permissibility, justification, and funding level remained appropriate to its intended purpose. It is understood now however, that unfortunately, the specific language regarding the permissibility of funding a tax certiorari reserve for this purpose can no longer be applied to the District's very unique circumstances. The District therefore agrees, based on the methodology used to calculate amounts reasonably required in a tax certiorari reserve outlined in the draft audit report, that the tax certiorari reserve is now over-funded. As there can be no dispute that a significant liability will continue to exist and increase throughout the term of the Agreement, the District has a fiduciary responsibility to the school community to continue to pursue other means, perhaps through special legislation, which would allow the District to continue to mitigate that liability in the absence of the tax certiorari reserve.

According to the Office of the State Comptroller Division of Local Government and School Accountability Local Government Management Guide on Reserve Funds, *reserve funds provide financial stability. In good times, money not needed for current purposes can be set aside in reserves for future use, and in uncertain economic times, reserve funds provide officials with a budgetary option that can help mitigate the need to cut services or to raise taxes.* It was in this pursuit of ensuring financial stability that the tax certiorari reserve was funded and maintained, not to the community's detriment, but in fact to its benefit. Through the use of its reserves (inclusive of the tax certiorari reserve) as a budget management tool, the District has been able to provide the necessary resources to operate a comprehensive educational program, while maintaining an average annual tax impact of two percent over the last ten years, despite being constrained by a tax cap and the loss of over thirteen million dollars in state aid over that same period of time. It is therefore important that the District be

thoughtful and intentional in its reduction of the tax certiorari reserve over time. *Please see Corrective Action Plan*

Sincerely,

Martha K. Group
Superintendent of Schools
Sherrill City School District

Sherrill City School District
Reserve Funds
2017M-247

For each recommendation included in the audit report, the following is our corrective action taken or proposed.

Audit Recommendation:

Adopt a policy for reserve funds other than the health insurance reserve that addresses the purpose of each reserve, optimal funding levels, and conditions under which each reserve will be used.

Use surplus funds in the tax certiorari reserve to fund one-time expenditures, fund other needed reserves, pay off debt, and/or reduce property taxes.

Implementation Plan of Action:

The District will establish a policy for reserve funds, which addresses the purpose of each reserve, the optimal funding levels, and the conditions under which each reserve will be used.

The District will reduce the tax certiorari reserve by \$4,547,927 through one-time expenditures, funding other needed reserves, paying off debt, and/or reducing property taxes, commencing with the 2018-2019 fiscal year.

Implementation Date:

The reserve policy will be presented to the Board for review at the February 26, 2018 Board of Education meeting with the recommendation for their approval of the policy at the March 26, 2018 Board of Education meeting.

The reduction of surplus funds in the tax certiorari reserve will be complete by June 30, 2021.

Person Responsible for the Implementation:

The Superintendent of Schools will develop and recommend the adoption of a reserve fund policy and will ensure the reduction of surplus funds in the the tax certiorari reserve to appropriate levels, as recommended.

Signed: _____

Paul Thompson
Board of Education President
Sherrill City School District
January 8, 2018

1/22/18

Date

Appendix B: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed officials to gain an understanding of the District's reserve fund management practices.
- We reviewed the Board meeting minutes and the District's policies and procedures to identify and examine any information that related to the Board's oversight and responsibilities for establishing, funding and maintaining reserves.
- We reviewed financial records and reports to determine the reserve fund balances and review the activities of each reserve.
- We evaluated the balances in each of the reserves to assess reasonableness.
- We calculated the effect of any overfunded reserves on unrestricted fund balance.

We conducted this performance audit in accordance with GAGAS, (generally accepted government auditing standards). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

A written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law, Section 2116-1(3) (c) of New York State Education Law and Section 170.12 of the Regulations of the Commissioner of Education. To the extent practicable, implementation of the CAP must begin by the end of the fiscal year. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/localgov/costsavings/index.htm

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmgm

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/localgov/planbudget/index.htm

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/localgov/lgli/pdf/cybersecurityguide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/localgov/finreporting/index.htm

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/localgov/researchpubs/index.htm

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/localgov/academy/index.htm

Contact

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Division of Local Government and School Accountability
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