COUNTY OF ERIE, NEW YORK
OFFICE OF THE COMPTROLLER

COMPTROLLER'S REVIEW OF THE COUNTY EXECUTIVE'S PROPOSED 2011 BUDGET AND FOUR YEAR FINANCIAL PLAN

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Erie County Comptroller

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Comptroller's Review of the County Executive's Proposed 2011 Budget and Four Year Financial Plan

Executive Summary

On October 1, 2010, Erie County Executive Christopher C. Collins presented his proposed fiscal year 2011 budget ("FY 11 Proposed Budget") with the new Four Year Financial Plan for the fiscal years of 2011 – 2014 ("Four Year Plan").

The Erie County Comptroller's Office has reviewed the FY 11 Proposed Budget and the revised Four Year Plan. This report is not a line-by-line review of the proposed budget, but instead highlights material revenue and expense items, and areas of potential significant risk.

The FY 11 Proposed Budget once again includes one-time Federal Medical Assistance Percentage ("FMAP") assistance from the federal government totaling $13,000,000. The fact that projected FMAP assistance for 2011 is much lower than 2009 and 2010 appears to be driving many, but not all of the FY 11 Proposed Budget actions.

The FY 11 Proposed Budget appropriates $16.7 million of fund balance – the first use of budgeted reserves since the disastrous "Red – Green" budget crisis in 2004-2005. The use of fund balance reveals the precarious nature of the County's 2011 and future year budgets and confirms our belief that the Collins Administration would utilize fund balance to cover gaps, as we warned in our 2010 Budget Report in October 2009.

Given their improper restatement of General Fund fund balance in the Executive's budget message, we fully expect the Collins Administration to appropriate additional massive amounts of fund balance in 2012 to cover holes in the 2012 budget.

The FY 11 Proposed Budget also continues the use of Library fund balance and continues to appropriate, at a much higher amount, E-911 Fund fund balance to cover employees and expense shifted from the General Fund to the E-911. Each of these actions are nothing but fiscal gimmicks.

Finally, due in part to a reduction in Transfer Tax revenues, there is a significant $2.4 million increase in the interfund revenue subsidy from the General Fund to the Road Fund to support operations in the Division of Highways, thus placing added strain on the General Fund.

The largest source of County revenues is the sales tax. The FY 11 Proposed Budget forecasts a 3.00% growth in sales tax revenue compared to the adjusted 2010 Budget. We are concerned this estimate is overly optimistic and note that this revenue stream is highly susceptible to consumer confidence and fluctuates wildly. While it is impossible to determine the actual final base sales tax for 2010 until February 2011, this item continues to require constant monitoring and the County may be subject to future reconciliations or negative adjustments made by the State.

The FY 11 Proposed Budget continues sharing $12.5 million of the 1.00% sales tax with other local governments. This sharing is not sustainable for Erie County government but the State Legislature has effectively made this revenue sharing permanent as long as the County imposes the 1.00% sales tax. The County's authority to impose the 1.00% and 0.75% sales tax expires on November 30, 2011 and will require future legislative action by the County Executive, County Legislature, New York State Legislature and Governor to renew and extend that tax beyond that date.

The property tax rate per thousand dollars of assessed value is not increasing for 2011 though the total amount of taxes to be collected is increasing due to assessment growth and follows the County Executive's increase in the tax rate for fiscal year 2009. This revenue estimate appears to be in line with assessment growth. However, the property tax levy dedicated for the Buffalo and Erie County Public Library is reduced $4 million by the Collins Administration.

While balanced on paper, we believe the FY 11 Proposed Budget is not structurally sound and is not reasonable. While the County Executive is cutting some spending, his cuts are arbitrary and in many cases clearly punitive, such as the 36% reduction in staff in this office, including nearly all auditors, the County's entire property tax collection unit, nearly the County's entire revenue recovery unit, and the County's sole accountant who monitors and oversees the County's health insurance plan and payments. The use of fund balance (while publicly stating the FY 11 Proposed Budget increases fund balance, which it does not), interfund revenue subsidies, moving expense from the General Fund to other funds, and inflated turnover accounts are budgetary gimmicks that were utilized by the Giambra Administration and helped lead the County into its massive 2004-2005 deficits. In addition, while publicly emphasizing he is cutting expense, the FY 11 Proposed Budget significantly increases spending in other areas and creates new positions and provides salary upgrades for his own managerial-confidential positions.

We believe the 2011-2014 Four Year Plan has even more serious deficiencies. We believe the Collins Administration underestimates the gaps for the out years in their 2011-2014 Four Year Plan and does not quantify in any realistic fashion how the gaps will be closed.

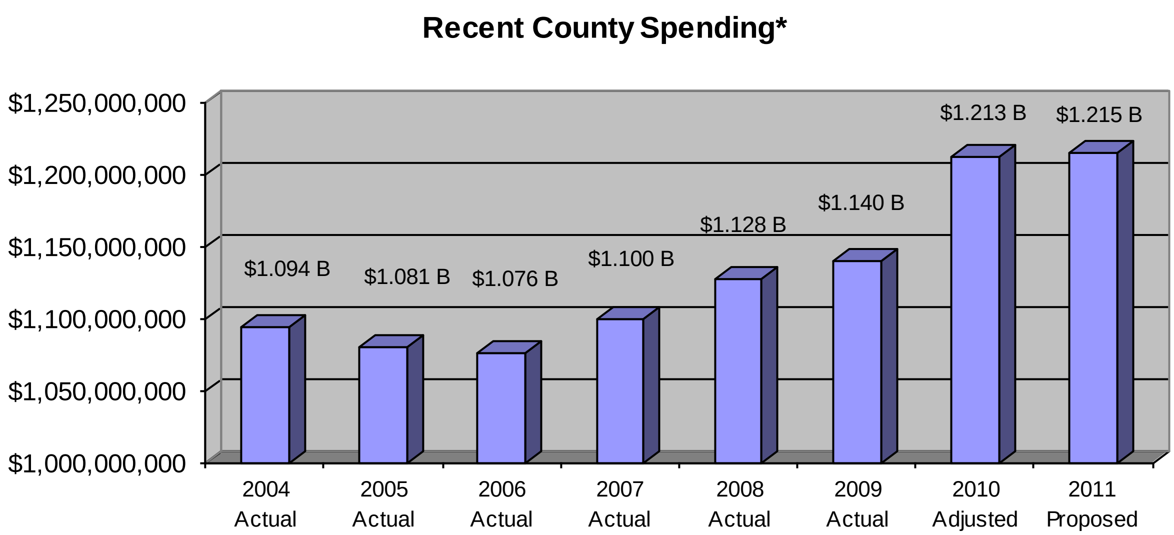
The 2010-2013 Four Year Plan projected gaps for 2011, 2012 and 2013 totaling $50,466,787, $58,543,749 and $63,256,410, respectively. Now, the 2011-2014 Four Year Plan projects gaps for 2012, 2013 and 2014 at $20,387,080, $13,822,627, and $20,505,394. We seriously question the validity of these gaps. The wild swings in gap projections made by the Collins Administration, absent major changes in County spending and revenue streams, do not appear valid. The massive changes in the gaps are not explainable on their face.

This office believes the 2011-2014 Four Year Plan's gap closing measures, which are described by the Collins Administration in only the most superficial of ways, are not realistic. We believe key assumptions are not credible. We believe alleged savings initiatives are not supported by the data provided by the administration.

2011 Budget

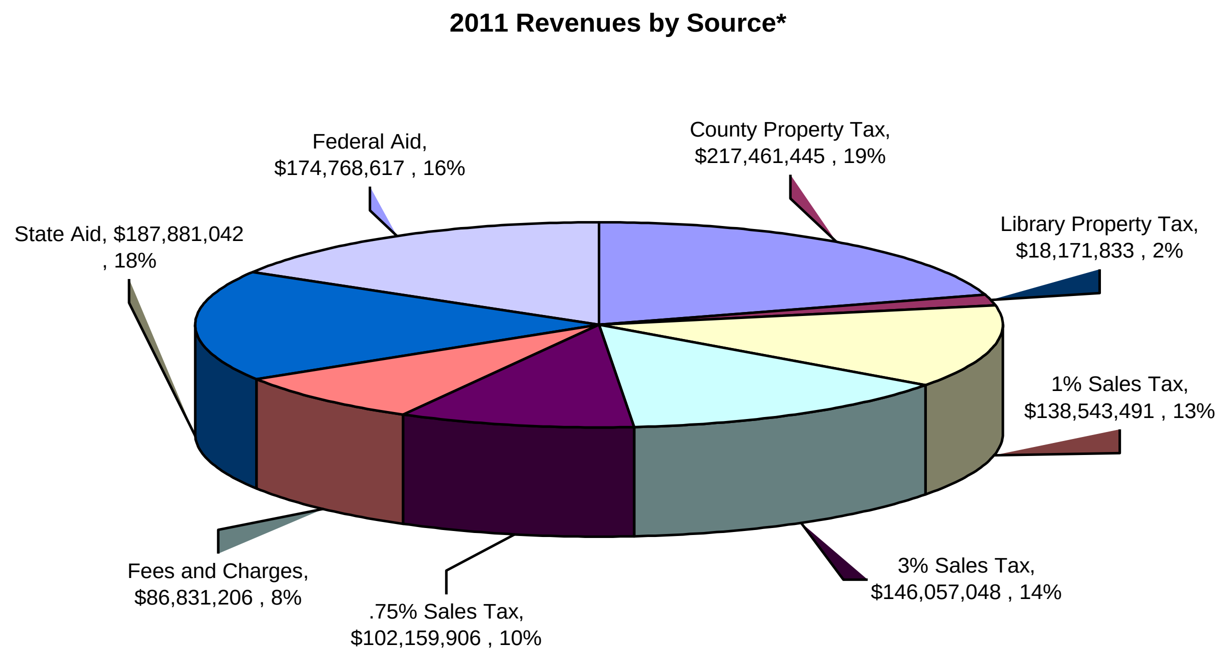
The FY 11 Proposed Budget for all funds (except Sewers, Grants and Community Development) is $1,511,991,473. This compares against $1,482,447,763 for the Adopted 2010 Budget and $1,502,007,684 for the Adjusted 2010 Budget. By way of comparison, final appropriations for the 2009 fiscal year were $1,428,769,243. After factoring in cuts, County spending for 2011 is still proposed to increase by $9.98 million compared to the adjusted 2010 amount. The major increases in spending are for Department of Social Services programs and debt service.

The below chart reflects the County's budget and spending since 2004 for all funds after deducting sales tax shared with local governments, school districts and the NFTA.



* Chart adjusted to remove sales tax shared with local governments, school districts and the NFTA.

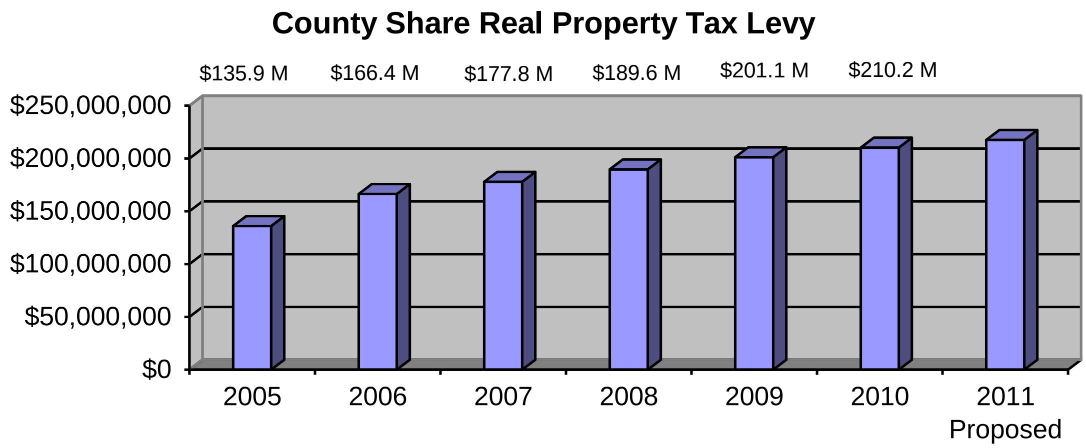
Proposed 2011 Revenues – "Operations Budget"



* Note: After subtracting the sharing of $12.5 million with cities, towns and villages from the 1% sales tax and subtracting the County's $17,317,937 subsidy to the NFTA, the above sums to $1,042,056,651 – the "operations budget" for 2011. This compares to $1,048,325,823 in 2010 and $1,026,963,686 in 2009.

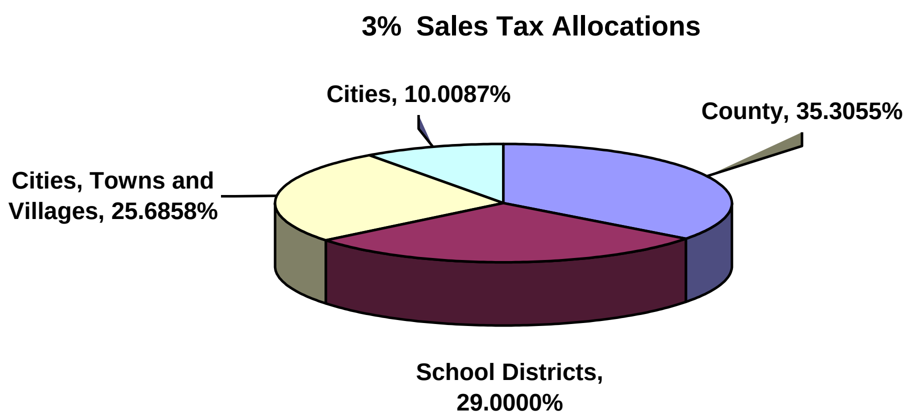
Property Tax:

The countywide property tax rate in the FY 11 Proposed Budget remains unchanged at $5.03 per $1,000 of equalized taxable full value. The total property tax levy will increase from $232,413,974 in 2010 to $235,633,278 in 2011 as a result of assessment growth (note: this is after $4 million is cut from the Library property tax levy component). The general government ("County share") property tax levy for 2011 is $217,461,445, up from $210,242,141 in 2010 and $201,134,493 in 2009. After remaining the same for four (4) straight years at $22,171,833, the Library tax levy is decreased by the Executive to $18,171,833 for 2011.



Sales Tax:

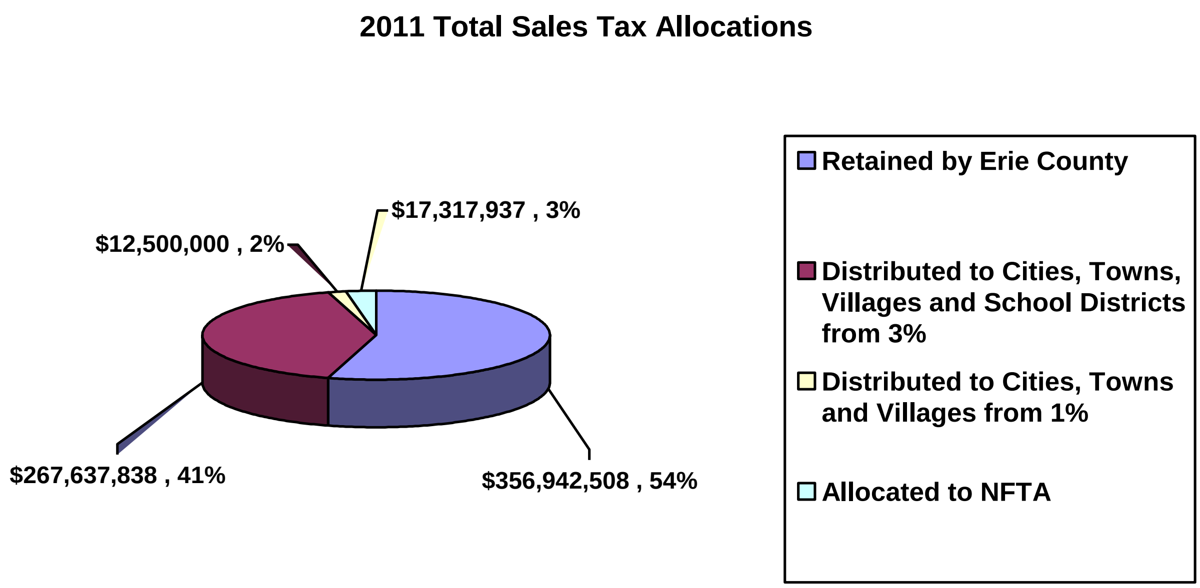
A sales and compensating use tax of 8.75% is levied on applicable items in Erie County. Of that total, 4% is levied and allocated to the State and 4.75% is the County share. Of the 4.75%, 3% is allocated as revenue between the County, cities, towns, villages and school districts in Erie County according to a 1977 sales tax sharing agreement entered into by the County and the Cities of Buffalo, Lackawanna and Tonawanda. The 3% allocation formula is as follows:



The County retains 35.3055% of the total revenue derived from the 3% sales tax. 10.0087% is allocated to the Cities of Buffalo, Lackawanna and Tonawanda on the basis of population. 25.6858% is divided among the Cities of Buffalo, Lackawanna, Tonawanda and the towns on the basis of population. The amount belonging to the towns is divided on an alternating basis of full value and population. Full value is used to distribute the receipts for the quarters beginning January 1 and July 1, and population is used for the quarters beginning October 1 and April 1. Villages receive a portion of the town amount based on the ratios that the full valuation of real property in such village or portion thereof within the town and the full valuation of real property in the portion of the town outside of such village or villages, respectively bear to the aggregate full valuation of the entire town. 29.0000% is divided among all the school districts with territory in the County on the basis of the average daily attendance of public school pupils who are residents of the County.

In 2006, the New York State Legislature reauthorized the 1.00% sales tax for a two-year period, expiring on February 29, 2008. However, the state legislature required the County to share $12,500,000 of revenues derived from the 1.00% sales tax with the cities, towns and villages (but not the school districts) for this period. In 2008 and again in 2010, the 1% sales tax was reauthorized until November 30, 2011 with the provision for sharing $12,500,000 continuing in perpetuity as long as the County imposes the 1.0% tax.

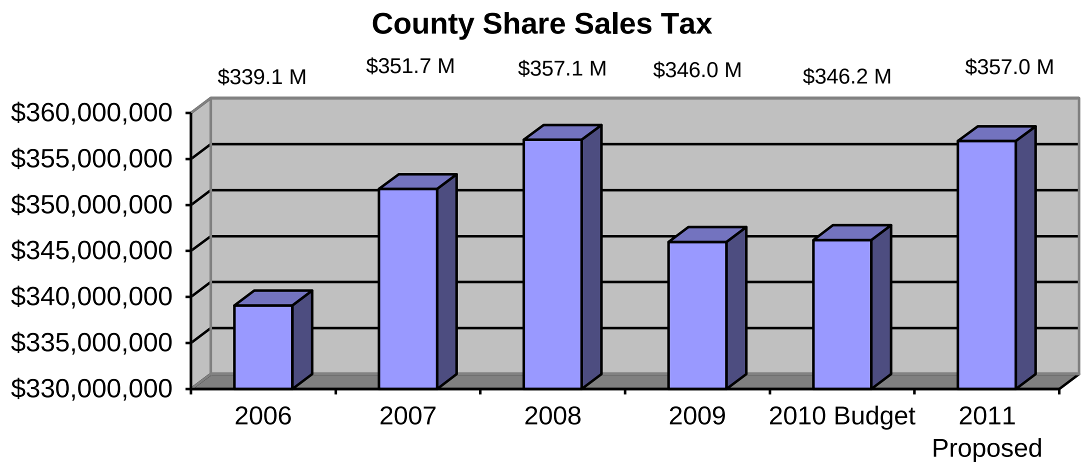
In June 2005, due to the County's budget crisis, and pursuant to Home Rule Requests of the Erie County Legislature and the approval of enabling legislation by the New York State Legislature, an additional 0.25% sales tax was instituted for County purposes. In November 2005, the Erie County Legislature approved a further additional 0.5% sales tax for County purposes, with that 0.5% sales tax commencing on January 15, 2006. The 0.75% sales tax revenue is retained exclusively for the County. The 0.75% sales tax was reauthorized in 2007 and again in 2009 and expires on November 30, 2011. The Four Year Plan assumes the Erie County Legislature and State Legislature will approval the renewal of the 0.75% sales tax in future years.



Total revenue generated by the sales tax in the FY 11 Proposed Budget is $654,398,283, up 3% from the Adopted 2010 Budget amount of $635,338,139.

Eliminating the $297,455,775 of sales tax shared with local governmental entities leaves $356,942,508 in sales tax budgeted for County purposes in 2011 compared against $346,182,047 in sales tax for County purposes in the Adopted 2010 Budget.

The Four Year Plan states that sales tax is predicated on a 3% annual growth for 2012, 2013 and 2014. This estimate may be over optimistic.



Should the County Executive and County Legislature fail during 2011 to send a Home Rule request to the State Legislature or affirmatively approve of the continued imposition of the 1.00% and 0.75% sales taxes beyond November 30, 2011, the County will face negative financial consequences from the loss of revenue for 2011, as well as in the out years in the Four Year Plan. The failure to continue the 1.75% sales tax would result in a possible $20 million shortfall in revenue for the final month of 2011. It also would cause adverse reactions amongst the County's rating agencies.

State Aid:

State aid is the third-largest revenue source to the County. The FY 11 Proposed Budget includes state aid of $188 million, up from $185 million in 2010 but down from $198 million in 2009. Although this reflects only minor growth, we are concerned that future State action to address the State's ongoing and future budget deficits will result in future state aid reductions to counties or increased or new expense.

Federal Aid:

As a direct result of the recession, federal aid increased significantly during 2009. The single-largest component of this assistance is FMAP. In 2009, the County budgeted to receive $42.85 million of FMAP and received $41.023 million. Furthermore, while budgeted to receive $33.1 million of FMAP assistance in 2010, the Collins Administration now projects it will receive $40.3 million of FMAP relief in 2010. However, while the Collins Administration has budgeted $13.0 million for FMAP in 2011, the program is scheduled to expire in mid-2011 which will create new problems for the County due to the loss of this federal aid.

Proposed 2011 Expenditures

Personal Services:

The FY 11 Proposed Budget includes a net reduction in full time positions in the County workforce. The Comptroller's Office has analyzed personal services by position and determined the following aggregate data which differs slightly from the Collins Administration's statistics:

General Fund				
Occupied Positions Deleted:	207	152 FT	48 RPT	6 PT
Vacant Positions Deleted:	180	109 FT	38 RPT	33 PT
New Positions Created:	11			
Grant Fund				
Occupied Positions Deleted:	9	7 FT	2 RPT	
Vacant Positions Deleted:	9	7 FT	1 RPT	1 PT
New Positions Created:	3			
Sewerage Management				
Occupied Positions Deleted:	1	0 FT	0 RPT	1 PT
Vacant Positions Deleted:	9	4 FT	3 Seasonal FT	
New Positions Created:	3			

Total Occupied Positions Deleted:	**217**
Total Vacant Positions Deleted:	**198**
Total New Positions Created:	**17**

Many of the occupied positions in a number of departments are clerical and support titles, including receptionists, and clerks/typists/stenographers.

For the third consecutive year, we have noted a significant discrepancy. One (1) full-time accountant and 6 public safety incident response monitor titles from the Department of Emergency Services do not appear in Book A or Book B. In addition, 1 title of senior executive assistant from the County Executive's office (the six sigma position) does not appear in either Book A or Book B. The Collins Administration's continuing refusal to properly account for this position in the budget is troubling but not surprising. If the proposed budget is adopted without adding these positions they do not exist as paid positions and will be handled accordingly by the Comptroller's Office.

Please see this report's appendix for more details on other noteworthy 2011 personal services adjustments, positions, upgrades and deletions compared to the FY 10 Adjusted Budget.

Past budgets have included significant turnover accounts that have not met the target and helped contribute to budget deficits and financial pressure on the County. The FY 11 Proposed Budget includes no turnover account. While nearly 200 currently vacant positions have been deleted in the proposed budget, there are many vacant positions that have not been deleted in many departments, not just the Department of Social Services. As such, functionally, there will be some form of a turnover account, although we do not recommend a creation of any such account by the Legislature in any significant amount.

In 2009 the Collins Administration saddled the Buffalo and Erie County Public Library system with a $1,600,000 turnover account even though that department did not request such an account in its 2009 budget request. In 2010 the turnover amount was $940,000. In the FY 11 Proposed Budget, the Library requested a turnover amount of $440,000 but it has been massively increased to $4,940,000. This is a purely a budgetary gimmick to balance that department's 2011 budget after the Collins Administration sharply reduced the Library's real property tax levy by $4 million. We believe there is little possibility the Library will meet this turnover target.

The FY 11 Proposed Budget includes a $942,000 appropriation for "contractual union salary reserve" for the Sheriff's PBA bargaining unit for the road patrol. The Four Year Plan projects the General Fund maintaining such an account through 2014, rising to $985,029 in 2014. Unlike the 2010 Adopted Budget and 2010-2013 Four Year Plan, no such appropriation for other bargaining units, including CSEA are provided.

In prior years unbudgeted overtime costs were a major problem, particularly in the Sheriff's Division of Jail Management and the Department of Public Works' Divisions' of Highways and Buildings and Grounds. For many years, County adopted budgets routinely under-budgeted for overtime expenses in Jail Management and we reported on that in our past two budget reports. In the FY 11 Proposed Budget, Jail Management overtime is increased from $6.6 million in the 2010 Adopted Budget to $8.5 million. This is a more realistic estimate than in prior years.

Unbudgeted overtime expense in the Department of Public Works' Division of Buildings and Grounds has also been a problem since 2005. Despite a Six Sigma project in that division that allegedly resulted in savings on overtime expense, we can find no evidence of such savings in SAP and actual costs continue to exceed budget. Actual 2008 overtime was $569,331. 2009 budgeted overtime for Buildings and Grounds was $240,000 while actual 2009 overtime was more than $625,000. The FY 10 Proposed Budget sought $500,000 for overtime but was arbitrarily decreased to $300,000 by the Legislature in the Adopted 2010 Budget. Year-to-date overtime expense is $592,511 and we project final 2010 overtime at approximately $800,000. The FY 11 Proposed Budget appropriates $287,132 for overtime. Based on recent years' results, this estimate is significantly understated.

Two years ago, in our 2009 budget report, we noted a $3 million increase in the proposed 2009 budget in fringe benefits expense in Jail Management that did not correspond to 2007 and 2008 results. During the budget process the administration and Sheriff failed to provide any data to explain this significant increase and the adopted 2009 budget included $20.4 million while the actual 2008 expense was $16,022,841. Final 2009 expense was $16.3 million. This over-budgeting of fringe benefit expense helped in part to generate positive variances and a budget surplus in 2008 and 2009.

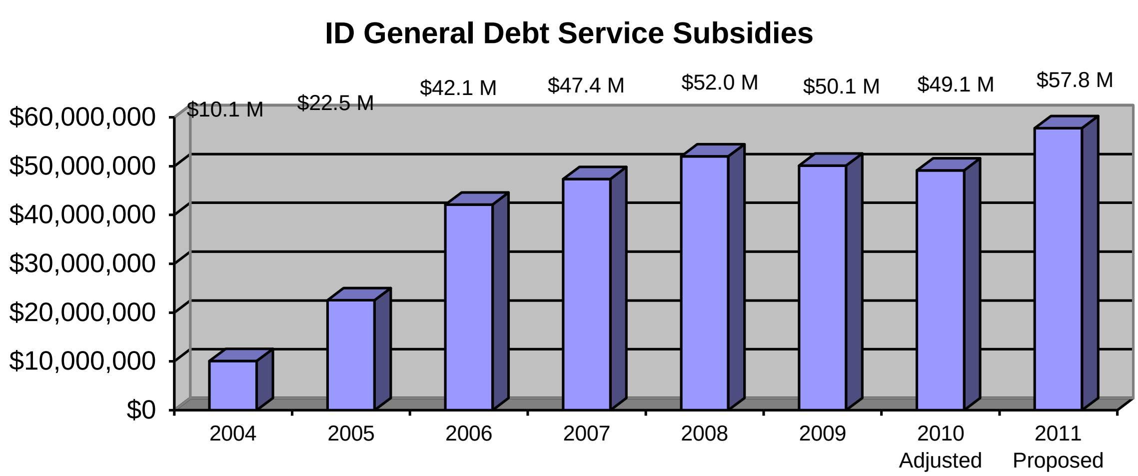
In the FY 10 Proposed Budget, the Sheriff requested a fringe benefit appropriation of $20,376,185 and the Collins Administration increased it to $22,370,284. In the FY 11 Proposed Budget, fringe benefit expense is projected at $21,631,684. This appears to be a continuing fiscal gimmick of the administration to hide revenues behind non-existent expenses, perhaps to avoid funding other areas or to help create an end of year surplus.

Debt Service:

Since 1999, the County's total net indebtedness (excluding self-financing Sewer Districts) has increased significantly – from $211 million in 1999 to a projected $546 million by the end of 2010. The indebtedness is much higher compared to the $436 million at the end of 2009 because in 2010 the County conducted a large capital borrowing for the first time since 2006 via ECFSA. Based on the County's FY 11 Capital Budget and future year capital planning, it is expected that the County's total net indebtedness will continue to increase.

During the same period, net bonded debt per capita has also increased significantly, rising from $190.69 in 1999 to $610.26 in 2007, dropping to $482.08 for 2010 (due to no bond sales in 2007, 2008 and 2009) and then increasing to an estimated $600.36 for 2011. This borrow and spend mentality has consequences on the County's future budgets.

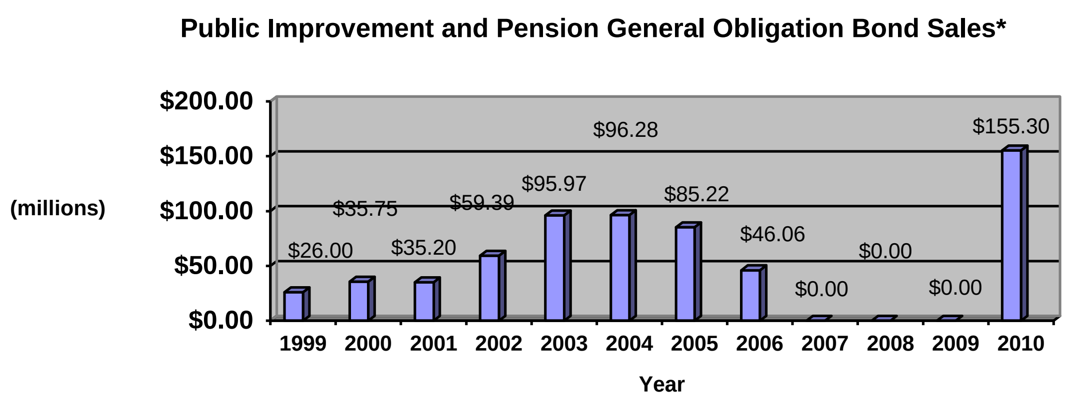
Due to the County's growth in bonded indebtedness, appropriations for debt service have risen significantly in the past six years. The General Fund subsidy for General Debt Service in the FY 11 Proposed Budget is $57,771,572, a nearly 518% increase over the amount appropriated in 2004 ($9,345,603), and higher than the 2010 adjusted appropriation of $49,123,299.



Increasingly, limited General Fund monies are being used to make required debt service payments on the County's bonded indebtedness. General bond debt service increases from $37.6 million in the 2010 adopted budget to $64.8 million in 2014 under the 2011-2014 Four Year Plan. Significantly larger debt service payments place added pressure on the General Fund and County operations.

Payments from the Debt Service Fund have also correspondingly risen significantly since 2004. The total appropriation (principal, interest and bond issue costs) has risen from $34,792,056 in 2004 to $67,048,855 in 2008. Because no bonds were sold in 2007, 2008 and 2009, these payments declined to $60,397,145 in 2009. Due to the 2010 ECFSA bond sale on behalf of the County, this expense increased to $61,673,799 in the 2010 Adjusted Budget and $68,543,110 in the FY 11 Proposed Budget.

Erie County has no choice – it must pay its debt service. However, it should be a goal of the County to reduce its debt to levels where debt service is not as large a component of the annual budget as it is today and in the foreseeable future. Therefore, it is important that in 2011 and the out years the County must make a conscious effort to issue only that debt which is related to mandated and contractual obligations and for essential public safety-related capital projects. The alternative is that debt service costs continue to rise to a level rapidly approaching the County's total annual discretionary spending. Unfortunately, the Collins budget and Four Year Plan increase bonded indebtedness and spending on capital projects, thus increasing spending in the General Fund. The Collins Administration is in effect passing down costs to future generations under the same borrow and spend mentality that has led to the fiscal messes in Albany and Washington. This mentality is not sustainable for Erie County.



* Includes ECMCC but does not include Sewer District borrowing. The 2010 number was borrowed by ECFSA for the County and is a County obligation.

Capital Budget:

The FY 11 Proposed Budget includes a Capital Budget totaling $85,047,400 – up from $77,229,139 in the 2010 Budget. $40 million of the 2011 Capital program would be bonded, and $5.2 million would be pay-as-you-go.

The FY 11 Proposed Capital Budget includes $49,303,400 for highway and bridge projects, ten (10) times the amount of the Adopted 2007 Capital Budget and close to the 2010 Capital Budget road/bridge projects list totaling $49,027,349. Other noteworthy changes from prior years include:

- Pursuant to the 2010 master agreement between the County and ECMCC, the County is required to provide the hospital corporation in 2011 with $11.5 million for construction of a new Erie County Home at the Grider Street campus. That amount is included in the Capital Budget;
- The County will bond $2.8 million for improvements to Ralph Wilson Stadium, down from $3 million in 2010. However, unlike prior years, in the 2013, 2014, 2015 and 2016 out years of the Capital Program, the Collins Administration makes no projections of any capital funds for the stadium, and instead, writes "unknown" for the estimates;
- After the Collins Administration deleted all references to a multi-year capital program at the Holding Center in 2009 and then added a new $60 million initiative for a jail expansion for 2010-2015, no such project or any jail or correctional facility expansion or major improvements are in the 2011 Capital Budget or Capital Program for 2011-2016;
- While capital funds for the Buffalo and Erie County Botanical Gardens remain listed in the 2011-2016 Capital Program, no allotment is provided for 2011 – the first time since 2004 that no capital funds have been provided;
- $1.12 million is provided for the Spaulding Fibre access road in the City of Tonawanda – a new project that has not previously been in the multi-year capital planning process;
- There are no capital funds for County parks or the Library system;
- Road and bridge reconstruction is increased by $5 million;
- Major spending on new fleet vehicles totaling $4,147,090, to be bonded;
- 2010 is projected to be the final year of the 400 MGHZ public safety communications system upgrade project;
- In 2010, prior year references to significant capital spending at Erie Community College were deleted; in the 2011 Capital Budget, the Collins Administration plans to spend $11,354,000 for ECC improvements, up from $2.8 million in the 2010 Capital Budget and up from a projected $1.8 million in the adopted 2010-2015 Capital Program. The 2011-2016 Capital Program projects spending $30 million between 2012 and 2014 for a new academic health sciences building at the college's north campus – a concept unanimously approved of by the Legislature in a resolution on June 10, 2010.

Employee Health Insurance Costs:

Over the past several years, the County has not fully expended all available annual appropriations for health insurance for active employees. For instance, the Adopted 2008 Budget provided for $34.2 million for active County employee health insurance expense, and the actual expense was $30.6 million. The Adjusted 2009 Budget provided for $37.3 million for active County employee health insurance expense, and the actual expense was $34.7 million. Much of this reduced expense is due to lower actual use by County employees, resulting in fewer claims. The net effect of this phenomenon is to help create positive variances in the General Fund resulting in budget surpluses. The Adopted 2010 Budget provided for $41.1 million for this expense. Through September 2010, year-to-date estimated expense is $28.2 million and we project possible final 2010 expense of $37.6 million resulting in another positive variance in this account.

The FY 11 Proposed Budget appropriates $37.6 million for active employee health insurance expense, lower than the Adopted 2010 Budget. Much of this reduced expense is likely due to elimination of filled positions in the FY 11 Proposed Budget as the County's projected health insurance rates for 2011 increased.

While retiree health insurance costs have increased significantly in recent years, creating pressure on the General Fund, the Collins Administration over-budgeted for this expense in 2009 and 2010. The Adjusted 2009 Budget appropriated $18.2 million and actual expense was $16.7 million. The Adopted 2010 Budget provided for $20.3 million. We project possible 2010 retiree healthcare expense at $20.0 million. The FY 11 Proposed Budget includes $18.2 million. Given the fact that many County employees will likely retire on December 31, 2010 due to layoffs and the Sheriff PBA agreement, we believe this FY 11 Proposed Budget appropriation for retiree healthcare is likely understated.

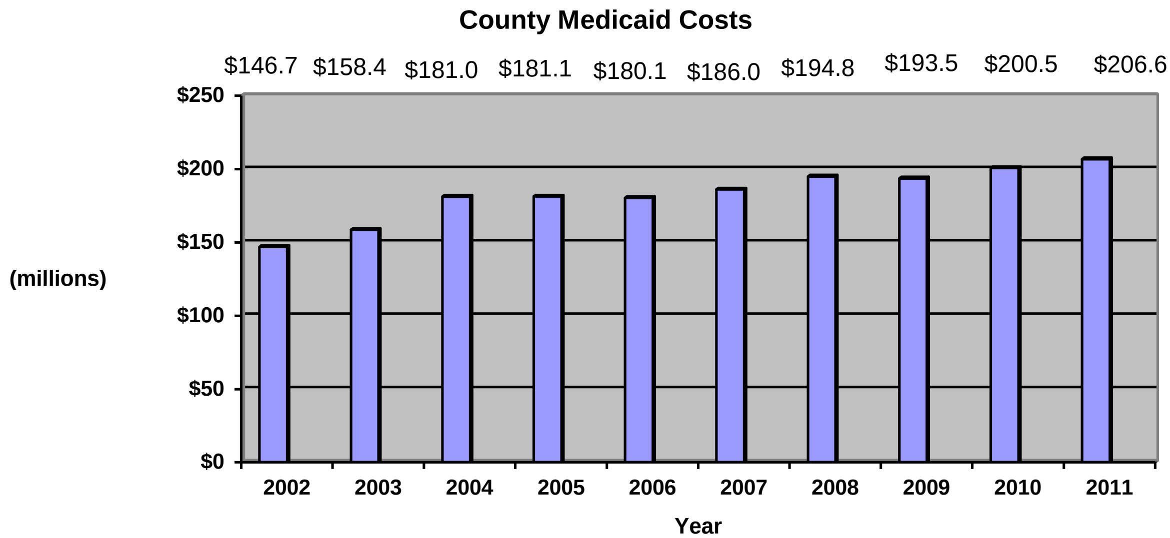
Pension Costs:

The County's pension payment for New York State and Local Employees' Retirement System ("System") billings decreased from $21.7 million in 2007 to $18 million in 2009. Due in large part to the recession and negative effects on the State pension fund earnings, these local contributions are now rising and will increase significantly in 2011 as our office has previously warned the Collins Administration and County Legislature. The FY 11 Proposed Budget includes $30.05 million for the 2011 payment. This estimate is reasonable.

The County is facing another significant, massive pension payment increase for 2012 and the County Executive has publicly warned about this issue. However, the 2011-2014 Four Year Plan only projects a 2012 payment of $31.4 million. Even if 200 occupied positions are deleted from the 2011 Budget, with a corresponding effect on the County's pension obligations, the 2012 estimate appears low, as are the 2013 and 2014 projections of $31.8 million and $32.3 million, notwithstanding the System's September 2, 2010 projection of 16.3% contribution rates. Future significant layoffs and/or retirements, however, would impact the annual payments.

Medicaid-MMIS:

In 2006, following legislation enacted by the State in 2005, county governments across New York State saw their local share of Medicaid spending capped, with the growth in Medicaid spending limited and the State absorbing more of the cost. Erie County benefited from the cap in Medicaid spending growth. Actual 2008 Medicaid expense was $194.8 million and $193.2 million in 2009. The Adopted 2010 Budget appropriation was $200.5 million and we project the actual expense will be $200.5 million. The FY 11 Proposed Budget appropriation is $206.6 million. Based on the data available to our office, this appropriation is reasonable.

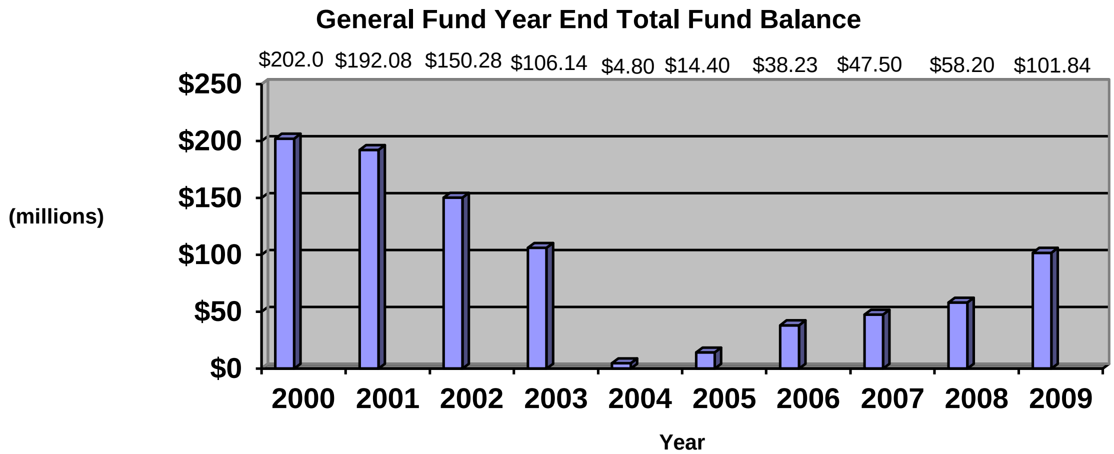


Fund Balance:

After the disastrous 2004-2005 "Red - Green" budget crisis, and after five (5) consecutive years of rebuilding and not appropriating General Fund undesignated fund balance, the FY 11 Proposed Budget appropriates $16.7 million to cover gaps in the budget. The significance of this development cannot be understated.

We note that the 2011-2014 Four Year Plan does not include any line item accounts for future year appropriated fund balance. This is peculiar given the administration's use of this reserve to cover a major gap in 2011 and our belief that they will do so again for the 2012 budget.

FY 06 results generated a $23.83 million surplus, FY 07 results generated a $9.31 million surplus, FY 08 results generated a $10.65 million surplus, and FY 09 results generated a $43.65 million surplus. This led to a total General Fund Balance of $101.84 million at year end 2009, of which $74.05 million was undesignated and unreserved. Given the requirements of the Four Year Financial Plan, as well as sound municipal finance practice and Government Finance Officers Association ("GFOA") recommendations, the replenishment of fund balance is a positive and necessary development.



As of January 1, 2007, the County Charter requires the maintenance of a fund balance equal to or greater than 5% of the amount contained in the budget of each fund in the immediately preceding fiscal year. That means that for 2011, based on an adjusted 2010 General Fund "operations budget" of $1.048 billion (adjusted for the sales tax prescription and Library), undesignated fund balance for the General Fund should be approximately $53.25 million. At year-end 2009, total undesignated unreserved General Fund balance was $74.05 million.

Collins Administration Misstatement of Fund Balance

In the FY 11 Proposed Budget, the Collins Administration improperly restated General Fund Balance. This follows their improper restatement in 2010. Under their restatement, they represent that the "Restated Undesignated General Fund Balance" is $131,989,342. Under their restatement, they add 2009 and 2010 community college and Board of Elections re-spread revenues (which are already budgeted for elsewhere), and add hypothetical collections of 2006, 2007, 2008, 2009 and 2010 tax liens (totaling $36,523,690) to create a completely fictitious General Fund Balance of $131.99 million.

This office rejects their restatement, as does the County's independent outside auditors and rating agencies. This does not meet Generally Accepted Accounting Principles and Governmental Accounting Standards Board pronouncements. Projecting hypothetical future tax lien collections as current available fund balance is not sound accounting or financial practice.

Furthermore, while the Erie County Charter very clearly enumerates the fund balance 5% maintenance requirement, the Collins Administration asserts in the FY 11 Proposed Budget that the base County budget number for the 5% calculation is not the "operations budget" from 2010 of $1.048 billion, but a "2011 County Share Operations Budget" totaling $679,406,992. Under the Collins misstatement, the 5% fund balance threshold is therefore $33.97 million, and not $53.25 million.

We believe the administration engaged in this restatement and created an imaginary "County Share Operations Budget" in order to make available additional fund balance as a potential revenue source to cover budget gaps – likely in 2012. The fact that the administration uses nearly $17 million of General Fund fund balance in 2011 reveals their intentions very clearly.

This is a serious matter with significant potential consequences to the County. We do not accept such a phony restatement to revise the General Fund Balance based on unaccepted accounting practices. Even during the worst years of the “Red – Green” budget crisis, the Giambra Administration never resorted to this sort of fiscal chicanery. It is the type of gimmickry that relies on smoke and mirrors to create a falsehood that is not only unacceptable but contrary to generally accepted accounting principles.

Use of Fund Balance in E-911 Fund and New Interfund Revenue Subsidy

In the FY 11 Proposed Budget, the administration moves 51 positions from the Department of Central Police Service’s General Fund budget, where they have resided for years, and reallocates the positions and expense to the E-911 Fund. In order to help fund these positions and reduce General Fund expense the administration appropriates $400,708 of E-911 Fund fund balance. This is an increase from $182,295 of appropriated fund balance in the Adopted 2010 Budget and zero in 2009. There is also a new interfund revenue subsidy in the E-911 Fund in 2011 totaling $1.4 million which is used to help cover the costs of the personnel shift. The use of fund balance and an increase in the interfund revenue subsidy is a budgetary gimmick designed to cover gaps.[1]

Risk Retention Fund:

The FY 11 Proposed Budget appropriates $3 million for the Risk Retention Fund, the same as 2010, 2009 and 2007. In addition, previously, $6.42 million of unexpended prior year risk retention funds were re-appropriated making these funds available for use in 2010. At September 30, 2010, $5.75 million was available in the Fund.

Based on spending from, and recent years’ appropriations to the Fund, and the Department of Law’s refusal to provide this office with data concerning outstanding liability claims (which we have repeatedly requested and which they have refused to provide), we believe there is ample flexibility to reduce this appropriation from $3 million.

Workers Compensation:

The FY 11 Proposed Budget appropriates $13,008,100 for workers compensation claims through the Law Department. Actual 2009 expense was $10,537,789. The Adopted 2010 Budget appropriated $12,160,947 and through September 2010, year-to-date expense is $8.72 million. We project a final 2010 expense of $11 million. As such, there is likely a positive variance in this area for 2010 and likely an overestimation of expense for 2011.

[1] There is also new state aid revenue appearing in the E-911 fund for the first time totaling $516,000. There is no information or explanation provided by the Collins Administration to justify this new state aid.

Erie County Medical Center Corporation ("ECMCC"):[2]

The FY 11 Proposed Budget includes four (4) separate fund centers with appropriations to or related to ECMCC. In the ECMC fund center, $9,351,594 is appropriated for retiree health insurance and workers compensation expenses related to the pre-2004 operations at the hospital, an increase of more than $700,000 compared to 2010. In the Erie County Home fund center, $2,344,658 is appropriated for retiree healthcare and workers compensation expenses. In the Countywide Budget Accounts fund center, $1,431,189 is appropriated to ECMCC as "department payments to ECMCC" for School 84. The payment for School 84 has been unchanged since 2003. It is likely that costs for School 84 have increased since then and ECMCC might seek a greater County payment. Total 2010 County payments associated with ECMCC in these accounts total $13,127,441.

An additional $13,788,456 is budgeted in 2011 for ECMCC debt service. The County made a Medicaid Upper Payments Limit ("UPL") payment of $6,151,723 in 2010.[3] No UPL payment is budgeted for 2011.

In 2010, the County and ECMCC agreed to a master settlement agreement specifying the County's financial obligations to the hospital corporation. The largest component is an annual County payment which is the greater of (1) the annual County operating subsidy to ECMCC totaling $16.2 million, or (2) the combined amount owed under the State-mandated disproportionate share ("DSH") and UPL payments to the New York State Department of Health ("NYSDOH"). This distinction is significant because in 2010 the County has been unofficially told by NYSDOH that the 2010 DSH amount to be paid before December 31, 2010 will be $22.6 million. Under the agreement, if the County's DSH/UPL expenses exceed the $16.2 million annual subsidy, the master agreement allows the County to access, with ECMCC permission and a "satisfactory" outside legal opinion, an ECMCC-controlled credit balance called the Excess Operating Support ("EOS") Credit. The EOS Credit balance is presently approximately $21 million.

The process works as follows: the County annually pays NYSDOH for the annual DSH/UPL obligation and the County is then allowed under the agreement to ask ECMCC in December to refund the difference between $16.2 million and the higher DSH/UPL amount to the County by January. This creates a potential temporary cash flow issue for the County but not a budget issue – only as long as the EOS Credit balance exists to cover the difference. The

[2] Despite repeated written and oral requests from this Office in 2009 and 2010 to the Collins Administration, including the Director of Budget and Management, County Attorney, and County Executive seeking clarification and dialogue on the County's financial obligations to ECMCC, the administration has ignored inquiries from the Comptroller's Office. The Collins Administration has engaged in routine discussions and agreements with ECMCC management on financial issues and not made the Comptroller's Office privy to those agreements or discussions. As such, we note that the data in this report associated with the ECMCC subject is conditional and could be subject to change.

[3] The UPL expense for 2010 was recorded by the County at $8,007,970. The actual cash payment was $6,151,723 due to the County benefit from FMAP.

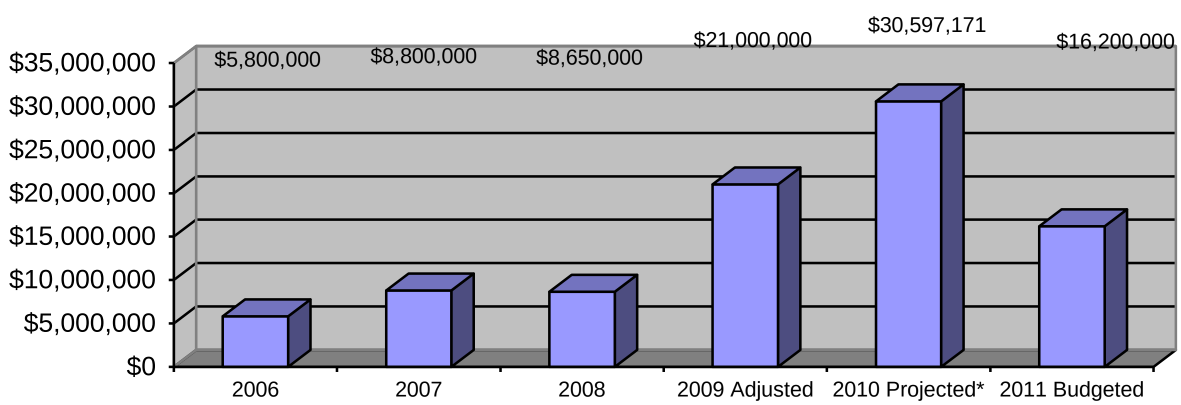
problem with this process is that once the EOS Credit Balance expires, the County will have to pay the higher DSH/UPL payment while the 2011-2014 Four Year Plan only projects $16.2 million annual payments.

If the 2010 DSH payment estimate of $22.6 million is confirmed by NYSDOH, the County will be obligated to pay that amount. The County will then be able to seek a refund from ECMCC of $12.6 million (the $22.6 million DSH payment plus the $6.2 million UPL payment minus the baseline agreement operating subsidy of $16.2 million). The County will be able to recoup the $12.6 million from the EOS Credit. The remaining EOS Credit balance would then total $8.4 million.

In FY 11, if the DSH/UPL payments are higher than $16.2 million, the EOS Credit balance can again be accessed to help cover the difference. We believe, based on the past three years' DSH/UPL payment obligations that future year DSH/UPL payments will likely be higher than $16.2 million and as such, this account in the Four Year Plan may be significantly understated. Also, when the EOS Credit balance is exhausted, which may occur as early as 2011, the County will have a funding problem in this area.

Furthermore, the master agreement also requires the County to pay ECMCC for annual rent which has totaled over $1 million in recent years, and which is not provided for in the 2010 Budget or the FY 11 Proposed Budget. In addition, ECMCC has stated that the County is required to pay certain retiree healthcare expenses, including for 2010, totaling $2.3 million, which is not provided for in the 2010 Budget, FY 11 Proposed Budget or 2011-2014 Four Year Plan. These additional expenses may create further problems for the County in 2011 and future years. Finally, the master agreement requires the County provide $11.5 million to ECMCC in 2011 for construction of a new County Home at the Grider Street campus. That funding is projected in the 2011 Capital Budget to be bonded.

DSH/UPL/Subsidy Payments - ECMCC*



* The 2010 Projected column reflects our office's estimate of the final 2010 expense based on NYSDOH guidance.

Erie Community College:

Erie Community College's ("ECC") Board of Trustees adopted a 2010-2011 budget with a County sponsor contribution of $15,629,317. This is to be paid by the County in its 2011 budget. In late May 2010 the County Executive submitted that budget request to the County Legislature and reduced the County contribution by $208,539, making the subsidy $15,420,778 – the same as 2008 and 2009. On June 24, 2010, the County Legislature voted unanimously to make the 2011 appropriation $15,629,317. However, the FY 11 Proposed Budget is only $15,420,778.

Similarly, in the FY 10 Proposed Budget process in late 2009, the Legislature appropriated $15,629,317 for ECC but the Executive refused to release the additional $208,539 to ECC and the college only received $15,420,778 in 2010.

Community College Chargebacks:

Community college sponsors – county governments – in New York State are required to pay community colleges in other counties a fee for local residents attending the community college in the other county. For example, Erie County is required to pay a fee to Niagara County Community College ("NCCC") for each Erie County resident-student attending NCCC. This process is referred to as the "chargeback" and the formal name of the account is "County Residents Enrolled Community College." Over the past four years, the cost to the County has significantly increased as more of our residents attend community colleges outside of Erie County, particularly Niagara County Community College ("NCCC"). Since 2006 the cost has more than doubled.

In prior years, the account has been under-funded as we have warned in our budget reports. In 2008, the County's cost was budgeted at $3,718,791 but actual expense was $4,246,018. In 2009, the budgeted appropriation was increased to $4,100,000 but actual 2009 expense was $4.8 million. Budgeted 2010 expense was $4,952,555 but we project final 2010 expense at $5.3 million.

The FY 11 Proposed Budget provides $5,657,616 for this expense. Based on the information available to us, this estimate is reasonable. In late September 2010, our office was notified by the State University of New York ("SUNY") that SUNY had established the 2010-2011 chargeback rates for community colleges. SUNY reduced NCCC's chargeback rate from $2,460 per full-time equivalent student to $1,970. We calculate this 20% rate reduction will save the County $660,000 in 2010-2011 compared to 2009-2010. As a result, even if more Erie County residents attend NCCC (which has been the trend) the SUNY chargeback rate reduction will provide a measure of relief to the County.

Tourism, Visitors and Convention Services:

Erie County owns the Buffalo/Niagara Convention Center. The Buffalo Niagara Convention and Visitors' Bureau ("BNCVB", or Convention Center Management Corporation) operates and manages the complex for the County. Under the terms of the Hotel Occupancy Tax Law, a special tax is levied on all guests at lodging establishments in the county. That tax produces revenue which is partially used to offset debt service expenses at the Convention Center, as well as to promote tourism in Erie County.

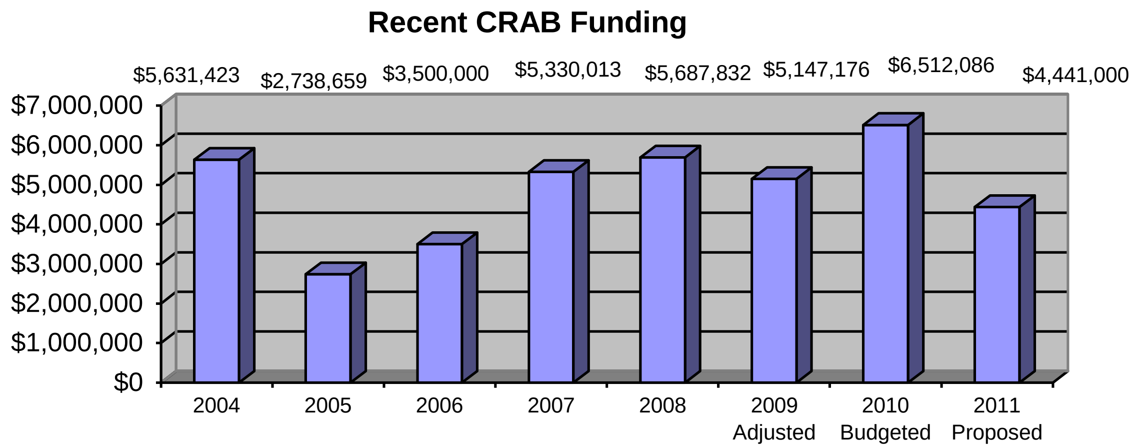
Since 2005, the County has increasingly utilized revenue from the tax to support County operations. In 2008, the County appropriated $4,250,000 for tourism/convention services against budgeted revenue of $7,001,000. In 2009, the County appropriated $4,250,000 against budgeted revenue of $7,300,000. In 2010, the County appropriated $5,000,000 against budgeted revenue of $7,752,000.

The Hotel Occupancy Tax is budgeted for revenue of $7,752,000 in the FY 11 Proposed Budget with no increase from the budgeted 2010 amount. The FY 11 Proposed Budget appropriates a total of $5,000,000 to the Buffalo/Niagara Convention Center and the Buffalo Niagara Convention and Visitors' Bureau. In addition, the FY 11 Proposed Budget allocates $2,730,180 to pay down County debt service associated with prior year bonded capital projects at the Convention Center.

In a significant difference from prior years, in 2008, 2009 and 2010 (so far), the Collins Administration declined to request legislative approval to appropriate additional revenue from the Hotel Occupancy Tax for tourism/convention purposes. In the FY 11 Proposed Budget Resolutions, the administration deleted the normal annual resolution allowing them to designate a Tourism Promotion Agency for Erie County and enter into contracts to allocate hotel occupancy taxes.

Dedicated Cultural Funding:

The FY 11 Proposed Budget appropriates $4,441,000 for ten (10) cultural organizations. This is down from forty nine (49) agencies funded for $6,512,086 in the Adopted 2010 Budget. The Erie County Cultural Resources Advisory Board ("CRAB") review, recommendation and appropriation process appears to have been terminated by the Collins Administration.



* The chart reflects only CRAB funding and does not include supplemental funding in 2005 and 2006 via the "community agencies" account or the "cultural tourism development and marketing fund" or "regional cultural assets operating fund."

Road Fund/CHIP/Highway Funding:

For many years the Road Fund ended each fiscal year with negative fund balances (total and undesignated). Eventually action was taken in 2008 and 2009 by the administration and Legislature to reduce and then end the deficit. At year-end 2009 there is no deficit in the Road Fund.

In the 2009 Adopted Budget, the Collins Administration provided a General Fund supplemental appropriation to the Road Fund of nearly $7 million and increased the interfund revenue subsidy to the Road Fund from $3.3 million in 2007 and $5.9 million in 2008 to $12.7 million in 2009. The Four Year Plan for 2009-2012 submitted with the FY 09 Proposed Budget projected annual funding for the Road Fund as follows: 2010: $14.2 million; 2011: $15.8 million; and 2012: $17.2 million. This was in line with the Collins Administration's stated intention of spending more money on road repairs and work using County crews. The 2010-2013 Four Year Plan reduced the interfund revenue subsidy for the Road Fund to a range between $11.1 and $11.6 million annually between 2010 and 2013. The Adopted 2010 Budget included an interfund revenue subsidy of $10.4 million. The actual 2009 interfund subsidy was $14.8 million to help close the deficit in the Road Fund. This has obvious consequences on the General Fund by taking monies from the County's operating budget for the Road Fund.

In the 2011-2014 Four Year Plan, the administration increases the interfund subsidy from $10.4 million (budgeted) in 2010 to $12.9 million in 2011, $13.9 million in 2012, $14.1 million in 2013 and $14.3 million in 2014. The FY 11 Proposed Budget provides $20.25 million for the Highway Division, up from $17.8 million in 2010. Consolidated Highway Improvement Program ("CHIPS") revenue from the State remains flat at $7.2 million with no increase from 2010.

The interfund revenue subsidy increase from 2010 to 2011 for the most part reflects significantly lower transfer tax revenue coming into the County to help support Road Fund operations.[4] However, it also reflects the administration's policy decision to still increase spending in the Road Fund by approximately $300,000 in 2011, even despite financial constraints facing the County. The Division of Highways is not only not being cut (despite a reduction of $2 million in Transfer Tax revenue), but spending is being increased by approximately $300,000. As such, this is an area of appropriation that could be examined for reductions in 2011 to address other pressing budgetary needs in other County departments.

Miscellaneous Items:

There are several noteworthy items in the FY 11 Proposed Budget which are significant and which we believe are important to highlight. These include changes in revenues and expenses.

The Department of Law's professional services appropriation is increased from $250,000 to $395,000. We suspect this is due in part to that department's retention of outside counsel in jail-related litigation and other litigation, including against former County employees. We believe this account is overstated. The account for professional services in Buildings and Grounds is increasing from $148,699 in 2010 to $264,759 in 2011. Sewerage Management's professional services account increases by nearly $1.4 million in 2011. Jail Management's professional services account increases from $194,750 to $688,450. Given the administration's directive to departments to reduce these accounts in 2011, we question these increases and recommend the Legislature seek explanations for the significant increases and consider reducing the appropriations to cover other budgetary needs elsewhere in the County.[5]

Due to the County Executive's $4 million cut in their property tax levy for 2011, the Buffalo and Erie County Public Library continues to utilize appropriated fund balance to cover their FY 11 Proposed Budget. In 2008, the Adopted Budget included $500,000 of appropriated fund balance, which was adjusted mid-year to $1,972,030. In 2009, the Adopted Budget included $500,000 of appropriated fund balance, which was adjusted mid-year to $1,783,123. In 2010, the Adopted Budget appropriated $1,192,126 to cover operations and was adjusted to $2,149,298. In the FY 11 Proposed Budget, this is at $1,574,126.[6] The Library's continued use of fund balance to cover operations is a serious issue with consequences once fund balance is no longer available.

In the Department of Law, 2011 funding for "foreclosure action" totaling $175,000 is included, similar to the 2010 amount of $175,000. As of this report's publication, no funds have

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[4] The Adopted 2010 Budget Transfer Tax revenue was $9.25 million; year-to-date revenue is $4.76 million at August 31, 2010 Budgeted 2011 Transfer Tax revenue is $7.2 million and we believe this estimate is reasonable.

[5] As an aside, due to the Collins Administration's directive on departments reducing their non-personal services accounts, they have reduced the Comptroller's professional services line in such a way that this office has not been provided enough funds in 2011 to pay the County's outside auditor, bond counsel and financial advisor pursuant to their contracts.

[6] At year-end 2009, the Library had available $4.4 million of designated and $3.3 million of undesignated fund balance.

been expended in 2010. There are no new or existing positions in that department or Real Property Tax Services to administer a foreclosure process. We also believe that given the existing staff resources and knowledge in Real Property and Law that the County is poorly equipped to handle the foreclosure process after the Collins Administration terminated the County's tax lien and related servicing agreements with XSPAND and acted to dissolve the Erie Tax Certificate Corporation by December 31, 2010. We recommend close scrutiny of this account.

In the Youth Bureau, all funding for Operation Prime Time is eliminated.

The Health Division has a significant increase in a ID billing to the Sheriff for jail management health services – from $3.8 million in 2010 to $4.9 million in 2011. We question this expense (which is recorded as a revenue for the Health Division), including particularly because many of the budgeted health employee positions for jail management remain vacant.

The County Executive has terminated the County's membership in the New York State Association of Counties and not funded an appropriation in his departmental budget.

The Department of Parks, Recreation and Forestry is budgeting $30,954 in revenue from the rental of superintendent houses at parks to County employees. This contrasts against $5,154 in 2010. Given our office's past involvement in questioning these payments (or lack thereof), we question this estimate.

The Administration has completely terminated funding for the Environmental Management Council, Fisheries Advisory Board, and Hazardous Waste Days.

Budget Resolutions:

Annually, the Proposed Budget includes a series of Budget Resolutions designed to address gaps in the adopted budget, and to codify certain issues. In addition to those Budget Resolutions we have previously remarked upon in this Report, we observed several noteworthy budget resolutions in the FY 11 Proposed Budget which we bring to your attention.

Similar to his actions in his FY 10 Proposed Budget, in the 2011 Budget Resolutions, the Collins Administration has shifted resolutions around by number, deleted many important prior year resolutions, changed language in many (in most cases deleting any and all references to needing County Legislature approval before he undertakes actions) and otherwise engaged in actions which seem designed to avoid transparency and avert legislative oversight.

2011 Budget Resolution # 3

In 2010, Budget Resolution #3 authorized the Director of Budget and Management to accept, award and adjust grants subject to Legislature approval. This resolution has been amended in the FY 11 Proposed Budget to omit all references to legislative approval and new language has been inserted allowing the Administration to delete grant-funded positions if grant funding was reduced, and without legislative approval. This resolution would allow the administration to change grants without seeking legislative approval, a practice now in effect.

2011 Budget Resolution # 4

Language in this resolution allowing the Director of Budget and Management to adjust interdepartmental billings has been amended to delete the 2010 requirement of prior legislative approval. We believe this resolution allows the administration to change budgeted expenses and revenues without legislative approval, a practice now in effect.

2011 Budget Resolution # 5

Language in this resolution allowing the Director of Budget and Management to adjust fringe benefit accounts has been amended to delete the 2010 requirement of prior legislative approval. We believe this resolution allows the administration to change budgeted expenses and revenues without legislative approval, a practice now in effect.

2011 Budget Resolution # 8

This resolution directs the Legislature to hold a hearing on the Road Repair Reserve Fund and the appropriation of $7.2 million of transfer tax revenue to the fund no later than December 2, 2010. In prior year resolutions, this hearing was to be held no later than the end of April.

2011 Budget Resolution # 9

The FY 11 Proposed Budget does not include key paragraphs from 2009 Budget Resolution #3 and language in 2010 Budget Resolution #9 which limit the administration's approval to award upgrades, conduct reallocations or reclassifications without prior Legislature approval, including properly-completed B-100s.

If this resolution is not changed back to the 2009 and/or 2010 language, the Collins Administration could – and would, given its past actions – award upgrades, make title changes, etc. to positions, including managerial-confidential titles without legislative approval. We recommend the language be amended back to the prior version.

2010 Budget Resolution # 10

The 2010 Budget Resolution # 10 allowing the downgrading of a vacant title or reduction in its salary at the request of a department head has been deleted and is not included in the FY 11 Budget Resolutions.

2011 Budget Resolution # 17

Language requiring the County to receive legislative approval before decreasing the amount of funds provided in any contract to service providers or cultural or public benefit agencies with ten days notice has been amended to delete any reference to legislative approval. Additional 2010 language requiring reporting to the Legislature on delays in releasing funding of a contract to these agencies has also been deleted.

2011 Budget Resolution # 29

This is a new 2011 budget resolution announcing that the Collins Administration has terminated the 2004 agreement with the City of Buffalo to provide its cellblock function under contract at the Erie County Holding Center effective October 1, 2011 and allowing the Collins Administration to take actions to terminate the eighteen (18) deputies and one (1) clerk in that cost center on that date. **Interestingly, while the County Executive has publicly attacked this office's audits and auditors as "political" as a basis for deleting funding for these employees, he cites our office's January 2007 audit and review of the Holding Center and Buffalo cellblock agreement to justify his actions in terminating the agreement due to the costs to the County.**

2011 Budget Resolution # 30

This resolution allowing the County Executive to (1) contract with other counties to house prisoners from those counties at the Holding Center and Correctional Facility; (2) negotiate a rate increase for housing federal prisoners; and (3) contract with other counties to house Erie County's prisoners has been amended to delete any reference to legislative approval (2010 Budget Resolution #27).

2011 Budget Resolution # 35

This resolution authorizing the Commissioner of Social Services to apply unused prior year grant funds to the 2011 fiscal year subject to prior legislative approval has been amended to delete any reference to legislative approval (2009 Budget Resolution #35).

2011 Budget Resolution # 40

This resolution allowing the County Executive and Commissioner of Social Services to enter into contracts with the Bonadio Group and Center for Transportation Excellence subject to prior legislative approval has been amended to delete any reference to legislative approval (2010 Budget Resolution #37).

2011 Budget Resolution # 49

This new 2011 Budget Resolution authorizes the creation of a Capital Reserve Fund for Sewer District # 8 but provides no details, dollar amount, or justification for this request.

2011 Budget Resolution # 69

This 2011 Budget Resolution sets the rate of pay of elections inspectors at $160.00 per day for 2011 – down from $170.00 per day in 2010.

2010 Budget Resolution # 66

This 2010 Budget Resolution directing the County Commissioner of Personnel and Director of Budget and Management to file monthly vacancy reports with the Legislature has been deleted.

2010 Budget Resolution # 69

This 2010 Budget Resolution authorizing, among other directives, the County Executive to designate a Tourism Promotion Agency for Erie County and enter into contracts to allocate hotel occupancy taxes, as well as limiting him from reducing funds to the Buffalo Niagara Convention and Visitors Bureau without Legislature approval has been deleted and is not included in the 2011 Budget Resolutions.

2010 Budget Resolution # 74

This 2010 Budget Resolution directing the Director of Budget and Management to include and incorporate budget resolutions approved by the Legislature, including amendments has been deleted for 2011. We strongly recommend its inclusion.

2009 Budget Resolution #79

The 2009 Budget Resolution requiring that "the County Executive shall not fill any position at a per diem or other rate without prior approval of the Erie County Legislature" – the so-called "variable minimum" resolution – has been deleted once again by the Collins Administration.

Comment on Four Year Plan Projections (2011 - 2014)

Unlike prior plans, the 2011-2014 Four Year Plan no longer provides any demonstrable, quantifiable (at least in theory) gap closers. The latest Four Year Plan states that future year deficits will be closed using (1) Six Sigma savings; (2) ECFSA efficiency grants; (3) elimination of non-mandated programs (cuts in spending); and (4) hypothetical reforms to the State's Medicaid system by a future governor. However, no data or numbers are provided to justify or support the gaps and proposed gap closers.

The latest Four Year Plan continues a Collins pattern of alleging phony, inflated, and flat-out false Six Sigma savings that cannot be quantified in the County's SAP accounting system or in County budget documents. There is no demonstrable savings to the County from Six Sigma initiatives. While certain County Six Sigma initiatives have in all likelihood led to process improvement or greater efficiency, there is no demonstrated cost savings to the County through reduced appropriations or expenditures from Six Sigma projects.

ECFSA no longer has any State funds available for efficiency grants. The potential future use of such funds as a gap closing measure is not realistic.

Projecting the closure of future year gaps based on statements made by candidates for governor concerning Medicaid and counties' share of those expenses is not realistic and exhibits a high level of ignorance to the true issues facing New York State and the past practice of state government. Our office supports fundamental reforms in the nature of the Medicaid system and the County's administration of the program, but notes that prior State efforts to fundamentally alter the program and County expense have not resulted in significant changes to the County.

The proposed 2011-2014 Four Year Plan is really nothing more than a wish list of items. The Plan does not quantify savings in any realistic way. While prior plans could be deemed unrealistic in their own fashion, at least there was an attempt to show that savings could be attained. This plan does not.

FMAP Assistance Drove 2009 and 2010 Positive Results

In reality, the County's 2009 budget attained a $44 million surplus due fundamentally to the County's receipt of over $41 million of Federal Medical Assistance Percentage ("FMAP") financial assistance from the federal government. Furthermore, while budgeted to receive $33.1 million of FMAP assistance in 2010, the Collins Administration now projects it will receive $40.3 million of FMAP relief in 2010, which this office projects will contribute to a significant 2010 surplus for Erie County. However, while the Collins Administration has budgeted $13 million of FMAP assistance in 2011, the program is scheduled to expire in mid-2011 which will create new problems for the County.

October 2010 Four Year Plan
Cuts to Some Departments and Use of Significant Fund Balance and Other Gimmicks

The 2010-2013 Four Year Plan projected gaps for 2012 and 2013 totaling $58,543,749 and $63,256,410. In the 2011-2014 Four Year Plan, the gaps are now forecast at $20,387,080 for 2012, $13,822,627 for 2013 and $20,505,394. This office believes that either the October 2009 Plan gaps were massively overstated or the October 2010 Plan gaps are significantly understated or some combination thereof. Given the Collins Administration's stated intention not to increase the property tax rate, its projection of 3% sales tax growth (which we now believe may be optimistic), the termination of FMAP assistance, and the administration's projection of large increases in pension and fringe benefit expense, there is no other plausible explanation for the significant reductions in the gaps totaling tens of millions of dollars.

The plan also makes assumptions on personal services expense (salaries and fringe benefits), and increases in health insurance and pension expenses that we question, including the calculations for future year pension expense estimates for 2012-2014.

To manage growing costs, the 2011-2014 Four Year Plan now proposes four (4) gap closing measures:

- Six Sigma savings;
- Access to and use of ECFSA efficiency grants;
- Elimination of non-mandated programs (cuts in spending); and
- Hypothetical reforms to the State's Medicaid system by a future governor/Social Services restructuring.

While the 2011-2014 Four Year Plan only makes minor mention of FMAP, the County is relying on receiving $13 million of this Medicaid-related revenue from the federal government in 2011 as a major component of balancing the budget and Four Year Plan.

In addition, we note that other major components in the out-years of the Four Year Plan for 2012-2014 includes future reductions in discretionary spending (i.e. presumably future cuts to the County's 100% County share workforce), increased Road Fund appropriations, no appropriations for Ralph Wilson Stadium, no increase in financial support to the Library system, and no increases in County DSH obligations to ECMCC. We question the viability of some of these assumptions, especially no increase in County financial support to ECMCC given ongoing and increasing DSH payments.

Property Tax:

After raising the property tax rate in 2009, the County Executive represented in his October 2008 and October 2009 Four Year Plans and in subsequent public statements that he would not change the rate. The Four Year Plan for 2011-2014 includes no change in the rate and 2% assessment growth in 2012 and 3% in 2013 and 2014. We question the County Administration's ability to balance future budgets without a change in the property tax rate and premised only on reassessment growth, especially considering the current financial climate. Given other revenue trends showing little to no growth and significant expenditure increases, the property tax levy may be the only realistic revenue-generating mechanism available to County management in the future when facing such gaps. This does not mean we advocate for such an eventuality; we are simply pointing out that the Collins Administration will have few options in the future for addressing growing costs without impacting services taxpayers demand.

Six Sigma Efficiency Measures:

The Collins Administration claims that Six Sigma projects saved $8,951,237 in 2009 and 2010 and they estimate Six Sigma projects will save $6 million in 2011 ($5,867,124 according to the Plan). Unfortunately, more than thirty (30) months after Six Sigma projects commenced, and despite repeated requests from the County Legislature, this office, and ECFSA, we have yet to see any proven, quantifiable Six Sigma savings data that can be validated in SAP or County budget documents. To our knowledge, ECFSA, which was funding the Six Sigma initiative, has yet to receive quantifiable savings data and has expressed concerns about the alleged cost savings.

Similar to the many recommendations of audits and reviews done by this office – two of which the County Executive references but fails to acknowledge in his budget message concerning cell phones and the Buffalo cellblock – this office supports process improvements or efficiency measures that reduce expense to the taxpayers. In fact, an employee of the Comptroller's Office began working on a Six Sigma "Rapid Action" project in 2010 in the Department of Probation designed for maximizing revenue collections.

However, based on the paucity of information provided in the Plan and no supporting documentation available to our office or the County Legislature, we cannot confirm these savings estimates and believe there are no realistic cost savings. The seeming inability or unwillingness of the Collins Administration to prove these savings claims raises fundamental questions about the reality of the Six Sigma program and whether it is actually generating savings, process improvements, or some other outcome.

ECFSA Efficiency Grants:

The Four Year Plan is predicated on closing future gaps in part on a "utilization of remaining State funded efficiency grants." However, as the Collins Administration acknowledges in its own budget message, there are no more ECFSA or State efficiency grants available to Erie County. As such, this gap closing measure is irrelevant.

Eliminate Jobs:

In the October 2009 Four Year Plan the Collins Administration forecast the option of deleting funding for an un-quantified number of 100%-County share positions annually in 2011, 2012 and 2013. In the October 2010 Four Year Plan, the administration discusses “reform measures including consolidations and elimination of non-mandated programs as was done in the 2011 budget.” However, the Plan provides absolutely no details whatsoever. Given the number of vacant and occupied positions being projected for elimination in the 2011 budget and previous Collins statements on his priorities, we question this gap-closing measure.

In addition, the FY 11 Proposed Budget includes a projection for 2011 unemployment insurance expense totaling $2.9 million (the County is self-insured). However, the Plan provides only $387,760 in 2012, $393,577 in 2013, and $399,481 for 2014. If the Administration was seriously considering future year reductions in 100% County share spending through position deletions and the resulting layoff of County employees, these 2012-2014 unemployment insurance projections must be significantly higher due to the future layoffs. The same holds true for FICA Social Security and Medicare contributions, which also does not decline but increases.

Medicaid Relief from the Next Governor/Social Services Restructuring:

The Four Year Plan makes an assumption that the County will receive some form of Medicaid mandate relief from the next Governor of New York. The Plan says: “both candidates for Governor have pledged Medicaid relief to county governments by either absorbing costs or eliminating non-mandated programs.” Furthermore, the County Executive’s budget message states that gaps in the Plan “will be closed by proposed changes to Social Service delivery at both the County and State level. Erie County is currently developing an action plan to totally revamp our Department of Social Services intake system for 2011.”

Any presumption of Medicaid or related mandate relief from the next Governor, while necessary, is speculative at best and not realistic as a gap closer in the out years of the Four Year Plan. We have heard prior county executives announce significant restructuring initiatives in Social Services (such as the “Blueprint for Change”) to great fanfare, only to see nothing happen and no changes or restructuring and certainly no cost reduction.

Appendix A

Noteworthy Personal Services Changes from Adjusted 2010 to Proposed 2011 Budget

Legislature:

No cuts or reductions.

County Executive:

The title of Senior Executive Assistant-County Exec, vacant since January 7, 2010, is deleted.

The Deputy County Executive is budgeted to receive a longevity step increase, increasing his salary from $107,397 to $114,109. We do not believe this title is eligible for step increases.

The ECFSA efficiency grant-funded Senior Executive Assistant-CE title for Six Sigma does not appear in either Book A or Book B of the 2011 Budget for the third straight year. The continued refusal of the Collins Administration to account for this managerial-confidential employee in either the General Fund or Grant Fund is improper and this employee's "position" should no longer be funded going forward.

Budget, Management and Finance:

The occupied title of Management Consultant-CE, JG 15, is deleted, as is a vacant position of Principal Clerk (vacant since October 7, 2007).

Comptroller:

Fifteen (15) out of forty two (42) employees in the Comptroller's Office would be terminated under the proposed budget. This includes 5 out of 7 audit staff, all 5 finance/property tax collections staff, the County's sole accountant responsible for monitoring health/dental insurance, the County's sole employee responsible for collecting hotel occupancy taxes, and this office's Associate Deputy Comptroller and Secretary to the Comptroller. This represents a 36% reduction in staff – an unprecedented and targeted political attack on this office.

If these cuts are not addressed, in 2011, the County will have no staff to collect, monitor and enforce the real property tax levy – a $217.5 million revenue source. This includes no staff or mechanism to pursue delinquent property taxes as well as ensure towns remit the correct and full amounts collected and due and owing to the County. In addition, if the cuts are not addressed, the County's sole employee responsible for collecting, monitoring and enforcing hotel occupancy taxes – a $7.7 million revenue source – will be terminated. Finally, the County's sole accountant responsible for monitoring the County's health insurance payments and amounts due and owing to BlueCross and BlueShield, MedImpact and GHI will be terminated under the Collins budget.

Real Property:

The occupied managerial-confidential title of Secretary to the Director is eliminated.

Law:

The next permanent County Attorney would be upgraded from JG 21 to a new, non-existent exempt job group with a salary of $149,831. Because the position is currently vacant, this would actually represent a $56,558 salary increase from the JG 21, Step 0 required salary for this position ($93,273). We recommend deletion of this upgrade.

Three (3) occupied Assistant County Attorney positions are deleted (2 in Family Court). However, one new Assistant County Attorney PT position is created ($25,889) and we understand this may be a reallocation of one of the occupied positions.

Office of Public Advocacy:

The managerial-confidential title of Executive Director of the Commission on the Status of Women, vacant since July 2009, is deleted.

Information and Support Services:

Five vacant and eight occupied titles are being deleted.

Social Services:

A new title of Assistant Deputy Commissioner JG 16 has been created.

69 vacant and 19 occupied titles have been deleted.

The Department of Senior Services' Protective Services for the Elderly unit has been transferred to the Department of Social Services and merged with the Adult Protective Services unit.

Health Division:

13 vacant and 25 occupied titles have been deleted. The majority of the deleted occupied titles are in clinical services and school health, and many of the cuts are to receptionist and clerical titles. 6 positions in community health are transferred to the Medical Examiner Division.

The managerial-confidential title of Secretary to the Commissioner has been deleted. However, the incumbent was moved by the administration and upgraded two job groups to a double-filled CSEA title of Special Assistant to the Commissioner in the TB outreach cost center in September 2010, so there is no "real" cut.

Emergency Medical Services:

The occupied title of Deputy Commissioner is deleted.

Public Health Laboratory:

2 vacant and 18 occupied titles are deleted. Many of the occupied positions deleted are public health sanitarian, public health nurse, and health engineer titles.

7 positions are transferred to the Medical Examiner Division.

Medical Examiner:

1 vacant and 10 occupied positions are deleted and 2 new positions are created.

The position of Chief Medical Examiner JG 25 is created and a Deputy Chief Medical Examiner JG 24 position is deleted, presumably for the incumbent to be upgraded.

Persons with Special Needs:

2 vacant and 5 occupied titles are deleted.

The occupied title of First Deputy Commissioner is deleted but replaced with a new PT title ($28,743). We understand the incumbent may be reallocated to this part time position.

District Attorney:

1 vacant position is deleted and 2 occupied positions are deleted, but 2 new positions are created for a net result of only 1 position lost.

Sheriff:

The Sheriff requested 8 new positions in the Sheriff Division. Instead, 22 occupied titles were deleted: 11 positions in the Rath Patrol cost center, and 8 clerical/receptionist titles. The Sheriff's managerial-confidential spokesperson and secretary were also deleted. We understand that the uniformed deputies in the Rath Patrol will transfer to the Road Patrol to fill expected forthcoming vacancies and will not likely be laid-off.

3 occupied managerial-confidential titles (Undersheriff, Administrative Coordinator, and Chief of Internal Affairs) and 1 vacant title (Chief of Violence Prevention) are all downgraded one job group.

12 Dispatcher titles are transferred to the E-911 Fund. We note that prior year transfers of Sheriff dispatchers to the Department of Central Police Services were unsuccessful.

The Sheriff requested 103 new positions in Jail Management. Instead, 12 vacant positions and 8 occupied positions were deleted. 7 of the 8 deleted occupied positions are receptionists.

19 positions in the Buffalo Cellblock cost center remain funded. However, a budget resolution notes that this function and the County's 2004 agreement with the City of Buffalo to provide this function will be terminated on October 1, 2011. A corresponding negative appropriation totaling $198,024 is budgeted in the Jail Management budget for 2011.

Despite a Legislature refusal to approve said action, the incumbent head of Jail Management was quietly awarded an upgrade from JG 15 to JG 16, with a $9,810 salary increase and the title of Superintendent. This action was effectuated in SAP on September 28, 2010, retroactive to July 23, 2010. However, in the proposed 2011 Budget, he is downgraded back to his JG 15 salary.

The occupied title of First Deputy Superintendent-Holding Center is downgraded from JG 15 to JG 13. We understand the incumbent may no longer be in this title.

Central Police Services:

51 positions in the Information Systems cost center of this department are transferred to the E-911 Fund. See our prior commentary in this report on this item.

Probation:

8 vacant positions and 20 occupied positions are deleted. 6 of the 20 occupied positions are held by probation officers. The occupied managerial-confidential title of Secretary to the Director of Probation is also deleted.

Emergency Services:

As in 2009 and 2010, 6 Public Safety Incident Response Monitor titles appear neither in Book A (where they previously appeared) or in Book B.

As in 2009 and 2010, an Accountant (JG 9) title also does not appear in Book A or Book B.

Environment and Planning:

3 occupied titles are deleted. With these reductions, combined with prior Collins Administration cuts in 2010, there are no environmental compliance specialists remaining in the County.

County Clerk Registrar and Auto Bureau:

No cuts or reductions.

Parks:

2 RPT and 24 PT seasonal vacant titles are deleted. 14 occupied titles are also deleted, including all three (3) RPT workers for the forestry cost center.

The occupied title of Superintendent of Ellicott Creek Park is deleted but replaced with the title of General Crew Chief.

A new position of General Crew Chief is created at Como Lake Park.

Buildings and Grounds:

17 vacant positions and 20 occupied positions are deleted. 8 of the 13 full time occupied positions which are deleted are building guards/watch attendants.

The senior executive assistant in the County Executive's Office funded by an ECFSA efficiency grant (and whose title never appeared in the County budget in 2008, 2009 or 2010) is moved to Buildings and Grounds, given a new position of Director of Real Estate JG 22 and funded through the General Fund ($129,453). As such, this is a new position in the budget.

Highways:

1 vacant and 3 occupied positions are deleted. 2 of the 3 occupied positions are stenographer titles.

2008-created vacant titles associated with the Wehrle Drive project (Assistant Deputy Commissioner-Highway Maintenance, one of two Principal Engineer Assistants, one Assistant Civil Engineer, and one Junior Civil Engineer) do not appear in the 2011 Budget, as in 2009 and 2010.

Board of Elections:

FT salaries are cut from $2,750,000 to $2,670,000.