COUNTY OF ERIE, NEW YORK
OFFICE OF THE COMPTROLLER

COMPTROLLER'S REVIEW
OF THE COUNTY EXECUTIVE'S
PROPOSED 2008 BUDGET
AND FOUR YEAR FINANCIAL PLAN

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Comptroller's Review of the County Executive's Proposed 2008 Budget and Four Year Financial Plan

EXECUTIVE SUMMARY

On October 15, 2007, as required by the Erie County Charter, County Executive Joel A. Giambra presented his proposed fiscal year 2008 budget ("FY 08 Proposed Budget"). The FY 08 Proposed Budget was also presented to the Erie County Fiscal Stability Authority ("ECFSA") with the new Four Year Financial Plan for the fiscal years of 2008 – 2011 ("Four Year Plan"), as is required by the ECFSA's enabling act.

The Erie County Comptroller's Office has reviewed the FY 08 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.

In general, most of the largest revenue line estimates appear to be valid, but some require additional actions to take place prior to seeing the actual revenues. For example, the largest source of county revenues is the sales tax. The 2008 sales tax estimate assumes the extension of the 1.00% sales tax beyond its expiration date of February 29, 2008. As proceeds from the sales tax make up the majority of the county's local share revenue, it is imperative that the 1.00% portion of the sales tax be renewed in order for the FY 08 Proposed Budget to be balanced.

Additionally, this tax must not only be renewed for 2008, but it must be renewed for the out years. Based on the latest sales tax receipts received from the State, the FY 08 estimated growth rate for sales tax appears to be reasonable. While it is impossible to determine the actual base sales tax for 2007 until February 2008, this item continues to require constant monitoring and if the estimated growth is not attainable corrective measures may be necessary.

As stated in my September 4, 2007 report "Comptroller's Review of Revenues Derived from Erie County's Sales Tax and the Sharing Thereof with Other Entities," I am deeply concerned about the continued sharing of portion of the 1.00% sales tax with other local governments. While Home Rule Messages have yet to be introduced by the County Executive or County Legislature, the Executive's FY 08 Proposed Budget continues the supposed one-time 2007 special sharing of $12.5 million of the 1.00% sales tax with cities, towns and villages in 2008 and the Four Year Plan projects this sharing to continue annually through 2011. This sharing is not sustainable for Erie County government and is creating significant negative financial pressure on the County.

The property tax rate per thousand of assessed value is not increasing. However, revenue growth from property taxes is increasing due to increased reassessments at the city and town levels, thereby resulting in a projected increase in the total tax levy of approximately $11.8 million for 2008. This revenue estimate appears to be in line with assessment growth. The property tax levy dedicated for the Buffalo and Erie County Public Library remains unchanged from 2007. The FY 08 Proposed Budget, however, is balanced on the expectation that the County will sell tax liens in 2007 and again in 2008 and revenue will inure to the County. Based on 2007 events and ECFSA actions, we question this projection.

In regard to expenditures, certain risks exist. For example, similar to my prior warnings, Erie County may face an additional multi-million dollar expenditure for the Erie County Medical

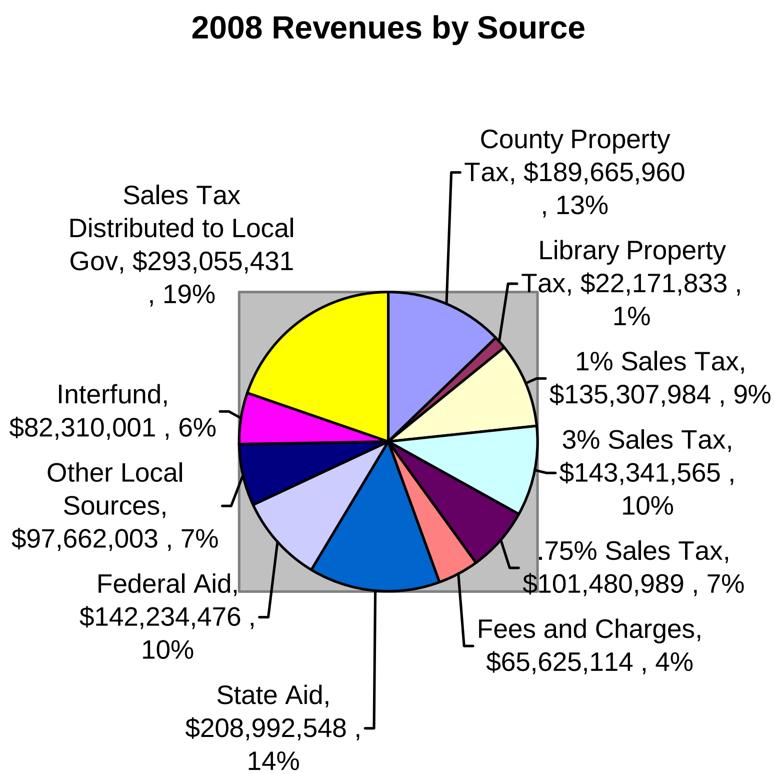
Center Corporation ("ECMCC") concerning inter-governmental transfer payments related to Medicaid that is not provided for in the FY 08 Proposed Budget. Though the dollar amount is unknown at this time, in 2007 the County encountered a $9 million negative variance in this area.

If the County Legislature and/or State Legislature fail to reauthorize the 1.00% sales and compensating use tax, the County will experience a financial crisis similar to that of 2005. If certain other revenues in the Budget and Four Year Plan do not materialize in 2008 or are under budget (as we project), those gaps will need to be closed. If certain expenditures exceed appropriations, those gaps will need to be closed. If certain revenue projections are not met and/or certain expenditures exceed projections, mid-year budget adjustments may be necessary.

Finally, the FY 08 Proposed Budget and Four Year Plan continue a pattern of deferring certain difficult decisions to the following fiscal year or a future time period. Changes to the collective bargaining agreements, action on Sheriff road patrols, and a reduction of long-term borrowing are three noteworthy issues that for the third successive budget are left unresolved.

This office believes the revised Four Year Plan's projections of gap closing measures starting in 2009 are unattainable in their current form. Any future projections done by any county government in this state made under the premise of not increasing taxes and assuming inflationary growth in expenses and growth in state mandated expenses will result in multi-million dollar gaps. The projection merely provides a best guess of what will happen under certain assumptions and serves as another reason for management to determine the most cost effective way to deliver services to our taxpayers. The FY 08 Proposed Budget and revised Four Year Plan will place the County Legislature and next County Executive in a difficult fiscal position in 2008 and future years.

PROPOSED 2008 REVENUES



* Note: Sales Tax Distributed to Local Governments includes all 3% sales tax sharing, the Administration's projection of sharing of $12.5 million with cities, towns and villages in 2008, the County's subsidy to the NFTA and the 2008 budgeted costs of ECFSA.

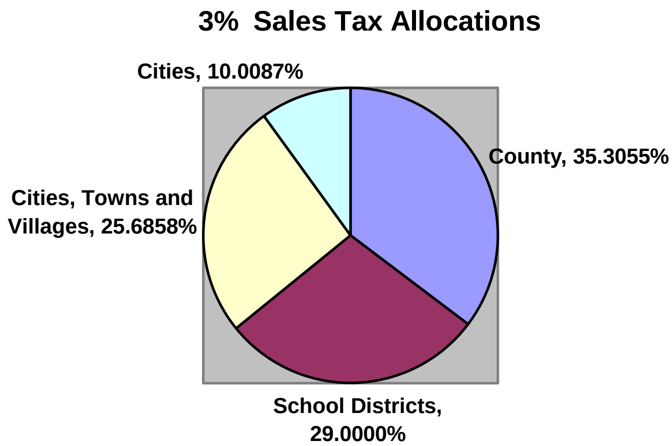
Property Tax:

There is no increase in the countywide property tax rate in the FY 08 Proposed Budget. The property tax rate per $1,000 of equalized taxable full value is $4.94, the same as 2007. Though the tax rate has not been raised, due to reassessments in some towns the total property tax levy will increase from $200,031,205 in 2007 (adjusted) to $211,837,793 in 2008. That is a 5.5% increase from 2007. The general government ("County share") property tax levy for 2008 is $189,665,960, up from $177,859,372 in 2007. The library tax remains the same for 2008 at adjusted $22,171,833, despite a Buffalo and Erie County Public Library request for an additional $2,487,413. Our office believes that these estimates are accurate.

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.

From 1985 through 2006 the County maintained an additional 1% sales and compensating use tax exclusively for County purposes, with all revenue retained by the County. That additional 1% sales tax was established in response to a 1984 Erie County budget crisis and deficit. The authorization for the County to levy the 1% sales tax has traditionally expired at the end of February of each year.

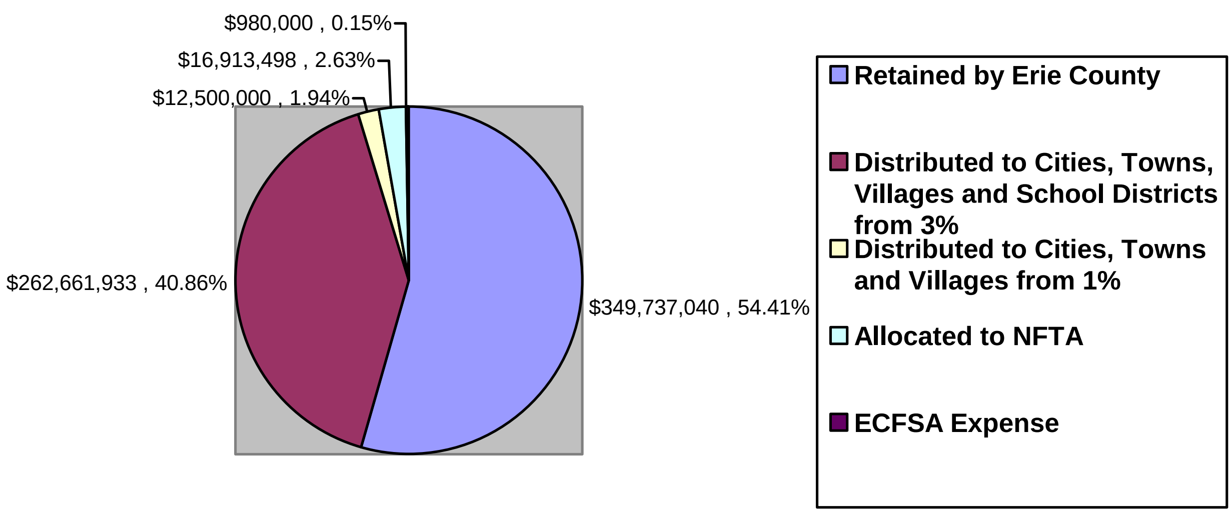
In 2006, the New York State Legislature reauthorized the 1% sales tax for a two-year period, expiring on February 29, 2008. However, the state legislature required the County to share $12,500,000 of revenues derived from the 1.00% sales tax with the cities, towns and villages (but not the school districts) for this period.

No actions have yet been taken by the County Executive, the County Legislature or the State Legislature to introduce the appropriate legislation to reauthorize the 1% sales tax beyond

February 29, 2008.[1] The renewal of that revenue is essential to the balancing of the County's FY 08 Budget and to sustaining County operations in their current form. The failure to reauthorize that tax will have grave consequences for the County. In addition, we note that despite the lack of introduction of any legislation reauthorizing said sales tax, the FY 08 Proposed Budget continues the special one-time sharing of $12.5 million of the 1% sales tax with cities, towns and villages.

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 expires on November 30, 2009. 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.

2008 Total Sales Tax Allocations



Total revenue generated by the sales tax in the FY 08 Proposed Budget is $642,792,471. The FY 08 Proposed Budget, like the FY 07 Budget presents sales tax differently due to an accounting change required by the Office of New York State Comptroller concerning sales tax sharing. While it is correct in treating the amount that is being shared with the various municipalities and school districts under the sales tax sharing agreement of 1977 ($262,661,933), as the "expense" side of this transaction, that was never budgeted until 2007. It is this Office's opinion that should have been the only change to the revenue presentation. The budgeting of $30,393,498 as additional sales tax distributed to other jurisdictions includes payments to the Niagara Frontier Transportation Authority ("NFTA") (which began in 1991), "payments" to

[1] There is a Senate bill, S.01819, which was introduced on January 25, 2007 (no sponsor) which would authorize the 1% sales tax beyond February 29, 2008 to November 30, 2009. No action has been taken (nor is able to be taken, absent a County Home Rule Message) on this bill, nor is there an Assembly companion bill.

ECFSA (which began in 2005) and the Administration's proposed continued $12,500,000 distribution to various municipalities from the 1% sales tax.

Eliminating the $293,055,431 of sales tax shared with local governmental entities leaves a total of $349,737,040 in sales tax budgeted for County purposes in 2008. Comparing this to the 2007 budgeted amount of $338,865,519 results in an approximate growth of 3.3% from budget to budget. Total actual County share sales tax in 2006 was $338,243,305. The last ten years have averaged 2.725% annual growth while the last five years has averaged 2.36% growth.

In addition based on the year-to-date cash distributed to the County by the State through the month of October 2007, the County is experiencing a growth rate of 5.15% in 2007, comparing regular and additional 1% sales tax only. It is impossible to determine what the final numbers will be for 2007 as final cash distributions for 2007 will not be received until February 2008. Because the rate of growth is a projection, it will have to be monitored as the year progresses.

The revised October 15, 2007 Four Year Plan states that sales tax is predicated on a 2.5% annual growth every year through 2011 based on a 2006 base sales tax of $358,941,851.[2] This base number will have to be closely monitored. While the County is experiencing a growth rate in 2007 that is greater than this projection, there is no guarantee that such projections will come to fruition in the future. For example, in some prior years the County has experienced negative growth, and this year's growth appears to be predicated on the strength of the Canadian Dollar against the U.S. Dollar. Any strengthening of the U.S. Dollar could have a major impact on the amount of actual sales taxes collected in the out years.

Should the County Legislature fail during 2008 to send a Home Rule request to the State Legislature or affirmatively approve of the continued imposition of the 1.00% sales tax, the County will face significant negative financial consequences from the loss of revenue for 2008, as well as in the out years in the Four Year Plan. The failure to continue the 1.00% sales tax will result in a $135 million shortfall in revenue. It also would cause adverse reactions amongst the County's rating agencies and the County's bondholders.

On September 4, 2007, my office issued a report, "Comptroller's Review of Revenues Derived from Erie County's Sales Tax and the Sharing Thereof with Other Entities." That report noted that in 2007 the County is legally required to share an amount equivalent to 46% of the total local share sales tax (4.75% of the total 8.75%) collected with the three (3) cities, twenty five (25) towns, sixteen (16) villages, thirty (30) school districts, the NFTA and ECFSA. I expressed concern about the continued sharing of a portion of the 1.00% sales tax with other local governments. While Home Rule Messages have yet to be introduced by the County Executive or County Legislature, the Executive's FY 08 Proposed Budget continues the supposed one-time 2007 special sharing of $12.5 million of the 1.00% sales tax with cities, towns and villages in 2008 (and through 2011). Given existing and future fiscal pressures on the County, I cannot stress strongly enough my opposition to any additional sales tax sharing or

[2] The $358,941,851 represents the 2006 County share of the sales tax, as well as the sales tax shared with the NFTA, ECFSA and $12.5 million shared with local governments. For 2007, the corresponding base amount is $369,216,365.

dedication of sales tax revenues to specific purposes. Simply put, the County cannot afford to share more revenue or divert funds for a specific purpose without such action having a negative impact elsewhere.

Other Revenues

Net Incremental Tax Lien Proceeds:

The FY 08 Proposed Budget includes $4,646,827 budgeted revenue for "net incremental tax lien proceeds." Throughout 2007, ECFSA has opposed the County's proposed sale of tax liens to a private sector vendor and the resultant injection of cash into fund balance and a portion to the 2007 operating budget. On September 28, 2007, ECFSA approved the sale of the liens subject to certain conditions – conditions which my office believes the County will not agree to. Based on those conditions and my office's understanding of the current dynamic surrounding this matter, we believe the budgeting of these revenues in the FY 08 Proposed Budget is not realistic at this time.

If the tax lien sale does not occur in 2007 or 2008 the County will continue to collect taxes for the tax years 2006 and 2007 as prior year collections and will recognize interest and penalty income on those collections. The County has historically collected 95-96% of tax liens over a three-year collection period. The total amount collected by the County, however, is not equal to that offered by XSPAND in its tax lien proposal (105%). In a typical tax year, that 10% differential would range between $1,000,000 and $1,600,000 per year in lower County revenue. In addition, if no tax lien sale occurs, starting in 2009 the County will have to budget for the additional expense of foreclosing on properties. That cost has been estimated by the County Administration as high as $700,000 per year.

Interest Earnings:

The FY 08 Proposed Budget includes revenue of $5,250,000 in General Fund interest earnings. This contrasts with an FY 07 Adopted Budget target of $4,890,000 and the 2006 budgeted amount of $2,500,000. Due to aggressive cash management, higher interest rates, and more cash available for investment, the County attained higher than budgeted interest earnings in 2006 - $3 million higher than budget. However, in 2007, due in part to a lack of funds available for investment because of the failure to close an expected tax lien sale and the recent reduction in interest rates and general market uncertainty, the County's earnings growth has slowed. While the FY 08 Proposed Budget target is modestly higher than 2007, we are concerned about this projection. Close monitoring of this account will be necessary in 2008.

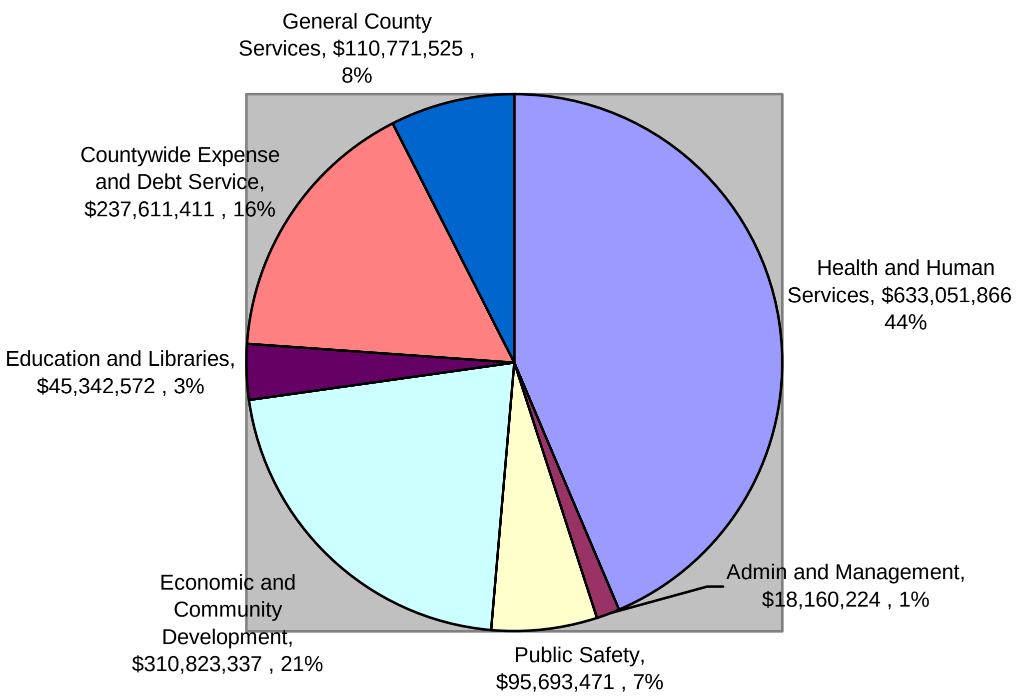
Medicare Part D Subsidy:

The FY 08 Proposed Budget includes $1,800,000 in revenue from the Medicare Part D Subsidy, an initiative in the original Four Year Plan. We note that the revenue from this initiative which was first budgeted for $600,000 in 2006 was not included as revenue in the 2007 Adopted Budget (nor requested), and the Administration did not pursue this revenue source. This in itself is not material. However, in 2007, the Four Year Plan included the initiative and stated that $1,080,000 in revenue was in the 2007 Budget, and that the program was "successfully being implemented for 2007."

The County's ability to attain this revenue in 2008 through aggressive, proactive efforts by the Department of Personnel and Division of Budget, Management and Finance remains to be seen and we recommend close scrutiny of this account.

PROPOSED EXPENDITURES

2008 Proposed County Expenditures by Category



The FY 08 Proposed Budget is $1,451,454,406 for all funds, and the County portion under prior practice is $1,188,792,473.[3] This does not include the shared 3% sales tax with cities, towns, villages and school districts. Total sales tax revenue proposed to be provided to these entities in 2008 under the 3% formula is $262,661,933.

The Adopted 2007 Budget for all funds was $1,407,800,865. As such, the FY 08 Proposed Budget is $43,653,541 more than the Adopted 2007 Budget, or 3.0% growth over 2007.

[3] Starting in the County's 2007 fiscal year, the Office of State Comptroller now requires county governments to record as revenue and a corresponding expenditure all amounts received in sales and compensating use taxes regardless of whether they are shared with local governments. As such, the County's FY 08 Proposed Budget includes revenues for and equals expenditures related to all sales taxes collected and shared with local governments.

Personal Services:

For all funds, the FY 08 Proposed Budget represents a net change in full-time positions from the adjusted 2007 Budget to the FY 08 Proposed Budget of +75 positions. Despite the creation of new jobs during FY 2007 and new positions in the FY 08 Proposed Budget, the proposed 2008 Budget of 4,339 full-time positions is 13 less than the Adopted 2007 Budget but is 351 more than the adjusted 2005 Budget (see this report's appendix for more details on noteworthy new 2007 and 2008 positions). The largest source of reduced full-time positions between 2007 and 2008 arises from the FY 08 Proposed Budget not including 140 funded Sheriff Deputy Officers which transferred from the County to the New York State Office of Courts Administration in mid-year 2007. The most noteworthy additions in the FY 08 Proposed Budget include: Department of Social Services (52 new positions), Probation (21 new positions), Public Works-Buildings and Grounds (5 new positions), Personnel (4 new positions), Environment and Planning (4 new positions), and Senior Services (2 new positions).

Full-time salary costs increase from $188,178,547 for all funds in the adjusted 2007 Budget ($194,229,287 in the Adopted 2007 Budget) to $192,775,850 in the FY 08 Proposed Budget. That represents a 2.4% increase from adjusted 2007 to FY 08 Proposed. Of that increase, $1,728,385 of this $4,597,303 in increased full-time salary costs in 2008 is in the Department of Social Services, $970,212 from the Buffalo and Erie County Library and $764,416 from the Department of Probation.

The FY 08 Proposed Budget includes a turnover account (reductions from personal services) of $3,800,000 compared to a 2007 Proposed Budget of $2,300,000 and a 2007 Adopted Budget of $2,800,000 and 0 in 2006. 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. Notwithstanding significant vacancy control savings attained in 2007, we believe this negative appropriation is budgeted on the high end, particularly given the start of a new County Administration on January 1, 2008 that will have different priorities than the current administration. If this account is in the final adopted budget it will have to be closely monitored.

The FY 08 Proposed Budget does not identify and we cannot ascertain any budgeted funding (unless the County Contingency account is utilized) for potential retroactive and future raises for Sheriff Division deputies represented by the Erie County Sheriff Police Benevolent Association ("PBA") for 2005 and 2006 and forward. The Administration is currently in arbitration with the PBA at the New York State Public Employee Relations Board and our understanding is that there is a potential for an immediate negative impact of approximately $3.7 million to the County in 2008. If that bargaining unit is successful, the 2008 Budget will be out of balance in this account.

Unbudgeted overtime costs remain a concern, particularly in the Sheriff's Division of Jail Management and the Department of Public Works' Divisions of Highways and Buildings and Grounds. The Adopted 2007 Budget appropriated $8,600,000 for overtime in Jail Management. In summer 2007 an additional $1,000,000 was appropriated. Overtime costs in that division annually significantly exceed budget and will do so again in 2007. Our office currently projects that Jail Management will incur approximately $10.4 million in overtime expense in 2007, or

$850,000 over the adjusted 2007 Budget and nearly $2 million more than the Adopted 2007 Budget. The FY 08 Proposed Budget appropriates $9,000,000 for Jail Management overtime. We believe overtime expense is under-budgeted in the Division of Jail Management by at least $1,000,000 for 2008. Unbudgeted overtime expense in the Department of Public Works has also become a problem since 2005 and will continue.

Debt Service:

Since 1999, the County's total net indebtedness (excluding self-financing Sewer Districts) has increased significantly – from less than $200 million in 1999 to a projected $572,706,156 by the end of 2007.[4] The County's estimated calculation of total net indebtedness includes a $101,375,000 bond guaranty for the sale of the Erie County Medical Center Corporation, but does not include Sewer Bonds or Revenue Anticipation Notes. The December 31, 2006 calculation was $562,359,817.

During the same period, net bonded debt per capita has also increased significantly, rising from $190.69 in 1999 to $604.23 in 2006 and estimated $626.37 for 2007 and $621.57 for 2008. This growth in debt has consequences on the County's finances, as well as county government's ability to provide services.

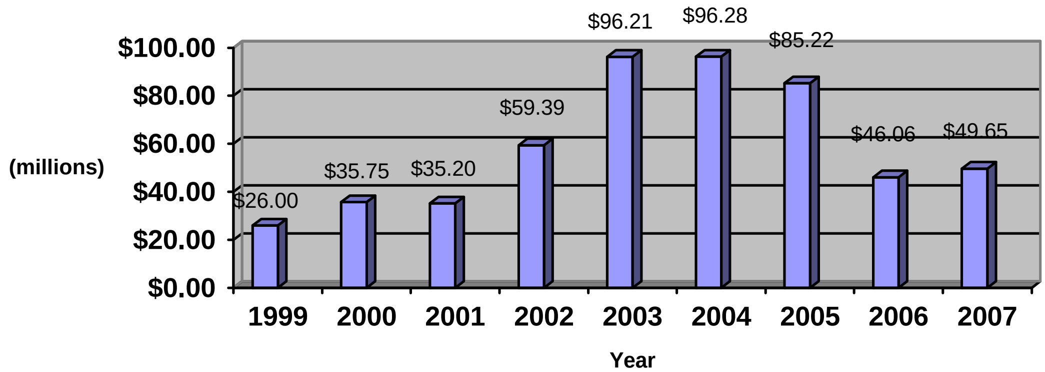
Due to the County's growing bonded indebtedness, appropriations for debt service have risen significantly in the past four years. The General Fund ID transfer for General Debt Service in the FY 08 Proposed Budget is $52,246,389 – a 518% increase over the amount appropriated in 2004 ($10,085,447). The General Fund ID transfer increases from $42,125,571 in 2006 to $47,386,133 in 2007 and proposed $52,246,389 in 2008. The October 15, 2007 revised Four Year Plan projects this expense rising to $77,775,792 in 2011 (and that estimate does not include the ECMCC bond guaranty).[5] Increasingly, limited General Fund monies are being used to make required debt service payments on the County's growing bonded indebtedness.

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 $35,298,715 in 2004 to $59,602,804 in 2007 and $67,298,855 in the FY 08 Proposed Budget – a nearly 91% increase in four years. Principal payments have increased from $18,858,160 in 2004 to $37,264,751 in 2007 and $44,292,563 proposed for 2008 – an increase of approximately 133%, but also a necessary development for the paying down of debt.

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 2008 and the out years the County must make a conscious effort to take on as debt only that 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. This is a major concern to this office.

[4] This calculation presumes a 2007 capital borrowing sale of $52 million.
[5] This increase is attributable in part to the rapid five year pay down on the County's 2006-2007 bonds sold for ECMCC capital projects, as per the Consent Decree.

Public Improvement and Pension General Obligation Bond Sales*



* Includes ECMCC capital and operating subsidies but does not include Sewer District borrowing. The 2007 statistic is for the proposed 2007 capital bond sale, including the County's required $15 million for ECMCC.

Capital Budget:

The FY 08 Proposed Budget includes a Capital Budget totaling $58,505,000. This contrasts with an Adopted 2007 Budget with a Capital Budget of $59,200,000 (that did not include $4 million for the Buffalo Zoo which was approved by the Legislature in 2006 but which was to be bonded in 2007). Ultimately, in 2007 the County Legislature approved bond resolutions (excluding Sewer Districts and the $4 million for the Zoo) amending the 2007 capital program and authorizing capital borrowing of $47,685,000. In total, pending potential 2007 capital borrowing is approximately $52 million, including the Zoo and $1 million for a prior year bond authorized project the Administration proposes to commence and borrow for.

The FY 08 Proposed Budget Capital Budget is not the largest in recent years, but it is one of the larger proposed Capital Budgets in County history. Furthermore, unlike 2006 and 2007, none of the 2008 Capital Budget includes any capital or operating subsidy borrowing obligations to ECMCC, as consent decree's capital obligations expire at the end of 2007 with the remittance of $15 million to ECMCC by December 31, 2007.

The FY 08 Proposed Capital Budget includes $19,130,000 for highway and bridge projects, double the amount of the Adopted 2007 Capital Budget. Other noteworthy changes from prior years include:

- $5 million for the Buffalo Convention Center;
- (only) modest improvements to the Holding Center and Correctional Facility (as opposed to future year projections totaling an additional $128.5 million);
- $4.95 million for Erie Community College (in addition to the previously authorized borrowing of $17 million for the redevelopment of the City Campus);
- $2 million for the County fire training facility;
- $2 million for a Bethlehem Steel site redevelopment;

- $1 million for a new children's exhibit at the Buffalo Zoo; and
- (only) $500,000 for Help America Vote Act ("HAVA") required purchases by the Board of Elections for new voting technologies and devices.

If the next County Executive and County Legislature approve and pursue all potential 2008 capital projects as identified in the 2008 Capital Budget, and elect to sell the 2007 authorized $17 million of bonds for ECC City Campus master plan reconstruction, the potential 2008 capital bond sale (excluding Sewer Districts) would be $75.5 million – a figure confirmed in the Administration's October 15, 2007 revised Four Year Plan. The size of that potential borrowing is of major concern to this office.

In the out years (2009-2013), the Capital Budget includes significant proposed appropriations for specific capital projects, including:

- $57,500,000 for the preservation of roads, bridges, culverts and dams (no such funding was identified in the 2007 Capital Program for 2007-2012);
- $26,500,000 for security improvements and the expansion of the Correctional Facility;
- $100,000,000 for an expansion of the Holding Center;
- $5,000,000 for the Convention Center;
- $4,000,000 for the 800MHZ Communications System;
- $2,000,000 for the County's training center;
- $5,750,000 for computer/network replacement and upgrades within the County;
- $7,500,000 for library consolidation projects;
- $4,200,000 for Central Library interior renovations (there were no current or future year library capital projects in the 2007 Capital Program);
- $4,000,000 for urban brownfield redevelopment;
- $4,000,000 for the creation of industrial parks; and
- $68,750,000 for the ECC City Campus master plan.

There is no funding identified for HAVA-required new voting technology. The 2008-2013 Capital Budget also proposes $5.4 million for the County's state-required 800 megahertz public safety communications system, which may be an underestimation of the local share cost of this approximately $40 million project.

The 2008-2013 Capital Program estimated County cost is $470,040,000 against a prior year 2007-2012 Capital Program estimated County cost of $384,595,000. These are large, ambitious projects that will have a significant impact on the County's debt service if effectuated by the next County Administration.

It is important to keep in mind that some of these projects have been discussed, in-development, or already present in prior year Capital Budgets, but have not been started or funds borrowed for the projects. The presence of many of these projects and associated borrowing starting in 2008 or later (after the current County Administration has departed office) is in effect, a deferral of responsibility to the next administration – as well as a significant increase in proposed borrowing.

Employee Health Insurance Costs:

Active County employee health insurance costs are projected to increase from $29.5 million (adopted budget) in 2007 to $34.2 million in 2008 (through September 30, 2007 $22.1 million has been expensed). Retiree health insurance costs increase from $11.1 million (adopted budget) in 2007 to $15.8 million in 2008. $13.7 million has been expensed through September 30, 2007 – a 2007 negative variance. The 2008 estimate includes the County's estimated costs of paying for health insurance of retired employees of ECMCC ($4,654,132), as required under the County's 2006 Consent Decree with the hospital.

The revised Four Year Plan projects that represented County employees in collective bargaining units will start paying for a portion of their health insurance, similar to managerial-confidential employees who were obligated to start paying for a portion (currently, 15%) of the costs of their health insurance starting on January 1, 2006. This return to employees paying for a portion of their health insurance requires amending the existing (and expired) collective bargaining agreements with the County's unions. The County Administration's failure to conduct negotiations in 2006 and 2007 with bargaining units on new contracts means that County savings from this initiative will probably not occur in 2008 and may not occur in 2009 either.

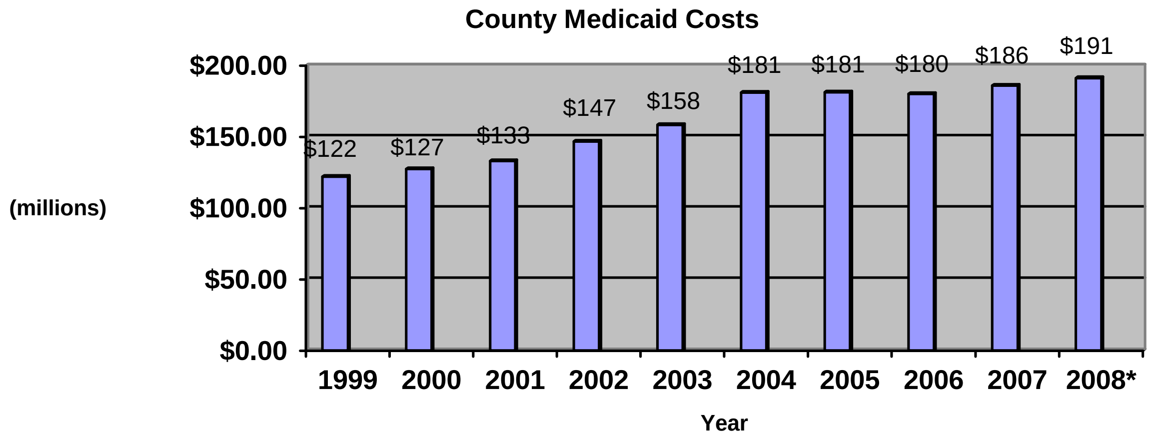
Pension Costs:

The County's pension payment to the New York State and Local Employees' Retirement System decreases from $20.8 million (budgeted) in 2007 to $18.4 million in the FY 08 Proposed Budget. The administration's estimate is based on the growth in income from investments made by the Office of State Comptroller and the corresponding reduction in required payments to the retirement system by local governments. These expenses are also controlled by the State Comptroller and our payments are regulated by that office. Based on current data, this estimate is valid.

The Four Year Plan projects that the County's pension payment will "grow moderately to $19,015,935 by 2011."

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. The FY 07 Adopted Budget appropriation for Medicaid is $185,962,536. The FY 08 Proposed Budget appropriation is $191,222,362, which this office believes is a valid estimate.



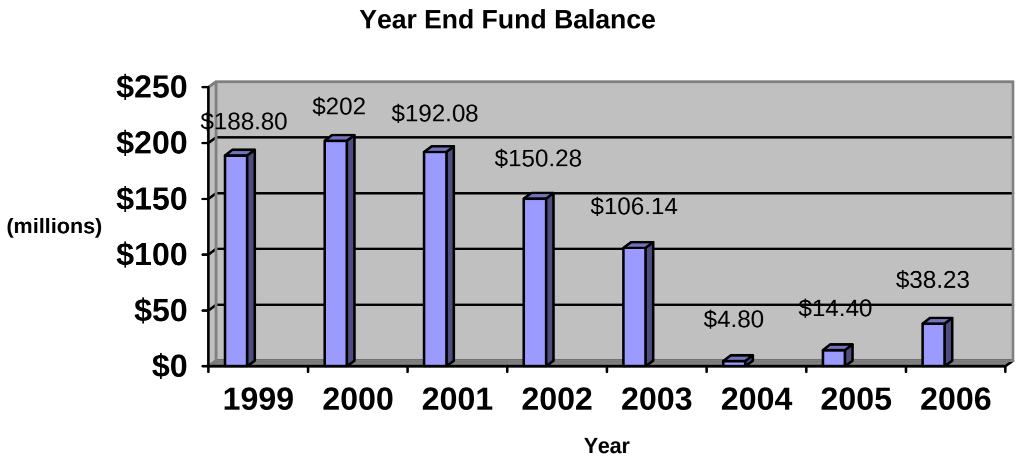
* Proposed 2008 appropriation.

Fund Balance:

For the third year in a row, the proposed budget does not appropriate undesignated fund balance. This follows FY 06 results generating a $23.825 million surplus, and a total General Fund Balance of $38.233 million at year end 2006. Given the requirements of the Four Year 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.

The Four Year Financial Plan requires the reestablishment of fund balance totaling approximately $60-$75 million by 2011, meeting the 5% rule recommended by GFOA. After replenishment of fund balance in 2005 and significant replenishment in 2006, the FY 07 Adopted Budget included no provision for restoration of fund balance and neither does the FY 08 Proposed Budget.

Given 2007 year-to-date results, including recently concluded third quarter financial results showing significant County savings through vacancy control, other accounts and significantly higher than budgeted growth in sales tax receipts, and absent unforeseen items or events in the fourth quarter of 2007, we believe the County may end 2007 with a surplus. If ECFSA gives a final, unconditional approval to a tax lien sale in 2007, our current projections show the County will end the year with a larger surplus.



As of January 1, 2007, the County Charter now 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 2008, for a budget for all funds of $1.18 billion (adjusted for the sales tax prescription), fund balance for all funds at year end 2008 should be at least $59.4 million (and $57.5 million for 2007).

Risk Retention Fund:

The FY 08 Proposed Budget appropriates $4 million for the Risk Retention Fund after nothing was appropriated in the Adopted 2007 Budget (though $3 million was added in mid-year 2007 through legislative resolution). The Four Year Plan projected a 2008 appropriation for the Risk Retention Fund of $4,000,000. Based on representations made to this office by the Department of Law concerning potential future liabilities and legal judgments or settlements, we note that total potential County liabilities could be significantly above the funding allocated for, or presently existing within the Fund.

Workers Compensation:

The FY 08 Proposed Budget appropriates $10,705,500 for workers compensation claims through the Law Department. This is up from $9,692,000 (Adopted) in 2007, and compares against $12,219,447 (actual) in 2004, $13,187,841 (actual) in 2005, and $12,742,143 (actual) in 2006. Based on prior year results, we believe that 2007 actual results will be above budget and 2008 proposed funding in this account is under-budgeted.

In addition, in Countywide Budget Accounts, workers compensation costs increase from $1,472,825 (budgeted) in 2006 to $7,771,416 (adopted) in 2007 and $8,287,055 in FY 08 Proposed. This significant increase in appropriation by the Administration recognizes prudent budgeting and is a welcome departure from the under budgeting of the past. Nevertheless, workers compensation expense is a concern to the County.

Erie County Medical Center Corporation ("ECMCC"):

The FY 08 Proposed Budget appropriates $5,561,532 to ECMCC, as contrasted with $14 million in 2007. These appropriations include all amounts related to the consent decree and settlement entered into by the County and ECMCC in 2006. There is no 2008 County Capital Budget obligation by the County. The October 15, 2007 revised Four Year Plan states annual 2009-2011 operating subsidy requirements will be $7,631,245.

In our 2007 Budget Report, we warned about unbudgeted expenses to the County from/at ECMCC under disproportionate share ("DSH") intergovernmental transfer ("IGT") payments by the New York State Department of Health to ECMCC and the debiting of County accounts by the State. In 2006, the County and ECMCC were involved in a dispute whereby ECMCC refused to transfer approximately $5.7 million dollars it owed to the County for reimbursement payments related to the DSH IGT. Ultimately, the County and ECMCC agreed to a transfer of $3 million, which revenue was received and booked in 2007.

In 2007, the County was debited approximately $9 million on the DSH IGT issue, resulting in a corresponding negative variance on the 2007 Budget. Despite some discussions with ECMCC, the County Administration did not secure any of these funds. Our office believes that the County is entitled to such funds, as does the County Administration. ECMCC contends otherwise. The County Administration has several times stated its intention to pursue litigation to enforce its rights, but has not yet, to our knowledge, filed papers with the Court.

While one cannot accurately determine the amount of DSH IGT which will be debited from the County's accounts in 2008, if this matter is not resolved in a favorable manner for the County, the County could potentially find itself paying to ECMCC millions of dollars more in a new annual operating subsidy related to these payments. Similar to 2007, payments related to this expense are not included in the FY 08 Proposed Budget. This creates a potential negative variance for the FY 08 Proposed Budget.

In 2006, the State-created New York Commission on Health Care Facilities in the 21st Century (the "Berger Commission"), determined that several healthcare facilities and hospitals located in Erie County should cease operations and that Kaleida Health's Buffalo General Hospital and ECMCC should combine into a new, non public benefit corporation entity controlled by neither. On September 12, 2007, following months of unsuccessful merger discussions between ECMCC and Kaleida, New York State Health Commissioner Dr. Richard F. Daines exercised his powers pursuant to the Berger Commission and appointed a new fourteen (14) member board for a unified governance structure of the two hospitals, with the fifteenth member to be the chief executive officer of the new combined entity. That joint governing body has held at least five closed meetings to determine the future of the two hospitals and has recently named a chairman, board officers, and a new chief executive officer of the combined entity.

In the event that the new joint governing body and/or State Department of Health determine that ECMCC should be closed and its operations shifted to Buffalo General Hospital, or merged into a new entity, there will be significant consequences to the County. While impossible to determine at this point what those consequences will be, there will be issues involving (1) ECMCC's debt service and the County's bond guaranty on the $101 million associated with the sale of the hospital to itself; (2) the release of the County's 2008 capital obligation and possible County clawbacks of prior year appropriated but unspent capital funds at ECMCC; and (3) personnel issues associated with former County employees and their status (including bumping back to the County, and retirement and health insurance obligations).

Erie Community College:

As agreed to by the County Legislature and County Administration in summer 2007 in their approval of the college's 2007-2008 Budget, the County's FY 08 Proposed Budget sponsor contribution operating subsidy for Erie Community College ("ECC") is $15,420,778, nearly $2 million more than the 2004-2007 annual subsidy of $13,570,777. The County Administration's revised Four Year Plan states the County will increase the operating subsidy to the college to $15,420,780 for Erie County Fiscal Years 2008-2011. While the sponsor contribution increase was represented as a reflection of the County Administration's policy decision to terminate a fiscal practice that called for borrowing the capital equipment portion of the college's subsidy, we find a discrepancy.

The FY 08 Proposed Capital Budget for ECC includes $4,950,000 in borrowing for ECC capital projects, as contrasted with proposed 2007 capital borrowing of $3,200,000 for ECC capital projects and actual approved 2007 bond resolutions totaling $6,200,000 for ECC. This does not include the actual 2007 approved bond resolution totaling $17 million for the master plan reconstruction of the college's City Campus (against an Adopted 2007 Capital Budget of $15 million for that project).

In fact, the FY 08 Proposed Budget reflects that ECC has received a $2 million increase in its operating subsidy <u>as well</u> as an increase in its proposed "routine" capital bonding through the County.

In another inconsistency, the 2007-2012 Capital Program in the FY 07 Adopted Budget included $72,500,000 in proposed County borrowing for the master plan reconstruction of the City Campus. The 2008-2013 Capital Program in the FY 08 Proposed Budget now states the cost will be $68,750,000, and that does not include the $17 million bond resolution approved in 2007. As such, this reflects the Administration's estimate on the actual costs of the program as exceeding $85,750,000 – not $72,500,000.

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." In 2006, the County's cost was budgeted at $2,460,700. The 2007 Adopted Budget appropriation was $3,645,000, with $495,000 of that added to the County Administration's original appropriation after our office expressed concerns about the under-funding of the account.

Based on current data showing year-to-date expense of $3.8 million, with additional cost expected before year-end, this account is under-funded in 2007, notwithstanding the supplemental appropriation during the 2007 budget process. The FY 08 Proposed Budget appropriation is $3,718,939. Based on 2007 trends, the 2008 appropriation will not be sufficient.

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, and has reduced appropriations to the Convention Center Management Corporation and/or convention and visitors services. In 2004, the County appropriated $4,400,000, down to $3,140,292 in 2005, then $2,750,000 in 2006 and $2,300,000 in 2007 from a budgeted tax amount of $5,947,181.

However, the County has traditionally remitted additional unanticipated revenue above budget for tourism purposes. Twice in 2007, the County agreed to additional funding for tourism purposes. On February 15, 2007, the Legislature approved remitting $500,000 from additional 2006 Hotel Occupancy Tax revenues for tourism purposes ($350,000 to the Convention Center Management Corporation and $150,000 to the Buffalo Niagara Film Commission). On April 5, 2007, also via legislative resolution, the Legislature agreed to remit an additional $761,579 to the Convention Center Management Corporation from 2006 Hotel Occupancy Tax receipts. Accordingly, actual 2007 appropriations of the tax for tourism purposes to-date total $3,561,579, of which $1,261,579 is from 2006 receipts.

The Hotel Occupancy Tax is budgeted for revenue of $7,001,000 in the FY 08 Proposed Budget. The FY 08 Proposed Budget appropriates $5,136,644 to the Buffalo/Niagara Convention Center and the Buffalo Niagara Convention and Visitors' Bureau and an additional $150,000 to the Buffalo Niagara Film Commission (for a total tourism-related appropriation of $5,286,644). In addition, the FY 08 Proposed Budget allocates $2,177,741 to pay down County debt service associated with prior year bonded capital projects at the Convention Center.

Our office supports in principle the dedication of the tax for tourism purposes and for capital improvements and debt service costs at the Convention Center. However, from a financial standpoint, the impact to the General Fund of the loss of this revenue without offsetting new revenue or corresponding reductions in spending would be significant. Careful consideration and analysis must support the elimination of this revenue stream to the County.

In short, notwithstanding the lack of approval of the proposed local law, the FY 08 Proposed Budget effectively dedicates all Hotel Occupancy Tax revenue to tourism purposes without offsetting new revenues or corresponding reductions in County spending. The FY 08 Proposed Budget also includes $5 million of proposed bonding in 2008 for capital improvements at the County-owned Convention Center. The County Executive has previously suggested dedicating all Hotel Occupancy Tax revenue for tourism purposes contingent on the County no longer providing capital funds for the Convention Center and shifting debt service costs to the BNCVB et al. This is not reflected in the FY 08 Proposed Budget or the 2009-2013 proposed Capital Budgets. The significant increase in expense to the County and loss of revenue is a cause for concern.

Buffalo City Parks:

In 2006, this office issued an audit of the City of Buffalo Parks. Among other findings, the audit revealed that in 2005 it cost the County $1.3 million more than the City's payment to operate and manage the parks. In our 2007 Budget Report we warned that this trend of County expense significantly exceeding the City's contractual payment would continue without corrective actions, such as renegotiating the agreement to receive more revenue from the city. Adjusted 2007 results showing expenses of $3,276,783 confirm our prediction.

Our analysis of the FY 08 Proposed Budget for the Buffalo City Parks Division shows estimated total 2008 appropriations at $3,289,122 (including fringe benefits), significantly beyond the city's $1,800,000 payment to the county and 2008 budgeted revenue of $1,879,050 (which is less than the budgeted and actual 2006 and 2007 revenue totals). These figures do not include the expenditure of $1,587,769 in the Division to the Department of Social Services. Without corrective measures, the Buffalo City Parks Division will continue to be a negative drain on the County's General Fund and the County will have to continue to subsidize the city parks.

County Contingency:

The FY 08 Proposed Budget includes $2,500,000 in the County Contingency Account. This account was created as an amendment during the 2007 Budget adoption process by the Administration and Legislature in response to warnings from this office on the potentiality of over-estimation of 2007 sales tax receipts. Absent such a concern in 2008, we would question the existence of said account in 2008. We note that the Administration has represented orally to the County Legislature that this account could be utilized to cover unbudgeted County expenses for housing County prisoners at facilities outside the County, if the New York State Commission of Correction withdraws variances for the Erie County Holding Center and/or Correctional Facility.

Dedicated Cultural Funding: [6]

The FY 08 Proposed Budget appropriates $5,600,000 for Cultural Resources Advisory Board ("CRAB") organizations.[7] This CRAB appropriation contrasts with $5,332,013 in the FY 07 Adopted Budget. CRAB requested $7,184,905 in funding for 2008.

Similar to the situation with tourism funding, the County Administration proposed permanently dedicating revenue to cultural organizations. In May 2007, the County Executive drafted and introduced a local law that would allocate an amount equivalent to 3% of the annual County share property tax levy for cultural groups.[8] This proposal differed from the existing appropriation process by which the County Administration and County Legislature make an annual budgetary decision to allocate a specified amount of funding for cultural groups. Under the new proposal, the County share property tax levy would establish the dollar amount, independent of any budgetary negotiations, and CRAB would decide the funding amounts for each organization, subject to Executive and Legislature amendment and/or approval. In addition, the new proposal would automatically (1) increase funding for cultural groups annually as the levy increased (either through assessment growth or an increase per thousand of assessed value), or (2) decrease funding if the overall property tax levy was reduced.

During 2007, the Legislature held discussions and dialogue on this issue, including several hearings with cultural groups in the Legislature's Community Enrichment Committee, at which time the groups expressed strong support for the concept of permanent, dedicated funding. However, concerned about the impact to the General Fund of permanently dedicating funding, including future growth in property tax revenue, legislators have yet to act on the County Executive's proposal. In August 2007, five legislators introduced a resolution (but not a local law) proposing the dedication of an amount equivalent to 3% of said revenues for a two-year period ending December 31, 2009.

Our office is likewise concerned about this proposal. Our office supports in principle the allocation of County funds for cultural groups. However, from a financial standpoint, the permanent dedication and locking-in of said revenues for cultural groups would create financial problems for the County. Our concerns are magnified by the termination of the City of Buffalo's funding of cultural groups in 2003 and the city's subsequent refusal to fund such groups – leaving the County to fill the gap. Careful consideration and analysis must support the permanent dedication of revenues, especially a revenue stream that is growing, and for which a portion of said growth would be automatically be transferred to third parties. In fact under the existing proposal, the County would be barred from reducing funding to cultural groups at a time when it is being called upon to reduce expenditures elsewhere.

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[6] The Comptroller discloses that his spouse is presently an employee of the Buffalo and Erie County Historical Society, which received CRAB funding in 2007 and is proposed to receive CRAB funding in 2008. The Comptroller has no role whatsoever in the CRAB appropriation process.

[7] An additional $45,000 is appropriated each to the Hauptman Woodward Medical Research Institute and Frank Lloyd Wright Rowing Boathouse Corporation in a different fund center.

[8] The law did not specify if the levy was the County share only, or included for calculation purposes the library property tax levy also. However, using the proposed 2008 County share of the levy of $189,665,960, 3% of that amount is $5,689,978.80, which is close to the proposed appropriation of $5,600,000 for cultural groups.

Utilities Fund:

Utility charges decrease from $56,106,771 in the adopted 2007 Budget to $53,056,240 in the FY 08 Proposed Budget. Revenue from charges to the local governments in the Utilities Aggregation that purchase utilities through the County decrease from $29,267,879 in the adopted 2007 Budget to $25,373,632 in the FY 08 Proposed Budget. Given the volatile nature of utility expenses this is another account that requires careful monitoring.

Road Fund/CHIPs Funding:

The Road Fund ended 2005 with a total negative fund balance of $1.615 million and a negative undesignated fund balance of $7.808 million. The fund ended 2006 with a total negative fund balance of $2.75 million and a negative undesignated fund balance of $6.911 million. While the Road fund is a Special Revenue Fund and not a major fund, these results continue the deficits that this fund has been recording since 2001. In 2006, our office advised that corrective measures needed to be taken to balance the Road Fund, but none were taken.

For the past seven years, the Administration has utilized borrowed capital funds to fund certain highway projects that provide a local share in order to leverage Consolidated Highway Improvement Program ("CHIP") funds from the State. This policy decision differed from the prior administration. In the Adopted 2007 Budget, the Legislature added two budget resolutions addressing the Road Fund negative fund balance and the funding scheme for CHIPs which called for an elimination of this practice by the end of 2010.

In the FY 08 Proposed Budget, the County Administration proposes to allocate $2.2 million of General Fund resources to the Road Fund for certain capital overlay projects. The October 15, 2007 revised Four Year Plan projects phasing-in pay-as-you-go over four years, reaching $4.8 million annually by 2011. The plan would not meet the 2010 target requested by the Legislature, but could meet the goal by 2011. This policy decision to return to pay-as-you-go will create additional strain on the General Fund and should be monitored.

Budget Resolutions:

Annually, the FY 08 Proposed Budget includes a series of Budget Resolutions designed to address gaps in the adopted budget, and to codify certain issues. We observed several noteworthy budget resolutions which we bring to your attention.

Budget Resolution # 13

The FY 08 Proposed Budget includes a new budget resolution authorizing the appropriation of an amount equivalent to more than 100% of the proposed 2008 Hotel Occupancy Tax receipts for tourism purposes and authorizing the County Executive to enter into a contract with the BNCVB to provide that organization with the proposed appropriation. As previously stated in the section concerning tourism funding, our office has concerns about this appropriation and its impact on the County's financial position.

Budget Resolution # 27

The FY 08 Proposed Budget includes a new budget resolution authorizing the County Executive, upon the recommendation of the County Sheriff, to enter into contracts with other counties in New York to house Erie County prisoners "as may be required by the New York State Commission of Corrections (sic)." In the event that this state agency, which regulates and oversees the Erie County Holding Center and Erie County Correctional Facility, withdraws variances allowing the current overcrowding of each facility, the County will be compelled to house prisoners in other locations outside Erie County. As previously noted in this report, that would be a significant unbudgeted expense that could create a negative variance in the FY 08 Proposed Budget.

Budget Resolution # 61

The FY 08 Proposed Budget includes a continued budget resolution authorizing the continued special conditions for "Giambra Appointees" permitting their accrual of four weeks of vacation time on the first day of the new year (as opposed to the County policy for non-Giambra appointees and members of the collective bargaining units which requires accrual of time over the length of the year, and time accrued dependent on the employee's time in the government) and carry over of vacation credits into 2008. Because the Giambra Administration departs office on December 31, 2007, we believe this budget resolution's continuation is not appropriate. We recommend its deletion from the FY 08 Proposed Budget and recommend the Legislature adopt a resolution specifically clarifying the status of these appointees' leave accrual and vacation credits for any such individuals who continue to be employed by the County on or after January 1, 2008.

Terminated 2007 Budget Resolution # 67

The FY 07 Proposed Budget included a (then) new budget resolution authorizing the transfer of cash from completed capital accounts to be used for debt service or for other completed capital projects in 2007. This resolution enabled the administration to transfer $2,160,362 of remaining cash from completed capital projects to be used for other capital projects or to be applied against debt service in the 2007 Budget. Our office supported this resolution. No such resolution is included in the FY 08 Proposed Budget.

COMMENT ON FOUR YEAR PLAN PROJECTED DEFICITS (2008 - 2011)

Since the first Four Year Plan was released in September 2005, the County has consistently had difficulty pursuing or attaining success in gap closing initiatives. In addition, many key initiatives with large projected annual savings have been consistently deferred to a future year, with little to no progress on their implementation. Unfortunately, that pattern continues in the FY 08 Proposed Budget and October 15, 2007 revised Four Year Plan.

The October 18, 2006 revised Four Year Plan – which was rejected by ECFSA and for which the County and ECFSA are operating in 2007 without an approved plan – projected using four broad categories to reduce County costs and avoid deficits in 2008, 2009 and 2010 (notice no mention of 2007). They were: managed attrition, reducing Sheriff road patrols, collective bargaining concessions and matrix efficiencies. As we noted in our 2007 Budget Report, none of these major categories of proposed savings were pursued in 2007 but were projected by the County Administration to start in 2008.

For the third successive budget/plan, the October 15, 2007 revised Four Year Plan and FY 08 Proposed Budget takes no action on these major initiatives and defers decisions to another administration. In fact, the October 15, 2007 revised Four Year Plan projects using eight (8) major initiatives to reduce County costs and avoid deficits in 2009, 2010 and 2011 (but not 2008). Managed attrition is no longer included in the plan per se. The eight initiatives are:

- Social services case management
- Alternatives to incarceration
- Risk management
- Information technology reform (not in 2009)
- Cell tower revenue
- Sheriff's road patrol
- Collective bargaining concessions
- Reduced ECMC capital

It is noteworthy, and probably not coincidental, that five of these major initiatives have pending or partial ECFSA approvals for efficiency grants.

Based on our analysis of these October 15, 2007 revised Four Year Plan's major gap closing initiatives, we question the savings estimates and the County's ability to close 2009-2011 gaps through these initiatives and without new revenue initiatives. Our office believes the County will not be able to successfully and fully implement these new gap closing initiatives and attain the projected savings. Specific details on our analysis of these Four Year Plan gap closing initiatives follow.

Managed Attrition:

The October 18, 2006 revised Four Year Plan utilized managed attrition to reduce the County workforce by $2.7 million in 2008, $3.6 million in 2009, and $3.4 million in 2010 for a total savings of $9.7 million over the three out years of the Plan. In our 2007 Budget Report we expressed skepticism about the County's ability to generate these total managed attribution savings, notwithstanding successful vacancy control initiatives in 2006, some of which have continued in 2007.

The October 15, 2007 revised Four Year Plan does not include managed attrition as a gap closing initiative.

Sheriff Division ("Road Patrols"):

The original Four Year Financial Plan projected the gradual phasing out of the Sheriff Division over a three year period starting in 2006. In late 2005, the County administration and Legislature amended the plan to initiate the phase-out in 2007.

The 2007 Proposed and Adopted Budget did not phase-out patrols in 2007, and the County Administration's October 2006 revised Four Year Plan proposed starting the phase-out in 2008, with $1.9 million annually reduced from the Sheriff Division budget. However, the FY 08 Proposed Budget and revised Four Year Plan does not phase-out or reduce County funding for the road patrols/Sheriff Division until 2009 at the earliest, with annual savings of $2.2 million.

This is the third successive budget and plan that defers action on the road patrols initiative. As we warned in our 2007 Budget Report, delaying the implementation of this initiative merely obligates the next administration and/or creates new gaps in the Four Year Plan. Based on public statements by the two candidates for County Executive and many incumbent legislators, we believe this initiative, and the savings to be derived therefrom, will never come to fruition.

Collective Bargaining Concessions:

All of the County's collective bargaining units are working without contracts. The County's contract with the largest bargaining unit, the Civil Service Employees Association ("CSEA") expired on December 31, 2006. In 2007, the County Administration reached an impasse in its negotiations with the County's second largest bargaining unit, the American Federation of State, County and Municipal Employees ("AFSCME") over its contract, which expired on December 31, 2004. The negotiations entered mediation, which failed and went to a fact finder, whose findings were rejected for different reasons by the County and the union. During 2007, due to the impasse, the County Administration submitted the fact finder's recommendations to the County Legislature for possible legislative action and imposition of a contract. To date, the Legislature has not acted on AFSCME's request for retroactive cost-of-living raises for County fiscal years 2005 and 2006 and a raise for 2007. In addition, any AFSCME raise would also affect AFSCME-represented employees at ECMCC, whose approval and consent is required under the Consent Decree.

As previously noted, the County Administration is currently in binding arbitration with the Erie County Sheriff Police Benevolent Association ("PBA") at the New York State Public Employee Relations Board regarding retroactive and future raises. The PBA's contract expired on December 31, 2004. If that bargaining unit is successful in its efforts to attain raises without concessions, not only will the Four Year Plan be out of balance, but the precedent set to the County in its future negotiations with the other collective bargaining units will be significant. Regrettably, when given the opportunity to potentially assist the County in this arbitration process, ECFSA declined.

When ECFSA is in a control period, all collective bargaining agreements are subject to their review and approval after the County Executive and County Legislature's respective approvals.

Under New York State Law (the "Taylor Law"), the terms of the existing contract remain in effect upon its expiration. In 2007 and again in the FY 08 Proposed Budget, the County Administration budgeted for no cost-of-living wage increases and has only included longevity step increases. Those steps are projected to cost $1.45 million in 2008.

The various annual versions of the Four Year Plan have included significant savings estimates from concessions and changes in work rules and employee benefits (such as employees paying for a portion of the cost of their health insurance). The October 15, 2005 Four Year Plan projected savings of $3,600,000 in 2006 but no savings were attained in 2006. The October 18, 2006 revised Four Year Plan projected no savings in 2007, $3.2 million in 2008, $3.3 million in 2009, and $3.4 million in 2010. No savings were attained in 2007. The FY 08 Proposed Budget includes no provision for savings, and the October 15, 2007 revised Four Year Plan defers this initiative to 2009, with projected savings of $3,219,768 in 2009, $3,326,020 in 2010, and $3,435,779 in 2011.

The County Administration has had no success, little progress, and in fact, little to no discussions with the County unions concerning renegotiating their contracts. The County Administration has essentially deferred any action and all responsibility to the next administration. When given an opportunity to assist (on the Sheriff PBA issue), ECFSA declined. We believe the issue of lapsed collective bargaining agreements and the cost to the County from new contracts will be the single-largest problematic issue for the Four Year Plan and the County budget moving forward in 2008 and future years.

Matrix Efficiencies:

All approved and revised versions of the Four Year Plan have included a range of matrix initiatives to either reduce appropriations or generate new or enhanced revenue to the County. The original October 15, 2005 Four Year Plan included 146 initiatives. During 2006, ECFSA routinely reviewed with the County Director of Budget, Management and Finance the initiatives, receiving status reports concerning the progress in implementing initiatives. However, after declaring a control period, ECFSA failed to continue this monitoring and review process during 2007 and discussions of matrix initiatives by ECFSA and the County Administration are infrequent.

It is clear that a majority of initiatives in the original and revised versions of the Four Year Plan have not and will never come to fruition for a variety of reasons. Unfortunately, with the passage of time it is clear that the majority of the original matrix initiatives proposed by

ECFSA consultant Public Financial Management in its initial plan were unrealistic and unsustainable. That in turn puts each year's revised Four Year Plan at risk.

It would be speculative at this point to comment on many matrix efficiency projections in the 2009-2011 out years without further hard financial data to use as a comparison. That said, we offer the following comments on several initiatives on which the October 15, 2007 revised Four Year Plan is premised.

Integrated Case Management:

This initiative was not in the October 15, 2005 Four Year Plan, but appeared in the October 18, 2006 revised Four Year Plan, with projected savings of $1,200,000 in 2008, $2,400,000 in 2009 and $3,600,000 in 2010. The October 15, 2007 revised Four Year Plan projects no savings in 2008, savings of $1,200,000 in 2009, $2,400,000 in 2010 and $3,600,000 in 2011. Again, this is an initiative, like the Blueprint for Change initiative and others in the various versions of the Four Year Plan which has been consistently deferred. The County Administration has requested a $1,300,000 efficiency grant from ECFSA, whose approval has not yet been granted. We question this attainability of this initiative.

Information Technology Reform:

There were a variety of information technology initiatives identified for the Division of Information and Support Services in the October 2005 Four Year Plan, but none specifically related to this initiative, which involves the development of a five year technology plan in 2008 using ECFSA efficiency grant funds. Under the October 15, 2007 revised Four Year Plan, using $2,500,000 of efficiency grant funding, the County would attain projected savings of $1,341,544 in 2010 and $2,736,750 in 2011.

Based on past ECFSA actions concerning efficiency grants, we believe ECFSA will not approve this grant request. Absent the grant funding, we do not believe the next County Administration will pursue this initiative.

Alternatives to Incarceration:

The October 15, 2007 revised Four Year Plan includes an aggressive alternatives to incarceration initiative that would reduce expenses of $1,460,000 in 2009, $2,920,000 in 2010 and $4,380,000 in 2011. This contrasts with the original October 15, 2005 Four Year Plan which projected savings of $1,957,000 in 2006, $4,567,000 in 2007, $5,312,000 in 2008 and $5,555,000 in 2009. Other related initiatives such as increasing video arraignments have also not attained their original projected savings.

The revised initiative is linked to an ongoing examination being conducted by the University of Buffalo's Regional Institute, funded by a $169,000 efficiency grant through ECFSA and an electronic monitoring initiative (to purchase electronic monitoring bracelets for released prisoners), using newly hired probation officers for which a partial ECFSA approval for the use of efficiency grant funds was provided.

This is an ambitious initiative which aims to provide for the release and monitoring of 195 prisoners from the Holding Center or Correctional Facility (ultimately, 300 inmates to be released by 2011) and resultant savings. Based on attempts over the past two years to reduce County inmate counts, and a lack of major progress, some of which is attributable to forces outside of the County's control, we believe the savings estimates to be overly optimistic and unattainable as projected.

Reduced ECMC Capital:

The October 15, 2007 revised Four Year Plan includes savings through the elimination of the County's debt service obligation for ECMCC. The County Administration projects that the Berger Commission's recommendations for the closure of ECMCC and its merger with Kaleida Health might allow the County to go to Court and request the suspension of future debt service obligations for hospital debt. Based on past actions, it is likely that ECMCC would contest this County request. While our office supports the concept we cannot reasonably predict any such outcome, particularly while the future status of ECMCC is in such doubt.

Savings from the suspension of the County's obligations are projected at $5,015,000 in 2009, $6,808,750 in 2010 and $6,492,500 in 2011.

Risk Management Reform:

This October 15, 2007 revised Four Year Plan initiative specific to reducing workers compensation costs proposes to reduce expenses of $768,210 in 2009 only.[9] No 2008, or 2010-2011 savings are identified. This contrasts sharply with the original October 15, 2005 Four Year Plan which projected savings of $750,000 in 2006, $1,500,000 in 2007, $2,750,000 in 2008 and $3,000,000 in 2009 and the October 18, 2006 revised Four Year Plan which projected savings of $250,000 in 2007, $500,000 in 2008, $750,000 in 2009 and $1,000,000 in 2010.

The County Administration has submitted a request to ECFSA for a $25,000 efficiency grant for this initiative and is awaiting a decision.

In 2006, pursuant to a recommendation from Public Financial Management, the County budgeted funds for, and promoted employees to the newly-created titles of Risk Manager and Assistant Risk Manager in the Department of Personnel. No savings to offset these titles has been identified by the County Administration to date. We question this initiative and its projections.

[9] The Administration's October 15, 2007 revised Four Year Plan says two things on risk management: (1) it says annual savings of $768,210 are possible through this initiative starting in 2009, but then (2) does not include those annual savings in its incremental calculation of the annual gap to be closed in 2010 and 2011, suggesting one-time only savings in 2009. This inconsistency requires clarification.

Appendix A
Noteworthy Personal Services Changes from Adopted 2007 to Proposed 2008 Budget

County Executive:

One 2007 managerial-confidential title of Senior Executive Assistant-CE JG 16 is reallocated to the new title of Coordinator of Criminal Justice Services JG 16.

Budget, Management and Finance:

One occupied title of Billing Collections Specialist, located in the Comptroller's Office is removed without that office's consent and reallocated to the Division of Budget.

Real Property Tax Services:

The Director of Real Property Tax Services is upgraded from JG 16 to JG 17, with a corresponding raise of more than $8,000. (Note: the administration also unsuccessfully attempted in mid-year 2007 to upgrade this title).

One title of Junior Tax Accountant JG 9, newly created in October 2007 is budgeted in 2008. (Note: the administration also unsuccessfully attempted in mid-year 2007 to create a new, separate title in this office for the incumbent who has been placed into this new title). Due to the 2007 Charter amendments transferring accounting responsibilities to the Office of Comptroller, we believe the creation of this new position in Real Property Tax Services is inappropriate.

One part-time title of Senior Systems Coordinator Real Property is created.

Law:

The Second Assistant County Attorney (Labor Relations) is reallocated to a new Department of Labor Relations, which reports directly to the County Executive.

Personnel:

The Chief of Classification and Compensation receives an upgrade from JG 15 to JG 16, a raise of approximately $9,000.

Comptroller:

Against the wishes of the Comptroller, the administration informed our office that they would be reducing our department's budget. As a result, there is a deletion of one filled title of Assistant Director of Revenue Recovery (which would mean the layoff of that incumbent) and relocation of a filled title of Billing Collections Specialist to the Division of Budget, Management and Finance.

Office of Public Advocacy:

The new managerial-confidential title of Commissioner of Public Advocacy JG 14 is created.

Environment and Planning:

Two new 2008 titles of Planner JG 10 are created and two new titles of Junior Planner JG 7 are created, pursuant to a legislative resolution (Comm. 14E-14) approved by the County Legislature on October 25, 2007.

Contrary to Comm. 14E-14, under which it was supposed to be deleted, the vacant 2007 title of Special Projects Coordinator JG 14 continues to be funded in 2008.

Mental Health:

The new title of Coordinator-Re-Entry Systems Initiative JG 12 is created.

Youth Services:

One new title of Accountant JG 9 is created. Due to the 2007 Charter amendments transferring accounting responsibilities to the Office of Comptroller, we believe the creation of this new position in Youth Services is inappropriate.

Senior Services:

The title Chief Dietician JG 12 is transferred from the Grant Fund to the General Fund.

Social Services:

There are 52 net new full-time positions created, with the largest block in the Community Medicaid Eligibility Teams.

There are two new titles in the Commissioner's Office: Chief Secretarial Typist JG 9 and Confidential Aide-Social Services JG 6.

One new title of Supervisor of Claims Administration JG 10 is created.

The new managerial-confidential title of Assistant Commissioner-Administration was created mid-year 2007 as an upgrade (two job groups) for an employee and continues to be funded in 2008.

The new title of Administrative Director III was created mid-year 2007 as an upgrade (one job group) for an employee and continues to be funded in 2008.

The new title of Chief Medicaid Reform Specialist JG 12 is created in the Medicaid Reform/Managed Care cost center.

Health Division:

The incumbent Health Commissioner is receiving an upgrade from JG 21/5 ($124,008) to $154,266 (no job group exists). A similar upgrade was requested in the Proposed 2007 Budget but deleted via legislative amendments.

Emergency Medical Services:

All 13 MERS Coordinators and the 2 Senior MERS Coordinators, which were transferred from this division to the Department of Central Police Services in 2007 are transferred back to the Division of Emergency Medical Services, apparently not at the request of either commissioner.

26 new part-time titles of Certified Instructor Coordinator, 49 new part-time titles of Certified Lab Instructor, and 23 new part-time titles of Practical Work Instructor are created with new expense of $214,809.

Probation:

Budget to budget, there are 21 more positions in Probation in the 2008 Proposed Budget against the Adopted 2007 Budget.

Jail Management:

Budget to budget, 140 positions in the Court Security cost center are deleted in the 2008 Budget (including both their expense and state aid revenue) due to those Deputy Officers transferring to the New York State Office of Courts Administration.

Budget to budget, there are 12 more positions in Jail Management in the 2008 Proposed Budget against the Adopted 2007 Budget.

Central Police Services:

Three full-time and six part-time positions in the police training academy, funded in the Adopted 2007 Budget are not funded in the 2008 Proposed Budget, due to the shifting of this function to Erie Community College.

Four Police Complaint Writers JG 6 are deleted and two part-time titles are created.

The department requested the deletion of a newly-filled (August 2007) managerial-confidential title of Deputy Director of Criminal Justice User JG 13, but the administration restored the title in the proposed 2008 budget.

As previously mentioned, the 15 MERS titles are transferred to Emergency Medical Services.

Public Works – Commissioner:

One title of Senior Construction Project Manager Building JG 15 is upgraded to JG 16, with an increase of salary of $10,000.

A two-year-old double-fill in the title of Construction Inspector JG 11 is not shown in the Budget, resulting in under-funding of more than $55,000 in that department.

Public Works – Buildings & Grounds:

The title of Junior Permit Inspector JG 9 is transferred from Buildings & Grounds to Highways.

Budget to budget, there is a new (restored) title of Health and Safety Coordinator-DPW JG 8 in the Division of Buildings and Grounds.

There are four new Building Guard JG 4 titles in the 2008 Budget.

Utilities Fund:

The title of Principal Engineer-Energy, Utility, Grants JG 16/1 ($72,329), vacant since late 2003 or early 2004, and which was proposed to be re-established in 2007, but deleted via legislative amendments, is restored in the 2008 Proposed Budget.

Parks:

Budget to budget, there are 16 more funded titles in the 2008 Proposed Budget than the Adopted 2007 Budget, including 15 new lifeguard titles for County beaches.

Highways:

In 2007, a title of Senior Accounting Analyst JG 13 ($52,248) was created despite the presence of an existing Systems Accountant JG 11 ($61,152) and an Accountant JG 9 ($46,378) on staff. During 2007, the title was reclassified to Senior Systems Accountant JG 13 and the incumbent in the Systems Accountant upgraded to that new title ($71,230). In the Proposed 2008 Budget, the vacant Systems Accountant title is deleted.

Sewerage Management:

The managerial-confidential title of Assistant Deputy Commissioner Sewerage Management-Admin JG 16, which was newly created in 2007 but vacant all year ($62,962 – Step 0) is upgraded to salary of $79,273 (which would be Step 4).

A new title of Senior Accountant JG 10 is created.

A new title of Data Tax Clerk JG 9 (Step C) is created ($50,234).

A new title of Environmental Education Coordinator-Water Quality JG 7 is created ($35,922).

Budget to budget, a new title of Sewer District Manager JG 14 is in the 2008 Proposed Budget.

A new title of IT Specialist-Manager JG 12 ($50,623 – Step 2) is created.

Grant-Funded Position Changes

District Attorney:

In the Crimes Against Revenue Program (a grant-funded program), in late 2007 following legislative approval two new titles were created, with one serving as an upgrade for an Assistant District Attorney V JG 16 to an Assistant District Attorney VI JG 17 ($12,000 upgrade). A newly created title of Economic Crime Analyst JG 11 was created and filled.

Public Health Laboratory:

Budget to budget, nine new grant funded positions are established in 2008 in the Youth Tobacco Enforcement and Prevention Grant.

Three new full time positions are created in 2008 in the Lead Poisoning Primary Prevention Pilot Program.

Health Division:

Two new full time positions are created in 2008 in the STD Disease Intervention Grant.

Environment and Planning:

In the Community Development Block Grant, one new title of Senior Contract Monitor Community Development JG 12 is created ($48,107), a Housing Inspector JG 8 is upgraded to Senior Housing Inspector JG 9, and an Assistant Planner JG 8 (RPT) is created.