COUNTY OF ERIE, NEW YORK
OFFICE OF THE COMPTROLLER

COMPTROLLER'S REVIEW OF THE COUNTY EXECUTIVE'S PROPOSED 2010 BUDGET AND FOUR YEAR FINANCIAL PLAN

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Comptroller's Review of the County Executive's Proposed 2010 Budget and Four Year Financial Plan

Executive Summary

On October 2, 2009, County Executive Christopher C. Collins presented his proposed fiscal year 2010 budget ("FY 10 Proposed Budget") with the new Four Year Financial Plan for the fiscal years of 2010 – 2013 ("Four Year Plan"). The FY 10 Proposed Budget and Four Year Plan were also presented to the Erie County Fiscal Stability Authority ("ECFSA"), as is required by the ECFSA's enabling act.

The Erie County Comptroller's Office has reviewed the FY 10 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.

On June 2, 2009, following the Collins Administration's submission of a revised Four Year Financial Plan for 2009-2012, ECFSA approved the revised Plan and terminated a control period on the County. In order to remain in compliance with the ECFSA's enabling legislation, the County was required to amend its 2009 Budget to sync the approved Plan to the 2009 Budget. On July 2, 2009, at the request of the County Executive, the County Legislature amended the 2009 Budget to reflect a series of material financial developments. In addition to appropriation adjustments, the 2009 Budget was adjusted to reflect a 5% reduction in sales tax in 2009 compared to 2008; reduced state aid; reduced interest income; and an expected receipt of $42.85 million in special federal assistance, the Federal Medical Assistance Percentage ("FMAP"), also referred to as federal Medicaid stimulus funds. FMAP assistance consists of two elements: (1) cash transfers or grants to the County; and (2) reduced County weekly Medicaid ("MMIS") payments to New York State. Without FMAP assistance, the County would be experiencing a significant deficit in 2009.

The FY 10 Proposed Budget includes one-time FMAP assistance totaling $33,106,247. Without FMAP assistance in 2010, the County Executive and County Legislature would need to make decisions about how to close a significant structural gap in the County's 2010 fiscal year.

In 2009 the County experienced the effects of the global and national recession in a variety of ways. As of the end of August 2009, the County experienced a decline in sales tax revenues of approximately 3.97% compared to 2008 and the original 2009 adopted budget. In addition, the County received less state aid, less investment income and less revenue from the real estate transfer tax. Sales tax and state aid are two of the County's largest revenue sources. However, these negative variances were offset by FMAP and secondarily by personnel vacancy control savings.

Overall, we believe the FY 10 Proposed Budget is reasonable. We cannot say the same for the Four Year Plan, which we believe has serious deficiencies and for which we comment in significant detail near the end of this document.

The largest source of county revenues is the sales tax. The FY 10 Proposed Budget forecasts a 2.00% growth in sales tax revenue compared to the adjusted 2009 Budget which is 5% lower than 2008. The FY 10 Proposed sales tax revenue is thus 3% lower than 2008. We are concerned about the projection of growth. While it is impossible to determine the actual final base sales tax for 2009 until February 2010, this item continues to require constant monitoring and if the estimated growth is not attainable, corrective measures may be necessary.

Additionally, 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 remain concerned about the continued sharing of $12.5 million of the 1.00% sales tax with other local governments. This sharing is not sustainable for Erie County government and is creating significant negative financial pressure on the County. The County's authority to impose the 1.00% sales tax expires on November 30, 2010 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 Collins Administration's Four Year Plan projects the ending of this sales tax sharing as a possible gap closer.

The FY 10 Proposed Budget forecasts a decrease in state aid compared to 2009. Given the state's 2008 and 2009 budget deficits and additional looming state budget gaps for 2010 and future years, the County, like all local governments which rely on state aid is virtually assured that we will face further reductions in such revenue in 2010. Budgeting for this account, however, is difficult. Our concern is that the 2010 potential state aid losses will be much more severe than the relatively minor 2009 state aid negative adjustments. Past history shows that when the state experiences significant fiscal pressures, county governments that receive state aid for mandated services in turn experience fiscal pressure. This revenue source will also require close monitoring.

The property tax rate per thousand of assessed value is not increasing for 2010 after a bruising legal battle between the County Executive and County Legislature in December 2008 and January 2009 which resulted in the 2009 property tax rate increasing less than the FY 09 Proposed Budget recommended by the Executive. The FY 10 Proposed Budget continues the trend of including revenue growth from property taxes due to increased reassessments at the city and town levels. 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 2009.

If the County Legislature and/or State Legislature fail to reauthorize the 1.00% sales and compensating use tax beyond November 30, 2010, the County will experience a significant negative variance on sales tax. If revenues in the Budget and Four Year Plan do not materialize in 2010 or are under budget (as may well occur for sales tax and state aid), those gaps will need to be closed. If expenditures exceed appropriations, those gaps will need to be closed.

The Four Year Plan submitted with the FY 09 Proposed Budget in October 2008 forecast no budget gaps in 2010, 2011 and 2012 and in fact forecast surpluses totaling $898,529, $3,631,226 and $17,501,513 respectively. In October 2008, this office's 2009 Budget Report questioned those assumptions and gaps.

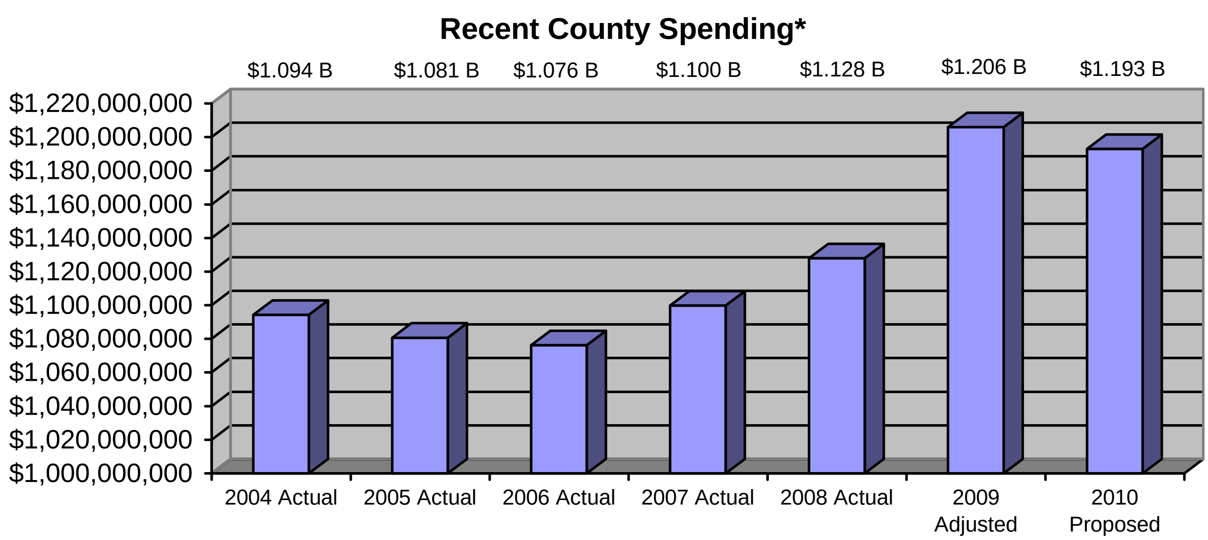
Unfortunately, in just one year, projected surpluses have now become significant gaps. In the Four Year Plan associated with the FY 10 Proposed Budget, the Collins Administration forecasts gaps for 2011, 2012 and 2013 totaling $50,466,787, $58,543,749 and $63,256,410, respectively. There is a strong possibility the out-year gaps are even larger than the Collins Administration represents. Without FMAP assistance, the 2010 Budget would require expenditure reduction or revenue enhancements.

This office believes the revised Four Year Plan's projections of gap closing measures are unattainable in their current form. We believe key assumptions on revenue are not attainable. We believe alleged savings initiatives are not supportable by the data provided by the administration in the Budget/Four Year Plan. Some of the Collins Administration's proposed gap closers for 2011-2013 are completely outside of the County's control, not supported by factual data, or not possible under the County's current fiscal situation. The Four Year Plan submitted for 2010-2013 clearly demonstrates that the County will be in a difficult fiscal position in 2011 and future years.

2010 Budget

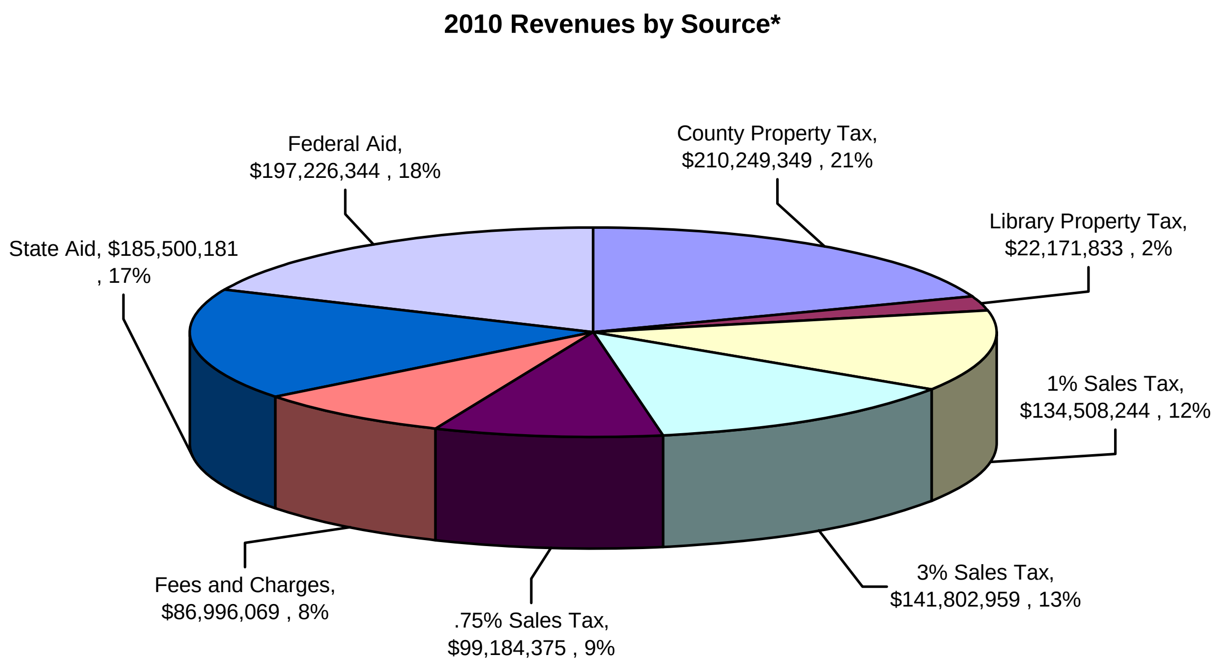
The FY 10 Proposed Budget for all funds (except Sewers, Grants and Community Development) is $1,482,569,971. This compares against $1,478,918,854 for the Adopted 2009 Budget and $1,489,359,875 for the adjusted 2009 Budget. By way of comparison also, final appropriations for the 2007 fiscal year were $1,392,753,452. County spending for 2010 is proposed to actually decrease slightly compared to the adjusted 2009 amount. This decrease in spending is due principally to the County Executive's decision to terminate a number of programs that are/were funded principally by non-County share funds including state aid and contractual payments from the City of Buffalo.

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.

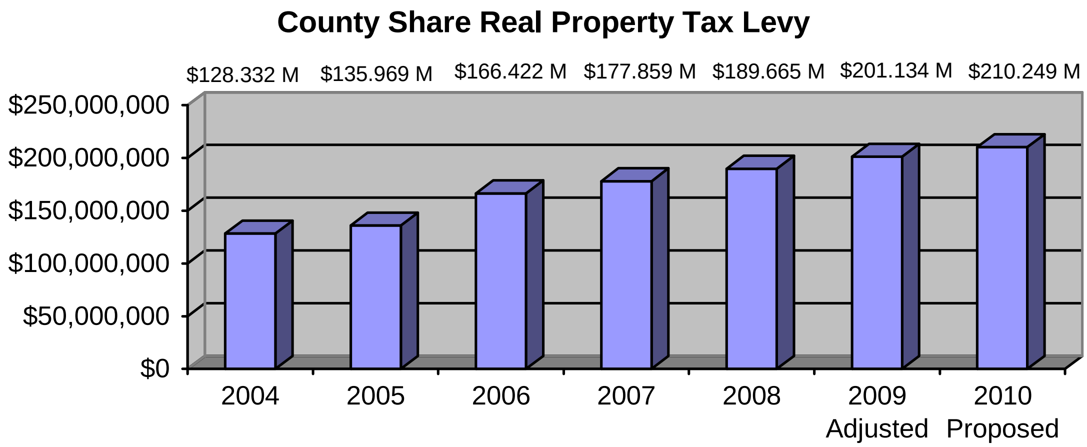
Proposed 2010 Revenues – "Operations Budget"



* Note: After subtracting the sharing of $12.5 million with cities, towns and villages from the 1% sales tax and subtracting the County's $16,813,531 subsidy to the NFTA, the above sums to $1,048,325,823 – the "operations budget" for 2010. This compares to $1,026,963,686 in the proposed 2009 budget.

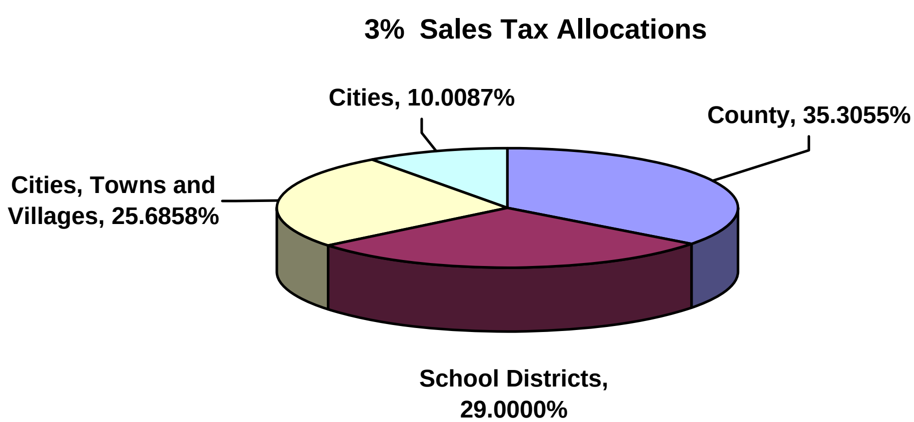
Property Tax:

The countywide property tax rate in the FY 10 Proposed Budget remains unchanged at $5.031 per $1,000 of equalized taxable full value. The total property tax levy will increase from $223,306,326 in 2009 to $232,421,182 in 2010 as a result of assessment growth. The general government ("County share") property tax levy for 2010 is $210,249,349, up from $201,134,493 in 2009 and $189,665,960 in 2008. The library tax remains the same for 2010 as in 2007, 2008 and 2009 at $22,171,833.



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:



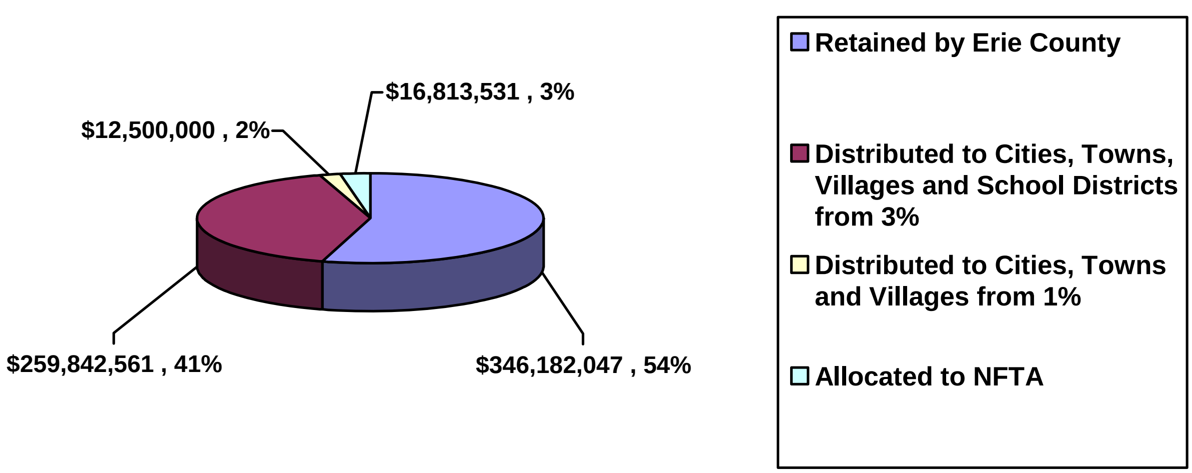
The County retains 35.3055% of the total revenue derived from the 3% sales tax. 10.0087% is allocated to the Cities of Buffalo, Lackawanna and Tonawanda on the basis of population. 25.6858% is divided among the Cities of Buffalo, Lackawanna, Tonawanda and the towns on the basis of population. The amount 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. In 2008, the 1% sales tax was reauthorized until November 30, 2010 with the provision for sharing $12,500,000 continuing through 2010.

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.

2010 Total Sales Tax Allocations

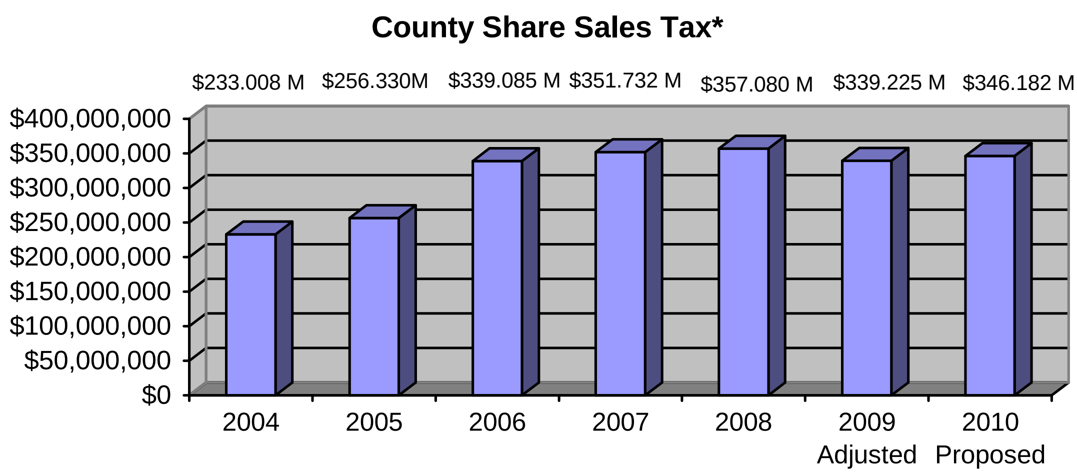


Total revenue generated by the sales tax in the FY 10 Proposed Budget is $635,338,139, down from $657,521,706 in the adopted 2009 Budget.

Eliminating the $289,156,092 of sales tax shared with local governmental entities leaves a total of $346,182,047 in sales tax budgeted for County purposes in 2010. Comparing this to the adjusted 2009 budgeted amount of $339,225,830 results in a growth of 2.1% from adjusted budget to budget. (Original 2009 budgeted County share sales tax was $359,046,419, adjusted down on July 2, 2009 by the County Legislature at the request of the Collins Administration).

However, based on the year-to-date cash distributed to the County by the State through the end of August 2009 (accrual basis), the County is experiencing a decline of 3.97% in 2009 compared to 2008 and the original 2009 adopted budget for all sales taxes.[1] It is impossible to determine what the final numbers will be for 2009 as final cash distributions for 2009 will not be received until February 2010. This revenue will have to be monitored as the year progresses.

The Four Year Plan states that sales tax is predicated on a 3% annual growth for 2011, 2012 and 2013. Based on the past twelve (12) months trend, we are concerned about this estimate.



* Note: 2005 reflects the 0.25% sales tax starting in July 2005. 2006 reflects the 0.25% sales tax and starting on January 15, 2006, an additional 0.50% sales tax. 2009 Adjusted is the adjusted 2009 Budget amount, not actual.

Should the County Legislature fail during 2010 to send a Home Rule request to the State Legislature or affirmatively approve of the continued imposition of the 1.00% sales tax beyond November 30, 2010, the County will face negative financial consequences from the loss of revenue for 2010, 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 possible $11 million shortfall in revenue for the final month of 2010. It also would cause adverse reactions amongst the County's rating agencies.

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[1] On July 2, 2009, the Legislature adjusted the 2009 Budget to reflect a 5% reduction in sales tax compared to the original adopted budget.

State Aid:

State aid reflects the third-largest revenue source to the County. The FY 10 Proposed Budget includes state aid of $185 million, down from $198 million in the adopted 2009 Budget. We concur that a lower estimate is appropriate. We are worried, however, that state action to potentially address the state's ongoing and future budget deficits will result in further state aid reductions to counties or increased expense. At this time, there is significant uncertainty as to the percentage and amount of reduced state aid to local governments.

Federal Aid:

As a direct result of the recession, federal aid increased significantly during 2009. The single-largest component of this assistance is FMAP. That aid continues in 2010, albeit at $33.1 million, down from $42.85 million in 2009. This funding ends in 2010. Certain other federal aid has also modestly increased in the Department of Social Services.

Interest Earnings:

The FY 10 Proposed Budget includes revenue of $600,000 in General Fund interest earnings. This contrasts with 2009 budgeted revenue of $2,100,000 (adjusted to $1.25 million in July 2009), and 2008 actual revenue of $2.8 million and 2007 actual revenue of $5.8 million. The County did not meet budget in this account in 2008 and will not do so in 2009 due in large part to the reduction in interest rates as a result of the market crisis. The 2010 estimate is reasonable.

Proposed 2010 Expenditures

Personal Services:

The FY 10 Proposed Budget includes a net reduction in full time positions in the County workforce. In his executive summary, the County Executive represents that the net reduction from 2009 to 2010 is 209 positions. With the exception of the elimination of all positions in the Buffalo City Parks Division, all the noteworthy personal services adjustments in the FY 10 Proposed Budget derive in the Grant Fund, not the General Fund.

The reduction in positions countywide is accomplished almost entirely through the elimination of positions that are funded by federal/state grants or other non-County share funds, specifically the City of Buffalo payments for the City Parks Division. In the City Parks Division, 198 budgeted positions are eliminated (42 full time, 26 part time, 10 regular part time and 120 seasonal). There are only very minor position count adjustments in the General Fund, Road Fund and Sewer Fund.

In the Grant Fund, 194 positions are budgeted for 2010 compared to 298 in the adopted 2009 Budget. For 2010, all 48 full time grant-funded positions in the Division of Persons with Special Needs are eliminated in 2010, of which 47 were through the Women, Infant and Children's program. In the Health Department, 26 positions are deleted, including 11 in the Women's Health Services grant, 6 in a Lead Hazard Control program, and 4 in a Child/Family Health Plus grant. In the Department of Social Services, 15 positions are deleted, 14 of which are in the Day Care Registration program.

For the second straight 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, 2 titles of senior executive assistant from the County Executive's office (the space utilization and six sigma positions) do not appear in either Book A or Book B. The Collins Administration's continuing refusal to properly account for these positions in the budget is troubling.

Full-time salary costs for all funds (except Sewers) decrease from $189,938,781 in the Adopted 2009 Budget ($190,022,348 adjusted for 2009) to $186,595,495 in the FY 10 Proposed Budget. This full time salary reduction is almost wholly attributable to the non-County share-funded position deletions. This full time salary reduction is offset by significant new regular part time salary expense. Total personal services expense (salary and other wages) for all funds, however, increases from $219,966,427 in the Adopted 2009 Budget ($221,263,994 adjusted for 2009) to $222,451,851 in the FY 10 Proposed Budget.

Regular part time ("RPT") salary expense in the General Fund is projected by the administration to increase from $3.8 million in 2008 to $7.3 million in 2009 and to $10.0 million in 2010. These estimates may be too high given the spring 2009 ruling by the New York State

Public Employment Relations Board against the Collins Administration concerning RPT positions which may make these RPT estimates invalid or overstated (and correspondingly, may make full time salary estimates understated).

In the Department of Social Services, full-time salary expense is projected to decrease from $66.06 million in 2009 to $64.71 million in 2010 and RPT salary expense is increasing from $2.8 million to $5.5 million.

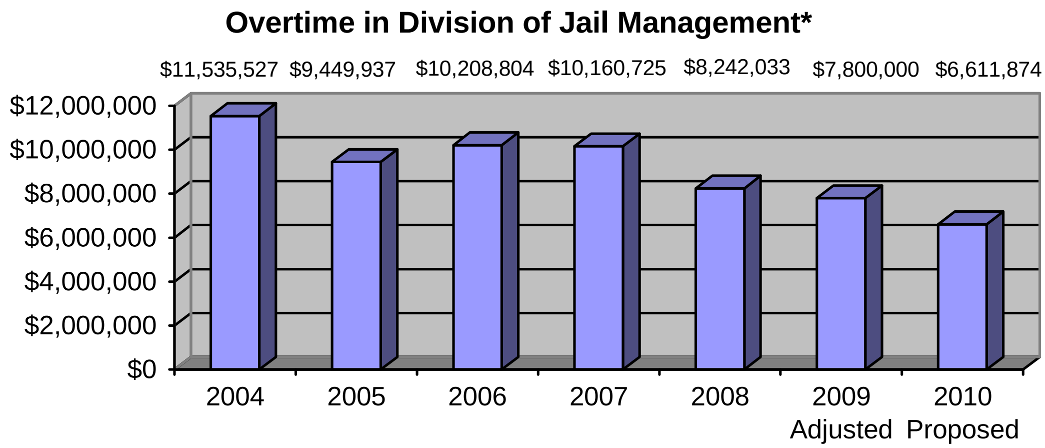
Please see this report's appendix for more details on noteworthy 2010 personal services adjustments, positions and upgrades as well as noteworthy deletions compared to the FY 09 Adopted Budget.

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. Despite criticizing the concept of a turnover account (reductions from personal services), the Collins Administration maintained a turnover account in the 2009 budget and does so again in the FY 10 Proposed Budget. The proposed 2009 Budget included a modest turnover account of $1,120,000 in the Countywide Budget Accounts fund center, down from a $4,300,000 turnover account in 2008. The Legislature increased the 2009 turnover account to $2.805 million. The FY 10 Proposed Budget has projected turnover savings of $2,832,946.

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 the FY 10 Proposed Budget, the Library requested a turnover amount of $440,000 but it has been increased to $940,000. In our 2009 budget report we noted that we viewed this action simply as a budgetary gimmick to balance that department's 2009 budget after reducing its supplemental appropriation by $1,600,000 compared to 2008. In the FY 10 Proposed Budget, the 2009 $1.6 million turnover account is characterized by the Collins Administration as a negative appropriation called "service restoration."

The FY 10 Proposed Budget includes new lines for "contractual union salary reserve" which are represented as a pool of funds available to finance concessions by the bargaining units. In the Countywide Budget fund center, $1,343,135 is available in the General Fund and in the Road Fund, $204,720 is appropriated for this purpose. The Four Year Plan projects the General Fund maintaining such an account through 2013, rising to $7.94 million in 2013.

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. For many years, County adopted budgets have routinely under-budgeted for overtime expenses in Jail Management and we have reported on that in our past two budget reports. Despite additional new full-time positions, actual 2007 overtime expense was $10.1 million in Jail Management. The adopted 2008 Budget appropriated $6.725 million for overtime in Jail Management but actual 2008 overtime was $8.24 million. The 2009 Adopted Budget provided for $6.725 million in overtime. We currently project 2009 overtime will be $7.8 million. Despite additional full-time budgeted positions in recent years, overtime costs in that division annually significantly exceed budget and will do so again in 2010, given that the FY 10 Proposed Budget only provides $6.612 million for overtime in Jail Management.



* The 2009 adjusted figure reflects our office's estimate of the final 2009 expense.

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 in 2008 and 2009 which has been represented by the Collins Administration as saving 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 through September 2009 year-to-date overtime expense in Buildings and Grounds was $474,000. We project final 2009 overtime expense will be $638,000. The FY 10 Proposed Budget seeks $500,000 for overtime.

One year ago, in our 2009 budget report, we expressed curiosity about a $3 million increase in the proposed 2009 budget in fringe benefits expense in Jail Management. 2007 actual expense in this account was $16,185,554 and in October 2008 the adjusted 2008 Budget projected fringe benefit expense of $17,277,914, while the FY 09 Proposed Budget appropriated $20,376,185. 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. This over-budgeting of fringe benefit expense helped in part to generate positive variances and a budget surplus in 2008. The administration now forecasts adjusted 2009 expense of $17,915,623, not $20.4 million.

For 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. This appears to be a continuation of an over-budgeting of expense.

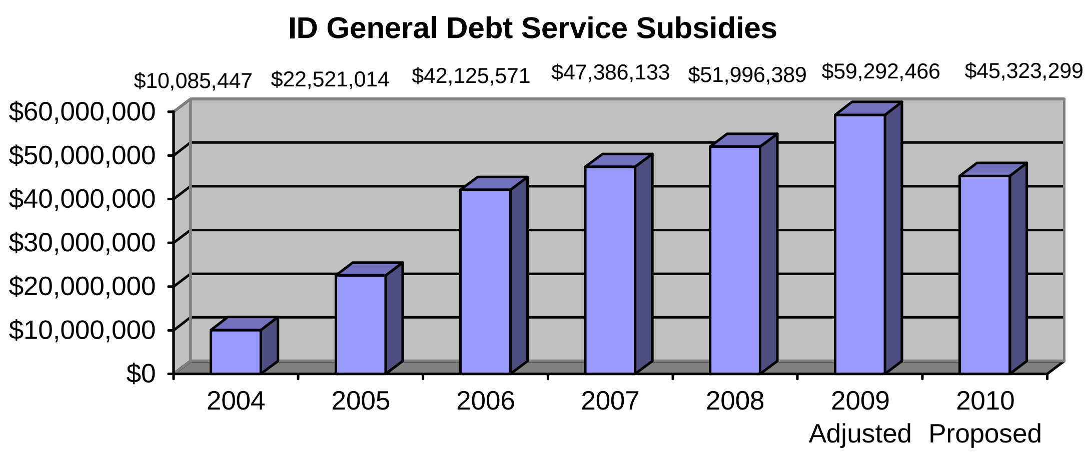
Debt Service:

Since 1999, the County's total net indebtedness (excluding self-financing Sewer Districts) has increased significantly – from $211 million in 1999 to a projected $438 million by the end of 2009. The indebtedness would be much higher were it not for the fact that the County did not conduct any capital borrowings in 2007, 2008 and 2009. The $438 million statistic also does not include the County's 2009 $103.5 million Bond Anticipation Note. When, or if the County returns to the bond markets with long-term debt issuance, the indebtedness number will increase, as the Four Year Plan indicates in the 2011-2013 projected annual debt service payments.

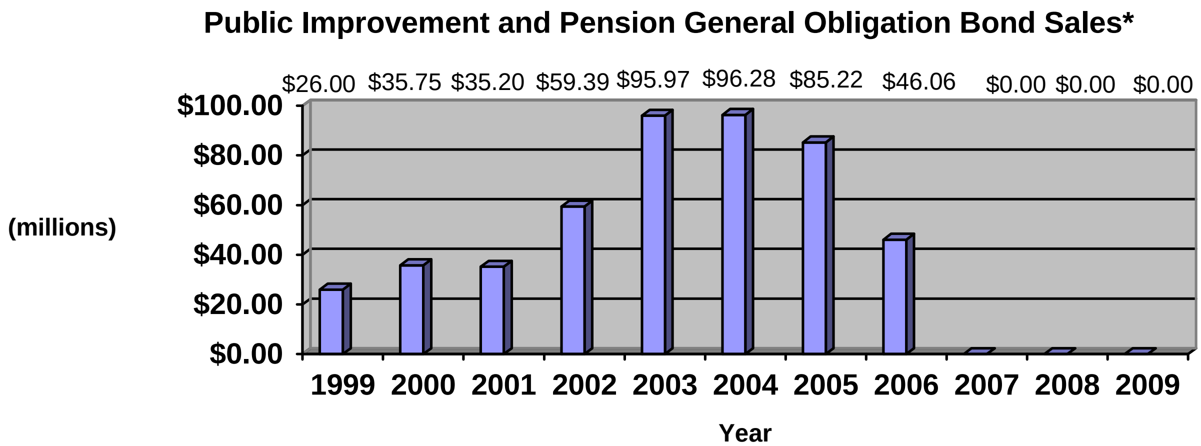
During the same period, net bonded debt per capita has also increased significantly, rising from $190.69 in 1999 to $610.26 in 2007 but dropping to an estimated $479.92 for 2010 due to no bond sales in 2007, 2008 and 2009. This growth in debt has consequences on the County's finances, as well as county government's ability to provide services.

Due to the County's 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 10 Proposed Budget is $45,323,299, a nearly 385% increase over the amount appropriated in 2004 ($9,345,603), but lower than the 2009 adjusted appropriation of $59,292,466. Increasingly, limited General Fund monies are being used to make required debt service payments on the County's bonded indebtedness. These appropriations will significantly increase in 2011 and the out years of the Four Year Plan.

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 $59,602,804 in 2007 and $67,048,855 in 2008. Because no bonds were sold in 2007, 2008 and 2009, these payments declined to $60,465,958 in 2009 and $57,873,799 in the FY 10 Proposed Budget. Once the County resumes borrowing under its own authority, these payments will increase again.



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 2010 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. This is a major concern to this office.



* Includes ECMCC capital and operating subsidies but does not include Sewer District borrowing.

Capital Budget:

The FY 10 Proposed Budget includes a Capital Budget totaling $77,229,139. $41 million of this program would be bonded, and $4.3 million would be pay-as-you-go. An additional $2 million project for the North Youngman Commerce Park in the Town of Tonawanda would be financed via payments in lieu of taxes revenue from the GEICO Empire Zone project. This contrasts with an Adopted 2009 Capital Budget of $86,181,450, Adopted 2008 Capital Budget of $58,740,000 and an Adopted 2007 Capital Budget of $59,200,000. In June 2009, the Erie County Fiscal Stability Authority executed a $103.5 million one-year Bond Anticipation Note ("2009 BAN") for the County to finance certain 2007, 2008 and 2009 County capital projects. None of these borrowings include capital funds for Erie County Medical Center Corporation.

Any 2010 borrowing could potentially be linked to a new borrowing which would pay off the 2009 BAN for a much larger 2010 County bond issuance.

The FY 10 Proposed Capital Budget includes $49,027,349 for highway and bridge projects, ten (10) times the amount of the Adopted 2007 Capital Budget and close to the 2009 Capital Budget road/bridge projects list totaling $52,881,450. Other noteworthy changes from prior years include:

- After the Collins Administration deleted all references to a multi-year capital program at the Holding Center in 2009, a new $60 million initiative for a jail expansion exists for 2010-2015;
- 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;
- Prior year references to significant capital spending at Erie Community College are deleted;
- Prior year references to significant capital spending in the County's parks system are deleted;
- The Bethlehem Steel site redevelopment project appears to be shelved.

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 Adopted 2009 Budget provided for $40.8 million for this expense. Through September 2009, year-to-date estimated expense is $24.4 million. We project a possible 2009 expense of $33.2 million. The Collins Administration projects an adjusted 2009 expense of $37.3 million in their Four Year Plan. 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 FY 10 Proposed Budget appropriates $40.4 million for active employee health insurance expense, lower than the Adopted 2009 Budget. We believe actual expense may again come in under budget.

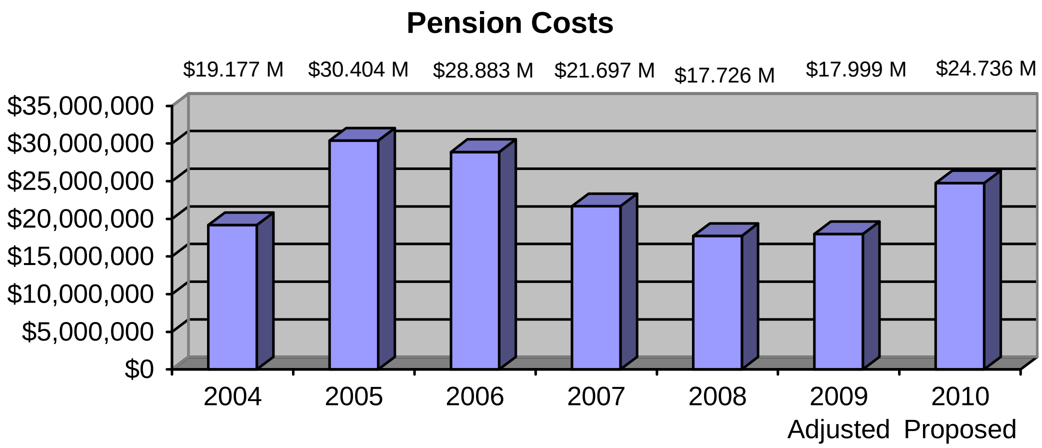
Retiree health insurance costs have increased significantly in recent years, creating pressure on the General Fund. The Adopted 2008 Budget appropriated $15.8 million and actual expense was $15.9 million. The Adopted 2009 Budget provided for $18.1 million. The FY 10 Proposed Budget includes $20.3 million. This expense includes ECMCC and Home retiree expense as required under the County's 2006 Consent Decree with the hospital.

Active and retired employee health insurance costs continue to be a major expense in the County's budget. The October 2008 Four Year Plan projected that without changes to collective bargaining agreements, active employee health insurance costs would grow to $54.2 million in 2012. That has now been revised to $53.8 million in 2013 in the latest Four Year Plan. To the best of our knowledge, limited to no talks are ongoing between the administration and the County's two largest collective bargaining units and no progress has been made in this area. We also note that the Teamster's unit representing deputies at the Holding Center recently overwhelmingly rejected a contract offer proposed by the County.

Pension Costs:

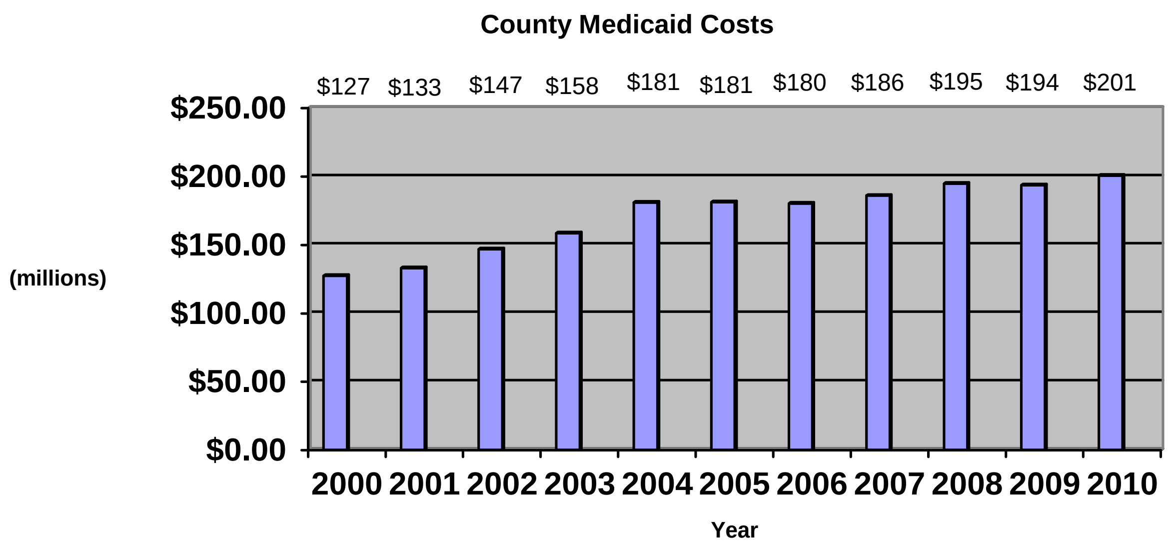
The County's pension payment for New York State and Local Employees' Retirement System ("System") billings decreased from $21.7 million in 2007 to $17.7 million in 2008 and to $18 million in 2009. Due in large part to the recession and negative effects on the State pension fund earnings, these local contributions are now rising and will increase significantly in 2011 as our office has previously warned the Collins Administration and County Legislature. The FY 10 Proposed Budget includes $24.7 million for the 2010 payment. This estimate is reasonable.

However, the County is facing a significant, massive pension payment increase for 2011. The Four Year Plan projects a 2011 payment of $29.7 million. The final 2011 payment may be higher once we are notified by the System of the bill. Pension expenses are creating additional strain on the County.



Medicaid-MMIS:

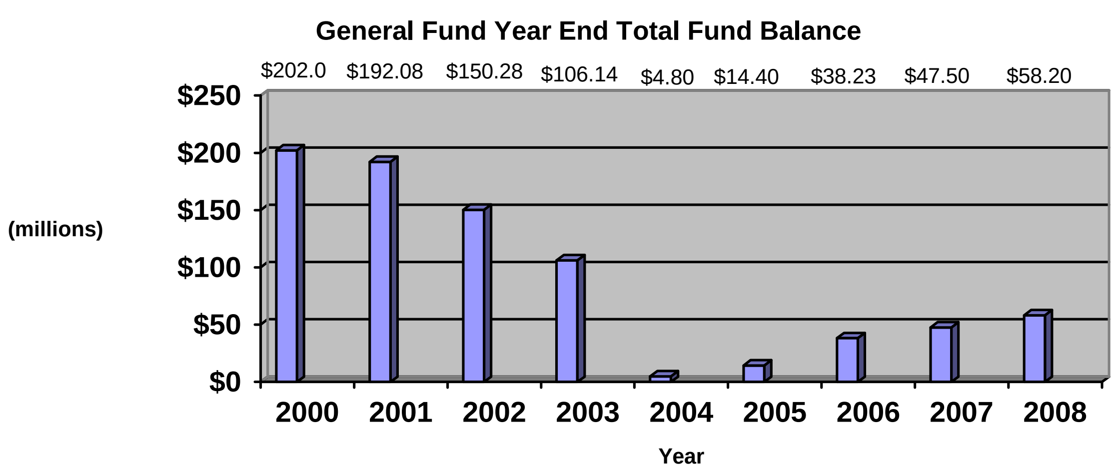
In 2006, following legislation enacted by the State in 2005, county governments across New York State saw their local share of Medicaid spending capped, with the growth in Medicaid spending limited and the State absorbing more of the cost. Erie County benefited from the cap in Medicaid spending growth. Actual 2008 Medicaid expense was $194.8 million. The Adopted 2009 Budget appropriation was $193.5 million. We believe the actual expense for year-end 2009 will be $193.2 million. The FY 10 Proposed Budget appropriation is $200.5 million. Based on the data available to our office, this appropriation is reasonable, although we believe the actual expense may ultimately grow depending on potential state legislative and deficit-reduction actions.



In 2009, the County will receive FMAP assistance totaling $42,850,000. The FY 10 Proposed Budget includes FMAP revenue/reduced Medicaid expense totaling $33,106,247.

Fund Balance:

For the fifth consecutive year, the proposed budget does not plan for or appropriate General Fund undesignated fund balance. This follows FY 06 results generating a $23.83 million surplus, FY 07 results generating a $9.31 million surplus, FY 08 results generating a $10.65 million surplus, and a total General Fund Balance of $58.2 million at year end 2008. 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 2010, based on an adjusted 2009 General Fund budget of $1.024 billion (adjusted for the sales tax prescription and Library), undesignated fund balance for the General Fund should be approximately $51.19 million. At year-end 2008, total undesignated unreserved General Fund balance was $45.39 million.

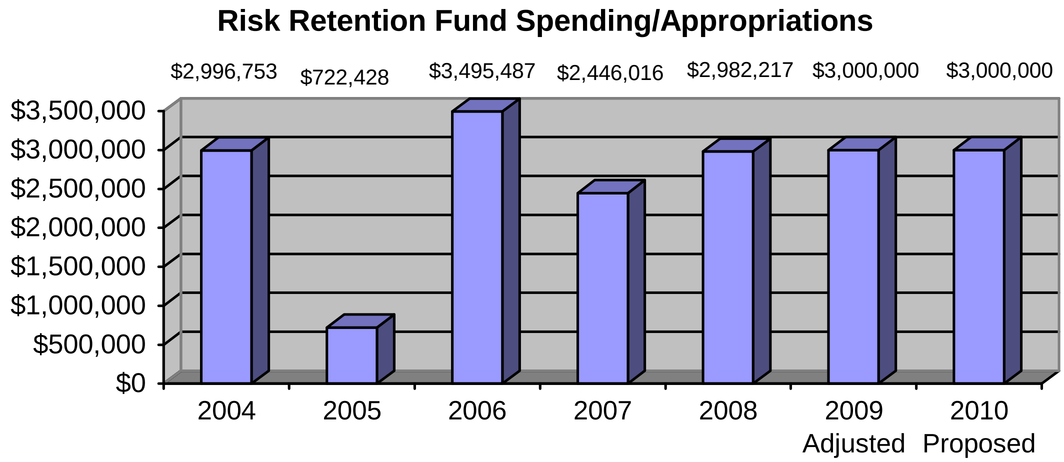
In the FY 10 Proposed Budget, as they did for the first time in the 2009 Proposed Budget, the Collins Administration has engaged in a restatement of General Fund Balance. Under their restatement, they represent that the "Restated Undesignated General Fund Balance" is $92,688,737. Under their restatement, they decrease the fund balance by an amount equivalent to an existing deficit in the Road Fund, add 2008 and 2009 community college and Board of Elections re-spread revenues (which are already budgeted for elsewhere), and add hypothetical collections of 2006, 2007, 2008 and 2009 tax liens (totaling $29,121,972) to create a General Fund Balance of $92.69 million.

This office fundamentally disagrees with their restatement. 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. We further believe this restatement will create significant negative consequences to the County with our independent outside auditors as well as credit rating agencies. We further note that ECFSA will almost certainly not support this restatement as they previously negatively commented on such an action in their review of the Proposed 2009 Budget.

We believe the administration may have pursued this restatement in order to make available fund balance as a potential revenue source to cover projected or likely budget gaps. And in fact, in their Four Year Plan, the Collins Administration projects using fund balance as a mechanism to close future budget gaps in 2011, 2012 and 2013. This is a serious matter with significant potential consequences to the County. We do not accept such restatement, and believe the Legislature and ECFSA should reject such efforts to revise the General Fund Balance based on unaccepted accounting practices.

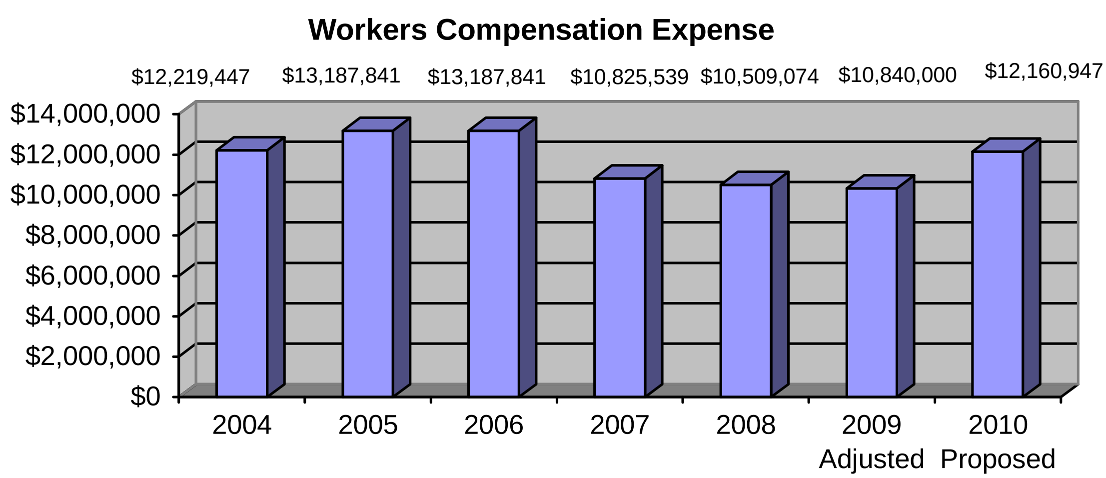
Risk Retention Fund:

The FY 10 Proposed Budget appropriates $3 million for the Risk Retention Fund, the same as 2009 and similar to $3.5 million in 2008, and contrasted with zero in the Adopted 2007 Budget (though $3 million was added in mid-year 2007 through legislative resolution). Actual 2008 appropriations from the account were $2.98 million and at the close of 2008, $2.6 million of unexpended risk retention funds were reappropriated making these monies available for use in the Fund in 2009. At September 30, 2009, $4.9 million was available in the Fund and only $639,000 had been expended in 2009.



Workers Compensation:

The FY 10 Proposed Budget appropriates $12,160,947 for workers compensation claims through the Law Department. Actual 2008 expense was $10,509,074. The Adopted 2009 Budget appropriated $10,339,900 and through September 2009, year-to-date expense was $8.35 million. We project final 2009 expense of $10.84 million. There is a possibility of a positive variance in this area.



Erie County Medical Center Corporation ("ECMCC"):

The FY 10 Proposed Budget includes three separate fund centers with appropriations to ECMCC. In the ECMC fund center, $8,638,430 is appropriated for retiree health insurance and workers compensation expenses at the hospital, an increase of more than $2 million compared to

2009. In the Erie County Home fund center, $2,401,665 is appropriated for retiree healthcare and workers compensation expenses. And in the Countywide Budget Accounts fund center, $1,431,189 is appropriated to ECMCC as "department payments to ECMCC" for School 84. Total 2010 County payments to ECMCC in these accounts total $12,471,284.

In his 2010 budget message, the County Executive stated that "in 2009 Erie County incurred more than $40 million in expenses related to ECMCC. Our hospital related expenses for 2010 will be approximately $30 million." These costs appear to include the County's State-mandated disproportionate share ("DSH") intergovernmental transfer ("IGT") payments by the New York State Department of Health ("NYSDOH") to ECMCC as well as payments under the supplemental Medicaid Upper Payment Limit ("UPL") mechanism associated with County-sponsored nursing homes and skilled nursing facilities.

In 2010, the 2006 judicial Consent Decree binding the County to making certain payments to ECMCC expires, at which time, the exact nature of the County's liabilities at ECMCC could conceivably grow significantly.

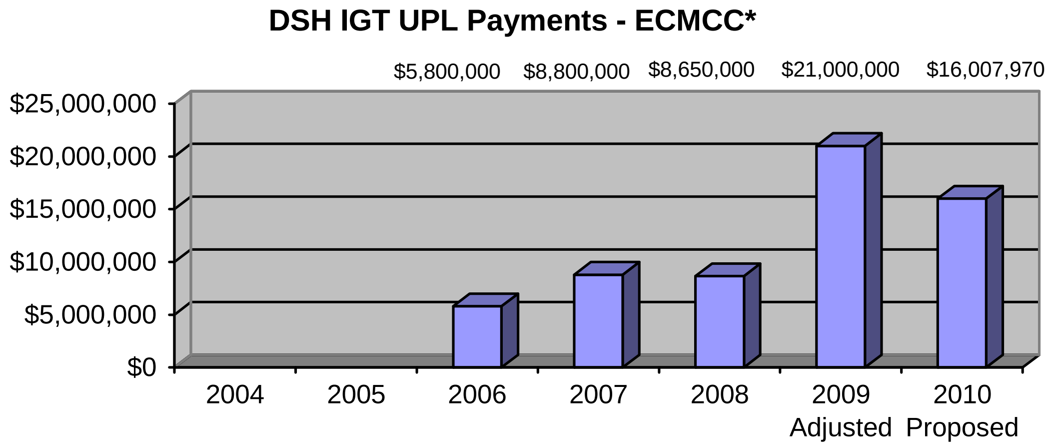
For many months, the Comptroller's Office has repeatedly attempted to ascertain the exact nature of the County's financial obligations to/with ECMCC, including debt service payments/offsets, operating subsidies, capital funding, retiree health, and rental payments for County offices at ECMCC's Grider Street campus. Unfortunately, the Collins Administration has completely ignored our requests for information about the status of their discussions, negotiations, and agreements made with ECMCC binding the County into certain financial requirements. Without knowing the nature of any agreements made, it is impossible for this office to clearly opine on the County's 2010 payments to ECMCC or the County Executive's statements in his budget message about ECMCC expenses.

In our 2007 and 2008 Budget Reports, we warned about unbudgeted County expenses associated with ECMCC under the State-mandated DSH/IGT requirements. In 2007, the County was charged approximately $9 million of DSH IGT expense, resulting in a corresponding negative variance on the 2007 Budget. In 2008, the County was also charged nearly $9 million for unbudgeted DSH IGT expense.

In the 2009 Budget, despite our warning, neither the Collins Administration nor County Legislature budgeted for DSH IGT payments. In mid-year 2009 budget adjustments, however, the Collins Administration provided for $8 million for this expense after an initial DSH IGT payment of $6.7 million was made by the County in March 2009. In 2009, the County was charged approximately $13 million for DSH IGT.

In the FY 10 Proposed Budget, $8 million has been budgeted for such payments in 2010. This is a reasonable interim step to address this growing expense, although we note the 2010 payment may total $9 million.

In addition, in 2010, the County will make its second and final required payment on the $16 million UPL obligation due to New York State. The 2010 payment is budgeted at $8,007,970 and provided for in the FY 10 Proposed Budget.



* The 2009 Adjusted statistic reflects our office's estimate of the final 2009 expense.

Erie Community College:

As agreed to by the County Legislature and County Administration in summer 2009 in their approval of the college's 2009-2010 Budget, the County's FY 10 Proposed Budget sponsor contribution operating subsidy for Erie Community College ("ECC") is $15,420,778, the same as 2008 and 2009, but nearly $2 million more than the 2004-2007 annual subsidy of $13,570,777. The County Administration's Four Year Plan states the County will maintain this amount as the operating subsidy to the college for Erie County Fiscal Years 2010-2013.

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. Since 2006 the cost has 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 projected 2009 expense is nearly $4.6 million. The FY 10 Proposed Budget provides $4,952,555 for this expense. There is a risk that this conservatively-projected expense may be higher than expected in 2010, given growing trends of more and more Erie County residents attending Niagara County Community College. We will continue to closely monitor this account.

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 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. However, the County has traditionally remitted additional unanticipated revenue above budget for tourism purposes. Twice in 2007, the County agreed to additional funding totaling $1,261,579 for tourism/film commission purposes. In 2008, the County appropriated $4,250,000 for tourism purposes against budgeted revenue of $7,001,000. In 2009, the County appropriated $4,250,000 to the Buffalo/Niagara Convention Center and the Buffalo Niagara Convention and Visitors' Bureau against budgeted revenue of $7,300,000.

The Hotel Occupancy Tax is budgeted for revenue of $7,752,000 in the FY 10 Proposed Budget. The FY 10 Proposed Budget appropriates $5,000,000 to the Buffalo/Niagara Convention Center and the Buffalo Niagara Convention and Visitors' Bureau. In addition, the FY 10 Proposed Budget allocates $2,153,570 to pay down County debt service associated with prior year bonded capital projects at the Convention Center.

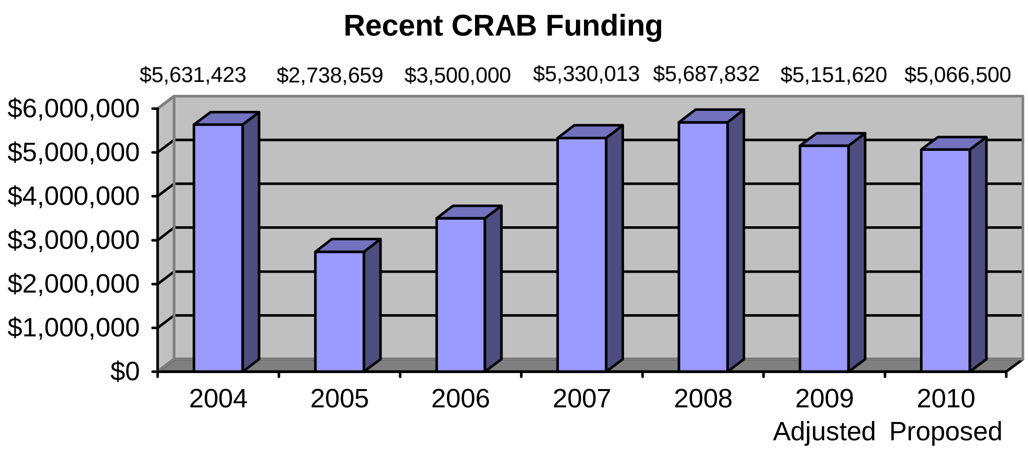
In a significant difference from prior years, in 2008 and again in 2009 (so far), the Collins Administration declined to request legislative approval to appropriate additional 2008 or 2009 revenue from the Hotel Occupancy Tax for tourism/convention purposes. In the FY 10 Proposed Budget Resolutions, 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 (number 18 from 2009).

Buffalo City Parks:

Effective December 31, 2009, the City Parks Division transfers back to the City of Buffalo. This change means that 198 positions funded in the 2009 budget (42 full time, 26 part time, 10 regular part time and 120 seasonal) are deleted from the FY 10 Proposed Budget. In addition, this means the offsetting loss of revenue from the City of Buffalo. Even notwithstanding additional significant payments from the City starting after July 2009, this division was never budget-neutral and always cost the County more than the City's payments.

Dedicated Cultural Funding:

The FY 10 Proposed Budget appropriates $5,066,500 for thirty six (36) Cultural Resources Advisory Board ("CRAB") organizations. This CRAB appropriation contrasts with $5,157,405 in the Adopted 2009 Budget (the Collins Administration proposed $4,878,000), $5,687,832 in the 2008 Adopted Budget and $5,332,013 in 2007. Funding for CRAB agencies in the 2009 budget process was a contentious issue between the County Executive and Legislature.



* 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."

Utilities Fund:

Utility charges decrease from $54,810,000 in the Adopted 2009 Budget to $44,841,264 in the FY 10 Proposed Budget. The reduction on overall expense translates to less County share expense and less expense to the County's partners in the utility consortium as well as less offsetting revenue. Given the volatile nature of utility expenses this is another account that requires careful monitoring.

Road Fund/CHIP/Highway Funding:

For many years the Road Fund ended each fiscal year with negative fund balances (total and undesignated). In 2006, our office advised that corrective measures needed to be taken to balance the Road Fund, but none were taken. We also cautioned about the deficit in the fund in our 2008 Budget Report. Action was taken in 2008 and 2009 by the administration and Legislature to reduce and then end the deficit.

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. These actions during 2009 ultimately eliminated a year-end 2008 deficit fund balance in the Road Fund totaling $4 million.

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. In the new Four Year Plan submitted with the FY 10 Proposed Budget, the interfund revenue subsidy for the Road Fund has been reduced to a range between $11.1 and $11.6 million annually between 2010 and 2013. These reductions reflect expected strain on the County's financial situation, particularly starting in 2011.

In the FY 10 Proposed Budget, despite a projected $1 million increase in state aid, funding for highway supplies in the Road Fund is decreased by $3 million compared to 2009. Transfer tax revenues remain flat at $9.25 million. That said, total appropriations for the Road Fund are still up significantly, to $18.5 million (proposed) in 2010 compared to $11.5 million in 2007 (actual).

GASB 45 Requirements:

In the FY 10 Proposed Budget Message, the County Executive references the County's Governmental Accounting Standards Board ("GASB") Statement number 45, entitled "Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions." This accounting prescription requires the County to quantify the cost of providing post-employment benefits to employees and publish that data in our annual audited financial statements. In 2007, when GASB 45 was required to be implemented, the total unfunded actuarial accrued liability for postemployment benefits was $736,191,567. In his budget message for the FY 10 Proposed Budget, the County Executive states the "unfunded retiree health insurance deficit is a staggering $889 million."

Starting in 2007, the first year that GASB 45 was in effect for Erie County, this office, working with the Department of Personnel and Labor Management Healthcare Fund, began working on defining the liability, and then subsequently recorded all required entries in the audited financial statements. The GASB 45 required liability estimate is staggeringly high and reflects what we believe to be a need for a national solution for health insurance costs for all employers and employees – public and private. The County Administration should also engage in meaningful and substantive discussions with the County's collective bargaining units regarding the growing expense to the County for employee and retiree health insurance.

While the County Executive has previously stated his intention to examine or create a fund or account to develop reserves for this expense, he has not done so in the FY 10 Proposed Budget, likely due to the expense and cost of doing so and his desire to avert a property tax increase.

Miscellaneous Items:

There are several noteworthy items in the FY 10 Proposed Budget which are significant changes from 2009. These include changes in revenues and expenses.

The first significant change is that the Division of Information and Support Services ("DISS") has completely overhauled interdepartmental billings to attempt to more accurately charge departments for the real use of DISS services. For most departments, this means that in 2010, they are experiencing a significant reduction in expense. For instance, the Comptroller's Office has seen our DISS interdepartmental expense decrease from $758,840 in 2009 to $90,899 in 2010. Interdepartmental billings for Fleet Services (vehicles), Bureau of Purchase services and the mail room now run by the Department of Public Works are also separated and delineated individually in each department. We support this process and believe the review was necessary and appropriate.

In the Department of Law, new funding for "foreclosure action" totaling $700,000 is included. However, absent one new assistant county attorney title, there are no new positions in that department or Real Property Tax Services to administer a foreclosure process. We suspect the Collins Administration intends to subcontract out these services to a law firm or other entity and recommend close scrutiny of this item.

In the FY 10 Budget process, the Comptroller's Office requested that $250,000 be provided in the Countywide-Comptroller account to fund a countywide fraud risk assessment, a recommendation of the County's outside independent auditors. The Collins Administration improperly moved the appropriation request to the Comptroller's departmental budget, and then denied to fund the assessment. As a result of the administration's decision, the County's annual outside audit will retain a finding of a significant deficiency on this matter.

Due in large part to the recession and federal aid, appropriations in the Department of Social Services have increased from $537.0 million in the 2009 Adopted Budget to $567.2 million in the FY 10 Proposed Budget. Revenues also increase from $271.8 million in the 2009 Adopted Budget to $303.4 million in the FY 10 Proposed Budget. The County share for these programs is increasing in 2010. Compared to the Adopted 2009 Budget with 1,739 positions in Social Services, there are 1,763 positions in the FY 10 Proposed Budget.

In the Youth Bureau, funding for Operation Prime Time is reduced from $671,428 in 2009 to $200,000 in the FY 10 Proposed Budget.

Since 2008, appropriations for the Sheriff's Department have increased from $80.7 million to $91.6 million for 2010 while revenue also dropped by $1.4 million for a net County share expense increase of $12.2 million. 83% of this expense is in the Division of Jail Management. Revenue from other governments for prisoners held in the County's jails declines by nearly $1.3 million in 2010.

In mid-2009, all medical staff, appropriations/revenues and responsibilities for healthcare in the Holding Center and Correctional Facility were moved from the Sheriff to the

Commissioner of Health and Department of Health fund center. Despite this change, in the FY 10 Proposed Budget, there is a new revenue line for the Sheriff entitled "fed aid-medical assistance" totaling $350,000.

There is no apparent revenue recorded in the FY 10 Proposed Budget (or the Proposed and Adopted 2009 Budget) for efficiency grants from ECFSA, including the salaries of the two employees of the County Executive's office administering Six Sigma and Space Utilization grants. The expense for these two positions also does not appear in the budget books either, which is a serious accounting issue. This is the second straight budget year in which this has occurred.

Funding in the FY 10 Proposed Budget in the Bureau of Fleet Services for countywide fuel and auto supplies decreases from $2,900,000 in the 2009 Adopted Budget to $1,750,000.

In the absence of an increase in their property tax, the Buffalo and Erie County Public Library continues to utilize appropriated fund balance to cover their FY 10 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. The FY 10 Proposed Budget appropriates $1,192,126 to cover operations.

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 10 Proposed Budget which we bring to your attention.

In the 2010 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.

2010 Budget Resolution # 3

In 2009, Budget Resolution #5 and Budget Resolution #11 authorized the Director of Budget and Management to accept, award and adjust grants subject to Legislature approval. These resolutions were deleted in the FY 10 Proposed Budget and replaced by 2010 Budget Resolution # 3 which omits all references to legislative approval. This resolution would allow the administration to change grants without seeking legislative approval, a practice now in effect.

2010 Budget Resolution # 4

Language in this resolution allowing the Director of Budget and Management to adjust interdepartmental billings has been amended to delete the 2009 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.

2010 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 2009 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.

2010 Budget Resolution # 9

The FY 10 Proposed Budget deletes three (3) key paragraphs from 2009 Budget Resolution #3 which limit the administration's approval to award upgrades, conduct reallocations or reclassifications without Legislature approval, including properly-completed B-100s.

If this resolution is not changed back to the 2009 language, the Collins Administration could conceivably award upgrades, title changes, etc. without legislative approval. We recommend the language be amended back to the prior version.

2010 Budget Resolution # 16

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.

2010 Budget Resolution # 27

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 (2009 Budget Resolution #31).

2010 Budget Resolution # 32

This resolution authorizing the Commissioner of Social Services to apply unused prior year grant funds to the 2010 fiscal year subject to prior legislative approval has been amended to delete any reference to legislative approval (2009 Budget Resolution #35).

2010 Budget Resolution # 36

This resolution authorizing the Department of Social Services to enter into certain contracts has been amended to delete any reference to advising the Legislature about changes in contract amounts of agencies (2009 Budget Resolution #57).

2010 Budget Resolution # 37

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 (2009 Budget Resolution #58).

2009 Budget Resolution # 4

2009 Budget Resolution #4 concerning reciprocity of job groups and salaries between the General Fund and the Grant Fund and Sewer Districts has been deleted for 2010.

2009 Budget Resolution # 18

This 2009 Budget Resolution authorizing 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 2010 Budget Resolutions.

2009 Budget Resolution # 28

This 2009 Budget Resolution allowing the County to hire licensed medical professionals to provide medical, dental and pharmaceutical services at the Holding Center and Correctional Facility on a fee for service basis has been deleted and is not included in the 2010 Budget Resolutions.

2009 Budget Resolution #68

The 2009 Budget Resolution concerning Giambra Appointees has been deleted. At this time, we do not believe there is a problem or consequence by this deletion.

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.

2009 Budget Resolutions #80, 81, 82, 85

These four Budget Resolutions were deleted in their entirety from the FY 10 Proposed Budget.

Comment on Four Year Plan Projections (2010 - 2013)

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, though each year has ended in balance. In addition, many key initiatives with large projected annual savings were consistently deferred to a future year, with little to no progress on their implementation. Other initiatives were presented with savings estimates and scant detailed information to support the claims. Unfortunately, that pattern continues in the Four Year Plan submitted with the FY 10 Proposed Budget.

The June 2009 approved Four Year Plan the County is operating under now, as well as the proposed 2010-2013 Four Year Plan bear little resemblance to prior plans. The only significant common gap closer between 2005 versions and recent versions was 'concessions in the various collective bargaining agreements.' The Giambra and Collins Administrations have had only minor, tangential success in addressing union contracts and attaining concessions since 2005 in contracts with the Sheriff's Police Benevolent Association (patrol deputies), New York State Nurse's Association (Health Department and some ECMCC nurses), and the Faculty Federation and Administrator's Association at ECC. In a reflection of the lack of progress in this area, the Collins Administration no longer projects or includes savings via collective bargaining concessions as a Four Year Plan initiative.

May 2008 Version of Four Year Plan for 2008-2011
The First Collins Plan

On May 1, 2008, the Collins Administration submitted a revised Four Year Plan to ECFSA. In the revised Four Year Plan, the current administration initially left intact much of the prior plan's provisions, but included new projected savings from Six Sigma reengineering projects, transitioning from full time to regular part time employees, a freeze on so-called discretionary spending, and reduced debt service for ECMCC. The May 1, 2008 Four Year Plan was also based on new revenue sharing from a Seneca casino in Buffalo and greater use of ECFSA efficiency grants. On May 15, 2008, ECFSA rejected the revised Four Year Plan. Among the factors cited by ECFSA were the condition of the Road Fund, an alleged overstatement of sales tax revenue in 2008, and certain expenses being understated (including personal services and DSH IGT payments to ECMCC).

October 2008 Version of Four Year Plan for 2009-2012
No Alleged Gaps in 2009-2012

On October 15, 2008, as part of the Executive Summary/Budget Message, the Collins Administration released their 2009-2012 Four Year Plan. That Plan, a rather summary document with scant details, was premised on certain assumptions and initiatives and almost none of the original or revised Four Year Plan savings initiatives from 2005-early 2008 were included or pursued any longer. Overstating, and simplifying for the sake of space, that Plan assumed modest growth in County expenses (including health insurance, salaries and pension costs), modest growth in revenues (sales tax, federal and state aid, and property tax assessment growth), shifting from full time to regular part time employees, deleting vacant titles, eliminating all County financial support for ECMCC, further ECFSA efficiency grant awards, Six Sigma efficiency measures and space utilization savings through moving County offices into County-owned space. The only clear delineated gap closer for the 2010-2012 years of the Plan was deleting fifty (50) 100%-County share positions each year.

The 2009-2012 Four Year Plan submitted in October 2008 forecast no budget gaps in 2010, 2011 and 2012 and in fact projected surpluses totaling $898,529, $3,631,226 and $17,501,513 respectively. In this office's 2009 Budget Report in October 2008, we questioned those assumptions and asserted that the data was fundamentally flawed and that gaps existed. ECFSA later agreed with our analysis of the Plan and rejected the Four Year Plan (and 2009 Proposed Budget).

May/June 2009 Versions of Four Year Plan for 2009-2012
Modest Gap in 2010 and Growing Gaps in 2011-2012

In May 2009, the Collins Administration submitted to ECFSA two revised versions of the Four Year Plan for 2009-2012. In the first version, submitted on May 9, 2009, the administration assumed a sales tax revenue decline of 3% in 2009, followed by 3% growth in 2010, 2011 and 2012; property tax assessment growth of 3% in 2010 and then 4% in 2011 and 2012; FMAP funds totaling $42.85 million in 2009 and $31.25 million in 2010; annual IGT payments for ECMCC totaling $8 million; and a 20% growth in pension expense in 2011. Most importantly, the May 9, 2009 Plan forecast no gaps in 2009 and 2010 and only minor gaps in 2011 of $1,073,612 and $1,389,957 in 2012. Even after factoring in possible 2009-2010 State budget negative impacts, the Plan forecast no gaps in 2009 and 2010 and gaps of $6,824,310 in 2011 and $9,019,668 in 2012.

To close those very modest projected gaps, the administration suggested eight (8) possible gap closers: reducing library funding; increasing various fees; using fund balance; increasing the property tax rate; higher than projected sales tax revenues; potential Six Sigma savings; cutting 50 County jobs annually starting in 2010; and ending sharing of the 1.00% sales tax. The May 9, 2009 Plan, however, was rebuffed by ECFSA which recommended the Collins Administration revise the Plan and resubmit with new assumptions and data.

On May 27, 2009, the Collins Administration submitted a revised version of the Plan. This version lowered the property tax assessment growth percentage; lowered estimated sales tax revenues; and moved the 50 job cuts from a definite to a potential gap closer category. These were represented by the Collins Administration as only very minor changes.

In reality, however, the Plan was fundamentally very different from the one submitted just weeks earlier. The May 27th Plan forecast no gap for 2009, a $32,056 gap for 2010, a $20,232,266 gap for 2011 and a $24,444,986 gap for 2012. After factoring in possible State Budget negative impacts for 2009-2010, the Plan estimated a 2010 gap of $4,905,289, a 2011 gap of $25,982,964 and a 2012 gap of $32,074,697.

Amazingly, despite the growth in the projected gaps and ambiguity and a lack of details about the possible gap closers, this revised Plan was approved by ECFSA on June 2, 2009. ECFSA reaffirmed this in a July 23, 2009 meeting at which time they approved the revised Plan and entered an advisory period.

October 2009 Version of Four Year Plan for 2010-2013
Major, Growing Gaps in 2011-2013

In the Four Year Plan associated with the FY 10 Proposed Budget, the Collins Administration now forecasts gaps for 2011, 2012 and 2013 totaling $50,466,787, $58,543,749 and $63,256,410 respectively. The significant growth in projected gaps in the latest plan, submitted just four (4) months after the current plan was approved, is not surprising to this office.

The October 2009 Four Year Plan makes certain assumptions about sales tax and property assessment growth, and growth in personal services, health insurance and pension expense. Some of these assumptions are dubious, specifically the projection of a 20% increase in pension cost in 2011 followed by only 1.5% increases in 2012 and 2013 respectively. This office warned in our 2009 Budget Report that the October 2008 Four Year Plan projections for 2010-2012 pension expense of 5% growth were too low. The County's 2009-2010 pension expense (paid in February 2010) is $18 million. Clearly, significant increases in pension costs are coming.

The Collins Administration has included in its October 2009 Four Year Plan the same eight (8) gap closers from its May 2009 plan that it projects could be utilized in some form for 2011, 2012 and 2013. Like the May 2009 Plan, these options are not delineated in any detail or real or meaningful quantification and are vague at best. The potential gap closers are:

- Increase the Property Tax Rate Per $1,000;
- Higher than Projected Growth in Sales Tax Revenue;
- Utilize Fund Balance;
- End Sales Tax Sharing of $12.5 million with Local Governments;
- Reduce Library Funding by $2.2 million Annually;
- Increase Various (Undefined) Fees;
- Eliminate Jobs (potentially 50 jobs per year);
- Six Sigma Savings.

The Collins Administration also notes that it has an additional option called "estimated collectable tax liens balance" by which gaps could be addressed. It projects balances totaling between $30.4 million in 2010 to $32.4 million in 2013 from this option.

As previously stated at the start of this Report, this office believes the revised Four Year Plan's projections of gap closing measures are unattainable in their current form. We believe key assumptions on sales tax growth, a potential property tax increase, and tax lien revenue are not viable. We believe alleged savings initiatives through Six Sigma are not supportable by the data provided by the administration in the Budget/Four Year Plan. We believe far more 100% County share jobs than projected would be needed to be eliminated to attain any real savings.

Terminating sales tax sharing of the 1.00% tax when it expires in November 2010 will require the approval of state legislators who are unlikely to do so. Increasing undefined fees and cutting library funding by 10% every year will require significant support in/by the County Legislature and is doubtful. Using fund balance is theoretically possible, but the consequences to the County's credit rating from such an action would be significantly negative.

In short, we believe the Four Year Plan submitted for 2010-2013 will place the County in a difficult fiscal position in 2011 and future years. We specifically believe the County faces a very significant negative budget problem for 2011. Specific details on our analysis of some of these Four Year Plan gap closing initiatives follow.

Property Tax:

After raising the property tax rate in 2009, the County Executive represented in his October 15, 2008 Four Year Plan and in subsequent public statements that he would not change the rate in 2010-2012. The Four Year Plan for 2010-2013 includes no change in the rate and 4% annual assessment growth. However, the Collins Administration then included in its 'basket' of gap-closing options the possibility of an increase in the property tax.

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, projected gaps for 2011-2013, and the issues facing New York State which will certainly be passed down to Erie County. Given other revenue trends showing little to no growth or possibly even decreases 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 is seemingly making contradictory statements about this gap closing option.

Sales Tax:

The Four Year Plan projects 2% growth in sales tax revenues in 2010 and then 3% growth in 2011, 2012 and 2013 when the County is currently experiencing a 3.97% decline in such revenue in 2009. While we support conservative projections, given the state of the current local, state and national economies, we are concerned that even modest growth is not supportable. We note that estimating sales tax is difficult, and the fact that the County relies so heavily on sales tax revenues to support operations makes budgeting challenging, hence our 2007 report on sales tax and suggestion that the County reduce its dependence on this revenue source.

Six Sigma Efficiency Measures:

The Four Year Plan states that Wave One Six Sigma projects saved the County $2.2 million in 2008 and "an additional" $2 million in 2009. The Plan further states that Wave Two projects will save $1.48 million in 2009 and $976,354 in 2010. The Plan states that Wave Three projects will save $323,280 in 2009 and $1.04 million in 2010. The Collins Administration states that total 2010 savings from Six Sigma will be $5,067,747. Similar to the many recommendations of audits and reviews done by this office, we support process improvements or efficiency measures that reduce expense to the taxpayers.

Unfortunately, more than eighteen (18) 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, hard Six Sigma savings data that can be validated using SAP. To our knowledge, ECFSA, which is funding the Six Sigma initiative, including the salary and fringe benefits of the County employee running the program and consultants from the University at Buffalo and Canisius College, also has yet to receive quantifiable savings data.

For instance, the administration has claimed that it saved $100,000 annually in 2008 and in 2009 from reducing overtime in the Division of Buildings and Grounds. That savings cannot be validated in SAP. Actual 2008 overtime was $569,331. 2009 budgeted overtime for Buildings and Grounds was $240,000 while through September 2009 year-to-date overtime expense in Buildings and Grounds was $474,000. We project final 2009 overtime expense will be $638,000. The FY 10 Proposed Budget seeks $500,000 for overtime. In addition, this office was repeatedly asked by the Collins Administration in 2009 to reclassify overtime expense in this division from the General Fund to the Capital Fund without any proof that County employees were actually working on authorized capital projects and the charge was legitimate.

Based on the paucity of information provided in the Plan and no supporting documentation available to our office, we cannot confirm these savings estimates and believe they are overstated at best. 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.

Terminate Sales Tax Sharing:

The Four Year Plan includes a potential gap closer to terminate the annual sharing of $12.5 million of sales tax from the 1.00% tax with local governments. Authorization for this tax expires on November 30, 2010 and its renewal is subject to the approval of the State Legislature and Governor. In 2007, as a condition of its renewal, the State Legislature required the County to share $12.5 million of the 1.00% tax with cities, towns and villages.

While this office agrees that the tax should not be shared, we note that the County does not control this option and based on recent events, should the County attempt to terminate this revenue sharing, State legislators might not agree to renew the 1.00% tax in late 2010. The effect on the County if this tax was not renewed would be disastrous, as this tax is estimated at $122 million in total County-share revenue for 2010.

Reduce Library Funding:

The Four Year Plan includes a possible gap closer in which the Library system would lose $2,217,183 annually in 2011, 2012 and 2013 and that funding would shift to the County to support County operations. Given the significant support the Library system enjoys in the County Legislature and public, and the provisions of the Library Protection Act, we question the ability of the administration to implement this measure/option.

Increase Various Fees:

The Four Year Plan includes a vague gap closer to "increase various fees." None of these fees or their potential new rates are defined. Potential new revenue would be $500,000 in 2011, $750,000 in 2012 and $1,000,000 in 2013. The County has increased a variety of fees since 2005 in nearly all departments and areas. The ability to increase existing fees is questionable given a lack of details.

Eliminate Jobs:

In the Four Year Plan approved by ECFSA in July 2009, the Collins Administration forecast the option of deleting funding for 50 100%-County share positions annually in 2010, 2011 and 2012. In the new Plan, the number of jobs to potentially be eliminated is not defined, and the cuts would not commence until 2011. In addition, any savings from this option is included in a blanket package of potential options with no specific supporting data, making any real analysis impossible.

Utilize Fund Balance:

The Four Year Plan maintains an option to utilize fund balance in 2011-2013 to close future gaps. We would urge caution on this option due to the need to continue to rebuild fund balance to continue to improve the County's credit rating and in so doing, make County borrowing less expensive. We also note that the use of fund balance would require a supermajority vote of the Legislature, although this is not a daunting prospect given other alternatives.

Appendix A

Noteworthy Personal Services Changes from Adopted 2009 to Proposed 2010 Budget

Legislature:

The majority part time counsel would see her salary increase from $22,000 to $42,000.

The minority part time counsel would see his salary increase from $22,000 to $32,000.

County Executive:

The Deputy County Executive is budgeted to receive a longevity step increase, increasing his salary from $114,109 to $117,897. We do not believe this title is eligible for step increases.

The ECFSA efficiency grant-funded Senior Executive Assistant-CE titles for Six Sigma and Space Utilization do not appear in either Book A or Book B of the 2010 Budget for the second straight year. The continued refusal of the Collins Administration to account for these two managerial-confidential employees in either the General Fund or Grant Fund is improper.

Budget, Management and Finance:

One new managerial-confidential title of Management Consultant-CE (RPT), JG 12 at a salary of $30,000 is created.

Law:

A new JG 13 managerial-confidential Assistant County Attorney title is added and a (CSEA) Confidential Investigator RPT title is deleted.

Purchase:

The title of Surplus and Equipment Worker is no longer RPT and is over-budgeted at Step B instead of Step 1 as is required, given the prior incumbent is no longer in this position.

Information and Support Services:

The vacant managerial confidential title of Director of Information and Support Services JG 20 is reallocated to Chief Information Officer JG 24, with a corresponding raise of $48,176.

Social Services:

The managerial confidential title of Commissioner JG 20, which is temporarily-emergency occupied by the First Deputy Commissioner, is improperly budgeted at Step 5 ($115,395). The incumbent’s salary in that title if she was to be appointed permanently should be Step 2 for 2010, a salary of $100,701.

The First Deputy Commissioner JG 18 title is improperly budgeted for 2010 at Step 5. It should be returned to either Step 2 or Step 1.

A new managerial-confidential title of Assistant Deputy Commissioner (RPT) JG 15 is created at a salary of $30,000.

Health Division:

3 positions in the school/teen wellness unit (pregnancy) are deleted. (2 were deleted in 2009).

19 positions in the primary care service and 5 positions in dental health are deleted.

The new 2009 managerial confidential title of Medical Director Correctional Health JG 21 ($136,779 salary) continues to remain vacant, as does the title of Director of Correctional Health JG 16 ($69,892 salary).

24 medical positions for the Holding Center appear in the Health Division. At present, only 10 of these titles are occupied.

14 medical positions for the Correctional Facility appear in the Health Division. At present, only 8 of these titles are occupied.

Sheriff:

The Sheriff requested 21 new positions in the Sheriff Division and received none. The Sheriff requested 56 new positions in Jail Management and received two.

Central Police Services:

The vacant (since 2007) title of Director of Law Enforcement Lab Service JG 15 is reallocated to Director of Forensic Laboratory-CPS JG 15 and changed from managerial-confidential to CSEA-represented. We understand that the incumbent in the Grant-funded title of Assistant Director Law Enforcement Forensic Lab JG 14 will be upgraded to this title.

Emergency Services:

A new 2009 part time title of Emergency Services Consultant JG 14 which was vacant for nearly all of 2009 and is newly-occupied by a County retiree has its salary increased from $10,670 to $27,743.

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

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

Parks:

The title of Director of Recreation JG 13 ($48,755 salary) created in 2009 is deleted.

Buildings and Grounds:

The occupied titles of Special Assistant to Commissioner of DPW (RPT) and Principal Security Officer (RPT) are deleted.

Highways:

2008-created 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 2010 Budget, as in 2009.