COUNTY OF ERIE, NEW YORK
OFFICE OF THE COMPTROLLER

COMPTROLLER'S REVIEW OF THE COUNTY EXECUTIVE'S PROPOSED 2009 BUDGET AND FOUR YEAR FINANCIAL PLAN

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Erie County Comptroller

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Comptroller's Review of the County Executive's Proposed 2009 Budget and Four Year Financial Plan

Executive Summary

On October 15, 2008, County Executive Christopher C. Collins presented his proposed fiscal year 2009 budget ("FY 09 Proposed Budget") with the new Four Year Financial Plan for the fiscal years of 2009 – 2012 ("Four Year Plan"). The FY 09 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 09 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.

As compared against recent 2006, 2007 and 2008 Budgets, we believe the FY 09 Proposed Budget represents the tightest budget situation the County has faced in several years. This is due to a number of factors, including potential lower sales tax receipts, reduced state aid, and other factors linked to the overall significant deterioration in the US and state economies. All of these factors impact two of the County's largest revenue sources – sales tax and state aid.

The largest source of county revenues is the sales tax. While the FY 09 Proposed Budget forecasts flat sales tax revenue in 2009 with only nominal growth, we are concerned that the projections still may be at risk based on the recent precipitous decline in value of the Canadian dollar, as well as the US and state economic situation. In addition, the 2009 sales tax estimate assumes the extension of the 0.75% sales tax beyond its expiration date of November 30, 2009. As proceeds from the 4.75% sales tax make up the majority of the county's local share revenue, it is imperative that the 0.75% portion of the sales tax be renewed in order for the FY 09 Proposed Budget to be balanced. While it is impossible to determine the actual base sales tax for 2008 until February 2009, 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 am deeply 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 FY 09 Proposed Budget forecasts state aid will essentially be flat. However, given a 2008 state budget deficit of at least $1.5 billion, though likely more, and other state actions in 2008, the County, like all local governments which rely on state aid, will face reductions in such revenue in 2009, if not sooner. In mid-October 2008, the New York State Comptroller expressed concerns regarding a potential state budget deficit of $9 billion for the state's 2009-2010 fiscal year. On October 28, 2008, the New York State Governor announced that the budget deficit for the state's 2009-2010 fiscal year is estimated to be at least $12.5 billion, with a four-year deficit projection of $47 billion. 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. The FY 09 Proposed Budget does not factor in any further reductions in state aid in 2009.

The property tax rate per thousand of assessed value is increasing for 2009, as is 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 2008.

If the County Legislature and/or State Legislature fail to reauthorize the 0.75% sales and compensating use tax beyond November 30, 2009, the County will experience a significant negative variance on sales tax. If certain other revenues in the Budget and Four Year Plan do not materialize in 2009 or are under budget (as may well occur for sales tax and state aid), those gaps will need to be closed. If certain expenditures exceed appropriations, as we believe they will, those gaps will need to be closed. In fact, if the Erie County Legislature adopts a budget in November 2008, and the State Legislature reconvenes in Albany in November or December 2008 and that body acts to address the state's budget deficit through reducing state aid, the County will face an immediate 2009 budget gap before the new fiscal year even commences.

Based on the FY 09 Proposed Budget as presented, we cannot un-categorically state that the 2009 Budget is balanced. The Collins Administration has altered data, substantially changed the budget presentation, omitted key aggregate major expenditure data, deleted charts and key personal services data from the budget books, and fundamentally misstated the General Fund Balance so as to overstate the amount of the County's reserves. Additionally, a recently revealed $5.3 million obligation to the Erie County Medical Center Corporation is not included in either the FY 09 Proposed Budget or Four Year Plan although the Collins Administration was aware of this liability in September 2008. Their October 15, 2008 Four Year Financial Plan is also lacking in any meaningful details or data. We question their motives and reasons for the lack of transparency and data.

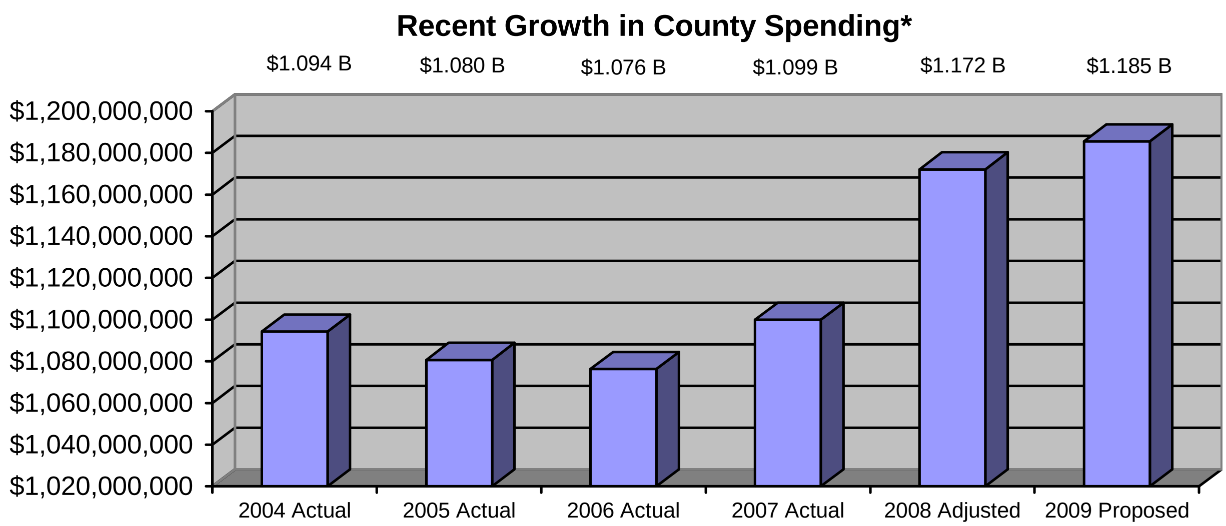
The FY 09 Proposed Budget and Four Year Plan continue a past pattern of deferring certain difficult decisions a future time period. Changes to the collective bargaining agreements and a reduction of long-term borrowing are two noteworthy issues that for the fourth successive budget are left unresolved.

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. Any future projections done by any county government in this state made under the premise of not increasing taxes, assuming state aid increases and assuming only 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 09 Proposed Budget and revised Four Year Plan will place the County Legislature and County Executive in a difficult fiscal position in 2009 and future years.

2009 Budget

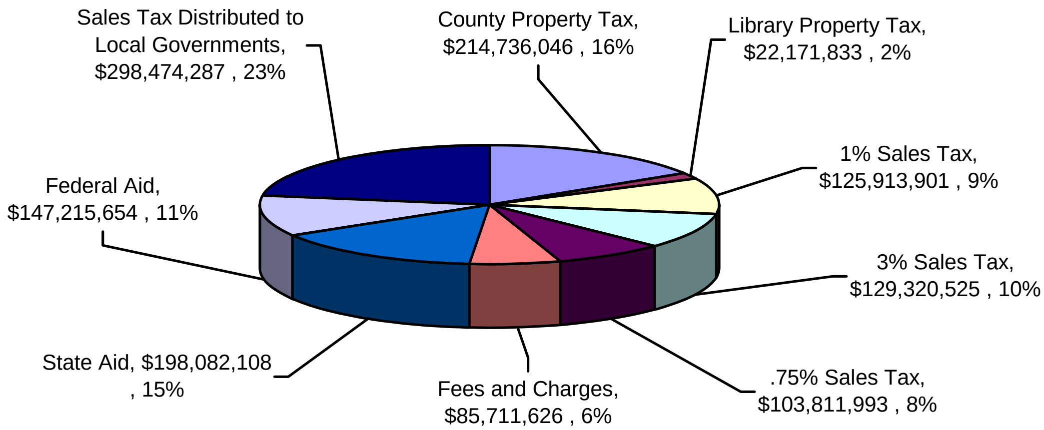
The FY 09 Proposed Budget for all funds is $1,483,960,754. This compares against $1,453,151,181 for the Adopted 2008 Budget. In his Budget Message, the County Executive states that the County's FY 09 Proposed "operations budget" is $1,026,963,686. That figure is inaccurate and misleading in that it does not include a number of major funds that are integral for the day-to-day operation of Erie County. Those funds include the Library Fund, Road Fund, Road Repair Reserve Fund, Utility Fund, E-911 Fund, General Debt Service and Sewer Fund Debt Service. The County Executive's FY 09 Proposed "operations budget" also does not include sales tax shared with local governments, school districts and the NFTA. The FY 09 Proposed Budget is $30,809,573 more than the Adopted 2008 Budget, or 2.1% growth over 2008.

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 and the NFTA.

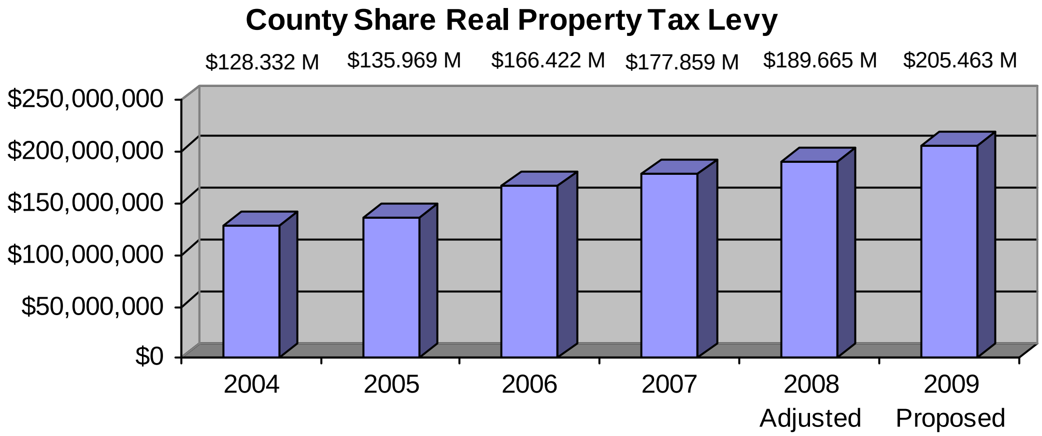
Proposed 2009 Revenues



* Note: Sales Tax Distributed to Local Governments includes all 3% sales tax sharing, the sharing of $12.5 million with cities, towns and villages and the County's subsidy to the NFTA. After deducting shared sales tax, the above totals to $1,026,963,686 – the "operations budget" for 2009. The County property tax figure includes penalties and interest.

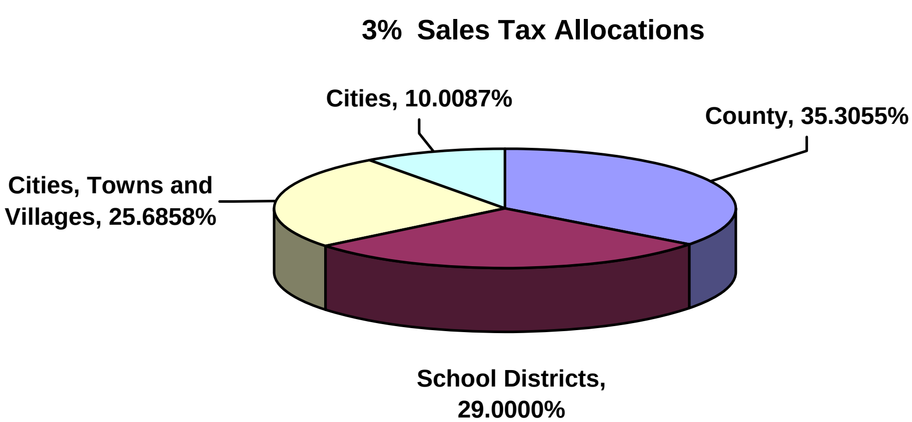
Property Tax:

The countywide property tax rate in the FY 09 Proposed Budget increases from $4.94 to $5.12 per $1,000 of equalized taxable full value. The total property tax levy will increase from $211,837,793 in 2008 to $227,635,402 in 2009 as a result of the increased tax rate and assessment growth. The general government ("County share") property tax levy for 2009 is $205,463,569, up from $189,665,960 in 2008. The library tax remains the same for 2009 as in 2007 and 2008 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:



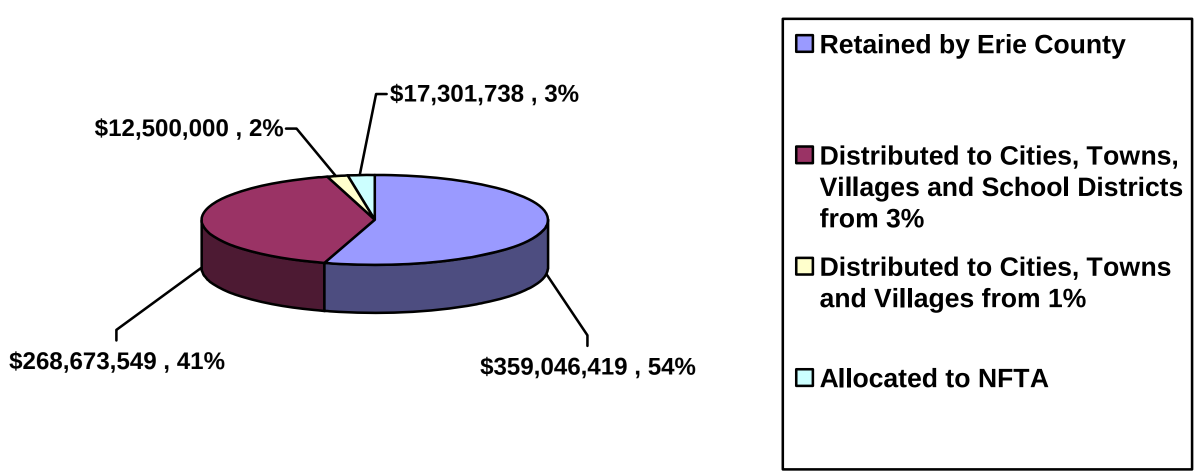
The County retains 35.3055% of the total revenue derived from the 3% sales tax. 10.0087% is allocated to the Cities of Buffalo, Lackawanna and Tonawanda on the basis of population. 25.6858% is divided among the Cities of Buffalo, Lackawanna, Tonawanda and the towns on the basis of population. The amount 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 expires on November 30, 2009. The October 15, 2008 Four Year Plan assumes the Erie County Legislature and State Legislature will approval the renewal of the 0.75% sales tax in future years.

2009 Total Sales Tax Allocations

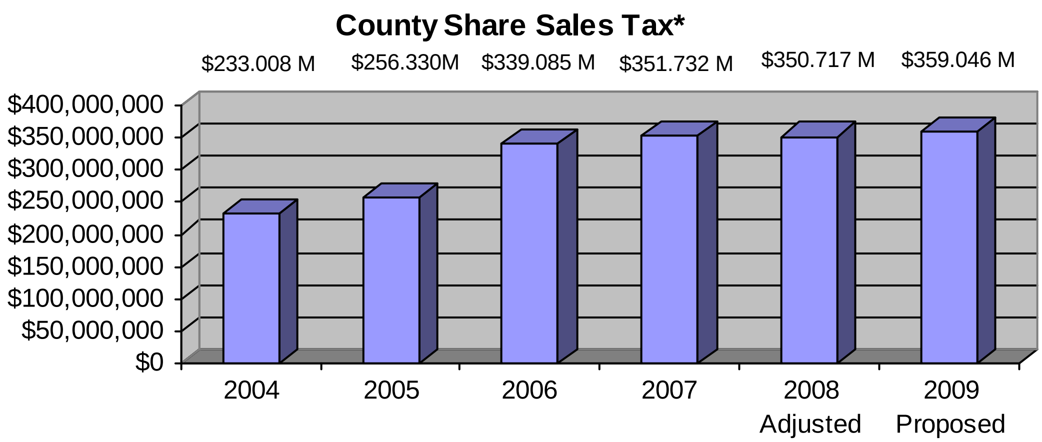


Total revenue generated by the sales tax in the FY 09 Proposed Budget is $657,521,706.

Eliminating the $298,475,287 of sales tax shared with local governmental entities leaves a total of $359,046,419 in sales tax budgeted for County purposes in 2009. Comparing this to the 2008 budgeted amount of $350,717,040 results in an approximate growth of 2.375% from budget to budget. Total actual County share sales tax in 2007 was $351,732,204. The last ten years have averaged 3.612% annual growth while the last five years has averaged 3.86% growth.[1]

In addition based on the year-to-date cash distributed to the County by the State through August 2008 (accrual basis), the County is experiencing a growth rate of 4.018% in 2008 compared against 2007 for all sales taxes. It is impossible to determine what the final numbers will be for 2008 as final cash distributions for 2008 will not be received until February 2009. Because the rate of growth fluctuates, it will have to be monitored as the year progresses.

The revised October 15, 2008 Four Year Plan states that sales tax is predicated on a 3% annual growth for 2010, 2011 and 2012 based on a 2009 sales tax of $359,046,419. This base number, while conservative, will have to be closely monitored due to the recent economic downturn and the drop in value of the Canadian Dollar. 2008 sales tax receipts have not experienced the growth shown in 2006 and 2007. We project 2009 sales tax receipts will not be as robust compared against the prior three years.



* 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.

Should the County Legislature fail during 2009 to send a Home Rule request to the State Legislature or affirmatively approve of the continued imposition of the 0.75% sales tax beyond November 30, 2009, the County will face negative financial consequences from the loss of revenue for 2009, as well as in the out years in the Four Year Plan. The failure to continue the 0.75% sales tax will result in a possible $10 million shortfall in revenue for the final month of

[1] In order to accomplish a true comparison, this growth rate is based solely on the 3% sales tax and not the 1% sales tax which has been partially shared with local governments since 2007 nor 0.75% sales tax which commenced in part in July 2005 and January 2006.

2009. It also would cause adverse reactions amongst the County's rating agencies and the County's bondholders.

State Aid:

State aid reflects the third-largest revenue source to the County. The FY 09 Proposed Budget includes state aid of $198 million. This reflects no growth in state aid against 2008. While this conservative estimate was initially viewed as reasonable due to the state's financial situation following the market collapse, we now believe that this state aid estimate may be too high. Governor David Paterson recently stated that the State's 2008-2009 budget deficit may be $1.5 billion, and the state's 2009-2010 budget deficit is at least $12.5 billion. The Governor projects a four year budget deficit of $47 billion. The state will almost certainly pass along new expenses or reduce state aid to localities, including Erie County. At this time, there is significant uncertainty as to the percentage or amount of state aid that will be reduced to local governments. No state aid reduction is shown in the FY 09 Proposed Budget. We are greatly concerned about this revenue source.

Other Revenues

Tax Liens and Delinquent Property Taxes:

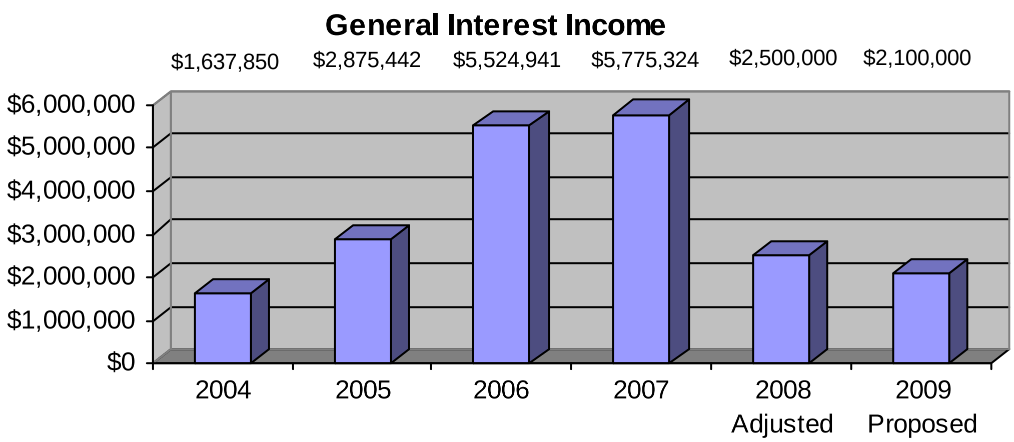
The FY 09 Proposed Budget maintains two revenue accounts associated with delinquent property tax payments and tax liens. These accounts reflect in part the County Administration decision not to continue to sell tax liens to a private company.

The first account is Interest and Penalties – Property Tax, with FY 09 Proposed Budget revenue of $9,201,195. This revenue is comprised of four elements: (1) cash collections for interest and penalties; (2) residual tax lien payments through the Erie Tax Certificate Corporation (XSPAND); (3) interest and penalties on re-levied school and village taxes; and (4) accrued interest and penalties on uncollected taxes (current and prior year liens). Based on 2006 revenue of $9.33 million and 2007 revenue of $9.16 million, the FY 09 revenue appears reasonable but will need to be closely monitored.

The second account is entitled "Dec-Prop Tax Def Rev" with FY 09 Proposed Budget negative revenue of $5,060,336. This account reflects the amount of additional allowances that will be required to offset the increases in uncollected and unpaid tax liens at year-end compared to those balances for the prior year-end. In 2006, the negative revenue in this account was $13.1 million, and in 2007, the negative revenue was $10.2 million. Based on these past results in this area, as well as the fact that there are no new personnel in the FY 09 Proposed Budget in the Department of Real Property Tax Services to administer foreclosures, and conduct an In Rem sale etc., we believe this account is ambitious and will not be realized in 2009. With no expectations of increased 2009 cash collections it seems likely the actual negative revenue in this account will be significantly higher than budgeted and create a negative variance in 2009.

Interest Earnings:

The FY 09 Proposed Budget includes revenue of $2,100,000 in General Fund interest earnings. This contrasts with 2007 actual revenue of $5,775,324. 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. The FY 08 Adopted Budget included $5,250,000 in revenue in this account. However, in 2008, due in part to a lack of funds available for investment because of the failure to close an expected tax lien sale, a lack of a capital bond sale, the reduction in interest rates and the market crisis, the County's earnings growth has stopped and the County will not meet budget in 2008 in this account. The FY 09 Proposed Budget estimate of $2,100,000 is reasonable.



New or Increased Fees:

The FY 09 Proposed Budget includes several proposed new fees and increases in existing fees totaling $576,997 in the following departments or divisions: Parks (shelter, camping and golfing); Health (clinics); Medical Examiner (autopsy, sex assault kit, other testing, and court testimony); and the County Clerk (recording). These fees require approval by the County Legislature through 10 of their 15 members voting affirmatively via legislative resolution.

Proposed 2009 Expenditures

Personal Services:

For all funds, the FY 09 Proposed Budget represents a net change in full-time positions from the adjusted 2008 Budget to the FY 09 Proposed Budget with a reduction of 60 positions for a total of 4,698 full-time employees. This does not include 46 full-time employees in the Buffalo City Parks Division who may separate from the County on June 30, 2009. The Department of Social Services is projected to lose 35 of the 60 full-time positions. The only department to see a net gain in full-time positions is the Office of the Sheriff, with 2 new positions in the Sheriff Division and 10 new positions in Jail Management.[2]

Compared against the adjusted 2008 Budget, the FY 09 Proposed Budget represents a net loss of 12 regular part-time positions. This does not include 26 regular part time employees in the Buffalo City Parks Division who may separate from the County on June 30, 2009. However, we question the administration's presentation. For instance, despite the appearance in the FY 09 Proposed Budget of a net loss of regular part time positions, in the Department of Social Services, full-time salary expense is projected to decrease from $70.42 million in 2008 to $66.2 million in 2009, with $2.8 million of that expense shifting to the regular part time line in 2009. This significant discrepancy between regular part time position counts and funding needs to be reconciled.

The FY 09 Proposed Budget actually increases part-time employees by 7 against the adjusted 2008 Budget. Again, this does not include 6 part time employees in the Buffalo City Parks Division who may separate from the County on June 30, 2009.

The FY 09 Proposed Budget decreases seasonal employees by 132 against the adjusted 2008 Budget. However, 114 of these employees are from the Buffalo City Parks Division. The remaining 18 seasonal reductions are from the County Parks Division.

In short, of the net reduction of 204 positions from the FY 09 Proposed Budget against the adjusted 2008 Budget, 132 positions are seasonal. 35 of the remaining 72 positions deleted in 2009 are from the Department of Social Services for which local share is minimal.

Please see this report's appendix for more details on noteworthy new 2009 positions and upgrades for existing or new positions as well as noteworthy deletions in the FY 09 Proposed Budget.

Full-time salary costs decrease from $195,644,065 for all funds in the adjusted 2008 Budget to $190,301,475 in the FY 09 Proposed Budget. This is offset by new regular part time salary expense. Total personal services expense (salary and other wages) for all funds also decreases from $224,594,008 in the adjusted 2008 budget to $223,853,976 in the FY 09 Proposed Budget.

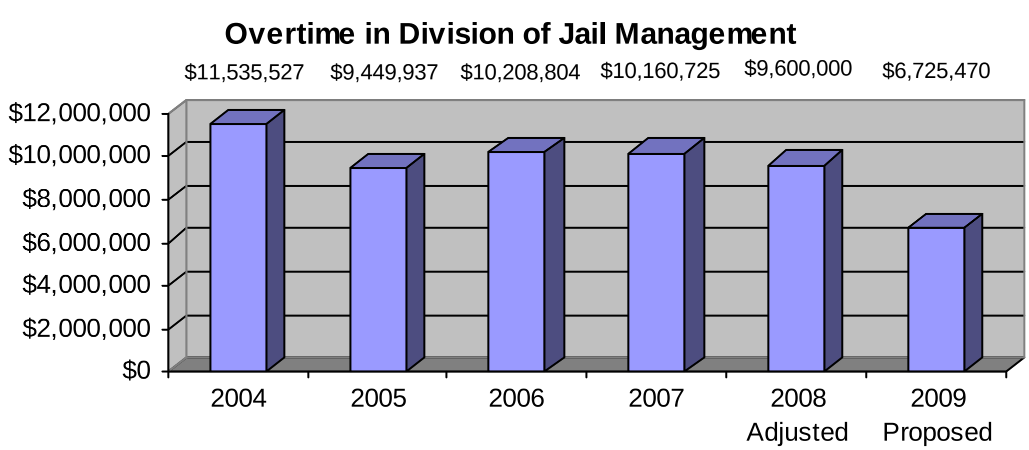
Past budgets have included significant turnover accounts that have not met the target and helped contribute to budget deficits and financial pressure on the County. Despite criticizing the concept of a turnover account (reductions from personal services), the FY 09 Proposed Budget still includes a modest turnover account of $1,120,000 in the Countywide Budget Accounts fund

[2] We note, however, a significant discrepancy. In the FY 09 Proposed Budget, 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.

center. This is reduced from a $4,300,000 turnover account in the adopted 2008 Budget. The FY 09 Proposed Budget also includes a turnover account of $812,500 in the Buffalo City Parks Division. In addition, the Collins Administration has 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. We view this action simply as a budgetary gimmick to balance that department's budget after reducing its 2008 supplemental appropriation by $1,600,000.

The FY 09 Proposed Budget does not identify and we cannot ascertain any budgeted funding for potential retroactive and future raises for nurses employed by the County and Erie County Medical Center Corporation represented by the New York State Nurses Association for 2005 and 2006 and forward. On March 2, 2008, an independent fact-finder appointed by the New York State Public Employee Relations Board presented his report recommending wage increases for those represented nurses. On March 5, 2008, the County Executive submitted the report to the Legislature rejecting the recommendations on wages, but no action has yet been taken by the Legislature concerning that report and findings of fact.

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. Annual budgets have routinely under-budgeted 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, as does the FY 09 Proposed Budget. Despite additional full-time budgeted positions, overtime costs in that division annually significantly exceed budget and will do so again in 2008 and 2009. Our office currently projects that Jail Management will incur approximately $9.6 million in overtime expense in 2008. As such, the FY 09 Proposed Budget appropriation for overtime in that division is significantly under-funded. Unbudgeted overtime expense in the Department of Public Works' Division of Buildings and Grounds (referred to in the FY 09 Proposed Budget as the Department of Real Estate and Asset Management) has also been a problem since 2005.



Separately, we are perplexed by a $3 million increase in fringe benefit expense in the Division of Jail Management. 2007 actual expense in this account was $16,185,554. The adjusted 2008 Budget projects fringe benefit expense in 2008 of $17,277,914, while the FY 09 Proposed Budget appropriates $20,376,185. The administration and Sheriff failed to provide any data to explain this significant increase, and this estimate needs to be clarified.

Debt Service:

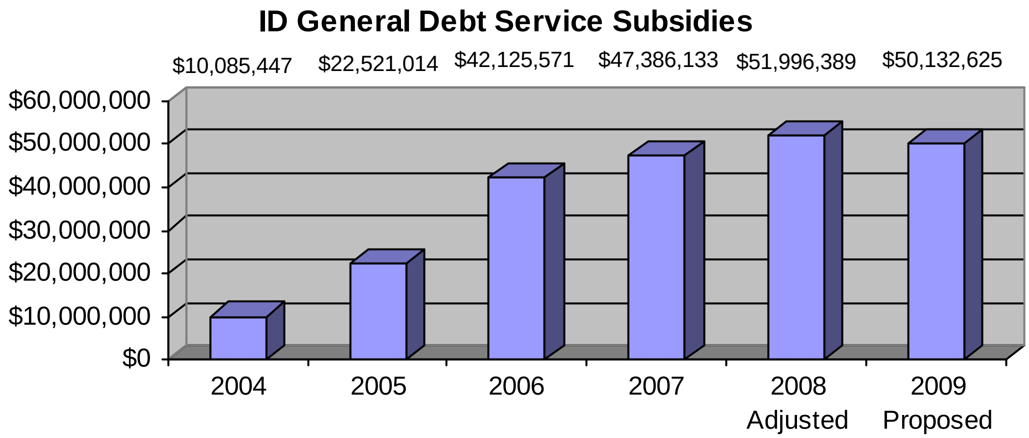
Since 1999, the County's total net indebtedness (excluding self-financing Sewer Districts) has increased significantly – from $211 million in 1999 to a projected $468,003,699 by the end of 2008.[3] The County's estimated calculation of total net indebtedness includes a $101,375,000 bond guaranty for the sale of the Erie County Medical Center Corporation, but does not include Sewer Bonds or Revenue Anticipation Notes. The December 31, 2007 calculation of total net indebtedness was $524,913,028.

During the same period, net bonded debt per capita has also increased significantly, rising from $190.69 in 1999 to $610.26 in 2007 and estimated $526.27 for 2008 and $512.41 for 2009 (due to no 2007 or 2008 bond sales). This growth in debt has consequences on the County's finances, as well as county government's ability to provide services.

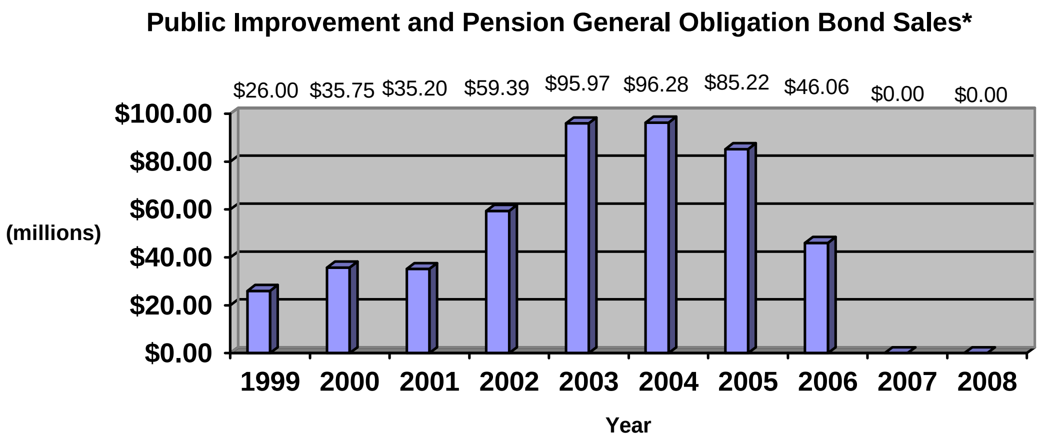
Due to the County's growth in bonded indebtedness, appropriations for debt service have risen significantly in the past five years. The General Fund subsidy for General Debt Service in the FY 09 Proposed Budget is $50,132,625, a 500% increase over the amount appropriated in 2004 ($9,345,603). Increasingly, limited General Fund monies are being used to make required debt service payments on the County's 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 $34,792,056 in 2004 to $59,602,804 in 2007, $67,048,855 in 2008 and $60,465,958 in the FY 09 Proposed Budget. Principal payments have increased from $18,858,161 in 2004 to $37,264,751 in 2007 and $42,291,434 proposed for 2009 – a significant increase but also a necessary development for the paying down of debt.

[3] This calculation presumes no 2007-2008 capital borrowing.



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 2009 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. There has not yet been a 2007 and/or 2008 capital borrowing. If one occurs, it is tentatively slated to total $84.77 million, not including $23 million for ECMCC.

Capital Budget:

The FY 09 Proposed Budget includes a Capital Budget totaling $86,181,450. This contrasts with an Adopted 2008 Capital Budget of $58,740,000 and an Adopted 2007 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). The recent discussions concerning a potential combined 2007-2008 capital borrowing via a bond anticipation note forecast less than $85 million for those two years. The proposed 2009 capital program is greater than the past two years combined. None of these borrowings include capital funds for Erie County Medical Center Corporation.

The size of this potential 2009 borrowing is of major concern to this office. Notwithstanding the condition of County infrastructure, the size and scope of projected capital borrowing in 2009, as well as out years of the Four Year Financial Plan ($103,870,000 in 2010) is tremendous. This large proposed borrowing will place significant pressure on the County's financial position and is nothing more than a continuation of the borrow and spend practices of past years that contributed to the recent fiscal crisis.

The FY 09 Proposed Capital Budget includes $52,881,450 for highway and bridge projects, ten (10) times the amount of the Adopted 2007 Capital Budget. Other noteworthy changes from prior years include:

- (Only) $1,525,000 for improvements in the Division of Jail Management (there is no longer any mention of a $100 million project at the Holding Center or the $25 million new pod construction at the Correctional Facility);
- $10.3 million for Erie Community College (more than double the college's recent annual capital appropriations);
- $500,000 for a Bethlehem Steel site redevelopment (which in itself is not large but that the underlying project is now projected to be $11,640,000, as opposed to a prior projection of $4,000,000);
- No further capital funding for the Buffalo Zoo; and
- $3,200,000 for information technology improvements for DISS.

In the out years (2010-2014), the Capital Budget includes significant proposed appropriations with annual capital programs ranging between $81,550,000 in 2014 to $103,870,000 in 2010.

The 2009-2014 Capital Program estimated County cost is $530,501,450 contrasted against a 2008-2013 Capital Program estimated County cost of $470,040,000 and a 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.

Employee Health Insurance Costs:

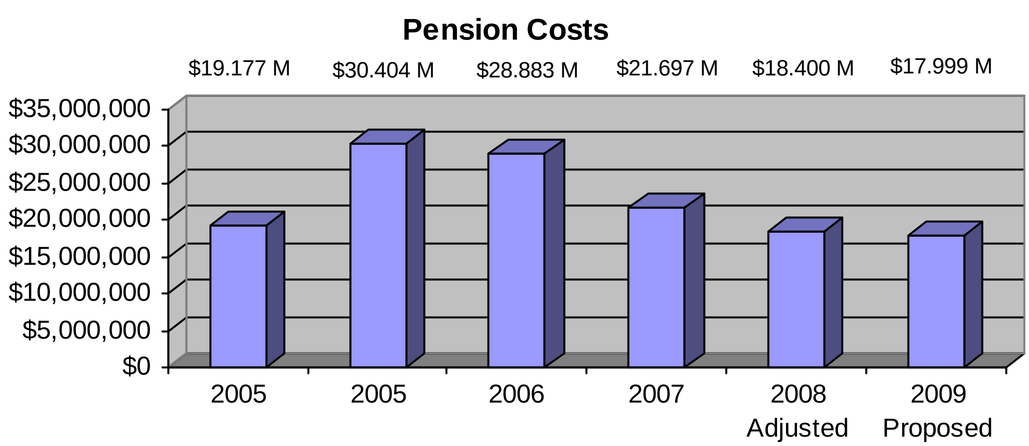
Active County employee health insurance costs have increased from $29.5 million (adopted budget) in 2007 to $34.2 million in 2008. The FY 09 Proposed Budget includes $40,760,172. Retiree health insurance costs increase from $11.1 million (adopted budget) in 2007 to $15.8 million in 2008. The FY 09 Proposed Budget includes $18,153,505. This $18.1 million includes ECMCC and Home retiree expense as required under the County's 2006 Consent Decree with the hospital.

Active employee health insurance costs continue to be a major growth and drain on the County's budget. The revised Four Year Plan projects that without changes to the collective bargaining agreements, active employee health insurance costs will grow to $54.2 million in 2012. To the best of our knowledge, limited to no talks are ongoing between the administration and the County's collective bargaining units at this time and no progress has been made in this area.

Pension Costs:

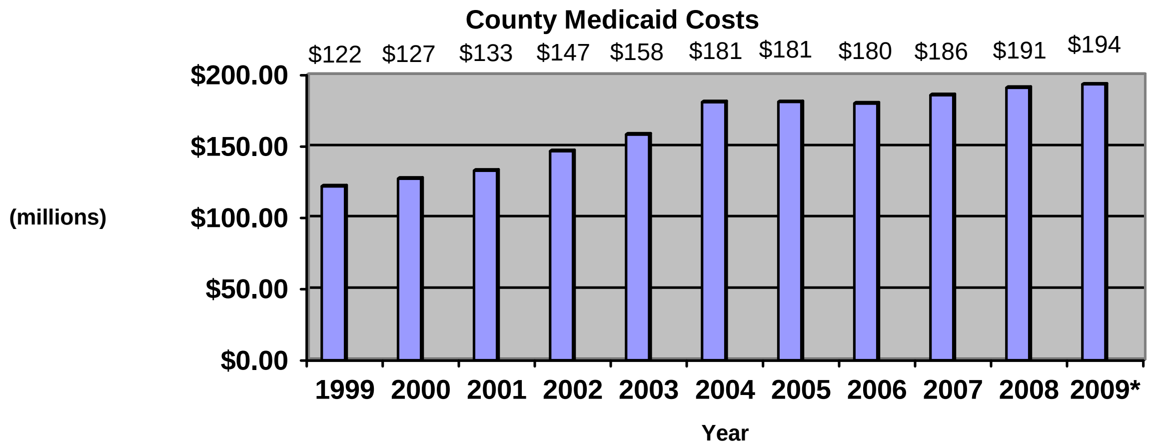
The County's pension payment to the New York State and Local Employees' Retirement System decreased from $20.8 million (budgeted) in 2007 to $18.4 million in the adopted 2008 Budget. The FY 09 Proposed Budget includes $17,999,281. The administration's estimate is based on data from the Office of State Comptroller concerning 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.

We do warn, however, that due to market conditions, the County's 2010 pension obligation is likely to be significantly higher.



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 08 Adopted Budget appropriation for Medicaid is $191,222,362. The FY 09 Proposed Budget appropriation is $193,520,843, which this office believes is a valid estimate.

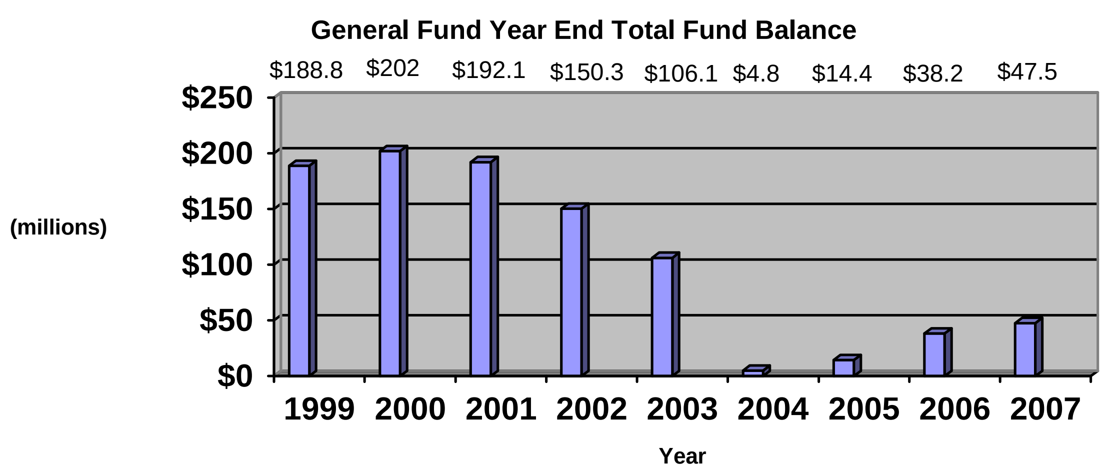


* Proposed 2009 appropriation of $193.52 million.

Fund Balance:

For the fourth consecutive year, the proposed budget does not plan for or appropriate General Fund undesignated fund balance. This follows FY 06 results generating a $23.825 million surplus, FY 07 results generating a $9.308 million surplus, and a total General Fund Balance of $47.5 million at year end 2007. 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.

The Four Year Financial Plan requires the reestablishment of unreserved fund balance totaling approximately $56.5 million by 2012 in order to meet the 5% rule recommended by GFOA. After replenishment of fund balance in 2005 and significant replenishment in 2006 and 2007, the FY 08 Adopted Budget included no provision for restoration of fund balance and neither does the FY 09 Proposed Budget.



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 2009, based on a 2008 General Fund budget of $1.002 billion (adjusted for the sales tax prescription), total designated and undesignated fund balance for the General Fund should be approximately $50.1 million. At year-end 2007, total undesignated unreserved General Fund balance was only $32.96 million.

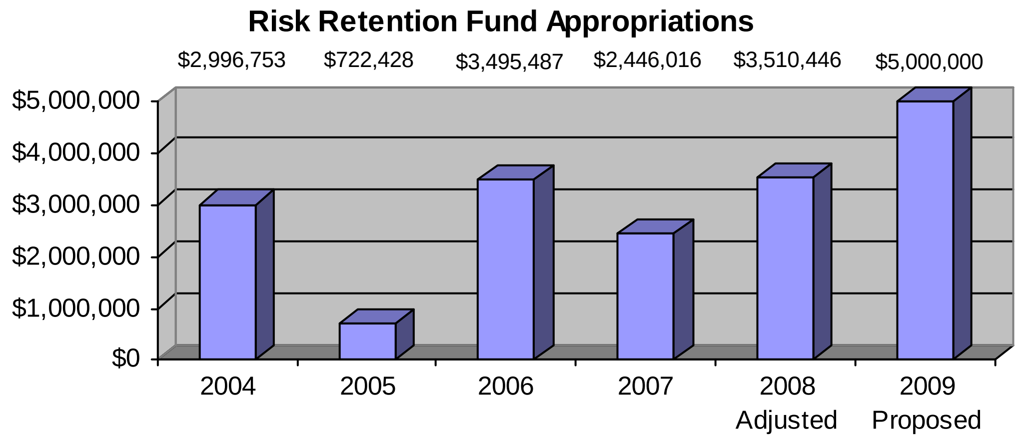
In the FY 09 Proposed Budget, the Collins Administration has engaged in a restatement of *General Fund Balance*. Under their restatement, they represent that the Undesignated General Fund Balance is $70,787,250. Under their restatement, they decrease the fund balance by an amount equivalent to an existing deficit in the Road Fund, add 2007 and 2008 community college and Board of Elections re-spread revenues (which are already budgeted for elsewhere), and add hypothetical collections of 2006, 2007 and 2008 tax liens (totaling $26,278,498) to create a General Fund Balance of $70.78 million.

This office fundamentally disagrees with their restatement. We do not believe this meets General 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.

We believe the administration may have pursued this restatement in order to make available fund balance as a potential revenue source in mid-year 2009 to cover projected or likely budget gaps. 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.

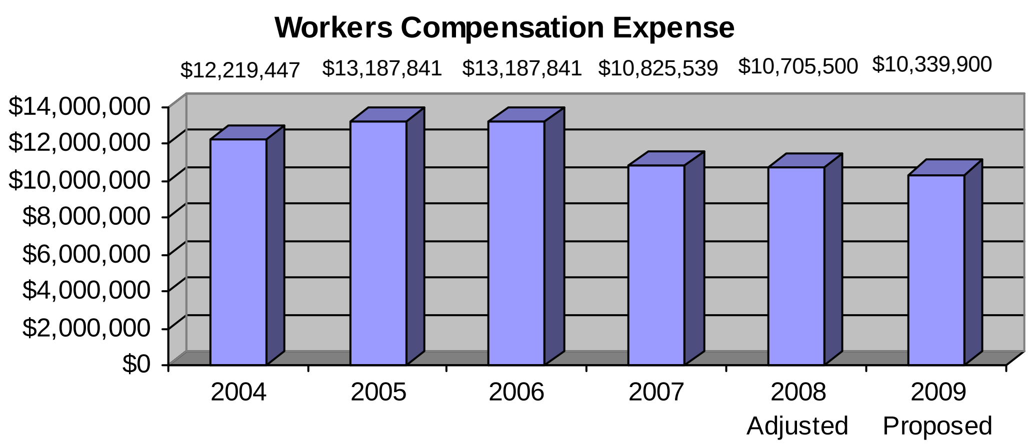
Risk Retention Fund:

The FY 09 Proposed Budget appropriates $5 million for the Risk Retention Fund, up from $3.5 million in 2008, and zero in the Adopted 2007 Budget (though $3 million was added in mid-year 2007 through legislative resolution). We note that $2 million of 2007 designated fund balance was utilized in the 2008 budget for the fund. At September 30, 2008, the fund has $4.6 million available. Based on past representations made by officials in 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 09 Proposed Budget appropriates $10,339,900 for workers compensation claims through the Law Department. This is down from $10,705,500 (Adopted) in 2008, and compares against significantly higher actual expense in recent years. 2008 year-to-date expense at September 30, 2008 is $8.1 million. Based on prior and current year results, we believe that 2008 actual results will be under budget and 2009 proposed funding in this account is reasonable.



We further note that the FY 09 Proposed Budget includes a negative appropriation in this fund center totaling $1,100,000 for "third party recoveries" without a related reduction in the "other funds" reimbursement account. This enables the overstatement of workers compensation benefit budgets in other County departments. The workers compensation fund center budget should be balanced in that all charges, net of third party recoveries, should be allocated to applicable County departments' workers compensation accounts.

Erie County Medical Center Corporation ("ECMCC"):

The FY 09 Proposed Budget appropriates $7,631,532 to ECMCC, up from $5,561,532 in 2008 but down from $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. The increase reflects the principal payment on ECMCC bonds sold in 2004, for which the County must commence payment against in 2009. The October 15, 2007 revised Four Year Plan (but not the Collins Administration's October 15, 2008 plan) stated annual 2009-2011 operating subsidy requirements would be $7,631,245.

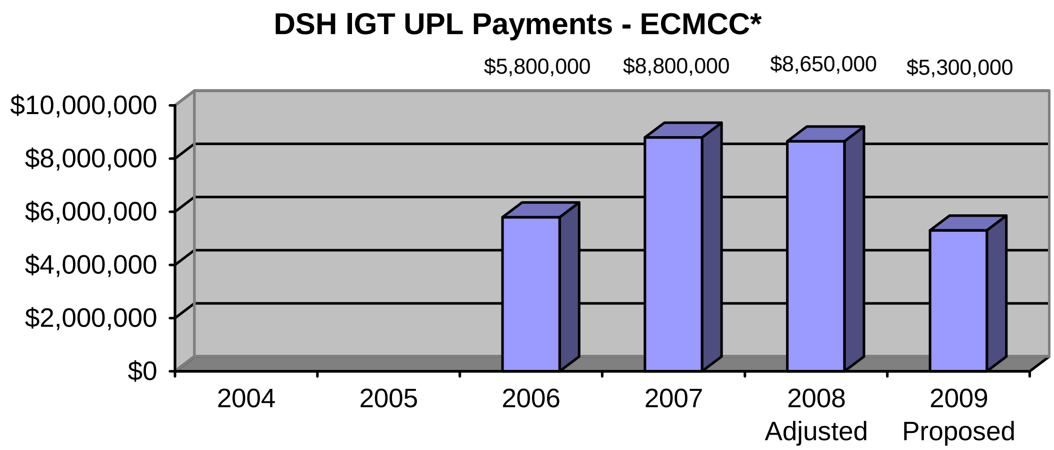
In our 2007 Budget Report, we warned about unbudgeted expenses to the County from/at ECMCC under disproportionate share ("DSH") intergovernmental transfer ("IGT") payments by the New York State Department of Health ("NYSDOH") to ECMCC and the charging of County accounts by the State. In 2006, the County and ECMCC were involved in a dispute whereby ECMCC refused to transfer approximately $5.8 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. Due to a recent tightening of federal regulations, these funds cannot be simply returned by ECMCC to the County, even if they so desired (which they do not).

In 2007, the County was charged approximately $9 million on the DSH IGT issue, resulting in a corresponding negative variance on the 2007 Budget. In early 2008, the County was charged over $2 million for DSH IGT. In late October 2008, this office independently determined from NYSDOH that the County will likely be charged an additional $6.65 million for DSH IGT before the end of 2008.

While one cannot accurately determine the amount of DSH IGT which will be charged to the County's accounts in 2009, the fact remains that the current administration continues a past administration practice of not budgeting for any DSH IGT expense. There is no FY 09 Proposed Budget appropriation for DSH IGT. As such, when the County receives notification in 2009 from NYSDOH regarding this issue, there will be no budgeted funds for this expense, thus creating a budgetary negative variance. Based on prior year results, we believe the County should budget at least $4 million annually for this expense.

In addition, on October 22, 2008, this office was alerted by ECMCC (but not the County administration) to an unexpected $16 million obligation due to New York State associated with the supplemental Medicaid Upper Payment Limit mechanism associated with County-sponsored nursing homes and skilled nursing facilities. While the Collins Administration had been aware of this issue for some time, and perhaps as early as September 25, 2008, they never informed this office of this liability. Therefore, it appears the County administration was aware of this obligation prior to its submission of the FY 09 Proposed Budget to the Legislature.

NYSDOH is allowing counties to spread out the payment of this obligation over four years starting in November 2008. Based on information received from NYSDOH, we learned that the Collins Administration has agreed to finance the $16 million payment with three level payments in March 2009, March 2010 and March 2011. Thus, there will be no budgetary impact on 2008. However, there will be an impact in 2009 and our office cannot identify any appropriation for this $5.3 million expense in the FY 09 Proposed Budget nor annually in the administration's Four Year Plan. While the County administration has stated it is negotiating with ECMCC to resolve the IGT issue, under the current situation and pursuant to past practice, the County is obligated to make this payment even if it has not been included in the FY 09 Proposed Budget. This presents a significant risk of a negative variance in the FY 09 Proposed Budget before that budget is even adopted.



* Although not identified in the 2008 or 2009 Budgets, the chart reflects the projection of an additional $6.65 million DSH IGT payment in 2008 and the $5.3 million UPL payment in 2009 but no 2009 DSH IGT expense.

Erie Community College:

As agreed to by the County Legislature and County Administration in summer 2008 in their approval of the college's 2008-2009 Budget, the County's FY 09 Proposed Budget sponsor contribution operating subsidy for Erie Community College ("ECC") is $15,420,778, the same as 2008, but 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 maintain this amount as the operating subsidy to the college for Erie County Fiscal Years 2009-2012. While the sponsor contribution increase was first represented in 2007 as a reflection of the prior 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 09 Proposed Capital Budget for ECC includes $10.3 million in borrowing for ECC capital projects, as contrasted with proposed $4,950,000 in borrowing for ECC capital projects in the 2008 Capital Budget and proposed 2007 capital borrowing of $3,200,000 for ECC capital projects and actual approved 2007 bond resolutions totaling $6,200,000 for ECC. In fact, the FY 09 Proposed Budget reflects that ECC has received a doubling of its proposed "routine" capital bonding through the County compared to 2008.

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, in 2007, $3,645,000, and in 2008, $3,718,791.

In prior years, the account has been under-funded. The FY 09 Proposed Budget appropriation is $4,100,000. Based on current trends, this estimate is reasonable.

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. 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.

The Hotel Occupancy Tax is budgeted for revenue of $7,300,000 in the FY 09 Proposed Budget. The FY 09 Proposed Budget appropriates $4,250,000 to the Buffalo/Niagara Convention Center and the Buffalo Niagara Convention and Visitors' Bureau. In addition, the FY 09 Proposed Budget allocates $2,150,195 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, the Collins Administration declined to request legislative approval to appropriate additional 2007 revenue from the Hotel Occupancy Tax for tourism/convention purposes. And, in the FY 09 Proposed Budget Resolutions (number 18), the administration continues a 2008 budget resolution stating that funding for the Buffalo Niagara Convention and Visitors Bureau will not be increased or decreased during the year and that the 2009 budget process will be the sole mechanism for funding that entity.

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. The FY 09 Proposed Budget does not appropriate additional funding from the Hotel Occupancy Tax outside of County purposes.

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 confirmed our projection.

Our analysis of the FY 08 Proposed Budget for the Buffalo City Parks Division showed 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 was less than the budgeted and actual 2006 and 2007 revenue totals). These figures did not include the expenditure of $1,587,769 in the Division to the Department of Social Services. We warned in our 2008 Budget Report that without corrective measures, the Buffalo City Parks Division would continue to be a negative drain on the County's General Fund and the County will have to continue to subsidize the city parks.

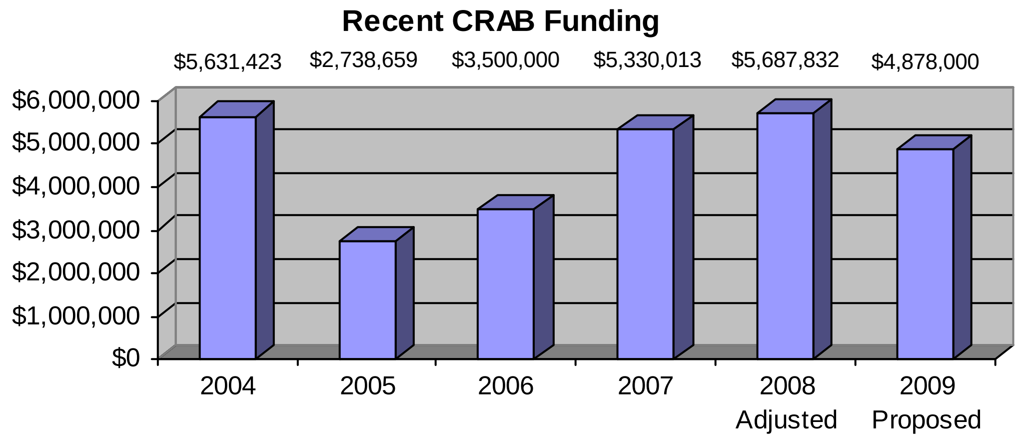
On June 13, 2008, pursuant to the City-County agreement governing the city parks, the Erie County Attorney served written notice on the City of Buffalo terminating the agreement effective on June 13, 2009. In the FY 09 Proposed Budget, the City Parks Division is ostensibly returned to the City after June 30, 2009 and only six months of revenue from the City is budgeted. Whether this factor is a negotiating tactic on the part of the administration to compel a higher City payment or the administration will actually eliminate the division at close of business on June 30, 2009 is not known. We do recommend a higher City payment, however, to more accurately represent the County's actual costs of administering the city parks.

If the Collins Administration terminates the City Parks Division in June 2009 and the County is forced to pay for cash-outs of accrued vacation and sick time for those employees, current data in SAP indicate that vacation time expense will total $141,668 and sick time would total $297,535.

Dedicated Cultural Funding:

The FY 09 Proposed Budget appropriates $4,878,000 for Cultural Resources Advisory Board ("CRAB") organizations. This CRAB appropriation contrasts with $5,687,832 in the FY

08 Adopted Budget and $5,332,013 in 2007. CRAB requested $4,996,810 in funding for 2009. The single-largest funding cut in 2009 compared to 2008 is no CRAB request or Executive appropriation for Studio Arena Theater ($263,986 in the FY 08 Adopted Budget, but funding was never released to the non-operating theater).



* 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."

Other Public Benefit Funding:

In his Budget Message, the County Executive stated: "we eliminated all support for non-mandated, pork spending that played to special interests without an overall benefit for Erie County taxpayers." While the County Executive has eliminated funding for some non-mandated programs, he has not ended it all. Seven organizations through the community/neighborhood development fund center, have seen their funding eliminated, including Cornell Cooperative Extension, Erie County Soil and Water Conservation, SPCA Feral Cats Program, three Meals on Wheels agencies, and Vive la Casa. Those cuts total $689,000. In addition, $90,000 of funding for the Frank Lloyd Wright Rowing Boathouse and Hauptman Woodward Medical Research Institute has been eliminated. Funding totaling nearly $140,000 has also been cut from Operation Prime Time. However, his Department of Environment and Planning requested and he continued to fund $20,000 to the Erie Niagara Regional Partnership (now known as the Erie Niagara Regional Coalition), an entity staffed by a former County Legislature employee, based at the Erie County Industrial Development Agency, and which has operated almost entirely only due to public benefit appropriations from the County since 2003.

Contrary to his claim, the County Executive has not eliminated all non-mandated pork spending.

Utilities Fund:

Utility charges increase from $53,406,240 in the Adopted 2008 Budget to $54,810,000 in the FY 09 Proposed Budget. This compares against actual 2007 expense of $46,103,430. Revenue from charges to the local governments in the Utilities Aggregation that purchase utilities through the County has decreased from $29,267,879 in the adopted 2007 Budget to $25,301,303 in the adopted 2008 Budget and $24,689,745 in the FY 09 Proposed Budget. At the same time, local source revenue from ECMCC is increasing from $4.7 million in 2007 to $6.2 million in 2008 and $7.2 million in the FY 09 Proposed Budget. Given the volatile nature of utility expenses this is another account that requires careful monitoring.

Road Fund/CHIP/Highway 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. The fund ended 2007 with a total negative fund balance of $3.165 million and a negative undesignated fund balance of $6.977 million. These results included deficits that have occurred in this fund since 2001. 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.

For the past eight years, the County 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 by the Giambra Administration 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 CHIP which called for an elimination of this practice by the end of 2010.

In the FY 08 Proposed Budget, the County Administration proposed 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 projected 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 would have created create additional strain on the General Fund but would have addressed that fund's deficit.

In the FY 09 Proposed Budget, the Collins Administration provides a General Fund supplemental appropriation to the Road Fund of nearly $7 million. This policy change would increase 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. This is a marked difference from the Giambra Administration's handling of the Road Fund and a noteworthy new appropriation.

This additional appropriation of nearly $7 million funds an additional new 2009 appropriation of $3.3 million in the Highway Division for “highway supplies” and represents the single-largest component of the increase in the County real property tax levy from 2008 to 2009.

The Four Year Plan for 2009-2012 projects additional, increasing annual funding for the Road Fund as follows: 2010: $14.2 million; 2011: $15.8 million; and 2012: $17.2 million.

Our review of the FY 09 Proposed Budget identified a Budget Resolution affecting the Road Fund. Budget Resolution number 14 reads as follows: “Resolved, that as part of the 2008 year-end process the Budget Director in concert with the Comptroller are authorized to bring the Road Fund undesignated fund balance to zero as long as the amount adjusted does not exceed available undesignated General Fund fund balance.” We believe that this new budget resolution, if adopted, will require a 2008 appropriation from the General Fund to eliminate the Road Fund deficit as of December 31, 2008. Because the County’s transfer tax revenue is currently significantly under budget for 2008, the 2008 appropriation to close the Road Fund deficit could be as high as $9-$10 million. If such resolution was enacted, either by affirmative vote or by default, it would have a material and significant negative fiscal impact on 2008.

GASB 45 Requirements:

In the FY 09 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.

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 health insurance.

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 09 Proposed Budget which we bring to your attention.

Budget Resolution # 11

The FY 09 Proposed Budget includes a new Budget Resolution authorizing the Director of Budget and Management to "adjust grant appropriations and revenues in accordance with final grantor funding levels or grantor authorized changes to award amounts, provided there are not changes to authorized personnel levels and county share amounts." We believe this resolution would allow the administration to change grants without seeking legislative approval, a practice now in effect.

Budget Resolutions # 12 and 13

The FY 09 Proposed Budget includes new Budget Resolutions authorizing the Director of Budget and Management to adjust interdepartmental billing accounts and adjust budgeted fringe benefit accounts between departments as may be required to effectively or more accurately indicate the cost of those expenses. We believe this resolution allows the administration to change budgeted expenses and revenues without legislative approval, a practice now in effect.

Budget Resolution # 15

This Budget Resolution authorizes the Commissioner of Personnel to terminate all employees in the Buffalo City Parks Division effective on June 30, 2009.

Budget Resolution # 31

The adopted 2008 Budget included a new budget resolution (included in the FY 09 Proposed Budget) 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. That would be a significant unbudgeted expense that would create a negative variance in the FY 09 Proposed Budget. Given that the 2009-2012 Capital Budget no longer includes any capital program to expand or substantially improve the Holding Center and Correctional Facility, this remains a concern.

Budget Resolution # 74

This new Budget Resolution authorizes the Commissioner of Personnel to reclassify a regular part time position to full time "in order to allow a full-time employee to exercise their Civil Service and contractual rights of layoff and retreat."

Budget Resolution # 78

This new Budget Resolution directs the Board of Elections to offset any "position additions" with a "similar position deletion." Based on a 2005 court ruling involving the Board of Elections and the County, we believe this resolution may not be legal.

Deleted Budget Resolution #70 from 2008

The 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 by the Collins Administration.

Comment on Four Year Plan Projections (2009 - 2012)

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 have been 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 FY 09 Proposed Budget and October 15, 2008 revised Four Year Plan.

The October 15, 2007 revised Four Year Plan and subsequent plan – both of which were rejected by ECFSA and for which the County and ECFSA are operating in 2008 without an approved plan – projected using four broad categories to reduce County costs and avoid deficits in 2008, 2009, 2010 and 2011. 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. Ultimately, while vacancy control played a major role in the County's 2007 surplus and has been prominent in 2008, those savings initiatives were essentially not pursued by the prior administration.

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 as submitted by the Collins Administration. 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).

On October 15, 2008, as part of the Executive Summary/Budget Message, the Collins Administration released their 2009-2012 Four Year Plan. The Plan, a rather summary document with scant details, is premised on certain assumptions and initiatives. It is significant that almost none of the original or revised Four Year Plan savings initiatives from 2005-early 2008 are included or pursued any longer. The revised Collins Administration assumptions and initiates are as follows:

- Property tax market value-based revenue growth of 4% in 2010, 2011 and 2012 (after the property tax rate per thousand of assessed value in 2009);
- Sales tax growth of 3% annually in 2010, 2011 and 2012 (after no growth in 2009);
- Modest personal services expense growth of only 1.5% annually in 2010, 2011 and 2012;
- Health insurance expense growth of 10% annually in 2010, 2011 and 2012;
- Pension expense growth of 5% in 2011 and 2012;
- Transitioning from full time to regular part time employees;

- Deletion of vacant funded titles;
- Modest state and federal aid increases in 2010-2012;
- Elimination of all financial subsidies and obligations to ECMCC;
- No growth in financial support for cultural groups and ECC;
- Further ECFSA efficiency grant awards;
- Six Sigma efficiency measures; and
- Space utilization savings through moving County offices into County-owned space.

Based on our analysis of these October 15, 2008 revised Four Year Plan's assumptions and major gap closing initiatives, we question the savings estimates and the County's ability to close 2010-2012 gaps through these 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 some of these Four Year Plan gap closing initiatives follow.

Property Tax:

After raising the property tax rate in 2009, the County Executive represents in his October 15, 2008 Four Year Plan that he will not change the rate in 2010-2012. 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 and the issues facing New York State. Given other revenue trends showing little to no growth or possibly even decreases and significant expenditure increases, the property tax levy will be the sole mechanism available to County management in the annual budget process for raising new revenue.

Sales Tax:

The October 15, 2008 Four Year Plan projects 3% growth in sales tax revenues in 2010, 2011 and 2012 after essentially no growth in 2009. While we support conservative projections, given the state of the current local, state and national economies, and the decline in value of the Canadian dollar relative to the US dollar, 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.

ECFSA Efficiency Grant Awards:

The October 15, 2008 Four Year Plan and 2009 Budget include previously awarded efficiency grant funds as well as project potential further grant awards to facilitate certain initiatives, such as a new probationer tracking computer system in Probation. Given previous and current administration difficulties in winning ECFSA approval for such grants, however, we are skeptical of future additional awards. In addition, the failure of the administration to include or show in the 2009 Budget the two efficiency grant-funded positions in the County Executive's office will likely engender ECFSA concern and skepticism. We do note that the Plan does not project any specific future award dollar amounts.

Six Sigma Efficiency Measures:

The October 15, 2008 Four Year Plan represents year-to-date savings from nine (9) Six Sigma projects of $1,318,964. The Plan projects 2009 savings at $5.1 million based on future 2009 planned "green belt" and "yellow belt" projects and annualized 2008 project savings moving forward. Based on the paucity of information provided in the Plan and no supporting documentation available to our office, we cannot confirm these savings estimates.

Space Utilization Projects:

Through terminating leases for County office space and moving offices from leased into County-owned property, the administration forecasts recurring savings. The October 15, 2008 Four Year Plan represents year-to-date savings through space utilization projects of $146,919. The Plan projects new 2009 savings of $390,880 for annualized savings starting in 2010 of $537,799. This savings is possible for the two largest outside leases (for the County Attorney's Office and the Downtown Auto Bureau) through an ECFSA efficiency grant to rehabilitate the northern half of the first floor of the Rath Building and the south and eastern side of the 16th floor of the Rath Building. Other potential savings seems to consist largely of shifting space for very small County Executive-led offices formerly or currently on the 16th floor.

Collective Bargaining Concessions:

All but one (Erie County Sheriff Police Benevolent Association) 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.

Under New York State Law (the "Taylor Law"), the terms of the existing contract remain in effect upon its expiration. In 2007, 2008 and again in the FY 09 Proposed Budget, the County Administration budgeted for no cost-of-living wage increases and has only included longevity step increases. Until the Collins Administration, 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 prior and current County Administrations have had no success and little progress with the County unions concerning renegotiating their contracts. When given an opportunity to assist (on the Sheriff PBA issue and AFSCME issue), ECFSA declined. We believe the issue of lapsed collective bargaining agreements and the cost to the County from new contracts (and the current and future projected expense for active employee health insurance under the current contracts) will be the single-largest issue for the Four Year Plan and the County budget moving forward in 2009 and future years.

The Collins Administration no longer projects or includes savings via collective bargaining concessions as a Four Year Plan initiative.

Health Insurance Expense:

The October 15, 2008 Four Year Plan projects that County active employee health insurance expense will grow 10% annually in 2010, 2011 and 2012. Their estimates start at $44.8 million in 2010 and grow to $54.2 million in 2012. Absent meaningful changes to the collective bargaining agreements or systemic changes in the County's health insurance relationship with BlueCross BlueShield and Labor Management Healthcare Fund, given recent year trends in health insurance expenses, we believe these future estimates are not reasonable. FY 09 budgeted expense is $7 million more than 2008, or more than 20% higher. We believe the growth in health insurance expense will continue to significantly grow beyond 10% annually.

Pension Expense Growth:

The October 15, 2008 Four Year Plan projects 1% growth in pension expense in 2010 and then 5% growth in 2011 and 2012, or approximately $1 million more in 2011 than 2010 and so forth. The Four Year Plan projects that the County's pension payment will increase to $18,179,274 in 2010 and to $20,042,650 by 2012. Given market conditions and the effect on the New York State and Local Employees' Retirement System, we believe these projections to be low.

While estimating pension payments to the New York State and Local Retirement System is difficult given that our payment obligations are set by the State Comptroller based on market conditions, we have previously been warned about future payments likely increasing significantly in 2010. Based on current market conditions, we believe 5% growth in the out years of 2011 and 2012 is understated. In his October 15, 2008 review of Nassau County's proposed 2009 Budget, Nassau County Comptroller Howard Weitzman reported: "the State actuary has advised that rates will drop further in 2010 and then increase in 2011 and 2012 by as much as 40%." The Office of Erie County Comptroller does not take such a warning lightly.

State Aid:

The October 15, 2008 Four Year Plan projects state aid will grow modestly in 2010, 2011 and 2012. While we support conservative projections, given the state's current budget difficulties, we are concerned that even modest growth is not supportable.

ECMCC Financial Obligations:

While not formally noted in the October 15, 2008 Four Year Plan, the Collins Administration asserts in their budget message that it will not appropriate or provide for certain capital funding for ECMCC totaling at least $23 million until an undetermined point in the future. The County Executive stated: “it is my opinion that Erie County will be out of the hospital business long before that day ever arrives.” Based on other limited information available to this office, none of which was provided by the administration, we understand the County Executive is pursuing some form of arrangement or agreement by which the County’s financial obligations to ECMCC would cease in the near term. Whether this would include capital and operating subsidies, retiree health obligations, rental payments, and/or debt service payments is unclear. However, under the current law and situation, it is reasonable to assume the County will be required to make significant contributions to ECMCC on an annual basis.

Appendix A

Noteworthy Personal Services Changes from Adopted 2008 to Proposed 2009 Budget

Legislature:

One managerial-confidential title of Administrative Liaison Assistant Leg is upgraded from JG 12 to JG 13 with a corresponding raise of $5,475.

A managerial-confidential Senior Admin Clerk (Legislature) JG 9 is upgraded to Senior Administrative Assistant (Leg) JG 11, with a raise of $5,655.

One new managerial-confidential title of Senior Admin Clerk (Legislature) JG 9 is created at a salary of $35,172.

A managerial-confidential Senior Clerk Typist (Legislature) RPT JG 4 is upgraded to Senior Admin Clerk (Legislature) RPT JG 9, with a raise of $14,212.

County Executive:

One managerial-confidential title of Junior Administrative Consultant-CE JG 9 is upgraded to Senior Executive Assistant-CE JG 11 with a corresponding raise of $6,691.

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 2009 Budget. However, new state aid of $160,000 is denoted in the Department of Real Estate and Asset Management, presumably to fund a new Commissioner title for which one incumbent will presumably shift into.

Budget, Management and Finance:

The managerial-confidential Director of Budget and Management is upgraded from JG 19 to JG 20, with a corresponding $10,757 raise.

One Systems Accountant is upgraded from JG 11 to JG 13.

One new title of Systems Accountant JG 11 is created.

One new title of Fiscal Analyst JG 9 is created.

Real Property Tax Services:

In 2008, this Department had one CSEA title of Junior Tax Accountant JG 9 (newly created in October 2007). The Giambra Administration had unsuccessfully attempted in mid-year 2007 to create a new, separate managerial confidential title of Secretary in this office for a managerial confidential employee who was then later placed into the new Junior Tax Accountant title. Due to the 2007 Charter amendments transferring accounting responsibilities to the Office of Comptroller, we believed the creation of this new position in Real Property Tax Services was inappropriate.

Effective September 8, 2008 the Collins Administration reallocated the Junior Tax Accountant title to Secretary to Director of Real Property, a managerial confidential title that previously did not exist. We do not believe the Legislature was made aware of or approved this reallocation.

Personnel:

A managerial confidential Junior Personnel Specialist JG 10 is upgraded to the new title Interne Personnel Specialist-Minority Outreach, JG 13, a raise of $14,188.

Comptroller:

Against the wishes of the Comptroller, the administration has deleted a managerial-confidential title of Associate Deputy Comptroller (Audit) JG 16 and an Application Systems Specialist JG 14.

The County Administration has continued to fund in 2009 currently vacant titles, including managerial confidential titles, in other elected departments, such as the Sheriff, County Clerk, District Attorney, and Legislature, but has cut positions in the Comptroller's Office.

Office of Public Advocacy:

The new 2008 managerial-confidential title of Commissioner of Public Advocacy JG 14 remains funded, despite being vacant and whose future incumbent would oversee a department that functionally does not exist any longer.

Purchase:

The occupied managerial confidential title of Deputy Director-Purchase JG 12 is deleted.

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 $47,662.

The vacant title of ERP Systems Administrator JG 15 is funded at Step B, rather than Step 0 as required, a $23,710 difference.

The occupied title of Communications Manager JG 14 is deleted.

Social Services:

The managerial confidential title of Commissioner JG 20 is upgraded to JG 22, a raise of $21,788.

A new managerial-confidential title of Assistant Commissioner-Administration JG 16 in the Community Medicaid Eligibility Teams cost center is created at a non-Step 0 salary of $87,798.

Youth Services:

The previously vacant title of Deputy Commissioner JG 16 has been filled by an existing County employee, resulting in a step salary increase of $27,007.

In 2008, a new title of Accountant JG 9 was created. Due to the 2007 Charter amendments transferring accounting responsibilities to the Office of Comptroller, we believed the creation of this new position in Youth Services was inappropriate. The title has since been reallocated to "Fiscal Analyst" but is currently vacant.

Youth Bureau:

A new title of Youth Bureau Director JG 12 is created at a salary of $42,038.

Health Division:

In 2008 the incumbent Health Commissioner received an upgrade from JG 21/5 ($124,008) to $154,266. A similar upgrade was requested in the Proposed 2007 Budget but deleted via legislative amendments. In 2009, the Commissioner's salary is increasing by $10,146.

A new managerial confidential title of Deputy Commissioner JG 19 is created at a salary of $85,094.

The occupied title of Mainframe Manager JG 16 is deleted.

The new managerial confidential title of Medical Director Correctional Health is created at JG 22 ($136,779 salary).

The new title of Director of Correctional Health is created at JG 16 ($69,892 salary).

The occupied title of Special Assistant Commissioner of Health JG 12 is deleted.

Sheriff Division:

The occupied title of Senior Tactical Flight Officer JG 9 is upgraded to JG 10, a salary increase of $4,377.

Probation:

The Commissioner of Probation (JG 17) title is changed back to Director of Probation but funded in the 2009 Budget at $75,909. The acting Director currently makes $100,506 at her existing step. If she is appointed permanently to the title in 2009, there is an error in the Budget.

The vacant managerial confidential Deputy Director (JG 14) title is deleted.

A new Principal Probation Officer JG 13 title is created ($71,504 salary).

A new Billing Collections Specialist (JG 10, $45,280 salary) title is created in Probation. Under the 2006 Charter changes, this title correctly belongs in the Office of Comptroller, and not Probation. We further note that a Billing Account Clerk (JG 6) title was re-created by Probation in 2008 for a former employee in that title and continues to be funded in 2009. This title also correctly belongs in the Office of Comptroller.

An occupied Senior Budget Examiner-Probation JG 13 title is deleted.

Jail Management:

There are a number of new medical positions in the Holding Center, including Nurse Clinician-Psychiatry (JG 12), Head Nurse (JG 10), two dental positions, and two new Registered Nurses (JG 8).

There is a new Head Nurse (JG 10) title at the Correctional Facility and two new Registered Nurses (JG 8).

Emergency Services:

A new part time title of Emergency Services Consultant JG 14 is created.

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

An Accountant (JG 9) title also does not appear in Book A or Book B.

Parks:

A new title of Director of Recreation JG 13 ($48,943 salary) is created.

The occupied title of Youth Recreation Coordinator JG 9 is deleted.

Two new Crew Chief titles are created.

An occupied full time title of Automotive Mechanic-Parks is deleted.

Fleet Services:

The managerial confidential title of Director of Fleet Services JG 16 is deleted.

Highways:

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

Real Estate and Asset Management:

This new department is created with the Department of Public Works' Division of Buildings and Grounds transferring.

The new managerial confidential title of Commissioner JG 22 ($116,308) is created.

A new regular part time title of Architect-Development Manager JG 15 ($63,225) is created at a higher salary than otherwise entitled.

The title of Assistant Supervisor of Cleaning Service JG 10 is deleted.