

**ERIE COUNTY FISCAL STABILITY AUTHORITY  
ANALYSIS OF THE ERIE COUNTY  
2014-2017 REVISED FINANCIAL PLAN  
December 19, 2013**

**1. INTRODUCTION**

This report details the analysis and comments of the Erie County Fiscal Stability Authority (ECFSA) in its review of Erie County's 2014 adopted budget and associated financial plan. The ECFSA is charged with reviewing the county's submission in light of opining on reasonableness and do-ability. Under the legislation that created the Authority, within 15 days of receiving the county's submission, the ECFSA is required to determine, in its best judgment, whether the budget and plan are in balance.

In the current version of the plan, the county is facing \$15.7 million in fiscal gaps prior to any adjustments to the county's estimate. This gap is \$9.65 million lower than listed in the plan based on the 2013 adopted budget. The 2014 adopted budget, like the 2013 adopted budget, does not include a property tax rate increase.

**2. MAJOR PLAN ASSUMPTIONS**

Major assumptions in the financial plan include:

- Sales tax growth of 1.97% for 2014 over the 2013 budget, then 2.75% for 2015, 2016 and 2017. The October 2013 Erie County Budget Monitoring Report (BMR) forecasts a \$3.65 million shortfall in the sales tax account – with that figure; the county is assuming sales tax revenues will pick-up for the remainder of 2013. Information received subsequent to the release of the 2014 proposed budget indicates the sales tax growth is increasing. At the current rate of increase over the previous year of approximately 3.24%, sales tax revenues would come under budget by \$2 million for 2013.
- Real Estate Market Value Growth, impacting the county's property tax levy, is assumed to increase by 1.88% for 2014 and by 2% for 2015, 2016 and 2017.

- The county portion of the property tax levy increased by \$4.03 million in 2014. - then increases by \$4.38 million in 2015, \$4.47 million in 2016 and \$4.55 million in 2017 – a total increase of \$17.43 million over the period of the plan.
- An 8.5% increase in health insurance rates for 2015, 8.3% for 2016 and 8.2% for 2017.
- The continuation of the library system’s current structural relationship with the county – the libraries do not become a separate taxing jurisdiction.
- Personal services expenses primarily increase for step and longevity increments, settlement of Teamsters and CSEA Corrections unions and for the addition of positions in the Jail Management Division of the Sheriff’s Office to remain in compliance with the New York State Commission of Correction’s report and recently approved labor contracts.
- Overtime expense by 2014 is assumed to increase by more than 14% as compared to the 2013 budget, due to more conservative budgeting. For 2015-2017, overtime is expected to decrease by 1% each year.
- Capital borrowing of \$25 million for 2015, \$30 million for 2016 and 2017.
- The plan, as presented, shows no gap for 2014 and shortages of \$9.26 million for 2015, \$4.58 million for 2016 and \$1.88 million for 2017.

**3. MAJOR DIFFERENCES/ASSUMPTIONS – 2013 ADOPTED BUDGET AND PLAN TO 2014 ADOPTED BUDGET AND PLAN**

Major revenue and spending revisions from the version of the plan based on the 2013 adopted budget include:

- Real Estate Market Growth and resulting increase in the property tax levy by 1.88% for 2014 and by 2% for 2015, 2016 and 2017. The previous plan called for 1% for 2014 and by 2% for 2015 and 2016.
- The Property Tax levy has increased by \$5.76 million for the 2014-2016 period, as compared to the previous submission.
- Full time salaries have increased by \$9.4 million for the period 2014-2016.
- Vacancy savings for the period of the plan have increased by \$1,020,000 for the 2014-2016 period. An additional \$990,000 has been included in the 2017 fiscal year forecast for vacancy savings.

- Anticipated overtime spending has been increased over the previous submission. Allocations for overtime expenses have increased by \$9.1 million over the period 2014-2016. Overtime expenses in 2014 (\$14.26 million) assume an 18.6% reduction in this item as compared to 2012 actuals of \$17.5 million.
- The county is also assuming the reduction of 20 full time positions per year starting in 2015, based upon attrition.
- Fringe benefit costs have been reduced for the 2014-2016 period by over \$12 million as compared to the previous version of the plan. Fringe benefit rates over the period of the current plan increase slightly each year from 59.9% in 2014 to 61.9% of salaries for current county employees.
- County stated “gaps” are smaller in the most recent version of the plan as compared to the previous one. In the February 2013 plan; the shortages totaled approximately \$25.4 million. The current plan calls for shortages of \$15.7 million.
- The 2014 fiscal year assumes the use of \$5,405,000 in fund balance as revenue to balance the budget and \$2 million for Botanical Gardens capital projects (in lieu of bonding for those items). Fund balance usage has been extended for 2015, 2016 and 2017. The 2013 adopted budget version of the plan assumed \$5 million in 2014 and \$2 million in 2015 for a total of \$7,000,000. The current plan assumes \$18,215,000 for the same period.

#### **4. PLAN ASSESSMENT**

With the allocation of \$5.4 million in (no capital project related) fund balance, the county’s 2014 budget is balanced. The plan lists a cumulative shortage over the 2014-2017 plan period of \$15.7 million. The current plan “gap” is a decrease of \$9.65 million over the financial plan submitted in February of 2013.

The following is a comparison of current and 2013 adopted plan annual gaps (in millions of \$’s):

	<b><u>2014</u></b>	<b><u>2015</u></b>	<b><u>2016</u></b>
Current Plan Gap	\$0.0	\$9.3	\$ 4.6
<u>2013 Adopted Plan Gap</u>	<u>\$8.4</u>	<u>\$8.9</u>	<u>\$ 8.1</u>
<b>Difference</b>	<b>(\$8.4)</b>	<b>\$0.4</b>	<b>(\$3.5)</b>

## ***Baseline Estimates/Associated Risk***

There are a number of risk items included in the baseline of the plan that are cause for concern:

- 1. Sales Tax Revenues** – The plan assumes a 2.94% increase in 2014 sales tax revenues over 2013 forecasted amounts. That is followed by 2.75% increases for each year from 2015-2017. Given long term averages of approximately 2.6% increase in sales tax revenues from year to year, this growth rate does not appear to be unreasonable. However, plan estimates, given recent history and longer term trends do not appear to be as conservative as they could be. There are three separate statistical analyses that indicate a risk that forecasted sales tax revenues may not be achieved.

  - The October 2013 Budget Monitoring Report (BMR) indicates that sales tax revenues are running at 98.95% of budget for the first 10 months of the year. ECFSA analyses based upon cash receipts show that year-to-date receipts are running 3.24% above last year. The county is assuming the year-end increase in 2013 sales tax revenues to be 2.94%. Assuming 2013 ends with a 3.24% increase, the higher 2013 base would result in a surplus of approximately \$5.2 million over the period of the financial plan.
  - A second scenario assumes county sales tax revenues resume their long term average of 2.6% for 2013 and the period of the four year plan. Under this scenario, sales tax revenues would come in at approximately \$12.9 million under county estimates for the plan period.
  - A third scenario assumes that sales tax receipts meet county expectations for 2013 and that an “after down year” trend takes precedence for 2014-2017. Periodically, county sales tax revenues experience negative growth, with the most recent occurrences being in 2009, 2004 and 1998. In between negative growth periods, sales tax revenues increase by over 3.5% per year, until the next “down year”. Given the time between previous occurrences, sometime between now and 2017 the county could experience negative sales tax growth. Assuming this trend holds, the result would be a shortfall of approximately \$12.2 million over the period of the plan.

Sales tax revenues tend to be volatile from year-to-year and even payment to payment. This is difficult revenue to predict. Therefore, a more conservative budgeting philosophy would help in addressing that variability and associated risk.

2. **Property Tax Assessments/Revenues** – The county portion of the property tax levy for 2014 is \$4.03 million more than the adopted 2013 levy – a 1.88% increase.

In 2015, 2016 and 2017 property values/levy increases are assumed to be 2% per year. These growth assumptions, though greater than in the previous version of the plan appear to be reasonable. The cumulative 2014-2017 increase in the property tax levy, using 2013 as a base is \$17.4 million.

At the state level, there is an applicable property tax cap of 2%, or the rate of inflation (with certain exemptions and modifiers), whichever is lower, that could impact Erie County at some point. The current plan, given rising assessments and historical inflation rates would not be impacted by that cap.

3. **Staffing** – Comparing the 2014 adopted budget to the 2013 adopted budget, the county had a net decrease of 4 full-time general fund positions. There is a net reduction of 27 full time positions in the Department of Social Services and 7 positions have been added in Public Works Buildings and Grounds.

Primarily to comply with the directive from the Commission of Correction, 46 Jail Management full time positions were added in 2013 (as compared to the 2012 adopted budget) with 16 more added in 2014 (as compared to the 2013 adopted budget). In addition to compliance issues, the intent of these positions is to reduce overtime expense.

Through 2013, overtime expense remains an issue, with overtime expenses currently running 31% over budget – with approximately 86% of overtime attributed to 3 major cost centers – Jail Management at 60.4%, Sheriff Road Patrol at 14.3% and Department of Social Services at 11.2%.

However, there has been some reduction in overtime expense this year. Comparing the most recent county Budget Monitoring report to the comparable report in 2012, year-to-date overtime expenses are running \$424,000 less than the previous year. Although allocations for overtime expense have increased over the 2013 adopted version of the plan, continuation of the current overtime trend would lead to shortages in this account.

In the out-years of the plan, the county anticipates a reduction of 20 positions per year to maintain future balanced budgets.

4. **Reductions from Personal Services Account (RPSA)** – In the 2014 budget message, the county changed its definition of “turnover” to include increased overtime or other personnel transactions.

The 2013 budget message defined turnover as “anticipated savings in salary and fringe benefit expenses resulting from temporary job vacancies created by employee turnover. This amount is subtracted from the amount budgeted for salaries and fringe benefits in the form of a negative appropriation.”

Assuming the county maintains its current vacancy management processes, the savings from holding county positions open should balance potential shortages in overtime expenses. Assuming overtime expenses are maintained at an ECFSA straight line projected amount of \$16.7 million for 2013, adjusted for salary inflation, the county’s overtime estimates would be short by almost \$14 million over the period of the plan. That amount would be covered by county vacancy savings.

Though the items do balance, increased use of vacancy savings reduces the county’s arsenal of potential gap closing measures, should revenues not materialize to the degree anticipated in the forecast, or expenses exceed expectations.

5. **Overtime** – The current version of the plan as compared to the 2013 adopted submission increases overtime estimates. Overtime is now assumed to be \$9.1 million more over the 2014-2017 period than in the documents submitted in February of this year, which makes the overtime spending forecast closer to actuals over the past few years.

Through October of this year, the county has spent \$14.1 million on overtime, \$1.2 million more than its annual \$12.9 million overtime budget. The overwhelming majority of overtime attributed to Jail Management (60.4%), Sheriff Road Patrol (14.3%) and Department of Social Services (11.2%).

As stated in a previous section of this report, overtime figures are improving, but not enough, at this point, to make significant reductions in forecasting overtime spending. Assuming 2013 reduced figures carry forward (with salary inflation adjustments); the county’s overtime expense would be exceeded by almost \$14 million through 2017.

6. **Employer Contribution Stabilization Program** – Erie County is looking to participate in to the New York State Comptroller’s Pension Stabilization program that would provide an \$8.6 million net benefit to the 2014 budget. Deferred pension amounts would have to be repaid to New York State at an anticipated 3.67% rate within a 10 year period. The county can choose to repay those pension amounts early without any prepayment penalty.
7. **Medicaid Expense Reductions** – The county has indicated that there is a potential New York State Medicaid cap reduction that could provide up to \$4-6 million in budgetary relief for fiscal year 2014. However, the county has not budgeted for any reduction in Medicaid expenses for that fiscal year. County officials have indicated that, given the timing of the final decision on the Retirement Stabilization Program and a potential Medicaid cap reduction, a lower than budgeted Medicaid expense would dissuade the County from participating in the Retirement Stabilization Program.
8. **Erie Community College** – As Erie Community College’s sponsor, the county provides a level of financial support to the College each year. The College in its 2013-14 budget lists a figure of \$17,429,317. The county in its budget and plan submission lists a figure of \$15,629,317. The difference is the result of a capital component that is not presented in the college section of the county’s financial plan.

In past versions of the plan, there was a significant non-reconciled difference between the level of support assumed by the county and that of the college. In the most recent revisions of their respective plans, there is no longer a material difference in the county level of support between the organizations.

9. **Settlement of Labor Agreements** – Given that CSEA (the county’s largest labor union) and the county will potentially be at impasse, it is anticipated that, at some point, the County Legislature would be called upon to impose a settlement for the oldest unresolved contract year – 2008.

The Legislature is empowered to impose annual financial settlements, without any changes in benefits or work rules. Should the Legislature impose a settlement or series of settlements, there is no provision in the plan for contract settlement salary increases.

According to information provided by the county, 2014 salaries for its largest union total over \$108 million in 2014 (prior to reimbursements); thereby making any future settlement a significant financial liability for the county.

10. **Library** – The current version of the plan includes a 2014 dedicated library property tax levy that assumes \$415,867 in assessment growth over 2013. Future increases in the library levy mirror the county’s property tax inflation factors of 2% per year in 2015, 2016 and 2017 – matching the county’s assumed levy increases.
11. **Jail Management Division** - Staffing and overtime in the County’s Jail Management Division have been issues for the county for a number of years. County Law Enforcement officials have pointed to excessive overtime and related fatigue as contributing factors in a public safety issues that have been problematic for a period of time. The NYS Commission of Correction (COC) has been monitoring excessive overtime in the county lockup and corrections facility and has issued a report calling for the addition of 72 new sworn positions that have been incorporated into the plan. It is assumed by the county that the additional full time positions will result in a significant reduction in Jail Management Division overtime spending.
12. **Erie County Medical Center Corporation** – At the end of 2009, an agreement was signed by the county that would essentially establish a base of \$16.2 million as an annual financial transfer from Erie County to the Medical Center Corporation. It was anticipated, when the agreement was signed, that the amount of support would remain fairly constant, thereby allowing both the county and hospital corporation to have a consistent, agreed upon ECMCC revenue and related county expense. However, increases in Disproportionate Share (DSH) and Intergovernmental Transfer (IGT) revenues for Hospital and Long Term Care functions (respectively) have apparently outstripped the base amount agreed to by the county.

In 2011, the amount was \$40,431,286. Despite reports earlier in 2012 of significant, anticipated overages as compared to the \$16.2 million budgeted for ECMCC items For 2012 ended with ECMCC related UPL and DSH county spending topping out at \$17.3 million - \$1.1 million over budget. For 2014 the county is assuming continuation of that annual \$16.2 million figure, with an increase of \$2 million in 2015 and beyond to \$18.2 million.

In response to the potential threat of significant variations in ECMCC costs (particularly increases), the county negotiated an agreement which uses a “credits” mechanism between the two entities to flatten out year-to-year expenses to provide the county and the Medical Center Corporation with steady, predictable expenses and revenues for the period of the plan. This agreement, in the short term, benefits Erie County’s budget and cash flow, while holding ECMCC harmless.

In addition, the county and ECMCC came to agreement on two unresolved issues from the 2004 Sale Purchase and Operating Agreement (SPOA) between the two entities. The settlement calls for ECMCC agreeing to pay the county for outstanding workers compensation liabilities of \$28 million, while the county agrees to pay ECMCC the same amount for designated retiree health insurance liabilities.

Based upon previously reported 2012 DSH and UPL liabilities which appear to be pushed forward into 2013, and a potential overage in 2013 liabilities (above the \$16.2 million budget forecast), approximately \$6 million of the county's credits will be used by the end of 2013. ECMCC's credits will remain at \$2 million per year for 14 years starting in 2015.

13. **Fund Balance** - The 2014 fiscal year assumes the use of \$5.405 million in fund balance as revenue to balance the budget – with an additional \$2 million in fund balance designated for Erie County Botanical Gardens capital programs. The current plan includes \$5.05 million in fund balance usage for each of the out-years of the financial plan – for a total anticipated fund balance usage of \$23.62 million.

14. **Auto Bureau Revenues** – The 2014 budget assumes an increase in Auto Bureau revenues from \$3.6 million to \$4 million over the previous year's budget. That assumed increase in auto related revenues is not carried forward through 2017. Based upon historical trends, this revenue budget does not appear to be unreasonable. However, NYSDMV figures on Erie County renewals, provided by the County Clerk to the ECFSA, appear to indicate a potential shortfall in this account of approximately \$568,000.

### **Gap and Gap Closers**

On the most recent version of the plan the county is reporting a smaller gap than in the past - \$15.7 million in the current submission vs. \$25 million in the 2013 adopted plan. However, that version of the plan quantified potential gap closers, while the latest plan does not. County officials have indicated that the amount and usage of potential gap closers would be contingent upon the order of magnitude any financial issues to be addressed.

The county is reporting \$15.7 million in potential gaps for the period 2014-2017. To exacerbate matters, the county has indicated several items, including higher than anticipated overtime expenses and potential lower than expected sales tax revenues that could be problematic in the 2013 budget as the base year for the 4-year plan.

<u>Year</u>	<u>Gap</u>
2015	\$ 9,267,702
2016	\$ 4,581,276
2017	\$ 1,885,928
<b>Total</b>	<b>\$15,734,906</b>

The county has put forward a number of potential gap closers including:

- Better than expected sales tax revenue
- Reductions in discretionary spending
- Property tax revenue
- The use of additional appropriated fund balance
- Additional participation in the Employer Contribution Stabilization Program
- Potential future revenue, such as casino gaming revenues
- Possible reductions in Medicaid expense
- More favorable caseload trends in the Safety Net program

Potential gap closers are not quantified at this point. Amounts and usage are contingent upon the order of magnitude of fiscal issues the county may face.

## **5. SUMMARY/RECOMMENDATIONS**

The ECFSA's review of the county's 2014 budget and financial plan indicates that the forecasts, taken as a whole, are reasonable. But, that there are some items of concern. In addition to the \$15.7 million in gaps, there are risk items that, if not addressed sooner rather than later, will exacerbate future shortfalls and stall the county's fiscal recovery.

The job of elected officials in Erie County and elsewhere has become increasingly difficult. There is significant tension between providing what residents want and need, while maintaining an affordable cost for those services. Given that, if there is an overarching recommendation from this report, it would be for Erie County Officials to work in-concert over the long term to provide for the county's over 900,000 residents while not overburdening its taxpayers.

In addition to its overarching recommendation, the ECFSA in this report cites a number of specific issues the county faces and needs to appropriately address, including:

## **Sales Tax Revenues**

- Sales tax is the largest single revenue source for Erie County, encompassing almost 26% of revenues in 2014. Since 2009, when sales tax revenues decreased as compared to the prior year, the county has benefitted from regular increases in this revenue source. Outside of regularly reauthorizing the legislation to maintain this revenue, there is little the county can do to impact its growth. According the most recent BMR, fiscal year 2013 is anticipated to end with a \$3.6 million shortfall in this account.
- *Recommendation* - Given the volatility of this revenue source, the ECFSA urges the county to closely monitor receipts and make strategic decisions to maintain a balanced budget in the event that this major item does not meet expectations. Going forward, the ECFSA would urge a more conservative budgeting approach to sales tax revenues to help address the variability inherent to this revenue source.

## **Overtime**

- A number of staffing additions are intended to assist with compliance issues and significantly reduce overtime expense. Thus far, previous personnel additions in the county's largest overtime cost centers have reduced overtime expenses somewhat, but not to the degree that has been budgeted.
- *Recommendation* - The ECFSA urges the county to program and closely, regularly monitor overtime to provide reasonable assurance that overtime will be reduced to expected levels of approximately \$14 million per year, while not compromising compliance. If anticipated, material overtime reductions do not emerge in a reasonable period of time the county is urged to take appropriate actions, which may include overtime appropriations that more closely match actual expenses.

## **Erie County Medical Center Corporation**

- The county and the medical center have agreed to a credit system and year-to-year deferral of Upper Payment Limit (UPL) and Disproportionate Share (DSH) payments to be made from the county to the public hospital. Erie County has pushed 2012 payments into 2013 and is anticipated to delay 2013 payments into 2014. Assuming payments can be regularly

moved forward, to the mutual benefit of the county and the hospital, there is little risk that the county would face two years payments in a single year. If at some point this mechanism does not continue, the county could experience a level of fiscal stress.

- *Recommendation* - The ECSFA recommends that the county continue to monitor the situation with the Erie County Medical Center Corporation to guard against any potential spike in payments that could cause fiscal stress for the county, while maintaining an eye toward the financial health of the hospital. County and hospital officials have worked well in the past to balance the finances between their respective entities and it is assumed that relationship will continue.

### ***Employer Contribution Stabilization Program***

- In 2014, the county is budgeting an \$8.6 million reduction in pension costs through participation in State Comptroller's pension deferral program – to help balance the upcoming year budget. At this time, assuming the county participates, it is looking at a potential 10 year repayment at an anticipated 3.67% interest rate.
- *Recommendation* - The ECFSA understands there is significant impetus to balance the 2014 budget without increasing the cost to the county's taxpayers. County budget officials have indicated they would rather not participate in this program and that, though budgeted, would not participate in the deferral if other means could be found to balance the budget. The ECFSA agrees that this is a last resort budget balancer that should only be accessed if other reasonable measures fail to materialize. Further, if the county chooses to participate in the program, that a minimum amount be amortized and that the county repays the state over the shortest practical timeframe.

### ***Staffing***

- For the out-years of the plan, the county is assuming the reduction of 20 full time positions per year. Those reductions are assumed to come through attrition.
- *Recommendation* - The ECFSA urges the county to continue to use technology and management initiatives to “do more with less” and to maintain the management discipline of looking for and implementing efficiencies within functions and departments to further streamline county government.

### ***Labor Agreements***

- In this plan, the county is not listing any additional expenses for settling with its largest labor union - CSEA. It is not unreasonable to anticipate the county will come to agreement or have the Erie County Legislature impose a, or series of, settlement(s) over the period of the plan.
- *Recommendation* - In those settlements, the ECFSA urges the county to come to agreement that will provide for reasonable wages for county workers while not overburdening county taxpayers who fund county operations. Recent agreements with CSEA Corrections and Teamsters unions have set a reasonable template for future negotiations.

### ***Vacancy Control***

- Increasing use of vacancy savings to help balance the budget and plan reduces the order of magnitude of turnover/vacancy savings as a potential gap closer.
- *Recommendation* - the ECFSA urges the county to maintain its vacancy control program, while keeping budgeted vacancy savings at minimal levels. In 2013 the county has maintained a program in which between 5-7% of its full time general fund positions remain vacant. Continuation of that program with like vacancy percentages is necessary to balance the plan through 2017.

### ***Fund Balance***

- In the most recent version of the plan, the county has extended its use of fund balance as a revenue to balance its budget for the entire period of the plan. The potential use of \$23 million reduces the county's reserves and indicates an imbalance between recurring revenues and expenses.
- *Recommendation* - the ECFSA looks to the county to closely monitor expenses and revenues and to review service models to determine the best and most cost-effective ways of providing both mandated and non-mandated services to those impacted by Erie County Government, while maintaining the county's reserves and to tap fund balance as a last resort.

### ***Auto Bureau Revenues***

- Based upon historical trends, the county has increased its anticipated revenues from Auto Bureau transactions. Information provided from the County Clerk, from the NYSDMV, indicates those estimates may not be as conservative as they could be due to a drop in the license renewal cycle. This potential negative variance appears to result from a disconnect in information flow between different branches of county government, and budgeting that may not be as conservative it they could be.
- *Recommendation* - the ECFSA recommends strengthening the information flow process between different branches of county government to provide reasonable assurance that relevant information and estimates are readily available in the budget process. Going forward, the ECFSA would urge a more conservative budgeting approach to volatile revenues such as these to help address the inherent variability.

In closing, we want to reiterate that there are still difficult choices to be made and the collaborative effort of county policymakers is necessary to keep Erie County on the right path. We call upon the county's elected officials to work cooperatively and to work intelligently to make decisions and implement initiatives that will cement Erie County's long-term financial health.