ERIE COUNTY FISCAL STABILITY AUTHORITY
ANALYSIS OF THE ERIE COUNTY
2012-2015 FINANCIAL PLAN
October 20, 2011

INTRODUCTION

Erie County released its 2012 budget and associated financial plan on September 30th, 2011. The 2012 budget, which is the 1st year of the plan, included a significant reduction in budgeted positions, resulting in a $12.2 million decrease in full-time salaries.

Major assumptions in the financial plan include:

- Sales tax growth of 3.1% per year for 2013, 2014 and 2015. The 2012 base year is just over 6.5% above the 2011 budget and about 3.3% above anticipated actuals for 2011.

- Real Estate Market Value Growth, impacting the county's property tax levy, is assumed to increase by 1.16% in 2012, followed by 2.17% in 2013, 2.16% in 2014 and 2% in 2015.

- There is no property tax rate increase for 2012-2015. Though, the county portion of the property tax levy increases by $2.5 million in 2012, $4.7 million in 2013, $4.8 million in 2014 and $4.6 million in 2015, a cumulative increase of $16.6 million over the period of the plan.

- Annual capital borrowing of $ 20 million per year over the period of the plan.

- The plan, as presented, shows no gap for 2012 and shows surpluses for 2013, 2014 and 2015.

PLAN ASSESSMENT

With the allocation of $7.4 million in fund balance, the County's 2012 budget is balanced. The plan lists a cumulative surplus over the 2012-2015 plan period of $18.9 million. It also assumes a surplus of $16.7 million in 2011, to be carried forward to help maintain the 5% charter mandated, fund balance reserve.

The current plan "gap" is an increase of $1.8 million over the "common" years of the current and previous financial plan.

The following is a comparison of current and previous plan annual gaps (in millions of $'s):

	2012	2013	2014	2015
Current Plan Gap	$0	($0.9)	($6.1)	($11.9)
Previous Plan Gap	$0	($2.0)	($6.8)	N/A
Difference	**$0**	**$1.1**	**$.7**	

The county, in its submission, lists fund balance and position deletions as gap closing initiatives. The gaps listed above already assume a 300 position reduction in 2012 and an additional reduction of 200 positions in 2013.

Baseline Estimates

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

1. ***Sales Tax Revenues*** – The plan shows a 3.3% increase in 2012 (over ECFSA 2011 anticipated actuals), with 3.1% increases in 2013, 2014 and 2015. Given recent sales tax trends – a 1.8% increase in 2008, a 3.1% decrease in 2009, an increase of 2.3% in 2010 and a 3.89% increase in year to date cash collections thus far in 2011, the 3% forecasted increase appears reasonable.

   However, sales tax revenues are a large part of the budget and a volatile revenue source for the county. The 10 year average increase in sales tax receipts for the county is just over 2.3%, while the average increase after a "down" year (a year in which sales tax receipts decrease, the most recent case is 2009) before the next "down" year, is over 3.5%. If sales taxes were to follow the overall trend, revenues could fall short by $33 million over the period of the plan. Conversely, if revenues follow the "down" year trend, receipts could come in at $8 million above plan estimates.

2. ***Increasing Property Tax Assessments*** – the financial plan assumes consistent property tax levy increases, based upon upwardly adjusted property values. For 2012, the effective growth is 1.16%, followed by 2.16% in 2013, 2.17% in 2014 and 2% in 2015. These growth

assumptions appear to be reasonable. At the state level, there is a property tax levy cap of 2%, or the rate of inflation, whichever is lower. In reporting the change in the levy for "cap" purposes, the county reports the total amount which included the library dedicated property tax, which brings the change down to 2%.

The NYS property tax cap calls for certain exemptions that would not be problematic for Erie County should the need arise to raise taxes beyond that level, (unless the property tax levy is reduced by the $7.9 million in dispute in the courts - see below).

If assessments were to continue at their 10 year average increase of 3.9%, the county could generate an additional $24 million in property tax revenues over the period of the plan. Conversely, if the 2012 increase of 1.16% continues through 2015, the county could suffer a shortfall of $13 million in this account.

3. ***Property Tax Levy Legal Challenge*** – There is a dispute between the County Executive and County Legislature over the validity of certain budget amendments and their impact on the county's 2011 property tax levy. The Legislature contends that amendments made and consequent vetoes reduced the property tax levy by $7.9 million. The Executive has indicated that Legislative amendments were improperly made, therefore null and void.

   The administration has petitioned Justice Glownia to put his original decision, in favor of the Legislature, aside. In addition, the administration has filed an appeal with the Appellate Division of the State Supreme Court to overturn Justice Glownia's original decision.

   County 2011 tax bills went out in a timely manner, including the disputed $7.9 million in the tax levy. Those bills have been paid by property owners. Therefore, a direct 2011 impact of this dispute is not anticipated. Assuming the County Executive's assertion is affirmed by the courts, there would be no impact on the financial plan. If it is not, there are a range of possibilities which could include full or partial rebates to property owners, and/or a subsequent year(s) reduction in the county's property tax levy, among other available options. The worst case scenario for the financial plan would entail a rebate combined with a reduction in the subsequent year levy, which could be constrained by a property tax cap.

4. ***Overtime*** – The plan lists significant, permanent reductions in overtime expenses, with the basic assumption that returning the processing and holding of pre-arraigned arrestees to the City of Buffalo will result in a measurable overtime reduction within the jail management division.

Overtime was $14.6 million in 2009 and $18.2 million in 2010. In a previous ECFSA's report on the 2011-14 financial plan, it was estimated that 2010 overtime would reach $18 million – that estimate proved to be accurate.

A departmental overtime report, provided by the county, listed through September, 2011, $13 million in overtime had been accrued. The county's entire overtime budget for the year is $13.7 million. The county has used virtually all of its annual overtime budget in 9 months. At the current rate of overtime usage, the county will end 2011 with overtime spending of approximately $17.4 million, an overage of $3.7 million as compared to the county's budget.

The plan assumes $13.5 million for 2012, which is increased to $13.7 million in 2013, then $13.9 million in 2014, and $14.1 million in 2015. While it is possible that overtime expense could be mitigated by the lock-up transfer, there has been no evidence provided by the county to adequately substantiate the proposed reductions. Assuming the current overtime trend continues, aggregate plan projections would fall short by $17 million.

5. ***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 2011-12 budget lists a figure of $17,429,317. The county in its budget and plan submission lists a figure of $15,420,778. The difference appears to be a capital component that is not presented in the college section of the county's financial plan.

   In previous 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 difference in the county level of support between the organizations.

6. ***Settlement of Labor Agreements*** –the largest unit of the county's largest labor union, CSEA, is at impasse. Teamsters negotiations have not resulted in a contract settlement – a recent contract proposal was voted down by the membership. Absent successful negotiations, the imposition of contracts with these labor unions may lie with the Erie County Legislature. The Legislature is empowered to impose annual financial settlements, without any changes in benefits or work rules. There is no provision in the plan for those potential salary increases.

7. ***Library*** –The plan includes additional funding for the Erie County Library system for 2012, 2013 and 2014 and assumes the library property tax levy

of $18.2 million will no longer be assessed by the county, starting in 2015. It is assumed that the library system will establish its own property tax levy in the final year of the plan and will become self sufficient from then, forward. At face value, this proposal has no direct financial impact on the county. However, if the plan does not come to fruition, the county may need to retain the libraries under its property tax umbrella.

Gap Closers

There is no stated financial gap for any year of the financial plan. However, within the baseline estimates of the submission, there is an assumption of a 200 position reduction in the 2013 budget, bringing staffing reductions to over 900 positions during the current administration. Gross savings estimates for the 200 reductions exceed $8 million.

The second potential gap closer is fund balance. The county has included a chart of estimated, adjusted fund balances that would be available to close any out-year gaps. Calculations are based on results of operations and adjusted fund balances vs. charter mandates for a 5% unrestricted fund balance. The county's presentation assumes the required percentage is based upon the county's budget, minus sales tax transfers to municipalities. It has been argued by the ECFSA that the budget, including those transfers, is a more appropriate measure.

SUMMARY

The ECFSA's review of the current budget and financial plan indicates that the county's finances are improving. Regional economic conditions have improved in Erie County and the county's plan benefits from both those conditions and a willingness of the administration to pursue cost cutting initiatives to keep spending at reasonable levels.

In the latter part of 2010 and into 2011, sales tax revenues have rebounded. Current sales tax cash receipts are running approximately 3.89% above last year's actuals for the same period. This turnaround is particularly noteworthy given the over 3% reduction in 2009.

In 2011, the county cut over 400 positions from its budget, with another 300 reductions in 2012, and an additional 200 anticipated in 2013. Assuming those significant levels of reductions can be maintained and sales tax revenues stay near their long-term averages, the county's plan appears achievable. However, there are still a number of issues, which have been referred to in this document, that the county must be diligent in addressing.

Overtime expense continues to be an issue, as it has for a number of years. The county's largest labor union still does not have a new contract, and there is no provision in the plan for potential contractual raises. There is still a lawsuit in State Supreme Court that could have a material impact on the county's property tax revenues. And, although overall property values in Erie County are rising, they have been rising at a lower rate each year since 2007.