ERIE COUNTY FISCAL STABILITY AUTHORITY
ANALYSIS OF THE ERIE COUNTY
2013-2016 REVISED FINANCIAL PLAN
February 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 2013 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.

The ECFSA is concerned that for the first time in years the county is facing substantial, real out-year gaps in its financial plan that may be exacerbated by 2013 potential budget shortfalls, particularly in overtime, sales tax revenues and risk management expenses. Addressing these gaps will require cooperation, ingenuity, and foresight among the county's elected leadership that is not apparent at this point.

We are looking for county officials to work cooperatively to identify realistic, implementable gap closers through various means to close potential shortfalls without overburdening taxpayers or jeopardizing county services.

2. MAJOR PLAN ASSUMPTIONS

Major assumptions in the financial plan include:

- Sales tax growth of 1.86% for 2014 over the 2013 budget, then 2.75% for 2015 and 2016. The 2013 base year is 3.65% above the 2012 budget. Based upon sales tax receipts funneled through the ECFSA and a report furnished by the Erie County Comptroller, it appears that 2012 sales tax receipts will end virtually on budget. There is an additional assumption that the 1.75% portion of the sales tax that expires on November 30, 2013 will be reauthorized.

- Real Estate Market Value Growth, impacting the county's property tax levy, is assumed to increase by 1% per year for 2014 and by 2% for 2015 and 2016.

- The county portion of the property tax levy decreased by $2.7 million in 2013. - then increasing by $2.2 million in 2014, $4.3 million in 2015 and $4.4 million in 2016 - an increase of $10.5 million over the period of the plan.

- A 7.5% increase in health insurance for 2014, followed by an 8% increase for 2015 and 2016.

- 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 increase for step and longevity increments, the recent 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 be cut by more than one-third as compared to 2011 actuals and anticipated 2012 year-end amounts.

- Regular capital borrowing of up to $38.9 million for 2013.

- The plan, as presented, shows no gap for 2013 and shortages of $8.4 million for 2014, $8.9 million for 2015 and $8.1 million for 2016.

3. ***MAJOR DIFFERENECES/ASSUMPTIONS - OCTOBER 2012 TO FEBRUARY 2013 PLANS***

Major revenue and spending revisions from the previous version of the plan include:

- Real Estate Market Growth and result increase by 1% per year for 2014 and by 2% for 2015 and 2016. The previous plan called for 1% for 2014 and 2015 and by 2% for 2016.

- The Property Tax levy has decreased by $30.3 million for the 2013-2016 period, as compared to the previous submission.

- Full time salaries have decreased by $1.63 million for the period 2013-2016.

- Vacancy savings for the period of the plan have increased by $1,187,585 for the 4 year period, from $2,550,000 to $3,737,585. The increase is all in the 2013 budget, as a result of the budget adoption process.

- Anticipated overtime spending has been increased over the previous submission primarily due to Teamster and CSEA Corrections Officers contracts.. Allocations for overtime expenses have increased by $4 million over the period 2013-2016. Overtime expenses in 2014 ($11.4 million) assume a 34% reduction in this item as compared to 2011 actuals of $17.3 million.

- Due primarily to the addition of 33 positions to the jail management division related to the New York State Commission of Correction report and the reclassification of 18 Regular Part Time (RPT) positions to full-time in the County Clerk's office to remain in compliance with labor tenets, the county is adding 57 positions to the general fund in 2013 (as compared to the 2012 adopted budget) and is carrying those positions forward through 2016.

- The county is also assuming the reduction of 25 full time positions per year starting in 2014, based upon attrition.

- Fringe benefit rates have been decreased, due primarily to a reduction in workers compensation expenses and health insurance costs.

- County stated "gaps" are greater in the most recent version of the plan as compared to the previous one. In the October 2012 plan; the surpluses totaled approximately $2.2 million. The current plan calls for shortages of $25.4 million.

- The 2013 fiscal year assumes the use of $5,400,000 in fund balance as revenue to balance the budget. Fund balance usage has been extended for 2014 and 2015, with $5,000,000 allocated for 2014 and $2,000,000 allocated for 2015.

4. PLAN ASSESSMENT

With the allocation of $5.4 million in fund balance, the County's 2013 budget is balanced. The plan lists a cumulative shortage over the 2013-2016 plan period of $25.4 million. The current plan "gap" is an increase of $27.6 million over the financial plan submitted in October 2012.

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

	2013	2014	2015	2016
Current Plan Gap	$0.00	$8.4	$ 8.9	$ 8.1
Previous Plan Gap	$0.00	($0.4)	($ 0.7)	($1.1)
Difference	**$0.00**	**$8.8**	**$9.6**	**$9.2**

Baseline Estimates/Associated Risk

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 3.65% increase in 2013 over the 2012 budget, with a 1.86% increases in 2014, and corresponding 2.75% increases in 2015 and 2016. 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 an almost 4.5% increase in 2011 and a 2.51% budgeted increase in 2012, the overall plan forecasted increase appears reasonable. However, the 2013 increase of 3.65% appears risky at this point. Assuming sales tax revenues "regress to the mean" for 2013, the county would incur a $4.2 million shortfall in this account. ECFSA estimates assume that both the county and state will reauthorize the 1.75% portion of the sales tax that currently expires on November 30, 2013.

   Sales tax revenues are a large part of the budget (almost 28% of revenues) and a volatile revenue source for the county. The 10 year average increase in sales tax receipts for the county is just over 2.6%, 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 3.6%. If sales taxes were to follow the overall trend, revenues could fall short by almost $10 million over the 4 year period of the plan. Conversely, if revenues follow the "down" year trend, receipts could come in at $35 million above plan estimates.

2. ***Property Tax Assessments/Revenues*** – The county portion of the property tax levy for 2013 is $2.7 million less than the adopted 2012 levy – a 1.25% decrease. For 2013, real estate values in the county dropped by .018%.

   For 2014 the property tax levy increases by only 1% per year. In 2015 and 2016 property values/levy increases are assumed to be 2%. These growth

assumptions, though greater than in the previous version of the plan appear to be reasonable. The cumulative 2013-2016 increase in the property tax levy, using 2012 as a base is $8.2 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 would not be impacted by that cap.

3. ***Staffing*** – Comparing the 2012 adopted budget to the 2011 adopted budget, the county added 142 net new full-time general fund positions, principally due to a 2011 mid-year requirement to change RPT titles to full-time to address a labor issue. However, there was a reduction in position count in the 2012 adopted budget as compared to adjusted position figures for year-end 2011 (with 2011 ending in 3,599 full time positions as compared to the 2012 adopted count of 3,475). The 2013 adopted budget full-time position count of 3,532 is down from 3,599 as compared to year-end 2011.

   To comply with the directive from the Commission of Correction, 33 new full time positions are added in 2013 with up to 27 more are to be added in 2014. The majority of those positions are being added to or in support of the county's Jail Management Division. The ECFSA is concerned that even with new positions overtime will not be controlled without implemented and managed proactive systems.

4. ***Vacancy Reductions/Turnover*** – Over the four year plan period, the county has forecasted the use of more than $3.7 million in vacancy savings to help balance its finances. In 2013, the county is budgeting $1,787,585, with a decrease to $650,000 per year starting in 2014.

   The 2013 budget message defines 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."

   In reviewing the reasonableness of the county's budgeted figure, the ECFSA has run "net local share general fund full time vacancy" reports. Based upon those reports, annualized vacancy savings will run approximately $4 million. These reports net out associated lost revenue and do not include fringe benefit savings and are therefore, by design, of a conservative nature. Based upon those reports and the county's documented definition, the amounts budgeted appear achievable. If the county were to net vacancy savings and potential overtime shortfalls, the two would roughly cancel one another out, thereby leaving no net savings.

The use of vacancy savings in the plan 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. ***Grants - County Share*** – The 2013 adopted budget increases appropriations for the county's share of grant programs by 28% over 2011 spending of $3.6 million. By 2016 the increase in this expense item is forecasted to exceed 40% as compared to 2011 actual spending. The county is anticipating federal and/or state reductions in grant funding for a number of programs that have shown merit and the county expects to step in and maintain those community programs. The ECFSA cannot comment on the efficacy of grant funded programs, but the Authority urges the county to strategically review a combination of grant funded and county funded programs to review service delivery alternatives and methods prior to simply taking on the local share of a defunded or reduced funded program.

6. ***Overtime*** – The current version of the plan as compared to the previous submission increases overtime estimates. Overtime is now assumed to be $4 million more over the 2013-2016 period than in the documents submitted in October of last year. However, the county's overtime budget for 2013 was reduced by over $900,000 in the budget adoption process. With a 2013 proposed budget that was almost $4 million less than 2012 anticipated spending, the likelihood of a 2013 shortage in this account appears high.

   The total annual 2012 overtime budget of $13.6 million was exceeded in October. The October Budget Monitoring Report indicates spending of over 14.5 million. Assuming overtime accumulation continuing at the same rate for the remainder of the year, the county will end up with a $3.8 million deficit in this account once the books are closed for 2012.

   The plan anticipates overtime expenses of $12.5 million in 2013, $11.4 million in 2014, then $10.9 million in 2015, and $10.5 million in 2016. There is an assumption that additional Jail Management Division staff will significantly reduce overtime expenditures by 2015. However, the ECFSA has not been provided with specific programs to reduce these expenses. Adding staffing, without directed, consistent overtime management will not reduce this expense.

7. ***Fringe Benefits*** – The current version of the financial plan decreases projections for fringe benefit costs as compared to the October 2012 submission. The largest reduction is in the medical insurance account. The current plan calls for a reduction of $7.7 million in this expense for the 2013-2016 period as compared to the previous version. The October

plan, in the key assumptions section, stated an 8% annual increase for this expense. The current plan appears to use a 7.5% inflation factor for 2014 followed by 8% for 2015 and 2016.

The 2013 adopted budget (used as a base for the plan) is 14% greater than the 2012 adopted budget. However, the 2013 adopted budget is only 7.8% greater than forecasted spending for 2012. Spending for 2012 increased by just over 6.5% as compared to the previous year. 2011 spending virtually matched 2010 actuals. Given recent trends in this account, forecasted spending levels appear achievable but offer little leeway should health care expenses begin to climb.

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 2012-13 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 appears to be 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 are at impasse, legislation has been filed with the Erie County Legislature to impose a contract settlement for the first year succeeding the end of the prior agreement – 2007. As of the date of this report, the Legislature has not placed this item on its agenda.

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

   According to information provided by the county, 2013 salaries for its largest union total over $119 million in 2013 (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 2013 dedicated library property tax levy that increased by $2.3 million over 2012. Future increases in the library levy mirror the county's property tax inflation factors of 1% per year in 2014 and 2% in 2015 and 2016 – 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 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, it appears that 2012 will end with ECMCC related UPL and DSH county spending topping out at $17.3 million - $1.1 million over budget. For the 2013-14 period the county is assuming continuation of that annual $16.2 million figure, with an increase of $2 million in 2015 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), the majority of the county's credits will be used by the end of the upcoming fiscal year. ECMCC's credits will remain at $2 million per year for 14 years starting in 2015.

13. ***Buffalo Bills*** – Erie County has successfully negotiated a 10 year lease agreement with the Buffalo Bills. Major fiscal components include a reduction in game day expenses paid by the county, increased Sheriff presence, and a Ralph Wilson Stadium capital component totaling $41 million, with $20 million to be bonded in 2013.

14. ***Fund Balance*** - The county used fund balance to balance its 2011and 2012 budgets. The 2013 fiscal year assumes the use of $5.4 million in fund balance as revenue to balance the budget. The current plan includes $5 million in fund balance usage for 2014 and an additional $2 million for 2015 – for an additional $7 million in fund balance usage over the period of the plan.

Gap and Gap Closers

Unlike previous plans, the county has out-year gaps in the current submission that need to be addressed sooner rather than later.

The county is reporting over $25 million in potential gaps for the period 2013-2016. To exacerbate matters, the county has indicated several items, including overtime projections, risk management expenses and sales tax revenues that could be problematic in the 2013 budget as the base year for the 4-year plan.

Year	***Gap***
2014	$ 8,428,427
2015	$ 8,862,278
2016	$ 8,095,618
Total	***$25,387,323***

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

Reducing Discretionary Spending (agency/organization specific)	$2.75 million

Reducing Personal Services (Road Patrol, Highways & Parks)	$2 million
Road Fund	$1.9 million
Library Levy	$1 million
Bond Refunding	$300,000-$500,000
Fund Balance	No Amount Listed
Pension Amortization	No Amount Listed

The annual total of the quantified items roughly covers the anticipated shortfalls listed in the plan.

5. SUMMARY/RECOMMENDATIONS

The ECFSA's review of the county's 2013 budget and financial plan indicates that the forecasts, taken as a whole, are reasonable and doable assuming county leaders work cooperatively and soon to address expected shortfalls. In addition to the $25 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.

We are looking for county officials to work cooperatively to identify realistic, implementable gap closers through various means to close potential shortfalls without overburdening taxpayers or jeopardizing county services.

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 28% of revenues in 2013. Since 2009, when sales tax revenues decreased as compared to the prior year, the county has benefitted from a significant increase in this revenue source. Outside of regularly reauthorizing the legislation to maintain this revenue (which requires attention in 2013 due to the expiration of 1.75% of the sales tax on November 30th), there is little the county can do to impact its growth. However, recent trends point to a flattening of sales tax revenues in 2013,

with a potential for a shortfall in this account. The October 2012 Budget Monitoring Report forecasted a $2.7 million surplus in this account; y/e preliminary numbers indicate a marginal shortfall

- *Recommendation* - Given the potential volatility of this revenue source, the ECFSA urges the county to closely monitor receipts and make strategic decisions to maintain balanced budgets in the event that this major item does not meet expectations. And further, the ECFSA urges the county to monitor the 1.75% reauthorization process which (depending upon legislative approval of the Governor's proposed budget language) may or may not require specific action by the NYS Legislature.

Overtime

- A number of staffing additions are intended to assist with compliance issues and significantly reduce overtime expense.

- *Recommendation* - The ECFA urges the county to program and closely, regularly monitor overtime to provide reasonable assurance that overtime will be reduced to expected levels 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.

Labor Agreements

- In this plan, the county is not listing any additional expenses for settling outstanding labor contracts. It is not unreasonable to anticipate the county will come to agreement with one or more of its bargaining units over the period of the plan.

- *Recommendation* - In those settlements, the ECFSA urges the county to come to agreements 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

- The county has increased use of vacancy savings to help balance the budget and plan, thereby reducing availability of turnover/vacancies as a potential gap closer.

- *Recommendation* - the ECFSA urges the county to maintain a vacancy control program, while keeping budgeted vacancy savings at minimal levels.

Risk Retention

- The 2013 risk retention budget was reduced by over $2.9 million in the budget adoption process. The ECFSA commented in its report to the legislature that a reduction of this order of magnitude could be problematic, given the historical payout from this account.

- *Recommendation* – the ECFSA recommends that the county closely monitor this account to determine if there are pending shortfalls and, if shortages are anticipated, to take appropriate budgetary action to remedy the situation and keep the budget in balance.

Medical Insurance

- Forecasts for medical insurance spending have been reduced significantly from the previous version of the financial plan. Though forecasts appear achievable, there appears to be very little leeway in this account for error. The risk of a deficit in this account appears greater than achieving a surplus.

- *Recommendation* – the ECFSA recommends that the county closely monitor this account to determine if there are pending shortfalls and, if shortages are anticipated, to take appropriate budgetary action to remedy the situation and keep the budget in balance.

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 an additional two years. This added $7 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.

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.