



COUNTY OF ERIE
STEFAN I. MYCHAJLIW
COMPTROLLER

October 11th, 2013

Honorable Members
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, NY 14202

Re: Review of Poloncarz Administration's 2014 Tentative Budget Revenue and Expense Projections

Dear Honorable Members:

There are serious concerns with the revenue projections presented to the Office of Erie County Comptroller by the Honorable Mark C. Poloncarz, the Erie County Executive. His own criticisms when sounding the alarm by the use of unassigned fund balance to cover recurring expenses as a "one shot revenue stream" and "use of the County's fund balance for recurring expenses was one of the key factors that led to the 'Red-Green' fiscal crisis" ring true just as much today as it did when then Comptroller Poloncarz raised a red flag in March of 2011.

The independently elected Erie County Clerk, the Honorable Christopher L. Jacobs also provided specific data stating the County Executive's revenue projection for the Erie County Auto Bureau was out of balance and off by \$500,000. Historical trends provided by Mr. Jacobs show Mr. Poloncarz's revenue projections for a specific "Auto Fees Line" are nowhere near the administration's inflated figure:

*"I am deeply concerned with the Revenue Projections for the Erie County Auto Bureau, specifically the Auto Fees line...We felt our estimates were accurate and backed up by statistical data...I can tell you that **the Auto Bureau will not be able to meet the dramatic increase in revenue projections submitted by the Budget Office.**"*

Source: Erie County Clerk Christopher L. Jacobs, "2014 Tentative Budget Revenue Projections," 10/8/13

Based on the latest 2013 sales tax receipts the year-to-date growth is 2.20%, not the 2.75% the administration is forecasting. If that growth rate continues then sales tax would have to grow by 3.50% next year to meet budget. That would put the County in the same position that it found itself this year, needing a growth rate of 6.69% over the last four months to avoid facing a potential multi-million deficit in this account.

These three issues concerning flawed revenue estimates (Auto Bureau and Sales tax) and the use of "one-shot" revenues to cover recurring expenses raises serious doubts as to the soundness of the revenue projections presented by the Erie County Executive.

Pursuant to my obligations under Article 25, Section 2506 of the Erie County Charter ("Charter"), I am hereby providing official correspondence providing your Honorable Body with my office's review of the incomplete projected revenues and expenditures submitted by the Poloncarz Administration ("the Administration") for the proposed 2014 Erie County ("County") Budget.

Article 25, Section 2506 states: "On or before the 1st day of October the county executive shall submit to the comptroller all revenue estimates and expenditure estimates for Medicaid, public assistance, and pension contributions and health care insurance costs for county employees to be used in the proposed budget. The comptroller shall review all revenue estimates and expenditure estimates for Medicaid, public assistance and pension contributions and health care insurance costs for county employees to be used in the proposed tentative budget prepared by the county executive and submit to the Legislature in writing by the 15th of October a report indicating whether or not such estimates are suitable estimates for the upcoming fiscal year."

Based on Mr. Poloncarz's own stern warnings over the use of gimmicks, one-shot revenues sources, and smoke and mirror budgeting, and the serious concerns expressed by the independently elected Erie County Clerk, **it appears some estimates are not suitable estimates for the upcoming fiscal year.**

This analysis fulfills my obligation under the Erie County Charter to provide a report on the administration's revenue projections.

On October 1, 2013, my office received a formal correspondence from Robert W. Keating, Director of the Division of Budget and Management, providing the administration's 2014 tentative budget revenue and expense projections. The administration did not include the Property Tax revenue estimate despite the Charter requirement. It is noteworthy that last year the administration also violated the Charter by not including the Property Tax revenue estimate by October 1st.

This despite the fact that the previous administration provided the Property tax revenue estimate in 2009-2011 as well as the entire budget by October 1st.

It is worth noting when Mr. Poloncarz previously served as Erie County Comptroller, published reports indicate he challenged the former Erie County Executive to "hand over his numbers," the numbers being the County's 2014 property tax levy:

"Poloncarz insisted that the county executive hand over his numbers. The county executive refused. So Poloncarz was not able to review the budget until the complete document was released, at the late last minute, on October 15."

Source: Artvoice, "The Transparent Mr. Collins," Geoff Kelly, 10/31/08

An analysis of the budget is difficult to complete without that (Real Property Tax Revenue projection) hefty slice of the pie chart.

Source: Artvoice, "Running Government Like a Business," Geoff Kelly, 11/05/08

This correspondence highlights the findings and concerns my office has regarding the 2014 tentative budget revenue and expense projections. Please note that this review is not a comprehensive analysis of the Administration's entire proposed 2014 budget, rather this correspondence is a limited review of the revenue and selected expenditure estimates as presented to my office by the Director of the Division of Budget and Management as required by the Charter. Upon my office's receipt of the Administration's entire proposed 2014 Erie County Budget by October 15, 2013, my office will complete a thorough review of the entire proposed 2014 budget in a reasonable and responsible time frame.

The following table summarizes the revenue categories and expense accounts provided. It includes the 2013 budget as well as the 2013 projection as contained in the August 2013 Budget Monitoring Report ("BMR") released on October 4, 2013 by the administration. No individual projections for the expense accounts were included in the BMR.

ACCOUNT	2013 Budget	2013 Projection	2014 Budget
PROPERTY TAX RELATED	12,585,607	15,367,200	15,359,061
SALES TAX	426,033,687	422,810,875	434,438,173
SALES TAX TO OTHER GOVTS	294,861,414	292,343,683	300,383,134
OTHER LOCAL SOURCE	44,966,575	42,989,785	35,663,666
FEES FINES OR CHARGES	33,153,873	34,247,170	34,645,810
FUND BALANCE	12,872,250	12,867,250	7,405,000
FEDERAL AID	177,674,305	175,768,629	175,135,564
STATE AID	169,007,007	161,846,060	165,405,425
INTERFUND	0	720,000	3,912,334
HEALTH CARE & DENTAL	64,796,533		67,708,768
PENSION	37,497,756		35,635,887
EMPLOYEEER CONTRIBUTION STABILIZATION	0		(8,600,000)
MMIS	219,748,429		217,160,208
MA GROSS	2,767,108		2,698,240
FAMILY ASSISTANCE	42,625,150		44,861,871
SAFETY NET ASSISTANCE	43,165,525		50,747,833
EMERGENCY ASSISTANCE TO ADULTS	1,191,535		1,134,931

Executive Summary

The Administration's 2014 Tentative Budget Revenue and Expense Projections do not contain key revenue and expenditure estimates to complete a thorough analysis of the projections. With respect to revenue estimates, the County's 2014 property tax levy was not included despite the Charter requirement for the County Executive to do so.

Property Tax Related accounts increased \$2,773,454 or 22.10%. The reason for this change is the increase in the net difference between Interest and Penalties Property Tax and Decrease in Deferred Property Tax, \$2,844,150.

Sales Tax increased \$8,404,486 or 1.97% from the 2013 budget. However, it is an increase of \$11,627,298 or 2.75% from the 2013 projection included in the BMR. Year-to-date sales tax receipts indicate a growth rate of 2.20% through August.

The Other Local Source Revenues decreased \$9,302,909 or -20.69% from the 2013 budget and \$7,326,119 or -17.04% from 2013 projection. The majority of this decline is the Health Special Needs Medicaid Early Intervention account 416920 that decreased \$4,198,021 and DSS Repay Medical Assistance account 417510 that decreased \$3,936,875. These decreases may be due to the State takeover of Medicaid administration.

The Fees, Fines and Other Charges category increased by \$1,491,937 or 4.50% from the 2013 budget. The majority of this increase was in Election Expenses Other Governments \$630,392 and in various County Clerk revenues that increased \$612,501 including \$400,000 in Auto Fees. . Attached, as Appendix A, please see correspondence dated October 8, 2013 from Erie County Clerk Christopher Jacobs to this office pointing out that his estimate was \$500,000 lower than what is included in the administration's budget and expressing deep concern regarding this account.

Federal Aid is budgeted to decline \$2,538,741 or 1.43% from the 2013 budget and State Aid is budgeted to decline \$3,601,592 or 2.13% from the 2013 budget. In the absence of the expense accounts that drive State and Federal reimbursements, any comment on those budgeted amounts is pure speculation. We reserve judgment on these aid accounts until the full budget is released.

Interfund revenue is budgeted to increase \$3,912,334 from the 2013 budget that was zero. We have requested via official correspondence and leaving phone messages to the Division of Budget & Management to identify the source of this revenue account. To date have not received a reply, despite the administration's persistent public and false pledge that if our office needs information "all we need to do is call them, and we'll be happy to provide the information you need."

Appropriated Fund Balance is \$2,000,000 higher than the 2013 adopted budget. Newspaper accounts identify this increase to cash funding of a capital project. We have requested clarification from the Division of Budget and Management and to date have not received a reply. Any use of non-recurring revenue to pay recurring expenses is not prudent. As then County Comptroller and now County Executive Mark Poloncarz stated in 2011:

*"I am very concerned because, like the previous administration, the county executive's 2011 budget uses \$16.7 million of reserves – a **one shot revenue stream** – to balance the budget and the County's 2011 budget is still tied up in legal proceedings after the county executive decided to declare it 'null and void.' **Use of the County's fund balance for recurring expenses was one of the key factors that led to the 'Red-Green' fiscal crisis.** If the Erie County Fiscal Stability Authority doesn't approve this budget or the administration's Four Year Plan then there is a very real possibility they will go back to a control status."*

Source: Mark C. Poloncarz, "Poloncarz Warns Erie County's Financial Future Not as Strong as County Executive Says," 3/25/11

With respect to the expense items provided it is most noteworthy what was not included. The Intergovernmental Transfer (IGT) appropriation was not included despite it being a derivative of the Medicaid expense. The Medicaid amount included in the October 1, 2013 correspondence represents a decline of \$2,588,221 or -1.18%.

The two public assistance programs included, Family Assistance and Safety Net reflect the disappointing economy of this area. Gross expenditures of the Safety Net program increased \$7,582,308 or 17.57% and the Family Assistance program increased \$2,236,721 or 5.25% over 2013 budget. Net County cost for Safety Net increased \$5,303,572 and Family Assistance decreased by \$164,860

The other expense items provided: health insurance and retirement estimates are difficult to comment on until the full budget is released as the Health Insurance expense is heavily dependent on number of employees. We have requested information regarding the new account that was included, Employer Contribution Stabilization totaling -\$8,600,000 from the Division of Budget & Management but to date have not received a reply. The lack of response from the administration over this expense projection significant is disappointing and troubling.

Accounts Presented and Comptroller Comments

- **Property Tax Related-** 2014 Proposed Budget: \$15,359,061; 2013 Budget: \$12,585,607. Increase of \$2,773,454 or 22.10% over 2013 budget. The increase is due to the difference between Interest and Penalties a Property Tax account and Decrease in Deferred Property Tax, \$2,844,150. No evidence of property tax collections to date justifies this increase.
- **Sales Tax-** 2014 Proposed Budget \$434,438,173; 2013 Adopted Budget \$426,033,687. Increase of \$8,404,486 or 1.97% over 2013 budget. An increase of \$472,593 over the Adopted Four Year Plan released February, 2013. An increase of \$11,627,298 or 2.75% over 2013 projection released in BMR. This account is the largest revenue in the County budget with a two month lag in accounting. This means we will not know final 2013 numbers until February, 2014.

Through the first eight months of 2013 receipts the growth rate has been 2.20%. This is the largest revenue in the budget and as 2013 has demonstrated to date over estimation results in multi-million dollar deficits.

Thankfully the administration shared our concerns throughout the year over their own over aggressive and overly optimistic sales tax revenue projections:

"We are worried about some of the trends in sales tax."

Source: Erie County Deputy Budget Director Dr. Timothy Callan, Erie County Legislature Finance and Management Committee, May 2nd, 2013

"In sales tax, again, if we had to budget it over, I would have budgeted less in sales tax."

Source: Erie County Budget Director Robert Keating, Erie County Legislature Finance and Management Committee, May 2nd, 2013

"The sales tax number is an area of concern."

Source: Erie County Deputy Budget Director Dr. Timothy Callan, Erie County Legislature Finance and Management Committee, May 2nd, 2013

"(We) hope that sales tax comes in better than we expect, but right now we don't think that is going to be the case. We think the budget for sales tax this year is overly optimistic. We are not going to make budget on that."

Source: Erie County Senior Budget Consultant Timothy Callan, Erie County Legislature Finance and Management Committee, March 14th, 2013

This office will continue the monthly monitoring of this revenue throughout 2014 as it has through 2013, and promptly report the data to the Legislature, County Executive, Budget Director, and the general public.

- **Sales Tax Local Government-** 2014 Proposed Budget \$300,383,134; 2013 Adopted Budget \$294,861,414. Increase of \$5,521,720 or 1.87%. This revenue is equal to budgeted expense item in the same amount representing payments to cities, towns, villages and school districts in the County. As such has no net effect on the County budget.
- **Other Local Source Revenue-** 2014 Proposed Budget \$35,663,666; 2013 Budget \$44,966,575. Decrease of \$9,302,909 or -20.69%. The majority of this decline is the Health Special Needs Medicaid Early Intervention account 416920 that decreased \$4,198,021 and DSS Repay Medical Assistance account 417510 that decreased \$3,936,875. No explanation was given for these large decreases. However, it may be due to the State takeover of Medicaid administration. Both departments should be asked to justify these decreases.
- **Fees Fines or Charges-** 2014 Proposed Budget \$34,645,810; 2013 Budget \$33,153,873. Increase of \$1,491,937 or 4.50%. Primarily due to increases of \$400,000 in Auto Fees and \$200,000 in Recording Fees in the County Clerk Office; \$275,000 Jail Facility-Other Govts in Jail Management; and \$154,542. Election Expenses Other Governments \$630,392 Medical Examiner Fees. As noted above and in Appendix A attached, County Clerk Christopher L. Jacobs takes serious exception to the administration's increase of \$500,000 in Auto Fees from his office's estimate:

*"I am deeply concerned with the Revenue Projections for the Erie County Auto Bureau, specifically the Auto Fees line...We felt our estimates were accurate and backed up by statistical data...I can tell you that **the Auto Bureau will not be able to meet the dramatic increase in revenue projections submitted by the Budget Office.**"*

Source: Erie County Clerk Christopher L. Jacobs, "2014 Tentative Budget Revenue Projections," 10/8/13

Arbitrary increases in revenues without solid reasoning was one of the failures leading to the Red/Green budget meltdown last decade.

- **Appropriated Fund Balance-** 2014 Proposed Budget \$7,405,000; 2013 Budget \$12,872,250. A decrease of \$5,467,250. The 2013 budget reflects additions to fund balance usage year-to-date. The adopted budget was \$5,405,000. Fund Balance is the County's savings account. It is a measure of the County's liquidity. As such it is a major item when credit reviews are done by Moody's, Standard and Poor's and Fitch rating agencies. Over the past several years, all three rating agencies have recognized the County's improved financial position to the point now that the County enjoys "A" level ratings from each agency. However, in late 2011 Moody's cited "...narrow reserves provide little cushion to economically sensitive revenues." Concern about the County's reliance on volatile sales tax revenues was echoed by Fitch In February of last year. Any use of fund balance without a plan on replenishing it weakens County finances. Paying for recurring expenses with non-recurring revenue was another hallmark of the red/green budget meltdown.
- **Federal Revenue-** 2014 Proposed Budget \$175,135,564; 2013 Budget \$177,674,305. A decrease of \$2,538,741 or -1.43%. Absent the complete expenditure budget I can not express an opinion on the reasonableness of these items. In addition, the federal government is facing mounting deficits and sequestration that may foretell lowering federal aid..
- **State Revenue-**2014 Proposed Budget \$165,405,425; 2013 Budget \$169,007,007. A decrease of \$3,601,582 or -2.13%. As stated above regarding Federal revenues the same lack of expenditure details precludes me from voicing an opinion on the reasonableness of these estimates. In addition while the State deficit numbers are smaller than the federal government, the 2014/15 State budget will not be revealed until early next year.
- **Fringe Benefits-** 2014 Proposed Budget \$94,744,655; 2013 Budget \$102,294,289. A decrease of \$7,549,634 or -7.38%. The health insurance amount provided included Employee health, retiree health as well as ECMCC and Home retiree health insurance the County is responsible for under the present agreement with ECMCC. The health insurance component increased \$2,912,235 or 4.49% over the 2013 budget. Absent complete budget information concerning number of employees it is difficult to express an opinion.

The retirement expense of \$35,635,887 compared to the 2013 adopted budget of \$37,497,756, a decrease \$1,861,869 or -4.97% appears reasonable given the rates released last month by the State Comptroller. We have requested information regarding the new account that was included, Employer Contribution Stabilization totaling -\$8,600,000 from the Division of Budget but to date have not received a reply.

- **Public Assistance-** 2014 Proposed Budget \$316,603,083; 2013 Budget \$309,497,747. An increase of \$7,105,336 or 2.30%. The Medicaid budget appears to be in-line with the latest cap adjustments announced by the State. Safety Net Assistance gross cost increased \$7,582,308 or 17.57%. While the Family Assistance program is paid almost completely by federal aid the Safety Net program is 71% County share. The growing costs of social services programs are a reflection of the economy and lack of full recovery from the Great Recession. Lack of complete case data, including number of cases and cost per case make expressing an opinion difficult. We again,

request that your Honorable Body request such information from the administration not only to review the 2014 budget but to assist monitoring the budget in the future. This information should be included in all BMR's.

At the end of the day on October 11, 2013 a letter was received from Robert Keating, Director of Budget & Management, containing the 2014 total property tax levy of \$241,721,087. It did not include what part of this was the General fund portion as required by the Charter.

Conclusion

It appears that the administration finally listened to my consistent and reasonable warnings regarding their over estimation of sales tax in 2013 with a more reasonable rate of growth for 2014. However, in light of the large increases in public assistance, as provided by the administration 2014 projections for Safety Net and Family Assistance, it appears that the administration is expecting the local economy to continue on a stagnant if not downward trend since the Great Recession.

This mixed message of economic growth driving higher sales tax while increasing public assistance signaling a decline in the local economy is troubling. Lacking at this time an explanation of these contrary signals, I call upon your Honorable Body to request, if not provided by the administration in their full budget presentation, the administration to produce whatever economic reports, trends or analysis that justifies the sales tax projection. Also, to request budgeted monthly caseload data including number of cases and cost per case projected for 2014 and actual data available for 2012 to date for all Social Services programs. This information should also be included in every BMR.

We are also concerned that the County Executive's "management by Twitter" could mislead homeowners into thinking their property tax bill could be decreased in 2014.

"Budget not out until 10/15 but issuing revenue & expense projections today. Can confirm no tax rate increase for 2014, same as recent years."

Source: Mark C. Poloncarz, "Twitter, @markpoloncarz," 10/1/13

The only way for Mr. Poloncarz to protect taxpayers is to decrease the property tax rate. Leaving the property tax rate flat and "as is" does not mean property taxes will not go up for some Erie County residents. If local assessments increase, property taxes will rise on already struggling families across Erie County. In order to offset any potential increased assessments at the local level, **Mr. Poloncarz must decrease the property tax rate.** Homeowners should not be lulled into a false sense of security by the Erie County Executive's Twitter account.

We encourage Mr. Poloncarz to listen closely to the message shared by New York State Governor Andrew Cuomo, who recently created a bi-partisan commission to cut property taxes in our great state:

"We are way out of pace with the rest of the country in terms of property taxes both in terms of dollars and percentages. Property taxes are a scourge all across this state. The No 1. Burden is property taxes."

Source: NYS Governor Andrew Cuomo, "Cuomo Welcomes Antagonists Pataki, McCall to Lead New Panel on Easing Tax Burden," The Buffalo News, Tom Precious, 10/2/13

I commend Governor Cuomo for taking a stand against crippling property taxes in New York State, which can stifle economic growth, hurt homeowners in this challenging economy, and drive businesses out of our communities.

To reiterate the concerns of County Clerk Christopher L. Jacobs increasing revenue estimates without reason is a recipe for disaster. Smoke and mirror budgeting is not the way our fiscal house should be built. The current financial foundation is quicksand based on some of the gimmicks presented with the revenue projections.

Ignoring the County Clerk was another hallmark of the Red/Green budget crisis that saw closing of auto bureaus and laying off of staff but not adjusting revenues to reflect those cuts contributed to the deficit.

I echo the concerns expressed by then County Comptroller Mark Poloncarz in 2011 that any use of non-recurring revenue to pay recurring expenses is a bad idea. It was one of the reasons for the Red/Green budget meltdown of the last decade. Without a plan on how to use the "rainy day" fund, dependence on non-recurring revenue could lead to disaster. Don't take my word for it. The current County Executive should heed his own dire warnings.

When the entire budget is released along with the Property Tax levy my office will provide you with a complete analysis. In the meantime, if your Honorable Body has any questions please feel free to contact this Office.

Sincerely yours,



Stefan I. Mychajliw
Erie County Comptroller

Cc: Erie County Fiscal Stability Authority
Mark C. Poloncarz, Erie County Executive
Christopher L. Jacobs, Erie County Clerk
Robert Keating, Director of Budget & Management



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COUNTY OF ERIE

CHRISTOPHER L. JACOBS
COUNTY CLERK

October 8, 2013

Honorable Stefan Mychajliw
Erie County Comptroller
95 Franklin Street, 11th Floor
Buffalo, NY 14202

RE: 2014 Tentative Budget Revenue Projections

Dear Comptroller Mychajliw:

I am in receipt of the 2014 Tentative Budget Revenue and Expense Projections submitted to you by the Director of Budget and Management.

I am deeply concerned with the Revenue Projections for the Erie County Auto Bureau, specifically the Auto Fees line (GL 415130). In our 2014 Budget Request to the Budget Office we estimated revenue of \$3.5 million for 2014. The County Executive's Tentative Projections has increased that number by \$500,000 for a revenue goal of \$4 million.

A major component of our Auto Bureau fee revenue is renewal fees for driver's licenses. As you know, driver's licenses come up for renewal every eight years. The amount of drivers that renew annually is not spread out equally over the eight years, far from it. Unfortunately, there is a very significant swing downward from this year (2013) to next year (2014). In 2013, we will have slightly over 100,000 renewals when in 2014 we will have just 34,000. This translates into approximately \$550,000 less in license renewal revenue for 2014 (see attached chart).

It is for this reason that we decreased our revenue estimates down by \$100,000 from the 2013 Adopted Budget for the 2014 budget year. We felt our estimates were accurate and backed up by statistical data. Although, no one can fully predict the future, I can tell you that the Auto Bureau will not be able to meet the dramatic increase in revenue projections submitted by the Budget Office.

Honorable Stefan Mychajliw
October 8, 2013
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I write you with a deep concern for the validity of the 2014 budget revenue estimates for the Erie County Auto Bureau put forth by the County Executive and a budget that may be balanced on unrealistic revenue projections.

Sincerely,



Christopher L. Jacobs
Erie County Clerk

Attachment

C: Erie County Legislature
Robert Keating, Director, Budget and Management

Erie County Drivers License Renewal Projections- 2008- 2020

2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
34,930	114,799	135,687	158,179	137,414	104,779	34,341	33,619	40,403	121,897	125,074	126,518	116,228
\$228,172	\$947,092	\$1,119,418	\$1,304,977	\$1,133,665	\$864,447	\$283,313	\$277,357	\$333,325	\$1,005,650	\$1,031,860	\$1,043,773	\$958,881

12.7 of avg. renewal fee

