



BUFFALO FISCAL STABILITY AUTHORITY

Second Annual Report
Fiscal Year 2004-05

January 2006

Buffalo Fiscal Stability Authority

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To the Citizens and Stakeholders of the City of Buffalo

This is the second Annual Report for the Buffalo Fiscal Stability Authority – the Buffalo City Control Board. As Chairman, I encourage you to read it thoroughly as it includes, in plain language, a detailed presentation of the various actions that have been taken to improve the City's fiscal condition, the results of those actions and, most importantly, what needs to be done to return to the City to a path for a brighter future.

The issues facing our City are driven by harsh financial realities. They touch many areas of day-to-day life in Buffalo including: the quality of education for our children; the delivery of public protection and social services; the revitalization of older neighborhoods; the lack of job opportunities for our children as they enter the work force; and the hope of improved stability for the City work force. Every citizen of Buffalo is impacted by one or more of these issues, and those of us who live, study, shop or do business here are impacted by the taxes required to support our government.

The time for arguing over whether or not Buffalo is facing fiscal problems is behind us. The Annual Report shows the savings that have been achieved and the progress that has been made. It also shows, quite dramatically, that Buffalo has continuing financial problems which will grow dramatically over the next few years if changes in the City's cost structure are not made right away. More severe actions will be needed in the future if the issues are not addressed now. Delaying the necessary action is clearly not an option.

The good news is that the problems are now clearly understood, something which could not be said prior to the Control Board's creation. More good news lies in the fact that a strong working relationship established between the Control Board and the City's past administration which has allowed for the development of a solid reporting structure. We now receive reliable and timely information, which allows the Control Board and the City, the School District and covered agencies to monitor adherence to the established budgets, and make modifications where necessary. It appears that the new administration is looking to build on that foundation to move to the next phase of returning the City to a position of fiscal stability.

I firmly believe that Buffalo's financial problems can be solved, especially since everyone I speak to fervently wants to see our City on a path to a brighter future. In spite of our differences on how to achieve it, all share that common goal. To me that is a great starting point. The next step is for all the City's stakeholders and elected officials to come together to be part of the mission of restoring our fine City to a financially stable position. This can and must be the first step on the path to creating a better quality of life and a brighter future for all of the citizens of Buffalo.

The City Control Board will be working toward that end during 2006. I extend my personal thanks to the many people who have already become the Control Board's partners in finding the solutions to the financial problems facing the City.

Sincerely

Brian Lipke
Chairman of the BFSA

Financial Impact of the BFSA Act through June 2005

City Control Board Saves Taxpayers \$135 million

The Buffalo Fiscal Stability Authority (BFSA), known locally as the City Control Board, saved the City of Buffalo and its taxpayers more than \$135 million since it was created in July 2003. These essential savings were brought about through the exercise of extraordinary powers granted to the Board by the State, and through the cooperation of the City's administration.

Extraordinary Control Board Powers: Because of the City of Buffalo's desperate level of financial need, the State gave the Control Board the power to move very aggressively to change the status quo. While the Board's powers did not allow for turning back the hands of time on established wages, benefits and work rules, it did provide for a temporary freeze in some costs. The wage freeze, imposed in April 2004, has saved more than \$13 million to date. The hiring freeze has helped with the downsizing of the workforce to more affordable levels.

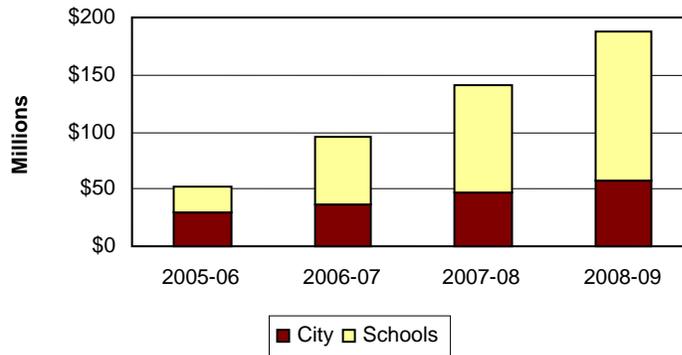
The Control Board has also given the City almost \$30 million in budgetary savings through its debt issuance powers. BFSA is a AA-rated credit, and can borrow needed funds more cost effectively than the City, which is at the lowest investment grade. The savings on debt issuance costs alone has been more than \$1 million.

City Cooperation with BFSA: The State provided incentives to City/Control Board cooperation. In order to "earn" the nearly \$27 million in deficit borrowing over two years, the City needed to close part of its budget gap. The City, however, was prohibited from using budgetary gimmicks like "one-shots" in earning the Control Board's help. It needed to take steps to provide real savings or revenue enhancements that would be a benefit every budget in the future.

Over the two years of the Control Board's existence, the City, School District and other City agencies (the Buffalo Municipal Housing Authority – BMHA – and Buffalo Urban Renewal Agency –BURA) have saved \$93 million. The City itself was able to save \$10 million by shifting to a single health insurance carrier. The School District has taken the same action, although unfortunately that continues to be embroiled in union-driven legal challenges. The City has reduced staff through attrition and through the shift of City parks workers to Erie County. The School District has reduced staff and closed schools to address its gap.

Millions in Savings; Fiscal Crisis Continues: The City's finances are more stable than they were two years ago. More than \$135 million in savings has resulted in two balanced budgets. However, the fiscal crisis is far from over. The citywide property tax margin has all but evaporated. The combined budget gap grows to nearly \$200 million within four years, according to current projections. Rapid escalation of employee benefit costs threaten to overwhelm the local ability to pay.

Budget Gap Projections



State and Local Reforms Required: Public employee benefits in Buffalo are excessively high by both national and local standards. Health insurance benefits such as free elective cosmetic surgery are unsupportable expenses for taxpayers, many of whom cannot afford even basic health insurance for themselves and their families. Yet current contractual provisions, protected by State law, safeguard these employee *and* retiree perks, no matter how much the costs increase over time. Both the contracts, and the State laws that protect them into infinity, *must* be changed to provide the reasonable changes that are essential to long-term fiscal stability. Absent such changes, the fiscal crisis in Buffalo will permanently impede (rather than enhance) economic development in the region.

Financial Impact of BFSA and the BFSA Act
(through June 2005)

BFSA Actions	Savings
Deficit Borrowing	\$26.9 million
Wage Freeze Savings	\$13.3 million
Savings on Debt Issuance Costs	\$1.1 million
Participation in JSCB Phase II Bond Pricing	\$1.0 million
Subtotal	\$42.3 million

City and Covered Organization Actions	Savings
<i>Fiscal Year 2003-04</i>	
Sch District Financial Plan Actions in 2003-04	\$37.4 million*
City Financial Plan Actions in 2003-04	\$2.9 million*
BURA Financial Plan Actions in 2003-04	\$2.4 million*
<i>Fiscal Year 2004-05</i>	
Consolidation of City Parks with Erie County	\$3.4 million*
Shift to Single Insurance Carrier in City	\$10.0 million*
Avoidance of Debt for Firehouse Construction	\$3.5 million
Other City Financial Plan Actions in 2004-05	\$6.0 million*
Reduction of Proposed Capital Bond Sale	\$6.7 million
Sch District Financial Plan Actions in 2004-05	\$19.7 million*
Shift to Single Insurance Carrier in BMHA	\$0.6 million*
BMHA Financial Plan Actions in 2004-05	\$0.4 million*
* <i>Recurring Savings</i>	
Subtotal	\$93.0 million
Total Impact to Date	\$135.3 million

Other Actions

Improved outlook on City debt from Standard & Poor's (2003)

Summary of BFSA Accomplishments and Actions, 2004-05

In its second fiscal year of operation, BFSA continued to help the City, Buffalo Public School District and covered organizations on the road to long-term structural budgetary balance. The following sections summarize significant financial oversight and monitoring actions taken by the Authority, the City and its covered organizations in the second year of BFSA's responsibilities.

Multi-Year Financial Planning: *The multi-year financial planning process required by the BFSA Act is one of the most critical components to Buffalo's fiscal future. With BFSA's assistance, the City and covered organizations have developed a comprehensive planning process that, over time, will help to address the current structural budget gaps as well as recognize and prepare for future fiscal challenges. BFSA took the following actions in 2004-05:*

- Monitored implementation of the second four-year Financial Plan for the City of Buffalo, Buffalo Public Schools, Buffalo Urban Renewal Agency and Buffalo Municipal Housing Authority. The plan covered fiscal years ending 2005 through 2008, and included gap-closing actions that produced recurring savings of \$15.7 million in the City and \$19.7 million in the School District.
- Coordinated with the external auditors of the City and covered organizations in completion of year-end audits, and monitored reforms to address process issues raised in recent management letters.
- Approved the third Financial Plan for the City and covered organizations, which contains gap-closing strategies for fiscal years ending 2006 through 2009.
- Did deficit financing pursuant to a Declaration of Need by the City of Buffalo (for \$19.1 million) to close the City's 2004-05 budget gap.

Monitoring Fiscal Health: *Regular and aggressive monitoring of budgetary progress and cost-savings initiatives is essential to ensuring that Buffalo continues its progress towards fiscal stability. Under BFSA, the City and covered organizations have developed a quarterly reporting process for revenues, expenditures, numbers of employees and the status of gap-closing initiatives. This process has yielded a more disciplined approach to fiscal monitoring, and enabled immediate budget modifications as needed during the fiscal year. BFSA took the following actions in 2004-05:*

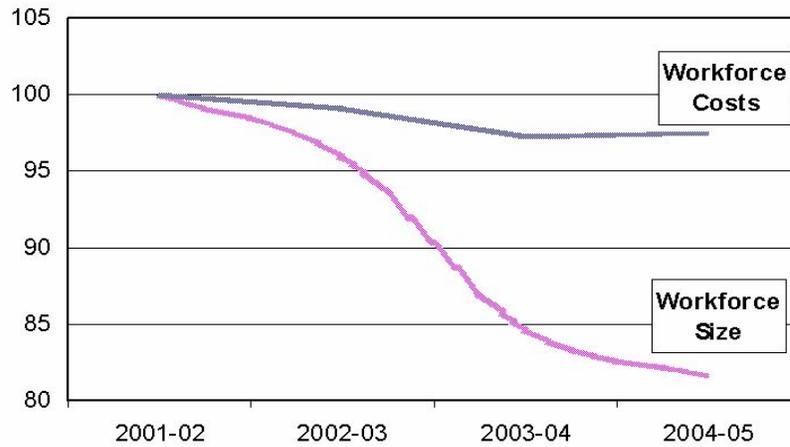
- Continued a regular quarterly reporting process by the City and its covered organizations to review financials, monitor implementation of gap-closing measures and determine if modifications were required.

- Required a revision to the Buffalo Municipal Housing Authority's Financial Plan in January 2005, to include significant reductions in the cost of operations to balance substantial losses of funding from the Federal government.
- Required a revision to the City's Financial Plan in March 2005, to identify a contingency plan to replace \$7 million in additional sales tax revenues that had been assumed in the plan beginning in 2005-06.
- Required a revision to the School District's Financial Plan in March 2005, to recognize the anticipated impact of a change in the accounting method for teacher pension costs in 2004-05.

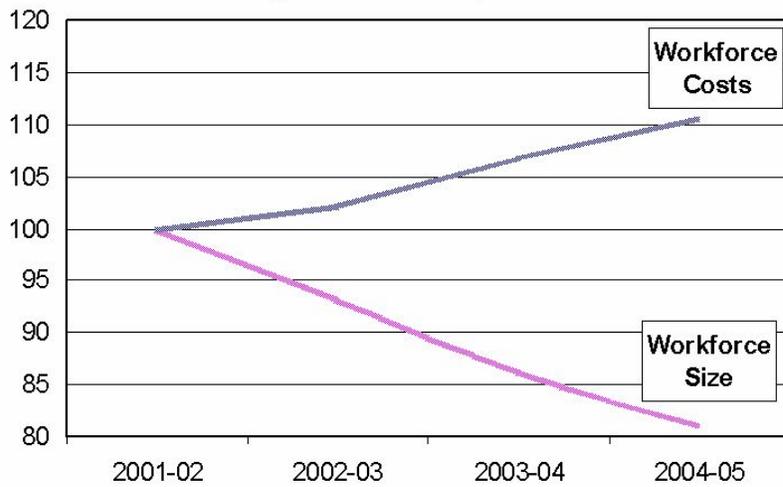
Right-Sizing the Workforce: *Workforce costs represent the single largest expenditure category in the City and its covered organizations. In the City and School District, the costs of employee salaries, pensions, health insurance (as well as for retirees) and other benefits accounted for \$672 million, or 70 percent of the combined budget in 2004-05. In addition, workforce costs are among the fastest-growing budget categories due to significant recent growth in health insurance and pension rates. The City's long-term fiscal stability is directly tied to its ability to manage the size and cost of its workforce. BFSA took the following actions in 2004-05:*

- Imposed a hiring freeze on the Buffalo Municipal Housing Authority in January 2005.
- Monitored the reduction of the City's workforce by 146 filled positions between the end of 2003-04 and the end of 2004-05.
- Monitored the reduction of the School District's workforce by 210 filled positions, between the end of 2003-04 and the end of 2004-05.
- Monitored the reduction of the Buffalo Municipal Housing Authority's workforce by 23 positions between the end of 2003-04 and the end of 2004-05.
- Since the start of 2003-04, the municipal workforce has been reduced by 1,306. While BFSA has monitored the gradual downsizing of the workforce government-wide, it was also willing to approve waivers to the hiring freeze to the extent needed for health and safety, contractual requirements, workload or for revenue enhancement. To date, BFSA has approved 827 hiring freeze waivers for the City alone, of which 398 occurred in 2004-05.

School District Workforce Costs vs. Size
(FYE 2002 = 100)



City Workforce Costs vs. Size
(FYE 2002 = 100)



These charts clearly illustrate that, even as the City and School District have worked aggressively to control spending through workforce reduction, employee benefits continue to force unaffordable spending. Downsizing alone cannot save Buffalo. Reform is essential to a successful and affordable government.

Providing a More Cost-Effective Financing Framework: *BFSA's structure affords financing to the City through a highly-rated credit that allows it to reduce borrowing costs, refund existing debt at more beneficial interest rates, and receive short-term budgetary relief through deficit financing. Pursuant to the BFSA Act, all of the City's State aid, along with both the City and School District's portions of the local sales tax, are legally revenues of BFSA. Since the first call on those revenues is to pay any debt service, BFSA is able to achieve a credit rating superior to the City's (AA-/Aa3 compared to BBB-). As a result, the Authority can issue debt more cost effectively than the City itself, producing savings. These savings help avoid more draconian cuts in services.*

- BFSA provided the City with \$19.1 million in 2004-05, Series 2004A, deficit financing to ease the transition to structural budgetary balance.
- BFSA sold \$84 million in short-term Bond Anticipation Notes, Series 2004 A-1 in September 2004 to cover City cash flow borrowings for 2004-05, down from a sale amount of \$120 million the previous year. BFSA's BAN received the highest rating from Moody's (MIG 1) and Fitch (F1+) and did not require letter of credit support, which cost the City in excess of \$800,000 in its 2003 cash flow borrowing. In all, BFSA's total costs of issuance were \$1.1 million less than the City's prior-year cash flow borrowing.
- BFSA began the process of refunding \$47 million in outstanding City debt through Sales Tax and State Aid Secured Bonds, Series 2005B. The refunding, which closed in July 2005, provides present value savings of \$1.6 million to the City, or 3.4 percent. The cash flow savings total \$1.8 million over the life of the bonds, with the City receiving savings of more than \$0.4 million in 2005-06.
- BFSA completed a \$28.03 million capital borrowing (Series 2005A) for the City in June 2005, to fund critical infrastructure improvements and capital equipment needs.
- BFSA bid out a contract to invest debt service set-asides (for Series 2005B debt) in order to guarantee cash savings to the City. The investment contract was structured to ensure it would earn the maximum rate allowable (the arbitrage yield). The same methodology is being used for the investment of the 2004A and 2005A debt service set-asides. The effect of these transactions is to maximize the allowable earnings on these funds without major rebate issues.
- BFSA's investment of certain funds from the first maturity of the Series 2004 A-1 financing yielded \$246,096 in investment earnings for the City.
- BFSA reviewed and approved Phase II of the Joint Schools Construction Board (JSCB) initiative. The second phase provides for \$310 million in financing to continue the District-wide reconstruction effort. BFSA's participation in the

pricing process facilitated a significantly better price on some of the issue's maturities, resulting in more than \$1 million in present value savings.

The following calculations reflect the 2004-05 savings achieved on behalf of the City through BFSA's issuance as a AA- rated credit vs. the City's BBB- rating.

Issuance	Savings
Cash flow issue savings through cost of issuance savings and the use of BANs that required no credit enhancement	\$1,094,000
Savings derived from the capital borrowing 2005A issue	\$255,000
Total Savings to the City of Buffalo	\$1,349,000

The above numbers assume continuation of the City's current credit rating which has been maintained in large measure due to the existence of BFSA, and cost comparisons have been calculated on that basis.

The City's Rating Outlook by Standard & Poor's Rating Agency (S&P) prior to May 2004 was BBB- (the lowest investment grade rating) with a negative outlook, reflecting "the persistent structural imbalances that were projected through 2007, a cumulative negative general fund balance, an expected ongoing reliance on the State for support, and the use of deficit borrowing to balance operations over the control board period." In May 2004, the City's rating outlook was changed from negative to stable. According to S&P, the outlook "reflects the fiscal discipline and progress toward achieving structurally balanced operations that the City has achieved under control board oversight". The savings impact of BFSA over a below-investment rated City of Buffalo would have been approximately \$2.6 million.

Implementing Structural Reform and Identifying Savings Opportunities: *The BFSA Act requires the City and its covered organizations to implement new actions each year that produce recurring savings to address its structural budgetary deficit. The City's first two BFSA-approved Financial Plans generated millions in savings. In 2004-05, the City implemented its landmark consolidation of parks with Erie County, enabling more than \$3 million in annual recurring savings. It also embarked on its fire reengineering strategy, beginning the development phase for several new state-of-the-art firehouses in*

more strategic locations throughout the City, enabling the closure of certain obsolete facilities. The following actions were taken in 2004-05:

- As a condition of receiving \$19.1 million in deficit financing assistance from BFSA in 2004-05, the City adopted sufficient recurring and non-recurring measures to close a baseline gap of \$49.6 million. The School District similarly closed its baseline gap of \$39.1 million.
- The City shifted its employees to a single health insurance carrier, generating significant first-year savings. While more than \$6 million in savings had been budgeted from the initiative, the City saved in excess of \$10 million and experienced one of its lowest year-to-year premium rate increases in recent history.
- BFSA facilitated Common Council approval of the use of on-hand reengineering monies as the lowest cost strategy to begin implementation of the City's fire department restructuring plan. The plan includes the construction of five new strategically-located city firehouses and expansion of another. BFSA also approved the initial twelve contracts for construction of the first three fire stations as part of the City's fire reengineering initiative. The decision to use on-hand funds avoided as much as \$3.5 million in interest costs had the initiative been funded through capital bonds.
- BFSA convened a meeting of the Common Council, Erie County Water Authority and Buffalo Water Board in February 2005 in an attempt to facilitate a sale of the City's water system, defease approximately \$120 million in outstanding water debt, and take advantage of over \$50 million in low-cost financing through the State Environmental Facilities Corporation. Savings through this opportunity unfortunately were forfeited when the Common Council failed to bring the measure to public referendum.
- The City's nationally-recognized park system was successfully consolidated with Erie County, generating \$3.4 million in first-year savings to Buffalo.
- The City designated a \$15.6 million spin-up in State aid to cover the costs of debt service incurred through BFSA deficit financing, as well as BFSA's operating expenses through 2006-07.
- The School District continued to reduce its facilities portfolio, terminating two leases and permanently closing three schools.
- The Buffalo Municipal Housing Authority shifted its employees to a single health insurance carrier, anticipating \$0.6 million in recurring annual savings.

Defending BFSA's Legal Position: *Employee unions deluged BFSA with legal challenges in 2004-05. Five separate lawsuits commenced, all of which had their roots in the wage freeze imposed by BFSA in April 2004. Joining the Police Benevolent Association, which had previously filed in May 2004, four lawsuits were brought by collective bargaining units representing various groups of City, School District, BURA and BMHA employees. The allegations against BFSA were largely constitutional in nature, based in both the New York State and United States Constitutions. One additional lawsuit was brought by a group of aggrieved former and current managers within the Police Department, over their being denied a raise by the City. As they believed the wage freeze would further hinder their ability to receive the raise, BFSA was named in the suit. With the assistance of Harris Beach LLP, BFSA's outside counsel, these actions proceeded as follows:*

- Buffalo Teachers Federation (BTF) and seven other School District unions: In an action commenced July 24, 2004, BFSA filed a Motion for Summary Judgment before Judge Skretny in federal court. (Subsequent to the end of 2004-05, BFSA's motion was granted, though the BTF has appealed.)
- Police Benevolent Association (PBA): Justice Cosgrove decided in favor of the PBA in August 2004, and BFSA appealed the decision to the New York State Appellate Division, Fourth Department. In December 2005, BFSA won on appeal, and the court has denied the PBA's attempt to reargue the case.
- AFSCME (covering five City and BMHA employee unions): In an action commenced in federal court, BFSA addressed discovery requests and scheduled the depositions of BFSA staff, a BFSA Director and individuals from the City and BMHA.
- Loncar, et al (Police Managers): BFSA joined in the City's Motion to Dismiss the complaint before Justice Siwek. (Subsequent to the end of 2004-05, the City's motion was granted.)
- CSEA (representing BMHA Public Safety and BURA employees): A federal case wherein BFSA addressed discovery demands with the goal of joining this case with the AFSCME lawsuit for scheduling purposes. The cases have since been successfully joined.
- International Association of Fire Fighters: Upon oral argument and a brief to the court, Justice Fahey dismissed the case due to a Statute of Limitations deficiency.

Informing the Public: *Public input is important to BFSA. The Authority receives many suggestions, comments and other information from residents and stakeholders in the City. That information is reviewed on a regular basis and passed on to the City and covered organizations as appropriate. In order to keep the public informed, as well as encourage public input, the Authority maintains email and Internet-based information*

media, in addition to receiving information by mail and telephone. A public forum is held each May to receive comments on the proposed four-year Financial Plan, and BFSA publishes reports on public input each April and November. All Board meetings are open to the public in a centrally accessible location in Downtown Buffalo and are regularly broadcast on public access television. The following actions were taken in 2004-05:

- Sponsored BFSA's third public input forum in May 2005 on the proposed 2006-2009 Financial Plan of the City and covered organizations.
- Maintained a website to disseminate BFSA reports, press releases, meeting schedules and minutes.
- Completed the first two BFSA reports on public input regarding cost savings and service enhancements, in November 2004 and April 2005.
- Conducted nine public meetings of the BFSA Board of Directors.
- Filed financial disclosure statements as required by regulations and bond indentures.

Other

- Transitioned to a new BFSA Chairman, Brian J. Lipke.
- Became the first control board in New York State history to present a case on the City's fiscal condition to an interest arbitration panel, in the matter of the binding arbitration case for Local 282 (Firefighters). The panel's award recognized the City's fiscal condition and broke parity between firefighters and police, an action that will save the City more than \$5.4 million over the life of the current Financial Plan.
- Reviewed more than \$150 million in contracts, settlements and other obligations of the City, School District and other covered organizations.

Ongoing Challenges

While the City and its covered organizations have made progress during BFSA's first two years, significant fiscal challenges remain. Structural budget gaps continue to grow to \$200 million within the years of the financial plan. The School District's budget gap is

projected at nearly \$60 million in the next fiscal year, growing to more than \$130 million by 2008-09.

The fiscal crisis remains despite recent cost-cutting initiatives and additional State aid. Fund balance levels, built with BFSA wage freeze assistance and nearly \$27 million in deficit borrowing are insufficient to cover unanticipated shocks to the budget such as skyrocketing utility costs. The property tax margin for the City and School District spending totaling more than \$1 billion is under \$9 million in 2005-06. The City continues to lack sufficient resources in its budget to fund certain operating expenditures such as demolitions and tree-trimming, and has to resort to costly borrowing instead.

The School District has continued its practice of aggressive cuts in personnel, schools and programs to address escalating budget shortfalls, while student achievement significantly lags State standards. Thirty-seven District schools are currently identified by the State Education Department as “in need of improvement” or “under registration review.”

The City and School District face substantial exposures regarding its labor costs, including legal challenges to the wage freeze (and the single health insurer in the School District). BFSA has spent approximately \$635,000 of the City’s scarce resources to-date on legal fees, much of which involves defending the wage freeze power that was granted BFSA in response to the City’s grave fiscal crisis.

Finally, the other covered organizations (BURA and BMHA) continue to face acute fiscal challenges characterized by structural budgetary imbalances, rolling deficits and major reductions in federal resources.

However, there is hope for a resolution of these persistent problems. BFSA’s research reveals that employee benefit packages are excessively high by national and local standards. This provides an opportunity for long-term structural balance should employees become active partners with management and BFSA in finding creative ways to achieve savings. The State is also in a position to help through the reform of archaic laws that serve to perpetuate unaffordable practices.

Recommendations

State Law Reform: State laws continue to undermine Buffalo’s ability to manage effectively and to control local costs. Specifically, the Taylor Law (which establishes impasse negotiation procedures, including binding arbitration) and Triborough Amendment (which continues the terms of expired contracts indefinitely) have effectively frozen contractual provisions at an unaffordable level.

Reforms are desperately needed if Buffalo is to avoid the never-ending cycle of escalating costs. For example, the School District’s expenditures are projected to grow

by nearly \$130 million, or a staggering 24 percent, just over the four years of the financial plan. This is clearly unsupported based on current operating practices, given the negligible amount of property tax capacity in the City. Even more unbelievably, this growth occurs even assuming the BFSA-imposed wage freeze remains in place and the District is successful in maintaining its shift to the single health insurance carrier.

City Reform: The City and its covered organizations have a significant challenge in re-establishing Financial Plan structural balance without BFSA's extraordinary powers (particularly the reliance on wage freeze savings for budgetary balance). However, while primary focus must remain on the balanced financial plan and affordable government, Buffalo could advance its fiscal stability through certain structural and legal reforms that would help restore investor confidence and safeguard the use of taxpayer dollars well into the future. The City should consider:

- Modifying the City Charter to institutionalize the four-year financial planning and quarterly reporting practices that are now required under the BFSA Act.
- Establishing Fund Balance/reserve policies that would create a base level of reserves (and how these reserves would be defined), stipulations on the use of reserves, and a plan or requirements for replenishing reserves in the event they are drawn down.
- Determining policies on the use of non-recurring revenues, so that they would be used for one-time costs only. New State Aid should be considered a non-recurring resource in the first year granted.
- Prioritizing pay-as-you-go capital funding, particularly for capital expenditures where no net asset is generated, such as demolitions and tree-trimming.
- Establishing a plan to eliminate the rolling deficit, as currently quantified in the City's audit under "negative net assets."
- Determining, and requiring in the City Charter, policies relating to rapid debt retirement and target per capita levels.

Background

This is the second annual report of the Buffalo Fiscal Stability Authority (BFSA – the City Control Board), covering the second fiscal year in which the City of Buffalo and its covered organizations operated under the requirements of the Buffalo Fiscal Stability Authority Act. While the work of BFSA can be most appropriately viewed in a continuum, this report focuses on the period from July 1, 2004 through June 30, 2005.

The Buffalo Fiscal Stability Authority Act was adopted in 2003 in response to a State Comptroller's assessment and report, and a determination by the State Legislature that the City of Buffalo was faced with a severe fiscal crisis that could not be resolved without State assistance. Declaring the maintenance of a balanced budget by the City of Buffalo a matter of overwhelming State concern, the Legislature passed, and Governor George E. Pataki signed, Chapter 122 of the Laws of 2003 – the Buffalo Fiscal Stability Authority Act. According to the BFSA Act and resolution of the BFSA Board, the City of Buffalo is understood to include certain “covered organizations.” At this time those are the School District, the Joint Schools Construction Board, the Buffalo Municipal Housing Authority (BMHA) and the Buffalo Urban Renewal Agency (BURA).

The BFSA Act, enacted with broad bipartisan support in the State Legislature, includes the following provisions to return the City of Buffalo to fiscal stability:

- Established BFSA as a fiscal control agency over the City and its covered organizations;
- Required the annual development of a four-year Financial Plan for the City and its covered organizations, and vests BFSA with the power to ensure compliance with that plan;
- Granted BFSA the power to do deficit financings for the City and its covered organizations over a four-year period, provided that recurring actions are taken to close increasing percentages of the structural budget gap each year;
- Included significant powers over the City and covered organizations during a control period, such as imposing wage and hiring freezes and approving significant contracts;
- Established a legal basis for creation of a highly rated borrowing structure to reduce City borrowing costs and provide short-term budgetary assistance; and
- Empowered BFSA to impose financial control mechanisms if the City and its covered organizations are unable to adopt a balanced Financial Plan and/or to operate in accordance therewith.

By force of the BFSA Act, the Authority was granted “control powers” over the City and its covered organizations from its inception, including the power to: review and approve the four-year Financial Plan; limit spending of the City or any covered organization; impose a hiring and/or wage freeze; and review and approve any contract, obligation or collective bargaining agreement entered into by the City or any covered organization. The control period may be terminated after the BFSA Board has determined the City has adopted and adhered to three consecutive balanced budgets without any assistance from the Authority, such as cash proceeds from deficit financing or budgetary savings generated by the wage freeze. Once BFSA has made such a

determination, and the State and City Comptrollers have certified current and future bond market access, the City would operate under an “advisory period.” However, if the BFSA Board determines that a fiscal crisis is imminent, or that the City is unable to adopt a balanced budget or Financial Plan, incurs a budget deficit or loses access to the financial markets, a control period could be reimposed by BFSA.

BFSA’s 2004-05 audited operating expenses totaled \$1,025,267. Of that total, \$313,664 was directly attributable to legal fees primarily associated with six lawsuits challenging the BFSA-imposed wage freeze.

In its first two fiscal years, the Buffalo Fiscal Stability Authority Act has produced an aggregate positive impact of \$135 million for the City and its covered organizations.

BFSA Governance

The Buffalo Fiscal Stability Authority is governed by a nine-member Board of Directors. Seven are appointed by the Governor, one of which is upon the recommendation of the State Comptroller and another of which is upon the joint recommendation of the leaders of the State Assembly and State Senate. The Mayor of the City of Buffalo and the County Executive of Erie County serve in *ex officio* capacities. The Governor designates the Chair and Vice-Chair of the Authority.

During the 2004-05 fiscal year, the Governor appointed a new Chairman of BFSA. Brian J. Lipke was appointed to replace Thomas E. Baker on January 18, 2005. Mr. Baker stepped down after serving as BFSA Chairman for the Authority’s first nineteen months, returning full-time to his position as President of the John R. Oishei Foundation, Buffalo’s largest charitable foundation.

The following individuals served on BFSA's Board of Directors during 2004-05:

Thomas E. Baker, Chairman (Served through January 18, 2005),
President of the John R. Oishei Foundation.

Brian J. Lipke, Chairman (Began serving January 18, 2005),
Chairman and CEO of Gibraltar Industries.

Alair Townsend, Vice Chair,
Publisher of Crain's New York Business. Former New York City Budget Director and Deputy Mayor for Finance and Economic Development

Richard Tobe, Secretary (recommendation of the State Legislature),
Vice President for Programs at the Community Foundation for Greater Buffalo, and former Commissioner of Environment and Planning under former Erie County Executive Dennis Gorski.

H. Carl McCall, Treasurer (recommendation of the State Comptroller),
President of Convent Capital, and former New York State Comptroller.

John J. Faso,
Partner in Manatt, Phelps and Phillips LLP. Former Minority Leader of the NYS Assembly.

Reverend Richard A. Stenhouse,
Pastor of Bethel AME Church, and Executive Director of Bethel Head Start.

Robert G. Wilmers,
Chairman of M&T Bank Corporation.

Hon. Anthony M. Masiello,
Mayor of the City of Buffalo.

Hon. Joel A. Giambra,
Erie County Executive.

BFSA Staff

The Authority has a staff of seven:

Dorothy A. Johnson, M.S., Executive Director,
Former principal budget examiner for local government affairs in the New York State Division of the Budget and former investment officer in the Office of the State Comptroller.

Darryl McPherson, Esq., Chief Counsel,
Former Deputy Corporation Counsel for the City of Buffalo Department of Law.

Bertha H. Mitchell, MBA, Chief Financial Officer,
Former Vice President and Senior Credit Officer for Corporate Banking at Citibank U.S. and Canada, and Vice President of Credit Policy at Royal Trust, Toronto.

Joseph V. Stefko, Ph.D., Deputy Director,
Former Senior Research Associate in the government management and economic analysis practices of CGR Inc., a Rochester-based public sector management consulting firm.

Robert M. Tocker, M.A., Senior Analyst,
Former Senate Finance and Fiscal Studies Fellow and Legislative Analyst with the New York State Senate Finance Committee.

Melinda Mulawka, M.P.A., Associate Analyst,
Former Economic Development Policy Analyst for the Office of the Albany County Executive.

Nathan D. Miller, B.S., Executive Assistant / Office Manager,
Former Administrative Assistant with Child & Family Services.