

# GENERAL GOVERNMENT AND OPERATIONS

**Chair: John O’Grady, Franklin County Commissioner**

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## COMMITTEE PRIORITIES

In the past, counties suffered the loss of the Medicaid Managed Care Organization (MCO) sales tax and reductions in the Local Government Fund (LGF) resulting in ongoing annual revenue losses of over \$300 million. These losses led to painful reductions in county services at a time when costs of county services were dramatically increasing due to the opiate epidemic as well as mandates from the state. Global events and economic factors continue to inject uncertainty into county revenue streams today.

### UNFUNDED MANDATES

Unfunded mandates are laws or policies enacted by the federal or state governments that require governments at the next level down to spend money.

All bills that Ohio’s General Assembly enacts imposing new or additional requirements on counties should be fully funded by a state appropriation.

## ALL BILLS THAT OHIO’S GENERAL ASSEMBLY ENACTS IMPOSING NEW OR ADDITIONAL REQUIREMENTS ON COUNTIES SHOULD BE FULLY FUNDED BY A STATE APPROPRIATION.

Further, the General Assembly should modify or fully fund the following onerous or outdated mandates on county government:

### Indigent defense

The state should assume full responsibility for funding indigent defense reimbursement. In *Gideon v. Wainwright* (1963), the U.S. Supreme Court held that the fundamental right to counsel is made obligatory upon the states by the fourteenth amendment.

The state took significant strides in the last biennial budget toward fully funding indigent defense

reimbursement. This was accomplished by allocating approximately \$336 million dollars to reimburse counties for indigent defense costs for FY 2022 and FY 2023. The appropriation resulted in a reimbursement rate of 100% for FY 2022, which is unprecedented in Ohio. Over the years, many counties have experienced a significant attorney workforce shortage in the area of indigent defense. In order to counteract the shortage, many counties increased public defender salaries and appointed counsel rates. The increase in rates is anticipated to cause the actual reimbursement rate for FY 2023 to be 90%. CCAO respectfully asks that the state provide full funding of indigent defense in the FY 2024/2025 biennial budget.

### Conducting elections

As new federal and state election requirements have been enacted, adequate federal or state funding has not always been provided for certain mandates. CCAO is very concerned about the compounding fiscal burden of these incremental mandates and urges full funding for requirements passed on to counties.



Absent such funding from the state and federal government, and given the unique power of local boards of elections to seek judicial relief in budget deliberations, CCAO supports full state funding for election expenses and exploring options on state administration of elections.

Recently, lengthy legal disputes regarding congressional and state legislative redistricting led to an additional 2022 primary election. CCAO urges the General Assembly to avoid additional primary elections, which feature low turnout but still generate considerable expenses and manpower demands for counties. Any additional unscheduled elections must be fully funded by the state.

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## Medically handicapped children

The Department of Health currently has the authority to require counties to withhold inside millage to pay for programs run through the Ohio Department of Health's Bureau for Children with Medical Handicaps. This state administered public health program should be funded by state revenue sources.

## General health department office space

Office space costs of general health districts should become operating costs of the district in the same way such costs are classified in combined health districts. In addition, the use of voted health levies to fund office space costs should be specifically authorized. It would provide an additional means to eliminate the unfunded mandate on the county general fund, since counties are not required to provide money for health departments' operating budgets.

## Tuberculosis treatment costs

County commissioners have an antiquated statutory duty to pay for treatment and detention costs for those afflicted with tuberculosis (TB). In the past, the Ohio Department of Health has made limited funds available to counties for individual cases with successful treatment outcomes. Help from the state is appreciated, however, with an average of 163 active TB cases each year, the cost can range from several thousand to well over \$100,000 per case. Counties need relief from the unfunded mandate, and the state should either fully fund this duty or put the responsibility in a more logical place.

## LOCAL GOVERNMENT STRUCTURAL REFORMS

CCAO supports efforts to re-examine the structure of county government and explore ways to consolidate services and operations to gain efficiencies. In addition, CCAO seeks consideration of statutes that would assure proposed county charters would reform a county government's structure as well as authorize constitutionally or statutorily granted powers.

CCAO is studying the need to allow consolidation of counties and other local governments in urban counties. In addition, ways should be explored to facilitate the elimination of villages through such efforts as financial incentives or easing the abolishment process.

CCAO seeks specific authority to enable any board of county commissioners to share, combine or reorganize, in a larger district, the duties of the county coroner and to explore the recodification of the office of county coroner as a non-elected county official.

## COMMITTEE RECOMMENDATIONS

### SHARED SERVICES

CCAO seeks the ability for a board of county commissioners to require other county offices (which are funded from the county general fund) to use centralized services for electronic networks and phones as well as security systems.

### QUALIFICATIONS FOR COUNTY ENGINEER

Under Ohio law, any person who seeks the office of county engineer must hold both a professional engineer license and a professional surveyor license. Across Ohio, this has limited the number of citizens eligible to seek the elected office of county engineer to less than 1 percent of the county's population. In a democracy, this seems patently unfair to the citizens wishing to elect from a broad base of qualified citizens.

Therefore, CCAO advocates that the requirement of holding the professional surveyors license be dropped as a requirement for election to the office of county engineer.

### E-COMMERCE APPLICATIONS FOR COUNTY GOVERNMENT

CCAO supports permissive enabling legislation that allows counties to use the full power of the internet to conduct county business. This legislation should provide a broad range of options for counties, including the development of systems by counties, the ability to contract with the private sector to provide services, and the use of county-credit cards to purchase items from online sellers, e.g., Amazon.

To the maximum extent feasible, the legislation should promote economies of scale and coordination of services by requiring commissioners to publicly bid opportunities for county internet business with internet service providers on behalf of county offices.

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Recent legislative action has furthered efforts to reduce and minimize newspaper advertising requirements. CCAO supports additional modernization changes so that all county legal notice requirements could use the same reduced approach authorized for counties' competitive bid process. Specifically, counties seek the ability to publish one legal notice in the newspaper and to satisfy the second notice requirement by publishing electronically.

## COUNTY COURTHOUSE RESTORATION AND FACILITIES FUNDING

CCAO supports a state-sponsored building program to help fund and finance the restoration of county courthouses, as well as to develop county administrative offices. In addition, CCAO is exploring expanded financing options to support restoration efforts.

## COUNTY ELECTED OFFICIALS COMPENSATION

CCAO urges that legislation be enacted to ensure that all three commissioners in a county receive the same compensation every year in the future. Because of their split election cycle (i.e., two commissioners elected in the year of the presidential race and one commissioner elected in the year of the governor's race) and timing of legislatively-enacted pay bills, there have been occasions when one commissioner has been closed out of a salary increase for two years. As a result this commissioner has earned less than their two colleagues for doing the same job, since the Ohio Constitution prohibits in-term compensation changes. Commissioners in a county should make equal pay.

## LEASE OF COUNTY REAL ESTATE

CCAO supports legislation to permit county commissioners to lease real property, as well as county-owned towers, to telecommunication companies for a period of up to 30 years.

## COYOTE AND BLACK VULTURE INVESTIGATIONS

H.B. 64 of the 131st General Assembly removed the requirement that counties compensate livestock owners for injuries caused by dogs.

The state has also stopped the practice of reimbursing livestock owners whose animals were killed by coyotes and black vultures. Yet county dog wardens are still required to investigate claims that a coyote or black vulture has injured or killed an "animal" without reimbursement from the Department of Agriculture. In this case, the law defines the term "animal" to include a horse, mule, sheep, head of cattle, swine, goat, domestic rabbit, or domestic fowl or poultry. In addition, the state should be required to assume statewide responsibility for control of wild animals, including exotic animals.

## LAWS REGARDING DANGEROUS DOGS

With the passage of H.B. 14 in the 129th General Assembly, Ohio's Dangerous and Vicious Dog Laws were revised. No longer were pit bulls automatically classified as a dangerous dog breed. The legislation set up criteria for nuisance, dangerous and vicious dogs. These new classifications have caused some judges to essentially allow "one free bark, one free bite and one free kill," for any dog that is not already registered as a type of dangerous dog. Further legislative clarity is needed. CCAO supports a legislative solution to make it easier to prosecute an owner of any dog that mauls or causes significant harm or death to a citizen.

## CCAO SUPPORTS A LEGISLATIVE SOLUTION TO MAKE IT EASIER TO PROSECUTE AN OWNER OF ANY DOG THAT MAULS OR CAUSES SIGNIFICANT HARM OR DEATH TO A CITIZEN.

## DOG REGISTRATION

CCAO supports continued flexibility in the dog license renewal process. The association also supports "point of sale" registrations when a dog is purchased from a pet store or breeder to enhance compliance with Ohio's dog license requirements.

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## APPOINTMENT OF HUMANE AGENTS

Humane societies currently appoint humane agents, with the approval of the county probate judge, who can act in an official law enforcement capacity to enforce laws to prevent the cruelty to animals. Within a municipal corporation the mayor is required to approve such an appointment. CCAO believes, as with a municipal corporation, the commissioners, as the executive authority for the county should approve the appointment of humane agents rather than a member of the judicial branch.

## HUMANE SOCIETY ABILITY TO APPOINT ATTORNEYS TO PROSECUTE AND HAVE COMMISSIONERS PAY EXPENSE

Ohio law still permits humane societies to appoint an attorney and may employ one or more assistant attorneys to prosecute misdemeanor violations listed in ORC Section 2931.18, including prevention of cruelty to animals. Such attorneys are to be paid out of the county treasury or the dog and kennel fund in an amount approved as just and reasonable by the board of county commissioners. CCAO is requesting this mandate be eliminated or to at least change the law to require the consent of the board of county commissioners.

## DATA BOARD/INFORMATION SERVICES

Legislation enacted decades ago allowing for the establishment of the county automatic data processing board is outdated and reflective of past technology. County commissioners would like additional organizational options for data processing, information services and records management.

The first option is to allow the board of county commissioners or the data board itself to appoint the chief administrator of the data center by amending ORC Section 307.844, which currently designates the county auditor as the appointing authority.

The second option is to allow the county commissioners to establish a county information services board to replace the data board, microfilm board and records commission, and to allow the commissioners or the county information services board to appoint the chief administrator. The county information services board would assume all

information and records related functions of these separate boards.

## PUBLIC RECORD STATUS OF 9-1-1 TAPES

Tapes of 9-1-1 calls should not be subject to release as a public record in the case of death, accident, illness or similar event until relatives of the affected party have been notified. Tapes of 9-1-1 calls also should not be subject to release until the prosecutor determines whether they will be used for criminal prosecution and, after petitioning a court, the court prohibits their release. After conclusion of the legal proceedings, the tapes will then become subject to release as a normal public record.

## COMMISSIONERS SUNSHINE LAW

CCAO supports clarifications to the Sunshine Law that require full compliance when the commissioners perform legislative type functions, but exempts executive and administrative functions.

In addition, CCAO supports allowing public bodies to hold and attend meetings and hearings virtually through teleconference, video conference or similar technology. Public officials at these virtual meetings should be able to electronically attend, vote and be counted for quorum purposes.

## LEGISLATION SHOULD BE ENACTED GIVING COUNTY COMMISSIONERS ADDITIONAL ORGANIZATIONAL OPTIONS FOR DATA PROCESSING, INFORMATION SERVICES AND RECORDS MANAGEMENT.

Existing notice requirements should be maintained and public access to virtual public meetings should be ensured. H.B. 197 and H.B. 404 of the 133rd General Assembly and H.B. 51 of the 134th General Assembly provided this option for public bodies during the COVID-19 declared emergency, and the practice has boosted public engagement and county government efficiency. Previously, this authority had been authorized by law for certain joint county ditch maintenance meetings. Priority uses for such

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meetings include emergency-related situations, regional collaboration related meetings or other joint jurisdictional meetings.

## **PUBLIC RECORDS IDENTITY THEFT PROVISION**

CCAO commends the General Assembly's commitment to preventing identity theft that can occur from public records requests. CCAO has worked with numerous local government officials, law enforcement and legislative members in drafting legislation to accomplish this goal. Because county governments handle such vast amounts of the public's sensitive, personal information, CCAO supports legislation allowing, but not requiring, county governments to use cost recovery for redaction and masking technologies.

## **RECORD RETENTION MANAGEMENT**

CCAO supports continued changes to retention requirements enabling cost-saving methods for storing and maintaining public records.

## **RESTORATION OF THE PUBLIC DUTY RULE / REDUCING LIABILITY EXPOSURE**

Based upon the Ohio Supreme Court's decision in *Estate of Graves v. City of Circleville* (2010 Ohio 168), a county employee is potentially liable for their conduct which is found to be wanton and reckless even where that employee did not owe a duty to an individual member of the public. While sovereign immunity protects county employees in instances of mere negligence, if a county employee can be shown to have acted wantonly or recklessly in the performance of a duty they are required to perform, under statute they may be held liable for their actions. The determination of whether a county employee's actions amount to wanton or reckless conduct is a question of fact that usually requires a jury trial.

We seek a restoration of the public duty rule to protect county workers in performing the tasks of their already very difficult job. A deputy sheriff acting to protect citizens or a children service agency worker acting to protect a child's interests should not be hampered by the fear of being held liable for their actions stemming from a mistake the deputy or worker did not intentionally make.

## **COUNTY EMPLOYEE RELATIONS**

Counties are requesting various changes in Ohio's laws to help employers manage county offices in a cost-efficient manner for Ohio's taxpayers, including more options in establishing alternative leave schedules.

In addition, Ohio's collective bargaining law needs to be brought into line with the National Labor Relations Act (NLRA). The playing field should be leveled between employers and employees in this area. Furthermore, counties seek the ability to go to common pleas court as opposed to binding arbitration (to resolve disputes around collective bargaining).

## **EMPLOYEE COMPENSATION**

At a time when many county appointing authorities are freezing salaries or reducing them through furloughs, there remains the ability, and the occurrence from time-to-time, whereby certain county appointing authorities go against the norm in the courthouse to control spending and provide salary adjustments to their staff. These increases can come by way of a judicial court order to a board of county commissioners for more money in the personnel line item or by other appointing authorities who can seek court action. Therefore, CCAO seeks the ability for a board of county commissioners to moderate the ability of the common pleas court and its divisions along with the board of elections, the county prosecutor and the veterans service commission from granting pay raises that exceed the annual percentage amounts approved by the county commissioners for the other county elected officials' staff salaries.

In addition, CCAO seeks the following benefit changes:

- Provide counties with authority similar to the state, so that an employee can choose to receive their payout of accrued but unused leave time in two calendar years, as opposed to one.
- Limit the amount of vacation time employees can accumulate and carry on the books at any time to an amount not to exceed what can be earned in two years at the current rate of

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accumulation based on years of service.

- Specify that the sick leave schedule provided in the Ohio Revised Code provides the maximum amount of sick leave that can be granted to an employee in the absence of a collective bargaining agreement. Case law has interpreted the statutory provisions to be a minimum floor.
- Clarify that an appointing authority can provide a cash incentive to employees to induce retirement.

## WORKERS' COMPENSATION

CCAO supports and will work with a coalition of public and private employers to streamline and reform the Ohio workers' compensation system to reduce opportunities for abuse, control costs, encourage workplace safety efforts and ensure that workers who need help get it quickly and efficiently. Counties will continue to explore alternatives to provide workers' compensation savings when possible.

In addition, counties seek to collaborate with the Ohio Bureau of Workers' Compensation and other public employer associations to enhance the current group rating, group retro and self-insurance programs, and to explore the feasibility of other options such as employer association sponsored group self-insurance programs.

## UNEMPLOYMENT COMPENSATION ELIGIBILITY

CCAO seeks changes to the Unemployment Compensation (UC) rating system that grants reimbursing employers similar appeal rights to contributory employers – particularly for non-separating reimbursing employers who are still employers of record in a claimants' benefit period. CCAO also supports revisiting eligibility criteria to receive UC benefits in Ohio. In addition, CCAO recognizes that some relief has been granted to employers of seasonal workers, and CCAO supports legislation to exempt seasonal and temporary workers from unemployment compensation.

## CONFIDENTIALITY OF PERSONNEL FILES

CCAO supports legislation to restrict access to public employee personnel information, except disciplinary

action and performance evaluations.

## DRUG TESTING

CCAO supports authority enabling counties to conduct drug testing programs to improve employee performance and safety in the workplace such as random testing on a lottery basis, testing after accidents and post offer / pre-employment drug testing of prospective county employees. Testing in such realms is limited based on Constitutional provisions, but some testing can be conducted based on certain job duties and conditions.