STATEHOUSE REPORT

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Indigent defense reimbursement rate to drop to 80%; CCAO members urged to engage with legislators

In three communications to state and local leaders this week, the Office of the Ohio Public Defender (OPD) painted an uncertain picture regarding state reimbursement for county indigent defense costs, both in the current fiscal year and in the upcoming biennium for which the operating budget is still in development.

During testimony on Tuesday in front of the House Finance Subcommittee on Public Safety regarding OPD's budget, State Public Defender Tim Young testified that appointed counsel rates and county public defender operational expenditures are still playing catch-up after decades of underfunding. Young noted that it is difficult to estimate the appropriation necessary to fund 100% reimbursement due to the long-delayed changes that the indigent defense system has to make.

On Wednesday, Young sent a letter to Governor Mike DeWine, Senate President Matt Huffman, and Speaker of the House Jason Stephens regarding indigent defense reimbursement. In the letter, he revealed that the final reimbursement rate for the current state fiscal year will likely be approximately 80% (and that requests the rest of the fiscal year will be reimbursement at 70%).

While it had been clear in past communications with OPD that the final reimbursement rate for FY 2023 would fall short of 100%, the degree of the drop came as a surprise to the Association. This information was echoed in OPD's periodic update memorandum to counties, distributed on Thursday.

The tables at the top of the next page are included in all the OPD communications linked to earlier in the article and show a history of the reimbursement rate and monthly reimbursement requests from FY 2020 through the first six months of FY 2023 and show the likely reimbursement rate for the two upcoming fiscal years based on the currently budgeted appropriation and different monthly reimbursement rate request scenarios.

The decrease in expected reimbursement of indigent defense costs is concerning. In the current economic climate, where counties are already faced with inflationary pressures and difficulty finding and retaining workforce, the hit that the decreased reimbursement rate will have on county budgets poses a threat to other county services. As more of the county general fund must be dedicated to indigent defense, less funds are available for other services that counties must provide.

COUNTY REIMBURSEMENT RATE

REIMBURSEMENT OVERVIEW	FY20	FY21	FY22	FY23 (6 mo. data)
Annual Approved Submissions	$150,475,274	$142,745,863	$162,031,862	$90,879,817
Average Monthly Submissions	$12.5mil	$11.9mil	$13.5mil	$15.1mil
Annual Paid Submissions	$112,821,981	$107,345,830	$162,031,862	$81,791,874
Annual Average Reimbursement Rate	75%	75%	100%	

REIMBURSEMENT BUDGET	FY24	FY25
Amount Appropriated	$190,000,000	$195,815,900
Monthly Submission/Rate Scenario	$15mil = 100% ($190mil total)	$15.5mil = 100% ($195mil total)
Monthly Submission/Rate Scenario	$16mil = 94% ($201mil total)	$16.5mil = 94% ($207mil total)
Monthly Submission/Rate Scenario	$17mil = 89% ($213mil total)	$17.5mil = 89% ($219mil total)
Monthly Submission/Rate Scenario	$18mil = 84% ($225mil total)	$18.5mil = 84% ($231mil total)

Note: Each of the above "total amount scenarios" include $9.1mil in FY24 and $9.8mil in FY25 for the cost of OPD providing indigent defense services in the 10 counties that elect to contract with OPD. Those costs are subject to the reimbursement rate, the same as all other county indigent defense services.

CCAO encourages our members to reach out to their legislators, especially if those legislators are on the House Finance Committee or the House Finance Subcommittee on Public Safety, to stress that indigent defense is a state responsibility that counties have been forced to administer and pay for. The increases in costs are not a result of fiscal irresponsibility but rather are responses to the same financial pressures that employers, both public and private, are facing across the state and nation.

CCAO's legislative platform for the current General Assembly calls for the state to create a pilot program to allow counties to opt-in to a state-administered program. This week's news of the reimbursement rate decrease only makes it more imperative that the General Assembly and the DeWine-Husted Administration work with counties to transition the indigent defense system to one primarily administered by the state. This is the only way that the state can control costs within the indigent defense system without causing significant budgetary strain on county general funds.

If you have any questions concerning indigent defense reimbursement or if you have comments on how to best message CCAO's priorities on this complex policy area, please contact CCAO Managing Director of Policy Kyle Petty at kpetty@ccao.org

House Finance Subcommittee on Health and Human Services hears from Job and Family Services, Mental Health and Addiction Services Directors and stakeholders

The House Finance Subcommittee on Health and Human Services heard a full slate of testimony this week on House Bill 33, the state operating budget for SFY 2024 and 2025. Ohio Department of Job and Family Services (ODJFS) Director Matt Damschroder testified on the department's priorities, including food assistance, protective services, child care, and employment services. Director Damschroder highlighted several funding increases in the proposed budget including:

- An increase in support for county JFS agency administration of food assistance benefits;
- An additional $25 million in FY 2024 and $35 million in FY 2025 for the state child protection allocation, which goes directly to public children services agencies to support the administration of child welfare;
- An increase in the allocation to counties for administration of adult protective services;
- Doubling the state allocation to local family and children first councils;
- $150 million in one-time federal funds to establish a child care scholarship program for those in critical occupations – such as child care providers and home health aides – who earn 161% to 200% of the federal poverty level.

The director also highlighted the proposed increase in eligibility for publicly funded childcare from 142% to 160% of the federal poverty level.

The subcommittee also heard from the Ohio Job and Family Services Directors' Association, Public Children Services Association of Ohio, and Ohio Child Support Enforcement Agency Directors' Association on their priorities for the budget.

Ohio Department of Mental Health and Addiction Services (OMHAS) Director Lori Criss also testified. She highlighted several department priorities including robust data efforts, prevention, crisis, and recovery services, the continued implementation of the 988 lifeline, and investing in the behavioral health workforce.

The OMHAS budget seeks to streamline the administration of the medication-assisted treatment (MAT) and psychotropic drug reimbursement funds for county jails by combining them into one line item. The budget also proposes an overall increase in the line item so more counties can have access to these services.

The subcommittee also heard from the Ohio Association of County Behavioral Health Authorities on the priorities of Ohio's ADAMH Boards.

If you have questions about the ODJFS or OMHAS budget proposals, please contact Rachel Massoud Reedy at rreedy@ccao.org or 614-220-7996.

LSC releases fiscal analysis of House Bill 1

Ahead of House Bill 1's (Representative Adam Mathews) second hearing on Tuesday of this week, the Legislative Service Commission (LSC) released its House Bill 1 Fiscal Note. The Fiscal Note is the first comprehensive fiscal analysis of the bill. As a reminder, the bill generally makes the following changes, with LSC's analysis of the provision in underneath:

- Beginning in Tax Year 2023, eliminates all but one income tax bracket so Ohioans will pay no income tax on their first $26,050 of income and then pay the sum of $360.69 plus 2.75% of their taxable income above $26,050.
    - **LSC estimates** state revenue will decrease by $2.6 billion in FY 2024 and $1.9 billion in FY 2025. The FY 2024 figure is larger due to revised employer withholding tables.
    - **LSC estimates** that $43 million in FY 2024 and $31 million in FY 2025 will be lost from the Local Government Fund and the Public Library Fund.
- The Class 1 (Residential and Agricultural) property 10% property tax rollback (also called the Non-Business Credit) is eliminated.
    - **LSC estimates** the elimination of this rollback will save the state $1.3 billion per year.

- The statewide valuation assessment rate is decreased from 35% to 31.5%, with future years' rate attached to inflation.
    - **The combination** of the assessment rate decrease and the elimination of the property tax rollback, along with the functioning of tax reduction factors put in place by HB 920 in 1976 is estimated to increase property tax bills of Class I (residential and agriculture property) taxpayers by $929 million annually and decrease property tax bulls of Class II (commercial and industrial property) by $157 million annually.
- The Owner-Occupancy 2.5% property tax credit is changed to a flat $125 credit per year.
    - **LSC estimates** that this will cost the state an additional $150 million to $180 million annually.
- The Homestead Exemption credit for individuals who are disabled or over the age of 65 and have incomes below a statutory threshold is indexed to inflation and, for those eligible individuals who have owned their homes for at least 20 years, increases from $25,000 to $50,000 (also indexed to inflation).
    - **LSC estimates** that the combination of these two changes to the Homestead Exemption would cost the state $149 million annually.
- The bill contains intent language to reimburse local governments adversely affected by the changes made under the bill. The reimbursement applies to state fiscal years 2024 and 2025.
    - Since this is intent language with no mechanism, LSC did not analyze it.

Considering the LSC fiscal analysis of the bill, CCAO remains concerned about the long-term effects that the proposed changes to the property tax system may have on county services. Many county services are funded by primarily by property tax levies. Children services, senior services, 9-1-1 centers, departments of developmental disabilities, mental health and addiction services, and OSU Extension services are all levy-funded programs. The proposed changes to the state's property tax system are likely to harm these vital services that impact Ohioans every day.

The LSC analysis indicates that property taxpayers will see their taxes increase to accommodate the change in the assessment value. This change will partially offset savings from the income tax cut, and it is possible that some homeowners may see an overall tax increase. The abrupt change in their tax bill may make voters hesitant to vote for future levies, both fixed-sum and otherwise.

HB 1 is scheduled to receive a third hearing next week in House Ways and Means on Tuesday at 2:30 p.m. As part of the hearing, the Legislative Service Commission will be giving a presentation regarding property tax reduction factors and HB 920 to the committee.

For further information on HB 1, contact CCAO Senior Policy Analyst Jon Honeck at 614-220-7982 or at jhoneck@ccao.org.

Legislative Activity

Committee Hearings

Several bills of interest to counties received hearings this week across different committees.

Senate Ways and Means Committee

- Senate Bill 43 (Senator Andrew Brenner): Modifies the homestead exemption for surviving spouses of disabled veterans.
    - Fourth hearing; no additional testimony.
    - ***Reported Favorable, 5-0***

Senate Financial Institutions and Technology

- Senate Bill 50 (Senator Steve Wilson and Senator Kent Smith): To make changes to the law governing 9-1-1 service and to repeal program requirements for emergency-service-telecommunicator training.
    - First hearing; Sponsor testimony.

House Armed Services and Veterans Affairs

- House Bill 69 (Representative Brian Stewart and Representative Bernard Willis): To require county veterans service commissions to include two members who served in the military after September 11, 2001, and to require one member of the commission be appointed by the board of county commissioners.
    - First hearing; Sponsor testimony.

Senate Government Oversight

- Senate Bill 23 (Senator George Lang): To expand political subdivision joint purchasing authority to expressly include purchases for construction services.
    - Third hearing; All testimony

Bill Introductions

The following bills that may be of interest to counties were introduced:

- House Bill 90 (Representative Tom Patton): To authorize a total property tax exemption for the homesteads of totally disabled veterans and their surviving spouses.
- House Bill 96 (Representative Dontavius Jarrells and Representative Ismail Mohamed): To increase the state minimum wage.