



June 22, 2007

**MEMO**

**TO: MEMBERS OF THE GENERAL ASSEMBLY**

**FROM: LARRY LONG, EXECUTIVE DIRECTOR  
CHERYL SUBLER, MANAGING DIRECTOR OF POLICY**

**RE: CONFERENCE COMMITTEE ON HB 119**

On behalf of the County Commissioners Association of Ohio (CCAO), we would like to highlight a few items for consideration as the Conference Committee on House Bill 119 continues its deliberations.

- **Indigent Defense Funding**  
(Compare doc issue 194)

CCAO greatly appreciates the Conference Committee's adoption on Friday of the Senate amendment that transfers the FY08 unencumbered appropriations in the Judiciary/Supreme Court operating line item to the Ohio Public Defender Commission to be used to increase reimbursement to the counties for indigent defense costs during FY09. It is estimated that this will provide an additional \$1.5 to \$2.0 million and would bring the reimbursement percentage for FY09 up from the anticipated 23.8% to about the same rate expected for FY08 – 25.3%.

The *Supreme Court Task Force on Pro Se and Indigent Litigants* Report, however, recommends that the state should reimburse the counties at a rate of 50%. Recognizing the constraints on state general revenue dollars, we have offered many different funding stream options, yet, at this time we are simply asking for, at a minimum, parity with the funding levels provided for civil legal services. Attached is a handout outlining three possible funding streams that could be used to accomplish this goal.

- **Grant Agreements Between ODJFS and County JFS Departments**  
(Compare doc issue 136)

CCAO supports the grant agreement provisions added in the Senate version of H.B. 119. The bill requires boards of county commissioners to enter into grant agreements instead of fiscal agreements with ODJFS, making counties sub-recipients of federal funds. If counties become sub-recipients, counties would be subject to more stringent auditing and accounting requirements. Counties are willing to accept these



Fax: 614-220-0209  
www.corsa.org



Fax: 614-229-4588  
www.cebc.org



Fax: 614-221-6986  
www.ccao.org

responsibilities; but, in return, counties would like ODJFS to provide training and technical assistance as part of the Department's monitoring process. In response to these concerns, the Senate version of H.B. 119 requires a grant agreement to stipulate that ODJFS will provide county departments of JFS with (1) timely and clear written explanations, and consistent and accurate interpretations, of the requirements tied to federal grants, (2) timely and accessible training, (3) technical assistance, (4) monitoring assistance to help county departments identify problems before being audited, and (5) assistance in reversing adverse audit decisions.

CCAO believes that the grant agreement provisions added in the Senate version of H.B. 119 level the playing field by requiring not only counties, but also the state, to meet certain requirements under a new grant agreement system.

- **Adult Protective Services Funding**  
(Compare doc issue 139)

County JFS departments provide a myriad of services to Ohio's vulnerable elderly citizens. Included in those services are investigating neglect or abuse, contacting relatives, and arranging for assistance such as chore or home health services, meals on wheels, and transportation to medical facilities. Even though no state money is appropriated for these services, in 2006, counties statewide spent \$20 million of Title XX block grant money providing APS. CCAO supports the proposed PASSPORT expansions, and applauds all sides for recognizing the importance of elderly care. With an expanded at-home population due to these expansions, county services funded by Title XX money will be in even greater demand. Counties are in need of funding to ensure that Ohio's older individuals will be provided for in all cases.

The Senate re-established the APS line item (GRF 600-534), and appropriated \$500,000 each year of the biennium. However, \$400,000 of the \$500,000 was taken from an ODJFS line item (GRF 600-523) that counties utilize to pay for such services as APS. Additionally, the Senate version of H.B. 119 ties the \$500,000 appropriated specifically for APS to a county maintenance of effort requirement. Thus, this new approach merely transfers county human service monies from one pot to another, and places additional restrictions on how counties may use that money.

CCAO supports restoring the APS line item if money can be appropriated to it that does not originate in funds counties already receive. If such funding is not possible, we unfortunately ask the Committee to adopt the provisions in House version of the bill.

- **Non-resident Motor Vehicle Sales**

CCAO supports the general concept to apply sales tax to non-resident motor vehicle sales. While CCAO would prefer a different revenue sharing ratio between the state and local taxing authorities relative to this revenue stream, CCAO supports efforts by the Ohio Department of Taxation to clean up the technical aspects as to how this revenue would be collected and how counties share the dollars among the jurisdictions. Specifically, CCAO would prefer that the county revenues be distributed to counties where the sales occurred as opposed to being distributed uniformly across the state.

- **Local Government Funds**

(Compare doc issue 259)

CCAO appreciates the Ohio House and Senate's support for the new funding formula for the Local Government Funds and the increase in funding above the Administration's proposal.

- **Elections Provisions**

(Various compare doc issues)

CCAO also appreciates the various election efficiencies and support included by the Ohio House and Senate. We would ask that these provisions be retained. In addition, a consistency amendment is needed regarding the Ballot Advertising Costs line item (GRF 911-441). The language for Ballot Advertising Costs, beginning in line 65,928, still provides that counties will be reimbursed for statewide ballot advertising costs, even though H.B. 119 will eliminate this responsibility for counties and place it on the Secretary of State. Following is suggested language for consideration to clarify the matter: In line 65,932, strike through the word "county" and in line 65,933, strike through the words "boards of elections" and insert "THE SECRETARY OF STATE".

- **Electronic Medicaid Applications and Data Storage**

(Compare doc issue 173)

Because counties value the benefits that receiving, processing, and storing Medicaid documents electronically bring, many counties already have converted their Medicaid processes to an electronic system. The Senate version of the budget placed a requirement on county JFS departments to accept and store Medicaid documents electronically by July 7, 2009. The Senate version proposes to reduce a county's mandated share by the amount spent on this electronic process; however, a county would not receive the reduction until two years after county funds are spent. Many county budgets cannot absorb these additional up front costs. CCAO supports a requirement that ODJFS purchase an electronic system and charge counties for using that system. If this is not possible, CCAO requests that the Committee adopt the provisions in the House version of the budget.

- **Medicaid Coverage for Youth Aging out of Foster Care**

(Compare doc issue 171)

CCAO recognizes the importance of providing a buffer for individuals aging out of foster care. The Senate version of H.B. 119 permits youth aging out of foster care to be Medicaid eligible until age 21. CCAO supports this coverage and urges the Committee to adopt the language in the Senate version of the bill.

- **Income Maintenance Administrative Dollars**

(ODJFS Line Item 600-521)

From the beginning of the budget process, CCAO, along with other advocate groups, have been stressing the importance of providing counties with adequate administrative human services funding. While we strongly support the proposed Medicaid and PASSPORT expansions, these expansions will tax counties' already stretched administrative budgets. Cuts made to IM control dollars were based on an amount of IM monies counties lapsed in 2006; however, counties are entering 2008 with only a \$1 million cushion to support increasing caseloads. If counties' administrative funding is not restored by an additional \$10 million in each year of the biennium, counties will have to return to the Governor and the General Assembly for additional funding.

- **CAT & Long-term Replacement of Tangible Personal Property Revenues**  
(Compare doc issue 271)

The Senate added a provision that dedicates the percentage of CAT revenue going to primary and secondary education, which was slated to be eliminated in FY 19, be continued beyond that date. We urge the General Assembly to address the long-term revenue replacement for TPP on local governments and levy-supported agencies as well.

In addition, we should note that CAT revenues were anticipated to go into the state general revenue fund in FY 19. Since the Local Government Funds funding formula will be based on GRF tax receipts, this action will have consequences on money the LGF's receive in out years. Please consider future adjustments to account for this change in policy.

Thank you for your consideration of these issues. If you have any questions, please feel free to contact us at [llong@ccao.org](mailto:llong@ccao.org) or [csubler@ccao.org](mailto:csubler@ccao.org) or at (614) 221-5627.

## **INDIGENT DEFENSE REIMBURSEMENT**

### **CCAO Proposal to the HB 119 Conference Committee**

The **County Commissioners Association of Ohio** asks the Conference Committee on HB 119 to include the following four provisions in its report regarding the funding of indigent defense reimbursement to the counties:

**1. Place a surcharge on OVI fines - Section 4511.19** **3.7 million**

Apply a surcharge on the penalties for OVI convictions on a graduated scale  
\$75.00 – 1st offense; \$125.00 – 2nd offense; \$250.00 – 3rd offense;  
and, \$500.00 for the 4<sup>th</sup> and subsequent offenses

This is a recommendation of the *Supreme Court Task Force on Pro Se and Indigent Litigants* and is one of the two proposals for increased funding requested by the State Public Defender Commission in its budget testimony. This proposal is also supported by Governor Strickland, The Ohio State Bar Association and the Ohio Judicial Conference.

**2. Restructure the Indigent Defense Court Cost – Section 2949.091** **6.3 million**

Increase the court cost on felony offenses from \$15.00 to \$30.00  
Apply a \$5.00 cost to non-moving traffic offenses  
Increase the court cost on misdemeanor offenses from \$15.00 to \$17.00

This is also a recommendation of the *Supreme Court Task Force on Pro Se and Indigent Litigants* and the second of the two proposals for increased funding requested by the State Public Defender Commission in its budget testimony.

**3. Increase the civil penalty on the FRA reinstatement fee– Section 4509.101** **4.5 million**

Add a surcharge to the “civil penalty” reinstatement fee for people seeking their driving privileges returned after a conviction for driving without insurance  
\$25.00 - first offense; \$50.00 - second offense; \$100.00 – third/subsequent offenses

This “civil penalty” [4509.101(A)(2)] is paid by an individual who was convicted of or plead guilty to driving without having the insurance coverage required by Ohio’s Financial Responsibility Act. The penalty is increased based upon the number of violations the individual seeking reinstatement would have.

**4. Create the Indigent Defense Support Fund – Section 120.08**

This rotary fund in the Public Defender Commission will receive all revenues dedicated to indigent defense reimbursement

In order to preserve the integrity of the funding earmarked for indigent defense, it is urged that a “rotary fund” be created under the control of the state public defender which receives revenue from any source allocated to funding indigent defense reimbursement. Currently the receipts from the statewide court cost for indigent defense are placed into the state GRF. Both the crime victims’ component of the statewide court cost and the civil filing fees allocated to civil legal services are deposited into a rotary fund for their specified purposes and are not deposited into the state’s general revenue fund.

These actions would, when coupled with the Senate amendment regarding the unencumbered Judiciary/Supreme Court operating expenses, provide approximately \$10.8 million additional funding in FY08 [increased funding provisions effective beginning October 2007] and increase the projected reimbursement rate from 25.8% to 33% and approximately \$16.5 million additional funding in FY09 and increase the projected reimbursement rate from 23.8% to 35%.

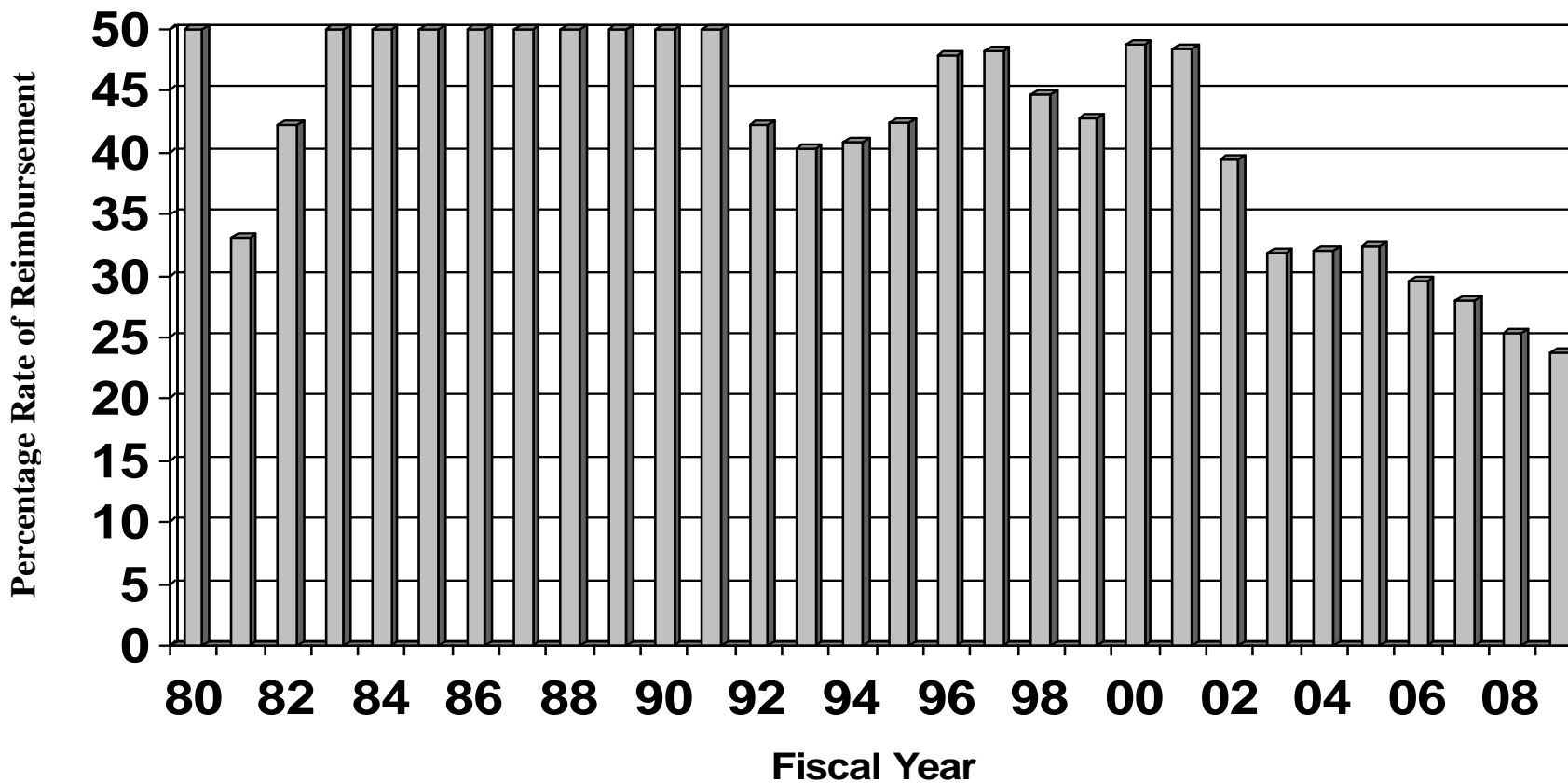
These actions would also bring the appropriations for the constitutionally mandated obligation of providing criminal indigent defense into reasonable parity with the \$40 million

appropriated in each year of the biennium for civil legal services which, while clearly merited, are not a constitutional obligation imposed upon the state.

Charts Attached: Annual Rate of County Reimbursement  
System Cost/State Reimbursement History

CCAO – June 20, 2007

# Indigent Defense Annual Rate of County Reimbursement



source: Ohio Public Defender Commission

# Indigent Defense System Cost/State Reimbursement History

