

STATE AND LOCAL GOVERNMENT COST CUTTING  
STATE GOVERNMENT MANAGEMENT AND COST STUDY COMMISSION

Harrisburg, Pennsylvania

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April 12, 2010

Good morning. I am Douglas E. Hill, Executive Director of the County Commissioners Association of Pennsylvania (CCAP). The CCAP is a non-profit, non-partisan association providing legislative and regulatory representation, education, research, insurance, technology, and other services on behalf of all of the Commonwealth's 67 counties. Joining me is Brinda Carroll Penyak, CCAP's Deputy Director, with extensive knowledge and experience related to human services, courts and corrections to help answer your questions related to some of our least understood mandates administered on behalf of the state. We are pleased to be here today to offer some cost savings suggestions to the commission and to explain the inter-play between county budget and state budget cost-drivers.

In many ways, what happens in county budgeting is a microcosm of the state's budget issues. This is because counties are involved in providing such a wide array of services on the state's behalf, receiving somewhere in excess of \$6 billion to do so. Clearly then, state actions on the budget and on services they fund in turn drive county budgets and county administrative overhead, all impacting our local taxpayers. So, although our testimony will focus in part on ideas for state cost cutting measures, we will spend time showing how judicious changes can help the county bottom line as well, and how injudicious changes may help the state bottom line, but not yield true savings overall to the taxpayer. Remember, when the state legislature cuts funding for mandated programs in order to balance the budget, counties have to absorb those cuts in multiple areas of their own budgets. And this doesn't necessarily mean that the level of services in program areas where state funding is cut can be reduced commensurate to the reduction in funding. Because of the nature of county mandates, budget reductions at the state level can result in increased local responsibility for funding.

It is also important to note at the outset that, when state revenue collections are down, local revenue collections experience the same trend. While people generally go to great lengths to assure that their property taxes are paid, counties have anecdotally reported an increase in delinquent property tax payments. This has an impact on local revenue collections and cash flow, for the county and for school districts and municipalities as well.

Just like Senator Argall and other legislators who have taken the lead on this issue, our members recognize that it is best to take a balanced budget cutting approach by looking both at inputs and outputs. The truth is that there are many ways that cost-savings can be achieved at both the state and local level. The balance of our testimony will focus on revenue issues, efficiency issues, and mandate relief.

Taking first the revenue side of the ledger, costs to state and local taxpayers are intricately intertwined. So while the state legislature and Governor are responsible for the budget at the commonwealth level, and counties are responsible for balanced budgets at the local level, the two do not really exist independently from each other. Even though they are crafted by different government officials, and in fact at different times of the year in all counties except Philadelphia, it is important to note that what happens in Harrisburg is determinate for a high percentage of county budgets.

The evidence for interrelatedness between counties and the state extends to our policy platform. For years the counties have selected the same two issues interchangeably as the top two priorities: Human services funding, and what we call "local tax fairness". It's not a coincidence; statewide, an average of 60 percent of the total county budget is determined by funding for state human services mandates. And because counties are the only local jurisdiction that is not authorized to levy any tax other than the property tax, the adequacy of funding from the state is directly related to the local property tax burden. Even where counties manage not to raise taxes, other discretionary programs are directly impacted by human services funding. And historically we have found that in most counties, a commissioner will

likely vote for or against a property tax increase one or more times during each four year term as a result.

In counties' FY 2010-2011 budget advocacy, we are emphasizing the need to restore the Human Services Development Fund. HSDF is the only flexible source of funding counties have to fill in gaps in human services programming. And HSDF is also the funding source that counties frequently use for the types of local programs targeted as solutions to prevent more costly local problems. For example, Monroe County uses HSDF to fund mental health treatment for seriously emotionally disturbed or at risk children, adolescents and adults to improve their overall level of functioning. Luzerne County uses HSDF to fund several programs for children and youth aimed at court support for children who have been abused or neglected, assisting families with school age children, and to provide child care for children with special needs.

HSDF funds are frequently used for a variety of other programs that reduce costs elsewhere in the system. One such example is home-delivered meals to vulnerable populations potentially avoiding neglect and hunger-related illness. HSDF also has an impact on survival of community-based nonprofit and charitable programs that may not be able to survive, or recover in the future, due to the loss of HSDF funds.

Despite counties' track record of managing HSDF dollars in needed program areas, and the ability of these funds to be used to address needs that have arisen as a result of budget cuts during the recession, this fund has been slashed by 29 percent since 2008. It has become a target of midyear cuts and freezes from the Governor, as well as cuts in the budgets adopted by the General Assembly because there is no federal match for this funding source. However, counties will argue that this is exactly the type of funding they need more of in the current economic environment.

Turning now to efficiency measures, we define these alternatives as ones involving balanced choices. There are a number of common sense approaches we have advocated for the General Assembly to authorize that will help counties and our taxpayers.

It is well-documented that increased strategic investment in some services can actually result in reduced costs for services in other more expensive but interrelated areas. Here are a few examples of areas where prudent investments result in cost savings at the state and county level:

- The National Institute on Drug Abuse estimates that every dollar spent on addiction treatment programs yields a return of between \$4 and \$7 in reduced drug-related crime, criminal justice costs and theft alone. When savings related to health care are included, the total savings can exceed costs by a ratio of 12 to 1.
- The Institute for Research, Education and Trainings in Addictions (IRETA) estimates that Pennsylvania's investment of \$224,546,131 in addictions treatment services provided a total benefit to the Commonwealth of \$1,571,822,917. The amount spent on treatment includes Medicaid, the Substance Abuse Prevention and Treatment Block Grant and state appropriated funds. The savings were realized in reduced hospital nights and emergency room visits, inpatient and outpatient mental health services, criminal activities and incarceration, and in employment.
- A California study on preventing and reducing youth crime violence from 2010 indicated that strategies that successfully reduce recidivism, delinquency and substance abuse in youth include nurse family partnership, functional family therapy, multidimensional treatment foster care, life skills education and nonprofit organizations such as Big Brothers/Big Sisters.

A significant strategic investment of state and local funds in treatment courts and alternative sentencing, as a few examples, can result in meaningful savings in state and county corrections costs. This is an issue that is currently playing out at the state level as state prisons have reached capacity, inmates are being housed in other states and new state prisons are being brought on line to handle the incarcerated population. We strongly support review of sentencing practices, diversion of the mental health population from jails, reasonable limitations on the cost of medical services provided to offenders, and improvement in drug and alcohol treatment options, although with the caution that efficiencies are not achieved if it simply passes a sentencing category down to another custodial setting rather than looking at alternatives to incarceration. In this vein, we express our appreciation for passage of Acts 81 through 84 of 2008, a set of corrections reform bills that make changes in place of confinement, transportation responsibility, parole authority, and compassionate release, all of which taken together begin the steps toward real savings for county jails and state prisons.

Specialty courts, as provided in SB 383, are proven to save jail admissions and readmissions so in the long run save costs, but there is no dedicated source of funds to develop and maintain them. Counties often rely on grant programs to set them up and grant dollars are also disappearing. Recently, Bradford County announced that they would be stopping admissions to their treatment court program pending funding in the state budget for FY 2010-2011. Yet 61 people who entered their treatment court program over the past four years, who had been facing jail sentences ranging from 90 to more than 700 days, avoided those lengthy jail sentences, saving the county a total of \$550,000 in jail stays.

The children and youth system also provides an example of a cost-saving practice that has worked well for counties and a model that we would support being implemented in other areas of the budget. At the end of a given fiscal year, some counties find themselves in an overmatch situation with Act 148 funding while others have not used all of their Act 148 dollars. In practice, the Office of Children, Youth and Families in DPW has shifted funding from the “undermatch” counties to the “overmatch” counties in order to provide relief where counties need additional funds. This has saved some counties from having to contribute extra local dollars at no additional expense to the state, as the program dollars are still being used for the program area as intended by the legislature in the same fiscal year.

Another small cost-saving measure would be to enact advanced quarterly payments for children and youth. Children and youth services are entitlement services in the truest sense – when a child is in danger, county agencies cannot shut their doors or decide to reduce the level of protective services provided. This system relies on a complicated system of funding, but the major source of state dollars is Act 148 funding. Currently counties receive this funding through reimbursements, and those reimbursements have been known to lag two calendar quarters or more behind expenditures.

A simple system that would allocate to counties their Act 148 allocations as determined by the appropriation of the legislature in advance of the fiscal quarter would improve cash flow for counties greatly. DPW has opposed this idea because it would result in a small loss of interest dollars earned by the commonwealth on funds that have not yet been reimbursed to counties. However, counties maintain that this is funding that the General Assembly has appropriated for counties to use to provide services, not for the state to earn interest dollars. Advanced quarterly payments are already provided for mental health services. Bills such as SB 640 and HB 1157 would accomplish this objective for children and youth.

As another example of cash flow for bureaucracy's sake, we can point to our drug and alcohol prevention and treatment programs provided through single county authorities (SCA) with funding through the Department of Health. Last year, SCAs were not paid until December, following the budget impasse. But even in a more normal year, SCAs are usually without payment from the commonwealth until October, while still being required to meet each and every administrative requirement in the intervening time.

This year, the DOH is establishing a new five year funding agreement, and once again it remains unlikely that we will receive any payment before October or November, but SCAs will undoubtedly be required to meet all of the contractual requirements of the new funding agreement beginning July 1. The SCAs have requested a one year extension to the existing funding agreement so that some of the details and revised language that will be required in subcontracts can be worked out, but have been told that DOH does not permit any contract to be extended beyond five years. It is already mid-April and we have not received the new funding agreement from the Department, making it virtually impossible to execute provider contracts by July 1. And, as resources continue to dwindle, the actual "cost" of increased administrative requirements will be realized in the reduction of actual services. Consideration of any new requirements should be weighed against the benefit to the clients we serve, not for the convenience of the bureaucracy.

In a larger sense, activities of the administrative agencies have an influence on the costs of providing services. Accountability is important and necessary in the stewardship of public dollars, but one of the greatest frustrations for counties is the change in administrative reporting requirements from year to year, or even from one quarter of the fiscal year to the next. Sometimes these requirements are attributable to changes at the federal level, sometimes they are an administrative attempt to find new federal match, and sometimes they are simply an initiative of the state to extract additional data from the counties. In some cases these reporting requirements are imposed and enforced even if state dollars are not directly involved. But every time these requirements change, there is a loss of administrative efficiency at the county level, and county staff have to be re-trained on the newest reporting procedures so that reimbursements from the state continue to flow. There is little more frustrating than to have funding withheld for yet another quarter because the paperwork was not completed to an agency's satisfaction.

We will now discuss several areas of potential for reduced costs, but with a significant caution. There are few mandates for which we can easily find meaningful cost savings. We must run elections. We must provide a range of corrections services. We must fund the courts and row offices. We must operate human services to various levels of entitlement. We must administer the property assessment and tax claim systems. We must plan for land use, storm water management, and solid waste disposal. We must plan and train for emergencies and provide a technologically up-to-date 911 system. We must keep our bridges and other infrastructure in good repair. For many of these, even if they were not mandated by state statute, we would feel a moral imperative and would likely see a mandate from our constituents.

Let me begin, though, with one significant issue, funding and administration of the judiciary. In the 1987 case *County of Allegheny v. Commonwealth of PA*, the Pennsylvania Supreme Court ruled that a lower court system funded by 67 counties with disparate fiscal capacities created an inherently unequal system of justice, and that this Constitutional violation could be overcome only by the Commonwealth taking over funding and administration of the lower courts. The Court understood the scope of its order, allowing the current county-funded system to remain in place until the legislature had reasonable time to act. A 1996 decision, based on a 1992 mandamus filing by our Association, resulted in a master's report

outlining a four-part transition to Commonwealth assumption of funding and administration. Only the first phase, transfer of the court administrator and certain deputies to the Commonwealth payroll (Act 12 of 1999), has been completed to date. CCAP filed litigation with the Court in December of 2008 seeking enforcement of the order, which the Court heard at trial in December of 2009. Separately, the Administrative Office of the Pennsylvania Courts has undertaken a study of the prothonotary offices and their roles. And apart from that, the Court in its budget testimony before the Appropriations committees this spring was clear about the inadequacy of the state appropriation for administration of the appellate courts, tacitly raising the specter of a constitutional funding duty.

We recognize that there are important questions of separation of powers, a large budget obligation, and questions of accountability. Still, we believe that state assumption of funding and administration of the entirety of the judicial system would result in a meaningful savings to the taxpayer. The core notion is this: Under a series of Supreme Court decisions, counties are found to be “constitutionally inferior” to the judiciary; that is, there is no balance of powers between the commissioners and the courts. In practice, this means that the president judge, in the absence of commissioner or Administrative Office of Pennsylvania Courts control, has broad latitude in determining what is needed to administer justice locally. Consequently, counties’ budgets for the judiciary are limited only to the extent the commissioners have a good working relationship with the current president judge. If not, and the judge believes any expenditure is necessary, the commissioners get a court order to provide it. We have cases where the judiciary can make expenditures outside the County Code’s bidding requirements. We have cases where the judiciary has a preference for particular treatment providers. We have cases where the judiciary does not need to comply with the county personnel policy. And we have cases where the judiciary grants bonuses to staff outside the constraints of the county salary board.

Bringing the judiciary under state funding and administration would yield positive results in the form of cost savings and administrative efficiency through a single statewide budget, through uniform staffing levels, and through consistent management practices. We do not view this as a windfall for counties; certainly we will still be involved in coordinating service delivery through our corrections and human services systems, and we suspect we would retain some responsibility for housing the courts. We also anticipate we would lose to the state all or most of the court costs collected from offenders and litigants. And we fully anticipate that we would be required to pass along any net savings in the form of a property tax reduction. But our clear conclusion is that a dynamic budget process at the state level, where checks and balances clearly exist, coupled with central and uniform state administration, means that justice will be delivered equitably (per the constitutional issue raised in *Allegheny*) and at a much lower overall cost.

Turning to other cost-saving issues, within the restrictions of mandated services, counties have attempted to hold the line on costs. One of the ways the state has been cutting costs is through layoffs and attrition. Counties have also been laying off staff. According to the unemployment compensation trust that CCAP administers on behalf of all but our 16 largest counties, the number of layoffs has increased by more than 200% over usual levels. The cost of these claims statewide increased by more than one million dollars from 2007 to 2009. The Associated Press reports overall that Pennsylvania has shed 2,200 government jobs during the recession.

Counties want to do their part to serve constituents by not only assuring adequate state funding for core government services, but also by controlling the costs of government. In this vein, our members developed a “Mandate Relief List,” a copy of which has been provided to you as an attachment. We note that these are cost-savings that work around the edges, and are marginal in terms of dollar amounts

saved compared to our major human services and criminal justice mandates. However, we have found fairly positive reception on most of these concepts from the General Assembly.

While some items on our mandate relief priority list are well underway in one chamber or both, such as the option to abolish the office of jury commissioner, we are interested in working cooperatively with other mandate-relief and cost-savings minded legislators to tackle those issues that have been more difficult, such as providing the option to advertise electronically or increasing bid limits. Based on data the Association obtained from 40 of our counties, in 2009 legal advertising costs were \$7.3 million for those 40 counties alone. There is tremendous savings to be achieved from allowing counties and other local governments the opportunity to advertise electronically. Existing statutes related to advertising requirements and bid limits have not been updated in decades and do not reflect the costs of goods and services today or the way society has come to rely upon and have access to electronic information.

We can also point to examples of legislation where you have already helped us reduce costs. Act 44 of 2009, which amended the Municipal Pension Plan Funding Standard and Recovery Act, gave counties new options to smooth their payments and to value their plans. These options saved counties millions this year in actuarially required payments into their systems, while maintaining sound funding overall.

And other legislation is pending. For example, there is a bill circulating for cosponsorship in the Senate that would limit the cost that medical providers can charge to counties for treatment of offenders to 110 percent of the Medicaid allowable cost, which would mean significant cost savings for every county. (Once incarcerated, offenders are stripped of Medicaid, Medicare, veterans, and social security benefits, effectively transferring the cost of any and all medical treatment to the county, a rule that applies as long as they are in custody whether adjudicated or pretrial.)

We hope we have shown that cost cutting at the state and county level are tied together. Cutting costs in one entities' budget can lead to costs shifted to another governmental entity, all of which are funded by the same taxpayers. Cost cutting must be done strategically and precisely in order to generate real overall savings for taxpayers. CCAP will be happy to continue to work with the commission to identify areas of cost savings for state and local governments. We also welcome the opportunity to answer your questions at this time.

# Mandate Relief

Savings For Local Taxpayers In Tough Economic Times

2010



**G**iven the current budget and resource problems facing both the state and local levels, counties are asking the General Assembly to review and re-visit mandates and statutory provisions that are outdated or unnecessary. Many of the largest mandates that counties are required to perform – human services, 911, solid waste planning, elections administration, record-keeping – are appropriate at the county level and should be the subject of regular structural and funding review in a larger context. Consequently, they are not the subject of these recommendations. Instead, the mandates identified here are ones that do not impact service delivery but are ones where changes to existing law can result in overall savings to local budgets and local taxpayers. Targets for reduction or elimination include:

**THE OFFICE OF JURY COMMISSIONER** - Counties ask the General Assembly to provide authority to eliminate the office of jury commissioner. The office would be abolished by a vote of the county commissioners, and effective at the end of the term of the jury commissioners currently in office. In the majority of counties, the functions of jury selection are now almost entirely computerized and handled by other staff in the court administrators' offices.

**BIDDING AND ADVERTISING** - The current thresholds for bid and telephonic quotes have not been updated since 1990. CCAP supports increasing the bidding threshold to \$25,000, and increasing the telephonic quote threshold to \$10,000. We also support an annual adjustment in these thresholds equivalent to the increase in the Consumer Price Index or the Construction Cost Index. These increases will result in reduced costs for advertising of projects to be put out for bid. Counties also support allowing electronic advertising as an alternative to newspaper advertising, consistent with what is already allowed under the state procurement code, as well as allowing counties the option to separate or combine bids for elements of construction projects as warranted.

**CONSTABLES** - There are several provisions of law related to constables that can be modified to result in savings to local taxpayers. A recently enacted change requires constables to be paid on a per-docket basis, which means that a constable is being paid multiple times for one service. Second, the requirement for a constable to be present at the polls on Election Day is no longer necessary since security is handled in other ways, and abolishing the requirement would save this hourly billing cost.

**PREVAILING WAGE** - Counties seek nominal relief from Prevailing Wage Act requirements, which can increase the cost of many middle-range public projects. We are open to discussion of a variety of options, including increasing the threshold for prevailing wage projects or allowing local opt out.

**ADVANCED QUARTERLY PAYMENTS FOR CHILDREN AND YOUTH** - CCAP supports a change to state law to require the Department of Public Welfare to provide advanced quarterly payments of children and youth funding, with reconciliation at the end of the year. Currently counties pay for these services up-front, and wait for the commonwealth to reimburse them. These reimbursements are routinely delayed, sometimes by up to 18 months, and counties frequently have to use tax anticipation notes, at an additional cost to the taxpayer, to bridge the gap.

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**EXPEDITED PERMIT PROCESS FOR BRIDGES** - The permit process for bridge repair or replacement in Pennsylvania can extend over a period of years and, given recent materials markets, that means that project costs increase considerably while waiting for the permit. Counties call on PennDOT to streamline the permitting process, which will also aid in usage of stimulus funds currently under consideration by the federal government.

**FUNCTION AND ROLE OF COUNTY AUDITORS** - Accounting and reporting standards under the County Code and Governmental Accounting Standards Board are more stringent, and frequently outside the capacity of our elected auditors. CCAP supports an amendment to the County Code to allow counties to use their Certified Public Accountant to perform the required audits and reports, limiting elected auditors' responsibilities to other existing statutory functions. Counties also support an amendment to the county salary law allowing the annual salary for elected auditors to be established in the same manner as other elected officials, removing per diems and mileage pay.

**COUNTY COLLECTION OF COUNTY PROPERTY TAXES** - CCAP supports legislation giving counties the option to collect their own real estate taxes. Tax collection through a county office, rather than through a local tax collector, would save even the smallest counties \$100,000 per year or more. The handful of counties currently permitted to collect their own taxes – home rule counties and a few counties authorized by special law – report cost-effective results while maintaining taxpayer satisfaction with collection administration.

**ADMINISTRATIVE/PROCESS REQUIREMENTS** - Counties seek changes in agency practices that will streamline program and oversight requirements to reduce demands on staff and administrators. Relief from these mandates would assure that limited program dollars are maximized in service delivery rather than unnecessary administrative processes. In the human services area, there are a number of such mandates that can be eliminated without impacting service quality. These mandates include extension of existing contracts with the state to provide services rather than implementing complex new contracts and policies, and reducing unnecessary or duplicative documentation requirements.