February 11, 2011

LONG OFFERS HOUSE FINANCE COMMITTEE CCAO PROPOSALS FOR BUDGET CHALLENGE

On Wednesday, CCAO Executive Director Larry Long appeared before the House Finance and Appropriations Committee. Long took the opportunity to present before committee members a table entitled “County Commissioners Association of Ohio’s Proposals to Address State and County Budget Challenges”.

As Long explained, the table represents various options for consideration of the General Assembly to help counties become more self-sufficient and more efficient, particularly during times of fiscal stress. The document focused on four distinct areas:

- Unfunded Mandates
- Management Improvement, Efficiency and Cost Allocation Initiatives
- Revenue Flexibility and Fees
- County Government Structural Changes and Governance Reform

Long assured the Committee that County Commissioners understand the budget problem that must be addressed by the General Assembly. However, in noting that counties are so reliant on revenue sharing and support and on numerous state subsidies, Long urged the Committee to be sure that counties do not share a disproportionate share of the budget balancing burden when the Committee reports the state budget.

Please find the testimony of Executive Director Long, as well as the table described in this article attached to today’s Statehouse Report. Please note the numbers in the table correspond to page numbers within our Legislative Platform (found on the CCAO Website at: http://www.ccao.org/LinkClick.aspx?link=Archives+MJ%2f2011-12+CCAO+Leg+Program.pdf&tabid=95&mid=465&language=en-US) that more fully detail the options listed.
COLLECTIVE BARGAINING BILL ROLLED OUT IN SENATE

Major debate has begun on Ohio’s collective bargaining bill with the roll out of Senate Bill 5’s provisions this week. The proposal, sponsored by Senator Shannon Jones (R-Springboro), eliminates collective bargaining for state employees and employees of state institutions of higher education. SB 5 does not eliminate collective bargaining for local governmental entities, but makes significant reforms, although the sponsor has expressed her openness to including an opt-out provision for local governments.

SB 5 allows a public employer in fiscal emergency to serve notice to terminate, modify, or negotiate a collective bargaining agreement (CBA). This provision is intended to give employers more flexibility to adjust payroll and staffing levels while providing core services. SB 5 also removes the requirement that deadlocked safety forces submit issues to final offer settlement (often referred to as ‘binding arbitration’). Current law requires the public employer to take “whatever actions are necessary” to implement a final offer settlement. Under the bill, if parties cannot reach agreement, the provisions of the last CBA in effect will continue for one year (with salaries frozen), or the public employer may implement any of the recommendations of the fact-finding panel while bargaining continues.

In addition, for employees who have the right to strike, the bill allows a public employer to implement any fact-finding recommendation approved by the employer’s legislative body if the employee organization rejects the recommendations. Bargaining may continue, and the employees continue to have the right to strike if the parties are not able to reach agreement. In addition, the following changes in SB 5 make Ohio law consistent with provisions in the National Labor Relations Act, which governs private sector collective bargaining:

- The bill allows a public employer to hire permanent replacement workers during a strike. Current Ohio law is silent on the hiring of replacement workers.

- Under the bill, only matters pertaining to wages, hours, or terms and conditions of employment are mandatory subjects of bargaining. Under current law, once a subject is included in a contract, it becomes a mandatory subject of bargaining in the future.

- The bill allows an employer to freely communicate views or opinions to employees as long as the views don’t contain a threat or promise a benefit.

Other items in the bill include the following:

- Bargaining Timeline. The bill extends some bargaining deadlines and defines “impasse” as a failure to achieve agreement in the course of good faith bargaining for 90 days.

- Layoff Procedures. The bill provides that length of service cannot be the only factor used to determine order of layoffs. Efficiency, appointment type, and other similar factors also must be considered.

- Prohibit Pension Pickups. SB 5 prohibits an employer from paying an employee’s required pension contribution.
• Health Care Benefits. SB 5 requires public employees to pay at least 20% of their health care premiums.

The sponsor has stated that “transparency” is of paramount importance in regards to CBA’s. “Without transparency, there is no way for citizens to be ‘front and center’ in the negotiations and truly understand the services for which they are paying to receive, the costs associated with the services they desire, the salary of those employees being paid, and how that pay is established.” Hence, she has included the following provisions in SB 5:

• Requires a public employer to public a report on the employer’s website describing provisions of a CBA that affect any compensation – including wages, food and clothing allowances, length of service payments, and insurance coverage.

• Requires the public employer and SERB to public parties’ offers on their websites before and after fact-finding is complete.

• Requires mediators to consider compensation paid to employees who are not members of the bargaining unit or who are members of the bargaining unit but not of the exclusive representatives.

• Requires the parties to consider the financial status of the public employer at the time of the negotiations (in determining the ability to pay) – not any potential future increase such as the passage of a levy.

• Requires a fact-finding panel to include a report explaining how the guidelines listed in the statute factored into its recommendations.

CCAO will be reviewing the provisions of SB 5 and more information will follow. The CCAO General Government & Operations Committee will meet February 17th to discuss the proposal. Senate Committee hearings are scheduled for February 15th and 17th. CCAO Executive Director Larry Long will provide testimony on February 15th outlining the Association’s current policy on collective bargaining reform and informing the legislators that CCAO will provide more feedback after our internal Association process has been completed.

CCAO platform position on collective bargaining reform is as follows:

“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. In addition, counties seek the ability to go to common pleas court as opposed to binding arbitration (to resolve disputes around collective bargaining).”

SB 5 can be reviewed at http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_5. Individuals with questions on SB 5 should contact CCAO Staffer Cheryl Subler at csubler@ccao.org or at 614-220-7980.
SPEAKER PRIORITIZES “MAINTENANCE AND REPAIR” FOR UPCOMING TRANSPORTATION BUDGET

As lawmakers prep for a challenging state operations budget expected to be unveiled in March, a dry run will take place in the form of the transportation budget for fiscal years 2012-2013. Speaker Bill Batchelder (R-Medina) remarked Tuesday that unlike last session, construction would be the focal point and not trains.

The Speaker also listed bridge repair and maintenance as among the likely hot topics and acknowledged that the sticky issue of motor fuel tax funding for the State Highway Patrol, which faces a deficit since being weaned off the financing stream, could resurface.

The House issued a tentative schedule for hearings on the legislation, which generally is passed prior to April 1 to provide a 90-day period before its effective date at the start of the next fiscal year. That schedule is as follows:

- Week of Feb. 21: Receive transportation budget; Introduction of the Transportation Budget in the House; testimony from ODOT before full Finance Committee.
- Week of Feb. 21 through March 2: Meeting of the House Finance Committee's Transportation Subcommittee.
- On or around March 10: House floor vote.
- Through mid-to-end of March: Senate Action.

Speaker Batchelder said the House planned "extensive hearings" on the measure. Asked whether a transaction involving the turnpike could become part of the transportation budget discussion, the Speaker expressed doubts as to whether enough vetting could be done on the issue given the schedule constraints. "At this point I don't think the Governor has retained anyone to take a look at what it may be quote, 'worth,' unquote," he said. "Until we have that I don't think most of our members are going to want to vote on doing anything with it."

Speaker Batchelder said he was supportive of fully funding the Patrol but wasn’t sure where the additional money would come from, whether it be back on the gas tax or from some other source. The Patrol, whose budget is part of the Department of Public Safety’s plan to be presented with the two-year GRF budget later this spring, has projected a shortfall exceeding $50 million.

SUPPORTERS LAUD PIT BULL REPEAL; OCDWA, CCAO REMAIN CONCERNED OVER CONSTITUTIONAL FLAW IN CURRENT LAW

On Tuesday, HB 14 (Sears, R-Sylvania) received a second hearing before the House Criminal Justice Committee. At first glance the bill would appear to only remove breed specific (pit bulls) references from the definition of a vicious dog under Ohio law.

However, the Ohio County Dog Wardens Association, as well as CCAO, is concerned about the questionable constitutional validity of the resulting dangerous/vicious dog regulations within the Revised Code. Because Ohio’s current laws do not offer a pre-deprivation of property hearing law, there is some consensus that the current dangerous/vicious dog regulations would be found unconstitutional under a Mathews test (424 U.S. 319 (1976)).
While a municipality, because of home rule authority, could enact its own ordinance dealing with dangerous/vicious dogs that may have a hearing or appeal process thereby surviving constitutional muster, county dog wardens and deputy sheriffs would fall under Ohio law. Thus, there effectively is no mechanism in Ohio law for dog wardens and deputy sheriffs to deal with these dogs and as such is an impermissible public safety risk for both associations.

OCDWA and CCAO continue to work with the bill’s sponsor, Representative Sears, to draft such language as to bring Ohio’s law into compliance. OCDWA’s concerns on this bill do not suggest an opposition to the removal of pit bulls but rather to a need to remedy the constitutional shortcomings of the law. OCDWA and CCAO continue to reach out to stakeholders such as the Ohio Prosecuting Attorneys Association, the FOP, and the Buckeye Sheriffs Association, as well as pit bull advocates regarding these concerns. For more information on this issue, please do not hesitate to contact CCAO Senior Policy Analyst Josh Hahn at jhahn@ccao.org.

BILL INTRODUCTIONS

HB 88  PROSECUTING ATTORNEYS (Murray)  To make clear that the prosecuting attorney of a county is the legal adviser of all tax-supported public libraries. Am. 309.09  To Judiciary & Ethics

COMMITTEE SCHEDULE

Tuesday, February 15

House Session, (Chr. Batchelder, 466-3357), House Chamber, 11:00 am

House Local Government, (Chr. Blair, 466-6504), Rm. 121, 1:30 pm
HB 19  COUNTY RECORDERS (Goodwin)  To require county recorders to complete continuing education requirements. --1st Hearing-Sponsor
HB 50  ANNEXATION PETITIONS (Snitchler)  To require that a political subdivision owner be included in determining the number of owners needed to sign a petition for an expedited type-II annexation. --1st Hearing-Sponsor

House Finance & Appropriations, (Chr. Amstutz, 466-1474), Rm. 313, 1:30 pm
HB 2  PERFORMANCE BUDGETING (Snitchler)  To require performance budgeting by most state agencies and to require performance audits of those agencies --2nd Hearing-All testimony-Possible amendments & vote

Senate Insurance, Commerce & Labor, (Chr. Bacon, 466-8064), South Hearing Rm., 2:30 pm
SB 5  COLLECTIVE BARGAINING (Jones)  To formally state the General Assembly’s intentions to revise the collective bargaining law. --2nd Hearing-Proponent

House Judiciary & Ethics, (Chr. Bubp, 644-6034), Rm. 122, 4:00 pm
HB 49  COURT FEES (Combs)  To require that certain fees and costs paid by parties in a municipal court that is not a county-operated municipal court and that appoints counsel for indigent defendants in a manner other than that provided in section 120.33 of the Revised Code be transmitted to the treasurer of the municipal corporation and used to pay the compensation of counsel appointed to represent indigent defendants. --1st Hearing-Sponsor
HB 88  PROSECUTING ATTORNEYS (Murray)  To make clear that the prosecuting attorney of a county is the legal adviser of all tax-supported public libraries. --1st Hearing-Sponsor
HJR 1  JUDICIAL ELECTIONS (Huffman)  To change the age at and after which a person may not be elected or appointed to a judicial office and to eliminate the authority of the General Assembly to establish courts of conciliation and to reappoint a Supreme Court commission. --4th Hearing-All testimony-Possible amendment, substitute & vote
Senate Judiciary-Criminal Justice, (Chr. Grendell, 644-7718), North Hearing Rm., 4:30 pm
SB 10 CRIMINAL LAWS (Seitz, Smith) To increase from $500 to $1,000 the threshold amount for determining increased penalties for theft-related offenses and for certain elements of "vandalism" and "engaging in a pattern of corrupt activity"; etc. --1st Hearing-Sponsor & invited testimony

Wednesday, February 16

House Session, (Chr. Batchelder, 466-3357), House Chamber, 1:30 pm

Senate Session, (Chr. Niehaus, 466-4900), Senate Chamber, 1:30 pm

House Health: Pension Reform Sub., (Chr. Schuring, 752-2438), Rm. 018, 2:30 pm or after session
HB 69 PENSION SYSTEMS (Wachtman) Regarding the state retirement systems. --STRS & SERS presentations

House Transportation, Public Safety & Homeland Security, (Chr. Combs, 466-6721), Rm. 122, 4:00 pm
HB 40 TURNPIKE COMMISSION (Damschroder) To make the Ohio Turnpike Commission responsible for major maintenance and repair and replacement of grade separations at intersections of any turnpike project with county and township roads. --2nd Hearing-Proponent

Thursday, February 17

Senate Insurance, Commerce & Labor, (Chr. Bacon, 466-8064), South Hearing Rm., 10:00 am
SB 5 COLLECTIVE BARGAINING (Jones) To formally state the General Assembly’s intentions to revise the collective bargaining law. --3rd Hearing-Opponent
February 9, 2011

MEMO

TO: ALL MEMBERS OF THE HOUSE FINANCE AND APPROPRIATIONS COMMITTEE

FROM: LARRY L. LONG
EXECUTIVE DIRECTOR

SUBJECT: PRESENTATION ON STATE BUDGET AND INITIATIVES TO IMPROVE EFFICIENCY; MANAGE THE COUNTY BUDGET, REMOVE STATE MANDATES, AND OTHER INITIATIVES

The County Commissioners’ Association of Ohio appreciates the opportunity to share a number of issues related to the state budget with the Committee today. We look forward to working with the Committee as it begins the difficult job of balancing the state budget given the magnitude of the projected shortfall.

County Commissioners are well aware of the challenges that you face as you craft a state budget with the revenue challenge that exists. County Commissioners face many of these same challenges when they weigh competing needs at the county level. Counties, as the primary agent of the state at the local level for the delivery of uniform state services, are especially dependent on state revenues.

Counties are creatures of statute. The very existence of counties is a function of the General Assembly through Acts passed that established each county...
and defined its boundaries. Through other Acts the General Assembly has also made counties the primary administrative arm of state government at the local level. In many ways each of the 88 counties is a Branch Office of the State of Ohio.

From the conduct of elections to the administration of human service programs to being primarily responsible for funding court systems, counties are responsible for a myriad of governmental functions on which Ohioans rely. The list of county responsibilities also includes the administration of the property tax system, the recording of deeds and other records, the provision of services to needy veterans, the agent of the state for the issuance of auto titles. Counties are also responsible for the arrest and prosecution of criminals and keeping them in county jails. These are just a sampling of county duties that even includes the responsibility to license and control dogs. In all of these roles, counties are generally providing services and programs because they are mandated to do so by laws enacted by the General Assembly.

County Commissioners are the appropriating authority for the budgets of most county offices; however, one common concern is that the amount of flexibility or discretion Commissioners possess is limited because so much of the General Fund is mandated. This is another area where Commissioners and the General Assembly have much in common.

For example, County Commissioners have very little discretion over the budgets of the Courts, the Veterans Service Commission or the Board of Elections because each of these entities a given special legal powers to go to court and have their budgets established if they do not feel the Commissioners are providing adequate funds.

Likewise other state mandates, such as paying for such programs as indigent defense, medically handicapped children, needy veterans, a formula share of public assistance expenditures, office spaces costs of health departments, and TB detention and treatment are some examples of how the General Assembly has limited the discretion of the Commissioners in setting the budget at the county level.

At the very end of this testimony you will find a copy of our Legislative Program that was adopted by our members last December. You will note that
appropriate state funding is still the centerpiece of our program for this session. We continue to maintain that the Local Government Fund should remain on the current formula that tracks the economy. In essence the LGF has already been reduced in line with reductions in state tax receipts. Likewise, the full reimbursement of the revenue lost as a result of the repeal of the tangible personal property tax is a priority, as is funding for a variety of mandated programs in the human service area and needed criminal justice subsides.

Given the magnitude of the state budget problem, if cuts are made to county revenues and state subsidies from the state, then what do counties do? What do county commissioners want?

We try to answer this question in the table entitled: “County Commissioners Association of Ohio’s Proposals to Address State and County Budget Challenges” that is included at the end of this testimony and to which I would now like you to refer.

This table lists various options for consideration of the General Assembly to help counties become more self-sufficient and more efficient which is especially important in times of fiscal stress. Following is a summary of the issues in the table:

**UNFUNDED MANDATES**

If adequate state support is not forthcoming in this budget, counties are asking for relief from unfunded state mandates. Our legislative program details many of these unfunded mandates, and it needs to be stressed that many state mandates have significant support from various constituencies and are not always easy to eliminate or to modify.

**MANAGEMENT IMPROVEMENT, EFFICIENCY AND COST ALLOCATION INITIATIVES**

Another important set of proposals that can help county commissioners address budget shortfalls involve changes in state law that allow for the enhanced management of the county budget and more intensive control of spending. These proposals also give commissioners great authority to apply business like practices and to adopt cost allocation principles so that the myriad of special revenue funds established by the Legislature bear a fair and
appropriate share of county general fund expenditures that support the special funds. As is the case with unfunded mandates, this set of proposals will have many critics among the ranks of our elected colleagues and members of the county judicial branch.

REVENUE FLEXIBILITY AND FEES

Another series of suggestions in our legislative program centers on revenue flexibility and user fees. These suggestions can also help county commissioners balance budgets during difficult financial times. Many of these proposals ask for permissive authority for county officials to adjust fees to assure that those who benefit from specific services pay for the cost of the service provided. Some fee proposals ask for the General Assembly to adjust fees where a statewide uniform fee system makes sense.

In addition to the above suggestions, counties also are looking at additional revenue options in order to raise funds if necessary to balance the county budget. In most cases these proposals ask for additional permissive tax authority for county commissioners and our policy continues to ask for the base of the sales and use tax to be broadened to include certain sectors that are now exempt from this tax.

COUNTY GOVERNMENT STRUCTURAL CHANGES AND GOVERNANCE REFORM

Finally, county commissioners adopted a series of positions this year that we hope will open discussions on possible structural changes to county government and allows for the multi-county or regional provision of services. In addition, our members believe it is time to take a look at the misdemeanor court system in this state and to see if it cannot be restructured to become more efficient and save tax dollars.

You will no doubt hear much from other county elected officials and respected members of the judiciary about these proposals and ideas. We think this debate is not only needed, but is healthy. Yet, it is a time to embrace change and not reject it, and while we know that we do not have all the answers in this regard, we do believe the time is ripe to discuss these very emotional and difficult issues.
In closing, let me assure the Committee that County Commissioners understand the budget problem that must be addressed by the General Assembly. From a county perspective the issue is to what extent cuts are going to impact the county. Since counties are so reliant on revenue sharing and support and on numerous state subsidies, we urge the Committee to be sure that counties do not share a disproportionate share of the budget balancing burden when the Committee reports the state budget.
### COUNTY COMMISSIONERS ASSOCIATION OF OHIO’s PROPOSALS TO ADDRESS STATE AND COUNTY BUDGET CHALLENGES

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Numbers beside each issue in Table refer to the page number of the 2011-2012 Legislative Program of the County Commissioners Association of Ohio for the 129th General Assembly. (2-01-2011)