

TUSCARAWAS COUNTY COMMISSIONERS

Chris Abbuhl — Kerry Metzger — Joe Sciarretti

May 23, 2017

To: Members of the Senate Finance Higher Education Subcommittee

From: Kerry Metzger – Tuscarawas County Commissioner

Re: House Bill 49 – FY 18-19 Biennium Operating Budget

Chairman Gardner, Vice Chair Williams, and members of the Senate Finance Higher Education Subcommittee, my name is Kerry Metzger and I am currently serving my 15th year as County Commissioner from Tuscarawas County. I previously served as a State Representative for the old 97th House District and as Past-President of the County Commissioner Association of Ohio. I am here today to ask the Senate to provide 50 percent reimbursement to counties for their costs incurred in providing indigent defense representation.

As you are aware, states have a constitutional mandate to provide legal representation to indigent persons. This mandate was decided in a Supreme Court ruling in Gideon v. Wainwright (United States Supreme Court, 1963). Ohio then chose to transfer this responsibility to its counties and created a 50/50 partnership with the counties to share in the costs of providing this constitutional mandate by reimbursing the counties for 50 percent of the costs incurred for providing indigent counsel.

However, in 1979 the state modified its funding commitment by establishing the concept of “proportional reduction.” Under this concept, the state simply appropriates an amount for reimbursement and then proportionally reduces the reimbursement rate to the counties.

Since 1979, the counties have been carrying more than their 50% share of the burden. The reimbursement rate has averaged 35% over this past decade and hit its record low of 26.1% in FY 09. The counties have covered over \$175,000,000 in expenses that would have been reimbursed if the state had been providing 50% reimbursement over the past 10 years. The Governor’s budget proposal would keep the reimbursement rate at 40 percent over the FY 18-19 biennium as it is currently.

Increasing the reimbursement rate to 50% is a major priority for CCAO.

CCAO was extremely pleased that the House provided an additional **\$7.1 million in FY 18 and \$7.9 million in FY 19** beyond the appropriation contained in the bill as introduced. These additions to the appropriations raise the reimbursement rate to 45%. Now we are asking the Senate to get the reimbursement up to 50%.

Why is the 50 percent reimbursement rate important to the counties? Allow me to use Tuscarawas County as an example. From figures that I received from our Tuscarawas County Auditor, I have created the chart below which demonstrates the monetary difference to our county if we had been receiving 50 percent reimbursement these past 4 years instead of the actual lower reimbursement rate.

YEAR	Reimbursement Rate	Actual Reimbursement Received	Reimbursement If at 50%	DIFFERENCE
2012	35%	\$215,292.30	\$307,560.42	\$92,268.12
2013	35%/40	\$249,172.53	\$330,595.42	\$81,422.89
2014	40%	\$308,060.06	\$385,075.03	\$77,014.97
2015	40%	\$311,219.92	\$355,854.43	\$44,634.51
2016	48%	\$393,515.02	\$409,911.51	\$16,396.49
TOTAL ADDITIONAL REIMBURSEMENT IF RATE WAS AT 50% {2012-2016}				\$311,736.98

If the 50/50 partnership had been restored for the past 5 years, the **\$311,736.98** from the additional reimbursement rate could have been General Fund dollars that could have been used to meet the critical needs of Tuscarawas County in other areas such as law enforcement vehicles, county infrastructure improvements, economic development projects, etc. Instead it had to be used to subsidize the operational costs of the Public Defender's Office.

This scenario can be played out in all 88 counties throughout the state of Ohio. That's why I, along with the other counties, request that **the Senate provide the additional funding necessary to restore the original partnership so that counties receive reimbursement for 50% of their costs incurred in meeting the State's constitutional mandate to provide legal representation to indigent defendants.** Due to the reduction of revenues being received into the Indigent Defense Support Fund (IDSF) and the fact that this budget reduces the percentage allocation of the IDSF revenues that are dedicated to county reimbursement we are estimating that, at a minimum, **\$8.0 million in FY18 and \$9.0 million in FY19 in GRF will be necessary to provide 50% reimbursement from the state.**

Thank you for your time and I would be happy to answer any questions.