Washington State Association of Counties

Fiscal Sustainability Initiative

Our goal is to accomplish significant legislative successes in the next two years to contribute to the fiscal sustainability of county governments. We will focus our efforts on county general government functions impacted by the fiscal health of our general fund budgets.

Problem Statement

Under Washington State's Constitution and numerous statutes, many Washington State programs are administered and carried out directly by Counties. Most notably, the State's civil and criminal justice system is primarily the responsibility of Counties, and typically comprises more than 70 percent of a County's budget. Elements of the civil and criminal justice system include law enforcement, jail, pretrial services, prosecution, public defense, both district and superior courts, county clerks, and the juvenile justice system.

Additional state-mandated services provided on behalf of all residents include election administration and the assessment and collection of all property taxes where proceeds are distributed to the State, County, cities, school districts, fire districts, etc. Counties collect property taxes on behalf of all levels of government and serve as the mandated "investment bankers" for all governmental entities within counties (school, fire, water, sewer, cemetery, park districts, etc.) except for cities.

Counties process a number of licenses, record documents, maintain filings on real property, and collect funds for state low income housing programs. Counties are mandated to develop a number of plans including regional solid waste plans, Growth Management Plans, and Shoreline Management Plans. Other requirements make counties the primary government to deliver public health services as well as programs for the mentally ill, developmentally disabled, chemical dependency, and low-income housing.

Counties also provide primary government services to Washington citizens in the unincorporated portions of the state, including: law enforcement, transportation (roads and transit), land use and zoning, parks, animal control, stormwater control, and in some counties, water and sewer services.

In attempting to control costs, Counties are challenged with a host of regulatory requirements that are increasingly complex and expensive, expanding liability costs, and rising employment costs under labor-management laws that favor certain classes of employees, regardless of a County's ability to pay. In some cases, these challenges are exacerbated by additional measures passed by the legislature or by rulings of the courts. Too frequently these mandates are accompanied by reductions in funding, with the expectation that counties will raise taxes at the local level to pay for the state requirement.

In providing these services, Counties are challenged with revenue sources that are not flexible, stagnant with regard to meeting inflationary pressures and less diversified compared to those revenue streams afforded both the State and cities.

These factors ensure that the costs for providing services will continue to grow while the counties' primary revenue sources, in particular property tax, remain relatively flat.

In order to mitigate the impact to their general fund, many counties are forced to divert or shift revenue from their road fund. This ties the fiscal health of the county road fund to the health of the county general fund, and illustrates the complexity of achieving county fiscal sustainability.

Cost Containment

Long-term fiscal health cannot occur at the county level without the ability to control costs. Citizens deserve and are demanding a more efficient government; however, counties are often limited in their ability to pursue efficiencies due to laws and policies set forth by the Legislature. Excessive employment-related costs, exposure to liability, policies that favor labor, redundant regulations, and abuses of the Public Records Act, all lead to a higher cost of service.

Counties spend the vast majority of their general fund on public safety, and labor costs are the single largest public safety expenditure. A central responsibility of the budget authority is to weigh the needs of competing priorities against finite resources. Binding interest arbitration without consideration of economic conditions is counter to sound budgeting practices and circumvents the ability of the budget authority to allocate resources.

Furthermore, the ability to prolong contract settlements beyond the expiration date of a contract allows arbitration decisions with regard to salaries and benefits to be applied retroactively, which can significantly reduce a county’s ability to maintain funding for other mandated programs. Additionally, significant annual fluctuations (versus adjustments made on an “annual rolling average” basis) by the state to annual pension contributions, unemployment insurance, and industrial insurance premiums further reduce a county’s financial sustainability.

Exposure to legal liability is another significant driver of county costs. According to a 2011 Joint Legislative Audit Review Committee Report, "Washington law provides much broader tort liability for the state than laws in other states." Washington's tort laws drive higher payouts and significantly increase the cost of doing business. The result means higher insurance premiums for counties, or in some cases, having some claims ineligible for insurance coverage. Simple, common sense liability changes could reduce payout in the short-run and allow for counties to adopt new approaches to providing services that create long-term efficiencies.

The costs associated with numerous legislatively-imposed mandatory activities has strained county resources and diverted those resources away from those core programs demanded by local citizens. Tremendous resources, such as staffing, consulting, and litigation costs, are needed to comply with required updates to a long list of state mandates – including but not limited to the Shoreline Management Act, Critical Area Ordinances, Comprehensive Plans, and State Environmental Policy Act (SEPA) reviews. Complying with these required updates has not only exposed counties to the significant costs of the updates, but has also exposed them to numerous legal costs and challenges. The legislature must look for ways to streamline these processes, and clarify ambiguity to reduce legal exposure.

Similarly constraining, is the cost of complying with the state Public Records Act. Counties believe that the majority of requesters are well-intentioned, engaged, citizens who want and deserve to know more about their government. However, counties are increasingly being inundated with large or harassing requests. Service cuts have been made to the mental health safety net; law enforcement, the civil and criminal justice system; community public health; planning and permitting; parks; and to other programs that have measurable benefits to the taxpayer. All the while, more and more resources are being dedicated to public records requests. Counties need the ability to protect themselves from harassing and overly burdensome requests.

WSAC supports state funding and assistance in reviewing processes for continuous process improvement, LEAN, and other such programs that assist in counties drive to deliver efficient and effective programs and services. Additionally though, the legislature must recognize its partnership with counties in providing state services at the local level. This involves making changes in state statutes to bring the costs of providing these services to a fiscally sustainable level, as well as refraining from adding additional costs. Short of accomplishing this, the legislature will have to eliminate mandates to provide certain programs at the local level. The status quo is simply not an option.

Revenue

Counties face three primary challenges with the revenue sources available to fund essential state services at the local level: lack of revenue diversity; lack of flexibility in how locally-generated revenues and state funds can be utilized; and the fact that revenue streams are not sensitive to inflation (inelastic).

Cities and state government have a diverse range of revenue sources that include property taxes, sales and use taxes, business taxes and fees, utility taxes, and shared revenues. Counties' revenue streams are primarily limited to property taxes, sales and use taxes, and state and federal shared revenues. Counties do not have the authority to impose utility taxes nor any business taxes and fees.

Since 2001, property tax revenue has been limited by statute to 1% per year growth, plus new construction associated with growth. Because most services delivered by county government are unrelated, or inversely related, to economic growth (i.e. additional demands on the criminal justice system), and with inflation growth at more than 1% per year, county budgets must rely on other revenue sources for growth.

Counties also receive sales tax revenue, but major sales tax revenue generators – big box retailers, home improvement stores, and auto dealerships – are located inside city incorporated areas, resulting in counties receiving a much smaller percentage of sales tax revenue than the state and cities. Under the Growth Management Act, it is difficult for counties to create new commercial and retail areas to generate sales tax revenue, and significant sales tax generators often become targets for cities to annex, further reducing revenue streams to counties.

The Legislature has historically provided counties with authority to impose local option sales taxes. However, the challenge with these revenues is that they are often extremely limited in how they can be used and eliminate local decision-making authority. Most of the 1/10th of a percent local option sales taxes are for specific uses (emergency communication systems, mental health, juvenile justice, etc.) and cannot be used generally for programs mandated under the state constitution or by statute. Furthermore, many of the statutorily authorized revenues also lack local discretion in their application. For example, the local portion of the real estate excise tax is divided into “REET 1” and “REET 2” with different definitions on how the money can be used. A common definition with local discretion to harmonize uses is desirable.

State shared revenues have become an increasingly important source of county funding. State shared revenues include items such as: municipal criminal justice assistance, flexible funding for public health, streamlined sales tax mitigation, distressed city-county assistance funding, liquor profit and tax revenue, payment in lieu of taxes, rural economic development funding, an array of human service funds for mental health, chemical dependency and developmental disabilities and others. In response to state budget problems, the legislature has recently reduced these funds or capped their growth. It has taken the full energy of WSAC to minimize these impacts.

County revenue is structurally unable to meet current and future service demands.. The overdependence on property tax, coupled with a smaller share of sales and use tax and lack of flexibility in the use of other revenues, means that economic growth does not help counties as much as it helps the state and cities. County revenue sources simply cannot keep pace with the increasing demands placed on county government.

In 2007, a study requested by the Washington State Legislature found that “county revenue authority has been eroded from 2001 to 2007 to such an extent that in many counties, funding is not adequate to sustain equal access to basic services.”[1] This situation has only been exacerbated by the Great Recession. Without a change, counties will fail at delivering the services that are constitutionally and statutorily mandated by the state.

In the past, WSAC has pursued ideas such as a utility tax for the unincorporated area; a mineral severance tax; removing the veterans levy from the 1% inflation limit; or broadening the use of dedicated revenue sources. These ideas are controversial and contentious, and the Legislature has been unwilling to support them when faced with opposition by powerful interest groups.

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[1] Page 88, County Financial Health and Governance Alternatives, Department of Community, Trade, and Economic Development. December 1, 2007.

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In order to efficiently and effectively deliver county services on behalf of the state and our residents, we must obtain adequate revenue sources and the ability to contain the cost of doing business.