

## 2017 LANCASTER COUNTY LEGISLATIVE PRIORITIES

### **Standing Priority - Property Tax Relief**

Property tax relief continues to be the top legislative priority for Lancaster County. Pressure on the property tax can be reduced by diversifying revenue sources through legislative actions such as increasing State Aid to Counties, reinstating the State Prisoner Reimbursement Program, raising county fees to appropriate levels, and keeping the inheritance tax. Unfunded mandates which primarily benefit the State should be eliminated, and new unfunded mandates should not be imposed.

#### **1. Monitor Adult and Juvenile Justice Reform**

Counties are facing new unfunded mandates with the changes made to the adult criminal justice system under 2015 Neb. Laws LB 605. Lancaster County's jail population and probation housing costs have increased as a direct result of this Bill. Also, juvenile justice reform under 2013 Neb. Laws LB 561 is not being adequately funded, and the cost of State responsibilities for post adjudication detention is being shifted to the counties.

#### **2. Raise Population Threshold to 400,000 for Creation of a Civil Service Commission**

2016 Neb. Laws LB 742 addressed most of Lancaster County's concerns regarding changes required upon reaching the 300,000 population threshold. However, the mandated requirement of changing the County's existing civil service system to a Civil Service Commission was removed from LB 742 at the last moment. The County has three main objections to moving to a Civil Service Commission: the political structure of the Civil Service Commission is likely to result in employment decisions based on partisan politics; County directors will become merit employees under the new system; and the County will lose statutory authority to protect employee rights and benefits when state functions are transferred to the County.

#### **3. Eliminate Responsibility of Counties to Pay HHS rent**

After the State assumed responsibility for welfare, a legislative provision was added requiring counties to maintain facilities for the Department of Health and Human Services (HHS) as they existed on April 1, 1983. See Neb. Rev. Stat. §68-130. Although some relief from this antiquated statute was provided in 2011 Neb. Laws LB 234 (allowing payment reductions for HHS space eliminated since 1983 and determining whether additional space can be eliminated), the use of local property tax to pay for HHS facilities should be eliminated in its entirety. This is especially true in light of the State's total elimination of state aid to counties. LB 61 will accomplish this purpose.

#### **4. Allow financing of County Bridges under Neb. Rev. Stat. §23-120(3)(b)**

The number of structurally deficient county bridges in Nebraska is increasing at an alarming rate. In Lancaster County alone there are twenty (20) structurally deficient bridges and five (5) functionally obsolete bridges. §23-120(3)(b) allows counties to levy up to 5.2¢ for bonded indebtedness related to county buildings. Amending §23-120(3)(b) to include county bridges could provide a steady source of revenue for addressing this important public safety issue.

## LANCASTER COUNTY LEGISLATIVE PROPOSALS 2018 SESSION

### INTRODUCTION

The 2017 legislative session opened with lower than expected tax receipts and pessimistic revenue forecasts, resulting in cuts to the existing State budget by Governor Ricketts and a large reduction in the final budget for the next biennium. In response, Lancaster County was forced to adopt a defensive posture to oppose legislation shifting State costs to the county level, and thereby increasing the burden on our property tax payers. For example, a significant cost shift proposed by the State during the 2017 session was the elimination of the State's disability program under LB 333. As originally drafted, LB 333 could have increased Lancaster County General Assistance payments by almost \$1 million. After strong opposition from Lancaster County, NACO, and a number of State senators, the language eliminating the State disability program was stricken from the final version of LB 333.

Lancaster County did achieve a key legislative goal with the passage of LB 508, which raises the population threshold to 400,000 for the mandatory creation of a Civil Service Commission. LB 508 also changes the composition of the County's existing Personnel Policy Board. Effective January 1, 2018, the Board will consist of five members: one appointed by the County Board; one appointed by elected department heads; two appointed by the classified employees covered under the County's personnel system; and a fifth member appointed by the other four members.

Other Bills passed during the 2017 session which could benefit the County include LB's 152 and 259:

- LB 152 amends Neb. Rev. Stat. §33-109 to eliminate the sunset clause for the revenue source for the register of deeds technology fund.
- LB 259 could help lower the jail population by requiring judges to take into account the ability of offenders to pay fines or post bail. LB 259 also increases the credit on fines and fees from \$90 to \$150 for each day served in jail.

2017 was the first year of the State's fiscal biennium, and a number of Bills of interest to Lancaster County will carry over to the 2018 session:

- LB 567 relieves all counties of the obligation to pay rent for Health and Human Services facilities pursuant to Neb. Rev. Stat. §68-130, a savings of over \$300,000 to Lancaster County. The Bill is a County priority, but remains held in committee.
- LB 441 proposes to expand Medicaid, and also remains held in committee.
- LB 47 eliminates county responsibility to pay the cost of grand juries and autopsies for deaths which occur in a State correctional institution, and is another Bill still held in committee.

- LB 68 gives the State exclusive power to regulate firearms. The Lancaster County Sheriff opposes LB 68 in its present form because it would restrict the authority of the City of Lincoln and Lancaster County to prevent the open carry of firearms into courts and other facilities.
- LB 510 places a cap of \$25 million on installment contracts held by political subdivisions. The County is opposed to LB 510 because it would unreasonably restrict the ability of the County to provide the facilities and buildings necessary to house public safety agencies.
- LB 434 authorizes juvenile court judges to conduct evidentiary hearings by video conferencing without the consent of all parties, so long as due process rights are protected. While the County believes video conferencing can reduce transportation costs and increase public safety, the County also recognizes the importance of protecting the rights of the parties involved in the juvenile justice system. Although the County's position on LB 434 is neutral, it would support the expanded use of video conferencing if it can be done without compromising the due process rights of juveniles and their families.
- LB 367 would shift the responsibility for juvenile post-adjudication transportation costs from Probation to the counties. The estimated annual fiscal impact to Lancaster County is more than \$128,000. The County opposes LB 367.
- LB 81 raises the application fee for a handgun certificate from \$5 to \$25. LB 81 did advance to General File.
- LB 357 increases the annual fee for a certificate of title from \$10 to \$25 for a person who obtains a title in Nebraska for more than one motor vehicle or trailer from outside Nebraska. The first title is still \$10, and each subsequent title is \$25. This Bill remains in committee.

During the 2018 session the Legislature will continue its ongoing discussions regarding property and income tax relief. Lancaster County will need to monitor these discussions carefully, and continue to support tax policies which help reduce the burden on our property tax payers.

## **NEW PROPOSALS**

### **1. Increase Funding for Behavioral Health**

State resources are not adequate to handle the demand for behavioral health services. This has a direct impact on Lancaster County in several areas. Most significantly, criminal defendants who have been found to be incompetent to stand trial are being held in the County's jail for an average of 45 days before they can be admitted to the State Regional Center for treatment to restore competency. The average cost to the County for holding these

individuals while they await treatment is \$85,000. Additional funding from the State is necessary to address this issue.

## **2. Allow Outpatient Treatment for Restoration of Competency to Stand Trial**

Pursuant to Neb. Rev. Stat. §29-1823, criminal defendants found mentally incompetent to stand trial must be sent to the Lincoln Regional Center for treatment to remove the disability and restore competency. In some cases outpatient treatment to restore competency may be more appropriate than inpatient treatment. Allowing for outpatient treatment in appropriate cases could help reduce the County's jail population, as well as help reduce overcrowding at the Lincoln Regional Center.

## **3. Appointed Counsel Costs**

For many years Lancaster County has struggled with the escalating cost of court appointed counsel. In 2011 the Lancaster County Indigent Defense Advisory Committee undertook a complete review of the issue. The Committee made a number of recommendations, including the following legislative proposals:

- a. Restrict the right to appointed counsel in juvenile court cases for non-custodial parents who do not have charges filed against them;
- b. Examine low-level misdemeanors to determine which offenses could be reduced to infractions which do not carry jail time;
- c. Amend Neb. Rev. Stat. §29-3604 to allow diversion for driving under the influence cases;
- d. Expand the State contribution for indigent defense, including more funding for the Commission on Public Advocacy; and
- e. Increase the indigent defense fee under Neb. Rev. Stat. §33-156.

## **4. Statutory Changes to Implement Statewide 24/7 Sobriety Program**

The 24/7 Sobriety Program has been successfully used in other states to reduce recidivism for alcohol-related offenses such as driving under the influence. Lancaster County is in the process of establishing a 24/7 program under the supervision of the County's Community Corrections Department. Statutory changes are needed to mandatory sentencing and drivers license provisions to provide incentives for participants to actively participate and complete the program.

**5. Amend Neb. Rev. Stat. §23-3108 to Increase Minimum Purchasing Thresholds**

§23-3108 of the County Purchasing Act mandates the procedure for how personal property or services are purchased, depending on the estimated value of the personal property or service. This section has not been amended since 2003. The threshold for requiring competitive sealed bids is presently \$20,000 or more; and should be raised to \$50,000. The thresholds for requiring at least three informal bids are presently a minimum of \$5,000 but less than \$20,000; and should be increased to a minimum of \$10,000 but less than \$50,000. See Attachment A for a thorough discussion of this proposal.

**6. Amend Neb. Rev. Stat. §13-906 to Require Strict Compliance with Six-Month Waiting Period**

§13-906 provides that no suit shall be permitted under the Political Subdivisions Tort Claims Act unless the political subdivision has made a final disposition on the claim, or in the alternative, final disposition of the claim has not been made within six months after the claim was filed. The Nebraska Court of Appeals has held that the notice requirements of §13-906 are to be liberally construed, and a claimant does not need to wait six months so long as they substantially comply with the six-month requirement and the lack of compliance has not caused prejudice to the political subdivision. The doctrine of substantial compliance creates uncertainty, and the legislature should amend this section to clarify that strict compliance with the notice requirements under §13-906 is required.

**7. Remove Sales Tax Exemption on Soda, Energy Drinks, and candy, and Earmark the Proceeds for Property Tax Relief**

Based on existing sales tax rates, removing the sales tax exemption for soda, energy drinks, and candy could raise \$12 million per year. Implementing a 1.5¢ per ounce sales tax on soda and energy drinks could raise \$150 million per year. These new proceeds could then be used for property tax relief.

**8. Work with the State to Restore Medicaid Funding for Civil Protective Custody**

Civil protective custody services are provided for the City of Lincoln and Lancaster County by The Bridge. Changes in Medicaid reimbursement policies have resulted in a loss of income to The Bridge of \$157,000 last budget year and nearly \$145,000 this budget year. The County needs to work with the State to develop a Medicaid service definition to restore this funding.

**9. Continue Funding the County Justice Reinvestment Grant Program Created Under 2016 Neb. Laws LB 605**

The Legislature created the County Justice Reinvestment Grant Program in 2016 to help counties offset jail population increases caused by LB 605. In 2016 \$500,000 was appropriated for the Grant Program for the entire State. Data indicates the County's jail population has increased as a direct result of LB 605, and will continue to do so in the future. Funding for the Grant Program should be increased and appropriated annually.

**10. Conduct a Legislative Review to Examine How the Length of Time Post Adjudicated Youth Spend in Secure Detention While Awaiting Placement Can Be Reduced**

Post adjudicated youth held in the County's Youth Services Center should be placed into community treatment as soon as possible. However, placement can be difficult because of a number of issues involving these youth. The Legislature should conduct a legislative review to examine how the length of stay in secure detention can be reduced for post adjudicated youth.

**EXISTING PROPOSALS**

**1. Allow financing of County Bridges under Neb. Rev. Stat. §23-120(3)(b)**

The number of structurally deficient county bridges in Nebraska is increasing at an alarming rate. In Lancaster County alone there are twenty (20) structurally deficient bridges and five (5) functionally obsolete bridges. Amending §23-120(3)(b) to include county bridges could provide a steady source of revenue for addressing this important public safety issue.

**2. Strengthen Prisoner Litigation Statutes to Discourage Frivolous Lawsuits**

Frivolous litigation filed by state and local prisoners is time consuming, expensive, and a waste of limited judicial resources. The deliberate filing of frivolous lawsuits by prisoners could be discouraged if all prisoners were required to have some financial stake in filing an action. Federal statutes governing civil rights actions of prisoners require that a prisoner seeking to proceed in forma pauperis is still required to pay the full amount of the filing fee. Along with the affidavit seeking to proceed in forma pauperis, a prisoner is also required to submit to the court a certified copy of their institutional trust fund account for the six month period