

**ANNUAL REPORT  
OF THE  
COUNTY GOVERNMENT STUDY  
COMMISSION**



**Indiana Legislative Services Agency  
200 W. Washington Street, Suite 301  
Indianapolis, Indiana 46204**

**October, 1999**

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1999

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# COUNTY GOVERNMENT STUDY COMMISSION

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Attorney for the Commission

Beverly Holloway  
Fiscal Analyst for the Commission

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.state.in.us/legislative/>.

## **I. INTRODUCTION AND REASONS FOR STUDY**

The Indiana General Assembly enacted legislation (P.L. 109-1997) directing the Commission to study the following:

- (1) How to improve the effectiveness and efficiency of county government by examining the functions and duties associated with all elected county officials and departments of county government. The Commission shall focus on how these functions and duties relate to the functions and duties of other elected county officials, departments of county government, and other state and local governmental entities.
- (2) The functions and duties of elected county officials and departments of county government that should be more clearly defined by statute to avoid disputes over allocation of power of county government.
- (3) The functions and duties of elected county officials and departments of county government that should be eliminated, altered, or reassigned to other elected county officials, departments of county government, or other state or local governmental entities.
- (4) The functions and duties of county commissioners in Lake County and St. Joseph County and how their legislative and executive powers compare to county commissioners in other counties.

## **II. SUMMARY OF WORK PROGRAM**

The Commission has met four times during the interim.

At its first meeting on August 5, 1999, the Commission discussed the charge contained in P.L. 109-1997, reviewed the Commission's work from the 1998 interim, received staff reports concerning county welfare and court fees, and heard testimony from the Association of Indiana Counties (AIC) and the Metropolitan Association of Greater Indianapolis Communities (MAGIC).

The Commission held its second meeting on September 2, 1999, to receive the final report of MAGIC's Coalition On Monitoring Public Efficiency and Tax Expenditures Project (C.O.M.P.E.T.E) and the responses of the AIC and the Indiana Township Association. The Commission also discussed various property tax issues with the State Board of Tax Commissioners.

The Commission held its third meeting on September 30, 1999, to discuss issues relating to county court costs. The Commission heard testimony from the AIC, the Indiana Judges Association, and Martha Womacks, Marion County Auditor. The Commission also received testimony concerning the office of county surveyor.

The Commission held its fourth and final meeting of the interim on October 21, 1999, to discuss various county sheriff issues. The Commission received testimony from the State Board of Accounts and the Indiana Sheriff's Association. In a unanimous voice vote, the Commission voted to recommend that the General Assembly appoint an interim study committee to study the

issues relating to the fiscal impact of the courts upon county budgets in the 2000 interim.

### **III. SUMMARY OF TESTIMONY**

The Commission heard testimony from the persons listed at the end of this report. Testimony consisted of a series of presentations designed to inform the Commission about:

- (1) the recent activity of the AIC relevant to the Commission's charge;
- (2) various property tax issues;
- (3) the C.O.M.P.E.T.E project;
- (4) the office of county surveyor;
- (5) various court issues; and
- (6) various county sheriff issues.

This summary divides the testimony into the six topics listed above and presents highlights of the testimony offered during Commission meetings.

The stating of a policy position or recommendation in this summary of the testimony does not signify either Commission support or disapproval of the matter. The narrative merely reflects a variety of ideas and positions presented to the Commission by persons addressing the Commission.

#### **AIC ACTIVITY**

The AIC reported to the Commission that the County Task Force described in the 1998 Annual Report of the Commission was disbanded in late 1998 after the AIC determined that a system of standing committees would be of greater benefit to the AIC than the task force. The AIC also reported on actions of the standing committees and raised a variety of issues under consideration by the AIC's legislative committee. The AIC indicated that it would have no recommendations on the changes in county government that the Commission is charged with studying and that it would remain neutral on the issue of the structure of county government in Lake County and St. Joseph County.

#### **PROPERTY TAX ISSUES**

The Chairman of the State Board of Tax Commissioners (the "SBTC Chairman") reviewed the events affecting the general reassessment that have occurred in the past year and presented a memorandum addressing the status of the reassessment. The memorandum contains a time line for completing the reassessment and reviews the issues facing assessors and the State Board of Tax Commissioners. The SBTC Chairman outlined the proposed regulation for the general reassessment and predicted that the proposed regulation will be adopted and sent to the assessors by the end of January or early February.

When asked whether the required reassessment could be "pulled off", the SBTC Chairman replied, "There is a chance that it could be pulled off and a chance that will not be pulled off. We have a very slim margin of error." The SBTC Chairman added that no legislation was necessary for the short term but added that legislation may be necessary in the future after the effects of the reassessment are known.

The SBTC Chairman discussed potential shifts in the property tax burden from business to residential taxpayers indicating that the state tax board hoped to have data for the individual counties by mid-September. The SBTC Chairman noted that statewide residential property taxes may increase by an average of 5%. Moreover, preliminary data indicates a 5% shift from business to residential taxpayers statewide. However, the SBTC Chairman also cautioned that some areas may face a greater shift.

### **THE C.O.M.P.E.TE PROJECT**

Mr. Lewellen, the executive director of the Metropolitan Association of Greater Indianapolis Communities (MAGIC) during the course of the project, described the project's evolution from a question about economic development to a question about the quality of life in Indiana. Mr. Lewellen concluded his introduction of the project by praising Indiana's elected officials while criticizing the structure of local government: "Local officials are dedicated, but hampered by one hundred forty-eight year old rules".

Cris Johnston, principal researcher at Crowe Chizek and Company, LLP, presented the C.O.M.P.E.T.E. project's recommendations to the Commission. Mr. Johnston highlighted the recurring themes found in the recommendations. Among the recommendations presented to the Commission were the following:

- (1) revise the distribution formula for local option income taxes
- (2) prohibit double or triple taxation for the same services without taxpayer approval
- (3) allow county choice concerning the form of county government
- (4) allow greater use of city and town administrators and managers
- (5) multi-county construction and operation of correctional facilities
- (6) eliminate constitutional office of county surveyor
- (7) encourage more cooperation in local government purchasing to achieve economies of scale
- (8) provide a repository of best practices to local elected officials

### **RESPONSES TO C.O.M.P.E.T.E.**

Matt Brooks, AIC, noted the several points of agreement between the AIC and C.O.M.P.E.T.E. Mr. Brooks then addressed AIC's concerns about the project. Mr. Brooks questioned the objectivity of the project, the project's lack of a cost analysis for its recommendations, and the fact that the study did not address county welfare and court costs.

Steve Buschmann, representing the Indiana Township Association, addressed the Commission and presented a memorandum that echoed the AIC's concern that the C.O.M.P.E.T.E. project did not include a cost analysis of its recommendations. Mr. Buschmann also noted that the project was limited to counties, cities, towns, and townships and did not address library districts, school corporations, and other local government units. Mr. Buschmann summarized the local government appropriations made by units not included in the project. Mr. Buschmann urged the Commission to not allow the C.O.M.P.E.T.E. project to become the final word on the question of local government organization and efficiency.

George Van Til, Lake County Surveyor, made an historical and philosophical case for retaining

elected local officials generally and elected county surveyors in particular. Mr. Van Til rejected the C.O.M.P.E.T.E. project's proposition that the public would be better served by appointed, registered surveyors and some of the project's assertions about the duties of the county surveyor.

Henry Dunn, Paoli Town Manager, spoke in favor of two of the C.O.M.P.E.T.E. recommendations. Mr. Dunn supported the recommendation that counties be allowed to adopt the council-manager form of county government. Mr. Dunn also urged the abolition of the city/town clerk-treasurer position.

## **COUNTY SURVEYOR**

Mr. Doug Lechner, Johnson County Surveyor, presented a history of the office of county surveyor to the Commission. Mr. Lechner reviewed over 200 years of history as the office has its origins in the Northwest Ordinance of 1789. In addition to providing a history of the office, Mr. Lechner disputed the notion that the duties of the county surveyor have diminished in recent years. Mr. Lechner asserted that a review of the Indiana Code would show that the surveyor's duties have not diminished.

Mr. Lechner agreed with the proposition that county surveyors should be registered surveyors. Mr. George Van Til, Lake County Surveyor, disagreed and set forth the arguments for permitting non-registered surveyors to seek the office.

Mr. Jeffrey P. French, President of the Indiana County Surveyors' Association announced to the Commission the intent of the association to undertake a comprehensive internal study of all county surveyor functions, authority, and responsibilities as prescribed by the Indiana Code and as found in actual practice. Mr. French promised a report clearly defining the county surveyor's delivery of service and recommendations on how the office should be maintained, enhanced, expanded, altered, or eliminated. Mr. French indicated that the results of the study would be presented to the Commission in the 2000 interim.

## **COURT ISSUES**

David Bottorff, Association of Indiana Counties, addressed the Commission and presented the AIC's concerns relating to funding courts, court employees, and the judicial system. Mr. Bottorff noted that the counties' corrections and court costs are increasing and squeezing county budgets. Mr. Bottorff identified six areas that place a burden upon the county budget: (1) the overall cost of the judicial system; (2) state and court mandates; (3) compensation and policy issues relating to court employees; (4) housing juvenile offenders; (5) expensive trials and public defender expenses; and (6) the optional \$5000 county supplement to judges' salaries.

Mr. Bottorff called the Commission's attention to a number of specific examples of the budgetary burdens facing counties. Mr. Bottorff also reported that a number of counties were experiencing problems with judicial mandates regarding court employees. Mr. Bottorff then offered the following suggestions to ease the counties' burdens: (1) full state funding for juvenile offenders housed by the Department of Corrections (DOC); (2) additional appropriations to the public defense fund to account for the greater number of counties participating; (3) establish a similar state fund to assist counties paying for unusually expensive trials; and (4) eliminate the optional \$5000 county supplement to judges' salaries. Finally, Mr. Bottorff suggested that the state should

pay more of the court costs incurred by the counties. Mr. Bottorff added that many of the court costs cannot be controlled by the counties.

The Hon. Mary L. Comer, Hendricks County Superior Court, appeared on behalf of the Indiana Judges Association (IJA).

Judge Comer noted that the IJA is working with the AIC to bring the organizations together to discuss issues. Judge Comer stated that court funding is the biggest area of conflict. Judge Comer suggested that it is reasonable to move in the direction of some form of state funding and asserted the judiciary's interest in facilitating research of the issues. To that end, Judge Comer presented a 1995 study of the National Center for State Courts outlining the continuum on which the various levels of state court funding fall.

Judge Comer added that she would like to see a body deal with the issues in a philosophical setting, always keeping the big picture in mind. Judge Comer noted that individual judges would have reservations about the General Assembly's oversight and that some would not be ready for the state to fully fund the system today. Judge Comer reiterated that there are a variety of models and that she would like a committee to study the whole package. She suggested that a committee should look at other states and then decide what is best for Indiana.

When pressed on the question of judicial mandates, Judge Comer asserted that as a third branch of government, the judiciary did indeed possess mandate power. However, she said that she would like to think that the judges use that power sparingly and that she was unaware of any problems.

The Hon. Steven Caldemeyer of the Delaware County Circuit Court presented a comprehensive look at the Youth Opportunity Center and the programs provided for at-risk children in Delaware County and the surrounding region. Judge Caldemeyer reviewed the many benefits realized by the operation of the center and continuum of care provided. The county has reduced the number of placements in the Department of Correction resulting in a significant savings to the county. The privately operated center is able to provide mental health services to children that may be unavailable in many parts of the state. Judge Caldemeyer asserted that the money expended on the mental health problems of the youth would result in significant savings in the long run. The center has also created approximately 250 jobs.

### **COUNTY SHERIFF ISSUES**

The Commission heard testimony on the proper and improper uses of the county sheriff's commissary fund from Bruce Hartman, State Board of Accounts. Mr. Hartman identified three statutory problem areas from an audit stand point. First, the statute permits the money to be spent on "any other purpose that benefits the sheriff's department.." Mr. Hartman noted that the county sheriffs do a wonderful job but found the language simply too vague as almost any expenditure can be justified by the sheriff as a benefit to the department. When the sheriff presents a reasonable argument, it becomes very difficult for the State Board of Accounts to argue that the expenditure does not benefit the sheriff's department.

Second, the statute applies to counties with a population of more than 50,000. However, it is the State Board of Accounts practice to audit all commissary funds regardless of the size of the county in question. The practice is supported by the Indiana Sheriffs' Association, but a few

county sheriffs disagree.

Third, the statute is silent on what a sheriff may charge the inmates for products sold in the commissary. Inmates and families have complained about commissary prices in a few instances. Mr. Hartman noted that sheriffs usually do not abuse their discretion in establishing commissary prices.

The Commission also received testimony from Paul Baker, Grant County Council, and Marty Hawk, Monroe County Council. Mr. Baker testified that the county council needs to receive a record or an audit of all money deposited into and disbursed from the commissary fund. Ms. Hawk added that money going into the commissary fund should go through the county fiscal body and the auditor as a regular appropriation.

Tippecanoe County Sheriff, Dave Murtaugh, testified on a variety of county sheriff issues. Sheriff Murtaugh stated that inmate trust accounts worked well with few problems. One problem cited by Sheriff Murtaugh is that inmates often fail to cash their trust account checks upon release. The sheriff is required to hold onto the money for ten years. The situation creates bookkeeping difficulties for the sheriff. Sheriff Murtaugh advocated reducing the holding period to three years.

Sheriff Murtaugh urged the General Assembly to eliminate the old system of compensating sheriffs with unspent meal money and tax warrants as a measure to further professionalize the office.

With respect to the commissary fund, Sheriff Murtaugh insisted that the sheriff is accountable to the public and to the State Board of Accounts. Sheriff Murtaugh maintained that the claims process is too slow and lacks the flexibility afforded the sheriff by the commissary fund.

The testimony of sheriffs Nick Gulling (Hancock County), Jack Cottey (Marion County), Tom Snider (Elkhart County), and Jerry Marr (Howard County) focused on the advantages of the commissary fund as a means of purchasing for the sheriff's department. The sheriffs praised the flexibility allowed by commissary fund purchases. They also stressed that in many cases the commissary fund meets vital needs that would go unmet if the sheriff were dependent solely upon general fund appropriations. The sheriffs described a number of expenditures from the commissary funds that might fall under the category discussed by Mr. Hartman to illustrate the sort of expenditures that benefit the sheriffs' departments.

#### **IV. COMMITTEE FINDINGS AND RECOMMENDATIONS**

The Commission made the following findings of fact and recommendations by Commission consensus:

##### **Finding #1: Fiscal impact of the courts upon county budgets**

The Commission finds that the issues relating to the fiscal impact of the courts upon county budgets are too numerous and significant to be considered as a mere segment of the Commission's work program in the 2000 interim. The Commission finds that the issues warrant a study carried out by an interim study committee dedicated solely to the issues relating to the

fiscal impact of the courts upon county budgets.

**Finding # 2: Information gathering**

The Commission finds that the Commission's charge requires the Commission to complete an extensive discussion of the structure of County Government in Indiana and to gather much more information before recommending legislative changes.

**Recommendation #1: An interim study committee to study the issues relating to the fiscal impact of the courts upon county budgets.**

The Commission recommends that the General Assembly appoint an interim study committee for the purpose of studying the issues relating to the fiscal impact of the courts upon county budgets. The Commission recommends that the membership of the committee include representatives of county government and the judiciary.

**Recommendation #2: Information gathering**

The Commission recommends that no changes to the structure of county government be made pending additional information gathering by the Commission in the remaining years provided for the Commission under P.L. 109-1997.

## WITNESS LIST

Paul Baker, Grant County Council  
David Bottorff, Association of Indiana Counties  
Matt Brooks, Association of Indiana Counties  
Tim Brooks, Chairman, State Board of Tax Commissioners  
Steve Buschmann, Indiana Township Association  
Hon. Steven R. Caldemeyer, Delaware County Circuit Court  
Victoria Castor, Metropolitan Association of Greater Indianapolis Communities  
Hon. Mary L. Comer, Indiana Judges Association  
Bernadette Costa, President, Lake County Council  
Jack Cottey, Marion County Sheriff  
Henry Dunn, Paoli town manager  
Jeffrey P. French, Indiana County Surveyors' Association  
Nick Gulling, Hancock County Sheriff  
Bruce Hartman, State Board of Accounts  
Marty Hawk, Monroe County Council  
Cris Johnston, Crowe Chizek and Company  
Dan Jones, Marion County Auditor's office  
Doug Lechner, Johnson County Surveyor  
Lee Lewellen, Metropolitan Association of Greater Indianapolis Communities  
Jerry Marr, Howard County Sheriff  
Dave Murtaugh, Tippecanoe County Sheriff  
Marilyn Scales, Director, Delaware County Office of Family and Children  
Will Smith, Deputy Township Trustee, Calumet Township, Lake County  
Tom Snider, Elkhart County Sheriff  
George Sweet, Chairman, Metropolitan Association of Greater Indianapolis Communities  
George Van Til, Lake County Surveyor  
William Waltz, General Counsel, State Board of Tax Commissioners  
Kenton Ward, Hamilton County Surveyor  
Kirk White, Monroe County Commissioner  
Martha Womacks, Marion County Auditor  
Travis Worl, Association of Indiana Counties