

Issues

1. Modifications to Disparity Grant Cap Should Be Considered

A cap on the Disparity Grant program was adopted through Chapter 487 of 2009 (the Budget Reconciliation and Financing Act of 2009), to limit the amount received by each county to the level of funding provided in fiscal 2010. The change was drafted in this manner to maintain the functionality of the formula calculation for determining each jurisdiction's per capita income tax in relation to 75% of the statewide average. However, this method of calculation has two unanticipated consequences that the legislature may wish to consider addressing.

- **Exclusion of Newly Eligible Counties:** The statute limits grant funding in fiscal 2011 and beyond to no higher than the amount received in fiscal 2010. For practical purposes, any jurisdiction that received \$0 dollars in the 2010 grant cannot receive any funding in any future year if its income tax disparity falls below 75%, making it eligible for the program. For example, Washington County experienced a loss of income tax per capita using tax year 2008 data, that would have made the county eligible for a grant of \$435,975 in fiscal 2011. However, since the county did not receive any funding through the program in fiscal 2010, it is ineligible to receive any funding in any future fiscal year, and
- **Limiting Grant Funding within Individual Jurisdictions:** As discussed, the overall statewide average per capita income tax fell in tax year 2008 based on economic conditions. This has resulted in an overall reduction of \$24.4 million based on five of the eight disparity grant recipients. However, three jurisdictions experienced a greater per capita income tax loss than the statewide average and technically are eligible for an aggregate \$2.5 million. If the cap was structured at the aggregate \$121.4 million figure, then those jurisdictions would have received the additional funding in fiscal 2011. When the overall funding cap is reached, it would be more equitable to prorate the reduction across all grant recipient jurisdictions.

The Department of Legislative Services recommends that consideration be given to modifying Article 24, Title 9-1101 so that the funding cap is based on the overall fiscal 2010 funding level. This will permit newly eligible jurisdictions to receive funding, as well as for current grant recipients to receive funding when their per capital income tax worsens, relative to the statewide average, as long as the program is funded below \$121.4 million. Once the cap level is reached, it would be more equitable to allocate the reduction above the cap on a prorated basis to all disparity grant recipients.