

Board of Tax Appeals

OVERVIEW

The Board of Tax Appeals (BTA) is an independent, quasi-judicial, single purpose body, as re-established in 1976 by Am. Sub. H.B. 920. The board is comprised of three members appointed by the Governor for six-year terms. The board's purpose is to provide a forum outside the overburdened court system to resolve controversies between taxpayers and the taxing authorities, and to satisfy constitutional requirements of due process. The board is authorized to hear and determine all questions of law and fact arising under the tax laws of the state of Ohio or under the rules and decisions of the Tax Commissioner. Appeals can arise from any decision, order, determination, or any action of any tax administrative agency. In addition, appeals from county boards of revision regarding real estate valuations, and appeals from county budget commissioners on the allocation of tax receipts to political subdivisions, can be taken either to the county courts of common pleas or to the Board of Tax Appeals. Decisions of the Board of Tax Appeals may themselves be appealed to either the appropriate Ohio Court of Appeals or directly to the Ohio Supreme Court.

The Board of Tax Appeals originally had a different purpose. In 1911, the state "Tax Commission" was given the task of supervising county auditors in their assessments of real property. The Board of Tax Appeals took over that task in 1939. The Board of Tax Appeals continued in this role into the 1970's, but the series of four Park Investment Company cases (1964 to 1972) eventually ended the Board of Tax Appeals' jurisdiction in this area (except for hearing appeals from county boards of revision as it does now) and changed the way the state performs its property tax equalization function. This function is now housed in the Department of Taxation.

Recently, the Board of Tax Appeals saw a notable increase in its caseload. The number of appeals filed jumped from 1701 in FY 1999 to 2106 in FY 2000 – a 23.4 percent increase. Although they are not expecting another increase of this proportion, the upcoming biennium is expecting to bring an increase in the number of appeals due to upcoming sexennial reappraisals in large counties. Hamilton and Franklin county appeals should arrive at the BTA beginning in early 2002 and Cuyahoga, Lucas, Stark and Lake county appeals in 2003.

The executive budget provides GRF funding of \$827,368 for FY 2002 (an increase of 16.3 percent over estimated FY 2001 expenditures) and \$2,789,103 for FY 2003 (a decrease of 2.1 percent under the previous year's recommendation).

ADDITIONAL FACTS AND FIGURES

Staffing Levels						
Program Series/Division	1998	1999	2000	2001	Estimated	
					2000	2001
Tax Dispute Resolution	33	33	34	34	34	34
Totals	33	33	34	34	34	34

- The Board of Tax Appeals has 34 employees, yet only 31 FTE employees. (Six employees are part-time.) The three member Board currently employs 14 FTE attorney examiners and 12 FTE administrative assistants, 1 FTE legal interns, and 1 FTE paralegal assistants. The Board has requested funding to hire 3 additional full-time employees – one attorney each fiscal year, and one paralegal. However, these additional employees were not funded in the executive budget and are not included in the above table.
- Of the 2,106 appeal cases filed in FY 2000, 1,751 (83%) originated from county boards of revision. The mediation program is working to expedite these cases in a more efficient and timely manner. In FY 2000 1,375 appeals cases from county boards of revision were accepted for mediation. In FY 2000, only 37 cases (8% of accepted cases) have been unsuccessful or withdrawn from the mediation program.
- The number of pending appeals increased 9.5 % between FY 1999 (2124) and FY 2000 (2325). The Board feels this is primarily due to the 24 % increase in the number of appeals filed during this time. This large amount of appeals filed with the Board of Tax Appeals will most likely continue into the next biennium due to the upcoming real property tax sexennial reappraisals in the big urban counties. Hamilton and Franklin county appeals should arrive at the Board of Tax Appeals beginning in early 2002 and Cuyahoga, Lucas, Stark and Lake county appeals in 2003.
- The availability of case decisions on the Board of Tax Appeals' web page has dramatically decreased the reproduction of decisions cost (Line item 439 116-602). This cost has decreased from a high of \$35,855 in FY 1993 to \$845 in FY 2000. This line item's appropriation of only \$7,500 in FY 2002 and FY 2003 reflects the cost savings from web technology. In fact, the Board suspects this fund may no longer be needed after this biennium.

ANALYSIS OF EXECUTIVE PROPOSAL

Tax Dispute Resolution

Purpose To provide a forum outside of the court system to resolve controversies between taxpayers and taxing authorities.

The following table shows the line items that are used to fund this program series, as well as the Governor's recommended funding levels.

Fund	ALI	Title	FY 2000	FY 2001
GRF	116-321	Operating Expenses	\$2,827,368	\$2,789,103
439	116-602	Reproduction of Decisions	\$7,500	\$7,500
Total funding: Tax Dispute Resolution			\$2,834,868	\$2,796,603

The specific programs within the Tax Dispute Resolution program series that this analysis will focus on include:

- **Mediation**
- **Complex Litigation**

Mediation

Program Description: Mediation allows interested parties to bypass the formal evidentiary hearing process and have their case heard by an attorney examiner. The Board reviews all appeals as filed to check if they are eligible for the program. The program continues to be completely voluntary; all parties must agree to mediation. Mediation tends to be both quicker and cheaper than formal evidentiary hearings, with the average case taking approximately 7.8 months to be settled. The average appeal without the need for continuances was terminated with 11.1 months. If an appeal is continued then such appeals are terminated within an average of 19.6 months from filing.

Interest in the program continues to grow. FY 2000 had 1210 cases accepted for mediation, with 699 successfully terminated. Cases not accepted into the mediation program are ones dealing with purely legal or factual questions and substantial difference in tax bill values.

Complex Litigation

Program Description: This program is designed for such difficult cases as the assessment of commercial and industrial properties, assessments involving gas pipeline transmission companies, and various types of cases involving large manufactures. The program sets a schedule for each of the many steps involved in the hearing process, forcing parties to communicate at an earlier time than the standard appeals route. It also involves an attorney examiner earlier in the process, and in more depth than for ordinary appeals. Complex litigation cases represent less than 1% of the appeals heard by the Board.

Source Funding: State GRF

Implication of the Executive Recommendation: The executive budget provides GRF funding of \$827,368 for FY 2002 (an increase of 16.3 percent over estimated FY 2001 expenditures) and \$2,789,103 for FY 2003 (a decrease of 2.1 percent under the previous year's recommendation). The larger increase in FY 2002 will fund the purchase of a new tracking system / hearing schedule. This will replace the current 12-year old case tracking system and allow computerization of the hearing schedule. Large hand written block-style calendar sheets are currently used to schedule hearings.

PERMANENT AND TEMPORARY LAW

This section describes permanent and temporary law provisions contained in the executive budget that will affect the department's activities and spending decisions during the next biennium.

There are no permanent or temporary law provisions with fiscal effects on this agency.

REQUESTS NOT FUNDED

Information in this section was derived from analysis of the agency's budget submission and information provided by the Governor's Office of Budget & Management concerning the funding of specific agency requests, which may or may not convey precisely the degree to which requests were not funded or whether an agency will or will not proceed with an initiative in whole or in part.

Operating Expenses						
Fund Line Item	FY 2000 Requested	FY 2000 Recommended	Difference	FY 2001 Requested	FY 2001 Recommended	Difference
GRF 116-321	\$3,039,377	\$2,827,368	(\$212,009)	\$3,116,166	\$2,789,103	(\$327,063)

In FY 2000 the Board of Tax Appeals experienced a 24% increase in new appeals. Although they are not expecting another increase of this proportion, the upcoming biennium is expecting to bring an increase in the number of appeals due to upcoming sexennial reappraisals in large counties. Hamilton and Franklin county appeals should arrive at the BTA beginning in 2002 and Cuyahoga, Lucas, Stark and Lake county appeals in 2003. To continue to resolve cases in a timely matter, the Board of Tax Appeals sought to hire two additional attorney examiners in the upcoming biennium, one examiner in FY2002 and another in FY2003. The Board also requested funding for an additional full time paralegal to help with case management and preparation. The Board of Tax Appeals requested that these positions be fully funded in their Operating Expenses by state GRF. The additional staff was not funded in the executive budget.

LSC Budget Spreadsheet by Line Item, FY 2002 - FY 2003

<i>Fund</i>	<i>ALI</i>	<i>ALI Title</i>	<i>2000</i>	<i>Estimated 2001</i>	<i>Executive 2002</i>	<i>% Change 2001 to 2002</i>	<i>Executive 2003</i>	<i>% Change 2002 to 2003</i>
<i>BTA Tax Appeals, Board of</i>								
GRF	116-100	Personal Services	\$ 2,149,952	\$2,259,296	\$ 0	-100.0%	\$ 0	N/A
GRF	116-200	Maintenance	\$ 106,093	\$137,084	\$ 0	-100.0%	\$ 0	N/A
GRF	116-300	Equipment	\$ 5,685	\$35,275	\$ 0	-100.0%	\$ 0	N/A
GRF	116-321	Operating Expenses	---	\$0	\$ 2,827,368	N/A	\$ 2,789,103	-1.4%
General Revenue Fund Total			\$ 2,261,730	\$ 2,431,655	\$ 2,827,368	16.3%	\$ 2,789,103	-1.4%
439	116-602	Reproduction of Decisions	\$ 845	\$10,300	\$ 7,500	-27.2%	\$ 7,500	0.0%
General Services Fund Group Total			\$ 845	\$ 10,300	\$ 7,500	-27.2%	\$ 7,500	0.0%
<i>Total All Budget Fund Groups</i>			\$ 2,262,575	\$ 2,441,955	\$ 2,834,868	16.1%	\$ 2,796,603	-1.3%

General Revenue Fund

GRF 116-100 Personal Services

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$1,898,534	\$1,997,978	\$2,149,952	\$2,259,296	\$0	\$0
	5.2%	7.6%	5.1%	-100.0%	N/A

Source: GRF

Legal Basis: ORC 5703

Purpose: This line item is being replaced with line item 116-321.

GRF 116-200 Maintenance

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$101,048	\$102,609	\$106,093	\$137,084	\$0	\$0
	1.5%	3.4%	29.2%	-100.0%	N/A

Source: GRF

Legal Basis: ORC 5703

Purpose: This line item is being replaced with lite item 116-321.

GRF 116-300 Equipment

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$51,015	\$123,868	\$5,685	\$35,275	\$0	\$0
	142.8%	-95.4%	520.5%	-100.0%	N/A

Source: GRF

Legal Basis: ORC 5703

Purpose: This line item is being replaced with line item 116-321.

GRF 116-321 Operating Expenses

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$0	\$0	\$0	\$0	\$2,827,368	\$2,789,103
	N/A	N/A	N/A	N/A	-1.4%

Source: GRF

Legal Basis: ORC 5703; replaces 116-100, 116-200, 116-300.

Purpose: This line item provides funding for personal services (including court reporting), maintenance, and equipment for the agency.

General Services Fund Group

439 116-602 Reproduction of Decisions

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$6,910	\$1,120	\$845	\$10,300	\$7,500	\$7,500
	-83.8%	-24.6%	1118.9%	-27.2%	0.0%

Source: GSF: fees for copies of BTA decisions and hearing transcripts; \$0.05 per transcript page.

Legal Basis: Budget Bills and Agency Internal Rule - no authority in ORC or OAC.

Purpose: Moneys are used by the board to offset reproduction costs and purchase small equipment items needed to reproduce printed materials. Fees are charged to both governmental and nongovernmental agencies.