

Liquor Control Commission

House Agriculture and Development Subcommittee

Jeremie Newman, Budget Analyst

Legislative Service Commission

March 4, 2003

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LSC Redbook

for the

Liquor Control Commission

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March 4, 2003

Note: The estimated General Revenue Fund (GRF) spending for FY 2003 used in this LSC Redbook reflects the 2.5% reduction made as a result of the Governor's January 22, 2003 budget cut order. The executive reduction was applied across-the-board to FY 2003 GRF appropriations, subject to certain exceptions. Subsequent to such reductions (and not reflected in the Redbook), state agencies were permitted to reallocate the amount that each of their GRF appropriation line items was reduced, while still absorbing the 2.5% budget cut within the total amount of their GRF appropriations.

Liquor Control Commission

- Commission continues to issue decisions within the 45-day goal (currently 14 days)
- \$2.06 million in forfeitures collected in 2002, with proceeds deposited in the GRF

OVERVIEW

The Liquor Control Commission (LCO) is the rule-making and adjudication agency that oversees the alcohol beverage industry in Ohio. The LCO was originally established as a part of the Department of Liquor Control. The Commission became an independent agency in 1985 and draws its authority from Chapter 4301. of the Revised Code. Its mission is to ensure compliance with Ohio's liquor laws and regulations. The Liquor Control Commission works jointly with the Department of Commerce, Division of Liquor Control, and the Department of Public Safety. The Division of Liquor Control issues and renews all 45 types of liquor permits and maintains the spirituous liquor warehouse. The Department of Public Safety is the enforcement agency that issues citations for any liquor permit violations. The Liquor Control Commission's activities include the following: (1) making and interpreting rules regarding liquor production, sales, advertising, etc, (2) hearing and ruling on cases regarding violations of liquor laws that could result in the suspension or revocation of a liquor permit, (3) hearing and ruling on appeals of decisions of the Division of Liquor Control concerning liquor permit renewals and distribution, and (4) hearing and ruling on appeals of liquor permit revocations and of permit non-renewals due to sales tax delinquency.

The Commission is comprised of three members appointed by the Governor for six-year terms and six full time staff, including an executive director. The bulk of Commission activities are adjudication hearings. Commission staff prepares paperwork prior to hearings and then produces decisions, collateral correspondence and reports. During FY 2002, more than 3,300 hearings were docketed. The number of violations issued by law enforcement authorities primarily drives LCO's caseload. For example, the implementation of local programs such as Stop Teenage Opportunity to Purchase (STOP) has increased the caseload over the last biennium and LCO anticipates this to continue.

One of the goals of the Commission is to streamline and improve service to its internal and external customers. Currently, the Commission is meeting and exceeding its goal of issuing orders 45 days from the date of hearing. Forfeitures, which are collected as a result of Commission orders and deposited in the state General Revenue Fund (GRF), were \$2.06 million in FY 2002. Furthermore, the Commission has been able to provide certified records for more than 165 appeals to county courts of common pleas in a timely manner.

Since the Commission reacts to the activities of the Department of Public Safety, Division of Liquor Control, Attorney General, Department of Taxation, permit holders, and others, it is often difficult to

predict how these associated hearing costs will fluctuate. The cost for hearings is driven by witness fees, court reporters, transcript costs, miscellaneous supplies, sheriff writs and postage/order costs. The LCO holds approximately 44 hearing dates per year.

The Executive's recommendation for the Commission's total budget for FY 2004 is \$779,886, a 3.1% increase over estimated FY 2003 spending of \$756,472. The Executive's recommendation for FY 2005 is \$794,387, a 1.9% increase from FY 2004.

ANALYSIS OF EXECUTIVE PROPOSAL

Liquor Control Commission

Purpose: The mission of the Liquor Control Commission is to provide fair and impartial hearings for the protection of the public and permit holders, and to ensure compliance with the liquor laws and regulations of the Revised Code.

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

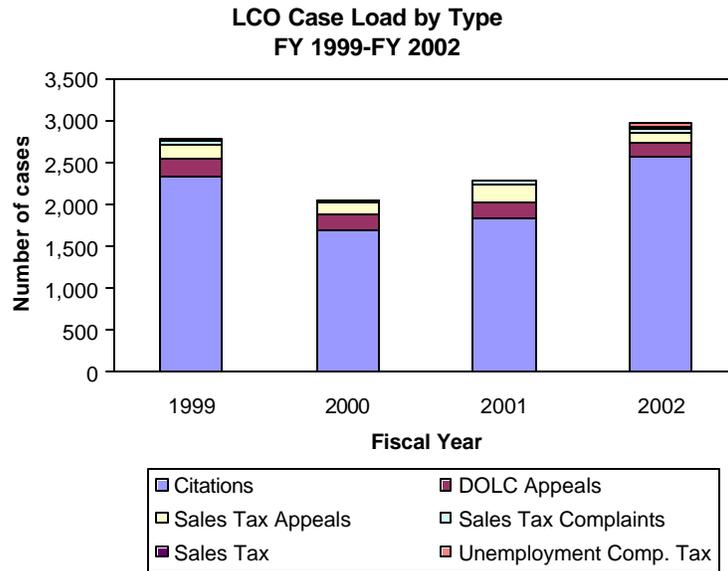
Fund	ALI	Title	FY 2004	FY 2005
043	970-321	Operating Expenses	\$779,886	\$794,387
Total funding: Liquor Control Commission			\$779,886	\$794,387

Adjudication and Rulemaking

Program Description: The Commission hears cases related to violations of state liquor laws that could result in fines or the suspension or revocation of liquor permits. The Commission also hears appeals from either permit holders or communities that object to decisions made by the Department of Commerce’s Division of Liquor Control concerning the renewal and/or distribution of liquor permits. In addition, the Commission hears appeals on the revocation of liquor permits and non-renewals based on failure to pay sales tax.

Hearings, which are the bulk of the Commission’s activities, are extremely paper intensive. Computer usage can and does allow the Commission to handle paper intensive tasks more effectively and efficiently. Recent technological upgrades, such as website enhancement to provide information to permit holders and law enforcement departments within the state to explain procedures of the Commission, have allowed the Commission to streamline and improve its service to customers, internal and external. Payments for Personal Services and Purchased Services comprise 73% of the Commission’s total budget. Purchased Services include the costs of court reporting and the production of transcripts and is directly tied to the number of hearings that are held. In FY 2002, the Commission was able to exceed its goal to issue decisions within 45 days and was able to issue decisions within two weeks.

As the following chart shows, the Commission heard 2,570 citation cases in FY 2002; this is a 28% increase over FY 2001. This increase can be attributed to an increase in local enforcement efforts through programs such as STOP programs. The STOP program has been implemented throughout the state by local enforcement authorities and the Ohio Department of Public Safety-Investigative Unit. This program uses underage confidential informants who attempt to purchase alcohol from permit holders. A liquor agent is also present during this attempt and will issue a violation on the spot if the underage person is allowed to complete the purchase of alcohol. These citations then come before the Commission for a hearing.



Funding Source: Fund 043 Liquor Control- primary sources of revenue include retail and wholesale spirituous liquor sales

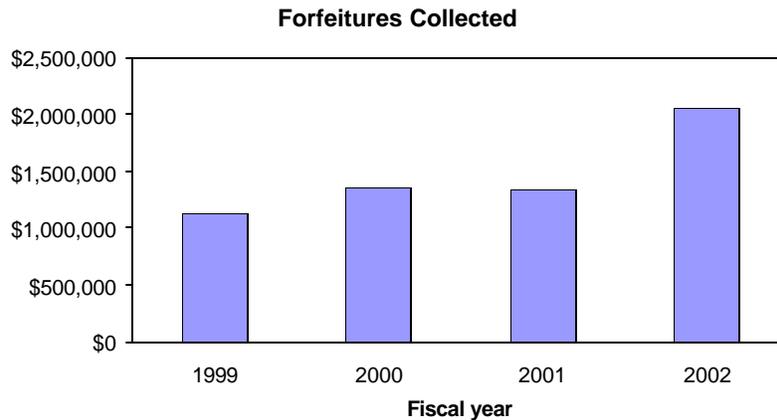
Line Items: Fund 043 970-321, Operating

Implication of the Executive Recommendation: The executive recommendation provides for the base level activities required to maintain the administrative functions of the Commission, including an increase in funding for personal services. However, the recommended funding does not include any funding for equipment and therefore will not allow the Commission to make the technology improvements they requested.

ADDITIONAL FACTS AND FIGURES

Liquor Control Commission Staffing Levels						
Liquor Control Commission	2000	2001	2002	2003	Estimated	
					2004	2005
Adjudication and Rulemaking	9	9	9	9	9	9
Totals	9	9	9	9	9	9

Note: The above figures include three commissioners. Thus, for 2000 through 2005, there are three commissioners and six employees.



Forfeitures collected as a result of Commission orders are deposited in the state General Revenue Fund; any drivers' licenses forfeited in underage liquor sales findings are turned over to the Bureau of Motor Vehicles for investigation. Rulings of the Commission are still subject to appeal in either the Franklin County Common Pleas Court or the court in the county in which the liquor permit is valid.

PERMANENT AND TEMPORARY LAW

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

No permanent or temporary law provisions have been proposed by the Executive.

REQUESTS NOT FUNDED

Liquor Control Commission						
Fund Line Item	FY 2004 Requested	FY 2004 Recommended	Difference	FY 2005 Requested	FY 2005 Recommended	Difference
043 970-321	\$756,472	\$779,886	\$23,414	\$756,472	\$794,387	\$37,915

The Executive's recommendation for FY 2004 is 3.1% higher than the Commission's request and 5.01% higher in FY 2005. The recommendation provides funding for staff salaries, court reporting services, basic supplies, and rental of space at 77 South High Street, and is the level of funding that will enable the Commission to maintain base level activities. The recommendation provides more funding for personal services than was requested in each fiscal year. However, the Commission's request for computer equipment was not funded. The Commission requested \$27,700 in FY 2004 and \$4,500 in FY 2005. The computer equipment requested includes: six Dell computer systems with Office Professional, six Filemaker Pro upgrades for the new personal computers, and one new printer. These six new personal computers would have replaced existing MAC computers that are not compatible with the Commission's partner agencies (Division of Liquor Control, Department of Public Safety, and the Attorney General). According to the Commission, due to the lack of funding for any equipment, they will not be able to initiate any of their technology improvements with this recommended level of funding.

Liquor Control Fund Group

043 970-321 Operating Expenses

2000	2001	2002	2003 Estimate	2004 Executive Proposal	2005 Executive Proposal
\$640,902	\$569,778	\$652,156	\$756,472	\$779,886	\$794,387
	-11.1%	14.5%	16.0%	3.1%	1.9%

Source: LCF: Spirituous liquor sales revenue

Legal Basis: ORC 4301.12 (originally established by Am. Sub. H.B. 215 of the 122nd G.A.)

Purpose: This line item pays for personal, maintenance and equipment costs. Previously, all operating expenses were paid from the GRF in separate line items.

LSC Budget Spreadsheet by Line Item, FY 2004 - FY 2005

<i>Fund</i>	<i>ALI</i>	<i>ALI Title</i>	<i>2002</i>	<i>Estimated 2003</i>	<i>Executive 2004</i>	<i>% Change 2003 to 2004</i>	<i>Executive 2005</i>	<i>% Change 2004 to 2005</i>
LCO Liquor Control Commission								
043	970-321	Operating Expenses	\$ 652,156	\$756,472	\$ 779,886	3.1%	\$ 794,387	1.9%
Liquor Control Fund Group Total			\$ 652,156	\$ 756,472	\$ 779,886	3.1%	\$ 794,387	1.9%
Total All Budget Fund Groups			\$ 652,156	\$ 756,472	\$ 779,886	3.1%	\$ 794,387	1.9%