

Board of Tax Appeals

Senate Finance & Financial Institutions Committee

*Nickie Evans, Economist
Legislative Service Commission*

May 13, 2003

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LSC Redbook

for the

Board of Tax Appeals

Senate Finance & Financial Institutions Committee

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Attachment: *LSC Budget Spreadsheet, Executive to House Comparison*

May 13, 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.

Board of Tax Appeals

- Staffing issues are top concern for Board
- The BTA is funded completely by the State GRF

OVERVIEW

The Board of Tax Appeals (BTA) is an independent, quasi-judicial appellate body established by the legislature. 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. Appeals from county boards of revision regarding real estate valuations can be taken either to the county courts of common pleas or to the Board of Tax Appeals. Appeals from county budget commissioners on the allocation of tax receipts to political subdivisions can also be directly taken 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.

Typical of a small, single-program agency, over 90% of the BTA's budget goes to cover the cost of payroll. Thus, the budget cuts implemented during the current biennium resulted in a steep reduction in the staff employed by the Board. In February 2001 the Board employed 31 full-time equivalent (FTE) employees. With six part time employees, they had 34 people on their payroll. In January 2003, the Board employed only 23.5 FTEs, including only one part-time employee. Included in the staff reduction were two attorney examiner positions.

The BTA is funded entirely by GRF revenues. The executive budget recommends funding for FY 2004 of \$2,245,501. This amount is \$18,056 greater than estimated FY 2003 expenditures, a 0.8% increase. Recommended funding for FY 2005 is \$2,362,383. This amount is \$116,882 greater than FY 2004 recommended appropriations, a 5.2% increase.

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 2004	FY 2005
GRF	116-321	Operating Expenses	\$2,245,501	\$2,362,383
Total funding: Tax Dispute Resolution			\$2,245,501	\$2,362,383

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. For FYs 2000-2002, the average time for completion of a successful mediation process was 12.25 months.

While the program continues to be successful, the percentage of appeals diverted to mediation has dropped dramatically. In FY 2002, only 37% of cases were diverted to mediation. This compares to 43% in FY 2001, and 57% in FY 2000. The majority of the cases accepted for mediation continue to be appeals originating at the county boards of revision.

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 manufacturers. 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: GRF

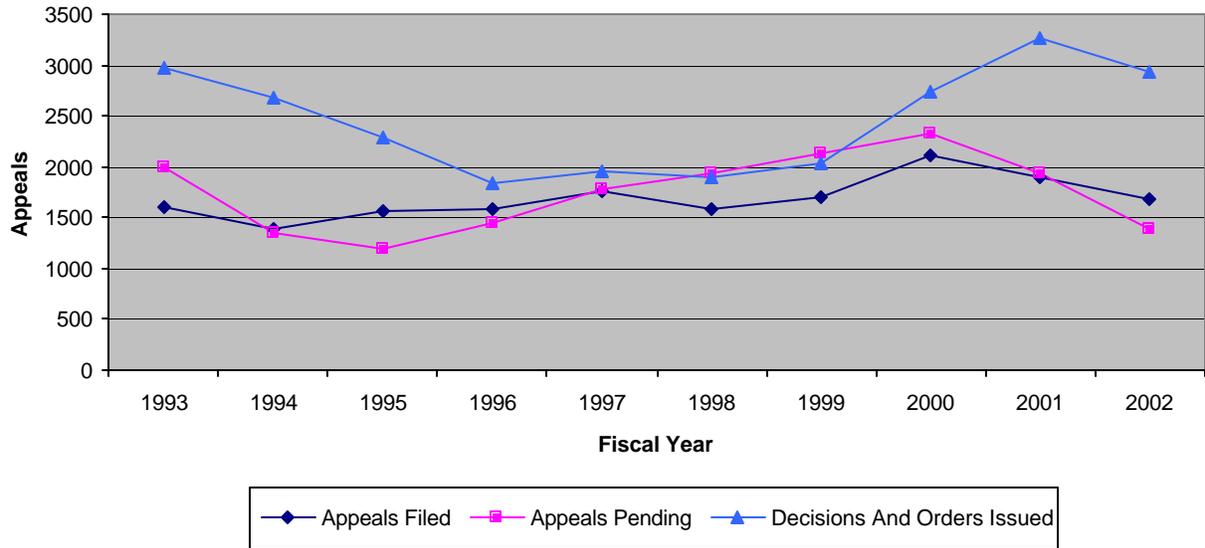
Implication of the Executive Recommendation: The executive recommended funding level would permit the BTA to meet its statutory obligations. However, due to the recent reduction in staff, the agency does have concerns about how timely cases will be processed and terminated.

ADDITIONAL FACTS AND FIGURES

FTE Staffing Levels						
Program Series/Division	2000	2001	2002	2003	Estimated	
					2004	2005
Tax Dispute Resolution	31	31	25.5	23.5	23.5	23.5
Totals	31	31	25.5	23.5	23.5	23.5

- The Board of Tax Appeals has 24 employees; one employee is part time. The three-member Board currently employs 11 FTE attorney examiners and 10 FTE administrative staff members. Due to FY 2002 budget reductions, the BTA reduced its staff by two attorney examiners positions, four interns, and one secretary. In response to budget reductions in FY 2003, the Board chose not to fill two vacancies: an executive secretary position and a part-time attorney examiner position.
- The BTA terminated 2,246 appeals in FY 2002. There were 1,674 new appeals filed during the fiscal year, and 1,383 appeals remain pending at the end of the fiscal year. The majority of the BTA's cases concern valuations of real property and are appeals from the county boards of revision. In fact, in FY 2002, 82.1% of the appeals terminated and 79.1% of the appeals filed stemmed from board of revision action.
- The BTA expects to see an increase in caseload over the upcoming biennium due to sexennial and triennial updates on real property valuations in large counties. Hamilton and Franklin county appeals should continue to arrive at the BTA throughout FY 2003 and FY 2004. Appeals from Cuyahoga, Lucas, Stark, and Lake counties should arrive in FY 2004 and FY 2005.
- Due to an Ohio Supreme Court decision regarding a requirement that decisions made by county boards of appeal be sent to the Tax Commissioner, almost 1,100 cases filed at the BTA were dismissed. Many of these cases are expected to be re-filed. This will also increase the caseload of the BTA.

Cases at the BTA



PERMANENT AND TEMPORARY LAW

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

Permanent Law Provisions

New Procedures Created for Appealing Final Decisions of Municipal Income Tax Administrators (R.C. section 708.11)

The bill provides that appeals from final decisions issued by municipal tax administrators on or after January 1, 2004 should be taken to the Board of Tax Appeals, rather than local boards set up for this purpose. The bill also prohibits courts of common pleas from hearing any appeal from a final decision issued by a municipal tax administrator. This provision of the bill may increase the caseload of the Board of Tax Appeals.

Temporary Law Provisions

There are no 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 2004 Requested	FY 2004 Recommended	Difference	FY 2005 Requested	FY 2005 Recommended	Difference
GRF 116-321	\$2,462,434	\$2,245,501	(\$216,933)	\$2,658,829	\$2,658,829	(\$296,446)

The Board of Tax Appeals sought to hire two additional attorney examiners in the upcoming biennium, one examiner in FY 2004 and another in FY 2005. The two new attorney examiners would replace the two that the BTA lost in the current biennium due to budget cuts. 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.

The Board of Tax Appeals also requested \$82,121 in FY 2004 and \$151,941 in FY 2005 to expand and upgrade the computer network and to purchase a new case tracking system/hearing schedule. This request was not funded in the executive budget.

General Revenue Fund

GRF 116-100 Personal Services

2000	2001	2002	2003 Estimate	2004 House Passed	2005 House Passed
\$2,149,952	\$2,063,411	\$5,418	\$0	\$0	\$0
	-4.0%	-99.7%	-100.0%	N/A	N/A

Source: GRF

Legal Basis: Discontinued line item (originally established by ORC 5703)

Purpose: This line item was replaced with line item 116-321.

GRF 116-200 Maintenance

2000	2001	2002	2003 Estimate	2004 House Passed	2005 House Passed
\$106,093	\$121,796	\$9,019	\$0	\$0	\$0
	14.8%	-92.6%	-100.0%	N/A	N/A

Source: GRF

Legal Basis: Discontinued line item (originally established by ORC 5703)

Purpose: This line item was replaced with line item 116-321.

GRF 116-300 Equipment

2000	2001	2002	2003 Estimate	2004 House Passed	2005 House Passed
\$5,685	\$29,569	\$2,066	\$0	\$0	\$0
	420.1%	-93.0%	-100.0%	N/A	N/A

Source: GRF

Legal Basis: Discontinued line item (originally established by ORC 5703)

Purpose: This line item was replaced with line item 116-321.

GRF 116-321 Operating Expenses

2000	2001	2002	2003 Estimate	2004 House Passed	2005 House Passed
\$0	\$0	\$2,257,761	\$2,171,760	\$2,171,760	\$2,171,760
	N/A	N/A	-3.8%	0.0%	0.0%

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

2000	2001	2002	2003 Estimate	2004 House Passed	2005 House Passed
\$845	\$1,872	\$1,207	\$7,500	\$0	\$0
	121.6%	-35.5%	521.5%	-100.0%	N/A

Source: GSF: Fees for copies of BTA decisions and hearing transcripts

Legal Basis: Discontinued line item

Purpose: The BTA used to charge a fee to individuals and agencies who requested copies of decisions. The money was used to offset reproduction costs and purchase small equipment items needed to reproduce printed materials. The board now posts all decisions on its web site, making requests for decisions rare.

As Introduced

Subject: Municipal Income Tax Appeals

R.C. 5717.011, 5717.03, 718.11

Provides that appeals from final decisions issued by municipal tax administrators should be taken to the Board of Tax Appeals, rather than local boards set up for this purpose. (See also the item titled "Municipal Income Tax -- Tax Appeals" in the Tax Provision section.)

As Passed by the House

R.C. 5717.011, 5717.03, 718.11

No change.

As Introduced

Subject: Transfer to the General Revenue Fund

No provision.

As Passed by the House

Section: 137D

Requires the Director of Budget and Management to transfer the remaining balance of the Reproduction of Decisions Fund (Fund 439 in the General Services Fund Group) to the GRF.

Fiscal effect: The GRF will receive approximately \$18,000 in FY 2004.

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

<i>Fund</i>	<i>ALI</i>	<i>ALI Title</i>	Estimate 2003	As Introduced 2004	House Sub Bill 2004	% Change Est. 2003 to House 2004	As Introduced 2005	House Sub Bill 2005	% Change House 2004 to House 2005
<i>BTA Tax Appeals, Board of</i>									
GRF	116-100	Personal Services	\$0	\$ 0	\$ 0	N/A	\$ 0	\$ 0	N/A
GRF	116-200	Maintenance	\$0	\$ 0	\$ 0	N/A	\$ 0	\$ 0	N/A
GRF	116-300	Equipment	\$0	\$ 0	\$ 0	N/A	\$ 0	\$ 0	N/A
GRF	116-321	Operating Expenses	\$2,171,760	\$ 2,245,501	\$ 2,171,760	0.0%	\$ 2,362,383	\$ 2,171,760	0.0%
General Revenue Fund Total			\$ 2,171,760	\$ 2,245,501	\$ 2,171,760	0.0%	\$ 2,362,383	\$ 2,171,760	0.0%
439	116-602	Reproduction of Decisions	\$7,500	\$ 0	\$ 0	-100.0%	\$ 0	\$ 0	N/A
General Services Fund Group Total			\$ 7,500	\$ 0	\$ 0	-100.0%	\$ 0	\$ 0	N/A
<i>Total All Budget Fund Groups</i>			\$ 2,179,260	\$ 2,245,501	\$ 2,171,760	-0.3%	\$ 2,362,383	\$ 2,171,760	0.0%