

Liquor Control Commission

Senate Finance and Financial Institutions Committee

Jason Phillips, Budget Analyst

Legislative Service Commission

April 20, 2005

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LSC Redbook for the Liquor Control Commission

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April 20, 2005

Liquor Control Commission

- Docketed and heard more than 2,700 hearings in FY 2004
- \$1.67 million in forfeitures collected in FY 2004, with proceeds deposited in the GRF

OVERVIEW

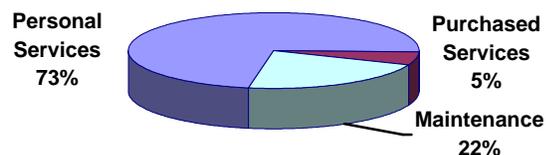
The Liquor Control Commission (LCO) is the rule-making and adjudication agency that oversees the alcohol beverage industry in Ohio. The LCO was originally established as a part of the Department of Liquor Control. The Commission became an independent agency in 1985 and draws its authority from Chapter 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 Division of Liquor Control in the Department of Commerce, the Attorney General’s office 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: (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 tax delinquency. The Liquor Control Commission receives its funding from the Liquor Control Fund (Fund 043), which is administered by the Division of Liquor Control within the Ohio Department of Commerce and supported through the sale of spirituous liquor. Less than 1% of the revenues received from the sale of spirituous liquor went to fund Liquor Control Commission operations in FY 2004.

Executive Recommendation for FYs 2006-2007

The Executive’s recommendation for the Commission’s total budget for FY 2006 is \$818,219, a 3.0% increase over estimated FY 2005 spending of \$794,387. The Executive’s recommendation for FY 2007 is \$842,765, a 3.0% increase over the FY 2006 amount.

As the adjacent pie chart indicates, expenditures for personal services and purchased services comprise 78% of the Commission’s total budget. Purchased services include the costs of court reporting and the production of transcripts and are directly tied to the number of hearings that are held. While the Executive allows for an increase in purchased service spending,

FY 2006-2007 Recommended Funding by Object Code



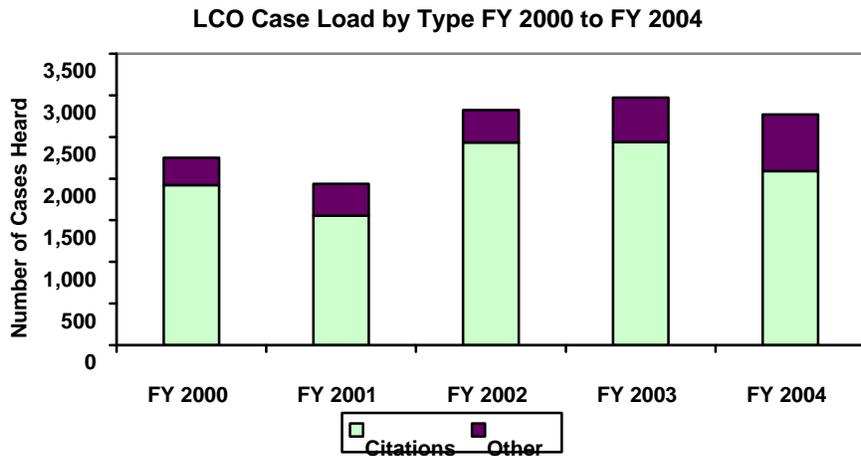
this amount is actually a reduction in comparison to what the Commission requested in previous years for court reporting costs. During this time, there was also a need to reallocate dollars to cover increased personnel costs and DAS charges. For FYs 2006-2007, the Executive recommends slight increases in personnel services of 1.3% in FY 2006 and 3.6% in FY 2007. The same is also true in recommended purchased services spending, with increases of 1.7% in FY 2006 and 1.6% in FY 2007. The Commission expects to carefully monitor expenditures in these areas with the goal of handling the 4% collective bargaining pay increase within the recommended funding level.

FY 2005 Appropriation and Actual Spending

Estimated expenses for FY 2005 are \$794,387, or 17.5% higher than FY 2004 spending of \$676,257. Three factors explain the increase between these years. First, the Commission reports that roughly \$30,000 of the difference resulted from paying a former Hearings Bailiff who went on disability retirement 50% of her salary and fringe benefits for the majority of FY 2004. Second, \$22,000 encumbered in FY 2004 for equipment was not paid until FY 2005 and would not have appeared as an FY 2004 expenditure, although it was incurred then. Third, the largest portion of the rest of the difference resulted from a smaller number of cases being appealed to court (from 138 in FY 2003 to 66 in FY 2004), which saved money in terms of procuring fewer transcripts as a result of the reduced number of hearings.

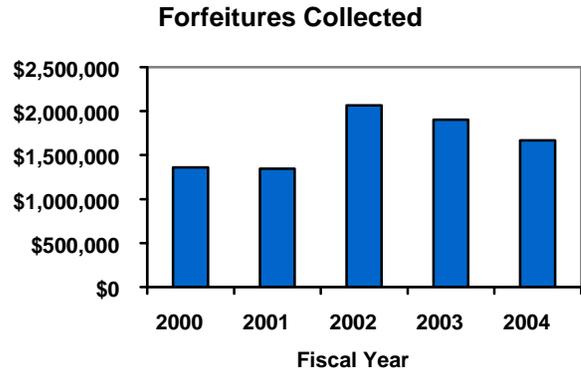
Adjudication Hearings

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 2004, more than 2,700 hearings were docketed and heard. The number of violations issued by law enforcement authorities primarily drives the Commission’s caseload. For example, the Commission believes that the continued success of local law enforcement programs such as Stop Teenage Opportunity to Purchase (STOP) will slightly decrease the caseload over the next biennium. The chart below illustrates that citation cases comprise the vast majority of the Liquor Control Commission’s caseload. In the chart, “Other” includes Division of Liquor Control appeals, sales tax appeals, sales tax complaints, unemployment compensation cases, and Bureau of Workers Compensation payment issues involving permit holders. In FY 2004, the Commission was able to exceed its goal to issue decisions within 45 days and was able to issue the vast majority of decisions within two weeks



Forfeiture Collections

Forfeitures, which are collected as a result of Commission orders and deposited in the General Revenue Fund (GRF), amounted to \$1,668,600 in FY 2004. While the Commission states that it cannot predict the amount of forfeitures ordered or collected, recent experience suggests they may continue to decline. The Commission cited better adherence to the prohibition of selling to underage persons by permit holders and recent legislation that allowed for some permit holders to get licenses for charitable gambling. As long as the permit holders licensed for charitable gambling adhere to the law, the Commission anticipates a corresponding reduction in gambling cases and resulting forfeitures.



Lower Number of Certified Records

In addition to lower amounts of forfeitures resulting from better adherence to the law, the Commission has provided fewer numbers of certified records to courts of common pleas. In FY 2004, the Commission provided certified records for 66 appeals to the common pleas courts, a decrease from 138 records in FY 2003 and 165 records in FY 2002. This decrease reflects a reduction in the number of revocations ordered by the Commissioners and increased compliance with Ohio’s liquor laws by permit holders and their employees.

Additional FYs 2006-2007 Budget Issues

As stated previously, adjudication hearings account for most of the Commission’s activities. As such, the Commission staff prepares extensive amounts of paperwork prior to hearings to assist the Commissioners in conducting the hearings and issues decisions upon completion of the hearing. Though the locally administered STOP program and a change in gambling laws have decreased slightly the number of citation hearings, the Commission now has two new dockets: one for corporate franchise taxes and another for workers’ compensation payments owed by permit holders. The Commission expects the new tax dockets to increase over the next biennium, due in part to the additional tax deficiencies referred to the Commission for hearing. However, the Commission is unsure whether there will be a net increase or decrease in the total number of cases docketed.

The Commission states that its foremost challenges are absorbing large increases in employee fringe benefits as well as higher DAS charges for central support services. A continuing goal in enhancing the efficiency of the Commission is to share information via computer technology with its partner agencies: the Division of Liquor Control within the Department of Commerce, the Attorney General’s Liquor Unit, and the Department of Public Safety’s Investigative Unit. The Commission is already sharing databases with the Division of Liquor Control and intends to link in the other two agencies during FY 2005 and FY 2006. The Commission states that this will dramatically enhance the efficiency of the respective agencies since it allows Commission staff to search for information without the need to contact staff from one of the other agencies. In addition, other agencies will be able to access information from the Commission’s databases without Commission assistance, reducing Commission staff time devoted to researching such matters.

STAFFING LEVELS

| Liquor Control Commission Staffing Levels | | | | | | |
|---|------|------|------|------|-----------|------|
| Program Series/Division | 2002 | 2003 | 2004 | 2005 | Estimated | |
| | | | | | 2006 | 2007 |
| Commissioners | 3 | 3 | 3 | 3 | 3 | 3 |
| Administrative Staff | 6 | 6 | 6 | 6 | 6 | 6 |
| Totals | 9 | 9 | 9 | 9 | 9 | 9 |

The Governor recently appointed a new commissioner to replace the outgoing vice chair. The new commissioner will receive \$24.04 per hour, a slightly higher salary than the former vice chair, who received \$23.05 per hour. However, the increase would seem to have little impact on the agency's budget for FYs 2006-2007.

The Commission currently has a vacant hearings bailiff position. If the Commission were to eliminate the vacant hearings bailiff position and re-classify the responsibilities of the remaining three bargaining unit employees to administrative assistant to include a share of the duties previously performed by the former hearings bailiff, the Commission would save approximately \$76,455 over the biennium according to salary figures supplied by the Central Services Agency.

However, this plan is contingent upon the approval of the Department of Administrative Services and the Office of Budget and Management. If the plan were not approved, the Commission would not be able to divide the responsibilities of the former hearings bailiff among the remaining staff due to the employees' current job descriptions and the OCSEA collective bargaining contract.

ANALYSIS OF EXECUTIVE PROPOSAL

Liquor Control Commission

State Liquor Law Hearings

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 the Liquor Control Commission, as well as the Governor’s recommended funding levels.

| Fund | ALI | Title | FY 2006 | FY 2007 |
|---|---------|--------------------|------------------|------------------|
| Liquor Control Fund | | | | |
| 043 | 970-321 | Operating Expenses | \$818,219 | \$842,765 |
| Total Funding: Liquor Control Commission | | | \$818,219 | \$842,765 |

Liquor Control Hearings

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 taxes.

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

Line Items: Fund 043, 970-321

Implication of Executive Recommendation: The executive recommendation fully funds the Liquor Control Commission’s budget request for the FY 2006-2007 biennium. The amount recommended includes funding above FY 2005 levels to retain all six staff positions. Furthermore, the executive recommendation allows the Commission to continue its database partnership with the Department of Commerce, the Department of Public Safety, and the Attorney General’s office, and to enhance the Commission’s web site to include hearing and rule-related information for the public, the liquor industry, and other state agencies.

Temporary and Permanent Law Provisions: None

REQUESTS NOT FUNDED

The executive recommendation fully funds the Liquor Control Commission's budget request for the FY 2006-2007 biennium. The amount recommended includes funding above FY 2005 levels to retain all six staff positions.

Liquor Control Fund Group

043 970-321 Operating Expenses

| 2002 | 2003 | 2004 | 2005 Estimate | 2006 House Passed | 2007 House Passed |
|-----------|-----------|-----------|------------------|----------------------|----------------------|
| \$652,156 | \$721,639 | \$676,217 | \$794,387 | \$781,181 | \$803,348 |
| | 10.7% | -6.3% | 17.5% | -1.7% | 2.8% |

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 the Liquor Control Commission to fulfill its single-program mission of ensuring fair and impartial hearings for the protection of the public and liquor permit holders. Expenses include personnel, maintenance, and equipment costs. Prior to calendar year 1997, all operating expenses were paid from the GRF in separate line items.

LSC Budget Spreadsheet by Line Item, FY 2006 - FY 2007

| <i>Fund</i> | <i>ALI</i> | <i>ALI Title</i> | <i>Estimated 2005</i> | <i>As Introduced 2006</i> | <i>House Passed 2006</i> | <i>% Change Est. 2005 to House 2006</i> | <i>As Introduced 2007</i> | <i>House Passed 2007</i> | <i>% Change House 2006 to House 2007</i> |
|--|------------|--------------------|---------------------------|-----------------------------------|------------------------------|---|-----------------------------------|------------------------------|--|
| LCO Liquor Control Commission | | | | | | | | | |
| 043 | 970-321 | Operating Expenses | \$794,387 | \$ 818,219 | \$ 781,181 | -1.7% | \$ 842,765 | \$ 803,348 | 2.8% |
| Liquor Control Fund Group Total | | | \$ 794,387 | \$ 818,219 | \$ 781,181 | -1.7% | \$ 842,765 | \$ 803,348 | 2.8% |
| Total All Budget Fund Groups | | | \$ 794,387 | \$ 818,219 | \$ 781,181 | -1.7% | \$ 842,765 | \$ 803,348 | 2.8% |