

Liquor Control Commission

House Agriculture and Development Subcommittee

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LSC Redbook
for the
Liquor Control Commission
House Agriculture and Development Subcommittee

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March 22, 2007

Liquor Control Commission

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- Docketed and heard nearly 2,500 hearings in FY 2006
 - \$729,900 in forfeitures collected in FY 2006, 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 Commission is comprised of three members appointed by the Governor for six-year terms and five full-time staff, including an executive director. The LCO was originally established as a part of the Department of Liquor Control, becoming an independent agency in 1985. Drawing its authority from Chapter 4301. of the Revised Code, its mission is to ensure compliance with Ohio's liquor laws and regulations. LCO 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 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.

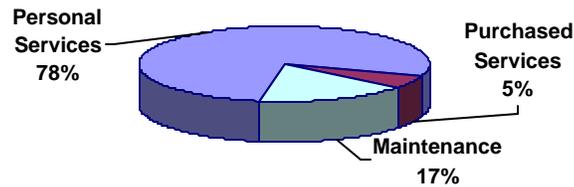
The Commission's activities include: (1) making and interpreting rules regarding liquor production, sales, advertising, etc., (2) hearing and ruling on cases regarding violations of liquor laws that could result in the suspension or revocation of a liquor permit, (3) hearing and ruling on appeals of 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 nonrenewals 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 2006.

Executive Recommendation for FYs 2008-2009

The executive's recommendation for FY 2008 is \$743,093, which is a 6.1% increase over estimated FY 2007 spending. The executive's recommendation for FY 2009 is \$772,524, a 4.0% increase over the FY 2008 amount. Overall, the Commission expects to be able to maintain current service levels at the recommended amounts. However, absorbing any increased costs for such items as court reporting services and transcripts and other expenses that vary with the Commission's caseload may pose a challenge in the upcoming biennium.

As the pie chart below 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. For FYs 2008-2009, the executive recommends slight increases in personnel services spending of 5.1% in FY 2008 and 3.9% in FY 2009.

FY 2008-2009 Recommended Funding by Object Code

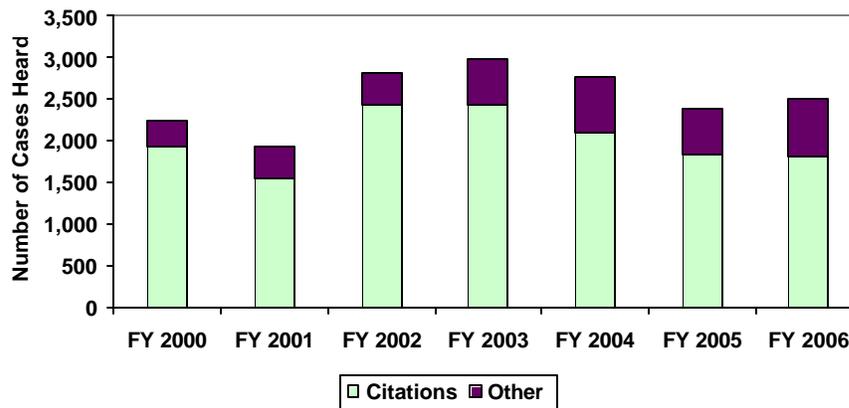


Summary of Budget Issues

Adjudication Hearings

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 2006, over 2,500 cases were docketed and heard. Beginning in calendar year (CY) 2006, the Commission added three hearing days to its docket for the year, increasing the number of hearing days from 45 to 48 in order to better clear caseload backlog. The number of violations issued by law enforcement authorities primarily drives the Commission's caseload. The chart below illustrates that citation cases comprise the vast majority of the LCO's caseload. The "Other" category includes Division of Liquor Control appeals, sales tax appeals, sales tax complaints, unemployment compensation cases, and Bureau of Workers' Compensation (BWC) payment issues involving permit holders. In FY 2006, the Commission was able to exceed its goal to issue decisions within 45 days, issuing the vast majority of decisions within two weeks

LCO Case Load by Type, FY 2000 to FY 2006

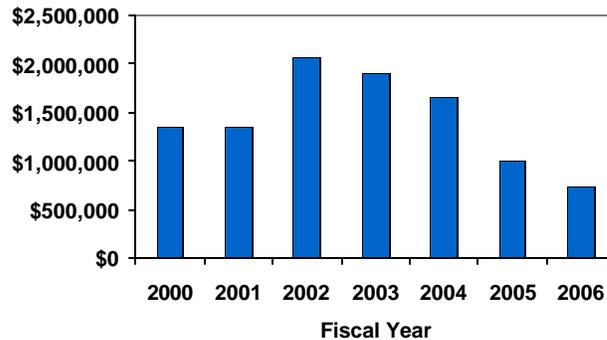


Forfeiture Collections

Forfeitures, which are collected as a result of Commission orders and deposited in the General Revenue Fund (GRF), amounted to \$729,900 in FY 2006. The chart below illustrates that the amount in forfeitures collected has declined since FY 2002, when \$2.06 million was collected and deposited into the GRF. While the Commission cannot predict the amount of forfeitures ordered or collected, the philosophy of the Commission has changed in regard to the magnitude of forfeitures. So, while the number of forfeitures has remained stable, the Commissioners have reduced the amounts that permit

holders must pay when they opt for forfeiture. Additionally, the Commission cites a larger portion of offenders opting to have their license suspended rather than pay the forfeiture as contributing to the overall decline.

Forfeitures Collected, FY 2000 to FY 2006



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 2006, the Commission provided certified records for 42 appeals. This compares to 57 in FY 2005, 66 in FY 2004, and 138 in FY 2003. 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 Issues

The Commission states that its foremost challenge is to continue improving efficiency with limited resources as large increases in employee fringe benefit costs as well as higher Department of Administrative Services (DAS) charges for central support services will require the Commission to do more with less in other spending areas. Two other items are noteworthy.

First, as stated previously, adjudication hearings account for most of the Commission's activities. 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. One of the Commission's two newest dockets, workers' compensation, has seen a marked increase in the number of cases between FY 2005 and FY 2006. This docket involves cases where permit holders owe BWC premium payments. The Commission heard 131 cases in its BWC docket in FY 2006 compared with just 46 in FY 2005. These cases, along with an increase in sales tax appeal cases, accounted for much of the growth in the Commission's caseload in FY 2006.

Second, 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 using the Liquor Law Enforcement (OLLE) database, which is hosted and supported by the Department of Public Safety, for citation cases as well as for printing citation case dockets and witness lists. The Commission's annual share of the fees for OLLE is estimated to be approximately \$8,333 per fiscal year in the upcoming biennium. Offsetting this cost, however, is the fact that the database will reduce paperwork and staff down time and 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

The three appointed commissioners have six-year terms and appointments are staggered every two years. Commissioners' salaries are fixed by the Governor's office and only increase when appointments are made. There will be a Commissioner appointed in FY 2009, but the Commission has no control over pay rate of the new or reappointed Commissioner. The Commission has made assumptions regarding Commissioners' salaries, but if a Commissioner retires or resigns before the appointment is completed, it can result in unanticipated increases in payroll.

Liquor Control Commission Staffing Levels						
Program Series/Division	2004	2005	2006	2007	Estimated	
					2008	2009
Commissioners	3	3	3	3	3	3
Administrative Staff	6	6	5	5	5	5
Totals	9	9	8	8	8	8

ANALYSIS OF EXECUTIVE PROPOSAL

Single Program Series

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 2008	FY 2009
Liquor Control Fund				
043	970-321	Operating Expenses	\$743,093	\$772,524
Liquor Control Fund Subtotal			\$743,093	\$772,524
Total Funding: Liquor Control Commission			\$743,093	\$772,524

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 nonrenewals based on failure to pay taxes or workers' compensation premiums.

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

Line Items: Fund 043, 970-321, Operating Expenses

Implication of Executive Recommendation: The executive recommendation does not fully fund the Commission's budget request for the FY 2008-2009 biennium. The Commission reports that it will likely be able to maintain current service levels at the recommended amounts. However, the Commission's caseload varies from year to year and because of this, Commission costs for such items as court reporting services and transcripts, writs served, and witness reimbursements also are somewhat uncertain. At the recommended amounts, absorbing increased costs for these expenses and other charges, such as those for DAS services, would likely be difficult. In response, the Commission may have to consider the reclassification of one current position to a lower salary and/or decrease the number of hearing days. Nevertheless, the Commission's line item enables it to shift funding among categories of expenses such as personal services, purchased services, and maintenance, which allows the Commission flexibility in prioritizing expenses.

Temporary and Permanent Law Provisions

None

REQUESTS NOT FUNDED

Liquor Control Commission - Operating Expenses						
Fund Line Item	FY 2008 Requested	FY 2008 Recommended	Difference	FY 2009 Requested	FY 2009 Recommended	Difference
043 970-321	\$803,348	\$743,093	(\$60,255)	\$831,974	\$772,524	(\$59,450)

The executive recommendation does not fully fund the Liquor Control Commission's budget request for the FY 2008-2009 biennium. The Commission reports that it will likely be able to maintain current service levels at the recommended amounts. However, the Commission's caseload varies from year to year and because of this, Commission costs for such items as court reporting services and transcripts, writs served, and witness reimbursements also are somewhat uncertain. At the recommended amounts, absorbing increased costs for these expenses and other charges, such as those for DAS services, would likely be difficult. In response, the Commission may have to consider the reclassification of one current position to a lower salary and/or decrease the number of hearing days. Nevertheless, the Commission's line item enables it to shift funding among categories of expenses such as personal services, purchased services and maintenance, which allows the Commission flexibility in prioritizing expenses.

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Liquor Control Fund Group

043 970-321 Operating Expenses

2004	2005	2006	2007 Estimate	2008 Executive Proposal	2009 Executive Proposal
\$676,217	\$683,353	\$668,006	\$700,533	\$743,093	\$772,524
	1.1%	-2.2%	4.9%	6.1%	4.0%

Source: LCF: Spirituous liquor sales revenue

Legal Basis: ORC 4301.12; Section 325.10 of H.B. 119 of the 127th G.A. (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 2008 - FY 2009

<i>Fund</i>	<i>ALI</i>	<i>ALI Title</i>	<i>2006</i>	<i>Estimated 2007</i>	<i>Executive 2008</i>	<i>% Change 2007 to 2008</i>	<i>Executive 2009</i>	<i>% Change 2008 to 2009</i>
LCO Liquor Control Commission								
043	970-321	Operating Expenses	\$ 668,006	\$700,533	\$ 743,093	6.1%	\$ 772,524	4.0%
Liquor Control Fund Group Total			\$ 668,006	\$ 700,533	\$ 743,093	6.1%	\$ 772,524	4.0%
Total All Budget Fund Groups			\$ 668,006	\$ 700,533	\$ 743,093	6.1%	\$ 772,524	4.0%