

# **Cultural Facilities Commission**

**Senate Finance and Financial Institutions Committee**

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Legislative Service Commission*

*May 11, 2007*

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**LSC Redbook**  
**for the**  
**Cultural Facilities Commission**  
**Senate Finance and Financial Institutions Committee**

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*May 11, 2007*

# Cultural Facilities Commission

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- The Executive Recommendation decreases FY 2008 appropriations by 4.2% from the FY 2007 estimate
- The Commission currently manages 255 projects statewide representing capital appropriations of over \$480 million

## OVERVIEW

The Ohio Cultural Facilities Commission was established in 1988, as the Ohio Arts Facilities Commission, to provide for the development, performance, and presentation of the arts in Ohio. Over the years, the responsibilities of the Commission have been expanded by the legislature to include funding oversight for projects at science and technology museums, local historical facilities, state historical sites, arts education facilities, and publicly owned professional sports venues.

The Commission's mission is to ensure wise stewardship of over \$480 million in state capital improvement funds appropriated by the General Assembly and the Governor for planning, construction, renovation, and expansion at over 250 projects in 65 counties statewide. The General Assembly and Governor assign projects to the Commission in the state's biennial capital appropriations bills. The Commission reports to the Governor and General Assembly on the need for any additional facilities, and conducts reviews to ensure that uses of Ohio cultural facilities are consistent with statewide interests and the Commission's purposes. After a project is assigned to the Commission, the staff works with communities and local project sponsors to assist them through required processes. These include project management assistance, funding administration, and contract oversight.

The Commission consists of nine members appointed by the Governor and three nonvoting members, consisting of one member each from the Senate and the House of Representatives and the Executive Director of the Ohio Arts Council. The Commission's full-time staff of nine employees includes the Executive Director, Assistant Director/Chief Operating Officer, Operations Coordinator, Chief Project Manager, Communications Manager, and Fiscal Officer, with three project managers. In addition, the Commission has hired two part-time interns to assist in its work.

Executive recommended funding for FY 2008 totals \$37,845,031 (a decrease of 4.2% from estimated FY 2007 spending levels). Recommended funding for FY 2009 is \$38,695,931 (2.2% above FY 2008 appropriation levels).

## Summary of FYs 2008-2009 Budget Issues

### Project Portfolio

As of March 8, 2007, the Cultural Facilities Commission's project portfolio consisted of 255 projects, appropriations for which total more than \$483 million. Under the most recent capital appropriations bill, Am. Sub. H.B. 699 of the 126th General Assembly, the Commission was appropriated another \$55.3 million for 100 community projects. Of these 100 projects, 50 are brand new to the Commission.

The table below shows the total appropriations that have been made for each category of funding overseen by the Cultural Facilities Commission through FY 2006.

| Cultural Facilities Commission – Total Capital Project Appropriations by Type |                 |                      |
|---|-----------------|----------------------|
| Category  | No. of Projects | Total Appropriations |
| State Historical Facilities   | 60              | \$60,335,524         |
| Cultural Facilities   | 172             | \$242,460,226        |
| Sports Facilities   | 8               | \$135,640,605        |
| Aronoff Center for the Arts*  | 1               | \$40,000,000         |
| General Revenue Fund Capital Projects   | 14              | \$4,604,279          |
| <b>Total</b>  | <b>255</b>      | <b>\$484,040,634</b> |

\*The Aronoff Center was the first project undertaken upon the Commission's creation. It was funded separately and was completed in 1995.

### Legislative Changes

Legislative changes made in the 126th General Assembly that affect operations at the Cultural Facilities Commission include:

#### Change in Definition of State Historical Sites

Am. Sub. H.B. 16 of the 126th General Assembly changed the definition of a state historical site. Previously, such a site or facility was defined as being of "archaeological, architectural, environmental, or historical interest or significance, or a facility . . . appurtenant to the operations of such a site or facility, that is owned by or is located on real property owned by the state or by a cultural organization . . ." The bill changed this definition to a site or facility that is "created, supervised, operated, protected, maintained, and promoted by the Ohio Historical Society," the title to which must reside wholly or in part with the state or with the society (or both), and that is managed directly by, or is subject to a cooperative agreement with, the Ohio Cultural Facilities Commission and is used for or in connection with the activities of the Commission. The change simplified the definition to allow facilities owned by the Ohio Historical Society to be funded through state appropriations regardless of whether they are adjacent to state property.

#### Change in the Issuer of Bonds for Use by the Commission

Am. Sub. H.B. 16 of the 126th General Assembly also transferred the authority to issue bonds for capital costs associated with cultural and sports facilities from the Ohio Building Authority (OBA) to the Treasurer of State. Bonds issued by the OBA for Commission projects required that the state enter into long-term leases with property owners for the time periods under which the bonds were being repaid. According to the Commission, some project sponsors had concerns with this requirement. Bonds issued

by the Treasurer of State, however, do not require a similar lease agreement. As a result, the Commission is now permitted to enter into Cooperative Use Agreements with property owners, rather than long-term leases.

Cooperative Use Agreements allow the Commission to expend bond funds for community projects without having a leasehold interest in the property. Although this change resulted in the state being a general creditor, and not being in a primary position with respect to the real property, the Cooperative Use Agreement is similar in nature to the Joint Use Agreement currently used by higher education institutions. The state, therefore, already takes a certain amount of risk entering into these agreements every time a community capital project receives an appropriation through higher education.

The Commission anticipates that the use of Cooperative Use Agreements will act as a step towards reducing "venue shopping." Venue shopping occurs when local project sponsors seek to have their capital appropriation moved from the Commission to another funding agency in order to avoid certain requirements. For project sponsors that object only to the former requirement that property owners lease their facilities to the state, Cooperative Use Agreements may help to alleviate this concern.

Cooperative Use Agreements do not change other legislatively imposed statutory standards in use by the Commission. For example, cultural projects receiving state funding are required to match \$1 for every \$2 of state funding received. Also, the Commission is statutorily required to determine that there is a need for a project prior to releasing state funds for the project. The Commission accomplishes this by determining that the property will be used for the presentation or making available of culture to the public. Project sponsors are required to demonstrate, through a project financial review, that they possess adequate resources to fund the project in its entirety, and through an organizational financial review, that they will have an open and operable facility at the completion of project construction (and beyond) so that the property will present or make culture available to the public.

### **Changes in Membership of the Ohio Cultural Facilities Commission**

House Bill 66 of the 126th General Assembly increased the number of members on the Commission from ten to twelve, in turn increasing the number of voting members from seven to nine, and the number needed for a quorum from four to five. The initial terms of the two new members are set to expire December 31, 2007 and December 31, 2008.

### **Delegation of Approvals to the Executive Director**

Am. Sub. H.B. 699 of the 126th General Assembly added a provision allowing the Commission to delegate to the Executive Director the authority to approve (but not disapprove) the provision of construction and general building services for certain projects receiving a capital appropriation of \$50,000 or less. This provision is intended to allow the Commission to focus on larger and more complex projects at its quarterly meetings where local sponsors may have to appear.

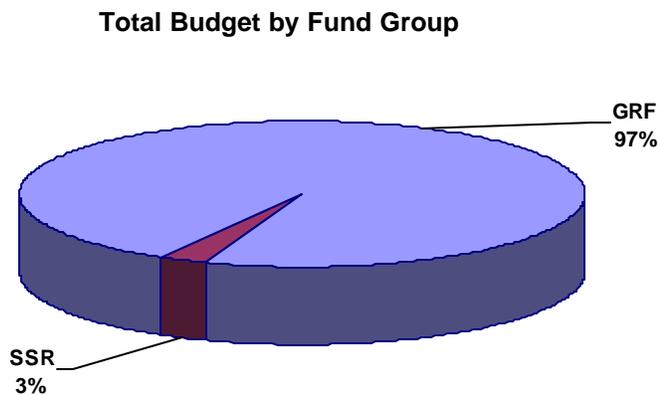
### **Tennis Facilities**

Am. Sub. H.B. 699 of the 126th General Assembly amended the definition of a sports facility to include facilities used primarily to host professional tennis tournaments. The bill also made the first appropriation under this provision in the form of \$1.3 million for the Mason ATP Tennis Center.

## Summary of Executive Recommendations for FYs 2008-2009

The operating budget for the Ohio Cultural Facilities Commission is used for administrative expenses associated with managing the various capital projects it supervises throughout the state and for debt service on bonds issued to finance those projects. The GRF comprises 97% of the Commission's appropriations, consisting mainly of debt service payments for obligations on capital expenditures. A small portion of GRF funds go towards agency operating expenses. Funds from the State Special Revenue Fund Group (SSR) make up the remaining 3% of Commission appropriations.

The largest object of expense is Transfer & Other as a result of the debt service payments appropriated from the GRF. Personal Services is the largest nondebt service object of expense, supporting payroll for 9.5 FTEs.



| Total Budget by Object of Expense |  |               |
|-----------------------------------|--|---------------|
| Object of Expense                 | Total 2008-2009 Appropriations (approx.) | Percentage    |
| Personal Services                 | \$1,634,000                              | 2.1%          |
| Purchased Services                | \$282,000                                | 0.3%          |
| Maintenance                       | \$544,000                                | 0.7%          |
| Equipment                         | \$20,000                                 | 0.02%         |
| Transfer & Other                  | \$74,061,000                             | 96.7%         |
| <b>Total</b>                      | <b>\$76,541,000</b>                      | <b>100.0%</b> |

## Staffing Levels

Due to decreases in appropriations for Commission operating expenses in the last biennium, staffing has remained flat. The Commission anticipates an increasing workload over the next biennium as projects approved in the last capital budget begin to move forward and require the management services the Commission staff provides.

| Ohio Cultural Facilities Commission Staffing Levels – Funded FTEs |          |          |            |            |            |            |
|---|----------|----------|------------|------------|------------|------------|
| Program Series/Division   | 2004     | 2005     | 2006       | 2007       | Estimated  |            |
|   |          |          |            |            | 2008       | 2009       |
| OCFC Operations   | 9        | 9        | 9.5        | 9.5        | 9.5        | 9.5        |
| <b>Totals</b>   | <b>9</b> | <b>9</b> | <b>9.5</b> | <b>9.5</b> | <b>9.5</b> | <b>9.5</b> |

## ANALYSIS OF EXECUTIVE PROPOSAL

### Single Program Series

### Ohio Cultural Facilities Commission Operations

**Purpose:** The Ohio Cultural Facilities Commission is charged with protecting state capital investments by determining the need for facilities and determining that there is sufficient local/regional support prior to making expenditures for a facility. The Commission enters into long-term leases and management agreements (for projects funded with bonds issued in 2004 or prior) or cooperative-use agreements (for projects funded with bonds issued after July 1, 2005) with the owners of facilities and local project sponsors, and is charged with managing and assessing these projects.

The following table shows the line items that are used to fund the Ohio Cultural Facilities Commission, as well as the Governor's recommended funding levels.

| Fund                                       | ALI     | Title                               | FY 2008             | FY 2009             |
|--|---------|-------------------------------------|---------------------|---------------------|
| <b>General Revenue Fund</b>                |         |                                     |                     |                     |
| GRF  | 371-321 | Operating Expenses                  | \$176,136           | \$176,136           |
| GRF  | 371-401 | Lease Rental Payments               | \$36,604,600        | \$37,455,500        |
| <b>General Revenue Fund Subtotal</b>       |         |                                     | <b>\$36,780,736</b> | <b>\$37,631,636</b> |
| <b>State Special Revenue Fund</b>          |         |                                     |                     |                     |
| 4T8  | 371-601 | Riffe Theatre Equipment Maintenance | \$81,000            | \$81,000            |
| 4T8  | 371-603 | Project Administration              | \$983,295           | \$983,295           |
| <b>State Special Revenue Fund Subtotal</b> |         |                                     | <b>\$1,064,295</b>  | <b>\$1,064,295</b>  |
| <b>Total Funding: OCFC Operations</b>      |         |                                     | <b>\$37,845,031</b> | <b>\$38,695,931</b> |

Included within the program series are the following:

- **Program 01.01: Ohio Cultural Facilities Commission Operations**
- **Program 01.02: Debt Service**

### Ohio Cultural Facilities Commission Operations

**Program Description:** The Ohio Cultural Facilities Commission oversees capital improvement funds appropriated by the General Assembly and Governor for planning, construction, renovation, and expansion projects at Ohio's nonprofit theatres, museums, historical sites, and publicly owned professional sports venues. The Commission partners with nonprofit organizations and local governments to administer these community projects. In addition, the Commission is responsible for managing the Riffe Center theatres, for which it contracts with the nonprofit performing arts organization CAPA. The state does not pay CAPA for its management services.

**Funding Source:** GRF, equipment and Riffe Center theatre ticket fees, and revenue bond interest

**Line Items:** 371-321, Operating Expenses; 371-401, Lease Rental Payments; 371-601, Riffe Theatre Equipment Maintenance; and 371-603, Project Administration

**Implication of Executive Recommendation:** Decreased funding to the GRF line item 371-321 may result in further extending work hours for the Commission's staff to handle the growth in the project portfolio due to new projects and new appropriations for existing projects made in the last capital budget

bill. The Commission also relies upon interest earnings from bond sales for operating revenue, which are deposited to Fund 4T8 (line item 371-603, Project Administration). Revenue to this fund is partially dependent on the timing of bond issuances (determined by the Office of Budget and Management), the total amount of capital appropriation authority assigned to the Commission, and interest rates.

### **Temporary Law Provisions**

*Operating Expenses (Section 257.10).* The bill continues temporary law provisions for the Director of Budget and Management to deposit interest earnings from the Cultural and Sports Facilities Building Fund (Fund 030) into Fund 4T8. This is the source of funding for line item 371-603, Project Administration.

### **Debt Service**

*Program Description:* The Ohio Cultural Facilities Commission uses bonds issued by the Treasurer of State through the Cultural and Sports Facilities Building Fund to finance its construction and renovation projects. GRF dollars are used to pay the debt service on those bonds.

*Funding Source:* General Revenue Fund

*Line Items:* 371-401, Lease Rental Payments

*Implication of Executive Recommendation:* The recommendation will fund the debt obligations associated with capital project expenditures.

### **Temporary Law Provisions**

*Lease Rental Payments (Sections 257.10).* The bill continues temporary law provisions requiring payments to the Treasurer of State for debt service under line item 371-401, lease rental payments.

## REQUESTS NOT FUNDED

| Ohio Cultural Facilities Commission Operations |                   |                     |               |                   |                     |             |
|--|-------------------|---------------------|---------------|-------------------|---------------------|-------------|
| Fund Line Item                                 | FY 2008 Requested | FY 2008 Recommended | Difference    | FY 2009 Requested | FY 2009 Recommended | Difference  |
| 371-321  | \$201,578         | \$176,136           | (\$25,442)    | \$201,578         | \$176,136           | (\$25,442)  |
| 371-603  | \$1,020,295       | \$983,295           | (\$37,000)    | \$1,032,295       | \$983,295           | (\$49,000)  |
| Debt Service                                   |                   |                     |               |                   |                     |             |
| 371-401  | \$38,246,100      | \$36,604,600        | (\$1,641,900) | \$38,246,500      | \$37,455,500        | (\$791,000) |

The total FY 2008 appropriation to GRF item 371-321, Operating Expenses, decreases by 10% compared to FY 2007 estimated spending. The FY 2008 appropriation for SSR item 371-603, Project Administration, decreases 4.3% from the FY 2007 estimate. The debt service appropriation for FY 2008 decreases by 4.2% from the estimated FY 2007 spending level.

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## General Revenue Fund

### GRF 371-321 Operating Expenses

| 2004      | 2005      | 2006      | 2007<br>Estimate | 2008<br>House Passed | 2009<br>House Passed |
|-----------|-----------|-----------|------------------|----------------------|----------------------|
| \$106,546 | \$490,473 | \$193,175 | \$195,707        | \$176,136            | \$176,136            |
|           | 360.3%    | -60.6%    | 1.3%             | -10.0%               | 0.0%                 |

**Source:** GRF

**Legal Basis:** ORC 3383.04; Section 203.91 of Am. Sub. H.B. 66 of the 126th G.A. (originally established by Am. Sub. H.B. 694 of the 114th G.A.)

**Purpose:** This line item supports agency operations by providing funds for payroll, maintenance, equipment, and related expenses.

### GRF 371-401 Lease Rental Payments

| 2004         | 2005         | 2006         | 2007<br>Estimate | 2008<br>House Passed | 2009<br>House Passed |
|--------------|--------------|--------------|------------------|----------------------|----------------------|
| \$34,343,559 | \$34,399,906 | \$37,628,894 | \$38,246,500     | \$36,604,600         | \$37,455,500         |
|              | 0.2%         | 9.4%         | 1.6%             | -4.3%                | 2.3%                 |

**Source:** GRF

**Legal Basis:** ORC 3383.07; Section 19.02 of Am. Sub. H.B. 16 of the 126th General Assembly

**Purpose:** Funding to this line item is used to retire debt for revenue bonds, issued by the Treasurer of State, for cultural projects and sports facilities throughout the state.

## State Special Revenue Fund Group

### 4T8 371-601 Riffe Theatre Equipment Maintenance

| 2004     | 2005     | 2006    | 2007<br>Estimate | 2008<br>House Passed | 2009<br>House Passed |
|----------|----------|---------|------------------|----------------------|----------------------|
| \$40,281 | \$35,937 | \$4,863 | \$81,000         | \$81,000             | \$81,000             |
|          | -10.8%   | -86.5%  | 1565.5%          | 0.0%                 | 0.0%                 |

**Source:** SSR: Rebates from CAPA from a graduated ticket surcharge (facility fee)

**Legal Basis:** ORC 3383.02(I)

**Purpose:** As part of a management contract with the Columbus Association for the Performing Arts (CAPA) for the management of the Riffe Theatres, the Cultural Facilities Commission receives rebates from CAPA from a graduated ticket surcharge (facility fee). These funds are used for needed repairs and equipment at the theatres.

**4T8 371-603 Project Administration Services**

| 2004      | 2005      | 2006      | 2007<br>Estimate | 2008<br>House Passed | 2009<br>House Passed |
|-----------|-----------|-----------|------------------|----------------------|----------------------|
| \$828,746 | \$594,459 | \$858,094 | \$983,295        | <b>\$983,295</b>     | <b>\$983,295</b>     |
|           | -28.3%    | 44.3%     | 14.6%            | <b>0.0%</b>          | <b>0.0%</b>          |

**Source:** SSR: Interest earnings from revenue bonds

**Legal Basis:** ORC 3383.09

**Purpose:** This line item receives earnings from investments of revenue bonds, issued by the Ohio Building Authority and by the Treasurer of State for the renovation and construction of cultural and sports facilities, to support agency operations. The earnings provide funds for payroll, maintenance, equipment, and related expenses. The operations supported include all activities related to agency management of projects funded by the revenue bonds.

## LSC Budget Spreadsheet by Line Item, FY 2008 - FY 2009

| <i>Fund</i>  | <i>ALI</i> | <i>ALI Title</i>                    | <i>Estimated<br/>2007</i> | <i>As<br/>Introduced<br/>2008</i> | <i>House Passed<br/>2008</i> | <i>% Change<br/>Est. 2007 to<br/>House 2008</i> | <i>As<br/>Introduced<br/>2009</i> | <i>House Passed<br/>2009</i> | <i>% Change<br/>House 2008 to<br/>House 2009</i> |
|--|------------|-------------------------------------|---------------------------|-----------------------------------|------------------------------|---|-----------------------------------|------------------------------|--|
| <b><i>AFC Cultural Facilities Commission, Ohio</i></b> |            |                                     |                           |                                   |                              |   |                                   |                              |  |
| GRF  | 371-321    | Operating Expenses                  | \$195,707                 | \$ 176,136                        | \$ 176,136                   | -10.0%  | \$ 176,136                        | \$ 176,136                   | 0.0%   |
| GRF  | 371-401    | Lease Rental Payments               | \$38,246,500              | \$ 36,604,600                     | \$ 36,604,600                | -4.3%   | \$ 37,455,500                     | \$ 37,455,500                | 2.3%   |
| <b>General Revenue Fund Total</b>                      |            |                                     | <b>\$ 38,442,207</b>      | <b>\$ 36,780,736</b>              | <b>\$ 36,780,736</b>         | <b>-4.3%</b>                                    | <b>\$ 37,631,636</b>              | <b>\$ 37,631,636</b>         | <b>2.3%</b>                                      |
| 4T8  | 371-601    | Riffe Theatre Equipment Maintenance | \$81,000                  | \$ 81,000                         | \$ 81,000                    | 0.0%  | \$ 81,000                         | \$ 81,000                    | 0.0%   |
| 4T8  | 371-603    | Project Administration Services     | \$983,295                 | \$ 983,295                        | \$ 983,295                   | 0.0%  | \$ 983,295                        | \$ 983,295                   | 0.0%   |
| <b>State Special Revenue Fund Group Total</b>          |            |                                     | <b>\$ 1,064,295</b>       | <b>\$ 1,064,295</b>               | <b>\$ 1,064,295</b>          | <b>0.0%</b>                                     | <b>\$ 1,064,295</b>               | <b>\$ 1,064,295</b>          | <b>0.0%</b>                                      |
| <b><i>Total All Budget Fund Groups</i></b>             |            |                                     | <b>\$ 39,506,502</b>      | <b>\$ 37,845,031</b>              | <b>\$ 37,845,031</b>         | <b>-4.2%</b>                                    | <b>\$ 38,695,931</b>              | <b>\$ 38,695,931</b>         | <b>2.2%</b>                                      |

**As Introduced (Executive)****As Passed by the House****1 (CD-548-AFC) Lease Rental Payments****Section: 257.10**

Requires GRF appropriation item 371-401, Lease Rental Payments, be used for payments to the Treasurer of State under the primary leases and agreements made for arts and sports facilities under Chapters 152 and 154 of the Revised Code, limits those funds to \$74,060,100 in the biennium, and designates the appropriation as the source of related debt service payments.

**Section: 257.10**

Same as the Executive.

**2 (CD-549-AFC) Operating Expenses****Section: 257.10**

Requires GRF appropriation item 371-321, Operating Expenses, to be used for the operating expenses of the Cultural Facilities Commission and requires the Director of Budget and Management to determine the amount of cash from interest earnings to be transferred from the Cultural and Sports Facilities Building Fund (Fund 030) to the AFC Administration Fund (Fund 4T8) at designated intervals: by July 10, 2007 or as soon as possible thereafter, and by July 10, 2008 or as soon as possible thereafter. Also requires the Director of Budget and Management to determine, as soon as possible after each bond issuance, the amount of cash from premiums paid on bond issuances available to be transferred from Fund 030 to Fund 4T8.

**Section: 257.10**

Same as the Executive.

## As Introduced (Executive)

## As Passed by the House

## 3 (CD-551-AFC) Capital Donations Fund Certifications and Appropriations

**Section: 606.18**

Amends Am. Sub. H.B. 699 of the 126th General Assembly to require the Executive Director of the Cultural Facilities Commission to certify to the Director of Budget and Management the amount of cash receipts and related investment income, irrevocable letters of credit from a bank, or certification of the availability of funds that have been received from a county or a municipal corporation for deposit into the Capital Donations Fund and are related to an anticipated project, and appropriates these amounts to line item CAP-702, Capital Donations. Requires the Executive Director to make a written agreement, prior to certifying the amounts, with the participating entity on the necessary cash flows required for the anticipated construction or equipment acquisition project.

**Fiscal effect: Increases revenue to the Cultural and Sports Facilities Building Fund (Fund 030) via capital appropriation item CAP-702, Capital Donations.**

No provision.