

LSC Redbook

Analysis of the Executive Budget Proposal

Joint Committee on Agency Rule Review

Maggie Wolniewicz, Budget Analyst
Legislative Service Commission

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READER'S GUIDE

The Legislative Service Commission prepares an analysis of the executive budget proposal for each agency. These analyses are commonly called "Redbooks." This brief introduction is intended to help readers navigate the Redbook for the Joint Committee on Agency Rule Review (JCARR), which includes the following three sections.

1. Overview: Provides a brief description of JCARR's existing functions and staffing, and an overview of the executive recommended budget for the FY 2012-FY 2013 biennium.
2. Analysis of Executive Proposal: Provides an analysis of JCARR's executive recommended budget, which consists solely of GRF funding.
3. Attachments: Includes the Catalog of Budget Line Items (COBLI), which describes the funding source and purpose of JCARR's lone line item, and the LSC budget spreadsheet, which summarizes the line item's recent expenditure and appropriations history.

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ATTACHMENTS:

- Catalog of Budget Line Items
- Budget Spreadsheet By Line Item

Joint Committee on Agency Rule Review

- GRF-funded entity
- Flat funding sufficient to maintain operations
- New business rule review process in the works

OVERVIEW

Agency Overview

Duties and Responsibilities

Created in 1977, the Joint Committee on Agency Rule Review (JCARR) is responsible for the oversight of proposed new, amended, and rescinded rules from certain state agencies, boards, and commissions. Those rule-making agencies are required to fully review and submit to JCARR each of their rules at least once every five years. As part of that five-year rule review process, state agencies are required to review each of their rules and determine whether to continue them without change, amend them, or rescind them.

The primary purpose of JCARR's oversight is to ensure that administrative rules: (1) do not exceed the scope of the rule-making agency's statutory authority, (2) do not conflict with the rules of that agency or another rule-making agency, and (3) do not conflict with the intent of the legislature. JCARR is also responsible for making sure agencies submit a complete and accurate rule summary and fiscal analysis.

JCARR does not approve rules; it only reviews rules and has the authority to recommend invalidation to the General Assembly. If any of the previously stated criteria are not met, JCARR may recommend that the General Assembly adopt a concurrent resolution invalidating the rule. In order for a rule to be invalidated, the concurrent resolution must pass both houses of the General Assembly. If a rule is invalidated by the General Assembly, the agency, board, or commission may not file that rule again for the remainder of that General Assembly.

Legislative Committee Members

JCARR is a ten-member joint legislative committee. The Speaker of the House of Representatives and the President of the Senate each appoint five members from their respective chambers to serve on the joint committee, with not more than three being from the same political party. In odd-numbered years, the chairperson is a House member of the joint committee appointed by the Speaker of the House; in even-numbered years, the chairperson is a Senate member of the joint committee appointed by the President of the Senate. The budget bill specifies that the Chief Administrative

Officer for the House and the Clerk of the Senate will determine, by mutual agreement, which of them will act as JCARR's fiscal agent.

Generally, JCARR meets and holds public hearings not less than once every three weeks throughout the year. Members are paid a per diem of \$150 for committee work on days when there is not a voting session for their house. In addition, members are reimbursed for necessary committee-related travel expenses.

Staffing

JCARR has historically had a staff of five full-time employees (FTEs), including an executive director, an assistant director, two rule analysts, and an administrative assistant. Due to the retirements of the director and an administrative assistant, and the recent resignation of both rule analysts, JCARR is currently operating with only a full-time interim director and a part-time temporary administrative assistant. According to JCARR's Interim Director, a new Executive Director has been hired and is expected to start on or around April 1. It is anticipated that JCARR will also fill the two vacant rule analyst positions and hire a permanent administrative assistant, thus returning to its historical level of five FTEs.

New Business Rule Review Process

Recently enacted S.B. 2 of the 129th General Assembly established a new process by which state agencies, boards, and commissions are required to evaluate proposed administrative rules and determine whether those rules have an adverse impact on businesses. If it is determined that an adverse impact does exist, the state agency, board, or commission is required to attempt to reduce or eliminate that impact and demonstrate that the regulatory intent of the rule justifies its adverse impact on business. In doing so, the act provided JCARR with an additional means to recommend the invalidation of a proposed rule: that the state agency, board, or commission failed to demonstrate that the regulatory intent of the rule justifies its adverse impact on businesses.

This new business rule review process may require JCARR to expend additional time and effort in its legislative oversight of proposed new, amended, and rescinded rules. This is due to the possibility that the review process enacted pursuant to S.B. 2 could increase (1) the number of rules that require a business impact analysis and (2) the complexity of the fiscal analysis. The annual cost of any additional time and effort required on JCARR's part is likely to be no more than minimal, assuming the currently vacant staff positions are filled prior to the January 1, 2012 effective date of the new rule review process.

Appropriation Overview¹

JCARR's estimated total FY 2011 expenditures are compared with the executive recommendations for FYs 2012 and 2013 in Table 1 immediately below. Most notable are two items. First, the recommended amounts are identical to the estimated total FY 2011 expenditure of \$435,168. Second, all of JCARR's operating expenses are paid for with money appropriated from the General Revenue Fund (GRF).

Table 1. Executive Budget Recommendations, FY 2012-FY 2013

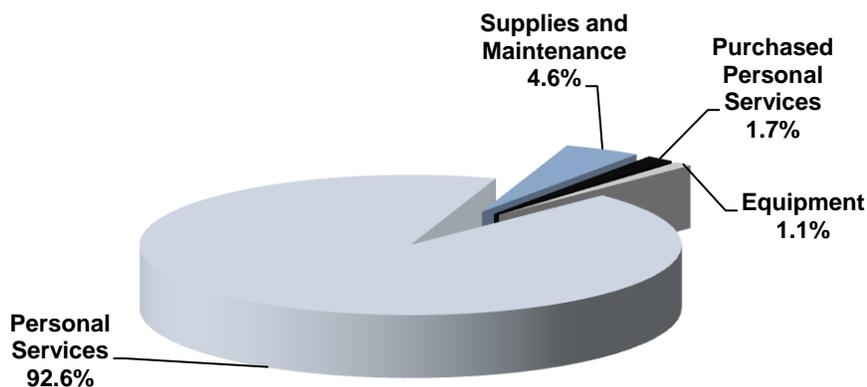
Fund Group	FY 2011*	FY 2012	% change, FY 2011-FY 2012	FY 2013	% change, FY 2012-FY 2013
General Revenue	\$435,168	\$435,168	0.0%	\$435,168	0.0%
TOTALS	\$435,168	\$435,168	0.0%	\$435,168	0.0%

*FY 2011 figures represent estimated expenditures.

Expense Account Summary

Chart 1 immediately below shows JCARR's total recommended appropriations (FY 2012 and FY 2013) by object of expense. All of these appropriated moneys will be allocated for operating expenses, most notably personal services (92.6%), which are payroll-related costs, including salaries, benefits, administrative charges, retirement, purchased time, and training.

Chart 1: Biennial Budget Recommendations by Object of Expense, FY 2012-FY 2013



¹ Pursuant to section 107.03 of the Revised Code, the Governor is not permitted to make any alterations in the biennial budget requests submitted to the Office of Budget and Management by the legislative branch of the state. Thus, herein, as JCARR is an entity of the legislative branch of the state, the executive budget/recommendations reflect the appropriations as requested by JCARR.

ANALYSIS OF EXECUTIVE PROPOSAL

JCARR's operations are funded by a single line item that draws its appropriation from the GRF. Table 2 immediately below shows the recommended funding level for this line item in each of FY 2012-FY 2013. It is followed by a description of how those recommended amounts will be allocated and some highlights of JCARR's rule review activity.

Table 2. Executive Recommended Funding for FYs 2012-2013				
Fund	ALI and Name		FY 2012	FY 2013
General Revenue Fund				
GRF	029321	Operating Expenses	\$435,168	\$435,168

Operating Expenses (029321)

Through GRF line item 029321, Operating Expenses, JCARR pays all of its operating expenses. The executive proposal recommends flat funding at the FY 2011 level of \$435,168 for each year of the FY 2012-FY 2013 biennium, which is the amount that JCARR requested to maintain existing service levels, as well as bring its staffing level back up to five FTEs by filling vacant positions.

The executive budget also contains a temporary law provision requiring the Director of Budget and Management, at the direction of the Executive Director of JCARR, to transfer all, or a portion, of the GRF line item's unexpended, unencumbered appropriation balance FY 2011 to FY 2012, and similarly, from FY 2012 to FY 2013. Current law contains a similar provision relative to the transfer of the line item's unexpended, unencumbered appropriation balance from FY 2009 to FY 2010, and from FY 2010 to FY 2011.

Rule Statistics

The three state agencies with the largest number of rules are the Department of Job and Family Services (1,887), the Environmental Protection Agency (1,760), and the Department of Health (1,247). However, when examining its workload, JCARR distinguishes between a rule and a rule action. A rule refers to what is codified in the Administrative Code, while a rule action refers to actions taken during the rule review process. A rule may have more than one action associated with it.

Of the 9,550 rule actions taken by JCARR in FY 2010, around 40% involved the following five state agencies.

- Department of Job and Family Services (14%)
- Bureau of Workers' Compensation (7%)
- Environmental Protection Agency (7%)

- Department of Health (7%)
- Department of Agriculture (6%)

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Joint Committee on Agency Rule Review

General Revenue Fund

GRF 029321 Operating Expenses

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$369,904	\$371,083	\$356,172	\$435,168	\$435,168	\$435,168
	0.3%	-4.0%	22.2%	0.0%	0.0%

Source: General Revenue Fund

Legal Basis: Section 310.10 of Am. Sub. H.B. 1 of the 128th G.A. (originally established by Am. Sub. H.B. 215 of the 122nd G.A., which replaced separate GRF line items that the House of Representatives and the Senate each maintained for covering their respective portions of the operating expenses of the Joint Committee on Agency Rule Review (JCARR))

Purpose: This line item is used to pay for JCARR's operating expenses, including staff salaries, meeting and travel reimbursements for members, maintenance, and equipment. Section 310.10 of Am. Sub. H.B. 1 of the 128th G.A. contains a temporary law provision permitting JCARR's Executive Director to certify to the Director of Budget and Management the amount of JCARR's unexpended, unencumbered GRF appropriation at the end of FY 2009 to be reappropriated to FY 2010 and reappropriates the certified amount to the same appropriation item for FY 2010. A related provision applies to the reappropriation of JCARR's unexpended, unencumbered GRF appropriation at the end of FY 2010 to FY 2011.

FY 2012 - FY 2013 Introduced Appropriation Amounts

All Fund Groups

Line Item Detail by Agency			FY 2010	Estimate FY 2011	Introduced FY 2012	FY 2011 to FY 2012 % Change	Introduced FY 2013	FY 2012 to FY 2013 % Change
Report For Main Operating Appropriations Bill			Version: As Introduced					
JCR Joint Committee on Agency Rule Review								
GRF	029321	Operating Expenses	\$ 356,172	\$ 435,168	\$ 435,168	0.00%	\$ 435,168	0.00%
General Revenue Fund Total			\$ 356,172	\$ 435,168	\$ 435,168	0.00%	\$ 435,168	0.00%
Joint Committee on Agency Rule Review Total			\$ 356,172	\$ 435,168	\$ 435,168	0.00%	\$ 435,168	0.00%