

LSC Redbook

Analysis of the Executive Budget Proposal

Liquor Control Commission

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ATTACHMENTS:

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

Liquor Control Commission

- Biennium budget of approximately \$1.6 million
- Nearly 2,500 cases heard in each of the last two complete fiscal years
- \$880,000 in forfeitures deposited into the GRF in FY 2012

OVERVIEW

Agency Overview

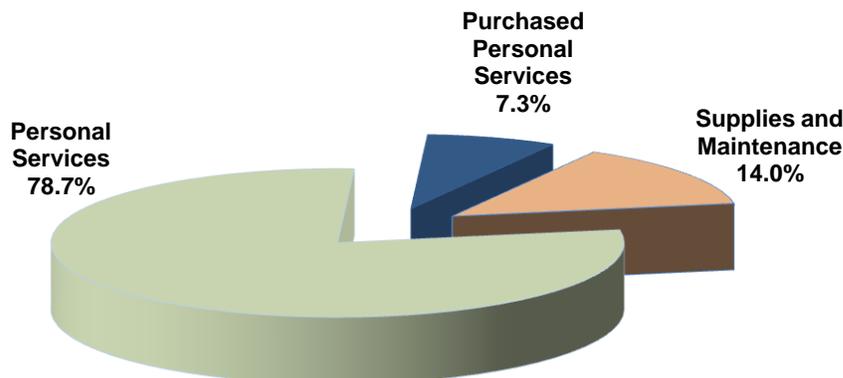
The Liquor Control Commission (LCO) is the rule-making and adjudication agency that oversees the alcohol beverage industry in Ohio. The Commission's mission is to ensure compliance with Ohio's liquor laws and regulations. This requires LCO to work with the Department of Commerce's Division of Liquor Control, which issues liquor permits, and the Attorney General and Department of Public Safety, which are involved with investigating and enforcing liquor violations alongside LCO.

The Commission's responsibilities include (1) making and interpreting rules regarding liquor production, sales, advertising, and so forth, (2) hearing and ruling on cases regarding alleged liquor permit violations, (3) hearing and ruling on appeals of the Division of Liquor Control decisions concerning liquor permit renewals and distribution, and (4) hearing and ruling on appeals of liquor permit revocations and of permit nonrenewals based on tax delinquencies. The Commission is funded by the State Liquor Regulatory Fund (Fund 5LP0), which receives a portion of liquor permit fee revenue deposited into the Undivided Liquor Permit Fund (Fund 7066). The Commission is comprised of three members appointed by the Governor for six-year terms and five full-time staff. The commissioners' salaries are fixed by the Governor's office. One commissioner's term expires in February 2013.

Appropriation Overview

The executive budget provides LCO with funding of \$784,376 in FY 2014, a 4.0% increase compared to estimated FY 2013 spending of \$754,176. Proposed funding for FY 2015 is \$796,368, a 1.5% increase over the FY 2014 recommendation. Of the amounts recommended for the FY 2014-FY 2015 biennium, the executive budget provides increases for payroll-related expenses and supplies and maintenance costs. As Chart 1 below shows, 78.7% of the executive budget is for personal services, and 14.0% is slated for supplies and maintenance. The remaining 7.3% is for purchased personal services, including costs for court-reporting services and transcripts, writs served, and witness reimbursements that tend to fluctuate from year to year depending on Commission caseload.

**Chart 1: Biennial Executive Budget Recommendations
by Expense Category, FY 2014-FY 2015**



Summary of Budget Issues

New Funding Mechanism

H.B. 487 of the 129th General Assembly, the mid-biennium budget review bill, altered the source of funding for both the Liquor Control Commission and the Division of Liquor Control within the Department of Commerce. Beginning in FY 2013, operating revenue for these regulatory duties came from the newly created State Liquor Regulatory Fund (Fund 5LP0), which receives a portion of liquor permit fee revenue deposited into the Undivided Liquor Permit Fund (Fund 7066). The operating costs for the state's liquor permitting and adjudicatory functions were formerly funded by spirituous liquor sales revenue deposited into the Liquor Control Fund (Fund 7043). However, with the transfer of the state's liquor merchandising franchise to JobsOhio, the funding source for the state's regulatory and adjudicatory functions was modified to accommodate this change.

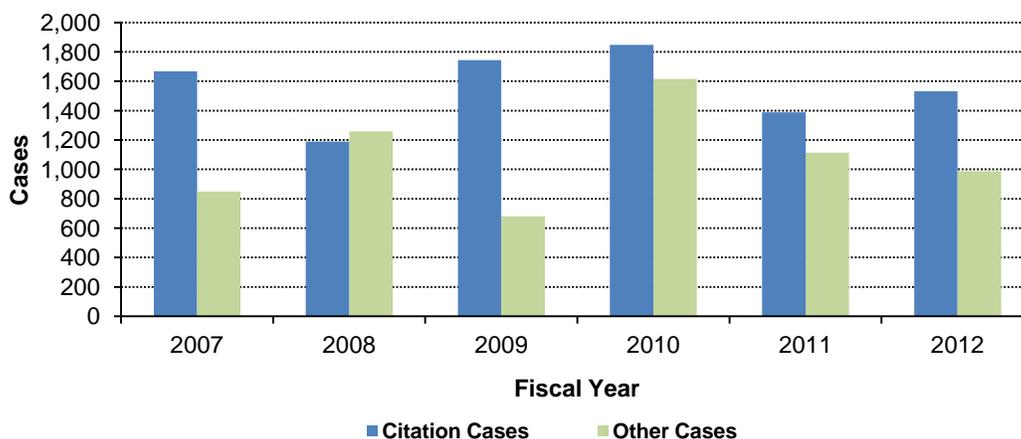
Adjudication Hearings

The bulk of Commission work revolves around preparing for and holding adjudication hearings. This entails preparing paperwork before hearings, producing decisions, and handling correspondence and various reports related to cases. Although the goal is to issue decisions within 45 days after the hearing date, the Commission issues the vast majority of its decisions within two weeks.

During FY 2012, nearly 2,520 cases were heard. As Chart 2 below shows, the number of violations issued by law enforcement authorities – referred to as citation cases – constitutes the majority of the Commission's caseload. These cases can involve illegal gambling, selling drugs on a permit premises, underage drinking, unsanitary conditions, illegal use of electronic benefits transfer (EBT) cards, and so forth. FY 2010 saw a marked increase in so-called "noncitation" cases dealing with appeals of Division

of Liquor Control decisions, sales tax appeals, sales tax complaints, unemployment compensation cases, and Bureau of Workers' Compensation (BWC) payment issues involving permit holders. The increase in these types of cases was thought to have been driven by the weak economy, which caused more permit holders to become delinquent on tax and workers' compensation premium payments. Noncitation cases, however, have declined each of the last two fiscal years since the sharp rise in FY 2010.

Chart 2: LCO Cases Heard by Type, FY 2007-FY 2012



Operating Costs

There are a number of variables that can affect the Commission's operating costs and are difficult to budget for, particularly costs dealing with hearings themselves. These variables include the length of hearing days, the number of witnesses subpoenaed, witness compensation and mileage reimbursement, court-reporting services, and transcript expenses. Because these costs can fluctuate from year to year, in prior fiscal years the Commission has sought Controlling Board approval for increased appropriations to account for these expenses. The last such increase, however, occurred in April 2010, when LCO was granted an increase of \$75,000 annually for FY 2010 and FY 2011 to cover additional costs.

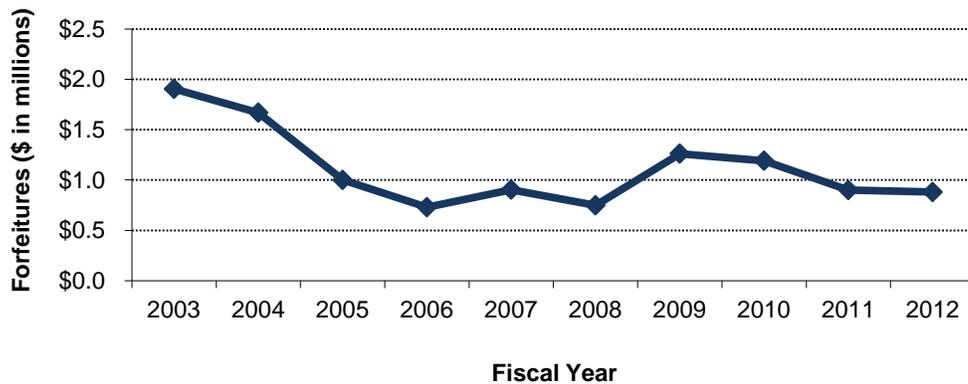
The Commission is in the process of adjusting hearing practices in order to reduce operating costs. Beginning in February 2013, the Commission transitioned to a three-day per week hearing schedule occurring once per month, instead of the four-day per week schedule previously adhered to. Although caseload is not expected to fall, this change may result in decreased costs for such things as court reporting and commissioners' mileage reimbursements. Another measure recently implemented is the use of the staff hearing bailiff, an attorney, acting as the Commission's legal counsel in conducting prehearing mediations for the simpler, first-time offender cases. This is

intended to give commissioners additional time to adjudicate more complex cases. The hope is that this strategy will also reduce hearing-related costs.

Forfeiture Collections

The Commission has the authority to impose forfeitures, or cash fines, depending on the circumstances of a case. These forfeitures are not retained by the Commission, but are instead deposited into the GRF. Forfeitures collected in FY 2012 totaled \$880,000 and have amounted to \$650,000 in FY 2013 year to date. As Chart 3 below shows, forfeitures are generally around \$1.0 million annually. While the amount of forfeitures ordered or collected in any year depends on the types of cases heard, the Commission's judgment on the frequency and severity of offenses also plays a role in the amount of forfeitures imposed.

Chart 3: Forfeitures Collected, FY 2003-FY 2012



ANALYSIS OF EXECUTIVE PROPOSAL

The Commission's operations are funded by a single line item appropriation from the State Liquor Regulatory Fund (Fund 5LP0). The source of funding is a portion of liquor permit revenues that are transferred from the Undivided Liquor Permit Fund (Fund 7066). The table below shows the Governor's recommended funding for this line item.

Governor's Recommended Funding for the Liquor Control Commission				
Fund	ALI and Name		FY 2014	FY 2015
State Special Revenue Fund Group				
5LP0	970601	Commission Operating Expenses	\$784,376	\$796,368

This line item pays for all operating expenses including payroll, supplies, and fixed maintenance costs, as well as purchased services related to court-reporting services and transcripts, writs served, and witness reimbursements. Overall, the proposed funding provides LCO with \$784,376 in FY 2014, a 4.0% increase compared to estimated FY 2013 spending on Commission operations, and \$796,368 in FY 2015, a 1.5% increase compared to the FY 2014 amount.

The executive proposal maintains flat funding for personnel costs in FY 2014 compared with estimated FY 2013 spending for this purpose, although there is a small increase in FY 2015. The payroll covers the three Commission members and five full-time permanent staff. Overall, payroll costs are the largest expense in the LCO budget, at almost 80% of the amount recommended over the biennium. The other 20% of the budget programmed by the Office of Budget and Management for supplies, maintenance, and purchased services combined, increases from about \$138,000 in FY 2013 to \$168,000 in FY 2014 and FY 2015. The increase in these areas is to cover rising costs for (1) rent in the Riffe Center, (2) transcripts, and (3) services provided by the Central Service Agency within the Department of Administrative Services.

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Liquor Control Commission

State Special Revenue Fund Group

5LP0 970601 Commission Operating Expenses

FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Estimate	FY 2014 Introduced	FY 2015 Introduced
\$0	\$0	\$0	\$754,146	\$784,376	\$796,368
	N/A	N/A	N/A	4.0%	1.5%

Source: State Special Revenue Fund Group: Transfers of liquor permit fee revenue deposited into the Undivided Liquor Permit Fund (Fund 7066)

Legal Basis: ORC 4301.30

Purpose: This line item pays for the operating expenses of the Liquor Control Commission, which ensures compliance with liquor laws and regulations and provides impartial hearings related to violations of state liquor laws that could result in fines or the suspension or revocation of liquor permits. Expenses include personnel and maintenance costs as well as purchased personal services for such items as court reporting and transcripts, writs served, and witness reimbursements. When the State Liquor Regulatory Fund (Fund 5LP0) contains excess amounts after accounting for the operating expenses covered by this line item and Department of Commerce Fund 5LP0 appropriation item 800646, Liquor Regulatory Operating Expense, the amounts will be credited to the GRF.

Liquor Control Fund Group

7043 970321 Operating Expenses

FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Estimate	FY 2014 Introduced	FY 2015 Introduced
\$736,207	\$667,875	\$648,065	\$0	\$0	\$0
	-9.3%	-3.0%	-100%	N/A	N/A

Source: Liquor Control Fund Group: Spirituous liquor sales revenue

Legal Basis: Discontinued line item (originally established by ORC 4301.12)

Purpose: This line item paid for the operating expenses of the Liquor Control Commission. This funding is now appropriated under line item 970601, Commission Operating Expenses.

FY 2014 - FY 2015 Introduced Appropriation Amounts

All Fund Groups

Line Item Detail by Agency			FY 2012	Estimate FY 2013	Introduced FY 2014	FY 2013 to FY 2014 % Change	Introduced FY 2015	FY 2014 to FY 2015 % Change
Report For Main Operating Appropriations Bill			Version: As Introduced					
LCO Liquor Control Commission								
5LPO	970601	Commission Operating Expenses	\$ 0	\$ 754,146	\$ 784,376	4.01%	\$ 796,368	1.53%
State Special Revenue Fund Group Total			\$ 0	\$ 754,146	\$ 784,376	4.01%	\$ 796,368	1.53%
7043	970321	Operating Expenses	\$ 648,065	\$0	\$0	N/A	\$0	N/A
Liquor Control Fund Group Total			\$ 648,065	\$0	\$0	N/A	\$0	N/A
Liquor Control Commission Total			\$ 648,065	\$ 754,146	\$ 784,376	4.01%	\$ 796,368	1.53%