

# State Budgeting Matters

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*The governor faces many challenges in producing and maintaining a balanced budget that meets Ohio's needs.*

## FY 2010 – FY2011 State Budget: The Out-of-Balance House Version

The House of Representatives passed its version of H.B. 1, the state's main operating budget for the coming biennium, and, in the process, rejected all but one of the major premises and policy changes proposed by Governor Strickland and listed in the following table. It is worth noting, though, that a number of changes made by the House were at the request of the administration (personnel changes, education changes, and, possibly, federal waiver requests for the Department of Aging).

Governor's Proposal	House Version
Revenue Estimates	Rejects the governor's estimates and instead uses those of the Legislative Service Commission giving them an additional \$244.2 million to spend.
Total General Revenue Fund Appropriations	Appropriates \$192 million less than the governor in FY 2010, and \$182 million less in FY 2011.
Use of One-Time Funds	Uses the state's Rainy Day Fund and all other one-time, non-recurring funds as proposed by the governor, and transfers an additional \$100 million from Unclaimed Funds to the GRF.
Sentencing Reform	Rejects the governor's proposal to save \$58 million by changing Ohio's criminal sentencing laws.
Primary and Secondary Education Reform	Rejects the governor's proposed timeline and makes other major changes in the proposal.
Medicaid Caseloads	Rejects the governor's estimates and instead uses those of the Legislative Service Commission giving the House an additional \$71.4 million (state and federal funds) to appropriate.
Medicaid Hospital Fee	Increases the fee proposed by the governor to fund a new supplemental upper payment limit program.

*This series is an opportunity for our readers to get involved by e-mailing their Ohio budget questions to our Ohio budget expert, Richard G. Sheridan, at [rsheridan@CommunitySolutions.com](mailto:rsheridan@CommunitySolutions.com).*

*Please note that Richard G. Sheridan's opinions are not necessarily those of The Center for Community Solutions.*



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Governor's Proposal	House Version
Medicaid Nursing Home Reimbursements	Maintains the governor's proposal to increase franchise fees but changes who pays the fee, increases the reimbursement rate, and adds stop/loss and stop/gain provisions to limit costs to state and losses to facilities.
Higher Education Tuition Fees	Accepts the governor's proposal to freeze tuition for all public institutions of higher education in FY 2010 and permit a 3.5 percent increase for four-year schools in FY 2011.
Government Reorganization	Most gubernatorial reorganizations, including placing the separately administered State School for the Blind and State School for the Deaf, under the education department are rejected.
Eliminating Budget Earmarks	The House returns to the practice of earmarking specific amounts of money from individual line-item appropriations for special interests despite the governor's proposal to eliminate the practice.
Allocation of Funds	The House adds additional GRF money to the appropriations of 26 agencies in FY 2010, and 24 in FY 2011, while reducing the gubernatorial requests of less than a handful of agencies.
Department of Education Appropriations	Separates federal stimulus funds from the GRF resulting in a reduction of \$376 million in FY 2010, and \$601 million in FY 2011, state GRF appropriations.
New School Funding Formula	Modifies the governor's proposed school funding plan and appropriates \$6.75 billion in FY 2010, and \$6.77 billion in FY 2011, for formula aid compared to the governor's request for \$7.13 billion and \$7.39 billion, respectively, and makes various significant changes to other gubernatorial requested funding plans.
Personnel	Makes changes to correspond with recently ratified OCSEA contract for state employees; instead requires state employees to be furloughed for 80 hours per year, places a moratorium on personal leave, and freezes step increases.

in its version, and what the Senate will likely be concerned about as it acts on Sub. H.B. 1 in the next four (or more) weeks.

## What the House Did to the Governor's Budget Proposal

In terms of specific line-item appropriations, the vast majority were approved in the House version of the budget without change. But in terms of major spending proposals and various "reforms" proposed by the governor, the House made significant changes as noted in the table (above). They were also able to add more money to a number of line-items by accepting the higher revenue estimates and lower Medicaid spending estimates prepared by the former Legislative Budget Office (LBO) that is under the direction of the state's Legislative Service Commission (LSC). As a result, the House was able to spend \$374 million more than the governor. In addition, the House is relying on the federal

The remainder of this issue of *SBM* examines in more detail what the House of Representatives did to the governor's budget proposals, who the "winners" and "losers" are in Sub. H.B. 1, what risks the House takes

government to approve higher reimbursements for Medicaid provided to hospitals and changes in the way the state reimburses nursing homes for Medicaid patients.

In terms of what the House did to the governor's proposal to change the way that primary and secondary schools are provided with state moneys, the basic new approach was accepted but on a "phased-in" basis that will take 10 years to be completed. It also completely changed the division of resources for the coming biennium by changing the index numbers the governor assigned to individual schools (from 0.75 to 1.65 compared to 0.9 to 1.65). As a result, Cleveland will receive \$108 million more than under the governor's proposal, and significant increased amounts will also go to Toledo, Lorain, Canton, Akron, and Youngstown. In contrast, Columbus will receive \$56 million less. According to an analysis prepared by the Columbus Dispatch,<sup>1</sup> 263 school districts out of 612 will receive less money under the House plan than under the governor's plan.

The House completely rejected the governor's proposal for sentencing reform and, instead, called for a study of the issue. They failed to provide enough money to pay for expected increases in the prison population that will result from this decision and will undoubtedly have to consider the prospect of building new state prisons to accommodate the expected increase.

### Some of the Winners (Compared to the Strickland Proposal)

Among the recipients of the House's generosity (using money that is based on what will likely prove to be unreasonably high revenue estimates and unreasonably low Medicaid spending forecasts):

- Child and adult protective services (\$50 million more per year than the governor's request).
- Private institutions of higher learning (\$120 million more).
- The Ohio Workforce Guarantee program (\$17.4 million more).
- Private institutions of higher learning (\$40 million more).
- Nursing homes (rate increases totaling \$234 million over the biennium).
- Hospitals (new supplemental upper payment program generates an additional \$271 million over the biennium in federal reimbursement and

removes the noncontracting provision that would have reduced hospital revenues for treating Medicaid managed care patients by a total of \$146 million over the biennium).

- School districts that will get more than the governor proposed in state reimbursements because of changes made in the school funding formula.

In addition, to align with the federal stimulus bill, the House exempted up to \$2,400 in unemployment insurance benefits from the personal income tax. Personal income tax payers will get another reduction in the taxes they will pay in 2010 and 2011. Also among the winners are those who managed to convince the House to earmark specific amounts of money for their exclusive use.

**Recipients of New Earmarks.** The governor proposed a budget remarkably void of earmarked moneys. Earmarks are funds set aside by language and amount in individual line-item appropriations. The effect of an earmark is to guarantee the specified amount will be provided to the designee even if the line-item is later reduced as a result of the need to cut back on state spending. The earmarked funds, under those conditions, would be unaffected. Further, the designee is not required to follow whatever procedures are established for other recipients of moneys from the affected line-item such as grant applications, competitive processes, and so on. The earmarked money is a set-aside of funds and has the effect of reducing the moneys available to all other non-earmarked beneficiaries of the line item.

Completely ignoring the obvious disadvantage that earmarks have to sound budgeting, the House has filled its substitute version of the GRF appropriations bill with new earmarks. The Jewish Community Federation succeeds in having the largest number of new earmarks for its agencies, and the Ohio Child Care Resource and Referral Association received the largest amount with \$20 million over the biennium to provide after-school and summer programming for TANF-eligible youth. Some of the numerous earmarks and the line-items to which they are applied are shown in the following table.

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Line-Item	Beneficiary	Amount
Long Term Care State Budget-State (Department of Aging)	Visiting Nurse Association Health Care Partners of Ohio	\$400,000
JCFS Community Options (Department of Aging)	Cleveland Jewish Community Center Cincinnati Jewish Vocational Services Wexner Heritage Village Columbus Jewish Community Center	\$160,000 \$140,000 \$140,000 \$40,000
International Trade and Market Development (Department of Agriculture)	Ohio-Israel Agriculture Initiative	\$200,000
Thomas Edison Program (Department of Development)	City of Cleveland City of Toledo	\$150,000 \$150,000
State Match Energy (Department of Development)	Ross County Auditor	\$300,000
Travel and Tourism Grants (Department of Development)	International Center for the Preservation of Wild Animals Montgomery County Youth Sports Initiative Greater Cleveland Sports Commission Greater Columbus Sports Commission "Tecumseh!" and "Trumpet in the Land" National Underground Railroad Freedom Center Great Lakes Science Center Cleveland Metroparks Zoo Ohio's Appalachian Country	\$1,000,000 \$100,000 \$100,000 \$100,000 \$160,000 \$1,100,000 \$800,000 \$500,000 \$100,000
Alternative Education Programs (Department of Education)	Kids Unlimited Cincinnati Arts and Technology Center Toledo Tech Academy Beaver Creek Wildlife Education Center Green Local School District (Summit County) Monroe Community Center (Stark County) National Underground Railroad Freedom Center Project Lead the Way Marietta College Ohio University Reading Recovery Martin Essex Summer Program Bellefaire Jewish Children's Bureau Children's Hunger Alliance Project More	\$500,000 \$200,000 \$200,000 \$200,000 \$200,000 \$100,000 \$2,000,000 \$3,000,000 \$200,000 \$100,000 \$1,800,000 \$2,052,034 \$1,000,000 \$1,000,000 \$1,300,000
Academic Standards (Department of Education)	Project Lead the Way	\$3,000,000

## The Center for Community Solutions

Line-Item	Beneficiary	Amount
Literary Improvement-Professional Development (Department of Education)	Marietta College	\$200,000
Educator Preparation (Department of Education)	Ohio University	\$100,000
Mothers and Children Safety Net Services (Department of Health)	Jewish Family Services (Dayton)	\$30,000
	Jewish Community Center (Akron)	\$20,000
	Jewish Community Services (Sylvania)	\$20,000
	Jewish Community Center (Youngstown)	\$15,000
	Jewish Community Center (Canton)	\$9,000
	Yassenoff Jewish Community Center	\$33,334
	Jewish Community Center (Cleveland)	\$33,333
	Jewish Family Services (Cleveland)	\$30,000
	Jewish Community Center (Cincinnati)	\$33,334
	Jewish Family Services (Cincinnati)	\$30,000
	Jewish Family Services (Columbus)	\$30,000
Wexner Heritage Village	\$20,000	
Help Me Grow (Department of Health)	OSU College of Dentistry Dental Bus	\$600,000
NEO-NAT Program (Department of Job and Family Services)	American Red Cross of Greater Cleveland and the Berea Children's Home and Family Services	\$2,000,000
Nursing Grant Programs (Department of Job and Family Services)	Nurse Education Assistance Program	\$3,400,000
Early Care and Education (Department of Job and Family Services)	Big Brothers Big Sisters of Central Ohio	\$2,000,000
	Children's Hunger Alliance	\$3,000,000
	Ohio Child Care Resource and Referral Association	\$20,000,000
Adult Basic and Literacy Education (Board of Regents)	Jewish Community Federation (Cleveland)	\$120,000
	Yassenoff Jewish Community Center (Columbus)	\$50,000
	Jewish Family Services (Cincinnati)	\$60,000
	Jewish Family Services (Dayton)	\$14,000

**Other Winners.** Beneficiaries of other specific provisions include:

- Home bakeries, canneries, soft drink plants, cold-storage warehouses, persons engaged in producing eggs with fewer than 500 laying hens, and persons licensed under Section 915.15 of the Revised Code are exempted from paying a registration fee to the Department of Agriculture.
- State employees are authorized to take vacation time as it is earned following completion of a probationary period. (Under current law, new employees earn vacation time but have to wait 12 months to use it.)
- Municipal and county court judges are to receive group life insurance paid for by the state at an LSC-estimated "substantial" (but unfunded) cost.
- Specified full-time publicly funded child care providers are defined by the House as those providing 32.5 hours of service, in contrast to the executive's plan of defining them at 35 hours through rule (up from the current definition of 25 hours).
- The House added a provision requiring the ODJFS to seek a federal waiver to (1) reduce the

nursing home franchise permit fee to nothing for each nursing home that is exempt from state and federal taxation and that does not participate in Medicaid or Medicare, and provide services for the life of each resident without regard to the resident's ability to secure payment for the services and (2) reduce, for each nursing facility with more than 200 Medicaid-certified beds, the franchise permit fee for a number of the facility's beds specified by ODJFS to the amount necessary to obtain approval of the waiver. The loss of revenue is to be made up by increasing the franchise permit fee for all those nursing homes that don't qualify for the reduction.

- The governor had proposed eliminating state subsidies to the urban university program, but the House added \$6,673,714 in GRF moneys to pay for specified research programs at several urban universities as well as the Cleveland Institute of Art and radio station ideastream/WCPN.
- Rural university projects that were slated to receive no state GRF moneys by the governor are provided with \$1,417,386 in the House version of the budget.
- The Second Harvest Food Banks program, supported through the ODJFS appropriation, was increased by \$7 million more than the governor's proposal in the coming biennium.
- Funding for the state's program to investigate actions related to abuse and neglect of children, families, and the elderly is increased from \$12.5 million to \$50 million per year.
- Nursing facilities receive a large rate increase.
  - For FY 2010:
    - The price is increased by \$3 per Medicaid day; if a facility has 250 or more Medicaid-certified beds the price is increased by an additional \$5 per Medicaid day.
    - A stop-loss<sup>2</sup> provision is added; the rate decreases for facilities with rates above the FY 2010 price and are limited to one-half of the difference between the facility's FY 2010 rate and the FY 2009 rate.
    - A stop-gain provision is added; the rate increases for facilities with rates below the FY 2010 price and are limited to 5/6 of the

difference between the facility's FY 2010 rate and the FY 2009 rate.

- For FY 2011, the price is increased by \$5.35 per Medicaid day and an additional \$5 per Medicaid day for facilities with 250 or more Medicaid-certified beds. The new stop-gain provision limits the rate increases for facilities with rates below the FY 2011 price to 2/3 of the difference between the facility's FY 2011 rate and the FY 2009 rate.
- Overall, changes to the nursing home section are expected to increase costs by \$56.4 million in FY 2010, and \$177.3 million in FY 2011.

## Some of the Losers (Compared to the Strickland Proposal)

In terms of GRF dollars, most of the actions taken by the House resulted in increased appropriations levels to a large number of line-items when compared to the governor's budget proposal. However, several specific education programs received significant cuts that are worth noting.

In the Department of Education, the following four programs received decreased GRF funding in the House version of H.B. 1. Many of the reductions are made up with increased spending from federal stimulus funds held outside the GRF.

Line-Item	Change FY 2010	Change FY 2011
Early Childhood Education (also known as Public Preschool)	-\$11,500,000	-\$11,500,000
School Management Assistance	-\$11,400,000	—
Community Schools	-\$25,000,000	\$21,000,000
Foundation Funding (ALI 200-550 and 220-551)	\$117,941,000	-\$139,159,000
Poverty Funding	-\$236,199,000	-\$236,199,000
Special Education	-\$224,806,500	-\$224,806,500

Another big loser is the line-item Career Colleges Need-Based Financial Aid whose appropriation was reduced by \$20 million per year from the governor's request.

## Budgetary Risks

The House is making a number of assumptions that place the budget at risk, including the big problem that the budget is out of balance.

*Out of Balance.* The House adopted the LBO/LSC revenue estimates enabling them to assume an additional \$315.6 million in revenues. The LBO/LSC estimates were more pessimistic than the tax department's in FY 2010, but assumed a more robust recovery occurring in FY 2011. The change between the two estimates is very small given the overall size of the state, but they are especially important when revenues are tight and when acceptance of overly optimistic revenues are likely to result in future budget cuts. In addition, neither the governor nor the House have adjusted their estimates to account for recent changes in economic conditions, continued decline in the receipt of FY 2009 resources, or the impact of the recent \$0.62 per pack federal tax increase on cigarettes (estimated to reduce GRF revenues by \$100 million over the biennium according to the testimony of LSC Director Mark Flanders before the House Finance Committee).

There are a number of reasons to question whether the appropriations bill prepared by the House is truly "in balance." One problem relates to the continued decline in tax receipts for this fiscal year.

The last time that the Department of Taxation revised its tax revenue estimates was December, 2008. By the end of March, tax receipts were \$195.8 million below those revised estimates. April receipts will not be reported until May 10, but will probably be at least another \$60 million below those estimates.

Even though the governor issued an executive order to curtail non-essential purchases and to cancel many contractual services, it is doubtful that cuts that will result in significant savings. There has been a hiring

and equipment freeze in place for more than a year, and multiple rounds of budget cuts should have squeezed out most discretionary spending. It is more likely that, in order to end the current biennium in balance, the administration will, once again, move a Medicaid payment into FY 2010 (as they did last year), as well as reduce the planned GRF ending cash balance to permit the state's General Revenue Fund to appear in balance on June 30, 2009. The effect of these actions would be to simply move the fiscal problem to FY 2010, thereby further reducing the GRF money available for the coming biennium by those amounts. So, one problem with the House version of the budget is that it makes no allowance for providing funds to bring the current budget back into balance.

Another problem also stems from what is happening in this fiscal year.

In December, the administration made its revenue forecast for the upcoming biennium. That overly optimistic forecast has not been revised (downward, as it should be) despite the evidence that the numbers used for the base of the tax projections (FY 2009) are clearly at least \$195.8 million too high (through the first quarter of this calendar year). Since the base is too high, so are the forecasts based on it.

And there are still other problems.

Instead of using the governor's overly optimistic revenue estimates, the House decided to raise the estimates even higher by accepting the LBO/LSC forecasts which are \$244.2 million higher than those of the governor for the coming biennium.

In addition, the House granted even more tax breaks that will further erode the state's tax base. The following additional tax breaks are included in Sub. H.B. 1:

- A reduction in personal income taxes resulting in **a revenue loss of \$59.8 million in FY 2010, and \$10.4 million in FY 2011.** Though not required to do so under federal or state law, the House decided to let taxpayers whose taxable year ends after December 30, 2008, but before the effective

date of changes in federal tax law, to apply federal law as it existed before that date. Local government recipients are expected to lose \$3.5 million in FY 2010, and \$0.6 million in FY 2011 according to the LSC.

- **An extension of the hold harmless provisions of the Commercial Activity Tax (CAT) on businesses through FY 2011.** Local taxing units, except school districts whose losses are already covered through FY 2011, are to be reimbursed for 100 percent of revenue losses resulting from the phase-out of general business tangible personal property taxes through state FY 2011. The additional cost to the state for this extension is \$11,200,000, which would have otherwise gone to the state's GRF.
- **Eliminating of increase in sales tax prompt-pay vendor discount.** The governor proposed increasing this discount from 0.75 percent to 1.0 percent of the amount of tax remitted in order to increase GRF sales and use tax revenues by about \$26.1 million in FY 2010, and \$28.8 million in FY 2011. By eliminating this provision, the House loses that \$54.9 million in additional state GRF moneys as included in the governor's budget. In addition, local government recipients are expected to lose \$1.6 million in FY 2010, and \$1.8 million in FY 2011, according to the LSC.

In addition to all of these problems, all of the state's economic forecasters have reduced their estimates of how soon the economy will recover. They have also lowered their expectations for the several economic indicators that are used by the Department of Taxation's revenue forecasters in making future tax revenue projections.

It has become accepted practice for the administration to wait until the budget bill reaches the six-member legislative conference committee (sometime in June) to officially revise its revenue forecasts. However, it is foolhardy to continue that practice in the light of the overwhelming evidence that the current forecasts are too high, resulting in the House of Representatives making hundreds of millions of dollars of appropriations that cannot be supported by

reasonable revenue estimates. And, as if this were not enough, the House has chosen to raise, rather than lower its revenue forecasts enabling them to add even more money to increase appropriations to the state's nursing homes, hospitals, and various other spending line-items far beyond the ability of the current tax structure to support those appropriations using current economic forecasts.

If the objective of the House is to make promises it cannot keep, thereby leaving the tough decisions needed to prepare a budget that is in balanced up to the Senate, then Sub. H.B. 1 achieves that objective.

Further adding to the issue of whether the House version of the budget is truly in balance is the decision to use the LBO/LSC's lower Medicaid caseload estimates. These lower estimates result in the need for \$71.4 million less in combined state and federal dollars for base spending (before changes made by the House) for Medicaid. Although materials made available by the LBO/LSC do not specify the state GRF share of those reduced spending requirements, it can be assumed to be about \$200 million. It is difficult to determine which estimates are more valid at this point in time. But, should the governor's estimates prove more accurate, the House version of the budget will be out of balance by whatever amount of state GRF money the House assumes it will save by using the lower spending forecast.

**FY 2012 and FY 2013.** The House continues - and expands on - the governor's proposal to use one-time, non-recurring funds to support proposed spending for the coming biennium. Both the governor and the House propose using up almost all of the state's \$1 billion Rainy Day (Budget Stabilization) Fund, \$268.6 million in non-GRF funds, and up to \$285 million from moneys owed to Ohioans but not yet claimed. The House increased the ante on those latter funds and increased its revenue estimates by another \$100 million as a result. Since these moneys will be used to pay for ongoing spending, at least that amount will be needed to continue that spending in FY 2012 and FY 2013. Those are in addition to amounts of one-time, non-recurring federal stimulus funds that

will somehow have to be replaced in that biennium, as well as new personnel costs (described separately below).

***Federal Approval of Medicaid Matching Money for Hospitals.*** One of the big changes in the Medicaid program made by the House involves an annual assessment the state makes on hospitals based on their total facility costs. The House increases the first annual assessment to 1.52 percent (compared to 1.27 percent under the governor's proposal) and to 1.61 percent for subsequent annual assessments (compared to 1.37 percent). Of the amounts raised by the assessments, 16.45 percent in the first year and 14.91 percent thereafter would be used for an, as yet, federally unapproved Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program. The expected result is to increase state revenue from this assessment by \$55.7 million in FY 2010, and \$55.3 million in FY 2011. The purpose of this change is to get more state money that would then be used to generate federal Medicaid reimbursements (\$151.5 million in FY 2010, and \$119.3 million in FY 2011) that could then be passed on to the hospitals.

The "sticky wicket" here is that this plan will have to be approved by the federal government, and it is highly questionable whether the federal government will actually approve what is an obvious attempt to increase federal Medicaid reimbursements to the hospitals. Even the governor's proposed increase in the hospital fees would have to receive federal approval, and that approval is also hardly a foregone conclusion. Furthermore, federal approval for the changes proposed for nursing facility reimbursements is also required.

***Unfunded Medicaid Costs and Loss of Assumed Savings.*** The House made a number of changes in specific provisions in the state's Medicaid program that can be expected to increase program costs. Additional money was added to the Medicaid budget to pay for these costs using LSC estimates. One such change provides that a nursing facility's Medicaid rate for capital costs is to be the sum of

the capital costs portion of its FY 2005 rate and any capital compensation per diem for which it qualified during the first three quarters of FY 2008, if that sum is greater than the median rate for capital costs for the nursing facilities in its peer group. Also changed is the formula used to calculate nursing facilities' Medicaid reimbursement rates by adding \$3 per Medicaid day to the total rate and \$5 per Medicaid day to the total rate for nursing facilities with more than 250 Medicaid-certified beds. This, and other reimbursement rate changes, will also increase state GRF costs by \$15.6 million in FY 2010, and another \$57 million in FY 2011, according to the LSC.

Another new provision eliminates the 1,800 statutory limit on the number of individuals who may participate in the state's assisted living program. Depending on how many additional slots in the program the federal government approves, the state Medicaid budget could be short by this amount since the House added no state funds to pay for this change. Because of the home first provision that allows nursing facility money to follow the person, this provision can be managed within appropriated levels. In the long run, this provision could save money as it provides lower cost options to nursing home care.

***Loss of Assumed Savings.*** In the case of adult corrections, the governor had proposed significant changes in the state's sentencing laws which were estimated to save the state \$29,061,124 in corrections costs each fiscal year. If the reforms are not enacted, the governor maintains that the state would have to provide funding for six new 2,000-bed, dormitory-style prisons costing \$1.1 billion. In addition, the corrections department would need an additional \$250 million each year in GRF funding to operate those prisons.

When the House decided not to enact the proposed sentencing reforms, it provided the Department of Rehabilitation and Corrections only an additional \$19,100,000 each year - about \$20,000,000 less for the biennium than the governor said would be needed. Further, no provision is made to construct the new

prisons that the governor said would be needed to accommodate the expected influx of new prisoners. As a result of the loss of this assumed savings, and by underfunding the department, the House is assuming significant risk that GRF appropriations will be inadequate to support the continued influx of adult inmates.

In the case of managed care, the governor had proposed revising a requirement that a hospital not under contract with a Medicaid managed care organization provide services and accept as payment in full what would have been paid under the Medicaid fee-for-service system. Currently the state pays managed care organizations on a monthly capitated rate for services provided to Medicaid recipients. The enactment of this new reimbursement formula was assumed in the governor's budget request to save the state \$9.5 million in state GRF money in FY 2010, and \$34.9 million in FY 2011. By eliminating the proposed change, the House has added another element to the several others that suggest the House version of the next biennial budget is out of balance. The proposal will increase costs in the out-years, but money is appropriated to pay for the coming biennium.

**Increased Personnel Costs.** The House made numerous changes in the governor's proposal that was intended to save \$143.7 million annually from instituting cost savings days, \$30 million per year from freezing automatic annual pay increases based on seniority, and \$18.1 million per year from a moratorium on personal leave accrual and conversion, for a total of approximately \$191.8 million in annual savings in GRF funds for the coming biennium. The problem is that, in FY 2012, the actions taken by the House will require a "substantial" one-time increase in spending to provide pay supplements to part-time and full-time employees, according to the LSC. In addition, there is a likely increase in costs during FY 2012 to provide sick leave credit to both full- and part-time state employees.

**Other Risks.** The LSC has identified the following as additional problems posed by actions taken in the House on H.B. 1:

- A new provision requires the state to seek federal approval for a Medicaid waiver known as the Choices Program available statewide. This program is funded with moneys appropriated to the Department of Aging and is only open to individuals currently on PASSPORT. Since Choices consumers cost more than PASSPORT customers, the state would have to come up with more money (not provided by the House) to pay for those PASSPORT consumers who decide to enroll in Choices.
- The Department of Development is to develop a program to encourage employers to hire individuals from significantly disadvantaged groups; a provision would allow a tax benefit for this purpose if approved by the Tax Commissioner (not the legislature). No moneys are set aside to pay for such a program, and revenue estimates are not reduced to accommodate a tax break such as is envisioned in this provision.

## What Else Is Noteworthy?

Besides all of the new provisions added by the House and described above, there are some others that do not fit any particular category but are worth noting and will undoubtedly receive special attention in the Senate. The following three are especially noteworthy:

- Instead of having to seek any approval from the legislature, or even from the Controlling Board, there is a provision that permits the director of the Office of Budget and Management (OBM) to take whatever cash he deems necessary from the state's Rainy Day Fund in either year of the coming biennium. Both the governor's budget and that of the House assume using up \$948 million from the \$1 billion currently in the fund.
- A provision permits the director of OBM to raid non-GRF funds that are not constitutionally restricted to the GRF "as needed." The governor's and the House's budgets assume using \$116.8 million of such moneys in FY 2010, and \$151.8 million in FY 2011. However, the actual provision in the budget bill does not limit the raid to those amounts.
- A provision in Section 521.70 states that federal

money received for fiscal stabilization in support of elementary, secondary, and higher education, public safety or any other government service is to be deposited into the state General Revenue Fund and, if additional federal stimulus moneys are provided, then the director of OBM can authorize expenditures from the GRF in excess of actual GRF appropriations.

## What's Next?

The Senate, which has been conducting budget hearings while H.B. 1 was still in the House, will produce its own version which, after passage, is expected to go to a six-member conference committee which will ostensibly be convened to reconcile the differences between the House and Senate versions. The term “ostensibly” is used here because budget conference committees in the past have never felt themselves constrained to keep to that stricture and have frequently added new, never-before-seen line-items, earmarks, and statutory and temporary provisions of law. They also reduce appropriations and provisions untouched by either chamber. It is the conference committee, which despite their own rules, meets secretly and, after reaching conclusions, holds public meetings to ratify conclusions reached in the private sessions. It is this committee that finally rewrites the appropriations bill to produce one that can achieve a majority approval vote in both chambers. No amendments to a conference committee report are permitted; each chamber must approve the report or not approve it. In the case of non-approval, the six members go back to rewrite and resubmit the report or a new six-member committee is appointed.

Before reaching conference committee, however, the Senate will act on the House version of the budget bill and consider a number of important questions in formulating its version of the budget for the next biennium. Among them will be these overriding concerns:

- **How to bring the budget into balance.** The House version of H.B. 1 is based on GRF revenue estimates that are clearly too optimistic. This conclusion is reached based on the continued

erosion of tax receipts this fiscal year that provided the base for the tax department's forecast, the continued erosion of the state's economy, and the House's use of forecasts higher than those prepared by the administration. In addition, changes made to spending programs have resulted in a loss of estimated savings included in the governor's budget request and the adoption of lower Medicaid caseloads and concomitant lower base spending is questionable. The Senate must decide what revenue and Medicaid spending estimates to use and should compel the administration, and the LBO/LSC, to prepare revised revenue estimates reflecting these new realities.

- **What to do about Medicaid.** A good deal of review of the budget for Medicaid, by far the state's largest spending program, will be required of the state's senators. Especially important is a determination of just how much the state will spend on this program in this fiscal year – an issue compounded by inconsistencies in reported data. In addition, changes made to the program by the House need to be properly costed-out, differences in the numbers of recipients cited by the governor and the LSC/LBO need to be reconciled, and consideration must be given to the effects that receipt of higher matching moneys for the FY 2010-FY 2011 biennium will have on future biennia and how to address that issue.
- **What to do about the FY 2012-FY 2013 budget.** A number of majority party senators have been quite vocal in expressing their concerns about the large amount of one-time, non-recurring revenues that are being proposed to be used to support proposed appropriations levels for the coming biennium. The Senate will now have the opportunity to address these concerns by (1) rejecting the proposed exhaustion of the state's Rainy Day Fund, the injection of unclaimed funds into the GRF, the refinancing of debt and other non-federal stimulus one-time incursions of money; (2) replacing those sources of one-time money with a temporary or permanent tax increase or reducing appropriations levels; and/or (3) utilizing those one-time revenues only

for one-time, non-recurring spending. Even if these actions are taken, there will be a problem in FY 2012 and beyond because of the significant amount of one-time federal stimulus moneys included in the governor's and the House's proposed budget. No one is seriously suggesting the rejection of those funds, so the question becomes one of how to compensate for their elimination by FY 2012, as well as the loss of GRF tax receipts expected to continue because of the reduction in personal income and other GRF tax receipts implemented over the past five years. The most appropriate action to deal with this problem would be to analyze the state's tax structure with the objective of increasing GRF taxes, while making the state's tax system more fair and equitable before the end of the coming biennium.

The Senate has much work to do in the next month.

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1. Jim Siegel, "County's Schools Take Hit in Plan," *The Columbus Dispatch*, April 22, 2009.
  2. A "stop-gain" provision prevents rates from increasing above a fixed rate; a "stop-loss" provision prevents reimbursements from exceeding a predetermined, fixed level.
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### **Do You Have Questions about Ohio's Budget?**

*E-mail your questions to budget expert Richard Sheridan at [rsheridan@CommunitySolutions.com](mailto:rsheridan@CommunitySolutions.com).*

*Answers to your questions could be the topic of future issues!*