CHAPTER 5:

The Appropriations Process

State government appropriations, which are legal authorizations to spend money, can only be authorized in Ohio by the legislature through the enactment of appropriations bills. Multiple appropriations bills, taken together, comprise Ohio's biennial budget. Knowing how to read the appropriations bills and understanding the formal process leading to their adoption are essential skills for any serious observer of the budget process.

Four characteristics distinguish appropriations bills from other kinds of legislation: (1) appropriations have a maximum life of two years and are treated as temporary provisions of law and not codified, although appropriation bills often contain numerous permanent law changes as well; (2) appropriations for current expenses go into effect immediately rather than waiting for 90 days after the governor's signature as with other laws; (3) items of appropriation within the bill are subject to executive veto, whereas other bills must be vetoed in their entirety or not at all; and (4) appropriations cannot be submitted to the voters by referendum.

Multiple Appropriations Bills

At one time in Ohio, it was correct to speak of a single state appropriations bill, as the measure is called while being processed through the legislature, or act, after it has been approved by the legislature and signed by the governor. That time is long past. In practice, the legislature enacts a number of separate appropriations bills which, when tallied, become the totality of authorized spending for a two-year period, the maximum amount of time for which appropriations can be authorized according to the Ohio Constitution. Each biennium, the General Assembly passes a number of separate appropriations bills. Appropriations bills that may be passed are listed in Table 5-1.

Table 5-1: Description of Appropriations Bills

NAME	CONTENT	WHEN PASSED
Main Operating Appropriations Bill	Appropriations to operate most agencies and programs of state government from the (1) General Revenue Fund, (2) federal revenues, and (3) dedicated revenue funds	Odd-numbered years
Transportation Bill	Highway appropriations for construction, operation, and maintenance, and for operating the public safety department, using gasoline and motor vehicle tax revenues	Odd-numbered years
Workers' Compensation System Bills (usually separate bills for the Bureau of Workers' Compensation and the Industrial Commission)	Appropriations to operate the state workers' compensation program, using revenues generated from a tax on employers	Odd-numbered years
Mid-Biennium Review/Budget Corrections Bills	Additional broad policy reforms beyond those contained in the Main Operating Appropriations Bill as well as corrections to previously passed operating appropriations bills	Generally passed in even-numbered years, but could occur any time after enactment of the Main Operating Appropriations Bill
Capital Improvements Bill	Land, buildings, and improvements financed by the issuance of long-term bonds	Even-numbered years
Capital Re-appropriations Bill	Extension of capital improvement appropriations already approved beyond the original two years	Even-numbered years

Rationale for Multiple Bills

Before 1970, the legislature passed only a single operating appropriations bill and a capital improvements bill each biennium. As the scope of government increased, the legislature chose to separate the appropriations for the transportation and workers' compensation agencies and programs from the main operating appropriations bill. This practice enabled the legislature to enact transportation and workers' compensation system bills before the main operating appropriations bill was considered and to have them scrutinized by legislative specialists in those programs. During the FY 2000–2001 biennium, education appropriations were also separated from general appropriations. This was not done for convenience, but in order to comply with the Ohio Supreme Court ruling in *DeRolph v. Ohio,* which in 1996 declared Ohio's system of funding primary and secondary education to be unconstitutional. However, the practice was abandoned after just one biennium.

Ohio's Defined Fiscal Period

The General Assembly can pass additional appropriations bills at any time throughout the year as long as the appropriations do not exceed two years. However, operating in this manner would invite fiscal chaos because of the difficulty in tracking authorized spending against revenues. It would also invite the risk that outstanding appropriations could exceed available revenues. Thus, the General Assembly established a two-year fiscal period beginning July 1 in odd-numbered years and ending on June 30 two years hence as a fixed fiscal period for operating appropriations. Capital appropriations and re-appropriations run on the same calendar, except that they begin and end in even-numbered years.

Two Annual Appropriations

Ohio does not have a true biennial budget. What it has is two, one-year budgets enacted at the same time with limited authority given to the state Controlling Board to transfer moneys from the first year to the second year, or from the second year to the first-year if it can be guaranteed that there will be sufficient revenues to cover the additional first-year spending. This institution, which is unique to Ohio, is described in Chapter 7. Thus, appropriations are shown for each year of the biennium along with a biennial total with the latter provided only for information purposes. In a true biennial budget, an agency would receive a single appropriation for the entire biennium with authority to determine how much it will spend each year without further legislative intervention.

How to Read the Main Operating Appropriations Bill

The main operating appropriations bill is a massive piece of legislation that makes changes in almost every title of the Ohio Revised Code, codifies numerous permanent laws, and enacts a wide array of temporary, two-year provisions of law. The main operating appropriations act for the FY 2018–2019 biennium contained 3,384 pages, a number that was significantly smaller than the three previously approved budget acts.[1] Recent main operating appropriations acts have made many more changes to permanent law than was the case in the past.

New sections of permanent law are easily distinguished from temporary law in appropriations bills. Permanent law appears in lower case. New provisions of permanent law are distinguished from existing sections by being underlined. As the bill moves forward in the legislative process, changed provisions of temporary law appear in all capital letters.

The main operating appropriations bill the legislature enacts each biennium contains appropriations along with language explaining legislative intent, including conditions and limits, on how the appropriations should be spent. This mixing of fiscal and policy issues makes main operating appropriations bills voluminous and all-encompassing with their combinations of general law and appropriations. The practice has also drawn judicial scrutiny. In several instances, the Ohio Supreme Court has found provisions in the appropriations act to be unconstitutional for containing more than one subject in violation of the single-subject rule delineated in Section 15(D) of Article II of the Ohio Constitution.

Table 5-2 describes what may be included in the main operating appropriations bill.

Table 5-2: Contents of Main Operating Appropriations Bill

SECTION	WHAT ITS PROVISIONS DO
Permanent Law Provisions	• Amend how programs operate • Establish new programs • Convert temporary law provisions into permanent law • Reorganize state government • Make changes in general laws such as criminal and civil laws unrelated to appropriations
Appropriations	• Authorizes spending of specified sums on specified programs in specified agencies • Authorizes spending pending the enactment of separate legislation • Subdivides or earmarks the appropriations through “provisos” or “riders” • Attaches provisos or riders to specific appropriations concerning the operation of the programs for which the appropriations are made; provisos and riders expire when the appropriation expires
Temporary Law (in effect for either a specified time or, if not specified, the same period as the appropriations bill)	• Separate sections concerning the operation of programs for which there are specific appropriations elsewhere[2] • Establish new programs • Earmark money in a larger appropriation • Establish reporting and accountability requirements • Require agencies to conduct studies • Provide various boilerplate provisions necessary to satisfy legal requirements

Appropriations and Line Items

Appropriations are authorizations that can be made only by the legislature to allow the state to spend money. The basic unit of every appropriation is a state agency, within which there are subdivisions of appropriations. Each agency is designated with its own three-digit number. The first subdivision of appropriations to a state agency is by the name of the fund from which the money is to be expended. Depending on which fund is being used, there can be a further subdivision defining the account within the fund that will be the source of the appropriation. General Revenue Fund (GRF) appropriations are subdivided by “line item” into (1) operating expenses, which are identified by having three-digit accounting codes numbered 100–399; (2) special purposes appropriations, which may be either operating expenses or subsidies, or both, numbered 400–499; and (3) subsidies, numbered 500–599.

Appropriations from funds other than the GRF are identified by fund group and then by account names, which give a general indication of the purpose of the spending item. See Chapter 3. With the exception of federal funds, whose purposes are always specified, these expenditures are not further delineated and thus could be used for the state agency’s own operations or for subsidies to individuals or other units of government. These accounts are numbered 600–699.

Capital improvement appropriations in any agency, in any fund, are designated by project title and numbered in the 700 series of appropriation line-item codes. While capital improvements are funded in a separate bill just for this purpose, it should be noted that the legislature can, and sometimes does, appropriate moneys for capital improvements in its main operating appropriations bill. The transportation bill always contains both operating and capital improvements moneys in a single bill.

Appropriations for Operating Expenses

In the past, the legislature appropriated money separately for the three major sets of accounts compose an agency's spending for its own operations. Thus, there was a separate line item appropriated to the agency for personal services (line item numbers 100–199), another for maintenance objects of expenditure (200–299), and another for equipment (300–399). Occasionally, the legislature went even further and used language to restrict how much might be spent for consultants or public relations, within the personal services line item, or for travel within the maintenance appropriation. This meant that in order for an agency to transfer funds between any of these line items, it would have to obtain legislative approval as delegated to the Controlling Board. As the state budget process moved toward outcome measurement, legislative control over individual line items lessened. Currently, most agencies receive their operating expenses in a single line item numbered 321, which combines personal services, maintenance, and equipment. The accounting system still requires that each item be tracked separately to provide an accurate, current, and complete reporting of expenditures.

Special Purpose Expenses

When the appropriations bill arrives on the governor's desk for signature in June, it will likely include more 400 series special purpose appropriations than when it was first introduced to the General Assembly. The reason for these additions is that as the appropriations bill is reviewed, advocates fear that their special interests will not be satisfied by the agency administering a program in which they are interested. They want a guarantee of a fixed amount of money for such activities as minority business development and breast and cervical cancer screening. They do not want "their" activity buried in a larger appropriation, thereby running the risk of not being able to garner and sustain support for it. They want it to be visible, and they also want to ensure that the administering agency does not subsume it within the broader spending authority. Advocates also often find it easier to work with sympathetic legislators to guarantee a set amount for their projects, programs, or activities without having to take on advocacy for a broader project. Thus, special purpose items are birthed. They make it difficult, however, to determine accurately how much of an agency's funding is retained for its use and how much is distributed through subsidies, since special purpose line items never delineate how they will be used. That is, there is no indication if the funding is for agency operating expenses or for subsidies distributed to other units of government, or both.

Subsidies and Shared Revenues

The 500 series items represent state payments to or on behalf of individuals or organizations, and to local government units. There are also subsidies that are provided directly to individuals for the payment of bills for medical, rehabilitative, or other services for clients determined by the state to be eligible for such services. Other shared revenues are appropriated by language so that whatever is collected is distributed according to a preset formula. Many subsidies are distributed on the basis of complicated formulas, such as the school Foundation Funding formula for primary and secondary education, and the State Share of Instruction and Ohio College Opportunity Grant subsidies for higher education. Even though subsidies are formula based, the total available for distribution is the amount of the appropriation.

Appropriations Bill Organization

Appropriations for the Industrial Commission, the Bureau of Workers' Compensation, and the Department of Public Safety and the Department of Transportation have separate bills. All other state agencies receive their operating appropriations in the main operating appropriations bill. Finding an agency's appropriation is facilitated by having them arranged within the bill alphabetically. Table 5-3 is an actual page from Amended Substitute House Bill 49 of the 132nd General Assembly, the Main Operating Appropriations Act for the FY 2018–2019 biennium. Annotations are provided to show how to read an appropriations bill. The same format is used in all other operating appropriations bills.

Table 5-3: Am. Sub. HB 49, Main Operating Appropriations Act for the FY 2018–2019 Biennium

SECTION 383.10. DRC DEPARTMENT OF REHABILITATION AND CORRECTION[1]				
GENERAL REVENUE FUND			**FY 2018[4]**	**FY 2019**
GRF	501321[2]	Institutional Operations	$1,046,933,977	$1,047,161,916
GRF	501405	Halfway House[3]	66,770,618	66,770,618
GRF	501406	Lease Rental Payments	78,505,000	77,707,100
GRF	501407	Community Nonresidential Programs	56,578,573	73,161,958
GRF	501408	Community Misdemeanor Programs	9,356,800	9,356,800
GRF	501501	Community Residential Program - Community Based Correctional Facilities	78,531,698	78,531,698
GRF	503321	Parole and Community Operations	80,883,748	82,807,332
GRF	504321	Administrative Operations	24,034,553	24,611,945
GRF	505321	Institution Medical Services	267,206,462	272,013,566
GRF	506321	Institution Education Services	32,581,211	33,372,312
Total GRF General Revenue Fund			**1,741,382,660**	**1,765,495,245**
DEDICATED PURPOSE FUND GROUP			**FY 2018**	**FY 2019**
4B00	501601	Sewer Treatment Services	2,230,000	2,230,000
4D40	501603	Prisoner Programs	1,300,000	1,300,000
4L40	501604	Transitional Control	1,950,000	1,950,000
4S50	501608	Education Services	4,725,000	4,725,000
5AF0	501609	State and Non-Federal Awards	875,000	875,000
5H80	501617	Offender Financial Responsibility	2,500,000	3,110,000
5TZ0	501610	Probation Improvement and Incentive Grants[5]	5,000,000	5,000,000
5UB0	501612	Institution Addiction Treatment Services	1,000,000	1,000,000
Total DPF Dedicated Purpose Fund Group			**19,580,000**	**20,190,000**

INTERNAL SERVICE ACTIVITY FUND GROUP			FY 2018	FY2019
1480	501602	Institutional Services	2,925,000	2,925,000
2000	501607	Ohio Penal Industries	52,900,000	52,900,000
4830	501605	Leased Property Maintenance and Operating	2,000,000	2,000,000
5710	501606	Corrections Training Maintenance and Operating	480,000	480,000
5L60	501611	Information Technology Services	1,300,000	1,300,000
Total ISA Internal Activity Fund Group			**59,605,000**	**59,605,000**
FEDERAL FUND GROUP			**FY 2018**	**FY 2019**
3230	501619	Federal Grants	1,985,000	1,985,000
3CW0	501622	Federal Equitable Sharing	455,000	455,000
Total FED Federal Fund Group			**2,440,000**	**2,440,000**
Total All Budget Fund Groups(6)			**1,823,007,660**	**1,847,730,245**

Probation Improvement and Incentive Grants(5). The foregoing appropriation item 501610, Probation Improvement and Incentive Grants, shall be allocated by the Department of Rehabilitation and Correction to municipalities as Probation Improvement and Incentive Grants in accordance with division (G)(2) of section 757.20 of this act with an emphasis on: (1) providing services to those addicted to opiates and other illegal substances, and (2) supplementing the programs and services funded by grants distributed from the foregoing appropriation item 501407, Community Nonresidential Programs.

Annotations for Table 5-3

(1) Each agency's appropriation is in a separate section of the appropriations bill, arranged alphabetically. These are the appropriations for the Department of Rehabilitation and Correction, agency number 501.

(2) All appropriations from the General Revenue Fund are listed first. This is the appropriation for the operating expenses of the agency, identified by the agency code number (501), followed by the designation for combined operating expenses (321).

(3) The 405 designation is for a Special Purpose line item. The name of the Special Purpose line item, "Halfway House," gives a strong indication of the purpose of the expenditure.

(4) This is the year for which appropriations are authorized to be spent, unless special approval is obtained from the Controlling Board to transfer funds from one fiscal year of the biennium to the other fiscal year.

(5) This item has related temporary law only in effect during the biennium with respect to this specific appropriation.

(6) The subtotals for the GRF and the other fund groups are summed to give the total appropriation to the agency.

Provisos, Riders, and Temporary Law Sections

The General Assembly is not very rigorous or comprehensive in establishing what it intends from the many appropriations that it makes. However, where it has discovered problems in the past, it can be quite explicit about what it wants. Items described in great detail, either following the appropriation or in separate temporary law sections at the end of the appropriations bill, always include the State Share of Instruction and Ohio College Opportunity Grant program for higher education, and the state Foundation Funding formula for individual school districts. These are described, refined, and changed each biennium. Beyond these, it is difficult to predetermine what areas legislators will select for special provisos, riders, or other temporary law sections.

One legislator may be concerned about how funds for alcohol prevention programs are being distributed and used. On the legislator's behalf, a proviso may be inserted that stipulates that only cities with populations above 50,000 can receive grants from the program. Another legislator may try to prevent any state moneys from being expended on methadone maintenance programs. What is of concern in one fiscal biennium may generate little or no legislative interest in the next budget bill. Thus, these provisions change from budget bill to budget bill and have only a two-year life.

Permanent Law Provisions

The budget instructions ask agencies to include requests for permanent law changes affecting the programs they administer. It is up to the governor to determine whether to introduce these as part of the appropriations bill or in separate pieces of legislation for which legislative sponsorship will be sought. Sometimes the request is to convert a temporary law provision of the current budget act into a permanent law provision. If there is a clear link between the appropriation and the permanent law, it can be made a part of the appropriations bill; that's the rule of thumb that is used. What constitutes a clear link, however, is not always well-defined.

The Ohio Supreme Court has provided some guidance in a case where the issue was whether a section of law included with an appropriation was so bound to the appropriation that it too could not be subject to referendum. The Ohio Constitution prohibits submitting appropriations decisions to a referendum vote by the people. In that case, the court stated that the referendum exemption only applies to sections of the appropriations bill that are actual appropriations for current expenses, an earmarking of the whole or part of an appropriation for current expenses, or when implementation of the section depends upon an appropriation for current expenses that is contained in the act.[3]

An Ohio Supreme Court case involving Congressional redistricting provided further guidance on the subject. House Bill 319 of the 129th General Assembly included an appropriation to bring the act into effect immediately. The reason was threefold: to avoid a referendum; to avoid enactment of an emergency clause; and to enact a map in time for the Congressional primaries. In its ruling, the Supreme Court stated that the legislature's appropriation was unrelated to the remainder of the bill, thus subjecting the legislatively approved redistricting map to possible referendum. The delayed enactment and potential for referendum threw off the timing for Congressional primary filing, subjecting the election to uncertainty. This uncertainty led to renewed consideration of the Congressional redistricting map, which was enacted through separate legislation.

Single Subject Rule

Ohio's appropriation bills are unique in terms of their scope. The legislature uses the appropriation process to create and make changes in programs and agencies throughout state government, as well as to appropriate funds to operate them. As a result, appropriations bills are now thousands of pages long, tasking the abilities of the public, interested parties, and even legislators and their staff to fully comprehend their contents.

It has been the practice of the legislature to include many provisions of permanent law that are not in any way linked to appropriations in the bill in order to garner the necessary votes to assure passage of the appropriations bill. This practice, called logrolling, has not gone unnoticed by the judiciary.[4] It was dealt a blow by the Ohio Supreme Court in 1999, when the court ruled unconstitutional the creation of a new state program established through permanent law provisions added to an appropriations bill.

In *Simmons-Harris v. Goff*, the Ohio Supreme Court ruled that a school voucher program that the state created in permanent law in the FY 1996–1997 main operating appropriations act was unconstitutional because it violated Section 15(D) of Article II of the Ohio Constitution. This provision states that "no bill shall contain more than one subject, which shall be clearly expressed in its title."[5] This ruling dealt only with the inclusion of unrelated permanent law provisions included in appropriations bills, but some of the language used in the decision suggests that, in the future, there may be reason to challenge provisions of temporary law or even provisos if, in the words of the court, "there is an absence of common purpose or relationship between specific topics in an act and when there are no discernible practical, rational, or legitimate reasons for combining the provisions in one act…"[6]

What the legislature did in response to *Simmons-Harris* was startling. Instead of reintroducing the School Voucher Program as a separate bill and letting it wend its way through education committee review and public hearings in the two chambers, the Senate reinserted it into an already House-passed appropriations bill, House Bill 282 of the 122nd General Assembly. Later, the conference committee went even further and expanded the program to fifth and sixth grade children. Thus, there were no public hearings on it, and members of the House never had an opportunity to consider it separate from the primary and secondary and higher education appropriations and language included in HB 282. Cases have also been filed challenging other sections of permanent law similarly included in other appropriations acts based on this court ruling.

History repeated itself in the FY 2012–2013 budget bill that contained a voucher expansion for a new program, the "Jon Peterson Special Needs Scholarship Program." It appears that the legislature will continue unabated melding multiple subjects into appropriations bills, despite the continuing judicial interest in the subject.

Implications of *Simmons-Harris*

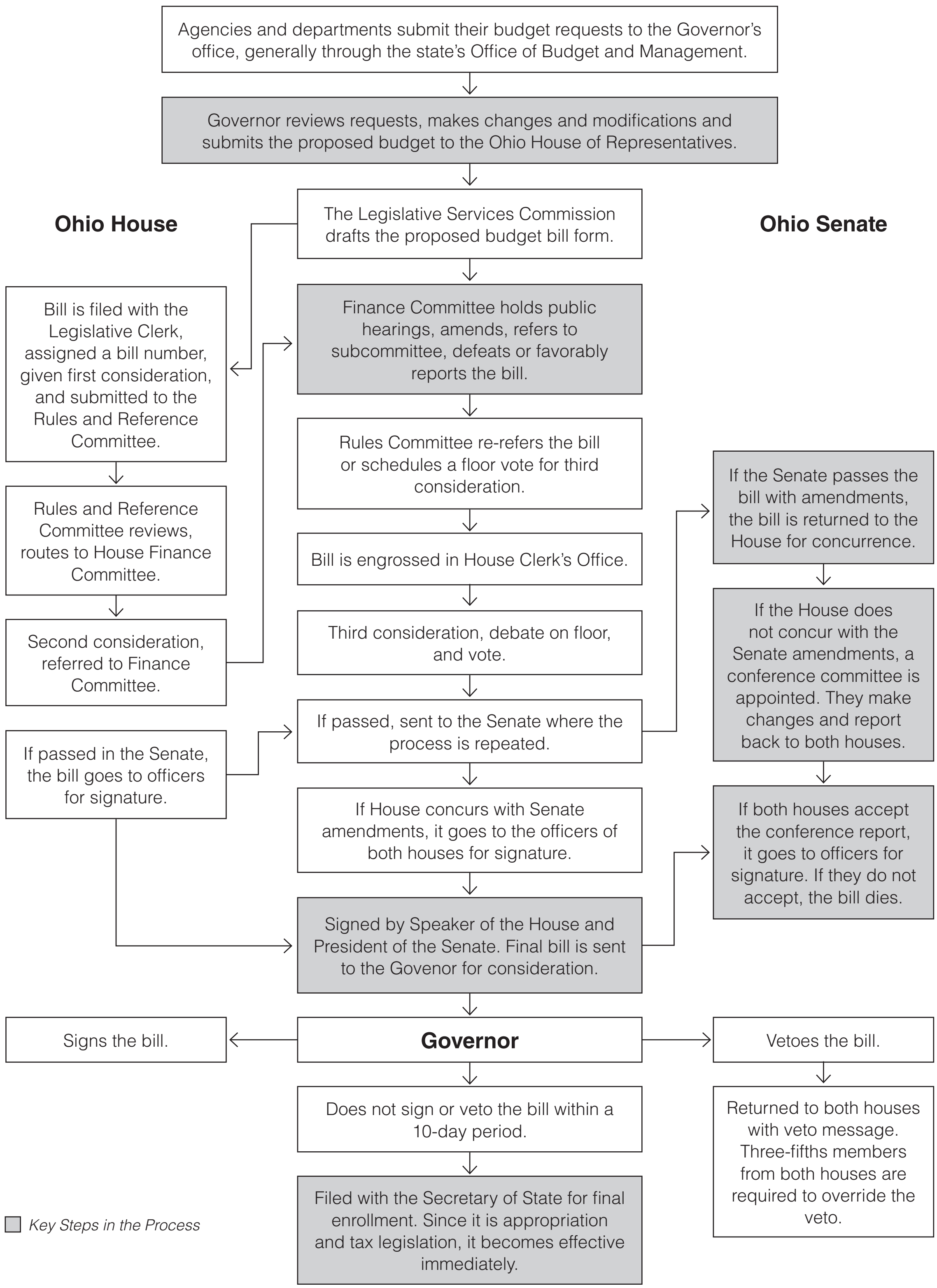
The main operating appropriations bill is a very convenient vehicle for the legislative leadership to use to inject provisions of permanent law that could not withstand careful public debate. The appropriations bill, according to the Supreme Court, "presents a special temptation for the attachment of riders" because "it is a necessary and often popular bill which is certain of passage." It has been likened to a Christmas tree with something for everybody. Advocates have learned that it is often much easier to find a favored legislator to propose a permanent or temporary law as an amendment to the appropriations bill than to risk exposing the issue to separate debate. In past appropriations bills, the legislative leadership recognized the difficulty of passing legislation affecting school desegregation, the use of public funds for abortions, and other controversial issues and added them to the main operating appropriations bill, thereby avoiding review by a substantive standing committee along with public hearings and a separate vote on that issue alone.

The use of provisos to appropriations bills serves other legislative aims as well. Appropriations bills go into effect immediately upon signature by the governor, or after 10 days without the governor's signature. General legislation, on the other hand, goes into effect after 90 days, unless an emergency clause is included. Emergency clauses require a separate vote and approval by three-fifths of each house of the General Assembly. Also, appropriations bills are not subject to a referendum vote by the people.[7] *Simmons-Harris* has not caused the General Assembly to alter the practice of loading appropriations bills with unrelated statutes and temporary law. Abandoning this practice of attaching such riders to appropriations bills is unlikely and would clearly alter the dynamics of legislative budget adoption.

The Appropriations Adoption Process

The process that a budget bill follows in the General Assembly is a variant of the general process for enacting any bill. It is shown in Figure 5-1, which also highlights key steps in the process.

Figure 5-1: **The State Budget Process**



By custom, appropriations bills are introduced in the House of Representatives under the sponsorship of the chair of the House Finance Committee. They are usually labeled as being introduced "by request," indicating its origin in the executive branch but without committing the sponsor to endorsement of all of its provisions.

Sometimes appropriations bills may be introduced in the Senate under the sponsorship of the Senate Finance Committee Chair. When this occurs, it is usually based on either workload or political considerations. For example, if the legislative leadership perceives that there might be difficulty reaching agreement in the Senate on a supplemental appropriations bill, and the House appears to be in accord with the governor's wishes, the bill might be sent first to the Senate to give them as much time as they need to work out their differences.

Under joint rules of the House and Senate, it is possible to expedite passage of any bill by appointing a joint committee that can hold hearings and then pass the bill directly to both houses. This process was first used in 1999 when two cabinet agencies, the Ohio Department of Human Services and the Ohio Bureau of Employment Services, were merged into a new Ohio Department of Job and Family Services under a proposal advanced by Governor Bob Taft. The bill went from introduction to enactment in less than two weeks.

House Finance Committee

The main operating appropriations bill is always referred by the House Reference Committee, which acts as legislative gatekeeper, to the House Finance Committee. The finance committee consists of nearly one-third of the full House membership; current membership is 32. The full finance committee usually holds several hearings to receive an overview of the governor's proposed budget, including the economic and revenue forecasts and Medicaid spending estimates of the Office of Budget and Management, and the independent revenue and Medicaid spending forecasts of the Legislative Service Commission. Directors from the largest state agencies may also make their initial budget presentations to the full committee, although the actual work of reviewing and making recommendations about all agency budget requests, large and small, is done in subcommittees.

The number and composition of the subcommittees may change but has usually consisted of five committees with five members each that divide the budget into the subject areas of primary and secondary education, higher education, health and human services, agriculture development and natural resources, and transportation. The FY 2018–2019 budget deliberations included a sixth subcommittee on state government and agency review; this subcommittee had seven members. All agencies whose activities do not fit these defined categories are split among these subcommittees, usually on the basis of evening up the workload. A schedule for agency hearings is posted on the Internet and in the legislature. It is not unusual for different subcommittees to meet in different rooms at the same time of day. Schedule changes are relatively frequent, and the best way to be sure that a scheduled hearing is going to take place is to telephone the office of the subcommittee chair the day of the scheduled hearing or to check the Internet. In addition, as with other state legislatures, Ohio is increasingly embracing social networking sites like Facebook, Twitter, and YouTube to communicate with constituencies.[8]

Committee Budget Hearings

Budget hearings typically begin with a presentation of the governor's Executive Budget Request for the affected agency by the agency director or representative. After questioning, which usually includes requests for additional supporting documentation and information, members of the public and interest groups in attendance are called upon to testify if they wish. Those testifying are often asked to limit their remarks to a few minutes and to submit their full testimony in writing "for the record." The committee minutes available for general public review typically contain only a limited amount of detail.

Partisan Staff Participation

Several staff members assist the subcommittees and the full finance committee. Staff to the chair serves as secretary to the committee. The majority and minority parties each employ fiscal staff, who report to the chair and ranking minority member of the committee. They brief their members before and after hearings and provide information as requested.

Legislative Service Commission

In addition to partisan staff, the Legislative Service Commission provides staff to the full finance committee and to each subcommittee to assist them in fiscal matters as well as for technical bill-drafting and assistance in the preparation of amendments and the review of those that are prepared without their assistance. The Legislative Service Commission is responsible for drafting the appropriations bill and any subsequent amendments to it. The Legislative Service Commission clearly delineates all proposed changes to permanent law in the budget bill, as well as in all other bills for the members of the General Assembly as well as the general public. New language is underlined to distinguish it from current law, and current law that is changed or deleted is lined out. With regard to proposed temporary law amendments, new language is provided in capital letters to distinguish it from the current version of the bill. This differs from the process used by the U.S. Congress, of which the staff does not similarly provide a mark-up function for its members or the general public.

The Legislative Service Commission prepares independent analyses of each agency's budget, and these "Redbooks," as they are called, are posted on the Legislative Service Commission Website for public review. They distribute their analyses to finance committee members before agency hearings and also supply the chair with possible questions to ask an agency. Often, the Legislative Service Commission will be asked to provide additional analytical materials to individual members on request. These are not generally available, but the offices of individual legislators can request them.

Committee Atmosphere

Observers of a finance committee or subcommittee hearing on an agency's budget request might very well come away confused and bewildered. Budget hearings often appear disorderly and disorganized. To the inexperienced, it might be unclear what is being accomplished. However, the kinds of issues and questions raised during the hearings guide legislative concerns expressed by constituents, interest groups, and lobbyists. Each issue and question will receive special agency attention. None of this is evident in the hearing itself, but it is a critical part of the budget hearing process.

Budget hearings serve as the only means by which each and every state government activity is scrutinized on a regular basis to determine whether executive agencies are carrying out the will of the legislature. It is the single most important means of achieving executive and administrative accountability. When agencies are brought before the subcommittees, questions posed most often revolve around past expenditures and the agency's plans to carry out its legislatively established goals and purposes. How an agency performs during its budget hearings can be the most significant factor in determining the level and nature of the spending that will ultimately be approved for it. Figure 5-2 illustrates some examples from past budget hearings. Others can be found in Chapter 6.

Figure 5-2: Agency Budget Hearing Examples

Case 1	Case 2	Case 3
In 1976, the General Assembly appointed a select legislative committee with a view toward containing large increases in human services expenditures. The then-named Ohio Department of Public Welfare failed to provide the committee with a damaging federal report on the state's Medicaid operations when requested to present all materials and reports bearing on the question of how to reduce expenditures. The committee nevertheless obtained the report independently amidst the state agency's denials that it even existed. Subsequent budget hearings used the report to cut the agency's budget. The agency lost credibility with respect to its other programs, and the actions of the department were used adversely during Senate confirmation hearings on the department's director.	Some agencies have found that the appearance of prominent individuals to support their cause can add luster to their presentation, hoping that the appearance will divert legislators from asking difficult and penetrating fiscal questions. In the case of higher education, for example, each university brings forth its president, and often influential business and community leaders serving on their boards of trustees, to address the finance committee. Few embarrassing questions are presented during such presentations because of the prestige of the presenters and the media attention that always accompanies them.	Emotional appeals have often proven successful. This was true in the legislature's rejection of a Kasich Administration proposal in the FY 2018–2019 budget to shift the Ohio Department of Health's Bureau of Children with Medical Handicaps into the Medicaid managed care program. The proposal would have cut family income eligibility for medicine, treatment, and services for babies born on or after July 1, 2017, with conditions such as cerebral palsy, cystic fibrosis, and epilepsy. Compelling testimony was provided by former Cincinnati Bengals quarterback Boomer Esiason, whose own son is afflicted with cystic fibrosis, as well as by other parents with these conditions.

Preparing the House Version

After the budget hearings are completed, subcommittee chairs will ask their members to prepare amendments to the appropriations bill for review, after which the chair prepares a set of recommendations for review by the full finance committee. In fact, these recommendations are transmitted informally to the chair before the full committee meets. Each subcommittee chair will negotiate the recommendations with the other subcommittee chairs, the full committee chair, and the Speaker of the Ohio House, who helps to guide the process. The Legislative Service Commission is not usually present at these meetings but information is passed on to the commission as decisions are made. They will likely prepare an entirely new, or substitute, appropriations bill for release at the full finance committee meeting. It is only when the substitute bill is completed by legislative staff that the public will have its view of what represents the priorities of the majority party of the House, although it may very well incorporate some of the recommendations of minority members. After the first draft of the substitute bill emerges, additional public testimony is heard in the full finance committee. Considerable activity, generated by both majority and minority party members and aided by lobbyists, culminates in numerous amendments being offered during a series of "budget mark-up" meetings of the full committee.

Generally during these sessions, members of the majority party who were not privy to the discussions with leadership can offer and obtain a favorable vote to modify the draft bill. The chair and his staff keep careful score of amendments affecting the total amount appropriated to make certain that the final bill balances within the revenue estimates from the Office of Budget and Management and the Legislative Service for their version of the budget.[9] These sessions can be quite lengthy and confrontational. Minority members may try to embarrass the majority by siding with a small band of majority members to pass an unwanted amendment. They also frequently propose amendments that will be defeated but that can later be used adversely against the members who voted against the amendments. For example, by offering an amendment to raise primary and secondary education funding by cutting human services spending, the minority can later claim that the majority prefers public assistance to school spending, especially during re-election campaigns. To avoid this result, the majority party will typically "table" the amendment so that no direct up or down vote is taken on the minority proposal. Only those minority party amendments that will assure gaining minority support for the budget will usually be adopted, but there are almost always one or two unexpected surprises.

What emerges from this process is an amended substitute bill that, for all intents and purposes, will be the final bill passed by the House since only technical amendments will usually be accepted during floor debate in the House. Minority members are afforded the opportunity to present extensive amendments on the floor, usually to establish the minority posture on the budget rather than with any expectation of passage. The House-approved budget then becomes the bill that will be used for the remainder of the deliberations, and the governor's budget request, including the supporting documentation in the Blue Book, is relegated to budget history.

Senate Appropriations Review

Typically, the Senate has about half as much time to review the budget as the House of Representatives, with its larger membership and extensive hearings. The gatekeeper, the Senate Rules and Reference Committee, will refer the bill to the Senate Finance Committee, whose main interests will be to establish its priorities on larger issues, such as how to equalize educational opportunities, and to referee disputes between the governor and executive branch agencies with provisions or levels of spending in the House version of the budget.

Unlike the House, historically, the Senate budget review took place at the full finance committee level, although on occasion either ad hoc subcommittees were appointed to provide an initial review on complex subjects, or such a review was provided by another standing committee of the Senate. More recently, the finance committee, which currently consists of 13 members, has divided its work into several substantive subcommittees. For deliberations on the FY 2018–2019 budget, these subcommittees were primary and secondary education, higher education, health and Medicaid, and general government and agency review. The subcommittees each had seven members, with the exception of the general government and agency review subcommittee, which had nine. In the House, the Speaker and the finance committee chair may have to overrule the recommendations of the subcommittees. The Senate is a smaller body with more seasoned members as a result of four-year, rather than two-year, terms of office. Therefore, Senate majority party agreement is more easily achieved.

After the new substitute Senate version of the bill is approved by the finance committee and the full Senate, a conference committee of Senate and House members is appointed to carve out a final financial plan for the state, using as its framework both the House and Senate versions of the budget.

Conference Committee

In setting the timetable for budget deliberations, the legislative leadership tries to allocate at least two weeks for final deliberations by a conference committee. This body comprises the chairs of the House and Senate Finance Committees and four other members, one from each party in each house. Although technically the meetings are open to the public, major decisions are made before the open public meetings. Conference committees set their own rules of operation, including whom they wish to invite to provide any additional information about budget items, and which version of the budget to use in developing the conference report, which is, in reality, still another substitute bill. New revenue and Medicaid spending forecasts are requested from the Office of Budget and Management and the Legislative Service Commission. These can lead to dramatic changes not considered in either version of the bill.

At some point during their private deliberations, the Speaker of the House and the President of the Senate will either join in the negotiations directly or work through their members to set overall budget priorities. They also may get involved in negotiations on individual items and have the power to rewrite the appropriations bill if they choose to do so. The governor may also weigh in more heavily at this stage of the process through the budget director, particularly if the executive is from the same political party as the legislative majority.

A conference report must be signed by at least two members from each chamber. When the conference report has been signed, it is submitted to the full House and Senate, both of which must approve or reject the report in total; they cannot amend it. Failure to approve a conference report results in the appointment of a new conference committee and a renewed effort to prepare a report acceptable to a majority of the members of each chamber.

Gubernatorial Review

When an appropriations bill is approved by both houses, it is sent to the governor usually only a day or two before the July 1 start of the new biennium. Thus, the governor typically has, at most, a day or two to consider all items in the budget to determine which to line-item veto. On rare occasions, where there has been strong executive-legislative branch animosity, the governor has vetoed the entire bill. For purposes of gubernatorial review, the governor asks each agency to review its appropriations and language, and to make recommendations for items to veto. As with any gubernatorial veto, the General Assembly can override a line item veto with a three-fifths majority vote in each house, although this seldom happens. The six items the General Assembly overrode in the FY 2018–2019 budget bill were the first vetoed budget items that any legislature had acted upon since 1977.[10] If all goes well, the budget will be enacted by the end of June 30. There have been several biennia, however, where the budget process has extended well into July or even beyond.

Coordination with Other Legislation

The legislature continues to enact bills while the budget is under review and after its enactment during the remaining 18 months in the life of each General Assembly. Since some of these bills could affect budget decisions by adding new spending requirements or reducing anticipated revenues, it is important that there be a way to evaluate the fiscal impact of all legislation. This task is centralized in the Legislative Service Commission through its fiscal note preparation process. As bills are passed, the Legislative Service Commission will also be responsible for harmonizing the new legislation with existing permanent law provisions.

Capital Budget Process

Unlike the process leading to the main operating appropriations bill, the process for adopting the capital improvements budget is primarily a matter of private negotiations. By the time the bill is introduced, each major city in the state has developed a list of preferred projects and has subjected the list to review by that city's legislative delegation. Each city uses a different process. In Cleveland, for example, the Greater Cleveland Partnership acts as a broker between the community, its leaders, and its legislative delegation, sifting through the various requests for state funding. The lists compiled by the legislative delegations, as well as projects submitted by state agencies, are coordinated by the Office of Budget and Management. It then determines the availability of funds from the various bond authorizations, and then helps to prioritize those projects that must be funded through the General Revenue Fund.

The governor's office is an active participant in negotiating with the legislative leadership on which projects, especially community projects, will be included in the governor's budget request. However, unlike the operating budget, once the bill is introduced, it is passed in a matter of weeks with only minor changes. It is only with rare exceptions that the legislature adds a new project. Public input into the process is generally not necessary or expected, unless there is a major controversy over including some project. The capital improvements budget is often referred to as "pork barrel legislation" as legislators approve projects in each other's districts in order to secure approval of projects in their own districts. The fact that the bill is usually passed a few months before the general election enables incumbent legislators to publicize that they "brought home the bacon" to their districts before the November general elections.

Other Specialized Appropriations Bills

The budget adoption process described here applies to each of the different appropriations bills. There is a difference with respect to the transportation and workers' compensation system budgets. For the FY 2018–2019 budget, these bills were considered in the Senate by the standing committee on transportation, commerce and workforce, rather than the finance committee. The workers' compensation system budget was reviewed in the House by the standing committee on insurance as well as the finance committee. This serves to even the budget review workload as well as brings specialized expertise to the task. Changes in this structure can vary from one General Assembly to the next.

Summary

Despite these outside restraints, budgeting is most of all a people-oriented art. The formulation of a budget involves achieving a delicate balance among the desires and wishes of many players in the budget game. When it comes to forging the final budget bill that is passed, these people's personalities, their personal relationships, their interrelationships with one another, which newspaper they read, and what they thought of what they read are just as important as all the form and substance that can be studied and reviewed by examining documents and textbooks. The budget's formulation is much more complicated than the formal budget adoption process described here. It is the product of a unique set of circumstances that place persons of widely different backgrounds and interests in competition with one another. Each appropriations act is a unique measure that will probably not be replicated.

Endnotes

1 "By the Numbers: Budget Bills through the Years, *Capitol Monitor*, Hannah News Service, February 17, 2017.

2 There is no logical way of determining why provisions are sometimes inserted after the actual appropriation and, at other times, inserted as their own separate temporary law section.

3 *State ex rel. Ohio AFL-CIO v. Voinovich*, 69 Ohio St. 3d 225, 234 to 237, 1994.

4 Logrolling is a term describing the exchange of influence or votes to help passage of projects of personal interest or political significance to legislators.

5 *Simmons-Harris v. Goff*, 86 Ohio St. 3rd 1, 1999. The Court is referring to Article II, Section 15(D).

6 While invalidating the school voucher program on the purely technical basis of its violating the single subject rule, the Ohio Supreme Court upheld the program on the important question of it not violating the establishment clause of the First Amendment of the U.S. Constitution. In a landmark decision, the U.S. Supreme Court would, in *Zelman v. Simmons-Harris*, uphold the constitutionality of the program relative to the establishment clause in 2002.

7 The Supreme Court in State *ex rel. Ohio AFL-CIO v. Voinovich* (1994), 69 Ohio St. 3e 225, 234 to 237 limited the application of the referendum and immediate effect components to codified or uncodified sections of law contained in an appropriations act only if the following apply: (A) the section is an appropriation for current expenses; (B) the section is an earmarking of the whole or part of an appropriation for current expenses; or (c) implementation of the section depends upon an appropriation for current expenses that is contained in the act.

8 National Conference of State Legislatures Website, NCSL.org, September 2018.

9 An exception was the FY 2018-2019 budget. The House of Representatives, facing a large estimated gap of $800 million because of revised revenue estimates, made up only about $650 million of this amount, leaving the Senate to deal with the remainder. Subsequent revenue declines made the gap even larger prior to Senate action on the budget.

10 The House of Representatives voted to override 11 items in the FY 2018–2019 budget, but the Senate took action on only six of these items.