



COUNTY ADVISORY BULLETIN

CAB

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BULLETIN 2011-02

**SEPTEMBER, 2011
REVISED FEBRUARY, 2012**

COUNTY BUDGET QUARTERLY SPENDING PLANS

APPLICABLE LEGISLATION: Am. Sub. H.B 153

REVISED CODE SECTIONS: ORC Section 5705.392

SPONSORS: Amstutz

Reps. J. Adams, Batchelder, Beck, Blair, Blessing, Boose, Buchy, Burke, Combs, Dovilla, Duffey, Grossman, Hackett, Hall, Hollington, Maag, McClain, Newbold, Rosenberger, Ruhl, Slaby, Sprague, Stebelton, Uecker

Sens. Bacon, Beagle, Coley, Daniels, Faber, Gillmor, Hite, Jones, LaRose, Lehner, Manning, Niehaus, Schaffer, Wagoner, Widener

EFFECTIVE DATE: September 29, 2011

BACKGROUND

In 1987 ORC Section 5705.392 became effective with the enactment of H.B. 231. This new law allowed the county commissioners to adopt, as a part of its annual appropriation resolution, a spending plan setting forth a quarterly schedule of expenses and expenditures of all appropriations for the fiscal year from the county general fund.

The spending plan must set forth a quarterly schedule of expenses and expenditures for each office, department, and division, and within each, the amount appropriated for personal services. If a quarterly spending plan is adopted, then each office, department, and division is limited in its expenses and expenditures of moneys appropriated from the general fund during any quarter by the spending plan, which is used as the basis for the certification of availability of funds by the county auditor under ORC Section 5705.41 (D).

Under the original law, the use of a quarterly spending plan was limited to the county general fund. In addition, if the commissioners adopt such a spending plan, it must apply to all appropriations in the general fund for all offices included in the annual appropriation resolution for the general fund.

Adopting a quarterly spending plan is not an easy task. Simply dividing annual appropriation line items into equal quarterly amounts will not work. To do it correctly, commissioners must project when funds are needed during each quarter for expenditure by the various county offices in the general fund. Since the quarterly allocation becomes the basis of certification of availability of funds by the county auditor, if adequate funds are not included in a line item for that quarter, commissioners may see increased requests for supplemental appropriations or intrafund appropriation reallocations (often commonly referred to as “transfers”) because the use of quarterly budgets may flag problems earlier in the year.

Should this be the case, commissioners may see more requests for either a supplemental appropriation to a line item for a specific quarter or for an intrafund appropriation reallocation to the line item that appears to be short from another line item of currently appropriated money to the office in order to make the expenditure legal. If anticipated needs during each quarter are not properly projected, a significant increase in the number of such requests could be requested. In general, the adoption of a good quarterly spending plan requires significant additional work to properly project expenditures for the proper calendar quarter. As a result of this complexity, few counties have used quarterly spending plans.

Experience has shown that the use of quarterly spending plans was needed more for certain offices that overspent much of their appropriated money early in the year. This often resulted in certain offices requesting supplemental appropriations near the end of the year.

In particular, counties expressed concern that county sheriffs in selected counties would overspend their salary or personal service appropriations early in the year and would then approach commissioners late in the year with the need for a supplemental appropriation. In some cases this request for additional salary funds was accompanied by the prospect of eliminating deputies on road patrol or for other functions for the remainder of the year.

Therefore, CCAO took the position to allow a more selective use of quarterly spending plans and the ability to apply the authority for funds other than the county general fund. Specifically, CCAO adopted the following policy as a part of the legislative program:

CCAO seeks permissive authority for a board of county commissioner to do quarterly budget allotments for any general revenue funded department and to allow a board to do such allotments for any special revenue fund. Currently a board of county commissioners may adopt quarterly budget allotments for ALL offices funded out of the general fund. As a result, commissioners are not able to address just a particular office or fund that is demonstrating spending concerns.

BULLETIN SUMMARY

H. B. 153, the state biennial budget bill for the FY 2012 and 2013, amended ORC Section 5705.392 dealing with the authority of the board of county commissioners, as a part of the annual or amended appropriation resolution, to include a quarterly spending plan as a part of

the appropriation resolution. A copy of this section of the Ohio Revised Code, as amended, is attached at the end of this CAB as Exhibit 1.

As a result of the enactment of H.B. 225, effective March 22, 2012, the law will be changed again as is shown in Exhibit 2. This additional change exempts any fund in the county treasury that is subject to rules of the Ohio Tax Commissioner adopted pursuant to ORC Section 5703.05. Under this language, the county auditor's Real Estate Assessment Fund (REA) becomes exempt from a quarterly spending plan.

Under the former law, if commissioners included a quarterly spending plan as a part of the appropriation resolution, the spending plan could only apply to appropriations from the general fund. Likewise, if a quarterly spending plan was used, it had to apply to all appropriations from the general fund. If a quarterly spending plan was adopted, the amount of the quarterly allotment, by line item, was used by the county auditor to certify the availability of funds pursuant to ORC Section 5705.41(D).

While these provisions of the law are not changed by the Act, commissioners are given additional authority to adopt quarterly spending plans. The Act grants new authority to commissioners to adopt a quarterly spending plan that applies to individual county offices if the county office expends more than 60% of its appropriation for personal services or payroll during the first six months of any year.

In addition, if a county office, during the previous fiscal year, spends 110% or more of the total amount appropriated for personal services and payrolls in the annual appropriation measure required to be adopted not later than April 1 of each year by ORC Section 5705.38, then commissioners may also adopt a quarterly spending plan for individual offices.

In both of these cases, the quarterly spending plan may apply to any county fund, with the exception of the county auditor's Real Estate Assessment Fund. With this exception, a quarterly spending plan may apply to any other fund in the county treasury in addition to the general fund.

This County Advisory Bulletin (CAB) will discuss the details of the new quarterly spending plan authorities granted to commissioners under the Act.

GENERAL AUTHORITY TO ADOPT A QUARTERLY SPENDING PLAN FOR ALL OFFICES IN THE GENERAL FUND (ORC 5705.392 (A))

The former provisions of ORC Section 5705.392 remain unchanged under the Act. These provisions remain as specified in Division (A) of this section. Under Division (A), commissioners may adopt, as a part of the annual or amended appropriation resolution, a quarterly spending plan or amended spending plan.

The plan sets forth a quarterly schedule of expenses and expenditures for the fiscal year from the county general fund. The spending plan must set forth separately a quarterly schedule of expenses and expenditures for each office, department, and division in the general fund, and within each, the amount appropriated for personal services. This type of a spending plan may apply only to appropriations in the county general fund. It may not be adopted to apply to any individual office, department or division.

Each office, department, and division is limited in its expenses and expenditures of moneys appropriated from the general fund during any quarter by the schedule established in the spending plan. The schedule established in the quarterly spending plan serves as the basis upon which the county auditor certifies the availability of funds during that quarter pursuant to ORC Section 5705.41(D).

Unlike the two new quarterly spending plan authorities authorized under the change in the law, this current authority is not contingent upon any triggers nor is there any advance notification that must be given to county offices if commissioners desire to use this permissive authority.

AUTHORITY TO ADOPT A QUARTERLY SPENDING PLAN IF AN OFFICE SPENDS MORE THAN 60% OF ITS PERSONAL SERVICES APPROPRIATION DURING THE FIRST SIX MONTHS OF ANY FISCAL YEAR (ORC 5705.392 (B)(1))

With the enactment of Division (B)(1) of ORC 5705.392 in H.B. 153, commissioners also are granted new authority to adopt a quarterly spending plan or an amended plan that sets forth separately a quarterly schedule of expenses and expenditures of appropriations by line item and by office. Under this new authority, however, the spending plan may apply to line items in any county fund, with the exception of the REA Fund, and the plan may be applied to any specific county office, department, or division. This authority only exists, or is triggered, when an office spends or encumbers more than 60% of the amount appropriated for personal services and payrolls during the first half of the year. The law specifies that if this threshold is exceeded then the quarterly spending plan may apply to the office during the last six months of the year in which the office exceeded the 60% threshold and in any subsequent year.

Also note that before this type of a quarterly spending plan may be adopted commissioners must give prior notice of the proposed adoption of the spending plan to the office to which the spending plan will apply. This will be discussed in greater detail later in this CAB.

AUTHORITY TO ADOPT A QUARTERLY SPENDING PLAN IF AN OFFICE EXCEEDS ITS PERSONAL SERVICES APPROPRIATION BY MORE THAN 110% AT THE END OF ANY FISCAL YEAR (ORC 5705.392 (B)(2))

A second new authority granted to commissioners results from the enactment of Division (B)(2) of ORC 5705.392. In this case, commissioners are authorized to adopt a quarterly spending plan or an amended plan that sets forth separately, by line item and office, a quarterly schedule of expenses and expenditures of appropriations. Under this new authority, the spending plan may apply to line items in any county fund, with the exception of the REA Fund, and the plan may be applied to any specific county office, department, or division.

This authority only exists, or is triggered, if the office spends 110% or more of the total amount appropriated to the office for personal services and payrolls during the previous fiscal year. The amount of the appropriation for personal services and payroll is determined by the amount in the annual appropriation resolution which must be adopted not later than April 1 of each year pursuant to ORC Section 5705.38, and this trigger does not apply to any supplemental appropriations commissioners may adopt to legally close out a year.

In addition, if this authority is used in a subsequent year, a quarterly spending plan must remain in effect for two fiscal years, or until the county officer of the office is no longer in office,

whichever is later. The two year period includes a new term of office in the event an elected official is re-elected.

For example, if a county elected official, who is serving in the third year of an elected term, spends 110% or more of the appropriation for personal services during that year, the spending plan may be adopted, and if it is adopted, it applies to the last year of the current term and the first year of the next term if the official is re-elected. On the other hand, if a new official is elected, the spending plan cannot apply to the first appropriation for the new elected official.

This new type of a quarterly spending plan also requires commissioners to give prior notice of the proposed adoption of the spending plan to the office to which the spending plan will apply. This will be discussed in greater detail next.

PROCEDURE REQUIRED TO IMPLEMENT NEW QUARTERLY SPENDING PLAN AUTHORITIES (ORC 5705.392 (B)(3))

The law requires commissioners to follow certain procedures prior to the adoption of any resolution establishing a quarterly spending plan under the two new types of spending plans authorized by the change in the law. It should be noted, however, that this procedure does not apply to the original spending plan authority that is authorized under Division A of ORC Section 5705.392.

For spending plans authorized under Divisions (B)(1) or (2), commissioners must give the office, department or division written notice of its intent to adopt a spending plan or an amended spending plan at least 30 days before the adoption of the resolution. This written notice can be sent by regular first class mail or by personal service. The notice also must include a copy of the proposed spending plan or amended plan. Finally, the county office has the authority to meet with the commissioners at any regular session of the board to comment on the notice or to express concerns or ask questions about the proposed quarterly spending plan.

ACKNOWLEDGMENT

CCAO expresses its appreciation to Auditor of State Dave Yost's office for its review and comments on this CAB. This review should not be interpreted as agreement by the office that it concurs with all conclusions reached in this Bulletin. All conclusions and guidance are those exclusively of the County Commissioners Association of Ohio and any errors are the total responsibility of the CCAO.

EXHIBIT 1

OHIO REVISED CODE SECTION 5705.392

AS AMENDED BY AM. SUB. H.B. 153 OF THE 129TH GENERAL ASSEMBLY

EFFECTIVE SEPTEMBER 29, 2011

Sec. 5705.392. (A) A board of county commissioners may adopt as a part of its annual appropriation measure a spending plan, or in the case of an amended appropriation measure, an amended spending plan, setting forth a quarterly schedule of expenses and expenditures of all appropriations for the fiscal year from the county general fund. The spending plan shall be classified to set forth separately a quarterly schedule of expenses and expenditures for each office, department, and division, and within each, the amount appropriated for personal services. Each office, department, and division shall be limited in its expenses and expenditures of moneys appropriated from the general fund during any quarter by the schedule established in the spending plan. The schedule established in the spending plan shall serve as a limitation during a quarter on the making of contracts and giving of orders involving the expenditure of money during that quarter for purposes of division (D) of section 5705.41 of the Revised Code.

(B)(1) A board of county commissioners, by resolution, may adopt a spending plan or an amended spending plan setting forth separately a quarterly schedule of expenses and expenditures of appropriations from any county fund, for the second half of a fiscal year and any subsequent fiscal year, for any county office, department, or division that has spent or encumbered more than six-tenths of the amount appropriated for personal services and payrolls during the first half of any fiscal year.

(2) During any fiscal year, a board of county commissioners, by resolution, may adopt a spending plan or an amended spending plan setting forth separately a quarterly schedule of expenses and expenditures of appropriations from any county fund, for any county office, department, or division that, during the previous fiscal year, spent one hundred ten per cent or more of the total amount appropriated for personal services and payrolls by the board in its annual appropriation measure required by section 5705.38 of the Revised Code. The spending plan or amended spending plan shall remain in effect two fiscal years, or until the county officer of the office for which the plan was adopted is no longer in office, including terms of office to which the county officer is re-elected, whichever is later.

(3) At least thirty days before adopting a resolution under division (B)(1) or (2) of this section, the board of county commissioners shall provide written notice to each county office, department, or division for which it intends to adopt a spending plan or an amended spending plan. The notice shall be sent by regular first class mail or provided by personal service, and shall include a copy of the proposed spending plan or proposed amended spending plan. The county office, department, or division may meet with the board at any regular session of the board to comment on the notice, or to express concerns or ask questions about the proposed spending plan or proposed amended spending plan.

EXHIBIT 2

OHIO REVISED CODE SECTION 5705.392

AS AMENDED BY SUB. H.B. 225 OF THE 129TH GENERAL ASSEMBLY

EFFECTIVE MARCH 22, 2012

Sec. 5705.392. (A) A board of county commissioners may adopt as a part of its annual appropriation measure a spending plan, or in the case of an amended appropriation measure, an amended spending plan, setting forth a quarterly schedule of expenses and expenditures of all appropriations for the fiscal year from the county general fund. The spending plan shall be classified to set forth separately a quarterly schedule of expenses and expenditures for each office, department, and division, and within each, the amount appropriated for personal services. Each office, department, and division shall be limited in its expenses and expenditures of moneys appropriated from the general fund during any quarter by the schedule established in the spending plan. The schedule established in the spending plan shall serve as a limitation during a quarter on the making of contracts and giving of orders involving the expenditure of money during that quarter for purposes of division (D) of section 5705.41 of the Revised Code.

(B)(1) A board of county commissioners, by resolution, may adopt a spending plan or an amended spending plan setting forth separately a quarterly schedule of expenses and expenditures of appropriations from any county fund, except as provided in division (C) of this section, for the second half of a fiscal year and any subsequent fiscal year, for any county office, department, or division that has spent or encumbered more than six-tenths of the amount appropriated for personal services and payrolls during the first half of any fiscal year.

(2) During any fiscal year, a board of county commissioners, by resolution, may adopt a spending plan or an amended spending plan setting forth separately a quarterly schedule of expenses and expenditures of appropriations from any county fund, except as provided in division (C) of this section, for any county office, department, or division that, during the previous fiscal year, spent one hundred ten per cent or more of the total amount appropriated for personal services and payrolls by the board in its annual appropriation measure required by section 5705.38 of the Revised Code. The spending plan or amended spending plan shall remain in effect two fiscal years, or until the county officer of the office for which the plan was adopted is no longer in office, including terms of office to which the county officer is re-elected, whichever is later.

(3) At least thirty days before adopting a resolution under division (B)(1) or (2) of this section, the board of county commissioners shall provide written notice to each county office, department, or division for which it intends to adopt a spending plan or an amended spending plan. The notice shall be sent by regular first class mail or provided by personal service, and shall include a copy of the proposed spending plan or proposed amended spending plan. The county office, department, or division may meet with the board at any regular session of the board to comment on the notice, or to express concerns or ask questions about the proposed spending plan or proposed amended spending plan.

(C) Division (B) of this section shall not apply to any fund that is subject to rules adopted by the tax commissioner under division (O) of section 5703.05 of the Revised Code.