

Executive Summary

Ohio's State Controlling Board, a state panel that is the final arbiter of hundreds of millions of dollars in state contracts and adjusts spending after the budget is approved, is an oversight board that isn't doing enough oversight. At the same time, it has taken on powers of the legislature that should be left to the legislature itself.

The Controlling Board, which is composed of three legislators from each house and an executive branch appointee, meets biweekly to ensure that money appropriated by the legislature is spent properly. It is the last word on many capital projects and economic development expenditures. It passes judgment on spending transfers within agencies, and supervises the expenditure of new funds made available to the state by the U.S. government and other sources. It also approves contracts that fall outside standard bidding procedures. Altogether, billions of dollars of state spending come before it annually for approval.

Though the board's Republican majority indicated more recently that it was tightening up on its reviews, the board approved seven out of every ten requests it received last year without any discussion. These include items that deserve question. When the board has questions, there is often a disconnect between what they ask and the responses given, leaving an observer to wonder if he or she has wandered into a missing chapter of Alice in Wonderland. During calendar 2002, the board voted down one request out of the 1,665 it considered. Another 52 were initially deferred, often because they were withdrawn before the board considered them. Most of these requests were approved later.

Many transfers the board approves reflect routine needs to move money from one program to another within agencies. However, others may violate the intent of the legislature. Some requests expose the existence of unspent monies at state agencies whose expenditure might be better decided by the General Assembly. The board last year also approved tens of millions of dollars for contracts in which it was unclear that a competitive selection process was used. Though there are sometimes good reasons for the lack of competition, such as the existence of only one vendor, often there is a lack of information about the process, making it impossible to judge whether a selection was appropriate.

The lack of aggressive scrutiny by the board is evident in its approval of medical-service contracts at the Department of Rehabilitation and Correction. A review of the board's record in approving such deals reveals a lack of competitive bidding, costs that at least in some instances seem out of line, and approvals in the face of cloudy documentation on the selection process. The board's pattern of inattention also is apparent in its treatment of a number of requests from the Department of Development. It approved funds to help Stanley Works move a facility from one Cleveland-area location to another even while the company was embroiled in a national controversy over moving its headquarters – on paper – to the Caribbean to avoid U.S. taxes. The board has approved economic development subsidies that may not be necessary and raise concerns that the state is helping one community at the expense of another.

Record-keeping and access to Controlling Board information are remarkably weak. Though improvements have been made since the board was criticized over its scanty minutes in 2001, it

remains difficult to track its activities in detail. The board tape records its meetings, but only to produce written minutes; tapes are used again at the subsequent meeting, so no full transcript of meetings exists.

The board lodges the authority of the legislature in the hands of a few. Concentrating power in this way is not good government. The board's authority over normal activities of the General Assembly should be sharply curtailed. To the degree that the board provides a check on executive power, its duties are worth preserving, but steps should be taken to ensure that it provides the needed oversight. To accomplish that, the General Assembly should:

- Assess the board's far-flung powers and responsibilities, and eliminate those that do not fit with the above charter.
- Curb the board's transfer powers to include only the most routine items, and require a supermajority to approve such transfers and increases in appropriation authority.
- Scrutinize the grant, loan and bond requests of the Development Department more closely.
- Consider an overhaul of the state purchasing process that covers waivers of competitive selection, and inform the board earlier in the process.
- Subject competitive waivers to a necessity test. Require an explanation for every contract of what competitive process was used to award it, mandate reports on efforts to seek new vendors before renewals of noncompetitive contracts, and establish strict criteria governing unbid consulting contracts.
- Require cost comparisons before allowing public services to be provided by private vendors.

Beyond these changes, the board must operate in full sunlight and expand access to its decision-making and records. To bring that about, it should make requests available on its web site a week in advance of its meetings and provide public notice when a request is originally filed. It should allow staff to question agency representatives at board meetings, provide an opportunity for members of the public to testify, and keep a taped copy and make a transcript of each meeting.