

# Transfers Must Go to Full Council

**1-3 Compliance Requirement:** Ohio Rev. Code § 5705.40 - Amending or supplementing appropriation, ordinance – transfer – unencumbered balance – appropriation for contingencies.

**Summary of Requirements:** Any appropriation measure may be amended or supplemented if the entity complies with the same laws used in making the original appropriation. However, no appropriation may be reduced below an amount sufficient to cover all unliquidated and outstanding contracts or obligations against them. “Transfers” \* may be made by resolution or ordinance from one appropriation item to another. Subject to certain limitations, the annual appropriation measure may contain an appropriation for contingencies.

**Rulings** filed in the case of *C. B. Transportation, Inc. v. Butler County Board of Mental Retardation*, 60 Ohio Misc. 71, 397 N.E.2d 781 (C.P. 1979), as well as in *Burkholder v. Lauber*, 6 Ohio Misc. 152, 216 N.E.2d 909 (C.P. 1965), held that a board or officer whose judgment and discretion is required, was chosen because they were deemed fit and competent to exercise that judgment and discretion and unless power to substitute another in their place has been given, such board or officer cannot delegate these duties to another. Following such reasoning, a local government’s governing board would be prohibited from delegating duties statutorily assigned to it, such as the ability to amend appropriations as provided for in Ohio Rev. Code § 5705.40.

Budgeted expenditures coincide with either the final appropriations the legislative body passed prior to fiscal year-end or the sum of those final appropriations plus encumbrances carried forward from the prior year. *That is, the AOS does not recognize appropriation amendments retroactive to the prior year.* The statutory budget process codifies what are or should be good management practices. These processes provide a framework that helps management and legislators reasonably control spending.

\* “Transfers” in this context mean reallocations of appropriations within a fund. These do not refer to transfers of cash between funds.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"><li>• Accounting system capable of recording appropriations and comparing them to actual results.</li><li>• Reconciling appropriation totals to totals recorded in the accounting system.</li><li>• Policies and Procedures Manuals</li><li>• Knowledge and Training of personnel</li><li>• Comparison of Outstanding Encumbrances and Balances to Proposed Amendments</li><li>• Legislative and Management Monitoring</li><li>• Management’s identification of changes in laws and regulations</li><li>• Management’s communication of changes in laws and regulations to employees</li></ul>		

## **5705.40 Amending or supplementing appropriation ordinance - transfer - unencumbered balance - appropriation for contingencies.**

Any appropriation ordinance or measure may be amended or supplemented, provided that such amendment or supplement shall comply with all provisions of law governing the taxing authority in making an original appropriation and that no appropriation for any purpose shall be reduced below an amount sufficient to cover all unliquidated and outstanding contracts or obligations certified from or against the appropriation. Transfers may be made by resolution or ordinance from one appropriation item to another, except that a board of county commissioners shall, at the request of the county board of elections, adopt a resolution to transfer funds from one appropriation item of the board of elections to another appropriation item of the board of elections unless the board of county commissioners determines that the transfer is sought for the purpose of providing employee bonuses or salary increases other than increases necessary to reimburse employees for overtime worked. At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriations, provided that funds unexpended at the end of such fiscal year previously appropriated for the payment of obligations unliquidated and outstanding, or previously appropriated pursuant to section 321.261 of the Revised Code for the collection of delinquent taxes, need not be reappropriated, but such unexpended funds shall not be included by any budget-making body or board or any county budget commission in estimating the balance available for the purposes of the next or any succeeding fiscal year.

The annual appropriation measure, or an amendment or supplement thereto, may contain an appropriation for contingencies not to exceed the amount authorized by section 5705.29 of the Revised Code and in the case of a school district may also include a voluntary contingency reserve balance in the amount authorized by such section. By a two-thirds vote of all members of the taxing authority of a subdivision or taxing unit, expenditures may be authorized in pursuance of such contingency appropriation or voluntary contingency reserve balance for any lawful purpose for which public funds may be expended, if such purpose could not have reasonably been foreseen at the time of the adoption of the appropriation measure or, in the case of a voluntary contingency reserve balance, if the board of education requests payment of any portion of such balance.

Effective Date: 03-27-1991; 09-29-2005 .