



# Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

Author: Daniel DeSantis, Research Analyst  
Shannon Pleiman, Senior Budget Analyst  
Sam Benham, Division Chief  
Reviewer: Nelson Fox, Division Chief  
Amber Hardesty, Division Chief

Volume 134 Issue 23, Revised  
March 16, 2022

## JobsOhio FAQs

In 2011, the General Assembly authorized the creation of a new type of entity to assist the state in carrying out economic development functions. JobsOhio – a nonprofit corporation formed under Ohio law – leases the state’s liquor franchise and uses liquor profits to fund its operations and programs and to pay the state to run the liquor franchise. Since JobsOhio’s inception, many questions have arisen regarding this unique arrangement. This brief addresses several frequently asked questions about JobsOhio and its operations, funding, and relationship with state agencies.

### Contents

What is JobsOhio, and what is its primary function? .....	1
What is the relationship between JobsOhio and the Department of Development?.....	2
What is the relationship between JobsOhio and the Division of Liquor Control? .....	3
How is JobsOhio funded?.....	3
How are the proceeds from liquor sales used? .....	4
May the Auditor of State audit JobsOhio funds? .....	5
Is JobsOhio subject to the Public Records Law? .....	6
May the state terminate the contracts between JobsOhio and the state, and what if any penalty would be incurred for early termination? .....	6

### What is JobsOhio, and what is its primary function?

JobsOhio is a nonprofit corporation that was formed under Ohio law to contractually carry out certain economic development functions and duties that used to be assumed by the state.<sup>1</sup> JobsOhio is funded from the profits on sales of spirituous liquor in Ohio, which it receives through its long-term lease of the state’s liquor franchise.<sup>2</sup>

<sup>1</sup> R.C. 187.01 and 187.04.

<sup>2</sup> R.C. Chapter 4313; Franchise and Transfer Agreement, January 4, 2013 (on file in the LSC Library).

JobsOhio, by law, is not a state or public department, agency, or body, and thus is exempt from many requirements imposed on public entities.<sup>3</sup> For example, directors and employees of JobsOhio are not employees or officials of the state, and generally are not subject to the public official ethics laws, except for financial disclosure requirements, although some alternative ethics requirements apply. The directors and employees of JobsOhio also are not public servants subject to certain Criminal Code provisions specifying offenses against justice and public administration, including bribery. However, Ohio law prohibits a person from promising, offering, or giving any valuable thing or benefit, with the purpose to corrupt a director, officer, or employee of JobsOhio.<sup>4</sup> Furthermore, the Board of Directors of JobsOhio is exempt from the Open Meetings Law.<sup>5</sup> And, as discussed below, it is not subject to the Ohio Public Records Law.

## **What is the relationship between JobsOhio and the Department of Development?**

At the time its creation was being deliberated, the generally acknowledged purpose of JobsOhio was to assume many of the economic development functions that, until that time, had been the responsibility of the Department of Development (DEV).<sup>6</sup> However, the specific economic development duties that JobsOhio was to assume ultimately were not prescribed in statute. Instead, they are set forth in a contract between JobsOhio and DEV. JobsOhio has partnered with six regional Ohio economic development organizations to assist it in carrying out these contractual functions.<sup>7</sup>

The contract, which may be renewed at the end of each fiscal biennium, prescribes the manner by which JobsOhio may assist DEV with carrying out its functions or duties, including the operation and management of DEV programs, offices, divisions, or boards. But there are some limitations on the duties that JobsOhio may assume. For example, ultimate decisions to award public money must remain with DEV, as well as the administration and enforcement of incentive agreements. Moreover, any part of the contract that requires DEV to compensate JobsOhio for contracted services is subject to Controlling Board approval. Some examples of the functions that JobsOhio may assume under the contract include promoting Ohio, performing research for or making recommendations to DEV, or establishing or managing programs on behalf of DEV.<sup>8</sup>

---

<sup>3</sup> R.C. 1.60 and 187.03.

<sup>4</sup> R.C. 187.10 and 2921.01(B).

<sup>5</sup> R.C. 121.22. The Board must hold at least four meetings per year at which a quorum is physically present, and the meetings must be open to the public. (R.C. 187.01(F)(7) and 187.03(C).)

<sup>6</sup> S.B. 314 of the 129<sup>th</sup> General Assembly; see R.C. 122.01(A).

<sup>7</sup> These partner organizations – OhioSE, One Columbus, Dayton Development Coalition, REDI Cincinnati, Regional Growth Partnership, and Team NEO – serve different areas of the state and assist JobsOhio in carrying out its functions in those regions. See “[Ohio Regional Network](#)” on the JobsOhio website, [jobsohio.com](http://jobsohio.com), which is accessible via the Ohio Regional Network link on the home page.

<sup>8</sup> R.C. 187.04.

## What is the relationship between JobsOhio and the Division of Liquor Control?

In 2011, the General Assembly authorized the lease of the state's liquor franchise to JobsOhio.<sup>9</sup> But that law continued to authorize the Department of Commerce's Division of Liquor Control (DLC) to administer and enforce the state's liquor laws. JobsOhio, through a wholly owned subsidiary it incorporated – the JobsOhio Beverage System (JOBS) – eventually issued revenue bonds to lease profits from the state's liquor franchise for 25 years – a transaction that was formalized in a Franchise and Transfer Agreement entered into with the state on January 4, 2013.<sup>10</sup> Pursuant to this transaction, JOBS manages collection of the liquor profits and the relationship between JobsOhio and DLC. This relationship was determined in accordance with another agreement, entitled the Operations Services Agreement.<sup>11</sup>

Under the Operations Services Agreement, JOBS uses the proceeds from liquor sales to pay DLC to run the day-to-day operations of the liquor franchise. There is no specific amount specified in the Agreement that JOBS must pay DLC to operate the liquor franchise, but DLC biennially submits an expense budget for these costs to JOBS for approval. After approval, JOBS submits estimated quarterly payments to DLC for the liquor operating costs outlined in the expense budget.

Under the Agreement, payments from JOBS to DLC are specifically for procurement, distribution, merchandising, management, and other operational services for the liquor franchise.<sup>12</sup> These payments cannot be used for the regulation, licensure, or enforcement of the sale or use of spirituous liquor, beer, wine, or mixed beverages in Ohio.<sup>13</sup>

## How is JobsOhio funded?

In 2013, JOBS issued private revenue bonds totaling \$1.51 billion to cover the cost of leasing the state's liquor merchandising operations for a 25-year term between 2013 and 2038. Of that amount, the state used about \$964 million to retire the debt on state bonds and other commitments backed by state liquor profits, and \$500 million was deposited into the General Revenue Fund (GRF).<sup>14</sup>

Almost all of JobsOhio's revenue consists of proceeds that JOBS generates through the sale of liquor from retail shoppers making purchases at liquor stores and from bars and restaurants buying liquor wholesale. As Chart 1 shows below, liquor sales have risen steadily from approximately \$917 million in FY 2014 to almost \$1.68 billion in FY 2021, averaging about 8.7%

---

<sup>9</sup> R.C. Chapter 4313.

<sup>10</sup> On file in the LSC Library.

<sup>11</sup> R.C. 4313.02.

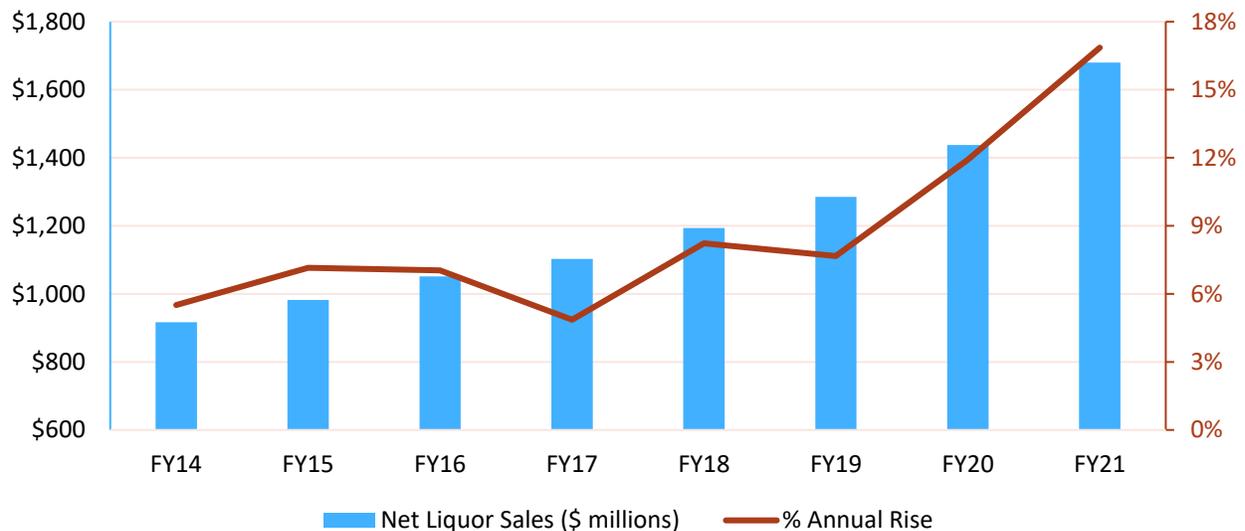
<sup>12</sup> Section 2.1 and Exhibit A of the Operations Services Agreement, pp. 2 and A-1 to A-4, January 20, 2012 (on file in the LSC Library).

<sup>13</sup> Section 1.3 and Exhibit C of the Operations Services Agreement, pp. 2 and C-1.

<sup>14</sup> [Ohio Auditor of State FY 2013 State of Ohio Single Issue Report \(PDF\)](#), which is available on the Auditor of State's website, [ohioauditor.gov](http://ohioauditor.gov).

annual growth over this time. While the volume of liquor sold has increased each year, most of the growth in sales revenue can be attributed to consumers' increasing preference for top shelf brands.<sup>15</sup>

Chart 1: Net Liquor Sales and Growth, FY 2014-FY 2021



## How are the proceeds from liquor sales used?

Since FY 2014, just under 80% of the revenue generated from liquor sales has been used to cover expenses related to running the liquor sales system. These costs include paying for the liquor goods (\$981 million in FY 2021), sales commissions to agency liquor stores (\$107 million), liquor gallonage taxes (\$58 million), contractual payments to DLC to manage the liquor system pursuant to the Operations Services Agreement (\$16 million), along with other expenses. Additionally, JOBS makes an annual payment to the state GRF, an amount that varies based on annual growth in liquor profits. This payment was \$125.8 million in FY 2021.<sup>16</sup>

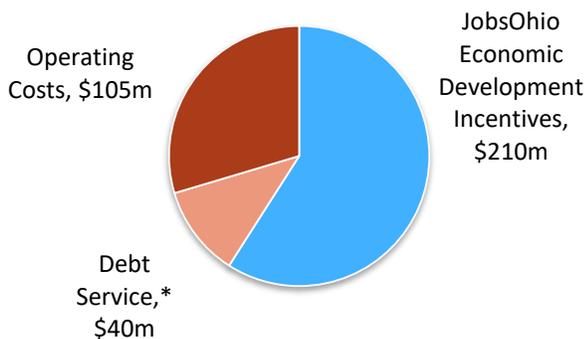
After paying these expenses, JOBS forwards the net proceeds to fund economic development incentive programs operated by JobsOhio. Net liquor profits have seen considerable annual growth under the Franchise and Transfer Agreement with the state, rising

<sup>15</sup> [JobsOhio annual financial statements](#), which are available as PDF reports on the JobsOhio website, [jobsohio.com](#), under "About Us" and then "View Financials."

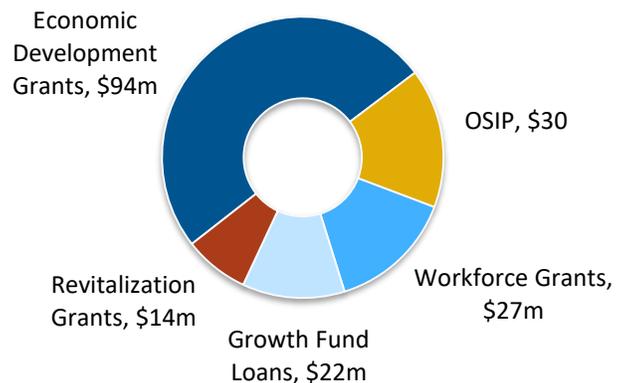
<sup>16</sup> JOBS makes an annual payment to the state GRF if net liquor profits exceed an annual threshold. Using FY 2013 profits as a baseline, these "deferred payments" are calculated each year by taking 75% of the liquor profits that were accrued beyond the base growth rate of 3% of liquor profits from the prior fiscal year. Deferred payments began in FY 2014, rising from \$14.0 million in that fiscal year to \$125.8 million in FY 2021. A total of \$380.3 million has been received over this time.

from about \$215 million in FY 2014 to \$338 million in FY 2021.<sup>17</sup> Chart 2 below displays how this money was used in FY 2021.

**Chart 2: Uses of Net Liquor Profits by JOBS and JobsOhio, Actual Expenses, FY 2021 (\$356 million)**



**Chart 3: Economic Development Awards by Program, FY 2021 (\$187 million)**



\*This figure reflects the net debt service payment after accounting for investment income received in FY 2021.

Chart 3 above shows JobsOhio's economic development awards by program in FY 2021, with total awards of \$187 million.<sup>18</sup> Of the total amount JobsOhio awarded in FY 2021, \$94 million (50%) went to economic development grants. Next, \$30 million (16%) was used for the Ohio Site Inventory Program (OSIP). Combined, workforce, inclusion, and research and development (R&D) grants made up \$27 million (14%) of the total. Additionally, \$22 million (12%) was awarded in the form of loans, most of which went to companies committing to job growth. Finally, \$14 million (8%) was used on revitalization grants. Note that the actual amount spent on economic development awards in a year (as shown in Chart 2) differs from the amount awarded in that year (as shown in Chart 3). This is because projects may take one or more years to move forward from commitment to implementation or construction.

## May the Auditor of State audit JobsOhio funds?

The Auditor of State has authority to audit only the following JobsOhio funds:

1. Taxes collected on the spirituous liquor sales due the Department of Taxation; and
2. The required payments of \$3.38 per gallon of spirituous liquor sold, which JOBS must pay to the state.

Generally, the Auditor is required to audit all public offices and may audit the specific funds or accounts of private institutions that have received public money. But under the Auditor Law, JobsOhio is not a "public office." Further, revenues or receipts related to the transfer of the

<sup>17</sup> [JobsOhio annual financial statements](#), which are available as PDF reports on the JobsOhio website, [jobsOhio.com](http://jobsOhio.com), under "About Us," "View Financials."

<sup>18</sup> [JobsOhio Monthly Executed Grants & Loans](#), which are available as PDF reports on the JobsOhio website, [jobsOhio.com](http://jobsOhio.com). From the hamburger menu icon, select "Reports & Publications."

liquor franchise are exempt from the applicable statutory definition of “public money,” and therefore may not be subject to audit by the Auditor.<sup>19</sup>

While the Auditor of State does not have the authority to audit all JobsOhio funds, the Auditor has some input into the selection of independent firms that do. Ohio law requires JobsOhio to have an audit committee that consists of JobsOhio directors. The audit committee must hire a firm of independent certified public accountants, selected in consultation with the Auditor of State, to perform an annual financial audit of JobsOhio and JOBS.<sup>20</sup>

## **Is JobsOhio subject to the Public Records Law?**

JobsOhio expressly is exempt from the requirements of the Ohio Public Records Law,<sup>21</sup> but it is subject to other disclosure requirements. The contract between JobsOhio and DEV must designate records created or received by JobsOhio that must be made publicly available under the same conditions as public records under the Public Records Law. These designated records must be kept on file by DEV, and must include:

1. JobsOhio’s federal income tax returns;
2. The report of expenditures for travel, meals, or lodging of the Governor or of any public official or employee designated by the Governor for JobsOhio purposes;
3. The annual total compensation paid to each JobsOhio officer and employee;
4. A copy of the report for each financial audit of JobsOhio and of each supplemental compliance and control review of JobsOhio performed by a firm of independent certified public accountants;
5. Records of any fully executed incentive proposals, to be filed annually;
6. Records pertaining to monitoring commitments made by incentive recipients, to be filed annually;
7. A copy of the minutes of all public meetings of the Board of Directors at which a quorum of the Board is required to be physically present.<sup>22</sup>

## **May the state terminate the contracts between JobsOhio and the state, and what if any penalty would be incurred for early termination?**

If the General Assembly enacts a law directing the state to terminate the contracts, the state may be permitted and required to do so. However, under the Franchise Transfer Agreement, the state parties have agreed that they will not materially impair any obligations

---

<sup>19</sup> R.C. 117.01(C) and (D), 117.10, and 4301.12.

<sup>20</sup> R.C. 187.01(J).

<sup>21</sup> R.C. 149.43.

<sup>22</sup> R.C. 187.01(F), 187.03(C), and 187.04(B).

supported by a pledge of liquor business profits.<sup>23</sup> As explained above in “**How is JobsOhio funded?**,” the pledge of liquor profits for the 25-year lease of the spirituous liquor enterprise supported over \$1.5 billion in private bonds. For the state to successfully revoke the agreements, there may need to be a plan to address the bond debt and the other investments made by JobsOhio. Furthermore, under the Ohio Constitution, the General Assembly may not pass laws impairing the obligation of contracts.<sup>24</sup>

---

<sup>23</sup> R.C. 4313.02(C), and Section 15.1 of the Franchise and Transfer Agreement, p. 43.

<sup>24</sup> Ohio Constitution, Article II, Section 28.