

A Surprise Package Called "Appropriations"

by Fred Harwell

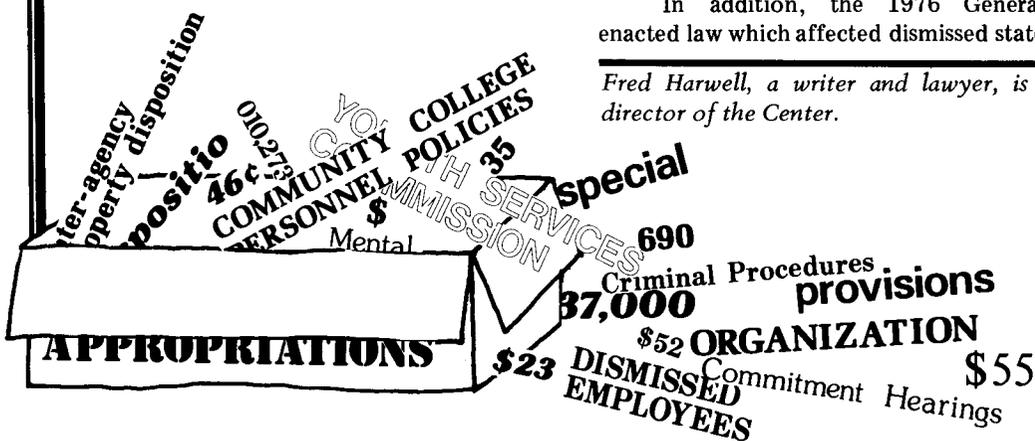
The process of enacting a comprehensive appropriations bill for state government has undergone swift and sometimes sweeping transformation since the General Assembly decided in 1973 to experiment with annual rather than biennial sessions. Some of the recent innovations have been laudable; some have not. When the legislature passed a revised 1976-77 budget during the brief 1976 session, it discovered a way to short-circuit legislative deliberation by packing the "appropriations" bill with substantive (or non-money) provisions having policy implications far beyond the mere expenditure of state funds. The same thing could occur again when the General Assembly convenes in May for the summer session of 1978.

During the dark days of the 1975 recession, the legislature enacted a biennial budget and coincidentally resolved to return for a review of the bill the following year. The 1976 session was supposed to be limited to budgetary matters, and indeed only three additional subjects (medical malpractice, Utilities Commission nominations, and appointments to senate committees) were ever approved for consideration by the leadership. Yet this short session produced substantive legislation affecting:

- The rule making procedures of administrative agencies;
- State criminal procedures;
- The retirement program for local government employees;
- Community college personnel policies;
- The methods of distributing state publications;
- The site of mental commitment hearings; and,
- The organization of the Youth Services Commission.

In addition, the 1976 General Assembly enacted law which affected dismissed state employees,

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the disposition of property transferred between agencies of state government, and the internal redistribution of funds by the Governor and his administration. All of these matters were dealt with exclusively as additions to the revised appropriations bill, though none directly involved new expenditures of state money. All had detailed policy implications apart from any indirect effect on the state budget, but none was ever sent to a substantive committee for evaluation.

Political and economic circumstances undoubtedly conspired to produce the bloated appropriations revision of 1976. Money was tight, and a governor from the opposition party occupied the Mansion. But the main impetus for loading the budget bill with these "special provisions" seemed to come from the legislature's own 1975 adjournment resolution, which strictly limited the subjects available for consideration the following year. To overcome this self-imposed impediment, the leadership adopted a broad but politically selective definition of "budgetary matters" and then swept various favored provisions into the appropriations bill. Other disfavored topics, such as day-care licensing, were blocked by the leadership and simply never reached the floor.

The political and economic circumstances of the 1978 legislature will, of course, be quite different from those of the 1976 session. But the General Assembly will come to Raleigh this year under an adjournment resolution that is similar to the one passed in 1975. Resolution 75 (Senate Joint Resolution 915) in effect limits this year's session to consideration of certain bills pending from 1977 (of which liquor-by-the-drink is the most prominent), a few bills implementing current study reports, and "bills directly affecting the state budget for fiscal year 1978-1979." If such language appears to prohibit the addition of substantive riders to the revised budget bill, it also creates a situation very similar to the one which induced passage in 1976 of an appropriations law hastily encumbered with diverse and significant substantive provisions.

The inclusion of non-money legislation in a short-session appropriations bill is a dubious practice for several reasons. Doing so may require the leadership to trample on the spirit of an adjournment resolution and compel one chamber, the House, to ignore its own Rule 43, which states that no amendment "shall be in order unless (it is) germane to the bill under consideration." But the most persuasive

objection to this procedurally quixotic activity is that it concentrates too much power in the hands of a select group of legislators and precludes the substantive debate in committee and on the floor which is essential if the policy implications of proposed legislation are to be explored before it passes into law.

For practical as well as political reasons, the complicated appropriations process is controlled by a "super subcommittee" of about a dozen Senators and Representatives, usually the chairmen of the various appropriations committees and the leaders of both chambers. Substantive debate is virtually unheard of in an appropriations committee meeting, where the focus is necessarily on monetary rather than policy matters and the size of the group generally limits intensive consideration of pending measures. Because more than half the legislators are members of at least one appropriations committee, and therefore have presumably participated in organizing the bill, there is almost never any real debate on the floor once the unwieldy money bill finally gets there. Many legislators, effectively estranged from the process, never know the details of the law they vote to enact.

All of the circumstances which ordinarily depress debate on appropriations matters are intensified during a short session, effectively stifling any opportunity for detailed consideration of the policy implications of the legislation which gets passed. Because of time constraints, there are greater than usual pressures on all legislators not to crack the fragile compromises, including the addition of "special provisions," which have already been struck among the members of the "super sub." As a result, the likelihood increases that substantive matters with potentially profound policy dimensions will slip through uncontested in the appropriation process and be enacted unwittingly before their practical ramifications can be adequately considered.

Liquor-by-the-drink may get most of the publicity during this summer's session of the North Carolina General Assembly, but much of the legislature's real work will be done within supposedly limited confines of the appropriations bill. If past practices are followed, the reins of state government will fall into the hands of a few powerful legislators during the month of June, and policy decisions of possibly far-reaching consequence may be made in haste and without due deliberation. It has happened before, and it could happen again. ●