

- The Commission is funded entirely through GRF moneys
- Total appropriation for FY 2004 is 5.1% more than FY 2003; FY 2005 is 0.5% more than FY 2004

Environmental Review Appeals Commission

Kerry Sullivan, Budget Analyst

ROLE

The Environmental Review Appeals Commission is an appellate review board whose primary statutory duty is to hear appeals from certain legal actions taken by state and local entities, including the Ohio Environmental Protection Agency (EPA), the State Fire Marshal, the State Emergency Response Commission, the Department of Agriculture, and county and local boards of health. The majority of cases heard by the Commission relate to final actions of the Ohio EPA.

The Commission has statewide jurisdiction and is the highest level of administrative appeal from final actions. All decisions made by the Commission are directly appealable to the Franklin County Court of Appeals, or, if the appeal arose from an alleged violation of a law or regulation, to the court of appeals for the district in which the violation was alleged to have occurred.

The Commission's office consists of five individuals: three board members appointed by the Governor, one executive secretary, and one clerical support person. Board members serve staggered six-year terms and receive a salary that is set by the Governor.

Agency In Brief					
Number of Employees*	Total Appropriations-All Funds		GRF Appropriations		Appropriation Bill(s)
	2004	2005	2004	2005	
5	\$437,000	\$439,000	\$437,000	\$439,000	Am. Sub. H.B. 95

*Employee head count obtained from the Department of Administrative Services (DAS) payroll reports as of June 28, 2003.

OVERVIEW

Appropriations for FY 2004 total \$437,131. This amount is \$21,193 more than the revised appropriation for FY 2003 (a 5.1% increase) and is \$9,373 more than actual expenditures for FY 2003. Appropriations for FY 2005 total \$439,109, or \$1,978 more than FY 2004 (a 0.5% increase).

The Commission is funded entirely by General Revenue Fund (GRF) dollars. In FY 2002, executive order budget reductions led the Commission to lay off one individual from its support staff, resulting in a 50% increase in workload for each of the two remaining staff persons. The Commission conducts all hearings itself, and all decisions are researched and written by Commission members. Commission staff also process and handle all of the Commission's normal administrative functions. With the exception of office supplies, all expenses of the Commission are either required by statute or fixed by contract.

BUDGET ISSUES

ELIMINATION OF THE HAZARDOUS WASTE FACILITY BOARD

The budget act abolishes the Hazardous Waste Facility Board and transfers the responsibilities of the Board to the Ohio EPA. Formerly, the Board was responsible for acting on permit applications for new hazardous waste facilities and for applications for certain modifications to existing facilities. As responsibility for permit issuance transfers to the Ohio EPA, appeals of final actions of the Director of the Board will be heard by the Environmental Review Appeals Commission. Over the past two years, the Hazardous Waste Facility Board worked on a single permit application. Based on this workload, it is not likely that the Commission will be required to hear many appeals based on final actions of the Director of Ohio EPA.

INCREASE IN FILING FEES

The budget act includes a provision that increases the Commission's filing fee from \$60 to \$70 per appeal (section 3745.04 of the Revised Code). The provision also allows the Commission to reduce this fee if the appellant demonstrates that payment of the full amount of the fee would cause extreme hardship. Under prior law, the Commission was permitted to waive the fee entirely in cases of extreme hardship. Because the Commission is funded solely through GRF moneys, all filing fees are credited to the GRF to offset the cost of operating the Commission. The fee increase is likely to generate a minimal amount of revenue for the GRF annually. 

FY 2004 - 2005 Final Appropriation Amounts

All Fund Group

<i>Line Item Detail by Agency</i>	<i>FY 2001:</i>	<i>FY 2002:</i>	<i>FY 2003:</i>	<i>FY 2004 Appropriations:</i>	<i>% Change 2003 to 2004:</i>	<i>FY 2005 Appropriations:</i>	<i>% Change 2004 to 2005:</i>
Report For: Main Operating Appropriations Bill		Version: Enacted					
EBR Environmental Review Appeals Commission							
GRF 172-321 Operating Expenses	\$ 448,540	\$ 440,299	\$427,758	\$ 437,131	2.19%	\$ 439,109	0.45%
General Revenue Fund Total	\$ 448,540	\$ 440,299	\$ 427,758	\$ 437,131	2.19%	\$ 439,109	0.45%
Environmental Review Appeals Commission Total	\$ 448,540	\$ 440,299	\$ 427,758	\$ 437,131	2.19%	\$ 439,109	0.45%