Ohio Civil Rights Commission

- Zero growth GRF budget places heavier reliance on federal funding
- Alternative Dispute Resolution and Workforce Development initiatives streamline caseloads

OVERVIEW

The Ohio Civil Rights Commission is charged with enforcing Chapter 4112. of the Revised Code, which prohibits discrimination on the basis of race, color, sex, religion, national origin, age, ancestry, disability or familial status in employment, public accommodations, housing, granting credit, and higher education. The commission was established in 1959 with the enactment of Am. S.B. 10 of the 103rd General Assembly. The Governor, with the advice and consent of the Senate, appoints five members to the commission, not more than three of whom can be of the same political party, and at least one member of whom must be at least sixty years of age.

The commission is a single-program series agency with two major activities. First, it investigates complaints and adjudicates discrimination charges filed by citizens of Ohio pertaining to discrimination in employment, housing, public accommodation, credit, and admission to, and participation in, activities sponsored by institutions of higher learning, on the basis of race, color, religion, sex, national origin, disability, age, ancestry or familial status. Second, in addition to its enforcement responsibilities, the commission is mandated to conduct educational and public outreach programs.

The commission receives approximately 5,500 official charges of discrimination each year, and well over 100,000 inquiries from the public with questions and/or concerns regarding discrimination. State law mandates that investigations must be complete within one year in order to adjudicate cases where it is probable that discrimination has occurred. Over one-half of the commission's GRF budget is for staff that investigate and resolve charges of discrimination. Additional funding is provided with federal funds through contracts with two federal agencies: the Equal Employment Opportunity Commission and the Department of Housing and Urban Development.

Governor's Recommendations

The Governor's recommendations for each fiscal year of the next biennium essentially provide the commission a no-growth GRF budget, with the expectation that it will still be able to deliver the level of services currently being provided in FY 2001. (This is a state agency that historically has relied on the GRF for around 80 percent of it's financing.)

The total GRF funding level recommended in each of fiscal years 2002 and FY 2003 is $10.7 million. The commission had requested a total GRF budget of $11.7 million in FY 2002, an increase of 9.4 percent, followed by $12.5 million in FY 2003, an increase of 7.1 percent. The anticipated growth in the commission's budget for the next biennium comes from the Governor's recommendation that it place a greater reliance on federal funding. The recommended level of federal funding (line item 876-601) represents an increase of 15.8 percent in FY 2002 and 16.7 percent in FY 2003.

Arguably, the commission's history of relatively small-to-no-growth GRF budgets has hindered its ability to recruit and retain investigative staff, replace antiquated equipment, and upgrade inadequate office space, especially in its regional locations. Relative to the commission's budget request for the next biennium, the Governor's recommended funding levels will limit the commission's ability to replace outdated equipment, offer salary increases, fill vacant staff positions, or conduct a statewide study on discrimination. These issues are discussed more fully in the *Requests Not Funded* section of this analysis and are also dealt with in greater detail in the *Analysis of Executive Proposal* section.

Attorney General's Civil Rights Section

The commission provides funding for legal work performed by the Office of the Attorney General's Civil Rights Section. Under section 4112.10 of the Revised Code, the Civil Rights Section handles all litigation in which the commission participates as a party pursuant to Chapter 4112. of the Revised Code. The commission enters into an annual inter-agency agreement with the Office of the Attorney General to fund a portion of its Civil Rights Section's operating expenses. The total number of staff in this section is around 12, most of which are attorneys. The agreement with the commission covers only a portion of the Civil Rights Section's annual operating costs, which we believe translates into the payroll expenses associated with 5 or 6 staff attorneys.

For the next biennium, the commission plans to transfer $344,000 in federal funds in each of fiscal years 2002 and 2003 to the Civil Rights Section. If the commission's federal funds are tight, then they plan to utilize some of their GRF funding.

Computer Upgrade

In July 1998, The Controlling Board transferred GRF funding into the commission's budget so that it could purchase 170-plus new personal computers, software, and related training. That funding was used, under the direction of the Department of Administrative Services, to purchase 200 Pentium I – 233 MHz desktop computers. These personal computers were somewhat out-of-date at the time of their purchase. These personal computers are not able to run the modern software programs such as Windows 2000, which are used by most businesses and state agencies. The maintenance agreement on these personal computers expires April 2001. The commission did an analysis of the maintenance and upgrade costs for these personal computers versus the cost of purchasing new personal computers. The bottom line is that it would cost the commission only $20,000 to replace these personal computers than it would be to upgrade and maintain them. As a result, the commission plans to purchase 200 new personal computers, a new database program, and related training, with federal funding in FY 2002. Also motivating this purchase decision is the fact that the commission needs to be able to run case processing software that complies with the requirements of its two federal government partners: the Equal Employment Opportunity Commission and the Department of Housing and Urban Development.

Alternative Dispute Resolution

A relatively recent innovation of the commission involved its implementation of an alternative dispute resolution (ADR) program. Since December 1999, 620 cases, or 17 percent of all cases filed with the commission, were successfully resolved through the ADR program. The ADR program brings both the charging party and respondent together in an attempt to settle disputes short of a full-scale investigation. Whereas the investigative process for a case can take between 230-to-240 days to complete, ADR requires only 30-to-45 days to complete.

Workforce Development

After two decades of performing work using the same approach, the commission applied for and received a $70,000 grant from the state's Workforce Development Fund to initiate the first phase of a project designed to reengineer its work processes. The commission's intake process, which apparently is handled differently in each of its six regional offices, will be studied first with an eye towards identifying what are the "best practices." This entire project is expected to take anywhere from two-to-three years to complete and will involve multiple phases.

Commission on African American Males

The commission was formerly responsible for providing oversight and coordination to the Commission on African American Males (CAAM). Pursuant to Am. Sub. H.B. 283 of the 123rd General Assembly, CAAM was removed from the commission's oversight and became a separate state agency, effective July 1, 1999. CAAM's duty is to research and recommend strategies concerning social, economic and educational issues that affect the African American male population of Ohio.

ADDITIONAL FACTS AND FIGURES

Ohio Civil Rights Commission Staffing Levels*							
1996	**1997**	**1998**	**1999**	**2000**	**2001***	**2002***	**2003***
199	201	203	200	199	199	199	199

*The staffing levels displayed in the above table represent full-time equivalents (FTEs). The number of FTEs for FYs 2001, 2002, and 2003 are estimates.

As one can see from the above table, the commission's staff has remained relatively steady at around 200 FTEs since at least FY 1996. Although the commission is able to fulfill its mission at this staffing level, its ability to operate efficiently and complete investigations more quickly is affected by high turnover in its investigative staff, which numbers around 80.

Type of Cases Terminated							
Type of Case	**FY 1994**	**FY 1995**	**FY 1996**	**FY 1997**	**FY 1998**	**FY 1999**	**FY 2000**
Employment	5,184	5,399	4,787	4,707	4,766	4,379	4,543
Housing	394	481	403	475	434	333	344
Public Accommodation	145	160	174	168	124	201	183
Credit	19	17	5	14	12	14	11
Disability in Education	11	7	9	11	6	8	11
Totals	**5,753**	**6,064**	**5,378**	**5,375**	**5,342**	**4,935**	**5,092**

Relative to the types of cases terminated by the commission over the last seven years, as depicted in the above table, roughly 90 percent involve charges of discrimination in matters related to employment. Also of note is that, over the last five years, the commission has terminated, on average, around 5,200 discrimination cases.

Basis of Charges of Alleged Discrimination							
Discrimination Charge	**FY 1994**	**FY 1995**	**FY 1996**	**FY 1997**	**FY 1998**	**FY 1999**	**FY 2000**
Race/Color	2,458	2,521	2,654	2,837	3,522	3,532	3,786
Sex	1,674	1,638	2,054	2,074	2,221	2,071	2,207
Disability	938	1,049	1,406	1,602	1,634	1,124	1,592
Age	722	733	804	865	970	1,486	833
Retaliation	728	802	890	953	1,476	1,979	1,538
National Origin	344	235	237	207	235	240	336
Religion	77	76	70	104	170	163	178
Totals	**6,941**	**7,054**	**8,115**	**8,642**	**10,228**	**10,595**	**10,470**

What the above table shows is that, over time, the charges filed with the commission have increasingly gone beyond allegations of discrimination based solely on a single factor, e.g., race, sex, or disability. It is now the case that charges frequently allege that discrimination was a function of multiple factors, e.g., one's race and sex. Also of note is that the number of charges that have been filed on the basis that an individual has been "retaliated" against because of the filing of a prior charge of discrimination have visibly increased as well.

Charges Filed by Region							
Region	**FY 1994**	**FY 1995**	**FY 1996**	**FY 1997**	**FY 1998**	**FY 1999**	**FY 2000**
Akron	1,242	1,328	1,101	1,025	962	1,018	1,044
Cincinnati	707	685	540	744	722	691	707
Cleveland	963	860	552	759	644	930	1,007
Columbus	1,103	1,102	950	1,103	1,372	1,113	1,026
Dayton	529	521	507	482	459	524	538
Toledo	1,232	1,277	997	1,207	1,267	860	769
Totals	**5,776**	**5,773**	**4,647**	**5,320**	**5,426**	**5,136**	**5,091**

The above table shows the number of discrimination charges that have been filed in each of the commission's six regional offices since FY 1994. Two things seem notable. First, between FYs 1994 and 1998, three regional offices handled roughly two-thirds of the discrimination charges filed with the commission: Akron, Columbus, and Toledo. Second, starting with FY 1999, the number of discrimination charged filed with the Toledo regional office dropped significantly while the number of discrimination charges filed with the Cleveland regional office dramatically jumped.

ANALYSIS OF EXECUTIVE PROPOSAL

OHIO CIVIL RIGHTS COMMISSION

Purpose To enforce state and federal laws against discrimination and to promote education of civil rights.

The following table shows the line items that are used to finance the Ohio Civil Rights Commission's operating costs, as well as the Governor's recommended funding levels.

Fund	ALI	Title	FY 2002	FY 2003
GRF	876-100	Personal Services	$9,541,063	$9,541,064
GRF	876-200	Maintenance	$1,028,513	$1,028,513
GRF	876-300	Equipment	$ 116,502	$ 116,502
Subtotal – GRF			**$10,686,078**	**$10,686,079**
FED	876-601	Federal Programs	$3,327,577	$3,884,113
SSR	876-604	General Reimbursement	$ 20,440	$ 20,951
Total funding: OHIO CIVIL RIGHTS COMMISSION			**$14,034,095**	**$14,591,143**

The commission is a single-program series agency. Specific areas within the commission's budget that this analysis will focus on include:

- ***INVESTIGATION & EDUCATION***
- ***FEDERAL REIMBURSEMENT***

INVESTIGATION & EDUCATION

Activity Description: The goal of the agency is to enforce the mandates contained within its enabling statute, Chapter 4112. of the Revised Code. This focus involves two major activities: investigation and adjudication of discrimination charges filed with the commission, and education and outreach. Annually, the commission receives approximately 5,500 official charges of discrimination. Some of the specifics on these charges are displayed in the *Additional Facts and Figures* section of this analysis.

Funding Source: (1) GRF; (2) federal reimbursement; and (3) payment for the provision of various goods and services, including copies of commission documents.

Line Items: 876-100, Personal Services; 876-200, Maintenance; 876-300, Equipment; 876-601, Federal Programs; 876-604, General Reimbursement.

Implication of the Executive Recommendation: The Governor's recommendations for the next biennium will require the commission to keep a close reign on expenditures. Under the Governor's budget, the commission received $585,163 and $1,313,726 less in total GRF funding for fiscal years 2002 and 2003, respectively, than it had requested to maintain its FY 2001 level of investigative, adjudicative, and educational services in the next biennium.

According to the commission, what hurt them was the fact that the executive's calculation of the commission's payroll costs for the next biennium did not take into account around 17 vacant staff positions that existed when the core budget levels were determined. Most of these vacant staff positions have subsequently been filled. The timing of this executive

calculation meant that, once the commission filled these vacant staff positions, it would be facing a payroll deficit in the next biennium. Thus, the commission had hoped to receive enough supplemental GRF funding to alleviate that problem. The commission received some supplemental GRF funding, but not enough to eliminate the projected payroll deficit. As a result, the commission will have to rely more heavily on its federal funds and also restrict other GRF spending on maintenance and equipment items in order to fully fund its projected payroll costs for the next biennium.

FEDERAL REIMBURSEMENT

Activity Description: The commission receives reimbursements from the United States Equal Employment Opportunity Commission (EEOC) and the federal Department of Housing and Urban Development (HUD), which are then used to offset the costs of investigating cases. These reimbursements do not cover the full cost of processing the cases; the remainder of the cost must then be absorbed by GRF funds.

Funding Source: FED

Line Items: 876-601, Federal Programs

Implication of the Executive Recommendation: The Governor recommends increases in the commission's federal spending authority of 15.8 percent and 16.7 percent in fiscal years 2002 and 2003, respectively. This signals the Governor's intent that the commission place a heavier reliance on its federal funding in the next biennium. The strategy, however, could prove problematic for several reasons. First, the commission can't predict with any degree of certainty the availability of federal funds. Second, the amount of federal funding fluctuates from year-to-year based on available funding and the number of contracted cases. Third, the timeliness of the federal government's reimbursement payments is unpredictable.

Further compounding this fiscal reality with regard to its federal funding is the fact that federal reimbursement covers only a portion of the commission's cost involved in handling discrimination charges. For EEOC cases, the federal reimbursement covers approximately $500 per case for a fixed number of cases established at the beginning of the federal fiscal year. If the number of cases is higher than what the EEOC has anticipated funding, then the commission underwrites the difference. For HUD cases, the federal reimbursement covers approximately $1,700 per case based upon the number of eligible cases processed during the previous year. To actually cover the costs of cases, HUD would need to pay $2,200 per case and the EEOC would need to pay $800 per case. Also, to receive full funding from the EEOC, the commission must complete 4,000 cases in 9 months and be the first state to complete this number of cases. It should also be kept in mind that the commission must investigate all discrimination charges. It does not have the option of refusing to process any charge.

PERMANENT AND TEMPORARY LAW

There are no permanent or temporary law provisions contained in the executive budget that explicitly affect the duties, responsibilities, or fiscal operations of the Ohio Civil Rights Commission.

REQUESTS NOT FUNDED

The difference, or variance, between what the Ohio Civil Rights Commission requested for its biennial GRF budget and the Governor's recommended funding level is summarized in the tables below and organized along the lines of the commission's funding priorities.

Continuation Services Funding						
Fund Line Item	FY 2002 Requested	FY 2002 Recommended	Difference	FY 2003 Requested	FY 2003 Recommended	Difference
GRF 876-100	$10,126,226	$9,541,063	($585,163)	$10,826,164	$9,541,064	($1,285,100)
GRF 876-200	$1,028,513	$1,028,513	$0	$1,054,266	$1,028,513	($25,753)
GRF 876-300	$116,502	$116,502	$0	$119,375	$116,502	($2,873)
TOTALS	$11,271,241	$10,686,078	($585,163)	$11,999,805	$10,686,079	($1,313,726)

The above table depicts the difference between what the commission projects its current cost of doing business will be in each of the next two fiscal years compared to what the Governor recommended. Most noticeable is the difference in the area of personal services where the Governor is recommending less GRF funding than the commission believes it will need to cover payroll. As a result, the commission will have to rely more heavily on federal funding and restrict other GRF spending in order to fully fund its projected payroll costs in the next biennium.

Pay Upgrade for Investigative Staff						
Fund Line Item	FY 2002 Requested	FY 2002 Recommended	Difference	FY 2003 Requested	FY 2003 Recommended	Difference
GRF 876-100	$423,483	$0	($423,483)	$525,895	$0	($525,895)

The commission requested funding in the above table for the purpose of increasing the pay range for 80-plus investigative staff. The executive did not recommend any funding for that initiative.

The commission reviewed the wage scales for investigative classifications and found that their investigators perform a greater amount of complex work than their counterparts in sister agencies, yet they earn a lower rate of pay. The commission is nationally recognized by its peers as a leader in investigative skill and knowledge. The lower rate of pay has, in combination with other factors, caused some of the commission's highly skilled investigators to quit in order to pursue related, but higher paying work.

LSC Budget Spreadsheet by Line Item, FY 2002 - FY 2003

Fund	ALI	ALI Title	Revised Estimated 2001	As Introduced 2002	House Sub Bill 2002	% Change Est. 2001 to House 2002	As Introduced 2003	House Sub Bill 2003	% Change House 2002 to House 2003
CIV		**Ohio Civil Rights Commission**							
GRF	876-100	Personal Services	$9,307,686	$ 9,541,063	$ 9,159,420	-1.6%	$ 9,541,064	$ 9,159,421	0.0%
GRF	876-200	Maintenance	$1,094,163	$ 1,028,513	$ 987,372	-9.8%	$ 1,028,513	$ 987,372	0.0%
GRF	876-300	Equipment	$123,938	$ 116,502	$ 111,842	-9.8%	$ 116,502	$ 111,842	0.0%
GRF	876-401	African American Males	$0	$ 0	$ 0	N/A	$ 0	$ 0	N/A
General Revenue Fund Total			**$ 10,525,787**	**$ 10,686,078**	**$ 10,258,634**	**-2.5%**	**$ 10,686,079**	**$ 10,258,635**	**0.0%**
334	876-601	Federal Programs	$2,873,066	$ 3,327,577	$ 3,327,577	15.8%	$ 3,884,113	$ 3,884,113	16.7%
Federal Special Revenue Fund Group Total			**$ 2,873,066**	**$ 3,327,577**	**$ 3,327,577**	**15.8%**	**$ 3,884,113**	**$ 3,884,113**	**16.7%**
217	876-604	General Reimbursement	$20,000	$ 20,440	$ 20,440	2.2%	$ 20,951	$ 20,951	2.5%
State Special Revenue Fund Group Total			**$ 20,000**	**$ 20,440**	**$ 20,440**	**2.2%**	**$ 20,951**	**$ 20,951**	**2.5%**
Total All Budget Fund Groups			***$ 13,418,853***	***$ 14,034,095***	***$ 13,606,651***	***1.4%***	***$ 14,591,143***	***$ 14,163,699***	***4.1%***

General Revenue Fund

GRF 876-100 Personal Services

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
$8,505,161	$8,636,084	$9,285,514	$9,467,977	**$9,541,063**	**$9,541,064**
	1.5%	7.5%	2.0%	**0.8%**	**0.0%**

Source: GRF

Legal Basis: originally established by Am. Sub. H.B. 831 of the 103rd G.A., the general appropriations act covering fiscal years 1960 and 1961, and funded the commission following its creation pursuant to Am. S.B. 10 of the 103rd G.A., effective July 29, 1959

Purpose: This line item provides funds for the commission's expenses associated with payroll, fringe benefits, and personal services contracts.

GRF 876-200 Maintenance

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
$1,068,514	$1,019,045	$1,072,983	$1,094,163	**$1,028,513**	**$1,028,513**
	-4.6%	5.3%	2.0%	**-6.0%**	**0.0%**

Source: GRF

Legal Basis: originally established by Am. Sub. H.B. 831 of the 103rd G.A., the general appropriations act covering fiscal years 1960 and 1961, and funded the commission following its creation pursuant to Am. S.B. 10 of the 103rd G.A., effective July 29, 1959

Purpose: This line item provides for maintenance expenses of the commission, which on occasion has included payments that partially support the Office of the Attorney General's Civil Rights Section.

GRF 876-300 Equipment

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
$537,446	$256,056	$111,556	$123,938	**$116,502**	**$116,502**
	-52.4%	-56.4%	11.1%	**-6.0%**	**0.0%**

Source: GRF

Legal Basis: originally established by Am. Sub. H.B. 831 of the 103rd G.A., the general appropriations act covering fiscal years 1960 and 1961, and funded the commission following its creation pursuant to Am. S.B. 10 of the 103rd G.A., effective July 29, 1959

Purpose: This line item provides funds for the commission’s equipment purchases.

GRF 876-401 African American Males

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
$422,640	$372,335	$128,200	$0	**$0**	**$0**
	-11.9%	-65.6%	-100.0%	**N/A**	**N/A**

Source: GRF

Legal Basis: originally established by Controlling Board on August 27, 1990

Purpose: This line item was used for operating costs of the Commission on African American Males (CAAM), which oversees projects devoted to solving problems and advancing recommendations pertinent to African American males in the areas of unemployment, education, criminal justice, and health. Pursuant to Am. Sub. H.B. 283 of the 123rd General Assembly, in July 1999, CAAM became a free standing state agency and the oversight function that had been provided by the Ohio Civil Rights Commission was eliminated. As a result, the funding associated with this special purpose GRF line item was moved to a new state agency budget that exclusively supports CAAM (GRF line items 036-100, Personal services, 036-200, Maintenance, and 036-300, Equipment).

Federal Special Revenue Fund Group

334 876-601 Federal Programs

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
$2,944,207	$2,112,351	$2,086,432	$2,873,066	**$3,327,577**	**$3,884,113**
	-28.3%	-1.2%	37.7%	**15.8%**	**16.7%**

Source: FED: CFDA #30.002, Employment Discrimination; CFDA #14.401, Fair Housing Assistance Program

Legal Basis: originally established by Controlling Board in 1970

Purpose: This fund receives reimbursements from the United States Equal Employment Opportunity Commission (EEOC) and the Department of Housing and Urban Development (HUD), which are then used to offset the costs of investigating cases. These reimbursements do not, however, cover the full cost of processing the cases; the remainder of the cost must be absorbed by GRF funds. For EEOC cases, the federal reimbursement covers approximately $500 per case for a fixed number of cases, for HUD cases, approximately $1,700 per case based upon the number of eligible cases processed during the previous year. It should be noted that the work sharing agreements between the commission and these two federal agencies reduce duplication of effort, as the same cases are no longer simultaneously filed with both state and federal agencies. The commission does not have the option of refusing to process these cases. Also of note is that the total amount of federal reimbursement earned by the commission, as well as the timing of when it will be received, is fraught with some uncertainty. This uncertainty can create cash flow problems for the commission as it forces them to rely more heavily on their rather limited GRF funds.

State Special Revenue Fund Group

217 876-604 General Reimbursement

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
$0	$0	$0	$20,000	**$20,440**	**$20,951**
	N/A	N/A	N/A	**2.2%**	**2.5%**

Source: SSR: money paid to the commission for copies of commission documents and for other goods and services furnished by the commission

Legal Basis: ORC 4112.15 (originally established by Am. Sub. H.B. 283 of the 123rd G.A.)

Purpose: These funds are to pay operating cots of the commission.

4H3 876-603 African American Males Gifts and Grants

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
$28,029	$0	$0	$0	**$0**	**$0**
	-100.0%	N/A	N/A	**N/A**	**N/A**

Source: SSR: gifts, donations and grant funds from various sources, including other state agencies and the private sector

Legal Basis: originally established by an Executive Order in 1990

Purpose: This special account was created to accept gifts, donations, and grants for the Commission on African American Males (CAAM). It began receiving moneys in FY 1993. When CAAM became a freestanding state agency in July 1999, this special account was moved to the state agency budget that exclusively supports CAAM (SSR line item 036-601).