

Ohio Ethics Commission

Senate Finance and Financial Institutions Committee

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Legislative Service Commission*

May 15, 2003

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LSC Redbook

for the

Ohio Ethics Commission

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TABLE OF CONTENTS

Overview.....	A1
Analysis of Executive Proposal.....	A2
Additional Facts and Figures.....	A4
Permanent and Temporary Law.....	A6
Requests Not Funded.....	A7
Catalog Of Budget Line Items	COBLI 1

Attachments:

***Compare Document: Permanent and Temporary Law,
As Introduced to As Passed by the House***

LSC Budget Spreadsheet, Executive to House Passed Comparison

May 15, 2003

Note: The estimated General Revenue Fund (GRF) spending for FY 2003 used in this LSC Redbook reflects the 2.5% reduction made as a result of the Governor's January 22, 2003 budget cut order. The executive reduction was applied across-the-board to FY 2003 GRF appropriations, subject to certain exceptions. Subsequent to such reductions (and not reflected in the Redbook), state agencies were permitted to reallocate the amount that each of their GRF appropriation line items was reduced, while still absorbing the 2.5% budget cut within the total amount of their GRF appropriations.

Ohio Ethics Commission

- Total recommended funding for the biennium is \$3,431,168
- In FY 2002, responded to 175 individual written advisory requests and 3,000 telephone queries
- Administered 11,000 financial disclosure forms in FY 2001

OVERVIEW

The Ohio Ethics Commission (ETH) administers, interprets, and enforces ethical conduct in government under Ohio Ethics Law, Chapter 102, and related provisions of the Ohio Revised Code. The underlying mission of the Commission is to promote and enforce ethical conduct throughout state and local government through impartial and responsive education, advice, investigation, and financial disclosure processes. To fulfill its mission, the Commission has improved educational and informational access to thousands of public servants to create a baseline understanding of Ethics Law. The Ethics Commission consists of six members who are appointed by the Governor and confirmed by the Senate. The political affiliation of the Commission is equally divided between the two major parties.

The day-to-day administration of the Commission's activities is the responsibility of the Executive Director and a staff of 21. Commission staff responsibilities fall into four general categories: public information; advisory opinions; investigations and referrals for prosecution; and financial disclosure. Including most state agencies and political subdivisions, about 18,700 elected officials and 590,000 employees statewide fall under the Commission's jurisdiction.

Total funding is increased by \$29,853 in FY 2004 (1.8% above FY 2003) and by \$38,344 in FY 2005 (2.3% above FY 2004). General Revenue Fund funding is increased by \$29,853 in FY 2004 (2.4% above FY 2003) and by \$64,344 in FY 2005 (5.0% above FY 2004).

ANALYSIS OF EXECUTIVE PROPOSAL

Ohio Ethics Commission

Purpose: The Ohio Ethics Commission (ETH) administers, interprets, and enforces ethical conduct in government under the Ohio Ethics Law, Chapter 102. and related provisions of the Ohio Revised code.

The following table shows the line items that are used to fund this agency, as well as the Governor’s recommended funding levels.

Fund	ALI	Title	FY 2004	FY 2005
GRF	146-321	Operating Expenses	\$1,286,869	\$1,351,213
4M6	146-601	Ohio Ethics Commission	\$409,543	\$383,543
Total funding: Ohio Ethics Commission			\$1,696,412	\$1,734,756

Program Description: The Ohio Ethics Commission (ETH) administers, interprets, and enforces ethical conduct in government under the Ohio Ethics Law, Chapter 102 and related provisions of the Revised Code. The Ohio Ethics Commission is required by statute to perform the following five major functions, on behalf of 18,700 elected office holders and 590,000 public employees, and all private sector parties who have regulative or business dealings with these public servants and the general public:

- Education and Public Information – R.C. 102.08
- Advisory Opinions – R.C. 102.08
- Investigation – R.C. 102.06
- Financial Disclosure – R.C. 102.02
- Legislation – R.C. 102.08

The Ethics Commission is a bipartisan commission comprised of six members who are appointed by the Governor and confirmed by the Ohio Senate. Members serve staggered, six-year terms. Commission members receive compensation of \$75 per meeting, not to exceed \$1,200 per calendar year, plus reimbursement for expenses. On average the Commission meets ten times per year. Additional subcommittee meetings occur periodically (investigation subcommittee and advisory committee).

The Commission has seen an 80% increase in advisory demand over FYs 1999-2000 levels. In total, the Commission has conducted over 1,200 educational sessions for elected office holders and public employees in the past eight years. Also, on average, the Commission processes about 10,500 financial disclosure forms per year.

Funding Source: GRF, financial disclosure filing fees, and late filing fees from public officials are the main source of revenue for the Commission. Additional deposits may include limited court ordered restitution resulting from costs of investigations. The Commission is requesting a filing fee increase which is estimated to generate \$150,000 in additional revenue. This additional revenue will be used to support existing staff and services. Since the revenue would not be realized until the fourth quarter of FY 2004, the additional appropriation from this revenue is not requested until FY 2005.

Implication of the Executive Recommendation: The Governor recommended \$3,431,168 for the biennium, whereas the Commission requested \$3,768,428, a difference of \$337,260. As a result of the Governor's recommendations, the Commission will likely have to eliminate two existing staff positions (one Advisory Attorney and one Ethics Special Investigator). Reduction in the advisory section will result in the Commission declining or delaying advisory response. Reducing the number of Special Investigators from five to four will further limit the Commission's ability to uniformly implement the Ethics Law throughout the state. Recommended funding will not allow for supplemental funding for an Advisory Attorney position and a Hearing Examiner position. Without the Hearing Examiner position, Commission members themselves will have to continue to act as voluntary hearing examiners. Also, supplemental funding recommendations will not allow the Commission to pursue online financial disclosure system filing options. Furthermore, the following will likely be cut or eliminated: overtime, IT programming, training, ordinary investigative and ethics education travel, printing materials, law library and other publications, and nearly all equipment replacement or purchases.

ADDITIONAL FACTS AND FIGURES

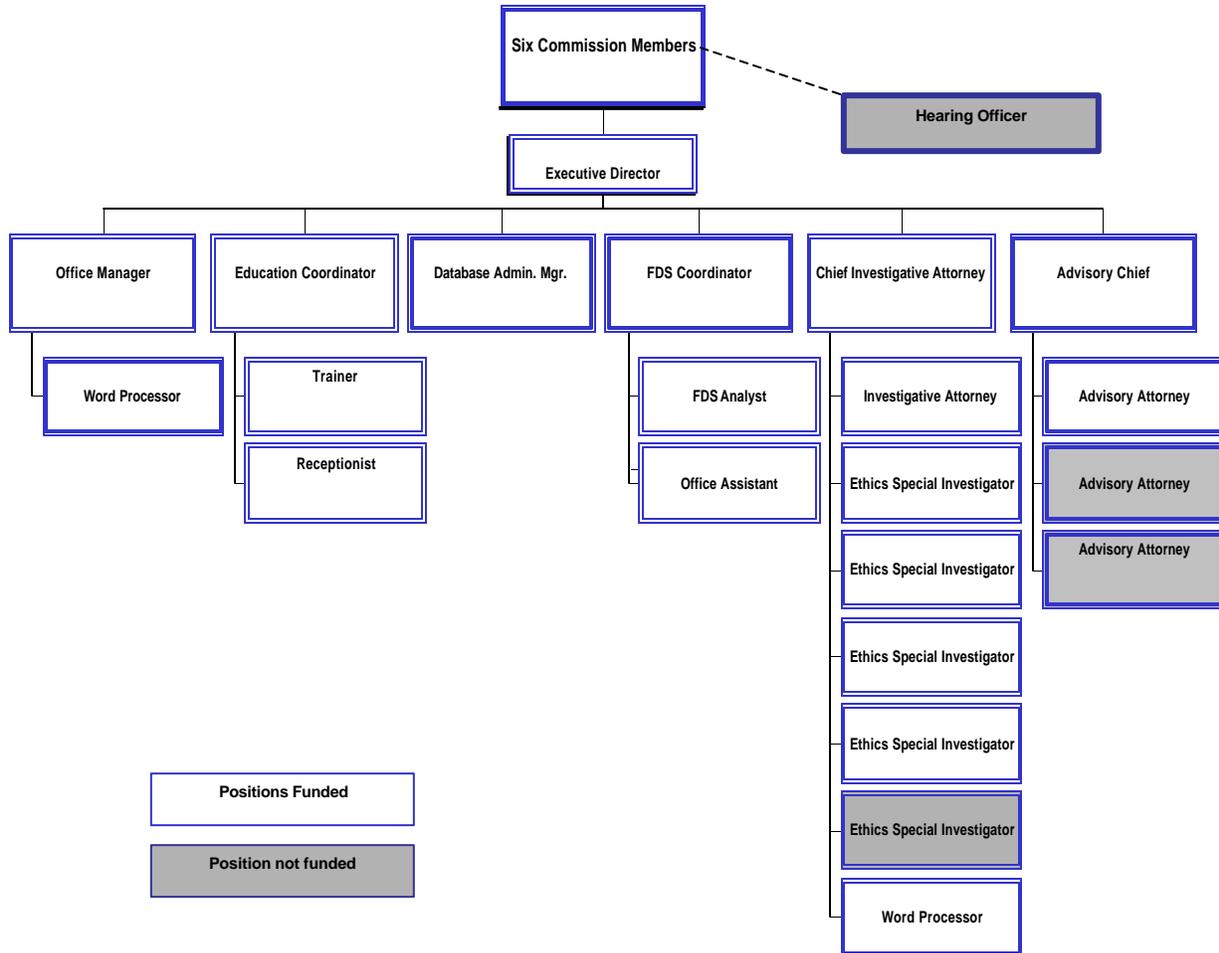
Staffing levels

Fiscal Year 2004 and FY 2005 staffing levels reflect the number of staff the Ethics Commission will be able to employ at the Governor’s recommended staffing levels.

Functional Areas	2000	2001	2002	2003	2004	2005
Advice	4	4	4	4	2	2
Education	2	2	2	2	3	3
Financial Disclosure	3	3	3	3	3	3
Investigation	8	8	8	8	7	7
Office Administration*	5	5	5	5	4	4
Totals	22	22	22	22	19	19

*Office Administration includes the Executive Director, an Office Manager, a Word Processor, and an IT Administrator.

The organizational chart below displays current positions at the Ethics Commission and positions that were requested but not funded by the Governor’s recommendations.



Filing fees

The Commission receives filing fees with all financial disclosure filings required of elected officials and certain public officials under the Revised Code. In addition, the Commission receives fine moneys for late filings. Currently, the fine is one-half of the filing fee per day, with a maximum fine of \$100. The vast majority of filers begin to file in February of each year, with the peak number of filings received in April at the filing deadline. Currently, the Commission funds at least four staff positions from non-GRF revenue. In the past, non-GRF revenue has also been used to pay for information systems purchases; salaries for the Chief Advisory Counsel, Advisory Attorney, and Office Assistant; printing services; conference and training expenses; and equipment purchases.

The Commission’s budget request includes an increase in filing fees by \$15 for all current filers, except for members of the U.S. Congress and the Ohio General Assembly. The Commission approved the recommendation of this fee increase in October 21, 2002. If authorized, the new fees will become effective for the filing due April 15, 2004. It is estimated that the fee increases will generate \$150,000 in additional revenue each year. This additional revenue will be used to support existing staff and services. The Commission notes that this fee increase would produce sufficient funding to provide for a cash balance to support anticipated spending beginning in FY 2005 and future years, assuming other reasonable increases in GRF.

The Commission also is requesting a standard \$10 late fee to replace the current late fee which ranges from \$2.50 to \$25.00. The Commission does not have a revenue estimate for the change in the late filing fee since their current database capabilities does not allow for reporting reliable late fee data by individual filing category. The agency reports that they currently receive approximately \$40,000 in late fees each year.

The table below displays the current statutory filing fee and the proposed statutory filing fee as approved by the Ethics Commission.

FINANCIAL DISCLOSURE FILING FEES		
Office (excluding judicial offices)	Current Statutory Filing Fee	Proposed Statutory Filing Fee
State office (excluding legislators)	\$50	\$65
Office of member of Congress or Ohio General Assembly	\$25	\$25
County office	\$25	\$40
City office	\$10	\$25
Office of member of State Board of Education	\$10*	\$25
Member of city, local, exempted village, or cooperative education board of education or educational service center governing board	\$5	\$20
Position of business manager, treasurer, or superintendent of city, local, exempted village, joint vocational, or cooperative education school district or educational service center	\$5	\$20

** H.B. 94 of the 124th General Assembly contained a line item veto which eliminated a provision to increase the filing fees for a member of the State Board of Education from \$10 to \$20. Due to an inadvertent error, H.B. 675 of the 124th G.A. made reference to this \$20 filing fee which had been vetoed. As a result, the current \$10 fee will be raised to \$20 effective July 1, 2003.*

PERMANENT AND TEMPORARY LAW

This section describes permanent and temporary law provisions contained in the executive budget that will affect the Commission's activities and spending decisions during the next biennium.

Permanent Law

Filing and late fee for financial disclosure statements (R.C. section 102.02)

Increases, effective January 1, 2004, the fees that must be paid by candidates and office holders filing required financial disclosure statements with the appropriate ethics commission as follows: from \$50 to \$65 for a state office, except for the office of member of the State Board of Education; from \$25 to \$40 for a county office; from \$10 to \$25 for a city office; from \$10 to \$25 for the office of member of the State Board of Education; from \$5 to \$20 for the office of member of a city, local, exempted village, or cooperative education board of education or educational service center governing board; from \$5 to \$20 for a position of business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative educational school district or educational service center; and from \$25 to \$40 for all other offices except the office of member of the United States Congress or member of the General Assembly (which continues at \$25).

Changes from one-half of the applicable filing fee to \$10, the late filing fee that the appropriate ethics commission must assess for each day that a person fails to file a required financial disclosure statement, and increases from \$100 to \$250 the maximum total late filing fee that may be imposed.

Fiscal Effect: \$150,000 gain in revenue per year to the 4M6 Fund. The state and local governments may experience increased expenditures for paying the increased fee for their office holders.

REQUESTS NOT FUNDED

The following charts show supplemental requests by the Ethics Commission that are unfunded or partially funded in the Governor’s recommended budget. This information was gathered from the agency’s budget request and documentation provided by the Office of Budget and Management

Supplemental Funding – Support Existing FTEs						
Fund Line Item	FY 2004 Requested	FY 2004 Recommended	Difference	FY 2005 Requested	FY 2005 Recommended	Difference
146-321	\$299,889	\$191,009	\$108,880	\$366,733	\$255,353	\$111,380
Total	\$299,889	\$191,009	\$108,880	\$366,733	\$255,353	\$111,380

This supplemental request is to retain existing staff positions and support ongoing operations of the Commission. With recommended supplemental funding levels, the Commission will not be able to provide the same level of ethics advice and education services as currently provided.

Supplemental Funding – Advisory Attorney Position						
Fund Line Item	FY 2004 Requested	FY 2004 Recommended	Difference	FY 2005 Requested	FY 2005 Recommended	Difference
146-601	\$0	\$0	\$0	\$51,000	\$0	\$51,000
Total	\$0	\$0	\$0	\$51,000	\$0	\$51,000

Without this supplemental funding, the Commission’s timely response to questions concerning ethics, conflicts of interest, or financial disclosure under its statewide jurisdiction will be reduced.

Supplemental Funding – Information Technology						
Fund Line Item	FY 2004 Requested	FY 2004 Recommended	Difference	FY 2005 Requested	FY 2005 Recommended	Difference
146-321	\$11,000	\$0	\$11,000	\$35,000	\$0	\$35,000
Total	\$11,000	\$0	\$11,000	\$35,000	\$0	\$35,000

Without this supplemental funding, the Commission will not able to upgrade their existing financial disclosure database and tracking system and upgrade current software.

Supplemental Funding – Hearing Examiner Position						
Fund Line Item	FY 2004 Requested	FY 2004 Recommended	Difference	FY 2005 Requested	FY 2005 Recommended	Difference
146-321	\$10,000	\$0	\$10,000	\$10,000	\$0	\$10,000
Total	\$10,000	\$0	\$10,000	\$10,000	\$0	\$10,000

Without this supplemental funding, Commission members will be required to independently review testimony and other evidence of a known non-disclosure, plus existing staff with their own independent responsibilities will be required to aid the Commission members in preparing a report and recommendation of whether the matter should be referred to criminal prosecution.

General Revenue Fund

GRF 146-321 Operating Expenses

2000	2001	2002	2003 Estimate	2004 House Passed	2005 House Passed
\$1,269,579	\$1,301,331	\$1,250,194	\$1,257,016	\$1,257,016	\$1,283,016
	2.5%	-3.9%	0.5%	0.0%	2.1%

Source: GRF

Legal Basis: ORC 102.05 (originally established by Am. Sub. H.B. 283 of the 123rd G.A.)

Purpose: To pay personnel, maintenance, and equipment costs for the Commission. These costs were previously funded through line items 146-100, Personal Services; 146-200, Maintenance; and 146-300, Equipment.

General Services Fund Group

4M6 146-601 Operating Expenses

2000	2001	2002	2003 Estimate	2004 House Passed	2005 House Passed
\$280,511	\$293,786	\$391,955	\$409,543	\$409,543	\$383,543
	4.7%	33.4%	4.5%	0.0%	-6.3%

Source: GSF: Financial disclosure filing fees and late filing fees from public officials are the main source for this fund. Additional deposits may include limited court ordered restitution resulting from costs of investigations.

Legal Basis: ORC 102.02(G)(2) (established by Am. Sub. H.B. 285 of the 120th G.A.)

Purpose: To supplement GRF funding for operations and statutory functions of the commission.

As Introduced

As Passed by the House

Subject: Filing and Late Fee for Financial Disclosure Statements

R.C. 102.02

Increases, effective January 1, 2004, the fees that must be paid by candidates and office holders filing required financial disclosure statements with the appropriate ethics commission as follows: from \$50 to \$65 for a state office, except for the office of member of the State Board of Education; from \$25 to \$40 for a county office; from \$10 to \$25 for a city office; from \$10 to \$25 for the office of member of the State Board of Education; from \$5 to \$20 for the office of member of a city, local, exempted village, or cooperative education board of education or educational service center governing board; from \$5 to \$20 for a position of business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative educational school district or educational service center; and from \$25 to \$40 for all other offices except the office of member of the United States Congress or member of the General Assembly (which continues at \$25).

Changes from one-half of the applicable filing fee to \$10, the late filing fee that the appropriate ethics commission must assess for each day that a person fails to file a required financial disclosure statement, and increases from \$100 to \$250 the maximum total late filing fee that may be imposed.

Fiscal effect: Estimated \$150,000 gain in revenue per year to the Ethics Commission's 4M6 Fund. State and local governments may experience increased expenditures for paying the increased fee for their office holders.

R.C. 102.02

Same as the Executive version, but increases the financial disclosure filing fee for the office of member of the United States Congress and member of the General Assembly from \$25 to \$40.

Fiscal effect: Based on 132 Members of the Ohio General Assembly and 20 Members of Congress from Ohio, Fund 4M6 in the General Services Fund Group may experience an annual revenue gain of approximately \$2,280.

LSC Budget Spreadsheet by Line Item, FY 2004 - FY 2005

<i>Fund ALI ALI Title</i>	<i>Estimated 2003</i>	<i>As Introduced 2004</i>	<i>House Sub Bill 2004</i>	<i>% Change Est. 2003 to House 2004</i>	<i>As Introduced 2005</i>	<i>House Sub Bill 2005</i>	<i>% Change House 2004 to House 2005</i>
<i>ETH Ethics Commission</i>							
GRF 146-321 Operating Expenses	\$1,257,016	\$ 1,286,869	\$ 1,257,016	0.0%	\$ 1,351,213	\$ 1,283,016	2.1%
General Revenue Fund Total	\$ 1,257,016	\$ 1,286,869	\$ 1,257,016	0.0%	\$ 1,351,213	\$ 1,283,016	2.1%
4M6 146-601 Operating Expenses	\$409,543	\$ 409,543	\$ 409,543	0.0%	\$ 383,543	\$ 383,543	-6.3%
General Services Fund Group Total	\$ 409,543	\$ 409,543	\$ 409,543	0.0%	\$ 383,543	\$ 383,543	-6.3%
<i>Total All Budget Fund Groups</i>							
	\$ 1,666,559	\$ 1,696,412	\$ 1,666,559	0.0%	\$ 1,734,756	\$ 1,666,559	0.0%