

Ethics Commission

Senate Finance and Financial Institutions Committee

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Legislative Service Commission*

April 19, 2005

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LSC Redbook

for the

Ethics Commission

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April 19, 2005

Ethics Commission

- Total funding request for the biennium is \$4,122,284
- 20% increase in advisory requests from FY 2003 to FY 2004
- 26% more investigation inquiries received in 2003 over 2002

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 18. 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.

The Executive recommends an appropriation of \$1,978,756 in FY 2006, which represents a 11.2% increase over estimated FY 2005 expenditures and \$1,908,756 in FY 2007, which represents a 3.5% decrease. ETH has requested an appropriation of \$2,081,961 in FY 2006, and \$2,040,323 in FY 2007.

Summary of FYs 2006-2007 Budget Issues

S.B. 133 Requirements

S.B. 133 of the 125th General Assembly requires that ETH provide extensive continuing education and additional oversight for officials of the state's retirement funds and employees. This legislation requires ETH to provide several functions such as providing all retirement systems with ongoing ethics orientation, and continuing education, as well as responding to inquiries from board members and staff. The provisions of S.B. 133 will result in increased administrative costs resulting from increased education programs as well as responding to inquiries.

Additional Staffing

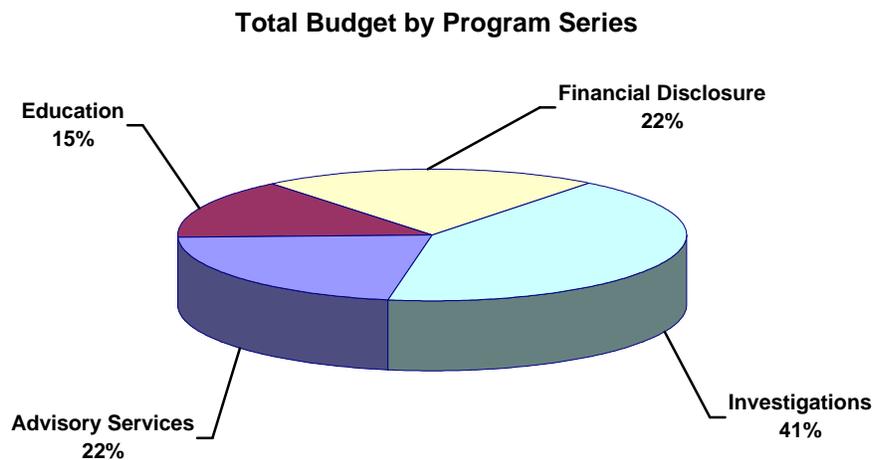
ETH estimates that additional staff is necessary to continue providing services over the next biennium. ETH feels that it will be necessary to hire an additional trainer position to fulfill the educational training requirements of S.B. 133, at an estimated cost of \$60,000 each fiscal year. ETH is also seeking funding to hire an additional advisory attorney, at a cost of approximately \$62,000 in each fiscal year. ETH has experienced an increase of 20% in advisory opinions requested from FY 2003 to FY 2004, prompting the

agency to seek to fill a third advisory attorney position in the Advisory Services program, which was previously cut due to GRF reductions.

Hardware and Software Needs

ETH utilizes a legacy database system for data processing within its Financial Disclosure Program. The current system was designed ten years ago. ETH indicates that this system can still meet basic needs, however, it is at risk of failing because it is no longer capable of upgrade or design consultant support. The software was originally designed to track approximately 8,500 annual filings. The system must now account for an average of 10,500 annual filings as well as perform many other reporting duties that were not originally anticipated. ETH has requested appropriations to upgrade this system for the last three biennia and has not received funding for it. In addition, software consultants were asked to review ETH's system and determined that the existing software code is outdated and in need of complete replacement. ETH has not contracted with a software consultant to determine the exact costs of a system replacement, but estimates that such costs would be approximately \$150,000 in FY 2006, and \$50,000 in FY 2007 to implement on-line filing and viewing capabilities.

The chart below illustrates the portion of the ETH's budget that is allocated to each of its four programs. The Investigations Program constitutes the largest portion of the ETH's budget.



Staffing Levels

Ethics Commission Staffing Levels						
Program Series/Division	2002	2003	2004	2005	<i>Estimated</i>	
					2006	2007
Advisory Services	4	4	3	3	3	3
Education	2	2	2	2	2	2
Financial Disclosure	3	3	3	3	3	3
Investigation	8	8	8	8	8	8
Office Administration*	5	5	4	4	4	4
Totals	22	22	20	20	20	20

*Office Administration includes the executive director, and office manager, a word processor, and an IT administrator

ANALYSIS OF EXECUTIVE PROPOSAL

Program Series 1

Ethics Oversight

Purpose: This program series administers the Ohio Ethics Law for public officials and employees at the state and local levels of government. The Commission's four major program areas are advisory services, including advisory opinions, education and public information, financial disclosure, and investigations and referrals for prosecution.

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

Fund	ALI	Title	FY 2006	FY 2007
General Revenue Fund				
GRF	146-321	Operating Expenses	\$1,476,213	\$1,476,213
General Revenue Fund Subtotal			\$1,476,213	\$1,476,213
General Services Fund				
4M6	146-601	Operating Expenses	\$502,543	\$432,543
General Services Fund Subtotal			\$502,543	\$432,543
Total Funding: Ohio Ethics Commission			\$1,978,756	\$1,908,756

This analysis focuses on the following specific programs within the program series:

- **Advisory Services**
- **Education**
- **Financial Disclosure**
- **Investigations**

Advisory Services

Program Description: This program increases awareness and understanding of the ethics law by the public, public officials and employees, and entities doing business with government entities to ensure compliance with the state's ethics law. The Advisory Services program implements the Commission's authority to render advisory opinions with regard to questions concerning ethics, conflicts of interest, and financial disclosure. The advisory process allows those who have potential conflicts or otherwise need ethics advice to seek guidance before they act. The Commission issues written advisory opinions that apply the ethics law and related statutes for state and local public officials and employees, provides telephone guidance to public servants, and provides ethics law information to the public and the media. When the commission provides written advice, the individual to whom the opinion was directed is immune from criminal prosecution if such advice is heeded.

Funding Source: GRF, GSF

Line Items: 146-321, Operating Expenses, and 146-601, Operating Expenses

Implication of Executive Recommendation: The recommended level of \$415,251 in FY 2006 and \$424,170 in FY 2007 falls \$62,875 short of the requested funding level for FY 2006 and \$45,456 short of

requested funding levels in FY 2007. The recommended funding levels would allow ETH to retain its current staff, which would not have been possible under FY 2005 funding levels. However, the recommended funding levels will not be sufficient to add an additional advisory attorney in FY 2007.

Temporary and Permanent Law Provisions: None

Education

Program Description: This program provides continuing education and written materials concerning the provisions of Ohio's ethics law, conflicts of interest, and financial disclosure. The educational sessions and informational materials help increase public awareness of the application of Ohio's ethics law and, thereby, decrease the potential for ethics violations. Ethics education is offered through the development and distribution of informational materials, correspondence, educational appearances, telephone assistance, and the Commission's web site. This program also assumes much of the responsibility to review and recommend ethics-related legislation to the General Assembly.

Funding Source: GRF, GSF

Line Items: 146-321, Operating Expenses, and 146-601 Operating Expenses

Implication of Executive Recommendation: The recommendation of \$282,653 in FY 2006 and \$288,235 in FY 2007 falls short of the requested funding by approximately \$60,300 in FY 2006 and \$60,200 in FY 2007. This level of funding will allow the Commission to continue providing educational services at the current level. However, this funding level does not provide the funding for an additional trainer. ETH feels that additional funding is necessary in order to fulfill the requirements of S.B. 133.

Temporary and Permanent Law Provisions: None

Financial Disclosure

Program Description: This program administers and enforces the financial disclosure requirements of the Ohio Revised Code, which mandates over 10,500 elected state, county, and city officeholders, candidate for those offices, upper-level state administrative appointees and employees, and many state board and commission members and their executive directors annually disclose their sources of income and investments. The purpose of the disclosure is to remind the filer and make the public and Commission aware of potential conflicts of interest.

Funding Source: GRF, GSF

Line Items: 146-321, Operating Expenses, and 146-601 Operating Expenses

Implication of Executive Recommendation: The recommendation of \$477,964 in FY 2006 and \$362,737 in FY 2007 falls short of the requested funding by approximately \$65,000 in FY 2006 and approximately \$35,000 in FY 2007. This is based on estimates that ETH has given as to the cost of upgrading and implementing a new database system, and the costs of implementing on-line filing and viewing capabilities. It is not yet known what part, if any, of the database replacement and implementation of on-line capabilities could be accomplished with the recommendation. The recommended levels will continue to fund the current service levels provided by this program.

Temporary and Permanent Law Provisions: None

Investigations

Program Description: This program administers confidential investigations of allegations or complaints of ethics violations against public officials and employees and those with whom they do business. The Commission reports its findings to the appropriate prosecuting attorney in such cases as violations are evidenced. The Commission investigates allegations of wrongdoing involving public officials and employees, and private parties who interact with them, at every level of government, including state departments, boards, and commissions, counties, cities, villages, townships, school districts, and other public entities.

Funding Source: GRF, GSF

Line Items: 146-321, Operating Expenses, and 146-601 Operating Expenses

Implication of Executive Recommendation: The FY 2006 recommendation of \$802,888 falls short of the requested funding by approximately \$3,900 in FY 2006, but the FY 2007 recommendation of \$833,614 is approximately \$5,100 above requested funding in FY 2007. These funding levels will allow ETH to maintain the current level of 8 FTE's for this program, and continue to provide investigative services through the next biennium.

Temporary and Permanent Law Provisions: None

REQUESTS NOT FUNDED

The following tables represent the requests not funded for the various programs within the Commission’s budget.

Advisory Services-Personnel						
Fund Line Item	FY 2006 Requested	FY 2006 Recommended	Difference	FY 2007 Requested	FY 2007 Recommended	Difference
146-321	\$380,064	\$317,189	\$62,875	\$380,064	\$334,608	\$45,456
TOTALS	\$380,064	\$317,189	\$62,875	\$380,064	\$334,608	\$45,456

ETH requested an additional \$62,000 in FYs 2006-2007 to fund an additional advisory attorney position. This level of funding is not adequate to fund an additional staff position. However, this funding level is adequate to maintain current staffing levels.

Education-Personnel						
Fund Line Item	FY 2006 Requested	FY 2006 Recommended	Difference	FY 2007 Requested	FY 2007 Recommended	Difference
146-321	\$276,527	\$216,277	\$60,250	\$279,409	\$219,159	\$60,250
TOTALS	\$276,527	\$216,277	\$60,250	\$279,409	\$219,159	\$60,250

ETH requested additional funding of approximately \$60,000 to fund an additional educational trainer position to help meet the requirements of S.B. 133. The recommended funding level allows ETH to maintain its current staff.

Financial Disclosure						
Fund Line Item	FY 2006 Requested	FY 2006 Recommended	Difference	FY 2007 Requested	FY 2007 Recommended	Difference
146-321	\$453,359	\$313,359	\$140,000	\$307,675	\$267,675	\$40,000
146-601	\$89,605	\$164,605	+\$75,000	\$90,062	\$95,062	+\$5,000
TOTALS	\$542,964	\$477,964	\$65,000	\$397,737	\$362,737	\$35,000

ETH requested additional funding for the replacement of its current database system, as well as funding to allow for on-line filing and viewing capabilities. ETH estimated these costs to be approximately \$200,000 in FY 2006 and \$50,000 in FY 2007. ETH has yet to contract with consultants to get an exact estimate of the total costs of completing this upgrade, so it is unknown what parts of the upgrade can be completed with this recommendation.

General Revenue Fund

GRF 146-321 Operating Expenses

2002	2003	2004	2005 Estimate	2006 House Passed	2007 House Passed
\$1,250,194	\$1,251,362	\$1,280,809	\$1,351,213	\$1,476,213	\$1,476,213
	0.1%	2.4%	5.5%	9.3%	0.0%

Source: GRF

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

Purpose: This line item is used to pay personnel, maintenance, and equipment costs of the Commission.

General Services Fund Group

4M6 146-601 Operating Expenses

2002	2003	2004	2005 Estimate	2006 House Passed	2007 House Passed
\$391,955	\$404,444	\$320,801	\$427,543	\$502,543	\$432,543
	3.2%	-20.7%	33.3%	17.5%	-13.9%

Source: GSF: Financial disclosure filing fees and late filing fees from public officials are the main source of revenue for this fund. Additional deposits may include limited court ordered restitution resulting from costs of investigations. Am. Sub. H.B. 95 of the 125th G.A. increased all financial disclosure filing fees by \$15 for all filers.

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

Purpose: Moneys in this line item are used to supplement GRF funding for operations and statutory functions of the Commission.

LSC Budget Spreadsheet by Line Item, FY 2006 - FY 2007

<i>Fund ALI ALI Title</i>	<i>Estimated 2005</i>	<i>As Introduced 2006</i>	<i>House Passed 2006</i>	<i>% Change Est. 2005 to House 2006</i>	<i>As Introduced 2007</i>	<i>House Passed 2007</i>	<i>% Change House 2006 to House 2007</i>
<i>ETH Ethics Commission</i>							
GRF 146-321 Operating Expenses	\$1,351,213	\$ 1,476,213	\$ 1,476,213	9.3%	\$ 1,476,213	\$ 1,476,213	0.0%
General Revenue Fund Total	\$ 1,351,213	\$ 1,476,213	\$ 1,476,213	9.3%	\$ 1,476,213	\$ 1,476,213	0.0%
4M6 146-601 Operating Expenses	\$427,543	\$ 502,543	\$ 502,543	17.5%	\$ 432,543	\$ 432,543	-13.9%
General Services Fund Group Total	\$ 427,543	\$ 502,543	\$ 502,543	17.5%	\$ 432,543	\$ 432,543	-13.9%
<i>Total All Budget Fund Groups</i>	\$ 1,778,756	\$ 1,978,756	\$ 1,978,756	11.2%	\$ 1,908,756	\$ 1,908,756	-3.5%