

Redbook

LBO Analysis of Executive Budget Proposal

Environmental Review Appeals Commission

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February 2021

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LBO Redbook

Environmental Review Appeals Commission

Quick look...

- The Environmental Review Appeals Commission functions as a quasi-judicial appellate review body specifically for resolving environmental disputes resulting from various final actions taken by certain state agencies and local boards of health.
- The Commission receives 100% of its funding from the GRF.
- Biennial total appropriation of \$1.3 million: \$651,000 in each FY 2022 and FY 2023.
 - Annual spending is largely attributed to personal services/payroll, typically around 80%, with the remainder dedicated to supplies and maintenance (in the form of rent, software licenses, supplies, and other expenses).
- The executive budget will permit the Commission to maintain current service delivery levels.

FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Estimate	FY 2022 Introduced	FY 2023 Introduced
GRF ALI 172321, Operating Expenses					
\$549,365	\$574,179	\$497,136	\$651,000	\$651,000	\$651,000
% change	4.5%	-13.4%	31.0%	0%	0%

Agency overview

The Environmental Review Appeals Commission (EBR) is an appellate review body whose primary statutory duty is to hear and resolve appeals of various technical and legal final actions taken by state and local governmental entities, including the Ohio Environmental Protection Agency (Ohio EPA), the State Fire Marshal, the State Emergency Response Commission, the Department of Agriculture, and local boards of health. The vast majority of the appeals arise from final actions taken by the Director of the Ohio EPA.

The Commission consists of three members appointed by the Governor with the advice and consent of the Senate. Commission members serve staggered six-year terms; their salaries are fixed by the Governor. The members conduct hearings, review filings, and issue rulings, and are currently supported by two full-time staff (an executive director and one program administrator/staff attorney).

Any party adversely affected by an order of the Commission may appeal to the Franklin County Court of Common Pleas or, if the appeal arises from an alleged violation of a law or regulation, to the court of appeals of the district in which the violation was alleged to have occurred. An appeal is generally required to be accompanied by a \$70 filing fee, which the Commission may waive in cases of extreme hardship. Multiple appellants may be included in a

single appeal, so these filing fees do not necessarily correlate to the number of new appeals. The fee, which generates an average of around \$2,500 annually, is credited to the GRF.

Analysis of FY 2022-FY 2023 budget proposal

The Commission's operating costs are funded by a single GRF line item (172321, Operating Expenses). The executive proposed appropriation in FY 2022 and FY 2023 fully funds the Commission's budget request, which it believes will be sufficient to maintain existing service levels, including the maintenance of the electronic filing system and online docket implemented in the FY 2018-FY 2019 biennium. The Commission notes that this new system was a benefit during the end of FY 2020 and the first half of FY 2021 as it allowed the Commission to continue its work with little to no interruption despite working remotely. The system allowed parties to access case files online through an electronic docketing platform. While the number of appeals filed slowed during the first few months of the pandemic, filings have resumed to normal levels, if not higher, beginning in the early fall of 2020.

The table below shows historical appropriations dating back to FY 2018. Actual expenditures can be highly variable depending on whether staffing levels change during the biennium or if there is a vacancy on the Commission, as evidenced in FY 2020 when the actual expenditures totaled \$497,136 due to the early departure of a Commission member.

One challenge the Commission anticipates in the upcoming biennium is the issue of rental costs for office space. After payroll, rent charged by the Department of Administrative Services (DAS) is the Commission's largest item of expense. Future rates have not yet been set by DAS.

H.B. 49 (132 nd General Assembly)		H.B. 166 (133 rd General Assembly)		Executive Proposal	
FY 2018 Appropriation	FY 2019 Appropriation	FY 2020 Appropriation	FY 2021 Appropriation	FY 2022 Introduced	FY 2023 Introduced
GRF ALI 172321, Operating Expenses					
\$608,205	\$608,205	\$634,000	\$651,000	\$651,000	\$651,000
% change	0%	4.2%	2.7%	0%	0%

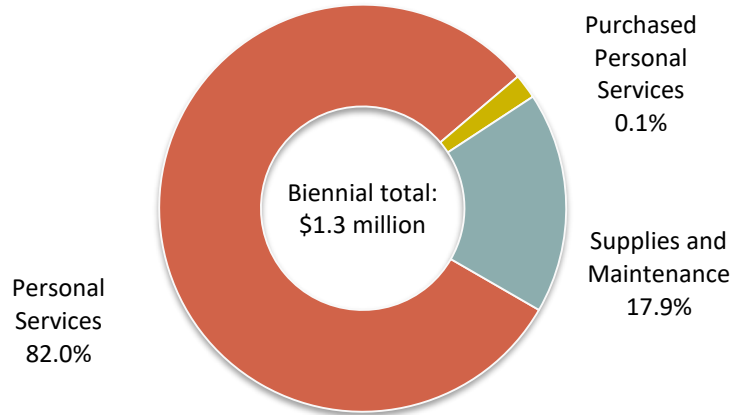
Executive recommendations by expense category

The chart below shows the Commission's total biennial appropriation, as proposed by the executive budget, by object of expense. Around 82%, or approximately \$1.1 million, is allocated for personal services (wages, salaries, fringe benefits, and payroll check off charges). Nearly 18%, or about \$233,000, is allocated for supplies and maintenance, which includes rent, information technology, and other services provided by the Department of Administrative Services. The remainder, around \$2,000, will be allocated for purchased personal services, as needed.

The Commission plans to keep current staffing levels for the next biennium, leaving two vacant positions unfilled, one of which is considered a part-time position. The

Commission will continue to employ two full-time staff members: an executive director and one program administrator/staff attorney.

**Commission Budget by Expense Category
FY 2022-FY 2023 Biennium**



Caseload statistics

The table below summarizes the Commission’s caseload from FY 2010 through FY 2020 (appeals, hearings, filings reviewed, and rulings issued).

Commission Caseload Statistics, FY 2010-FY 2020					
Fiscal Year	Total Appeals	Appeals Concluded	Hearings	Filings Reviewed	Rulings Issued
2010	98	272	210	3,583	3,362
2011	85	114	113	1,434	704
2012	60	109	52	1,201	524
2013	142	100	74	1,525	785
2014	65	88	48	1,165	634
2015	31	104	41	990	585
2016	30	108	58	1,227	544
2017	47	87	53	984	425
2018	38	61	54	734	386
2019	29	39	37	578	309
2020	53	50	57	528	382