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Budget Testimony of Executive Director Paul M. Nick
H.B. No. 33: Main Operating Budget for FY24-FY25
Ohio House of Representatives – Finance
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Chairman Miller, Ranking Member Miller, and members of the Committee, my name is Paul Nick. I am the Executive Director of the Ohio Ethics Commission, and I appreciate the opportunity to testify before you about the Administration’s budget recommendation for the Commission for the 2024 to 2025 biennium.

OVERVIEW OF THE COMMISSION

The General Assembly has assigned to the Ethics Commission authority over the approximately 18,700 elected officials and 590,000 public employees across Ohio at all levels of government, from villages and townships to cities and counties; all officials and employees of each of the public schools, colleges, and universities in Ohio; and each of the constitutionally-elected, statewide officeholders, appointed members of all boards and commissions, and their staff.

In addition to these public officials and employees, the Commission also has authority over individuals in the private and non-profit sectors who are expected to comply with the Ethics Law in doing business with or being regulated by public agencies throughout Ohio, to avoid potential conflicts of interest and maintain public accountability.

DUTIES AND RESPONSIBILITIES

The Commission has five main responsibilities: rendering advice and guidance; providing education sessions statewide; conducting confidential investigations; assisting the General Assembly on ethics-related legislation; and administering and enforcing the financial disclosure requirement.

Advice: The Commission employs two staff attorneys (down from three attorneys in prior biennia) who collectively handled the 163 written advisory opinions received by the Commission in 2021. (This number is in addition to the immediate guidance provided in response to over 2,200 e-mails and 1,700 telephone calls the Commission received that year.) Each of these written requests was answered within 30-45 days of their receipt, and in most instances, much sooner. The Commission provides timely legal advice, helpful to public officials and their counsel, at no cost to the requester. In 2021, 18% of the requests were from state officials or employees, and the remaining 82% were from counties, cities, townships, villages, school districts, and other local government agencies.

Education: The Commission believes strongly that both advice and education help to ensure compliance with the Ethics Law and to avoid a “gotcha” style enforcement. The Education program has two staff members – an administrator and technology-based trainer. In calendar year 2021, more than 57,000

public officials and employees from state and local government completed an online Ethics course and nearly 9,000 participated in one of the Commission's webinars. Also in 2021, over 65,000 visitors experienced the Commission's website, which includes several brief, on demand e-courses covering specific topics of interest to all public officials and employees, such as nepotism, revolving door, job seeking, filing financial disclosure statements, and gifts. Commission staff also conducted 123 in person educational sessions that reached over 11,000 people, including state, county, and city agencies, public sector associations, and groups of public and private sector organizations. I also personally worked with the Cities of Toledo, Cincinnati, and Cleveland to assist them with developing and establishing new ethics programs to help restore public confidence in government due to recent corruption scandals in their communities.

Investigation: The Commission's Investigation program ensures uniform, statewide enforcement of the criminal provisions of the Ethics Law by investigating alleged violations and referring matters for criminal prosecution when the facts merit it. This oversight helps fight occurrences of misuse of tax dollars often coming to light among the hundreds of requests that come to the Commission covering various sectors of government.

In 2021, the Commission employed three attorneys (one the Chief of the section), four special investigators, and a case management specialist who received and reviewed the 389 investigative inquiries we received and carried a docket of 158 active investigations. Of the newly opened cases in 2021, 83% involved public officials and employees at the local level, including counties, cities, villages, townships, and schools, and 12% involved allegations against state officials or employees and members of the private sector. In addition, from 2020 to 2021, the Commission initiated 29 formal complaints against persons who failed to comply with the financial disclosure requirement (less than 0.5% of the total number of filers). Of these 29 complaints, 14 were referred for criminal prosecution due to noncompliance.

In conducting these investigations, the Commission frequently partners with the special prosecution units at the Ohio Attorney General and the Ohio Auditor of State, as well as other local and federal investigators and prosecutors.

Legislation: The Commission has responded to several recent legislative efforts during the past few years. Of note, the Commission worked directly with former Speaker Cupp on an amendment to S.B. 288. This amendment to section 102.99 of the Ethics Law enhances penalties for private sector vendors convicted of promising or giving anything of value to any public official or employee that could improperly influence them in the performance of their public duties. Now, if convicted, in addition to the standard penalties for a first degree misdemeanor, these vendors can be debarred from participating in any public contract, at the state or local level, for a period of 2 years. The sentencing court may also impose an additional fine equal to the amount of the things of value improperly provided and may also assess against the vendor the Commission's costs of investigation.

The Commission will also work with JLEC and the General Assembly on H.B. 16, which was introduced in the House last month and includes several other proposed amendments to the Ethics Law.

Financial Disclosure: The Ethics Law requires approximately 10,000 public officials, high-ranking public employees, and candidates for elected office from more than 1,300 agencies to file annual, personal financial disclosure statements with the Ethics Commission. These agencies include each of the state elected officers and their senior staff; all public college and university trustees and presidents; members of state boards and commissions, including all five retirement systems; all elected county and city officials; and board members of public school districts and Education Service Centers, as well as

their superintendents and treasurers. Nearly 2,500 of the statements filed by public officials and employees are confidential by statute and are individually audited by staff. The Financial Disclosure program consists of one manager and one analyst (down from two analysts in prior biennia). The Commission's IT Administrator is also the manager for the Financial Disclosure program. During peak filing periods, staff from other sections make themselves available to help, as needed.

BUDGET REQUEST

The Commission receives funding from two sources: The State General Revenue Fund (GRF) and the Commission's Dedicated Purpose Fund (DPF).

The sources of DPF funding are primarily financial disclosure filing fees, penalties for those who file their forms late, and the occasional court-ordered payments for the costs of the Commission's investigations.

During FY22 and FY23, the Commission, working with OBM staff, increased its reliance on funds in the DPF account to cover its operating expenses. However, there has been a steady drop in the number of persons who file annual disclosure statements compared with prior years. Previous biennia have seen approximate totals of 11,000 to 11,300 filers each year, depending on election cycles. Because of several factors, including agency and board consolidations and a reduction in the total number of state filers, the number of current filers has dropped to an average of only 10,000 to 10,300 filers. This reduction in the number of filers (and the loss of filing fee revenues) has diminished the size of the Commission's DPF balance.

In addition, since the inception of the online filing portal in 2013, the Commission has seen a substantial reduction in the amount of late fees assessed and collected. The Commission attributes this revenue decline to the speed with which staff is now able to electronically notify filers when their statements are late. This reduction in late fee collections has directly benefited many other state agencies by reducing their expenses, because R.C. 102.02 requires state agencies to pay the late filing fees of its current and past employees. We have included in our budget request our best projection of anticipated revenue from filing fees based upon our experiences over the past five years.

However, this cost savings to others has severely reduced the Commission's revenues and balances in the DPF account that historically has supported almost one-third of the Commission's budget.

A fully supported funding request would provide \$2,288,838 in GRF funding for FY24 and \$2,305,068 for FY25. Further, we project that this will be supplemented by funds in the 4M60 account of \$515,063 in FY24 and \$515,063 in FY25. This funding will support the Commission's current staffing level of 18 full time employees and would enable hiring two critical staff positions to start the biennium and maintain that staffing model throughout the biennium – a third advisory attorney and a second financial disclosure analyst. The Commission's staff would increase from 18 FTE in FY23 to 20 FTE moving into FY24 and FY25.

Our projections and result focused budgeting show that continuing to provide services at the staffing levels of 20 FTE, with the ability to maintain a case management software subscription, would require the additional GRF funding in the amounts of \$97,473 in FY24 above FY23 GRF appropriation levels and \$113,703 in FY25 above FY23 GRF appropriation levels, totaling an additional \$211,176 in GRF appropriation over the course of the biennium.

CONCLUSION

The bipartisan membership of the Ethics Commission understands that, like all other agencies supported by taxpayer funds, it must be frugal and diligent in ensuring that taxpayers receive the best service at the least cost. The Commission further believes that the duties and responsibilities assigned to it by the General Assembly are crucial to ensuring compliance and enforcement of high standards of integrity and conduct at all levels of state and local government.

Respected members of the Committee, thank you for the opportunity to testify this afternoon. I am happy to answer any questions you may have.