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H.B. No. 96: Main Operating Budget for FY26-FY27
Budget Testimony of Executive Director Paul M. Nick

Chairman Hoops, Ranking Member Abdullahi, 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 2026 to 2027 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 local and state government, from villages and townships to cities and counties; all officials and employees of each of the public schools, colleges, and universities in Ohio; each of the constitutionally elected, statewide officeholders and their staff; and the appointed members and staff of all Ohio boards and commissions.

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; conducting confidential investigations; assisting the General Assembly on ethics-related legislation; and administering and enforcing the financial disclosure requirement.

Advice: The Commission employs three staff attorneys who collectively handled the 147 written advisory opinions received by the Commission in 2024. (This number is in addition to the immediate guidance provided in response to over 1,500 e-mails and telephone calls the Commission received last year.) Each of these written requests was answered within 30-45 days of their receipt, and in most instances, much sooner. The median response time for opinion requests was 19 days. The Commission provides timely legal advice, helpful to public officials and their counsel, at no cost to the requester. In 2024, 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 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 one technology-based trainer. In calendar year 2024, more than 58,000 public officials and employees from state and local government completed a one hour, online Ethics course and nearly 7,000 participated in one of the Commission's webinars. The Commission has also produced several shorter, 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. We conducted 204 in person educational sessions that reached nearly 20,000 people, including state, county, and city agencies, public sector associations, and groups of public and private sector organizations.

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 2024, the Commission employed three attorneys (one the Chief of the section), four special investigators, and a case management specialist who received and reviewed the 960 allegation inquiries we received and carried a docket of 174 active investigations. The Commission also closed 96 cases last year. Of the newly opened cases in 2024, 85% involved public officials and employees at the local level and 13% involved allegations against state officials or employees and members of the private sector. In addition, from 2023 to 2024, the Commission initiated 15 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 15 complaints, 10 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.

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 are tasked to assist this section.

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, the occasional court-ordered payments for the costs of the Commission's investigations, and a nominal fee from the Supreme Court, via an MOU, related to Commission staff helping to operate their online filing portal. As noted in the LBO Red Book, current filing fees range from $30 to $95 and were last changed in 2012. Maximum late filing fee penalties of $250 have remained unchanged since the inception of the Commission in 1975.

During FY24 and FY25, the Commission, working with OBM staff, increased its reliance on funds in the DPF account to cover our operating expenses from the previous biennium, which directly impacts the amount of GRF funding we request. Unfortunately, our revenue sources into the DPF are unreliable, for two primary reasons.

First, there has been a steady drop in the number of persons who file annual disclosure statements. 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. (In filing year 2023, the number of statutory filers actually dropped below 10,000). This reduction in the number of filers (and the loss of filing fee revenues) has diminished the size of the Commission's DPF balance. Under the current Administration's budget recommendation, we project that by the end of FY27, the Commission's DPF will essentially be depleted.

Second, since rolling out our online filing portal in 2013, the Commission has seen a substantial reduction in the amount of late fees assessed and collected. We attribute 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 had supported almost one-third of the Commission's budget.

As with many agencies, our primary expense category is payroll. At the Controlling Board's first meeting this year, the Commission, with OBM's assistance, requested, and was granted, $117,225 in additional DPF appropriations. This DPF appropriation increase was necessary to cover the remaining FY25 payroll projections due to COLA increases, effective July 1, 2024, and updates to the Commissions advisory attorney position descriptions. (In late calendar year 2023, the Commission experienced a 100% turnover in its advisory section and was unable to successfully recruit qualified candidates. Commission staff worked with the Department of Administrative Services Office of Talent Management and the Governor's Office to reclassify the three advisory attorney positions).

For the past several budget cycles, the Commission has operated with 19 total staff, which is below our staffing ceiling of 21 full-time equivalents ("FTE"). The Commission appreciates the Administration's longtime support of the Commission's work and its current recommendation to increase our GRF funding over the prior biennium amounts. At the recommended funding levels, the Commission will be able to maintain current staffing levels.

However, we are requesting some additional GRF funding to support backfilling one additional staff position. This FTE will restore a second financial disclosure analyst to work with agency liaisons and assist in processing annual disclosure statements. This staff member will assist with processing the roughly 2,500 confidential financial disclosure statements that the Commission must individually audit each year.

A fully supported funding request would provide $2,598,544 in GRF funding for FY26 and $2,725,228 for FY27. Further, we project that this will be supplemented by funds in the 4M60 account of $649,781 in FY26 and $670,793 in FY27. This funding will support our projections and result focused budgeting in providing services at the staffing levels of 20 FTE, and also fund needed equipment hardware and software updates, maintain a case management software subscription, provide funding for leases of vehicles provided by DAS Fleet to carry out statutory investigative and education responsibilities, and absorb the increase in our building lease agreement.

We project that this will require additional GRF funding in the amounts of $117,800 in FY26 and $122,086 in FY27 (above the Administration's proposed appropriation levels) totaling an additional $239,886 in GRF appropriation over the course of the biennium. The Commission projects that this increase in GRF funding appropriation and a match in Commission DPF funding appropriation in both fiscal years, will leave the Commission's DPF fund in a net positive balance at the end of FY27. Utilizing the appropriation levels for the Commission from the Administration's budget proposal would eliminate the ability to hire a 20th FTE and deplete the Commissions DPF fund by the end of the upcoming 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 morning. I am happy to answer any questions you may have.