

Redbook

LBO Analysis of Executive Budget Proposal

Ohio Civil Rights Commission

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LBO Redbook

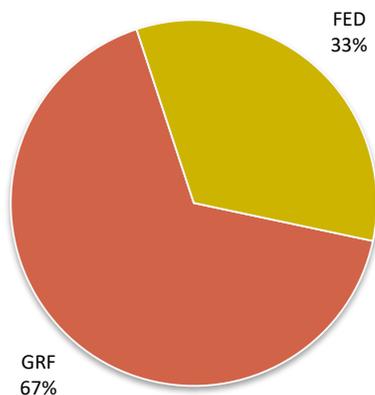
Ohio Civil Rights Commission

Quick look...

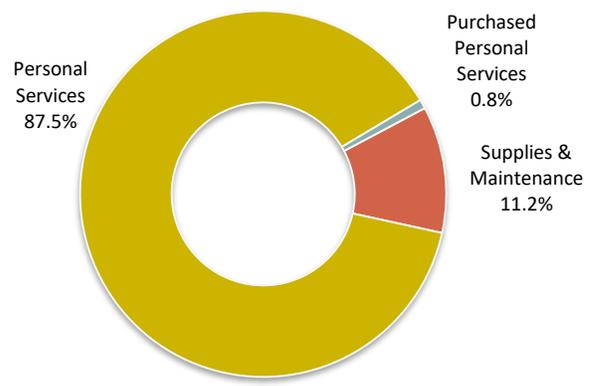
- The primary responsibility of the Ohio Civil Rights Commission (CIV) is to investigate and resolve charges of discrimination.
- The executive budget’s funding recommendations for the Commission total \$9.4 million in FY 2022 and \$9.6 million in FY 2023.
 - GRF accounts for 67% of the Commission’s recommended budget, with the remaining 33% coming from federal reimbursements.
 - Personal services (salaries, benefits, and various other payroll-related charges) constitute 88% of the allocated expenses.
- If federal funding remains stable, the Commission will be able to maintain existing service delivery levels, including 80 full-time equivalent staff.

Fund Group	FY 2020 Actual	FY 2021 Estimate	FY 2022 Introduced	FY 2023 Introduced
General Revenue (GRF)	\$5,909,891	\$5,452,740	\$6,118,897	\$6,538,548
Dedicated Purpose (DPF)	\$0	\$3,000	\$3,000	\$3,000
Federal (FED)	\$2,682,845	\$3,313,792	\$3,300,000	\$3,036,884
Total	\$8,592,736	\$8,769,532	\$9,421,897	\$9,578,432
% change	--	2.1%	7.4%	1.7%
<i>GRF % change</i>	--	-7.7%	12.2%	6.9%

**Chart 1: Commission Budget by Fund Group
FY 2022-FY 2023 Biennium**



**Chart 2: Commission Budget by Expense Category
FY 2022-FY 2023 Biennium**



Biennial total: \$19.0 million

Agency overview

The Ohio Civil Rights Commission is charged with enforcing R.C. Chapter 4112, which prohibits discrimination in employment, places of public accommodation, housing, granting of credit, and higher education because of certain characteristics. The Commission's duties can be summarized as follows:

- Enforcing Ohio's anti-discrimination laws through the investigation of complaints and the determination of whether or not discrimination has occurred;
- Educating the public, employers, housing providers, and places of public accommodation about Ohio's anti-discrimination laws; and
- Offering alternative dispute resolution and mediation services to parties who have filed charges with the Commission.

The Governor, with the advice and consent of the Senate, appoints five members to the Commission, not more than three of whom can be of the same political party, and at least one member of whom must be at least 60 years of age. The Commission is served by 80 full-time equivalent (FTE) staff.

Analysis of FY 2022-FY 2023 budget proposal

Appropriation summary

The executive budget provides a total appropriation of \$9.4 million in FY 2022 and \$9.6 million in FY 2023 for a combined total of \$19.0 million for the biennium. The table and Chart 1 shown in the preceding "**Quick look**" section present the executive recommended appropriations by fund group. As shown in Chart 1, money appropriated from the GRF will provide 67% of the Commission's funding. Virtually all of the remaining funding (33%) will be drawn from reimbursement contract payments received from two federal agencies: the U.S. Equal Employment Opportunity Commission (EEOC) and Department of Housing and Urban Development (HUD). A small portion appropriated from the Dedicated Purpose Fund (\$6,000, or \$3,000 in each year) will be used for supplies and maintenance.

Under the executive budget proposal for the FY 2022-FY 2023 biennium, the amount of GRF appropriated for the Commission's use is increased by 12.2% in FY 2022 from the FY 2021 estimated expenditure and then again increases in FY 2023 (6.9%), coupled with decreases in the amount of money appropriated from Fund 3340 in each of FY 2022 (-0.4%) and FY 2023 (-8.0%). Fund 3340 is supported by federal reimbursement payments from EEOC and HUD. From FY 2019 projected through FY 2021, the combined annual revenue generated by these sources is expected to average \$2.5 million. Revenues are expected to remain stable in FY 2022 and FY 2023; however, expenditures, generally in the area of personal services/payroll, have increased. The Commission estimates that, by close of FY 2023, Fund 3340 will have a nearly depleted cash balance.

Chart 2 in the "**Quick look**" section shows the executive recommended total biennial appropriation by object of expense. All of this appropriated money will be allocated for operating expenses, with 88% for personal services (wages, salaries, benefits, and various other payroll-related charges).

The table below shows the three appropriation line items that together support the operating expenses of the Commission.

Operating Expenses (ALIs 876321, 876604, and 876601)

FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Estimate	FY 2022 Introduced	FY 2023 Introduced
GRF ALI 876321, Operating Expenses					
\$5,039,347	\$5,664,776	\$5,909,891	\$5,452,740	\$6,118,897	\$6,538,548
% change	12.4%	4.3%	-7.7%	12.2%	6.9%
DPF Fund 2170 ALI 876604, Operations Support					
\$4,000	\$2,141	\$0	\$3,000	\$3,000	\$3,000
% change	-46.5%	-100.0%	--	0.0%	0.0%
FED Fund 3340 ALI 876601, Federal Programs					
\$3,045,918	\$2,824,693	\$2,682,845	\$3,313,792	\$3,300,000	\$3,036,884
% change	-7.3%	-5.0%	23.5%	-0.4%	-8.0%
Total	\$8,491,610	\$8,592,736	\$8,769,532	\$9,421,897	\$9,578,432
% change	5.0%	1.2%	2.1%	7.4%	1.7%

The Commission's GRF funding was reduced in FY 2018 and more or less offset by using more of the available cash balance in its Federal Programs Fund (Fund 3340). For FY 2019, the Commission was provided with its FY 2017 level of GRF funding, followed by a 4% increase for FY 2020. In FY 2021, the Commission made a series of GRF reductions in response to the COVID-19 pandemic, in accordance with targets at the end of the prior fiscal year established by the Governor. The Commission satisfied this reduction by postponing the filling of staff positions made vacant through attrition. The Commission utilized its federal cash reserve to bridge the GRF reductions.

For the next biennium, the executive budget increases GRF funding by 12.2%, or \$661,557, in FY 2022, and by another \$419,651, or 6.9%, in FY 2023, and decreases reliance on federal funds.

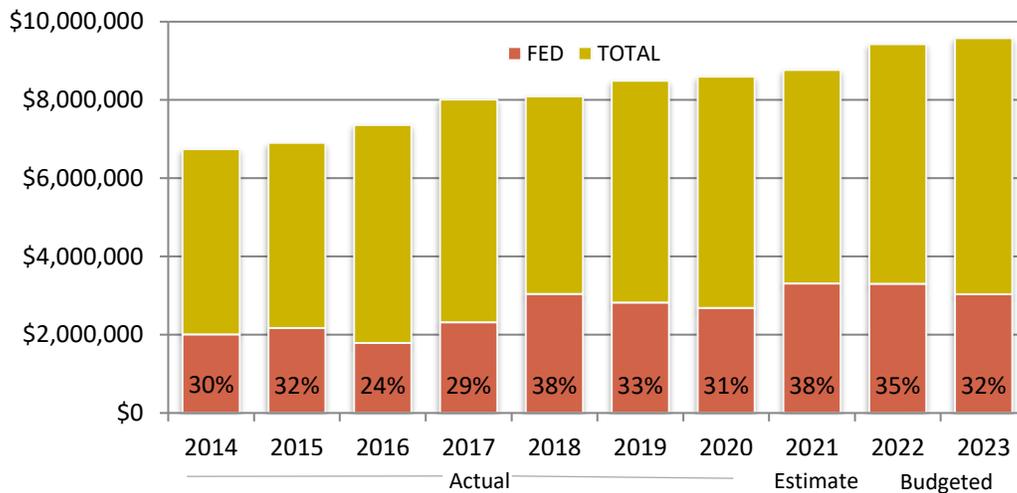
Under the executive budget, of the total amount appropriated in each of FY 2022 and FY 2023, 88%, or \$8 million more or less, is allocated for personal services (wages, salaries, fringe benefits, and payroll check off charges). This level of funding will likely cover the ongoing annual cost of retaining existing staff, as well as filling vacant positions to handle the expected increase in workload resulting from the enactment of H.B. 352 of the 133rd General Assembly, which changes employment discrimination charging procedures.

Federal Programs Fund (Fund 3340)

This fund consists of reimbursement payments from EEOC and HUD, which are then used to offset the cost of investigating cases. However, these reimbursement payments do cover the full cost of processing the cases; the remainder of the cost must be absorbed by GRF funds.

The percentage of federal funds comprising the overall budget of the Commission from FY 2014 projected through the end of FY 2023 is depicted in Chart 3 below. As mentioned, reliance of federal funds increased in FY 2018 with reductions to the GRF, and again in FY 2021 as a consequence of executive-ordered GRF reductions in response to the COVID-19 pandemic’s effect on the state’s economy and tax receipts. At the recommended funding levels, the federal fund portion of the budget lowers, projected at 35% and 32% for FY 2022 and FY 2023, respectively.

Chart 3: Federal Funding Share of Total Budget, FY 2014-FY 2023



Facts and figures

Any person living or working in Ohio who believes they have been subjected to unlawful discrimination can file a charge with one of the Commission’s regional offices, by telephone, or online. Charges must be based on the belief that the discriminatory act occurred on the basis of certain characteristics covered by the Ohio Civil Rights Law.

Discrimination charges not involving housing employment or housing (public accommodation, credit discrimination, and higher education disability) are required to be filed within six months of the alleged act of discrimination. Whereas employment discrimination charges may be filed within two years and housing charges, one year.¹

Once a charge of discrimination is received, the case is assigned to an investigator who notifies the person filing the charge (charging party) and the company or person against whom the charge was filed (respondent). Generally, mediation is offered to resolve the complaint. If mediation is declined or unsuccessful, the Commission will determine whether it is probable that discrimination has occurred through a series of steps that may include witness interviews, document requests, and onsite visits. The Commission has one year from the date on which a charge was filed to complete the investigation. Typically, the number of completed cases

¹ The procedure and timeline for discrimination charges not involving housing applied to employment discrimination charges prior to H.B. 352 of the 133rd General Assembly, effective April 15, 2021.

averages around 90 cases per investigator each fiscal year. The Commission does not have the option to refuse to investigate a charge.

If the Commission determines that it is probable that illegal discrimination took place, the Commission initially attempts to conciliate these charges and reach a settlement. When conciliation attempts fail, the charge is referred to the Office of the Attorney General and, if necessary, a public hearing on the merits (administrative adjudication) is held.

Investigation and enforcement statistics

Charges filed

Table 1 shows the number of discrimination charges filed, by regional office, from FY 2016 through FY 2020. Table 2 shows the basis on which those charges were filed. As shown, the total number of charges filed statewide noticeably exceeds the analogous number in Table 1. The difference signifies that a single charge may allege discrimination on multiple bases, e.g., race and age, rather than a single factor.

Table 1. Charges Filed by Region, FY 2016-FY 2020					
Region	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Akron	426	648	558	618	491
Cleveland	472	596	634	607	548
Columbus	749	899	944	943	766
Dayton/Cincinnati*	629	794	782	789	735
Toledo	622	703	751	628	680
Total	2,898	3,640	3,669	3,585	3,220

*The Cincinnati and Dayton regional offices were merged in 2009.

Table 2. Charges Filed By Basis, FY 2016-FY 2020					
Basis	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Race or Color	1,346	1,558	1,570	1,321	1,295
Sex/Pregnancy	718	877	953	787	644
Disability	889	1,100	1,127	1,087	1,080
Familial Status	91	80	89	81	75
Age	404	522	508	499	394
Retaliation	938	1,276	1,428	1,410	1,208
National Origin/Ancestry	184	225	229	214	140
Religion	147	128	171	128	100
Military Status	11	16	23	8	1
Other	61	58	30	41	46
Total	4,789	5,840	6,128	5,576	4,983

Case closures

Table 3 shows case closures by area, or type of discrimination, from FY 2016 through FY 2020. Over this period, the Commission closed 3,381 cases annually on average. Discrimination in the area of employment (employment discrimination) consistently represents the largest share of case closures.

Discrimination Type (Area)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Employment	2,355	2,437	2,660	2,628	2,252
Housing	418	475	670	624	695
Public Accommodation	258	237	306	346	342
Credit	15	11	19	22	23
Disability in Education	13	20	19	26	32
Total	3,059	3,180	3,674	3,646	3,344

In FY 2020, of the 3,344 total cases closed, 57%, or 1,908, were closed after an investigation finds no probable cause that an unlawful discriminatory act occurred. Including “no probable cause,” the EEOC defines 13 reasons (categories) for which a case can be closed. Table 4 below compares FY 2020 case closures to the five-year annual average (FY 2016-FY 2020).

Category	FY 2020	Average
Settlements	180/5.4%	196/5.8%
Withdrawal with Benefits	385/11.5%	443/13.1%
Successful Conciliation	75/2.2%	35/1.0%
Probable Cause	133/4.0%	89/2.6%
No Probable Cause	1,908/57.1%	1,986/58.8%
Withdrawal without Benefits	39/1.2%	66/2.0%
No Jurisdiction	109/3.3%	99/2.9%
Notice of Right to Sue	59/1.8%	55/1.6%
Administrative Closures	78/2.3%	53/1.6%
Closed by Legal Unit	3/0.1%	5/0.1%
Hearing Closures	6/0.2%	5/0.2%
Charging Party Failed to Cooperate	1/0.0%	2/0.1%
Charging Party Failed to Provide Signed Charge Under Oath	368/11.0%	345/10.2%
Total	3,344/100%	3,381/100%

Mediation services

The Commission's Alternative Dispute Resolution Unit offers mediation services as an alternative means of resolving a discrimination complaint. Each of the Commission's regional offices employs one mediator. Mediation requires both parties voluntarily agreeing to participate in the process and brings both the charging party and respondent together in an attempt to voluntarily settle disputes short of a full-scale investigation. The parties have two weeks to confirm they want mediation. If mediation is successful, the case is closed and no further administrative action is taken. The mediation process must conclude within 45 days. The Commission's success rate is roughly 85%.

Public affairs and community service

In addition to its enforcement responsibilities, the Commission is mandated to conduct educational and public outreach programs. The amount allocated for this purpose for the FY 2022-FY 2023 biennium will be about \$150,682 annually, or 1.6% of the Commission's total biennial budget. The entire amount in each fiscal year will be used for payroll costs for one FTE.

Outreach and service activities generally include:

- Working with core constituent groups in identifying and addressing issues of discriminatory practices.
- Providing businesses and organizations with training on how to comply with the state's nondiscrimination laws.
- Developing and implementing training programs and public forums.
- Preparing and making available an educational program and related materials for grades K-12.

Federal and state agency partnerships

Equal Employment Opportunity Commission

The Commission has a work-sharing agreement with the U.S. Equal Employment Opportunity Commission (EEOC) for a specific number of cases agreed upon by both parties. EEOC permits the Commission to draw down 50% of the agreement in May or June and the remaining 50% in October or November, as long as the Commission meets the contracted number of cases submitted and approved by EEOC.

The Commission is currently paid \$800 for every approved case submitted to EEOC, up to the agreed number of cases in the contract. The Commission does not receive payment for additional cases beyond the number detailed in the contract. Ohio is one of a handful of states that contract with the federal government to mediate cases filed with EEOC.

For federal FY 2021, EEOC contracted for 2,151 cases to be processed by the Commission. As a result, the federal money generated by this contract annually was \$1,720,800.

Department of Housing and Urban Development

The Commission also has a work-sharing agreement with the U.S. Department of Housing and Urban Development (HUD) for the number of cases actually submitted and approved by HUD

by September 30 of each year. HUD permits the Commission to draw down 100% of the agreed upon sum in October of each year.

The Commission processes, on average, 450 housing cases annually. In federal FY 2020, the Commission processed 449 cases that were eligible for payment from HUD. HUD pays the Commission approximately \$3,000 for each approved case as long as the case is completed and submitted to HUD within the *Standards for Payments for Timeliness of Complaint Processing*. HUD's case payment is decreased if the Commission submits a case outside of the timeline requirements. Conversely, the Commission receives an additional \$5,000 per approved case if it is litigated before the administrative law judge and \$8,000 if it is litigated in a court of common pleas. In federal FY 2018, the Commission received from HUD, on average, a payment of \$3,000 per case. For the FY 2022-FY 2023 biennium, the Commission estimates that it will receive around \$1 million annually.