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Budget Testimony of Executive Director Paul M. Nick
HB 110: Main Operating Budget for FY22-FY23
House Finance Subcommittee on Higher Education
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Mr. Chairman, Ranking Member Howse, 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 2022 to 2023 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 who collectively handled the 254 written advisory opinions received by the Commission in 2019. (This number is in addition to the immediate guidance provided in response to over 3,100 e-mails and 2,300 telephone calls the Commission received that year.) Each of these 254 written requests was answered within 30 days of their receipt, and often, much sooner. The Commission provides timely legal advice, helpful to public officials and their counsel, at no cost to the requester. In 2019, 30% of the requests were from state officials or employees, and the remaining 70% 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 2019, Commission staff conducted 208 speeches across the state that were attended by nearly 20,000 public officials, employees, and persons in the private and non-profit sectors. The program supplemented these live speeches with 11

webinars and a one-hour online course, which were taken by an additional 39,000 persons. (The one-hour course is updated each year and has been approved for 1 hour of continuing legal education credit). In CY 2020, 45,000 learners participated in the Commission's e-course. In addition, the Commission has developed 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.

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 2019, the Commission employed two attorneys (one the Chief of the section), five special investigators, and a case management specialist who received and reviewed the 483 investigative inquiries we received and acted on 174 investigations. Of the newly opened cases in 2019, 81% involved public officials and employees at local level, including counties, cities, villages, townships, and schools, and 19% involved allegations against state officials or employees and members of the private sector. In addition, from 2018 to 2019, the Commission initiated 64 complaints against persons who failed to comply with the financial disclosure requirement (less than 1% of the total number of filers).

Legislation: The Commission has responded to several recent legislative efforts during the past few years, including bills related to student trustees at public universities and categories of financial disclosure filers. Also, in response to recent corruption scandals, I have worked with the city councils in Toledo and Cincinnati to provide advice on creating laws and resources to restore public confidence in government.

Financial Disclosure: The Ethics Law requires approximately 10,500 public officials, employees, and candidates for elected office from more than 1,300 agencies to file annual, personal financial disclosure statements with the Ethics Commission. The Financial Disclosure program has been reduced from 3 to 2 full time employees – an administrator (who is also the Commission's IT Administrator) and an analyst.

Eight years ago, the Commission launched its online filing portal. This innovation was designed and programmed entirely in house by Commission staff, without the need to secure additional funding. It has allowed filers to submit their statements and filing fees through a secure online portal on the Commission's web site. In 2019, 90% of all persons filing their statements used the portal. This portal has been so successful that the Supreme Court's Board of Professional Conduct entered into a Memorandum of Understanding with the Commission to host the Court's online filing portal for judges and magistrates, saving the Court the expense of developing and maintaining an independent portal.

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 court-ordered payments for the costs of the Commission's investigations.

During FY20 and FY21, 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 54% reduction in the amount of late fees assessed and collected in 2018 compared with 2013. 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.

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.

During FY17 and FY18, the Commission utilized over 30% of this fund, with FY18 being as high as 35%, to pay fiscal expenses across the board in all accounts. Due to declining revenues, the Commission has worked with OBM staff to get that percentage down to roughly 25%. In our current budget request to the Administration, after accounting for projected expenses, revenues, and cash balance, the Commission aims to lower that percentage to roughly 20% over the next biennium. Accomplishing this would create a model where for each fiscal year during the next biennium our projected expenses will balance with our projected revenue.

However, as outlined in the LSC Redbook, the current GRF amount recommended by the Administration is not sufficient to support the Commission's operations. In the third quarter of FY20, two of our investigative staff members – a special investigator and the section's case management coordinator – resigned from the Commission and, due to the hiring freeze necessitated by the economic impact on the state of the Covid-19 pandemic, we have been unable to backfill either of these positions.

Since I was appointed the Executive Director in 2011, I have reorganized staff and streamlined our operations so that we can deliver our services while reducing our staff from 22 FTEs to only 19 FTEs.

As noted in the Redbook, we require an additional \$344,000 in GRF funding as initially proposed in our FY22/23 budget request to OBM to support critical equipment needs and allow us to backfill these two investigative positions once the pandemic ends and staff is able to return to the office. The proposed funding levels are not sufficient to fund both positions while maintaining a positive balance in our DPF account through FY23.

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 today. I will be happy to answer any questions you may have.