

ARKANSAS FAIR HOUSING COMMISSION

Enabling Laws

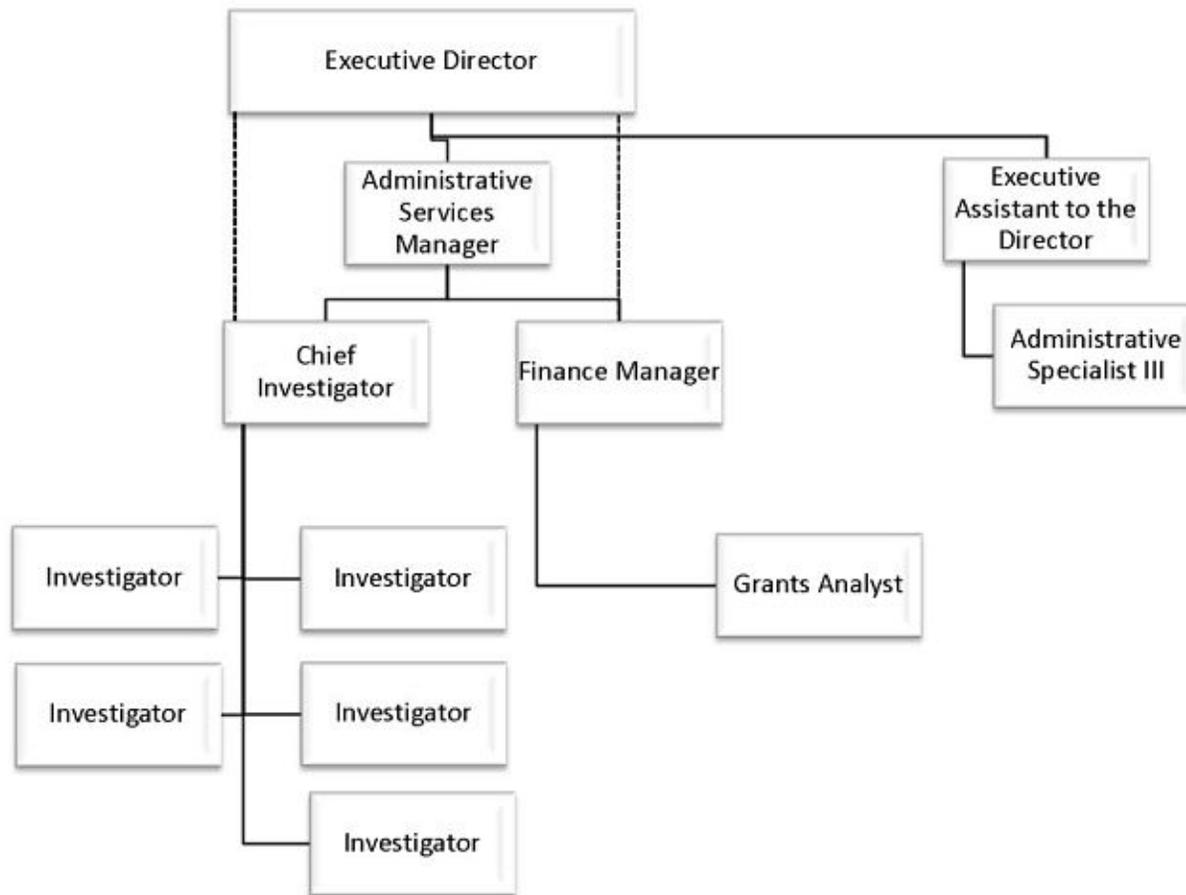
Act 117 of 2014
A.C.A. §16-123-301 et seq.

History and Organization

The Arkansas Legislature created the Arkansas Fair Housing Commission by Act 1785 of 2001. The Commission acts as a quasi-judicial, regulatory agency that enforces state and federal fair housing and fair lending laws with the authority to hold administrative hearings and litigate cases where discriminatory conduct is found to have occurred.

The mission of the Commission is to receive, investigate, conciliate and/or resolve complaints alleging violations of the Arkansas Fair Housing Act, which prohibits housing discrimination on the basis of race, religion, color, sex, national origin, familial status or disability; to cooperate with and provide technical and other assistance to federal, state, local and other public or private entities that are formulating or operating programs to prevent or eliminate discriminatory housing practices; and to establish an education and outreach program to prevent discriminatory housing practices.

The Commission is composed of thirteen members: seven (7) are appointed by the Governor; three (3) are appointed by the President Pro Tempore of the Senate; and three (3) are appointed by the Speaker of the House. Six (6) of the appointees are industry representatives and seven represent various consumer interests. The Governor shall appoint a Commissioner from each of the state's four (4) Congressional Districts.



Agency Commentary

The Arkansas Fair Housing Commission was created in 2001 (codified at Ark. Code Ann. § 16-123-201 et seq.) for the purpose of:

- Receiving, investigating, conciliating and/or resolving complaints alleging violations of the Arkansas Fair Housing Act, which prohibits unfair housing practices in lending, appraisal, sale, rental and occupancy based on seven (7) identified prohibited bases: race, color, religion, sex, national origin, familial status and disability;

- Receiving, investigating, conciliating and/or resolving complaints alleging violations of the Arkansas Fair Housing Act relating to the design and construction of accessible housing for the disabled and housing for the elderly;
- Assisting other entities (both public and private) in the formulation and operation of programs that prevent or eliminate unfair housing practices; and
- Providing for an education and outreach program to prevent unfair housing practices.

This quasi-judicial agency is empowered with fair housing and fair lending regulatory and enforcement duties specifically relating to the responsibilities of private and public housing providers throughout the State of Arkansas. Additionally, the agency is responsible for the administrative and judicial adjudication of complaints through either administrative or judicial hearings.

The Agency seeks continuation of the approved FY15 federally funded MFG in the amount of \$411,295 to support operation of Agency programs as required by state and federal statutes and as funded by a HUD Partnership Grant. The Agency also is requesting continuation of the associated federal MFG position to accomplish its goals and objectives: Public Information Specialist.

Fund Center: 1NH (State Operations)

The Agency requests Base Level appropriation - increases fully supported by federal fund balance and additional supporting federal revenue.

The Agency requests Change Levels as follows:

00-Regular Salaries:

Increase in appropriation in the amount of \$30,713 for an additional position of Public Information Specialist. This federally funded MFG position was approved at the end of FY14 for FY15 and is necessary to fulfill the education and outreach components of the HUD Continuation of the MFG position of Public Information Specialist is necessary to assist in implementation of the fully federally funded HUD Partnership grant. The Public Information Specialist is responsible for implementing the Fair Housing Commission Four Corners Tour; conducting statewide fair housing and fair lending educational seminars, trainings and participating in fair housing outreach activities; acting as a liaison between public/elected officials, municipalities and public entities which are formulating fair housing practices; providing technical assistance to complainants, respondents and the public concerning the Fair Housing Act and the Fair Housing Commission's role in enforcement of the Act; responding to inquiries regarding federal and state fair housing laws and regulations; and drafting press releases, brochures and documents related to fair housing/fair lending initiatives and efforts.

This position is necessary to ensure that the agency carries forth the legislative declaration that, "the right to seek housing underlies the general public's ability to secure health, safety and welfare." Ark. Code Ann. § 16-123-301.

The Arkansas Fair Housing Commission was established to support that legislative dictate to resolve fair housing issues and enforce the fair housing laws within the State. The passage of the Arkansas Fair Housing Act gained the State of Arkansas recognition as being a "substantially equivalent" agency, meaning that the state law provided substantially the same protections as the federal law - thereby granting Arkansas the avenue to enforce our own fair housing law within our borders without federal intervention.

As part of the "substantially equivalent" process, the Agency completed a three-year "capacity-building" phase during which time the Agency partnered with the U.S. Department of Housing and Urban Development via a cooperative agreement to receive, investigate and conciliate fair housing complaints within Arkansas. During this mandatory three-year "capacity-building" period, the Commission investigated a portion of the State's fair housing complaint caseload with HUD investigating the bulk of the fair housing complaints and providing technical assistance in support of our limited enforcement efforts.

The Commission has "graduated" to a "contributions agency" status with the responsibility of processing 100% of all fair housing violations within the State. In FY2014, this Agency received nearly 200 fair housing complaints for alleged infractions occurring within the State's borders and was responsible for resolving all of those complaints. Additionally, the agency is responsible for providing technical assistance, education and outreach to housing providers and the general public, attorneys and other public and private entities.

03-Matching:

Increase in Federal Revenue appropriation in the amount of \$12,853 for personal services/matching costs associated with the continuation of the FY15 MFG Public Information Specialist position.

02-Operating Expenses:

Increase in Federal Revenue appropriation in the amount of \$201,243 for the continued FY15 MFG federally funded grant which requires the implementation of the Four Corners Tour. This state-wide tour will include town hall meeting and focus groups in key cities throughout the state and will focus on gathering and sharing information on fair housing/fair lending issues. Discussions will be conducted on how better to promote housing opportunities statewide and to provide technical information and resource on HUD's new Affirmatively Furthering Fair Housing rule will impact municipalities now receiving federal HUD funds and how the new rule will affect the state as a whole.

Additional operating expenses include increase legal and case processing fees (to include the copying of files for hearings and trials and the copying of files for responses to discovery requests by legal counsel during the investigative and adjudicative processes); court reporting fees for administrative case processing; additional travel associated with case processing; and office supplies necessary to support the Public Information Specialist position (such as a computer, a desk/chair, additional telephone line, general office supplies and mileage allowance for necessary travel).

Lastly, the requested increase will fund a 3% statewide increase assessed by Arkansas Building Authority for office space rental funded from General Revenue.

09-Conference & Travel Expenses:

Increase in Federal Revenue appropriation in the amount of \$33,000 for additional travel associated with the implementation of the state-wide media campaign per the approved FY15 MFG. As part of the state-wide tour the agency will travel to twenty key cities throughout Arkansas to conduct town hall meetings and focus groups.

10- Professional Fees:

Increase in Federal Revenue appropriation in the amount of \$119,998 for vendor services needed to complete requirements associated with the approved FY15 MFG. These services include contracts for videographers, translators, GIS consulting and focus group consulting/analysis.

Center: 53L (Arkansas Fair Housing Commission Trust Fund)

The Agency requests appropriation in the amount of \$60,000 each biennial year to satisfy statutory mandates for the Commission's Education Trust Fund. The growth of the Agency is imminent due to the increase in investigative caseloads and the number of administrative hearings before the Commission. This request is justified due to the current and anticipated increase in revenue associated with this growth. The Commission Trust Fund was established in 2001 (Ark. Code Ann. §16-123-347) for the purpose of receiving any administrative fees, civil penalties or conciliated amounts levied and collected to be solely used for fair housing education of the public and the operational expenses of the Commission.

The Agency requests Change Levels as follows:

02-Operating Expenses:

Increase in appropriation in the amount of \$30,000 each biennial year for education outreach and operation of the Commission. This graduated increase will allow for potential receipts of administrative fees, fines and civil penalties and conciliated amounts as provided for and codified at Ark. Code Ann. §16-123-321,32. The appropriation is necessary to utilize administrative and civil penalties and fees levied and collected pursuant to the Arkansas Fair Housing Act to provide fair housing education of the public and for operational expenses of the Commission as mandated by the Legislature.

The Commission anticipates the establishment of a state-wide fair housing media campaign to include: public service announcements (audio and video); television, radio and print advertisements; posters; pamphlets and brochures. The Commission also will work with public and

private service organizations and agencies to broaden and enhance its state-wide media campaign and to establish educational training programs for industry personnel and the public at large. As required by law, this training and education will be disseminated in compliance with the adaptability and accessibility guidelines. It will include expenditures in advertising, conferences and seminars and educational and promotions materials.

09-Conference & Travel Expenses:

Increase in appropriation in the amount of \$30,000 each biennial year for the training and development associated with implementation of the Agency's statewide media campaign designed to heighten awareness of fair housing/fair lending issues.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS FAIR HOUSING COMMISSION
FOR THE YEAR ENDED JUNE 30, 2011

Findings

Recommendations

DLA staff noted 11 separate instances in which receipts were not recorded in the pre-numbered receipt book.

Follow DFA regulations for recording and issuing all receipts consistently and timely.

According to Department of Finance and Administration (DFA) regulation R4-19-4-501, controls must be maintained when processing cash receipts to ensure they are properly accounted for. "Cash" includes currency, coins, checks, money orders, and credit card charges. For payments received in person, a prenumbered receipt must be issued, and a duplicate copy of the receipt must be maintained in numerical order in the receipt book. For payments received through the mail, checks must be endorsed, and a cash log, including sufficient detail to allow an audit trail of an individual receipt, must be prepared.

Agency Response:

Cash receipts not recorded in a prenumbered receipt book as noted above included activities that generally accepted financial management procedures would not typically require the issuance of a prenumbered receipt, such as inter-agency payments from other state agencies; intra-agency reimbursements from Agency employees; and Agency rebates received from state vendors.

The Agency maintained a detailed record of all receipts (specially including the noted inter-agency receipts, intra-agency reimbursements and rebates) with the appropriate backup documentation. Additionally, the Agency properly and timely deposited and recorded in ASSIS all of the noted receivables and will continue to do so pursuant to DFA guidelines.

DIVISION OF LEGISLATIVE AUDIT
 AUDIT OF :
 ARKANSAS FAIR HOUSING COMMISSION
 FOR THE YEAR ENDED JUNE 30, 2011

Findings

Recommendations

The Agency will receipt inter-agency receipts, intra-agency reimbursements and rebates from state vendors in the same manner as other Agency receivables in accordance with DFA guidelines.

State Contracts Over \$50,000 Awarded To Minority Owned Businesses Fiscal Year 2014

None

Employment Summary

	Male	Female	Total	%
White Employees	0	2	2	22 %
Black Employees	1	4	5	56 %
Other Racial Minorities	2	0	2	22 %
Total Minorities			7	78 %
Total Employees			9	100 %

Publications

A.C.A. 25-1-201 et seq.

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution	Unbound Black & White Copies Produced During the Last Two Years	Cost of Unbound Copies Produced During the Last Two Years
		Governor	General Assembly				
None	N/A	N	N	0	N/A	0	0.00

Department Appropriation Summary

Historical Data

Agency Request and Executive Recommendation

Appropriation	2013-2014		2014-2015		2014-2015		2015-2016						2016-2017					
	Actual	Pos	Budget	Pos	Authorized	Pos	Base Level	Pos	Agency	Pos	Executive	Pos	Base Level	Pos	Agency	Pos	Executive	Pos
1NH State Operations	739,875	12	1,460,827	13	1,031,372	12	1,033,214	12	1,431,561	13	1,431,561	13	1,033,214	12	1,431,561	13	1,431,561	13
53L Education-Trust	52,808	0	140,000	0	140,000	0	140,000	0	200,000	0	170,000	0	140,000	0	200,000	0	170,000	0
Total	792,683	12	1,600,827	13	1,171,372	12	1,173,214	12	1,631,561	13	1,601,561	13	1,173,214	12	1,631,561	13	1,601,561	13

Funding Sources		%		%		%		%		%		%		%		%		
Fund Balance	4000005	1,067,734	53.7	1,194,544	47.4		921,180	49.6	921,180	40.8	921,180	40.8	685,813	42.1	626,353	31.8	655,813	32.9
General Revenue	4000010	286,240	14.4	286,240	11.3		288,971	15.5	289,511	12.8	288,971	12.8	288,971	17.8	289,511	14.7	288,971	14.5
Federal Revenue	4000020	539,064	27.1	949,223	37.6		550,876	29.6	949,223	42.0	949,223	42.0	550,876	33.8	949,223	48.3	949,223	47.6
Trust Fund	4000050	94,189	4.7	92,000	3.6		98,000	5.3	98,000	4.3	98,000	4.3	102,000	6.3	102,000	5.2	102,000	5.1
Total Funds		1,987,227	100.0	2,522,007	100.0		1,859,027	100.0	2,257,914	100.0	2,257,374	100.0	1,627,660	100.0	1,967,087	100.0	1,996,007	100.0
Excess Appropriation/(Funding)		(1,194,544)		(921,180)			(685,813)		(626,353)		(655,813)		(454,446)		(335,526)		(394,446)	
Grand Total		792,683		1,600,827			1,173,214		1,631,561		1,601,561		1,173,214		1,631,561		1,601,561	

FY15 Budget and Positions exceeds Authorized Appropriation due to the approval of a Miscellaneous Federal Grant.

Agency Position Usage Report

FY2012 - 2013						FY2013 - 2014						FY2014 - 2015					
Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused
	Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total	
10	7	4	11	-1	30.00 %	12	8	4	12	0	33.33 %	12	8	5	13	-1	33.33 %

FY13 & FY15 Total Budgeted Positions exceed the Authorized amount due to one added Miscellaneous Federal Grant position.

Analysis of Budget Request

Appropriation: 1NH - State Operations

Funding Sources: HUA - Miscellaneous Agencies Fund

The Arkansas Fair Housing Commission (AFHC) was created by Act 1785 of 2001 to investigate housing discrimination complaints and punish violators, in cooperation with the State Attorney General. Funding for the AFHC is derived from federal reimbursements by Fair Housing Assistance Program Funds and general revenue.

Base Level Regular Salaries and Personal Services Matching include continuation of the previously authorized 2015 1% Cost of Living Adjustment and Career Service Payments for eligible employees. Personal Services Matching also includes a \$10 increase in the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$420 per month. Base Level salaries and matching do not include appropriation for Merit Pay Increases. The Base Level request for Regular Salaries and Personal Services Matching includes board member stipend payments.

The Base Level request is \$1,033,214 each year of the biennium.

The Change Level request is \$398,347 each year of the biennium. Funding for the increase appropriation of \$397,807 each year of the biennium is 100% federally funded through the continued request of an MFG approved in FY15. The Agency's request reflects the following:

- One new position - Public Information Specialist with Regular Salaries and Personal Services Matching totaling \$43,566 in both years of the biennium.
- Operating Expenses in the amount of \$201,783. \$540 of this amount is requested in general revenue and provides for a 3% increase in rent. \$201,243 will provide for legal and case processing fees, court reporting fees for administrative case processing and offices supplies to support the new Public Information Specialist position.
- Conference & Travel Expenses in the amount of \$33,000. This will provide for the increase in travel via implementation of the state-wide media campaign conducting town hall meetings and focus groups associated with the Four Corners Tour.
- Professional Fees in the amount of \$119,998. This will provide for the increase in vendor services such as videographers, translators, GIS consulting and focus group consulting needed to complete requirements associated with the Four Corners Tour.

The Executive Recommendation provides for the Agency Request for appropriation only.

Appropriation Summary

Appropriation: 1NH - State Operations
Funding Sources: HUA - Miscellaneous Agencies Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
		2013-2014 Actual	2014-2015 Budget	2014-2015 Authorized	2015-2016			2016-2017		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	350,496	577,830	535,444	520,679	551,392	551,392	520,679	551,392	551,392
#Positions		12	13	12	12	13	13	12	13	13
Extra Help	5010001	13,186	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000
#Extra Help		1	2	2	2	2	2	2	2	2
Personal Services Matching	5010003	147,822	211,170	178,342	194,949	207,802	207,802	194,949	207,802	207,802
Operating Expenses	5020002	183,282	388,930	187,687	187,687	389,470	389,470	187,687	389,470	389,470
Conference & Travel Expenses	5050009	21,724	108,000	75,000	75,000	108,000	108,000	75,000	108,000	108,000
Professional Fees	5060010	14,000	133,998	14,000	14,000	133,998	133,998	14,000	133,998	133,998
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	9,342	0	0	0	0	0	0	0	0
Public Education	5900046	23	899	899	899	899	899	899	899	899
Total		739,875	1,460,827	1,031,372	1,033,214	1,431,561	1,431,561	1,033,214	1,431,561	1,431,561
Funding Sources										
Fund Balance	4000005	836,044	921,473		696,109	696,109	696,109	502,742	503,282	502,742
General Revenue	4000010	286,240	286,240		288,971	289,511	288,971	288,971	289,511	288,971
Federal Revenue	4000020	539,064	949,223		550,876	949,223	949,223	550,876	949,223	949,223
Total Funding		1,661,348	2,156,936		1,535,956	1,934,843	1,934,303	1,342,589	1,742,016	1,740,936
Excess Appropriation/(Funding)		(921,473)	(696,109)		(502,742)	(503,282)	(502,742)	(309,375)	(310,455)	(309,375)
Grand Total		739,875	1,460,827		1,033,214	1,431,561	1,431,561	1,033,214	1,431,561	1,431,561

FY15 Budget exceeds Authorized Appropriation due to the approval of a Miscellaneous Federal Grant.

Change Level by Appropriation

Appropriation: 1NH - State Operations
Funding Sources: HUA - Miscellaneous Agencies Fund

Agency Request

Change Level		2015-2016	Pos	Cumulative	% of BL	2016-2017	Pos	Cumulative	% of BL
BL	Base Level	1,033,214	12	1,033,214	100.0	1,033,214	12	1,033,214	100.0
C01	Existing Program	540	0	1,033,754	100.1	540	0	1,033,754	100.1
C02	New Program	362,991	0	1,396,745	135.2	362,991	0	1,396,745	135.2
C03	Discontinue Program	(8,750)	0	1,387,995	134.3	(8,750)	0	1,387,995	134.3
C06	Restore Position/Approp	43,566	1	1,431,561	138.6	43,566	1	1,431,561	138.6

Executive Recommendation

Change Level		2015-2016	Pos	Cumulative	% of BL	2016-2017	Pos	Cumulative	% of BL
BL	Base Level	1,033,214	12	1,033,214	100.0	1,033,214	12	1,033,214	100.0
C01	Existing Program	540	0	1,033,754	100.1	540	0	1,033,754	100.1
C02	New Program	362,991	0	1,396,745	135.2	362,991	0	1,396,745	135.2
C03	Discontinue Program	(8,750)	0	1,387,995	134.3	(8,750)	0	1,387,995	134.3
C06	Restore Position/Approp	43,566	1	1,431,561	138.6	43,566	1	1,431,561	138.6

Justification

C01	Reflects an increase of \$540 in Operating Expenses due to a 3% statewide increase in rent to ABA.
C02	Reflects increases in Operating Expenses, Conference & Travel Expenses and Professional Fees associated with the agencies request for continuation of their Miscellaneous Federal Grant approved for FY15 in the amount of \$354,241. \$8,750 reflects the amount of excess appropriation that was discontinued and reallocated to Operating Expense and Conference & Travel GL line items where items were underbudgeted.
C03	\$8,750 reflects the amount of excess appropriation that was discontinued and reallocated to Operating Expense and Conference & Travel GL line items where items were underbudgeted.
C06	Represents the increase in Regular Salaries and Personal Services Matching resulting from the continuation of the MFG Public Information Specialist position that was approved for FY15.

Analysis of Budget Request

Appropriation: 53L - Education-Trust

Funding Sources: TFH - Arkansas Fair Housing Commission Trust Fund

The Education - Trust Program was established by Act 1201 of 2007 and provides for fair housing education of the public and the operational expenses of the commission, as set out in A.C.A. §§16-123-301 through 16-123-348. Funding is derived from administrative or civil penalties levied and collected pursuant to §16-123-301.

Base Level Regular Salaries and Personal Services Matching include continuation of the previously authorized 2015 1% Cost of Living Adjustment and Career Service Payments for eligible employees. Personal Services Matching also includes a \$10 increase in the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$420 per month. Base Level salaries and matching do not include appropriation for Merit Pay Increases.

The Base Level request is \$140,000 each year of the biennium.

The Change Level request is \$60,000 each year of the biennium and reflects the following:

- Operating Expenses in the amount of \$30,000. This will provide for the increase in investigative case loads and the number of Administrative hearings before the Commission.
- Conference & Travel Expenses in the amount of \$30,000. This will provide for the increase in investigative case loads and the number of Administrative hearings before the Commission.

The Executive Recommendation provides for an Operating Expense increase of \$30,000 each year of the biennium.

Appropriation Summary

Appropriation: 53L - Education-Trust

Funding Sources: TFH - Arkansas Fair Housing Commission Trust Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
		2013-2014 Actual	2014-2015 Budget	2014-2015 Authorized	2015-2016			2016-2017		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Operating Expenses	5020002	52,808	140,000	140,000	140,000	170,000	170,000	140,000	170,000	170,000
Conference & Travel Expenses	5050009	0	0	0	0	30,000	0	0	30,000	0
Professional Fees	5060010	0	0	0	0	0	0	0	0	0
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	0	0	0	0	0	0	0	0	0
Total		52,808	140,000	140,000	140,000	200,000	170,000	140,000	200,000	170,000
Funding Sources										
Fund Balance	4000005	231,690	273,071		225,071	225,071	225,071	183,071	123,071	153,071
Trust Fund	4000050	94,189	92,000		98,000	98,000	98,000	102,000	102,000	102,000
Total Funding		325,879	365,071		323,071	323,071	323,071	285,071	225,071	255,071
Excess Appropriation/(Funding)		(273,071)	(225,071)		(183,071)	(123,071)	(153,071)	(145,071)	(25,071)	(85,071)
Grand Total		52,808	140,000		140,000	200,000	170,000	140,000	200,000	170,000

Change Level by Appropriation

Appropriation: 53L - Education-Trust
Funding Sources: TFH - Arkansas Fair Housing Commission Trust Fund

Agency Request

Change Level		2015-2016	Pos	Cumulative	% of BL	2016-2017	Pos	Cumulative	% of BL
BL	Base Level	140,000	0	140,000	100.0	140,000	0	140,000	100.0
C01	Existing Program	60,000	0	200,000	142.9	60,000	0	200,000	142.9

Executive Recommendation

Change Level		2015-2016	Pos	Cumulative	% of BL	2016-2017	Pos	Cumulative	% of BL
BL	Base Level	140,000	0	140,000	100.0	140,000	0	140,000	100.0
C01	Existing Program	30,000	0	170,000	121.4	30,000	0	170,000	121.4

Justification

C01	Reflects increases in Operating Expenses and Conference & Travel Expenses due to the increase in investigative caseloads and the number of Administrative hearings before the Commission.
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