

ARKANSAS ETHICS COMMISSION

Enabling Laws

Act 73 of 2014
Initiated Act 1 of 1990, as amended.
A.C.A. §7-6-217

History and Organization

The Arkansas Ethics Commission was created as a result of the passage of Initiated Act 1 of 1990. Its purpose is to serve as the compliance and enforcement agency with respect to various ethics and public disclosure laws applicable to candidates for public office, state and local public officials, public servants, lobbyists, political parties, political committees, and persons involved with initiatives, referenda, and other matters referred to voters within the State of Arkansas.

Initiated Act 1 of 1990, popularly known as "The Standards of Conduct and Disclosure Act for Candidates and Political Campaigns," charged the Commission with the responsibility of governing the campaign finance activities of candidates for public office, candidate committees, and political action committees. It also set new limits on the amount individual citizens could contribute to parties, candidates, and political action committees. In addition to its authority to administer the laws governing campaign finance, the Commission was given authority to administer Initiated Act No. 1 of 1988 and Act No. 34 of 1999. The first Act, popularly known as "The Disclosure Act for Lobbyists and State and Local Officials," governs the relationship between elected and appointed state, county, and municipal public officials and possible non-government or otherwise conflicting financial interests. In addition, this Act governs the registration and activities of lobbyists. The second Act, which concerns "Constitutional Officers and Their Spouses," places certain restrictions on the entering into of employment, lease agreements, contracts or grants with any state agency. Each of these Acts requires significant disclosure by the persons within its scope.

The Commission itself is composed of five (5) members appointed to five-year staggered terms by the Governor, the Lieutenant Governor, the Attorney General, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives, respectively. Members of the Commission serve without compensation, but may receive reimbursement for expenses incurred in the performance of their official duties. The Commission has a nine (9) member staff comprised of a Director, two (2) Attorney Specialists, two (2) Compliance Specialists, an Information Technology Manager, a Business Operations Specialist, and two (2) Administrative Specialists.

The Commission, with the assistance of its staff, performs the following specific duties and responsibilities in accordance with the requirements of the law: (1) investigates alleged violations of ethics and public disclosure laws and determines whether a violation has

occurred; (2) issues sanctions for violations of ethics and public disclosure laws and/or makes referrals for criminal prosecution; (3) conducts review exercises to determine whether required disclosure documents are being filed; (4) prepares and distributes educational materials and conducts training sessions for candidates, elected and appointed officials, lobbyists, political committees, and ballot and legislative question committees; (5) issues advisory opinions concerning ethics and public disclosure laws; (6) promulgates rules to implement and administer ethics and public disclosure laws; (7) holds a monthly public meeting and conducts public hearings; (8) answers questions regarding ethics and public disclosure laws and rules on a daily, informal basis; (9) prepares and updates disclosure forms, instructions, and calendars used by public officials, lobbyists, political parties, political committees, candidates for public office, and ballot and legislative question committees; (10) administers a reminder notice program for candidates for public office, public officials, lobbyists, political parties, and political committees; (11) maintains report files on all ballot and legislative question committees registered in accordance with the Disclosure Act for Public Initiatives, Referenda, and Measures Referred to Voters; (12) makes information publicly accessible in an electronic form via the internet; (13) responds to requests for public records under the Freedom of Information Act; and (14) brings civil actions in circuit court to enforce orders entered in proceedings before the Commission.

The Commission promotes openness and accountability in government through a balanced approach of (i) interpreting, investigating compliance with, and issuing sanctions for proven violations of the laws under its jurisdiction, and (ii) providing assistance in the form of education, training, and reminder notices to persons required to comply with those laws.



Agency Commentary

The Arkansas Ethics Commission (AEC) is the compliance and enforcement agency with respect to a wide variety of ethics and public disclosure laws applicable to: candidates for public office, state and local public officials, public servants, lobbyists, political parties, political committees, and persons involved with ballot measures presented to voters. The AEC currently has a five (5) member board and a nine (9) member staff to serve the citizens of the State of Arkansas.

When the AEC was formed in 1990, it was comprised of just three (3) employees. Prior to 2000 (in 1995 and 1999), additional staff positions were added to bring the number of agency employees to its current level of nine (9) employees consisting of 1 Director, 2 Attorney Specialists, 2 Compliance Specialists, 2 Administrative Specialists III, 1 Business Operations Specialist, and 1 Information Technology Manager.

Over time, the issues which citizens utilize the AEC's complaint process to address have become increasingly more involved. As a result, the expertise and man hours required to investigate the often multi-level issues presented in citizen complaints has increased significantly. With the advent of immediate online availability of disclosure filings by political candidates, committees, and public servants, the nature of the allegations contained in citizen complaints being filed with the AEC has become more complex.

Request for Additional Positions:

With regard to the upcoming biennium, the AEC has reached a cross-roads at which it is necessary to expand its staff in order to continue to effectively accomplish the agency's mission of compliance and enforcement functions with respect to the laws under its jurisdiction. Based upon the foregoing, the AEC is seeking to add the following additional positions: 1 Managing Attorney at a salary of \$57,914 per year, 1 Staff Attorney at a salary of \$50,029 per year, and 1 Compliance Specialist at a salary of \$35,554 per year.

Request for Additional Operating Expenses:

With regard to operating expenses, the AEC is requesting increases in connection with (i) the relocation of the AEC's office which has been requested by the AEC's Board, and (ii) cost elements due to the addition of 3 staff positions.

Turning first to the relocation of the AEC's office, the space the AEC currently occupies is cramped and requires staff to juggle seating and presentation needs to accommodate board members, staff, complainants, respondents, and witnesses involved in case presentations, as well as members of the public and media in attendance during AEC board meetings. It is noted that the term of the AEC's current office lease will expire at the close of FY 2015. In accordance with the request of the AEC's board to relocate to more suitable office space, the AEC is requesting an increase in its operating expenses for the cost elements for (i) Rent of Facilities in the amount of \$19,680 for both years of the biennium, and (ii) Hauling & Moving Expenses in the amount of \$3,500 for 2015-2016.

Turning to the remaining cost elements in the AEC's request for an increase in its operating expenses, such elements are related to the AEC's personnel request and are as follows for both years of the biennium: (i) Network Services, due to technology requirements in accordance with the AEC's Information and Technology Plan (email/telephone/connectivity, etc.) for 3 additional staff positions in the amount of \$1,500; (ii) Employee Mileage, due to mileage reimbursement for 3 additional staff positions, all of whom conduct both investigations state-wide and training sessions state-wide in the amount of \$600; and (iii) License & Permit, due to the Arkansas Supreme Court License Fee for licensed attorneys for 3 additional staff positions in the amount of \$400.

Summary:

In summary, the AEC seeks three (3) additional staff positions as set forth above and increases in operations funding in the amounts of \$25,680 for 2015-2016 and \$22,180 for 2016-2017. These positions and amounts are both reasonable and necessary to ensure the AEC's objective to promote openness and accountability in government, including the enforcement of the laws under its jurisdiction. The AEC submits this request in order to continue to effectively provide agency services and enforce the laws under its jurisdiction.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS ETHICS COMMISSION
FOR THE YEAR ENDED JUNE 30, 2013

Findings

Recommendations

None

None

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

None

Employment Summary

	Male	Female	Total	%
White Employees	3	3	6	75 %
Black Employees	0	1	1	12 %
Other Racial Minorities	0	1	1	13 %
Total Minorities			2	25 %
Total Employees			8	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				
N/A	N/A	N	N	0	N/A	0	0.00

Agency Position Usage Report

FY2012 - 2013						FY2013 - 2014						FY2014 - 2015					
Authorized in Act	Budgeted			Unbudgeted Total	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted Total	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted Total	% of Authorized Unused
	Filled	Unfilled	Total				Filled	Unfilled	Total				Filled	Unfilled	Total		
9	8	1	9	0	11.11 %	9	8	1	9	0	11.11 %	9	8	1	9	0	11.11 %

Analysis of Budget Request

Appropriation: 192 - Ethics Operations

Funding Sources: HUA - Miscellaneous Agencies Fund

The Arkansas Ethics Commission enforces Arkansas' standards of conduct and disclosure laws concerning candidates for public office, state and local public officials, lobbyists and committees, individuals involved with initiatives, referendums and other matters referred to the voters. The Commission is composed of a five (5) member board and a nine (9) member staff.

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 salary of unclassified positions reflects the FY15 line item maximum plus the previously authorized 2015 1% Cost of Living Adjustment.

Base Level includes appropriation and general revenue funding of \$713,506 in each year of the biennium with nine (9) Regular positions and two (2) Extra Help positions as well as supporting operating costs.

The Change Level Requests submitted are \$216,584 in FY16 and \$213,084 in FY17 and are summarized as follows:

- Three (3) new positions: (1) managing attorney, (1) staff attorney and (1) compliance specialist with Regular Salaries and Personal Services Matching totaling \$190,904 each year.
- Operating Expenses increase of \$25,680 in FY16 and \$22,180 in FY17 to support the overhead associated with the three (3) positions totaling \$2,500 each year; \$3,500 in FY16 to support a move to a larger facility; rent increase of \$19,680 both years of the biennium, and a reallocation of cost elements based on audit recommendation.

The Executive Recommendation provides for the Agency Request.

Appropriation Summary

Appropriation: 192 - Ethics 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	451,111	464,383	485,273	469,088	612,585	612,585	469,688	613,185	613,185
#Positions		9	9	9	9	12	12	9	12	12
Extra Help	5010001	0	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500
#Extra Help		0	2	2	2	2	2	2	2	2
Personal Services Matching	5010003	146,221	148,743	150,913	151,020	198,427	198,427	151,156	198,563	198,563
Operating Expenses	5020002	88,840	88,898	88,898	88,898	114,578	114,578	88,898	111,078	111,078
Conference & Travel Expenses	5050009	2,175	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
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		688,347	706,524	729,584	713,506	930,090	930,090	714,242	927,326	927,326
Funding Sources										
General Revenue	4000010	688,347	706,524		713,506	930,090	930,090	714,242	927,326	927,326
Total Funding		688,347	706,524		713,506	930,090	930,090	714,242	927,326	927,326
Excess Appropriation/(Funding)		0	0		0	0	0	0	0	0
Grand Total		688,347	706,524		713,506	930,090	930,090	714,242	927,326	927,326

Change Level by Appropriation

Appropriation: 192 - Ethics 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	713,506	9	713,506	100.0	714,242	9	714,242	100.0
C01	Existing Program	213,084	3	926,590	129.9	213,084	3	927,326	129.8
C02	New Program	3,500	0	930,090	130.4	0	0	927,326	129.8
C04	Reallocation	0	0	930,090	130.4	0	0	927,326	129.8

Executive Recommendation

Change Level		2015-2016	Pos	Cumulative	% of BL	2016-2017	Pos	Cumulative	% of BL
BL	Base Level	713,506	9	713,506	100.0	714,242	9	714,242	100.0
C01	Existing Program	213,084	3	926,590	129.9	213,084	3	927,326	129.8
C02	New Program	3,500	0	930,090	130.4	0	0	927,326	129.8
C04	Reallocation	0	0	930,090	130.4	0	0	927,326	129.8

Justification

C01	The increase in Operating Expenses is in connection with the relocation of the Ethics Commission's office which has been requested by the Commission's Board and cost elements due to the addition of three (3) new staff positions. With regard to Rent of Facilities, the increase is associated with the agency need to relocate to larger office space. The space the Ethics Commission currently occupies is cramped and requires staff to juggle seating and presentation needs to accommodate board members, staff, complainants, respondents, and witnesses involved in case presentations, as well as members of the public and media in attendance during Ethics Commission board meetings. The increase in Network Services is due to technology requirements (email/telephone/connectivity, etc.) for 3 additional staff positions. The increase in Employee Mileage is due to mileage reimbursement for 3 additional staff positions, all of whom conduct both investigations state-wide and training sessions state-wide. The increase in License & Permit is due to the Arkansas Supreme Court License Fee for licensed attorneys for 3 additional staff positions.
C02	The requested amount is for moving expenses associated with the agency need to relocate to larger office space as set forth above.
C04	The Change Level Request for a negative amount for Other Rent and Leases and the addition of a new cost element (Cable Services) is to replace one cost element for another based upon audit recommendation to change the GL Code for this operations expense. Accordingly, no increase is sought, rather a replacement of the cost element is requested.