



Maine Human Rights Commission

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March 3, 2021

The Honorable Catherine Breen, Senate Chair
The Honorable Teresa Pierce, House Chair
Joint Standing Committee on Appropriations and Financial Affairs
5 State House Station, Augusta, ME 04333-0005

The Honorable Anne Carney, Senate Chair
The Honorable Thom Harnett, House Chair
Joint Standing Committee on Judiciary
100 State House Station, Augusta, ME 04333-0100

Re: LD 221, the 2022-2023 Biennial Budget

To the Joint Standing Committees on Appropriations and Financial Affairs and on the Judiciary:

The Maine Human Rights Commission (“Commission”) appeared before you yesterday to provide comment on the initiatives related to the Commission within LD 221, the Biennial Budget. This letter will provide supplementary testimony about the Commission’s budget and initiatives, which appear on pages 325 - 327 of Part A of the budget.

Correction to Testimony Submitted on Commission Initiative #4

When discussing the fourth Commission General Fund (“GF”) initiative in the Biennial Budget (found on page A-327) – a proposal to fund approved reclassifications for six Commission Investigators (one employee-initiated and five management initiated) – the Commission discussed the fact that the Commission’s anticipated federal revenues had decreased for the upcoming biennium so as to render it unlikely that the Commission could meet the federal expenditure outlined in this initiative.

The Commission’s written and oral testimony asked that federal expenditure portion of this initiative be removed, and that the GF appropriation within this initiative be increased to cover the initiative’s entire expense. In the written and oral testimony yesterday, we asked that the GF appropriation for FY 2021-22 increase from \$42,131 to \$68,857; this is correct. In the testimony, we then asked that the GF appropriation for FY 2022-2023 would increase from \$24,482 to \$66.456; this is not correct. Setting aside our inexplicable computation error, **the FY 2022-2023 appropriation would increase to the much lower \$41,774**. We sincerely apologize for this error and any confusion it may have caused.

“Other Special Revenue Funds” in the Commission’s GF Budget

At the public hearing, Representative Arata requested that the Commission provide detail about the “Other Special Revenue Funds” accounts in the agency’s baseline GF budget. We are glad to provide the requested detail.

The Commission’s baseline budgets include an “Other Special Revenue Funds/All Other” (“AO”) line of \$107,864 per year. As the Commission discussed yesterday, these AO monies are not funds provided to the Commission from the GF to spend; rather, they are authorizations to the Commission to spend monies using these accounts when the Commission has the funds from outside sources (non-GF or Federal Expenditures). The Commission’s AO funds derive from three different types of funding: monies that can be received and paid out when the Commission provides legal seminars to the public or attorneys (\$62,024, “Seminar”); monies that can be received and paid out when the Commission provides information to the public (\$1,840, “Publications”); and monies that can be received and paid out when the Commission provides fee-for-service mediation services to parties in Commission cases (\$44,000, “Mediation”). More details about these three sources – which were identified in the Commission’s written testimony (see page four) and in our Operations Director Melody Piper’s oral testimony yesterday- are as follows:

Seminar fund (\$62,024).

The Commission for many years had been authorized to utilize a small Seminar fund to receive and pay out funds for holding an annual public information event to share information about the Commission and Maine Human Rights Act (“MHRA”). In 2019, the Legislature increased the amount of funds authorized to be received in and paid out from the Seminar fund by \$56,526/year after considering recommendations by a multi-stakeholder review panel appointed in September 2016 by then-Governor Paul LePage to assess MHRC operations, resources, challenges, and neutrality (“Panel Report”); one of the Panel Report’s top recommendations was that the Commission increase its outreach efforts to dispel misinformation about the agency and its role in discrimination law enforcement (<https://www.maine.gov/mhrc/sites/maine.gov/mhrc/files/inline-files/MHRCReportFinal.PDF>). In December 2019 the Commission did utilize this GF authority to receive fees paid by attendees at a statewide conference with ~200 attendees; the conference had one track for the public with sessions on civil rights topics and an overlapping continuing legal education track for attorneys. There were attorney and non-attorney fees to attend this seminar, which were deposited into the seminar account; these fees paid for the facility rental, food, tech requirements, and a presenter fee for the keynote speaker.

Publication Fund (\$1,840)

This AO fund allows the Commission to receive payments when our staff prepares public information requests pursuant to the State Freedom of Access Act, 1 M.R.S. § 400 *et seq.* (“FOAA”). Under FOAA, a state agency may not charge for information it provides but may charge the requester for copies and the time it takes to prepare the information to be provided. 1 M.R.S. §408-A(8). Under the MHRA, a case is confidential while pending but becomes subject to FOAA once closed, but even after the case is closed certain information remains confidential. 5 M.R.S. §4612(1-A). When the Commission receives a copy or FOAA request, depending on whether the requester is a party to a case (or their counsel) or not, the Commission must: find/request the file from archives; find the document(s) requested; copy it/them; review every line on every page to see if there is confidential material that must be redacted;

conduct the redaction; copy the document(s) to be produced so we have them for our records; and send them to the requester. The Commission does, as required, provide an estimate of its costs for this preparation work to the requester ahead of time. The Publication funds are the monies paid to the Commission for such preparation work.

Mediation Fund (\$44,00)

The MHRA authorizes the Commission to establish a voluntary mediation program, which we did in 2012 by regulation.¹ If both parties to a disputed case voluntarily agree to participate in mediation through the Commission's Third-Party Neutral Mediation Program, each party pays the Commission \$225; the Commission utilizes those funds to pay a contracted mediator on our panel a set \$400 stipend to schedule, prepare for, and hold a mediation at the Commission (or via Zoom).² The Commission retains the \$50 above and beyond the mediator stipend to cover the fees for indigent parties, and to pay for interpreters and other needed accommodations in mediations; the Mediation fund also has been subject to the State's cost allocation program ("STACAP"), which often has reduced the funds set aside for indigent parties.³ The use of the Commission's mediation program has grown significantly and steadily over time,⁴ and we have sought to have our Mediation Fund allotment increase several times.

Conclusion

Thank you for allowing the Commission the opportunity to provide this additional information about the agency's FY 2022-2023 Biennial Budget and initiatives. Please do not hesitate to ask us to provide any other information as needed.

Sincerely,



Amy M. Sneirson
Executive Director

Cc: Commissioners

¹ The Commission's mediation program originally provided optional and free mediation services in disputed Commission cases using existing federal partnership funds to pay stipends per case to a panel of contracted mediators. When federal funds decreased in 2013, the Commission investigated funding options, switched to its current fee-for-service model, and sought to establish the Mediation AO funds in the GF budget.

² At the outset of the fee-for-service model of the mediation program, parties to a Commission case who opted into voluntary mediation paid \$200 each, and our contracted mediators received a \$350 stipend.

³ The MHRA was amended to make the mediation fund exempt from STACAP, effective November 2019.

⁴ In Fiscal Year 2015, the program provided 32 mediations. In FY 2020, the program provided 90 mediations.