

Fiscal Impact Statement

Berea Sexual Orientation and Gender Identity Protection Enforcement

Overview

Berea is considering creating a local human rights commission with the ability to address sexual orientation and gender identity discrimination in employment, housing, and public accommodations. At the request of citizens of Berea, the Kentucky Commission on Human Rights (KCHR) has prepared the following fiscal impact statement, which examines five different methodologies for enforcement of said protections.

Assumptions

All models assume a volunteer commission, uncompensated but provided a nominal administrative support budget from the city. These commissioners, with the aid of the City Attorney, are assumed to conduct the intake, complaint drafting, and initial investigation to determine if an administrative hearing is warranted. The City Attorney is assumed to be counsel for the commission. All allegations of protected class discrimination covered by federal or state statute are assumed to be referred to the Equal Employment Opportunity Commission (EEOC) or to KCHR.

Consultation with Louisville, Lexington, and Covington indicates that local commissions can expect an average of 1 orientation or gender identity complaint per 30,000 residents per year. Given Berea's population (approx. 15,000) Berea can expect one jurisdictional sexual orientation or gender identity complaint every two years. Statistically, one in ten of these complaints will be found to have probable cause for an administrative hearing. Based on these assumptions, Berea is estimated to need to conduct an Administrative Hearing into Sexual Orientation or Gender Identity discrimination once every 20 years. While the predicted costs related to any specific complaint that may be filed under the suggested ordinance are case specific, these costs per individual case are provided as general guide for discussion purposes.

Administrative Hearing Cost Estimates:

Hearing Officer Initial Training (18hrs)	= \$350 (once)
Hearing Officer stipend (\$65/day, 2 day avg.)	= \$130
Deposition- Court Reporter cost, assuming a higher than average 2 depositions at 2 hours, at \$500 per deposition	= \$1000
Court Reporter + Transcript (approx 300 pages @\$5 per page)	= \$1500
10% Cost overrun budget	= \$300

Total = \$3300

Hearing Officer Annual Continued Training = \$125 (an.)
(In the event the hearing is held after the initial training)

The costs are estimates based on the experiences of enforcement and legal staff at KCHR in traditional employment discrimination administrative hearings.

Funding Models

The following models are drafted around the \$750 / year estimate, based on half of Covington’s operating budget of \$1500.

A. The Hearing Fund Model

In this model, the city is assumed to use the initial years of the commission to conduct training and development, with excess funds to be placed in a hearing fund, should administrative hearings need to be held.

\$750 Budgeted

Year 1-	Administrative Hearing Officer Training (\$350) Start-up Administrative Costs + Training (\$150) Hearing Fund Contribution (\$250)
Years 2-7	Administrative Hearing Officer Cont. Education (\$125) Administrative Costs + Training (\$125) Hearing Fund Contribution (\$500)
Year 8-	Hearing Fund = \$3250.

Assuming random assortment, there is a 3 in 5 chance that the commission will have the necessary operating capital to conduct hearings. Should the commission need to conduct a hearing prior to year 8, the City Council could advance the requested funds, and then remove the advance from the budgets of subsequent years. There is also the possibility of a hybrid strategy using the donations model in the event of a fund shortfall. Training additional volunteers to be Administrative Hearing Officers is assumed to be part of the budgets of years 8-20, with associated continuing education costs.

Average Fiscal Impact on Berea - \$750 / annum

B. The Vote Per Hearing Model

Given the projected frequency over time (1 hearing per 20 years) the Berea City council could choose to allocate funds for the hearings as requested at the time, or could budget and reserve sufficient capital at the time of the Commission’s creation.

Year 1-	Commission Set-up	\$1000
	Admin. Hearing Allowance	\$4000
Years 2-20	Training + Operating Costs	\$500

This particular set-up is equivalent in long term cost to option A (\$15,000 over 20 years) but has sufficient funds for holding an administrative hearing at the time of its creation. This model can be used to simulate the other models by moving the Hearing Allowance to a year between 2 and 20, with the understanding that could result in the city needing to expend \$4,000 at an inopportune time.

Average Fiscal Impact on Berea- \$750 / annum

C. The Donation Model

While the local commission would be a government agency, such a commission would be able to accept donations. As such, the City Council and commission could create a fundraising or donation plan to solicit funds for the commission. Assuming a structure to avoid the appearance of impropriety (i.e. allegations of favorable treatment for donors) such a plan could reduce the capital required by Berea. Once funds sufficient to hold an administrative hearing are gathered, subsequent donations could be used to reduce the annual operating costs below \$750. This model uses a standard \$500/year in donations due to the lack of good statistics for expected donations and fundraising by government agencies.

Year 1-	Administrative Hearing Officer Training (\$350) Start-up Administrative Costs + Training (\$150) Hearing Fund Contribution (\$250) (Funding for Hearing= +\$500)
Years 2-4-	Administrative Hearing Officer Cont. Education (\$125) Administrative Costs + Training (\$125) Hearing Fund Contribution (\$500) (Funding for Hearing= +\$500)
Year 5-	Administrative Hearing Officer Cont. Education (\$125) Administrative Costs + Training (\$125) Savings/Training/Infrastructure (\$250)

As of year 5, the Commission could have a hearing fund of approximately \$3,750. At that point, funding could be reduced to approximately \$500 / year, resulting in a savings to Berea of approximately \$4000 over the rest of the 20 year period. (Total cost to Berea- \$11,000)

Average Fiscal Impact on Berea- \$750 / annum (Years 1-4)
\$500 / annum (Years 5-20)

D. The Mediation Model

The above discussions have focused on Administrative Hearings as required in the model ordinance. This model is presented as an alternative possible by altering the ordinance.

In this model, there is neither investigation nor hearings. It is instead modeled on alternative dispute resolution processes. The budget below is modeled on specialized training, which would be more expensive than administrative hearing training. These numbers were developed in consultation with KCHR’s in-house mediator. Administrative costs are held relatively high during non-training years to cover supplemental and ongoing training (\$150-200 every two years,) mediator stipends, as well as administrative and unforeseen costs.

Year 1-	Mediation Training- KY Civil (42 Hrs)	\$900
	Administrative Costs	\$150
Year 2-9	Administrative Costs	\$500
Year 10	Mediation Training-KY Civil (42 Hrs)	\$900
	Administrative Costs	\$150
Years 11-19	Administrative Costs	\$500
Year 20	Mediation Training-KY Civil (42 Hrs)	\$900
	Administrative Costs	\$150

Total cost over 20 years is projected at \$11,650, with three volunteers trained as mediators, and the aforementioned margin for development and unforeseen expenses.

Average Fiscal Impact on Berea - \$583 / annum
(Note: This model has occasional fluctuations of near 100%)

E. The Hybrid Models

This is not a specific budget model so much as a classification for composite models using elements from multiple frameworks. The Donation model could be used to defray the costs of any other model, while the Mediation model could be used as a way to defray expenses should there be more jurisdictional complaints than projected.

Conclusion

These models have been constructed to show the cost to Berea of instituting sexual orientation and gender protections under the purview of a local human rights commission. The drafter of this document remains available should anyone have questions regarding these models or the statistics and assumptions which underlie them.