

Fiscal Impact Statement

Richmond Sexual Orientation and Gender Identity Protection Enforcement

Overview

Richmond is considering adding sexual orientation and gender identity protections to their local human rights commission ordinance. The Richmond Human Rights Commission currently lacks enforcement abilities. At the request of citizens of Richmond, the Kentucky Commission on Human Rights (KCHR) has prepared the following fiscal impact statement, which examines five different methodologies for enforcement of prohibitions on sexual orientation and gender identity discrimination in employment, housing, and public accommodations.

Assumptions

All models assume the current budget of the Richmond Human Rights Commission, composed of uncompensated volunteers 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. At present the Richmond Commission has a trained Administrative Hearing Officer as Chairperson, who is assumed to hold required hearings. Costs associated with training new hearing officers are contained in Administrative Hearing Cost Estimates.

Consultation with Louisville, Lexington, and Covington indicates that local commissions can expect an average of 1 sexual orientation or gender identity complaint per 30,000 residents per year. Given Richmond's population (approx. 30,000) Richmond can expect one jurisdictional sexual orientation or gender identity complaint every year. Statistically, one in ten of these complaints will be found to have probable cause for an administrative hearing. In KCHR's experience the majority of complaints found to have probable cause can be conciliated, but this analysis conservatively assumes each probable cause complaint will require a hearing.

The Lexington Fair Housing Council has offered to assist the Richmond Human Rights Commission, including training, advising, and up to \$2,500 to defray the costs of Depositions and Court Reporter / Transcript costs. This assistance is only available for Housing complaints, which comprise about 20% of all complaints.

Based on these assumptions, we estimate Richmond will need to conduct an Administrative Hearing into sexual orientation or gender identity discrimination once every 10 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 a general guide for discussion purposes.

Administrative Hearing Cost Estimates:

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	= \$1,000
Court Reporter + Transcript (approx 300 pages @\$5 per page)	= \$1,500
*One Time Hearing Officer Training subsidy	= \$350
Approx. 10% Cost overrun budget	= \$300
*Total	= \$3,300

Should the Richmond Human Rights Commission not have an Administrative Hearing Officer on the Commission at the time of hearing, the following one-time cost would apply to train one:

Hearing Officer Initial Training (18hrs)	= \$350
Hearing Officer Annual Continued Training	= \$125 (an.)

*Given the time span (10 years) is greater than the term for appointed Commissioners, we have included the cost of training a new Hearing Officer in an abundance of caution. Continued Training costs are assumed to be part of the Operating Budget.

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 \$1000 / year currently budgeted to Richmond’s local Human Rights Commission.

A. The Pre-Budgeted Hearing Model

In this model, Richmond is assumed to budget the additional \$3,300 at the time it places Enforcement responsibility with the Commission. Consultation with Commission members has found that the Commission could continue for a period of time with a reduced annual budget of approximately \$500, making enforcement budget neutral over the medium term.

Year 1-Commission Operating Budget	\$700
Admin. Hearing Budget Allowance	\$3,300
Total-	\$4,000

Years 2-7	Commission Operating Budget	\$500
Years 8-10	Commission Operating Budget	\$1,000
10 Year Cost of Model-		\$10,000
10 Year Cost at current funding levels		\$10,000

The return to traditional funding levels in years 8-10 can allow the Commission to train new hearing officers, continue education, and place remnants in the Hearing fund for unforeseen contingencies.

Given the projected frequency over time (1 hearing per 10 years) the Richmond City council could also choose to allocate funds for the hearings as requested at the time of need, with the understanding that this could result in the city needing to expend \$3,300 between years 2 and 10, possibly at an inopportune time.

Average Fiscal Impact on Richmond-\$1,000 / annum

B. The Pay As You Go Model

In this model, the city is assumed to continue funding the Commission at current levels, with excess funds to be placed in a hearing fund, should administrative hearings need to be held.

\$1000 Budgeted		
Year 1-7	Commission Administrative costs	\$500
	Hearing Fund Contribution	\$500
Year 8-10	Commission Administrative Costs	\$500
	Discretionary Funds for Training, etc.	\$500
	(Hearing Fund = \$3500)	

This keeps the Commission funded at steady, historic levels, but there is a 70% chance that the Commission will receive a probable cause finding prior to the Commission having the target level of funds. 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 8-10, with associated continuing education costs.

Average Fiscal Impact on Richmond - \$1,000 / annum

C. The Donation Model

While the Commission is a government agency, it is 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 impact on Richmond while enabling the Commission to hold fully funded hearings more quickly than otherwise. 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 1-4	Commission Administrative costs	\$500
	Hearing Fund Contribution	\$500
	(Donations for Hearing)	+\$500)
Years 5-10-	Commission Administrative costs	\$1,000
	(Hearing Fund =\$4,000)	

As of year 5, the Commission could have a hearing fund of approximately \$4,000. While there is a 40% chance of the Commission receiving a probable cause complaint prior to the Commission having full funds, the City Council could advance the funds necessary and remove them from a subsequent year's budget. The donation model still allows the Commission to hold hearings more quickly while keeping the Commission's budget at historic levels.

Average Fiscal Impact on Richmond-\$1000 / annum

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	\$500
Year 2-5	Administrative Costs
	\$900
Year 6-Mediation Training- KY Civil (42 Hrs)	\$900
Administrative Costs	\$500

Year 7-10 Administrative Costs \$900

Average Fiscal Impact on Richmond-\$1,000 / annum

Total cost over 10 years is projected at \$10,000, with two volunteers trained as mediators, and the aforementioned margin for development and unforeseen expenses.

(Note: This model has cost fluctuations of around 50% every five years, but a slightly lower expenditure on non-training years, making the model budget neutral in the medium term.)

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 Richmond of instituting sexual orientation and gender protections under the purview of the Richmond Human Rights Commission. The drafter of this document remains available at chad.stratton@ky.gov should anyone have questions regarding these models or the statistics and assumptions which underlie them.