

Vermont Legislative Joint Fiscal Office

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Preliminary fiscal review

Concept only: Will be revised once duties, staff and other characteristics are identified

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Vermont Ethics Commission

State ethics commissions are regulatory and oversight entities that implement and enforce state ethics laws. 42 states now have ethics commissions. Ethics commissions share the common role of working to ensure citizens' trust in their government by promoting transparency and accountability, but they vary distinctly in their structures, jurisdictions, powers, and duties. Some of the major categories covered by ethics commissions are campaign finance, lobbyist registration, financial disclosure, and conflict of interest. Vermont is one of only three states that have no financial disclosure requirements for lawmakers or executive branch officials. Most, but not all ethics commissions have jurisdiction over both legislative and executive branch officials. Some ethics commissions oversee ethics behavior in multiple levels of government – state, county, and municipal.¹ Powers and duties include monitoring compliance with financial disclosure and campaign finance requirements, conducting ethics trainings, issuing advisory opinions, or administrative development of forms and manuals. Commissions may initiate investigations and respond to complaints of alleged violations, subpoena witnesses, prosecute violators, and impose sanctions when necessary.

State ethics commission members are often volunteers appointed by executive and legislative branch leadership.² Many commissions have paid staff to carry out the work of the organization. In Vermont, the Secretary of State maintains and oversees the lobbyist registration database and spending disclosures, as well as maintaining the campaign finance database for election candidates. A newly formed Vermont Ethics Commission might be charged with implementing ethics laws that focus on conflict of interest and financial disclosures.

The difficulty in estimating costs for commission staffing is that the scope of work has not been specifically defined. But here is what it might look like if there are three staff - an executive director, an investigator, and an administrative position.³ No estimate is made of direct or indirect costs or impacts that a newly established commission could have on other agencies.

¹ Much of the research for this fiscal note came from the NCSL State Ethics Commission website at <http://www.ncsl.org/research/ethics/state-ethics-commissions.aspx>. Other information was obtained from the Rhode Island and Massachusetts commissions' annual reports. Phone conversations and e-mails with personnel from Maine and New Hampshire's commissions provided other information.

² 24 states forbid public officials from serving on ethics commissions.
<http://www.ncsl.org/research/ethics/committees-amp-commissions-whats-the-differenc.aspx>.

³ The Vermont Human Rights Commission and the Vermont Commission on Women represented some basis of comparison for this starting point.

Estimated Total: Low – \$251,560, Medium \$312,260, High \$370,260. Includes staffing, travel expenses and start-up costs. The total does not include unknown contractor costs or commission member costs of per diem and reimbursement costs.

Staffing:

Executive Director: The salary for this position will reflect the workload and scope of activities of the office itself. The estimated range of salary is \$73,000 to \$100,000 with a mid-range of \$86,500. Retirement and other employee benefits, as well as FICA add additional costs estimated at 40% for a total position cost of \$102,200 to \$140,000 with a mid-range of \$121,100.

Investigator/Examiner: Based on similar investigator positions in the Attorney General's Office, and Administrative Law Examiners at the Human Rights Commission, the estimated range of salary is \$42,000 to \$64,000 with a mid-range of \$53,000. An additional 40% for benefits and FICA bring the total position estimate cost to \$58,800 to \$89,600 with a mid-range of \$74,200.

Administrative Assistant or Executive Staff Assistant: Depending on the duties assigned to the office, the third staffer may play the role of an administrative assistant or may have expanded responsibilities such as communications, complaint, or website management. Based on administrative assistants in other areas of State government and executive staff assistants at two different commissions, the salary range is \$30,000 to \$60,000 with a mid-range of \$45,000. The additional 40% estimated costs for FICA and employee benefits bring the position estimates to \$42,000 to \$84,000 with a mid-range of \$63,000.

Total Salaries and Benefits Estimate:

Low: \$203,000; High \$313,600; Mid-Range \$258,300

Other Expenses:

Office Space: A low estimate for a 1,350 square foot office space⁴ with offices, conference room, reception area, copier, printer, fax, files, and office supplies in Montpelier is \$21,600 annually (at \$16/sq. ft). A high estimate is \$29,700 annually (at \$22/sq.ft). Mid-range estimates are \$27,000 (at \$20/sq.ft) or \$24,300 (at \$18/sq.ft).

Commission Members - Reimbursement: Costs for reimbursing commission members will depend on how many members there are, how often they meet, and how they are reimbursed. Customarily, legislators are compensated according to 2V.S.A. § 406, and other members who are not employees of the State of Vermont, and are not otherwise compensated or reimbursed for their attendance, are entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Travel Expenses: Training and education may be a focus of the new office. Travel to different State government offices is a likely ongoing expense. A rough estimate for annual travel expenses for this organization are 200 miles per week for two employees. At the reimbursement rate of \$0.575 per mile, the estimate total is \$11,960 per year.⁵

⁴ Buildings and General Services provided these lease estimates. Fee for space rates would typically be 20% lower, but at the time of writing BGS did not have available owned space in Montpelier. 1,350 sq. ft. is considered a generous-sized office for three people.

⁵ Other state ethics commissions conduct offsite trainings. The total mileage came from estimating that two employees from the commission conduct two trainings per week at an average distance of 100 miles round trip of driving per training. A lease vehicle may be more cost-effective.

One-Time Equipment Start-Up Costs: The new office will incur start-up costs for equipment, including computers, copiers, phones, shredders, desks, files, and other office supplies at \$15,000.

Website: The commission will likely have a website. The software and hosting for the site would have no cost using the State's Web Content Management System (WCMS) available to all State and quasi-state entities. The Vermont Human Rights Commission and the Vermont Commission on Women are both hosted in the WCMS. If the commission wished to hire a business consultant to help design the logic structure of the new site, those costs are unknown.

Contractors/Unknown Costs: Should the ethics commission staff need to contract specialized services on an as needed basis, such as an accountant or a specific business or industry expert, those costs are unknown. Such contractual services might constitute additional start-up costs.

Other Commissions:

Four different northeast states' ethics commissions provided some context for positing future workload, staffing structure, and budgets for a new Vermont Commission. Maine, Massachusetts, New Hampshire, and Rhode Island each have different approaches to doing the work of enforcing their states' ethics laws. Below is select information from each organization:

Maine: Maine Commission on Governmental Ethics

Staff: Six staff: Executive Director, Assistant Director, Administrative Assistant, 2 Candidate Registrars, 1 Political Committee and Lobbyist Registrar.

Budget: FY'15, \$593,000

Notes: Categorical distribution of their time - Most spent on monitoring campaign finance. Second on lobbyist registration and disclosure. Minor amount of their time goes to legislative ethics violations. Minor amount of work hours: administering statement of sources of income filled out by all executive branch officers and legislators.

Massachusetts: Massachusetts State Ethics Commission

Staff: 24 staff: 3 separate divisions: Legal Division; Public Education and Communications Division; and Enforcement Division.

- The Legal Division has 6 lawyers, 1 Statement of Financial Interest (SFI) analyst, and 1 administrative assistant
- The Enforcement Division has 3 lawyers, 5 investigators, and 1 administrative assistant
- Director of Public Education and IT; an IT Specialist; a Chief Financial Officer; a vacant Director of Communications position; 2 part-time receptionists; and an Executive Director

Budget: FY'16, \$2,068,969

Notes: Conducts ongoing educational programs, provides advice, interprets and enforces the conflict of interest and financial disclosure laws. Oversees state, county, and local government. In FY'14 the legal division responded to 6,254 requests for advice. 444 conflict of interest law disclosures were received. 4,087 individuals required to file SFIs.⁶

⁶ Massachusetts Ethics Commission Annual Report FY 2014. <http://www.mass.gov/ethics/fy2014-annual-report.html>.

New Hampshire: NH Legislative Ethics Committee

Staff: One half-time Executive Administrator who is an employee of the NH Office of Legislative Service. Works in consultation with attorneys in the Legislative Service.

Budget: NA – not a separate budget item

Notes: Oversees financial disclosure forms. Answers questions about trips, gifts, etc.; many of which can be answered with an existing opinion. This committee oversees legislative branch only. Issues advisory opinions and interpretive rulings.

New Hampshire: NH Executive Branch Ethics Commission

Staff: No dedicated staff. NH Attorney General's Office provides legal and secretarial services to the committee. Deputy Attorney General is commission's legal counsel.

Budget: \$2,500/year line item, for travel, stenography.

Notes: Executive branch only. Some complaints they receive are outside their jurisdiction -- do not have jurisdiction over classified employees.

Rhode Island: Rhode Island Ethics Commission

Staff: 12 staff members: Executive Director/Chief Prosecutor, Senior Staff Attorney, Education Coordinator/Staff Attorney, 2 Staff Attorneys, Chief of Investigations, Deputy Chief Investigator, Investigator, Office Manager, Administrative Officer, Administrative Assistant, and Research Aide.

Budget: FY'14, \$1.54M in

Notes: Education and enforcement of Rhode Island Code of Ethics - conflicts of interest; administration of financial disclosure forms for all required filers, including state- appointed and -elected officials and employees holding major decision-making positions, as well as all municipal-elected and certain -appointed officials.⁷

⁷ Rhode Island Ethics Commission Annual Report <http://www.ethics.ri.gov/>.