

## 2015-17 Biennium Budget Decision Package

**Agency:** 120 Human Rights Commission

**Decision Package Code/Title:** HR-- Provide Essential Human Resources Services

**Budget Period:** 2015-17

**Budget Level:** PL- Policy/Performance level

**Agency Recommendation Summary Text:** The Human Rights Commission will purchase human resource (HR) services considered essential to the agency in supporting agency business needs and reducing risk from the Department of Enterprise Services. A separate request seeks to restore basic level HR services to all small agencies. This proposal seeks to augment the basic level with a more complete set of HR services including consultation and support for labor relations, performance management, classification, workforce management, and recruitment

**Fiscal Summary:** Decision package total dollar and FTE cost/savings by year, by fund, for 4 years. Additional fiscal details are required below.

Operating Expenditures	FY 2016	FY 2017	FY 2018	FY 2019
Fund 001-1		\$29,605	\$32,000	\$32,000
<b>Total Cost</b>	<b>\$0</b>	<b>\$29,605</b>	<b>\$32,000</b>	<b>\$32,000</b>
Staffing	FY 2016	FY 2017	FY 2018	FY 2019
FTEs		0.0	0.0	0.0
Revenue	FY 2016	FY 2017	FY 2018	FY 2019
		0.0	0.0	0.0
Object of Expenditure	FY 2016	FY 2017	FY 2018	FY 2019
Obj. E		\$29,605	\$32,000	\$32,000

### Package Description

Small agencies have had access to dedicated HR specialists necessary to support their needs through DES. Purchasing these services from DES costs a fraction of what it would to replicate these services in each agency. Providing small agencies access to these professional services significantly reduces financial and legal risk to the state. The enacted FY15-17 budget reduced funding equivalent to the cost of providing small agency HR services. While DES implemented additional efficiencies and identified temporary means to close the remaining fiscal gap in FY16, a more sustainable solution is required to ensure small agencies have access to these vital services.

DES has worked with the Office of Financial Management to create two categories of HR services:

- A. A set of basic HR services necessary to meet minimum HR compliance and accurate payroll processing activities for any agency. The proposal to fund these minimal basic services for all small agencies is proposed in a separate package.

- B. A set of additional HR services that, together with the basic service, form a more complete set of essential HR services. For a number of agencies, the basic level of service will not be sufficient to address specific agency business needs or to manage legal and financial risk.

This decision package requests funding those essential services. This would allow the agency to continue to receive the following services as needed:

- **Life Cycle Recruitment Services** – Services include pre-recruitment consultation, writing of targeted job announcements, candidate outreach, in-depth application assessment, drafting interview questions, reference checking and guidance of offers.
- **Classification Services** – Determine position allocations and provide employee notification letters for appointing authority. Provide consultation on the development of position descriptions. Provide desk audits when needed. Assist with WMS and EMS evaluations and banding.
- **Labor and Employee Relations** – Provide rules guidance and interpretation for represented and non-represented state employees to ensure the agency creates a positive and respectful work environment.
- **Performance Management** – Consultation on performance appraisals and setting expectations. Consult on corrective and disciplinary actions; assist with documentation and processing including development of disciplinary letters. Provide tools and checklists.
- **Workforce Management Support** – Assist with “just in time” HR projects such as temporary layoffs and hiring freezes and changes that occur in Washington Management Service.
- **Human Resource Consultation** - Provide the agency with an HR consultant to discuss current HR topics and keep the agency informed on HR issues at monthly meetings, or as needed.
- **Investigations/Fact Finding** – Provide immediate employee complaint intake to determine next steps. Perform personnel related investigations and fact-finding for small to medium sized investigations (less than 20 hours).
- **Supervisor Coaching** – Provide best practices and guidance to new supervisors to ensure they set clear expectations and coach their staff to maximize agency performance.

**Base Budget:** If the proposal is an expansion or alteration of a current program or service, provide information on the resources now devoted to the program or service. Please include annual expenditures and FTEs by fund and activity (or provide working models or backup materials containing this information).

Funding for HR services is not currently part of the agency or DES budget.

**Decision Package expenditure, FTE and revenue assumptions, calculations and details:** Agencies must clearly articulate the workload or policy assumptions used in calculating expenditure and revenue changes proposed.

DES queried small agencies to identify those needing access to services beyond the basic level. They then determined the cost of providing services based on agency responses. DES calculates the rate necessary to recover the cost of these essential services to be \$29,605 per year during fiscal year 2017 and \$32,000 per year during the 2017-19 biennium.

**Decision Package Justification and Impacts**

**What specific performance outcomes does the agency expect?**

Describe and quantify the specific performance outcomes the agency expects as a result of this funding change.

Funding for this package supports the Results Washington goal of efficient, effective & accountable government, and allows agencies the opportunity to become an employer of choice that provides agencies the tools to create a culture of respect, feedback, and recognition. Shared services are an efficient use of state resources. Using the expertise of HR professionals will help the agency manage risk associated with personnel issues. Additionally, this package will allow agency staff to focus on the core mission of the agency and less on administrative activities.

**Performance Measure detail:**

**Fully describe and quantify expected impacts on state residents and specific populations served.**

Human resources support plays an essential role in developing the employee-centered activities of an agency. HR activities that support staff development and recruiting high quality employees will ensure better interaction with the citizens our agency serves.

**What are other important connections or impacts related to this proposal?** Please complete the following table and provide detailed explanations or information below:

Impact(s) To:		Identify / Explanation
Regional/County impacts?	No	Identify:
Other local gov't impacts?	No	Identify:
Tribal gov't impacts?	No	Identify:
Other state agency impacts?	No	Identify:
Responds to specific task force, report, mandate or exec order?	No	Identify:
Does request contain a compensation change?	No	Identify:
Does request require a change to a collective bargaining agreement?	No	Identify:

Facility/workplace needs or impacts?	No	Identify:
Capital Budget Impacts?	No	Identify:
Is change required to existing statutes, rules or contracts?	No	Identify:
Is the request related to or a result of litigation?	No	Identify lawsuit (please consult with Attorney General's Office):
Is the request related to Puget Sound recovery?	No	If yes, see budget instructions Section 14.4 for additional instructions
Identify other important connections		

Please provide a detailed discussion of connections/impacts identified above.

**What alternatives were explored by the agency and why was this option chosen?**

1. Absorb the cost within existing budget– This would involve the agency purchasing the services from DES within its existing budget. This option reduces funds available to perform the agency mission. The agency does not have the funds. The deputy director, the director and policy analyst have tried to absorb the duties which have taken away from performing the essential functions of our agency mission.
2. Go without these essential HR services or try to assign HR responsibilities to an existing employee with no additional funding - This would involve the agency doing the work with existing staff. This option reduces staff time available to perform the agency mission. All of our current employees are already specialized in their current roles and do not have the time nor the education/experience to take on the additional personnel responsibilities and execute them successfully. In this option, it is likely that the agency will be going without these services. This will increase risk to the agency beyond an acceptable level.
3. Request funding for a new HR professional within the agency - This is the most costly option but would provide some of the expertise and capacity needed to perform personnel functions. The kind of essential HR service support we are seeking from DES Small Agency HR services is professional level, expert support. If the agency were to hire someone in-house we would need to fill it at the Human Resource Consultant 4 (HRC4) level. The salary and benefits cost of a full time HRC4 plus related supplies, travel, and other costs is estimated at \$74,000 per year which is more than double the proposed cost of the DES service offering. Our agency may not need a full time professional, but we will benefit from a full complement of HR expertise. The team at DES can provide more specialized expertise than is likely available in any one individual.
4. Request funding to purchase HR services from DES. – Recommended – The DES Small Agency HR Support option is the most economic option that will still meet our business need. This option is less expensive than hiring staff. It provides access to the array of necessary expertise when needed. It provides an objective resource for managers and staff when dealing with personnel issues.

**What are the consequences of not funding this request?**

Not funding this request would mean that the agency would have to operate without HR services which are critical for the agency's success. It would affect our ability to focus on the mission-critical work of our agency, weaken our ability to recruit and retain high-quality individuals, and increase our risks of non-compliant employment practices and related financial and legal risks.

Many of these services are similar to preventive health care. Investments and guidance up front can prevent major mistakes that can lead to legal and financial costs, as well as consequences for culture and trust from which it can take years to recover.

Examples of this are:

**Recruitment** – These services include candidate outreach and assistance with assessment and selection.

Without these HR services, hiring managers would need to spend more of their limited time conducting outreach to qualified candidates or hope that there are enough qualified candidates in the applicant pool. HR support would also help reduce the risk of unfair hiring practices by ensuring the assessment and selection process is correct and using behavior and performance based techniques to find the best candidate available.

**Labor Relations** – Labor relations support includes HR consultation on what level of corrective or disciplinary action is the most appropriate based on principles of just cause, writing of expectation and disciplinary letters to ensure clarity and appropriateness, ensuring processes are followed according to the collective bargaining agreement, and working with union representatives to ensure all disagreements are handled at the lowest possible level. DES HR Consultants are familiar with the Collective Bargaining Agreements (CBA) and can provide clear guidance and counsel on the best approaches to creating and maintaining a work environment that complies with the CBAs.

**Performance Management** – These services include supervisor guidance on creating clear performance expectations that achieve business results, creating development plans that help fill in the gap between expectations and reality and creating purposeful succession planning the helps match employee skillsets with business needs. These services make sure that the right people are in the right positions with the right skillsets to do the work which ensures business efficiency and reduces time and money spent on disciplinary actions and appeal processes that go with them.

**Investigations** – These services include full responsibilities through the investigative process. From initial intake, scheduling and conducting interviews gathering all tangible evidence, through delivering the final report to the Appointing Authority. Without this service, managers would be forced to either undergo costly training to become eligible to conduct an administrative investigation or pursue an outside investigator which can cost anywhere from \$5,000 to \$15,000. These services make sure complaints and claims are thoroughly investigated by a neutral third party who is familiar with the state and CBA specific rules and nuances.

#### **How has or can the agency address the issue or need in its current appropriation level?**

See discussion above about risks and consequences.

**Other supporting materials:** Please attach or reference any other supporting materials or information that will help analysts and policymakers understand and prioritize your request.

See the attached service level descriptions.

**Information technology:** Does this Decision Package include funding for any IT-related costs, including hardware, software, services (including cloud-based services), contracts or IT staff?

No 

Yes Continue to IT Addendum below and follow the directions on the bottom of the addendum to meet requirements for OCIO review.

## 2017 Supplemental Budget Decision Package

**Agency:** 120 Human Rights Commission

**Decision Package Code/Title:** TR – Increased Travel

**Budget Period:** 2017-19

**Budget Level:** PL – Performance Level

**Agency Recommendation Summary Text:**

The Human Rights Commission requests additional funding for travel costs to meet its obligation to the citizen's to hold meetings throughout the state. The agency also requests additional travel to ensure adequate supervision of field offices.

**Fiscal Summary:** Decision package total dollar and FTE cost/savings by year, by fund, for 4 years. Additional fiscal details are required below.

Operating Expenditures	FY 2016	FY 2017	FY 2018	FY 2019
Fund 001-1		\$22,000	\$22,000	\$22,000
<b>Total Cost</b>		<b>\$22,000</b>	<b>\$22,000</b>	<b>\$22,000</b>
Staffing	FY 2016	FY 2017	FY 2018	FY 2019
FTEs		0.0	0.0	0.0
<b>Revenue</b>	FY 2016	FY 2017	FY 2018	FY 2019
<b>Object of Expenditure</b>	FY 2016	FY 2017	FY 2018	FY 2019
Obj. G		\$22,000	\$22,000	\$22,000

**Package Description**

The Washington State Human Rights Commission (WSHRC) has been cut 41% since 2008. In 2009, the WSHRC closed its Yakima and Vancouver Offices. This cut crucial services to underserved areas of Washington. It was decided to close offices rather than lay off investigators who are needed to make federal contracts and conduct investigations for state enforcement purposes. The WSHRC has contracts with the Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Housing and Urban Development (HUD). The WSHRC is paid for discrimination complaints filed within the state of Washington that are dually filed with these federal agencies. The HUD contract pays the WSHRC by each case resolved. The EEOC has a contractual number of cases to close. The next federal fiscal year the EEOC contract is for 595 cases. In 2010, the WSHRC closed its Seattle Office which housed several investigators and an operations manager. In 2012, the WSHRC eliminated the manager position in the Spokane office that supervised operations in eastern Washington in order to absorb another budget cut and again keep from laying off investigators. Working in partnership with the Department of Labor and

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investigators in Yakima, Wenatchee, Everett and Vancouver, all are cities that offer no other local civil rights enforcement options. OIC is housing three investigators and a manager in Seattle, which allowed those staff members -that worked and lived in Seattle to remain there. The satellite offices in L&I need monthly supervision that exceeds our current travel budget. Travel to Everett and Vancouver are day trips and the only expense is mileage.

The travel allotment is also used for investigators conducting onsite investigations.

In addition, the Commissioners have not been able to follow WAC 162, to hold meetings in various locations throughout the state. In order to absorb the tremendous budget cuts the Commission primarily has held meetings by phone and in Seattle or Olympia.

### **162-04-020 Organization and operations.**

(1) **Membership.** The Washington state human rights commission consists of five members, one of whom is designated as chairperson, appointed by the governor for staggered five-year terms.

(2) **Meetings.** The commission holds regular meetings commencing at 9:30 a.m. on the fourth Thursday of each month, except for November and December, at various places throughout the state. No regular meeting is held in August. The place and dates of the meetings can be learned by writing or calling the commission clerk at the Olympia office at (360) 753-6770.

**Base Budget:** This proposal is not an expansion or alteration of a current program or service.

### **Decision Package expenditure, FTE and revenue assumptions, calculations and details:**

The monthly costs to supervise these satellite offices is \$1,563. Travel to Spokane usually constitutes an overnight stay and with mileage and per diem the estimated cost is \$550 per trip. Travel to Wenatchee and Yakima can also require an overnight stay and the estimated cost is \$382 per trip.

The cost of monthly out of town meetings for the commission that usually require an overnight stay is approximately \$5,000. This includes the director, clerk of the commission, the assistant attorney general and five commissioners.

See attached detail of cost assumptions.

### **Decision Package Justification and Impacts**

#### **What specific performance outcomes does the agency expect?**

The agency currently has a significant amount of aged cases that investigators need help with. It would help the agency meet performance standards. There needs to be oversight to ensure case production, attendance and community issues are addressed.

It will also avoid personnel issues and save costs of addressing them after an issue has escalated.

The package will allow the commission to be in compliance with WAC 162.04.020 and hold meetings throughout the state. One of the Commissions goals is to increase agency visibility and credibility by being recognized as the leading expert on civil rights issues. One strategy for reaching that goal is to expand opportunities to proactively reach out to those who have rights under Washington Law Against Discrimination (WLAD). Public meetings provide an opportunity to educate and reach out to communities.

**Performance Measure detail:**

**Fully describe and quantify expected impacts on state residents and specific populations served.**

The impact of not receiving adequate funding to oversee satellite offices is personnel issues because of lack of supervision. This would include holding investigators accountable for the work they do and helping resolve cases that are complex in nature. It will provide an opportunity for managers to review cases and provide guidance to the investigators.

The impact of the commission not meeting throughout the state is that underserved communities will not get the opportunity to have their voices heard. The commission is not as aware of jurisdictional issues in the underserved communities when holding meetings by phone. The impact generally would affect immigrants, minorities, the LGBT communities, people with disabilities and veterans.

The commissioners also have been asked to attend other events relevant to our jurisdiction. Without sufficient funding for travel the WSHRC will have to decline those invitations.

**What are other important connections or impacts related to this proposal?** Please complete the following table and provide detailed explanations or information below:

Impact(s) To:		Identify / Explanation
Regional/County impacts?	Yes	<b>Identify:</b> Underserved communities are not equally represented when meetings are held in Olympia and by phone. Outcomes of investigations are delayed when supervising employees by phone.
Other local gov't impacts?	Yes	<b>Identify:</b> same as above
Tribal gov't impacts?	No	<b>Identify:</b>
Other state agency impacts?	Yes	<b>Identify:</b> The WSHRC works in partnership with other state agencies and will not be able to attend events that have widespread results.  The WSHRC investigates both employment and public accommodations cases against state agencies.
Responds to specific task force, report, mandate or exec order?	Yes	<b>Identify:</b> WAC 162.04.020
Does request contain a compensation change?	No	<b>Identify:</b>
Does request require a change to a collective bargaining agreement?	No	<b>Identify:</b>

Facility/workplace needs or impacts?	No	Identify: Satellite offices have minimum supervision.
Capital Budget Impacts?	No	Identify:
Is change required to existing statutes, rules or contracts?	No	Identify:
Is the request related to or a result of litigation?	No	Identify lawsuit (please consult with Attorney General's Office):
Is the request related to Puget Sound recovery?	No	If yes, see budget instructions Section 14.4 for additional instructions
Identify other important connections		

Please provide a detailed discussion of connections/impacts identified above.

**What alternatives were explored by the agency and why was this option chosen?**

The WSHRC has reduced travel to on what is absolutely necessary because of budget cuts. Four out of five commissioners live in Seattle. The WSHRC has been hold most of its meetings in Seattle in the last fiscal year.

Again, the satellite offices are not supervised on a regular basis.

The WSHRC has gone through LEAN processes to streamline the work and be more efficient. There are no alternatives and nowhere else to cut.

**What are the consequences of not funding this request?**

One consequence is a delay in resolving cases of discrimination. It is also a risk management issue to not have minimum supervision. Investigation of discrimination cases involves another level of risk management and requires supervision. Lack of oversight of investigator work and performance impacts our federal contracts with HUD and EEOC. In federal fiscal year 2016, the WSHRC closed fewer housing cases than predicted and resulted in a lower payment from the Department of Housing and Urban Development. Better supervision would have allowed the agency to earn more federal dollars. Civil rights violations are increasing and fewer of businesses being trained creates more violations.

The consequences to the commissioners not having sufficient travel is that communities go unrepresented and issues that need to be addressed go unaddressed because the commissioners have no knowledge.

**How has or can the agency address the issue or need in its current appropriation level?**

The agency has addressed this need by minimizing travel and communicating with staff via email or phone. The commission has not been holding public meetings throughout the state.

**Other supporting materials:**Please attach or reference any other supporting materials or information that will help analysts and policymakers understand and prioritize your request.

**Information technology:** Does this Decision Package include funding for any IT-related costs, including hardware, software, services (including cloud-based services), contracts or IT staff?

No 

Yes Continue to IT Addendum below and follow the directions on the bottom of the addendum to meet requirements for OCIO review.)

## 2017 Supplemental Budget Decision Package

**Agency:** 120 Human Rights Commission

**Decision Package Code/Title:** AG Attorney General Services

**Budget Period:** 2015-17

**Budget Level:** ML – Maintenance Level

**Agency Recommendation Summary Text:**

Spending authority is needed to cover the legal costs for rule making and increases in the number of discrimination cases sent to the Office of Attorney General for prosecution.

**Fiscal Summary:** Decision package total dollar and FTE cost/savings by year, by fund, for 4 years. Additional fiscal details are required below.

Operating Expenditures	FY 2016	FY 2017	FY 2018	FY 2019
Fund 001-1		\$131,000	\$131,000	\$131,000
<b>Total Cost</b>		<b>\$131,000</b>	<b>\$131,000</b>	<b>\$131,000</b>
Staffing	FY 2016	FY 2017	FY 2018	FY 2019
FTEs				
Revenue	FY 2016	FY 2017	FY 2018	FY 2019
Fund				
Object of Expenditures	FY 2016	FY 2017	FY 2018	FY 2019
Obj. E		\$131,000	\$131,000	\$131,000

**Package Description**

The Washington State Human Rights Commission (WSHRC) has taken significant budget reductions. The WSHRC has been cut 41% since 2008. In the 15-17 biennium, the funding for Office of Attorney General (AGO) costs was significantly reduce by \$161,912 from the amount authorized in the prior biennium.

The WSHRC enforces the state's laws against discrimination. When complaints are not resolved at the agency level they are forwarded to the AG for prosecution. This year, the WSHRC has begun to overspend the funding provided for these services. This is due in part to rule making and an increase in cases sent for prosecution.

Litigation hours have increased on enforcement matters this biennium. WSHRC's total legal services budget for the current biennium is \$337,798.

The Attorney General's Office (AGO) billings by division from July 2015-August 2016 are as follows:

GCE (open government and advice matters): 118,000 (since the beginning of the biennium)

L&P (labor and personnel matters): 9,000 (since the beginning of the biennium)

CRU (enforcement matters): 48,340 (since transfer of enforcement caseload in January 2016)

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Total: \$175,340

The AG's Civil Rights Unit (CRU) has increased its hours on WSHRC cases to correspond to increased litigation referrals. We estimate that CRU will bill \$23,000 per month to the WSHRC for litigation going forward. We calculated this by adding August and September hours and costs and dividing by two. August and September are more representative of the hours and costs anticipated for the WSHRC. If the WSHRC continues to refer litigation cases at the rate it has been. CRU estimates that it will bill \$230,000 for the 10 months from September 2016-June 2017.

The GCE division anticipates billing about \$3,000 per month going forward. The L&P division expects to remain constant at \$642 per month.

The total cost is estimated at \$130,772 over the WSHRC's current allotment. If the WSHRC submits a supplemental budget request for the 2016-2017 biennium, the AGO will fully support it through a letter to OFM.

For additional information, please contact Sharon Ortiz, Executive Director at 360-753-2558.

**Base Budget:**

This proposal is not an expansion or alteration of a current program or service.

**Decision Package expenditure, FTE and revenue assumptions, calculations and details:**

The cost of providing these services is estimated at \$441,748 during the 2017-19 biennium. Of that amount, \$142,078.12 was billed in fiscal year 2016 so the Commission anticipates the AGO will bill \$299,670 in fiscal year 2017.

Human Rights Commission is funded with General Fund-State spending authority and the spending plan assumes 50 percent of the biennial allocation will be spent each year of the biennium. Therefore, the agency planned to spend only \$168,898 in fiscal year 2017 (\$337,798 divided by 2 years).

If the AG bills \$299,670 for their services, the Commission will need additional spending authority of \$130,772 in fiscal year 2017 (Estimated billing \$299,670 – agency allocation \$168,898 = shortage for FY 2017 \$130,772).

**Decision Package Justification and Impacts**

**What specific performance outcomes does the agency expect?**

Without the funding for this package the WSHRC will not be able to forward cases where discrimination was found to the AGO.

**Performance Measure detail:**

**Fully describe and quantify expected impacts on state residents and specific populations served.**

Cases that are forwarded to the AGO are ones that the investigation determined discrimination occurred and the Respondent and the Complainant cannot resolve through conciliation efforts. These are cases where Complainant does not have the resources to obtain a private attorney. Not having adequate funding to prosecute these cases will impact the low income residents of Washington. Most of the cases are employment and housing cases and the discrimination has negatively impacted their lives. Those people will go without justice and the businesses that have discriminated will not be held accountable. Only cases that cannot be resolved within the resources of the WSHRC are sent to the AGO.

**What are other important connections or impacts related to this proposal?** Please complete the following table and provide detailed explanations or information below:

Impact(s) To:		Identify / Explanation
Regional/County impacts?	Yes	<b>Identify:</b> The WSHRC has statewide jurisdiction. Usually our cases come out of cities and counties that do not have any other civil rights recourse. The WSHRC also has jurisdiction over county employers.
Other local gov't impacts?	Yes	<b>Identify:</b> The WSHRC has jurisdiction over local government employers. The WSHRC also has jurisdiction over housing authorities.
Tribal gov't impacts?	No	<b>Identify:</b>
Other state agency impacts?	Yes	<b>Identify:</b> The WSHRC has jurisdiction over state agencies including but not limited to whistleblower retaliation protection.
Responds to specific task force, report, mandate or exec order?	Yes	<b>Identify: RCW 49.60.250</b> <b>Hearing of complaint by administrative law</b>

**judge—Limitation of relief—Penalties—  
Order—Arbitration.**

(1) In case of failure to reach an agreement for the elimination of such unfair practice, and upon the entry of findings to that effect, the entire file, including the complaint and any and all findings made, shall be certified to the chairperson of the commission. The chairperson of the commission shall thereupon request the appointment of an administrative law judge under Title 34 RCW to hear the complaint and shall cause to be issued and served in the name of the commission a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of the complaint at a hearing before the administrative law judge, at a time and place to be specified in such notice.

(2) The place of any such hearing may be the office of the commission or another place designated by it. The case in support of the complaint shall be presented at the hearing by counsel for the commission: PROVIDED, That the complainant may retain independent counsel and submit testimony and be fully heard. No member or employee of the commission who previously made the investigation or caused the notice to be issued shall participate in the hearing except as a witness, nor shall the member or employee participate in the deliberations of the administrative law judge in such case. Any endeavors or negotiations for conciliation shall not be received in evidence.

(3) The respondent shall file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine the complainant.

**Does request contain a compensation change?**

No

Identify:

**Does request require a change to a collective bargaining agreement?**

No

Identify:

**Facility/workplace needs or impacts?**

No

Identify:

**Capital Budget Impacts?**

No

Identify:

**Is change required to existing statutes, rules or contracts?**

Yes

Identify:

**RCW 49.60.250**

**Hearing of complaint by administrative law judge—Limitation of relief—Penalties—  
Order—Arbitration.**

(1) In case of failure to reach an agreement for the elimination of such unfair practice, and upon the entry of findings to that effect, the entire file, including the complaint and any and all findings made, shall be certified to the chairperson of the commission. The

chairperson of the commission shall thereupon request the appointment of an administrative law judge under Title 34 RCW to hear the complaint and shall cause to be issued and served in the name of the commission a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of the complaint at a hearing before the administrative law judge, at a time and place to be specified in such notice.

(2) The place of any such hearing may be the office of the commission or another place designated by it. The case in support of the complaint shall be presented at the hearing by counsel for the commission: PROVIDED, That the complainant may retain independent counsel and submit testimony and be fully heard. No member or employee of the commission who previously made the investigation or caused the notice to be issued shall participate in the hearing except as a witness, nor shall the member or employee participate in the deliberations of the administrative law judge in such case. Any endeavors or negotiations for conciliation shall not be received in evidence.

(3) The respondent shall file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine the complainant.

#### **RCW 49.60.340**

#### **Election for civil action in lieu of hearing— Relief.**

(1) Any complainant on whose behalf the reasonable cause finding was made, a respondent, or an aggrieved person may, with respect to real estate transactions pursuant to RCW 49.60.222 through 49.60.225, elect to have the claims on which reasonable cause was found decided in a civil action under RCW 49.60.030(2) in lieu of a hearing under RCW 49.60.250. This election must be made not later than twenty days after the service of the reasonable cause finding. The person making such election shall give notice of doing so to the commission and to all other complainants and respondents to whom the charge relates. Any reasonable cause finding issued by the commission pursuant to the procedures contained in this chapter shall become final twenty days after service of the reasonable cause finding unless a written notice of election is received by the commission within the twenty-day period.

(2) If an election is made under subsection (1) of this section, the commission shall authorize not later than thirty days after the election is made, and the attorney general shall commence, a civil action on behalf of the aggrieved person in a superior court of the state of Washington seeking relief under this section.

(3) Any aggrieved person with respect to the issues to be determined in a civil action under this section may intervene as of right in that civil action.

(4) In a civil action under this section, if the court finds that an unfair practice in a real estate transaction has occurred or is about to occur, the court may grant any relief that a court could grant with respect to such an unfair practice in a real estate transaction in a

civil action under RCW 49.60.030(2). If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

(5) In any administrative proceeding under this section where the respondent is the prevailing party, a complainant who intervenes by filing a notice of independent appearance may be liable for reasonable attorneys' fees and costs only to the extent that the intervening participation in the administrative proceeding was frivolous or vexatious, or was for the purpose of harassment.

(6) In any administrative proceeding brought under RCW 49.60.225 or any court proceeding arising there from, or any civil action under this section, the administrative law judge or the court in its discretion may allow the prevailing party, other than the commission, reasonable attorneys' fees and costs.

[ 1993 c 69 § 13.]

**RCW 49.60.280**

**Court shall expeditiously hear and determine.**

Petitions filed under RCW 49.60.260 and 49.60.270 shall be heard expeditiously and determined upon the transcript filed, without requirement of printing. Hearings in the court under this chapter shall take precedence over all other matters, except matters of the same character.

[ 1957 c 37 § 23. Prior: 1949 c 183 § 9, part; Rem. Supp. 1949 § 7614-27A, part.]

Is the request related to or a result of litigation?

No

Identify lawsuit (please consult with Attorney General's Office):

Is the request related to Puget Sound recovery?

No

If yes, see budget instructions Section 14.4 for additional instructions

Identify other important connections

Please provide a detailed discussion of connections/impacts identified above.

What alternatives were explored by the agency and why was this option chosen?

There are no alternatives to explore. The WSHRC follows RCW 49.60 and makes every attempt to settle cases through alternative dispute resolution. Even after a reasonable cause finding is issued a case is again assigned to a senior investigator for conciliation. When that fails the case is forwarded to the AGO.

## **RCW 49.60.240**

### **Complaint investigated—Procedure—Conference, conciliation—Agreement, findings—Rules.**

(1)(a) Except as provided for in (c) of this subsection, after the filing of any complaint, the chairperson of the commission shall refer it to the appropriate section of the commission's staff for prompt review and evaluation of the complaint. If the facts as stated in the complaint do not constitute an unfair practice under this chapter, a finding of no reasonable cause may be made without further investigation. If the facts as stated could constitute an unfair practice under this chapter, a full investigation and ascertainment of the facts shall be conducted.

(b) If the complainant has limitations related to language proficiency or cognitive or other disability, as part of the review and evaluation under (a) of this subsection, the commission's staff must contact the complainant directly and make appropriate inquiry of the complainant as to the facts of the complaint.

(c) After the filing of a complaint alleging an unfair practice in a real estate transaction pursuant to RCW 49.60.222 through 49.60.225, the chairperson of the commission shall refer it to the appropriate section of the commission's staff for prompt investigation and ascertainment of the facts alleged in the complaint.

(2) The investigation shall be limited to the alleged facts contained in the complaint. The results of the investigation shall be reduced to written findings of fact, and a finding shall be made that there is or that there is not reasonable cause for believing that an unfair practice has been or is being committed. A copy of the findings shall be provided to the complainant and to the person named in such complaint, hereinafter referred to as the respondent.

(3) If the finding is made that there is reasonable cause for believing that an unfair practice has been or is being committed, the commission's staff shall immediately endeavor to eliminate the unfair practice by conference, conciliation, and persuasion.

If an agreement is reached for the elimination of such unfair practice as a result of such conference, conciliation, and persuasion, the agreement shall be reduced to writing and signed by the respondent, and an order shall be entered by the commission setting forth the terms of said agreement. No order shall be entered by the commission at this stage of the proceedings except upon such written agreement, except that during the period beginning with the filing of complaints alleging an unfair practice with respect to real estate transactions pursuant to RCW 49.60.222 through 49.60.225, and ending with the filing of a finding of reasonable cause or a dismissal by the commission, the commission staff shall, to the extent feasible, engage in conciliation with respect to such complaint. Any conciliation agreement arising out of conciliation efforts by the commission shall be an agreement between the respondent and the complainant and shall be subject to the approval of the commission. Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this chapter.

If no such agreement can be reached, a finding to that effect shall be made and reduced to writing, with a copy thereof provided to the complainant and the respondent.

(4) The commission may adopt rules, including procedural time requirements, for processing complaints alleging an unfair practice with respect to real estate transactions pursuant to RCW 49.60.222 through 49.60.225 and which may be consistent with the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.), but which in no case shall exceed or be more restrictive than the requirements or standards of such act.

[ 2010 c 85 § 1; 1995 c 259 § 5. Prior: 1993 c 510 § 22; 1993 c 69 § 12; 1985 c 185 § 22; 1981 c 259 § 1; 1957 c 37 § 17; 1955 c 270 § 16; prior: 1949 c 183 § 8, part; Rem. Supp. 1949 § 7614-27, part.]

### **What are the consequences of not funding this request?**

The consequence is justice is not served. Respondents will get a clear message there are no consequences for discrimination. Complainants cannot recover damages or be made whole from the damage of the discrimination. This will effect low income people who have been the victims of discrimination.

### **How has or can the agency address the issue or need in its current appropriation level?**

The WSHRC did not have as many cases going forward for litigation. Funding was removed because it was not spent. Forwarding cases to the AGO is fluid and has increased. The agency anticipates this upswing to continue based on our pending case loads.

**Other supporting materials:** Please attach or reference any other supporting materials or information that will help analysts and policymakers understand and prioritize your request.

**Information technology:** Does this Decision Package include funding for any IT-related costs, including hardware, software, services (including cloud-based services), contracts or IT staff?

No **STOP**

Yes Continue to IT Addendum below and follow the directions on the bottom of the addendum to meet requirements for OCIO review.)