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# MEMORANDUM

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**To:** *Natural Resource Subcommittee Members*  
**From:** *Susie Jordan, Legislative Fiscal Office*  
(503) 986-1835  
**Date:** April 23, 2013  
**Subject:** *Senate Bill 5531- Land Use Board of Appeals - Work Session Recommendations*

## **LAND USE BOARD OF APPEALS (LUBA) - AGENCY TOTAL**

|                     | <b>2009-11<br/>Actual</b> | <b>2011-13<br/>Leg.<br/>Approved</b> | <b>2013-15<br/>Current<br/>Service Level</b> | <b>2013-15<br/>LFO Rec.</b> |
|---------------------|---------------------------|--------------------------------------|--|-----------------------------|
| <b>General Fund</b> | 1,412,424                 | 1,295,278                            | 1,448,572                                    | 1,551,697                   |
| <b>Other Funds</b>  | 64,014                    | 83,620                               | 85,648                                       | 84,328                      |
| <b>TOTAL FUNDS</b>  | 1,476,438                 | 1,378,898                            | 1,534,220                                    | 1,636,025                   |
| <b>Positions</b>    | 6                         | 5                                    | 5  | 6                           |
| <b>FTE</b>          | 6.00                      | 5.00                                 | 5.00   | 5.75                        |

Attached are the recommendations from the Legislative Fiscal Office for the **Land Use Board of Appeals**. It contains the following:

- Standard adjustments for inflation; State Government Service Charges; and reductions for statewide administrative savings and savings anticipated from PERS reforms.
- Restores Staff Attorney position previously eliminated due to limited availability of General Funds and downturn in the economy reducing number of appeals. Restoration of the position enables the Board to maintain 77-day statutory deadline as appeals increase over the 2013-15 biennium.

### **Adjustments to Current Service Level:**

See attached "Work Session Presentation Report" dated 4/23/2013.

### ***Accept LFO Recommendation***

***Move the LFO recommendation to SB 5513.***

### **Performance Measures**

See attached "Legislatively Proposed 2013-15 Key Performance Measures" form.

### **Accept LFO Recommendation**

***Move the LFO recommendation on Key Performance Measures***

### **Recommended Changes to Appropriation Bill:**

The Legislative Fiscal Office recommends a budget of \$1,551,697 *General Funds*, \$84,328 *Other Funds*, and 6 positions (5.75 FTE) and that Senate Bill 5513 be approved accordingly.

→ **Approve a motion to amend Senate Bill 5513 by the following:**

|            |           |        |             |            |             |
|------------|-----------|--------|-------------|------------|-------------|
| Section 1. | In Line 6 | Delete | \$1,442,194 | and insert | \$1,551,697 |
|            | Line 7    | Delete | 85,648      | and insert | 84,328      |

### **Senate Bill 5513 Final Subcommittee Action:**

### ***Final Motion:***

***Move SB 5513 to the full committee with a "do pass" recommendation as amended.***

|   | General Fund     | Lottery Funds | Other Funds    | Federal Funds | Nonlimited Other Funds | Nonlimited Federal Funds | Total Funds      | Positions | Full-Time Equivalent (FTE) |
|---|------------------|---------------|----------------|---------------|------------------------|--------------------------|------------------|-----------|----------------------------|
| <b>2011-13 Agy. Leg. Adopted</b>                  | <b>1,295,278</b> | -             | <b>83,620</b>  | -             | -                      | -                        | <b>1,378,898</b> | <b>5</b>  | <b>5.00</b>                |
| 2011-13 Ebds, SS & Admin Act                      | -                | -             | -              | -             | -                      | -                        | -                | -         | -                          |
| Ways & Means Actions                              | -                | -             | -              | -             | -                      | -                        | -                | -         | -                          |
| <b>2011-13 Leg Approved Budget</b>                | <b>1,295,278</b> | -             | <b>83,620</b>  | -             | -                      | -                        | <b>1,378,898</b> | <b>5</b>  | <b>5.00</b>                |
| <b>2011-13 Leg Approved Budget (Base)</b>         | <b>1,295,278</b> | -             | <b>83,620</b>  | -             | -                      | -                        | <b>1,378,898</b> | <b>5</b>  | <b>5.00</b>                |
| Summary of Base Adjustments                       | 139,767          | -             | 1,328          | -             | -                      | -                        | 141,095          | -         | -                          |
| <b>2013-15 Base Budget</b>                        | <b>1,435,045</b> | -             | <b>84,948</b>  | -             | -                      | -                        | <b>1,519,993</b> | <b>5</b>  | <b>5.00</b>                |
| 010: Non-PICS Pers Svc/Vacancy Factor             | 3,806            | -             | 48             | -             | -                      | -                        | 3,854            | -         | -                          |
| 030: Inflation & Price List Adjustments           | 9,721            | -             | 652            | -             | -                      | -                        | 10,373           | -         | -                          |
| <b>2013-15 Current Service Level</b>              | <b>1,448,572</b> | -             | <b>85,648</b>  | -             | -                      | -                        | <b>1,534,220</b> | <b>5</b>  | <b>5.00</b>                |
| <b>Adjusted 2013-15 Current Service Level</b>     | <b>1,448,572</b> | -             | <b>85,648</b>  | -             | -                      | -                        | <b>1,534,220</b> | <b>5</b>  | <b>5.00</b>                |
| <b>Total LFO Recommended Packages</b>             | <b>103,125</b>   | -             | <b>(1,320)</b> | -             | -                      | -                        | <b>101,805</b>   | <b>1</b>  | <b>0.75</b>                |
| <b>2013-15 Legislative Actions</b>                | <b>1,551,697</b> | -             | <b>84,328</b>  | -             | -                      | -                        | <b>1,636,025</b> | <b>6</b>  | <b>5.75</b>                |
| Net change from 2011-13 Leg Approved Budget       | 256,419          | -             | 708            | -             | -                      | -                        | 257,127          | 1         | 0.75                       |
| Percent change from 2011-13 Leg Approved Budget   | 19.8%            | 0.0%          | 0.8%           | 0.0%          | 0.0%                   | 0.0%                     | 18.6%            | 20.0%     | 15.0%                      |
| Net change from 2013-15 Current Service Level     | 103,125          | -             | (1,320)        | -             | -                      | -                        | 101,805          | 1         | 0.75                       |
| Percent change from 2013-15 Current Service Level | 7.1%             | 0.0%          | (1.5%)         | 0.0%          | 0.0%                   | 0.0%                     | 6.6%             | 20.0%     | 15.0%                      |

|   | General Fund     | Lottery Funds | Other Funds    | Federal Funds | Nonlimited Other Funds | Nonlimited Federal Funds | Total Funds      | Positions | Full-Time Equivalent (FTE) |
|---|------------------|---------------|----------------|---------------|------------------------|--------------------------|------------------|-----------|----------------------------|
| <b>2011-13 Agy. Leg. Adopted</b>                  | <b>1,295,278</b> | -             | <b>83,620</b>  | -             | -                      | -                        | <b>1,378,898</b> | <b>5</b>  | <b>5.00</b>                |
| 2011-13 Ebds, SS & Admin Act                      | -                | -             | -              | -             | -                      | -                        | -                | -         | -                          |
| Ways & Means Actions                              | -                | -             | -              | -             | -                      | -                        | -                | -         | -                          |
| <b>2011-13 Leg Approved Budget</b>                | <b>1,295,278</b> | -             | <b>83,620</b>  | -             | -                      | -                        | <b>1,378,898</b> | <b>5</b>  | <b>5.00</b>                |
| <b>2011-13 Leg Approved Budget (Base)</b>         | <b>1,295,278</b> | -             | <b>83,620</b>  | -             | -                      | -                        | <b>1,378,898</b> | <b>5</b>  | <b>5.00</b>                |
| Summary of Base Adjustments                       | 139,767          | -             | 1,328          | -             | -                      | -                        | 141,095          | -         | -                          |
| <b>2013-15 Base Budget</b>                        | <b>1,435,045</b> | -             | <b>84,948</b>  | -             | -                      | -                        | <b>1,519,993</b> | <b>5</b>  | <b>5.00</b>                |
| 010: Non-PICS Pers Svc/Vacancy Factor             | 3,806            | -             | 48             | -             | -                      | -                        | 3,854            | -         | -                          |
| 030: Inflation & Price List Adjustments           | 9,721            | -             | 652            | -             | -                      | -                        | 10,373           | -         | -                          |
| <b>2013-15 Current Service Level</b>              | <b>1,448,572</b> | -             | <b>85,648</b>  | -             | -                      | -                        | <b>1,534,220</b> | <b>5</b>  | <b>5.00</b>                |
| <b>Adjusted 2013-15 Current Service Level</b>     | <b>1,448,572</b> | -             | <b>85,648</b>  | -             | -                      | -                        | <b>1,534,220</b> | <b>5</b>  | <b>5.00</b>                |
| <b>Total LFO Recommended Packages</b>             | <b>103,125</b>   | -             | <b>(1,320)</b> | -             | -                      | -                        | <b>101,805</b>   | <b>1</b>  | <b>0.75</b>                |
| <b>2013-15 Legislative Actions</b>                | <b>1,551,697</b> | -             | <b>84,328</b>  | -             | -                      | -                        | <b>1,636,025</b> | <b>6</b>  | <b>5.75</b>                |
| Net change from 2011-13 Leg Approved Budget       | 256,419          | -             | 708            | -             | -                      | -                        | 257,127          | 1         | 0.75                       |
| Percent change from 2011-13 Leg Approved Budget   | 19.8%            | 0.0%          | 0.8%           | 0.0%          | 0.0%                   | 0.0%                     | 18.6%            | 20.0%     | 15.0%                      |
| Net change from 2013-15 Current Service Level     | 103,125          | -             | (1,320)        | -             | -                      | -                        | 101,805          | 1         | 0.75                       |
| Percent change from 2013-15 Current Service Level | 7.1%             | 0.0%          | (1.5%)         | 0.0%          | 0.0%                   | 0.0%                     | 6.6%             | 20.0%     | 15.0%                      |

|  | General Fund | Lottery Funds | Other Funds | Federal Funds | Nonlimited Other Funds | Nonlimited Federal Funds | Total Funds | Positions | Full-Time Equivalent (FTE) |
|--|--------------|---------------|-------------|---------------|------------------------|--------------------------|-------------|-----------|----------------------------|
|--|--------------|---------------|-------------|---------------|------------------------|--------------------------|-------------|-----------|----------------------------|

**Package 092 PERS Taxation Policy**

Package Description This package reflects the policy change in SB 822 that eliminates the increased retirement benefits resulting from Oregon income taxation of payments if the person receiving payments does not pay Oregon income tax on those benefits and is not an Oregon resident. This change reduces state employer contribution rates by approximately 0.30%.

LFO Recommendation Approve

|                        |                |          |              |          |          |          |                |          |          |
|------------------------|----------------|----------|--------------|----------|----------|----------|----------------|----------|----------|
| <b>LFO Recommended</b> | <b>(3,545)</b> | <b>-</b> | <b>(147)</b> | <b>-</b> | <b>-</b> | <b>-</b> | <b>(3,692)</b> | <b>-</b> | <b>-</b> |
|------------------------|----------------|----------|--------------|----------|----------|----------|----------------|----------|----------|

|  | General Fund | Lottery Funds | Other Funds | Federal Funds | Nonlimited Other Funds | Nonlimited Federal Funds | Total Funds | Positions | Full-Time Equivalent (FTE) |
|--|--------------|---------------|-------------|---------------|------------------------|--------------------------|-------------|-----------|----------------------------|
|--|--------------|---------------|-------------|---------------|------------------------|--------------------------|-------------|-----------|----------------------------|

**Package 093 Other PERS Adjustments**

Package Description This package reflects the policy change in SB 822 that modifies the cost-of-living adjustment under the Public Employees Retirement System. This change reduces state employer contribution rates by approximately 2.2%.

An administrative action by the PERS Board, as directed by a budget note in the SB 822 budget report, will reduce state employer contribution rates by up to an additional 1.9%. However, no employer rate is reduced below its 2011-13 biennium rate.

LFO Recommendation Approve

|                        |                 |   |                |   |   |   |                 |   |   |
|------------------------|-----------------|---|----------------|---|---|---|-----------------|---|---|
| <b>LFO Recommended</b> | <b>(28,330)</b> | - | <b>(1,173)</b> | - | - | - | <b>(29,503)</b> | - | - |
|------------------------|-----------------|---|----------------|---|---|---|-----------------|---|---|

|  | General Fund | Lottery Funds | Other Funds | Federal Funds | Nonlimited Other Funds | Nonlimited Federal Funds | Total Funds | Positions | Full-Time Equivalent (FTE) |
|--|--------------|---------------|-------------|---------------|------------------------|--------------------------|-------------|-----------|----------------------------|
|--|--------------|---------------|-------------|---------------|------------------------|--------------------------|-------------|-----------|----------------------------|

**Package 101 Restore Staff Attorney**

Package Description Restores staff attorney for 18 months (.75 FTE) to ensure LUBA's ability to comply with its statutory mandates.

LFO Recommendation Approve

|                        |                |   |   |   |   |   |                |          |             |
|------------------------|----------------|---|---|---|---|---|----------------|----------|-------------|
| <b>LFO Recommended</b> | <b>135,000</b> | - | - | - | - | - | <b>135,000</b> | <b>1</b> | <b>0.75</b> |
|------------------------|----------------|---|---|---|---|---|----------------|----------|-------------|

## Legislatively Proposed 2013-2015 Key Performance Measures

**Agency: LAND USE BOARD of APPEALS**

Mission: To provide an accessible forum for resolving land use disputes quickly and efficiently and make LUBA decisions available as a decision making resource to state and local legislators, land use decision makers, property owners and the citizens of Oregon.

| Legislatively Proposed KPMs  | Customer Service Category   | Agency Request | Most Current Result | Target 2014 | Target 2015 |
|--|-----------------------------|----------------|---------------------|-------------|-------------|
| 1 - TIMELY RESOLVE APPEALS - Percentage of appeals of land use decisions that are resolved within statutory deadlines or, if all parties agree, with no more than a 7 day extension of the statutory deadline.         |                             | Approved KPM   | 90.00               |             |             |
| 2 - TIMELY SETTLE RECORD - Percentage of record objections that are resolved within 60 days after the record objection is received by LUBA.  |                             | Approved KPM   | 84.00               |             |             |
| 3 - RESOLVE ALL ISSUES - Percentage of decisions where all issues are resolved when reversing or remanding a land use decision.  |                             | Approved KPM   | 100.00              |             |             |
| 4 - SUSTAINED ON APPEAL - Percentage of final opinions that are sustained on appeal.   |                             | Approved KPM   | 85.00               |             |             |
| 5 - CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, availability of information. | Accuracy                    | Approved KPM   | 96.00               | 90.00       | 90.00       |
| 5 - CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, availability of information. | Availability of Information | Approved KPM   | 85.00               | 90.00       | 90.00       |
| 5 - CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, availability of information. | Expertise                   | Approved KPM   | 96.00               | 90.00       | 90.00       |
| 5 - CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, availability of information. | Helpfulness                 | Approved KPM   | 100.00              | 90.00       | 90.00       |

**Agency: LAND USE BOARD of APPEALS**

Mission: To provide an accessible forum for resolving land use disputes quickly and efficiently and make LUBA decisions available as a decision making resource to state and local legislators, land use decision makers, property owners and the citizens of Oregon.

| <b>Legislatively Proposed KPMs</b>   | <b>Customer Service Category</b> | <b>Agency Request</b> | <b>Most Current Result</b> | <b>Target 2014</b> | <b>Target 2015</b> |
|--|----------------------------------|-----------------------|----------------------------|--------------------|--------------------|
| 5 - CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, availability of information. | Overall                          | Approved KPM          | 100.00                     | 90.00              | 90.00              |
| 5 - CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, availability of information. | Timeliness                       | Approved KPM          | 97.00                      | 90.00              | 90.00              |

**LFO Recommendation:**

Approve the Key Performance Measures and targets requested by the department.

**Sub-Committee Action:**