

HB 5010
Employment Relations Board

House Bill 5010 is the budget bill for the Employment Relations Board. ERB's mission is to resolve disputes concerning labor relations. ERB provides four main services to help employers, employees, and labor organizations resolve their disputes: (1) labor mediation and training; (2) contested case hearings; (3) union representation elections; and (4) labor appeal cases.

The General Government Subcommittee approved a total budget of \$3.8 million, which includes a General Fund budget of \$1.9 million and an Other Funds budget of \$1.9 million. The budget includes 13 positions (13.00 FTE). The budget is a \$48,122, or 1.3 percent, increase from the 2011-13 legislatively approved budget.

The budget report includes one budget note directing that the Board reinstate administrative law judge travel to local jurisdictions for contested case hearings.

The Subcommittee approved the Commission's key performance measures with updated targets and that during the interim a review of the KPMs be undertaken.

The General Government Subcommittee recommends HB 5010 be amended and reported out do pass, as amended.

**77th OREGON LEGISLATIVE ASSEMBLY – 2013 Session
BUDGET REPORT AND MEASURE SUMMARY**

JOINT COMMITTEE ON WAYS AND MEANS

MEASURE: HB 5010-A

Carrier – House: Rep. Smith

Carrier – Senate: Sen. Steiner Hayward

Action: Do Pass as Amended and be Printed A-Engrossed

Vote:

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

Prepared By: Bill McGee, Department of Administrative Services

Reviewed By: John Borden, Legislative Fiscal Office

Meeting Date: May 31, 2013

Agency

Employment Relations Board

Biennium

2013-15

Budget Summary*

	2011-13 Legislatively Approved Budget ⁽¹⁾	2013-15 Current Service Level	2013-15 Committee Recommendation	Committee Change from 2011-13 Leg. Approved	
				\$ Change	% Change
General Fund	\$ 1,932,803	\$ 2,104,873	\$ 1,940,826	\$ 8,023	0.4%
Other Funds	\$ 1,862,696	\$ 2,141,431	\$ 1,902,795	\$ 40,099	2.2%
Total	\$ 3,795,499	\$ 4,246,304	\$ 3,843,621	\$ 48,122	1.3%

Position Summary

Authorized Positions	13	13	13	0
Full-time Equivalent (FTE) positions	13.00	13.00	13.00	0.00

⁽¹⁾ Includes adjustments through December 2012

* Excludes Capital Construction expenditures

Summary of Revenue Changes

The Employment Relations Board (ERB) generates the majority of its Other Funds revenue through an assessment to state agencies based on the number of covered employees, including employees from the Legislative and Judicial branches and temporary employees. For the 2013-15 biennium, the state agency assessment is reduced from \$1.70 per month to \$1.65 per month. Additional reductions in the rate may be included in an end-of-session omnibus bill. The assessment is expected to generate \$1,678,551 in revenue.

ERB also receives \$224,244 in fees for services including contract mediation fees to local governments, grievance and Unfair Labor Practice fees, interest based bargaining training fees, and filing fees for Unfair Labor Practice complaints and answers.

ERB receives \$1.9 million in General Fund revenue to support labor relations functions conducted on behalf of local governments.

The Subcommittee approved Package 810, a revenue-only package, that increase the agency’s 2013-15 beginning balance by \$208,811 Other Funds to reflect an updated estimate of carryover funds from the 2011-13 biennium. With this adjustment, the estimated 2013-15 ending balance is \$813,230, equivalent to over six months of operating reserves. The agency is directed to use its projected Other Funds balance in excess of a three-month reserve to lower 2015-17 state agency assessment rates or, where appropriate, make recommendations to reduce fees.

Summary of General Government Subcommittee Action

The mission of the ERB is to resolve labor relations disputes for an estimated 3,000 employers and 250,000 employees in public and private employment in the state. The agency is responsible for administering specific portions of Oregon law: the Public Employee Collective Bargaining Act, which governs collective bargaining in state and local government; the State Personnel Relations Law, which creates appeal rights for non-union state employees who believe they were treated unfairly in the workplace; and the private sector labor-management relations law, which addresses collective bargaining for private sector employers who are not covered by federal law.

The Subcommittee approved a budget of \$1,940,826 General Fund, \$1,902,795 Other Funds, and 13 positions and 13.00 full-time equivalent positions. General Fund is increased from the 2011-13 Legislatively Approved Budget (LAB) by 0.4 percent while Other Funds is increased by 2.2 percent. The agency position count and FTE are unchanged. Total funds are increased by 1.3 percent from LAB.

Administration Program

The three-member Employment Relations Board acts as a “labor appeal court” for labor and management disputes within state and local governments. The Board is appointed by the Governor and is responsible for issuing final agency orders in declaratory rulings, contested case adjudications of unfair labor practice complaints, representation matters, and appeals from state personnel actions. Board orders can be appealed to the Oregon Court of Appeals.

For this program the Subcommittee approved a 2013-15 budget of \$1,199,730 General Fund and \$714,015 Other Funds for a total funds budget of \$1,913,745 (five positions/5.00 FTE) and which includes the following adjustments:

- Approved Package 091 that eliminates \$2,263 General Fund and \$4,899 Other Funds. This package is a placeholder for administrative efficiencies in finance, information technology, human resources, accounting, payroll, and procurement expenditures. The Department of Administrative Services will continue to work on these reductions with agencies and report back to the 2014 legislative session.
- Approved Package 092 that eliminates \$2,715 General Fund and \$1,305 Other Funds. This package reflects the policy change in Senate Bill 822 that eliminates the increased retirement benefits resulting from Oregon income taxation of payments if the person receiving the 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 percent.
- Approved Package 093 that eliminates \$21,691 General Fund and \$10,428 Other Funds. This package reflects the policy change in Senate Bill 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 percent.
- Approved Package 811 that eliminates \$52,967 General Fund and \$17,474 Other Funds for a pay-line equity differential of up to 15 percent for eight of the agency’s thirteen employees. During the 2011-13 biennium the agency approved these pay differentials. The cost was funded

with one-time vacancy and services and supplies savings. The differentials are included as part of the agency's current service level budget in an effort to provide permanent funding. However, without a prior history of budgeting a line item for differentials, it should not have been considered a current service level expense. The underlying purpose of pay differentials is to augment rather than circumvent the statewide compensation plan for specialized duties called out in administrative rule (e.g., bilingual skills, shift, educational, on-duty call, flight duty, etc.). Other compensation plan disparities that may arise are to be addressed through a Department of Administrative Services review.

Mediation and Conciliation Services Program

The Mediation and Conciliation Services Program provides mediation and conciliation services to resolve a variety of disputes, including those related to collective bargaining, contract grievances, unfair labor practice allegations, State Personnel Labor Relations Law appeals, and representation matters. Mediation and conciliation services are non-mandatory services.

For this program the Subcommittee approved a 2013-15 budget of \$324,141 General Fund and \$498,991 Other Funds for a total funds budget of \$823,132 (four positions/3.50 FTE) and which includes the following adjustments:

- Approved Package 092 that eliminates \$890 General Fund and \$1,491 Other Funds. This package reflects the policy change in Senate Bill 822 that eliminates the increased retirement benefits resulting from Oregon income taxation of payments if the person receiving the 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 percent.
- Approved Package 093 that eliminates \$7,109 General Fund and \$11,913 Other Funds. This package reflects the policy change in Senate Bill 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 percent.
- Approved Package 811 that eliminates \$13,248 General Fund and \$77,518 Other Funds for a pay-line equity differential of up to 15 percent for eight of the agency's thirteen employees. During the 2011-13 biennium the agency approved these pay differentials. The cost was funded with one-time vacancy and services and supplies savings. The differentials are included as part of the agency's current service level budget in an effort to provide permanent funding. However, without a prior history of budgeting a line item for differentials, it should not have been considered a current service level expense. The underlying purpose of pay differentials is to augment rather than circumvent the statewide compensation plan for specialized duties called out in administrative rule (e.g., bilingual skills, shift, educational, on-duty call, flight duty, etc.). Other compensation plan disparities that may arise are to be addressed through a Department of Administrative Services review.

Hearings Program

The Hearings Office is comprised of Administrative Law Judges that hear all unfair labor practice complaints filed by state and local government labor or management representatives, hear all state personnel appeals, and hear representation matters referred by the Elections Coordinator that require a contested case hearing. All proposed decisions are forwarded to the Employment Relations Board for automatic review and the issuance of a final order. Parties, who disagree with the ALJ's proposed decision, have the right to appeal the decision as it is being reviewed by the Employment Relations Board.

For this program the Subcommittee approved a 2013-15 budget of \$352,155 General Fund and \$682,590 Other Funds for a total funds budget of \$1,034,745 (four positions/4.00 FTE) and which includes the following adjustments:

- Approved Package 092 that eliminates \$1,077 General Fund and \$2,039 Other Funds. This package reflects the policy change in Senate Bill 822 that eliminates the increased retirement benefits resulting from Oregon income taxation of payments if the person receiving the 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 percent.
- Approved Package 093 that eliminates \$8,608 General Fund and \$16,290 Other Funds. This package reflects the policy change in Senate Bill 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 percent.
- Approved Package 811 that eliminates \$45,433 General Fund and \$94,384 Other Funds for a pay-line equity differential of up to 15 percent for eight of the agency's thirteen employees. During the 2011-13 biennium the agency approved these pay differentials. The cost was funded with one-time vacancy and services and supplies savings. The differentials are included as part of the agency's current service level budget in an effort to provide permanent funding. However, without a prior history of budgeting a line item for differentials, it should not have been considered a current service level expense. The underlying purpose of pay differentials is to augment rather than circumvent the statewide compensation plan for specialized duties called out in administrative rule (e.g., bilingual skills, shift, educational, on-duty call, flight duty, etc.). Other compensation plan disparities that may arise are to be addressed through a Department of Administrative Services review.

The Subcommittee discussed the agency's decision to limit travel by administrative law judges and adopted the following budget note:

Budget Note:

The Employment Relations Board is directed to reinstate administrative law judge travel to local jurisdictions for contested case hearings.

Elections Program

The Elections program is responsible for conducting elections regarding employee union representation and certifying the results. The program also processes petitions involving union representation and composition of bargaining units.

For this program the Subcommittee approved a 2013-15 budget of \$64,800 General Fund and \$7,199 Other Funds for a total funds budget of \$71,999 (0.50 FTE) and which includes the following adjustments:

- Approved Package 092 that eliminates \$178 General Fund and \$20 Other Funds. This package reflects the policy change in Senate Bill 822 that eliminates the increased retirement benefits resulting from Oregon income taxation of payments if the person receiving the 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 percent.

- Approved Package 093 that eliminates \$1,424 General Fund and \$158 Other Funds. This package reflects the policy change in Senate Bill 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 percent.
- Approved Package 811 that eliminates \$6,444 General Fund and \$717 Other Funds for a pay-line equity differential of up to 15 percent for eight of the agency's thirteen employees. During the 2011-13 biennium the agency approved these pay differentials. The cost was funded with one-time vacancy and services and supplies savings. The differentials are included as part of the agency's current service level budget in an effort to provide permanent funding. However, without a prior history of budgeting a line item for differentials, it should not have been considered a current service level expense. The underlying purpose of pay differentials is to augment rather than circumvent the statewide compensation plan for specialized duties called out in administrative rule (e.g., bilingual skills, shift, educational, on-duty call, flight duty, etc.). Other compensation plan disparities that may arise are to be addressed through a Department of Administrative Services review.

Summary of Performance Measure Action

The Subcommittee approved the Key Performance Measures and targets, but directed the Employment Relations Board to work with the Legislative Fiscal Office and the Department of Administrative Services to review existing measures and targets. See attached Legislatively Adopted 2011-13 Key Performance Measures form.

DETAIL OF JOINT COMMITTEE ON WAYS AND MEANS ACTION

HB 5010-A

**Employment Relations Board
Bill McGee 503-378-2078**

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
2011-13 Legislatively Approved Budget at Dec 2012 *	\$ 1,932,803	\$ 0	\$ 1,862,696	\$ 0	\$ 0	\$ 0	\$ 3,795,499	13	13.00
2013-15 ORBITS printed Current Service Level (CSL)*	\$ 2,104,873	\$ 0	\$ 2,141,431	\$ 0	\$ 0	\$ 0	\$ 4,246,304	13	13.00
<u>SUBCOMMITTEE ADJUSTMENTS (from CSL)</u>									
030 Administration									
Package 091: Statewide Administrative Savings									
Personal Services	\$ (1,743)		\$ (3,218)	\$ 0	\$ 0	\$ 0	\$ (4,961)	0	0.00
Services and Supplies	\$ (520)		\$ (1,681)	\$ 0	\$ 0	\$ 0	\$ (2,201)		
Package 092: PERS taxation policy									
Personal Services	\$ (2,715)		\$ (1,305)	\$ 0	\$ 0	\$ 0	\$ (4,020)	0	0.00
Package 093: Other PERS savings									
Personal Services	\$ (21,691)		\$ (10,428)	\$ 0	\$ 0	\$ 0	\$ (32,119)	0	0.00
Package 811: Eliminate Exceptional Pay Increases									
Personal Services	\$ (52,967)		\$ (17,474)	\$ 0	\$ 0	\$ 0	\$ (70,441)	0	0.00
040 Mediation									
Package 092: PERS taxation policy									
Personal Services	\$ (890)		\$ (1,491)	\$ 0	\$ 0	\$ 0	\$ (2,381)	0	0.00
Package 093: Other PERS savings									
Personal Services	\$ (7,109)		\$ (11,913)	\$ 0	\$ 0	\$ 0	\$ (19,022)	0	0.00
Package 811: Eliminate Exceptional Pay Increases									
Personal Services	\$ (13,248)		\$ (77,518)	\$ 0	\$ 0	\$ 0	\$ (90,766)	0	0.00
050 Hearings									
Package 092: PERS taxation policy									
Personal Services	\$ (1,077)		\$ (2,039)	\$ 0	\$ 0	\$ 0	\$ (3,116)	0	0.00
Package 093: Other PERS savings									
Personal Services	\$ (8,608)		\$ (16,290)	\$ 0	\$ 0	\$ 0	\$ (24,898)	0	0.00

Employment Relations Board
Bill McGee 503-378-2078

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
Package 811: Eliminate Exceptional Pay Increases									
Personal Services	\$ (45,433)		\$ (94,384)	\$ 0	\$ 0	\$ 0	\$ (139,817)	0	0.00
060 Elections									
Package 092: PERS taxation policy									
Personal Services	\$ (178)		\$ (20)	\$ 0	\$ 0	\$ 0	\$ (198)	0	0.00
Package 093: Other PERS savings									
Personal Services	\$ (1,424)		\$ (158)	\$ 0	\$ 0	\$ 0	\$ (1,582)	0	0.00
Package 811: Eliminate Exceptional Pay Increases									
Personal Services	\$ (6,444)		\$ (717)	\$ 0	\$ 0	\$ 0	\$ (7,161)	0	0.00
TOTAL ADJUSTMENTS	\$ (164,047)	\$ 0	\$ (238,636)	\$ 0	\$ 0	\$ 0	\$ (402,683)	0	0.00
SUBCOMMITTEE RECOMMENDATION *	\$ 1,940,826	\$ 0	\$ 1,902,795	\$ 0	\$ 0	\$ 0	\$ 3,843,621	13	13.00
% Change from 2011-13 Leg Approved Budget	0.4%	0.0%	2.2%	0.0%	0.0%	0.0%	1.3%	0.0%	0.0%
% Change from 2013-15 Current Service Level	-7.8%	0.0%	-11.1%	0.0%	0.0%	0.0%	-9.5%	0.0%	0.0%

*Excludes Capital Construction Expenditures

Legislatively Approved 2013-2015 Key Performance Measures

Agency: EMPLOYMENT RELATIONS BOARD

Mission: The Mission Of The Employment Relations Board Is To Resolve Disputes Concerning Labor And Employment Relations.

Legislatively Proposed KPMs	Customer Service Category	Agency Request	Most Current Result	Target 2014	Target 2015
1 a - Union representation -- Average number of days to resolve a petition for union representation when a contested case hearing is required.		Approved KPM	377.00	225.00	225.00
1 b - Union representation -- Average number of days to resolve a petition for union representation when a contested case hearing is not required.		Approved KPM	54.00	79.00	79.00
2 a - Administrative Law Judge (ALJ) hearings -- Average number of days from the date of filing of a contested case to the first date an ALJ is available to hear the case.		Approved KPM	84.00	60.00	60.00
2 b - Administrative Law Judge (ALJ) hearings -- Average number of days from the date of filing of a contested case to the actual date of the hearing.		Approved KPM	167.00	90.00	90.00
3 - Settling cases -- Percentage of cases assigned to an ALJ that are settled or withdrawn prior to hearing.		Approved KPM	41.00	40.00	40.00
4 - Recommended orders -- Average number of days for an Administrative Law Judge to issue a recommended order after the record in a contested case hearing is closed.		Approved KPM	211.00	60.00	60.00
5 - Final Board orders -- Average number of days from submission of a case to the Board until issuance of a final order.		Approved KPM	132.00	70.00	70.00
6 - Process complaints in a timely manner -- Average number of days to process a case that involves a hearing, from the date of filing to the date of the final order.		Approved KPM	575.00	300.00	300.00
7 a - Appeals -- Percentage of Board Orders which are appealed.		Approved KPM	11.00	15.00	15.00
7 b - Appeals -- Percentage of Board Orders which are reversed on appeal.		Approved KPM	11.00	10.00	10.00

Agency: EMPLOYMENT RELATIONS BOARD

Mission: The Mission Of The Employment Relations Board Is To Resolve Disputes Concerning Labor And Employment Relations.

Legislatively Proposed KPMs	Customer Service Category	Agency Request	Most Current Result	Target 2014	Target 2015
8 a - Mediation effectiveness -- Percentage of contract negotiations disputes that are resolved by mediation for strike-permitted employees.		Approved KPM	79.00	94.00	94.00
8 b - Mediation effectiveness -- Percentage of contract negotiations disputes that are resolved by mediation for strike-prohibited employees.		Approved KPM	68.00	80.00	80.00
9 a - Mediator availability -- Average number of days following a request for mediation assistance in contract negotiations to the date a mediator is available to work with the parties.		Approved KPM	38.00	30.00	30.00
9 b - Mediator availability -- Average number of days following a request for mediation assistance in contract negotiations to the date the first mediation session occurs.		Approved KPM	51.00	45.00	45.00
10 - Customer Satisfaction - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, and availability of information.	Accuracy	Approved KPM	82.00	95.00	95.00
10 - Customer Satisfaction - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, and availability of information.	Availability of Information	Approved KPM	86.00	95.00	95.00
10 - Customer Satisfaction - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, and availability of information.	Expertise	Approved KPM	89.00	95.00	95.00
10 - Customer Satisfaction - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, and availability of information.	Helpfulness	Approved KPM	87.00	95.00	95.00
10 - Customer Satisfaction - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, and availability of information.	Overall	Approved KPM	76.00	95.00	95.00

Agency: EMPLOYMENT RELATIONS BOARD

Mission: The Mission Of The Employment Relations Board Is To Resolve Disputes Concerning Labor And Employment Relations.

Legislatively Proposed KPMs	Customer Service Category	Agency Request	Most Current Result	Target 2014	Target 2015
10 - Customer Satisfaction - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, and availability of information.	Timeliness	Approved KPM	62.00	95.00	95.00
11 - BEST PRACTICES - Percent of total best practices met by the Commission.		Approved KPM		100.00	100.00

LFO Recommendation:

The Legislative Fiscal Office recommends approval of the proposed Key Performance Measures and targets with direction that the agency will work with the Department of Administrative Service and the Legislative Fiscal Office to conduct a review of existing KPMs and targets.

Sub-Committee Action:

The General Government Subcommittee adopted the Legislative Fiscal Office recommendation .

HB 5010-1
(LC 9010)
5/28/13 (TR/ps)

**PROPOSED AMENDMENTS TO
HOUSE BILL 5010**

1 In line 6 of the printed bill, delete "\$2,058,918" and insert "\$1,940,826".

2 In line 7, delete "\$251,005" and insert "\$224,244".

3 In line 13, delete "\$1,841,883" and insert "\$1,678,551".

4
