



*Brad Avakian, Commissioner*

**2013-2015**

**BUDGET PRESENTATION**

# House Bill 5020

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Oregon Department of Administrative Services)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Appropriates moneys from General Fund to Bureau of Labor and Industries for biennial expenses.

Limits biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by bureau.

Authorizes specified nonlimited expenditures.

Limits biennial expenditures by bureau from federal funds.

Declares emergency, effective July 1, 2013.

## A BILL FOR AN ACT

1  
2 Relating to the financial administration of the Bureau of Labor and Industries; appropriating money;  
3 limiting expenditures; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. There is appropriated to the Bureau of Labor and Industries, for the**  
6 **biennium beginning July 1, 2013, out of the General Fund, the amount of \$11,827,236.**

7 **SECTION 2. Notwithstanding any other law limiting expenditures, the amount of**  
8 **\$7,990,309 is established for the biennium beginning July 1, 2013, as the maximum limit for**  
9 **payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts,**  
10 **but excluding lottery funds and federal funds, collected or received by the Bureau of Labor**  
11 **and Industries.**

12 **SECTION 3. (1) Notwithstanding any other law limiting expenditures, the amount of**  
13 **\$1,929,144 is established for the biennium beginning July 1, 2013, as the maximum limit for**  
14 **payment of administrative expenses by the Bureau of Labor and Industries from the Wage**  
15 **Security Fund.**

16 **(2) For the biennium beginning July 1, 2013, expenditures by the Bureau of Labor and**  
17 **Industries for wage claim payments from the Wage Security Fund are not limited.**

18 **SECTION 4. Notwithstanding any other law limiting expenditures, the amount of**  
19 **\$1,498,766 is established for the biennium beginning July 1, 2013, as the maximum limit for**  
20 **payment of expenses from federal funds collected or received by the Bureau of Labor and**  
21 **Industries.**

22 **SECTION 5. This 2013 Act being necessary for the immediate preservation of the public**  
23 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
24 **July 1, 2013.**

25  
**Note: For budget, see 2013-2015 Biennial Budget**

**NOTE:** Matter in boldfaced type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in boldfaced type.

Bureau of Labor and Industries  
Ways and Means Subcommittee Presentation  
February 27 – 28, 2013

Introductions/Agency Summary

Brad Avakian  
Commissioner

Division/Unit Overviews

Apprenticeship and Training Division

Steve Simms  
Administrator, ATD

Civil Rights Division

Amy Klare  
Administrator, CRD

Wage and Hour Division

Gerhard Taeubel  
Administrator, WHD

Commissioner's Office/Program Support

Christie Hammond  
Deputy Commissioner

Technical Assistance for Employers Program

Jennifer Germundson  
Manager, TA

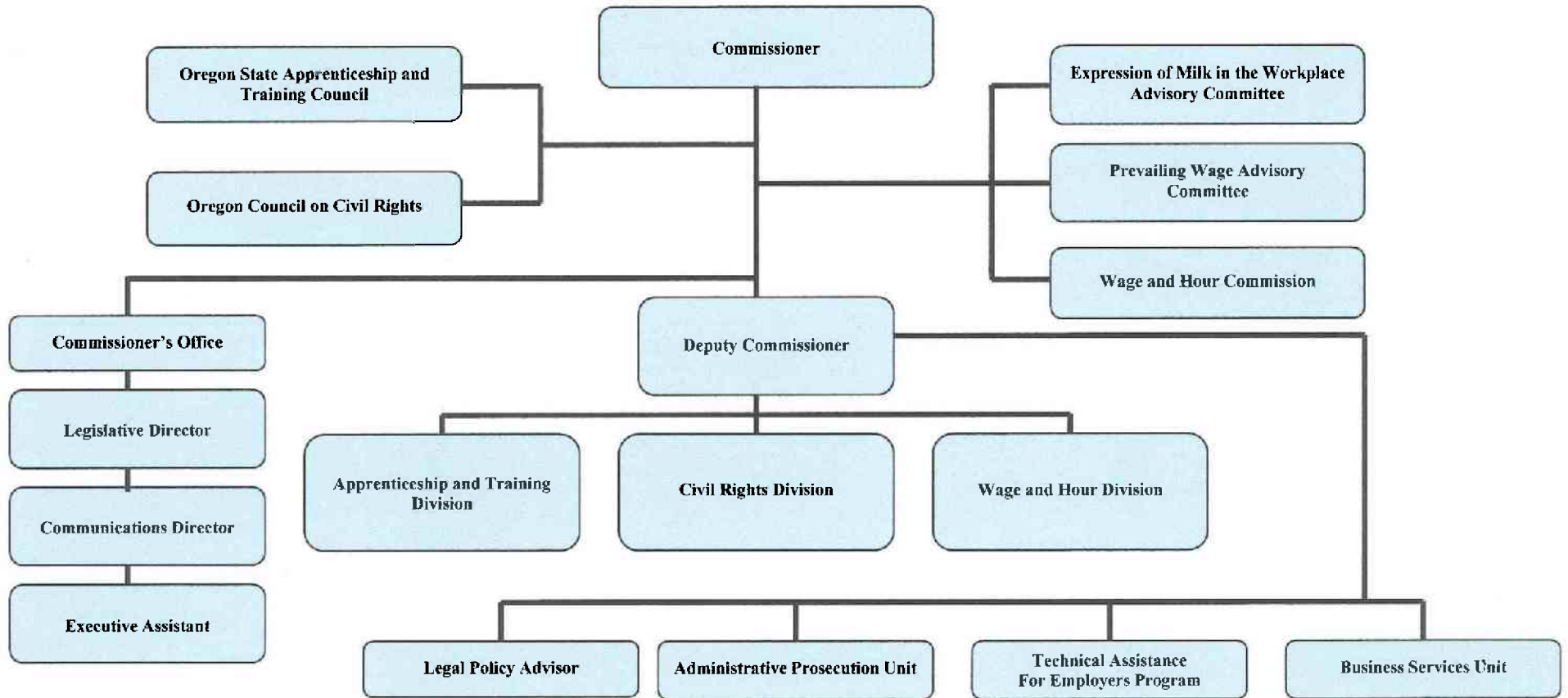
Administrative Prosecution Unit

Jenn Gaddis  
Chief Administrative Prosecutor

Public Testimony

BAM Presentation

# Organizational Chart



98.5 FTE

# General Information

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## Commissioner's Office

- General Information -- 971-673-0761
- Technical Assistance for Employers -- 971-673-0824

Brad Avakian, Commissioner, 971-673-0763

[Brad.Avakian@state.or.us](mailto:Brad.Avakian@state.or.us)

Christie Hammond, Deputy Commissioner, 971-673-0785

[Christie.N.Hammond@state.or.us](mailto:Christie.N.Hammond@state.or.us)

Donna Brown, Assistant to the Commissioner, 971-673-0781

[Donna.Brown@state.or.us](mailto:Donna.Brown@state.or.us)

Elizabeth Cushwa, Legislative Director, 971-673-0786

[Elizabeth.Cushwa@state.or.us](mailto:Elizabeth.Cushwa@state.or.us)

Charlie Burr, Communications Director, 971-673-0788

[Charlie.Burr@state.or.us](mailto:Charlie.Burr@state.or.us)

Marcia Ohlemiller, Legal Policy Advisor, 971-673-0784,

[Marcia.L.Ohlemiller@state.or.us](mailto:Marcia.L.Ohlemiller@state.or.us)

Jenn Gaddis, Chief Administrative Prosecutor, 971-673-0822

[Jenn.Gaddis@state.or.us](mailto:Jenn.Gaddis@state.or.us)

## Divisions

Apprenticeship and Training Division (ATD), 971-673-0761

Stephen Simms, Director, 971-673-0777

[Steve.Simms@state.or.us](mailto:Steve.Simms@state.or.us)

Civil Rights Division (CRD), 971-673-0761

Amy Klare, Administrator, 971-673-0792

[Amy.K.Klare@state.or.us](mailto:Amy.K.Klare@state.or.us)

Wage and Hour Division (WHD), 971-673-0761

Gerhard Taeubel, Administrator, 971-673-0837

[Gerhard.Taeubel@state.or.us](mailto:Gerhard.Taeubel@state.or.us)

# General Information

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## Program Support Services

Jennifer Germundson, Manager, Technical Assistance for Employers Program,  
971-673-0829

[Jennifer.Germundson@state.or.us](mailto:Jennifer.Germundson@state.or.us)

Cynthia Gregory, Human Resources, DCBS, 971-673-0783

[Cynthia.V.Gregory@state.or.us](mailto:Cynthia.V.Gregory@state.or.us)

Terry Bonebrake, Manager, Business Services Unit, 971-673-0812

[Terry.D.Bonebrake@state.or.us](mailto:Terry.D.Bonebrake@state.or.us)

## Field Offices

*Commissioner's Office and Portland Office*

971-673-0761 Information

800 NE Oregon, Portland, 97232

*Salem (ATD, CRD and WHD)*

503-378-3292 Information

3865 Wolvervine St., NE, Bldg E-1, Salem, 97305-1268

*Eugene (CRD and WHD)*

541-686-7623 Information

1400 Executive Parkway, Suite 200, Eugene, 97401

*Medford (ATD)*

541-776-6270 Information

700 East Main St., Suite 105, Medford, 97504

## Satellite Office

*Bend (ATD)*

541-322-2435

COIC, 2480 NE Twin Knolls Dr.,

Bend, 97701

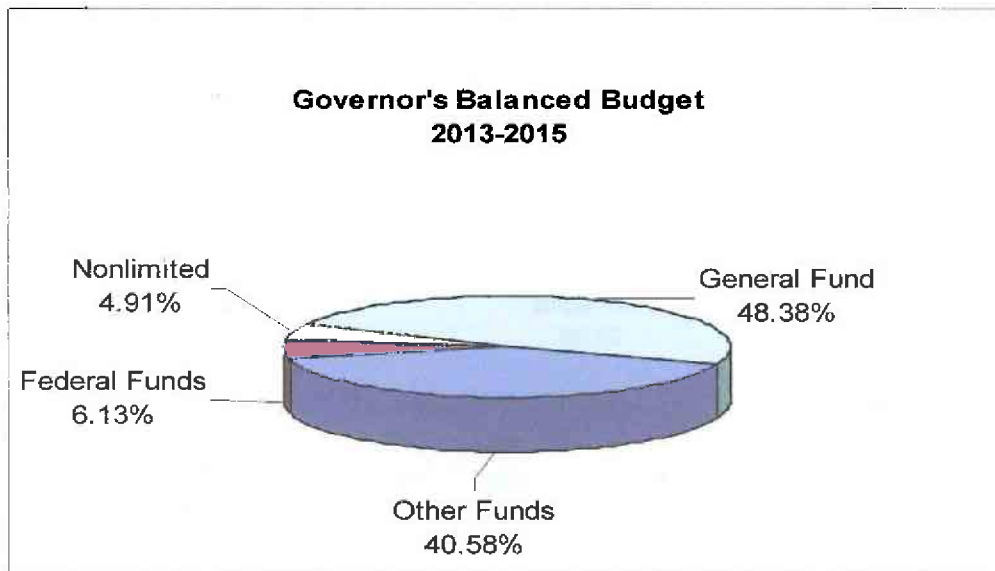
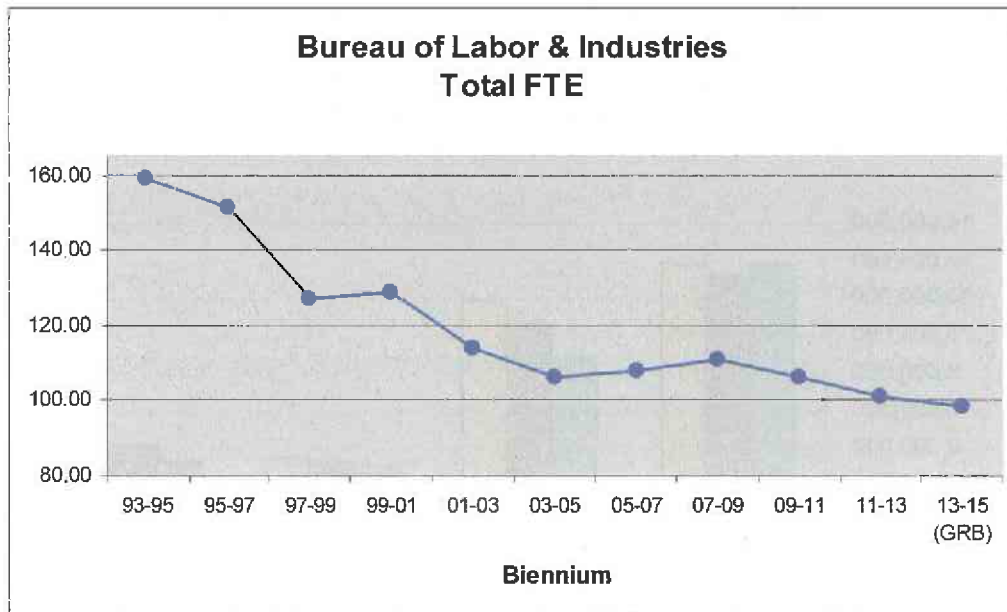
## Websites

[www.boli.state.or.us](http://www.boli.state.or.us)

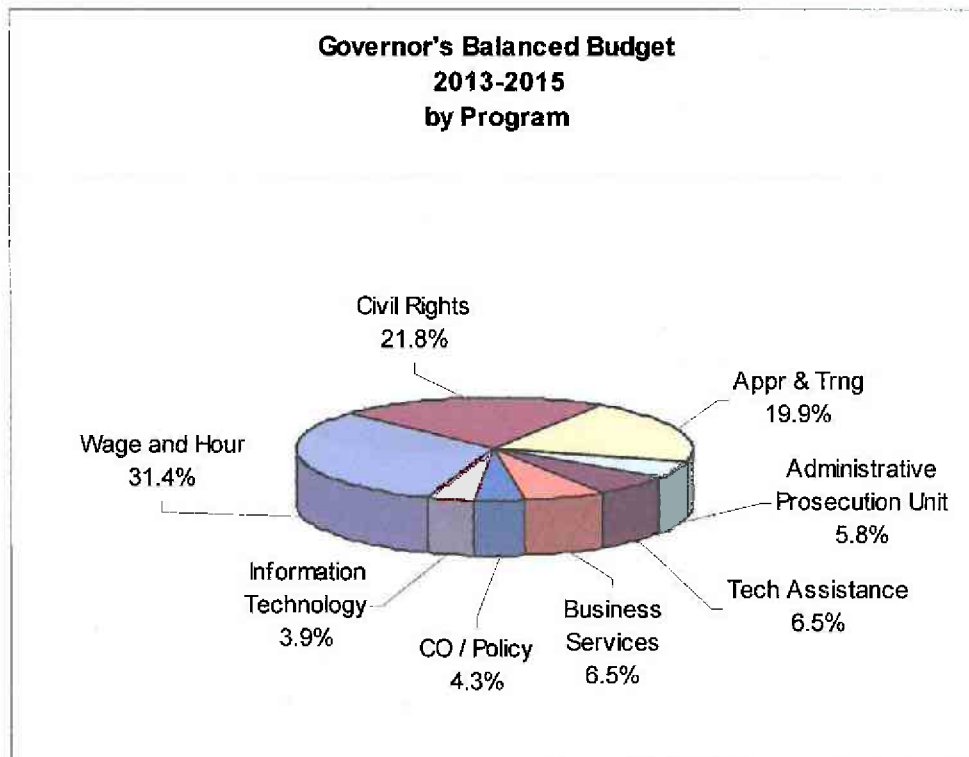
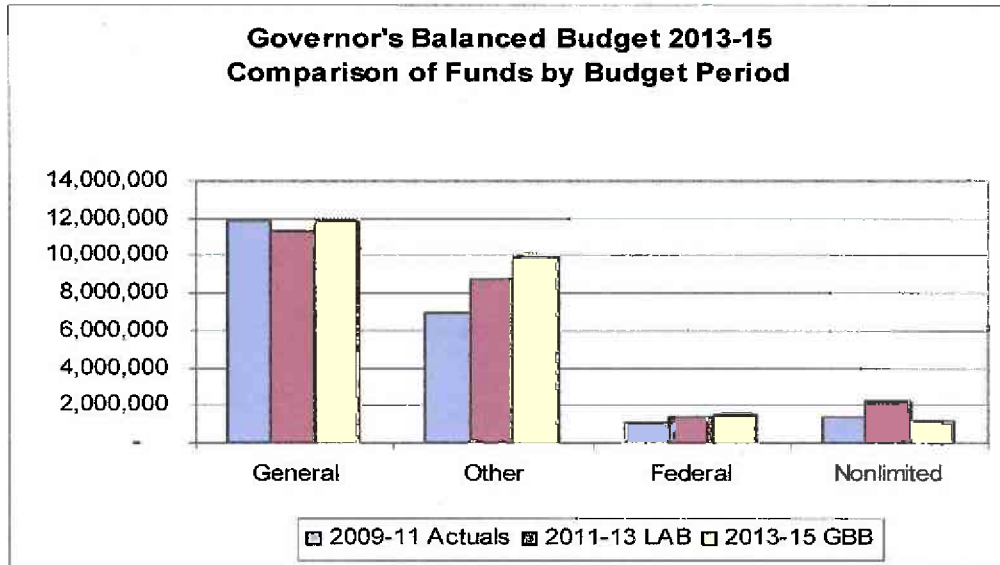
[www.boli.state.or.us/technical](http://www.boli.state.or.us/technical)

# General Information

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# General Information





# Mission and Purpose

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## Mission Statement

The mission of the Bureau of Labor and Industries is to protect employment rights, advance employment opportunities and protect access to housing and public accommodations free from discrimination.

## Purpose

The Bureau of Labor and Industries offers technical assistance for employers, enforces discrimination laws, protects workers, children and families, and offers workforce development services to businesses and individuals through the following:

- Apprenticeship and Training Division;
- Civil Rights Division – employment, housing and public accommodations;
- Wage and Hour Division– minimum wage, overtime, wage collection, prevailing wage, child labor, farm and forest contractors, private employment agencies; and
- Technical Assistance for Employers Program.

## Celebrating 110 Years of Service: 1903-2013

The industrial revolution of the nineteenth century brought about sudden economic growth as factories, mines and logging camps exploded across the United States. Factory buildings were often of flimsy construction, without adequate ventilation, sanitation and lighting. Deaths and crippling injuries were common and as recently as 70 years ago, over half of the industrial working population suffered disabling injuries during their working years. Women and children were put to work for long hours, seven days a week for very little pay.

Oregon remained primarily an agricultural state. While its newly formed industry did not experience the same level of trouble as in other states, it was clear that standards for fairness and worker safety were becoming increasingly necessary. Governor George Chamberlain noted the cooperative spirit between industry and the workers in his 1903 inaugural address, and he called for the creation of a Bureau of Labor to study conditions in Oregon factories.

The state legislature created the Oregon Bureau of Labor Statistics and Inspector of Factories and Workshops in 1903 and the statewide elective post of Labor Commissioner was established. The commissioner's duties were "to cause to be enforced all the laws regarding the employment of children, minors and women; operatives in workshops, factories and mills and other places, and all laws enacted for the protection of the working classes."

Originally, the bureau was required to enforce three laws, which were all part of Oregon's initial labor legislation passed in 1903: the Child Labor Law, the 10-hour day for women, and the Factory Inspection Law.

The bureau now has many more responsibilities. These include the administration or enforcement of laws relating to apprenticeship, minimum wage, civil rights, family leave, whistle blowing, prevailing wage, wage security fund, and farm and forest labor contractor.

# Program Activities and Target Groups

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## Commissioner's Office/Program Support Services

The Commissioner's Office provides policy direction and overall management of the bureau's programs. Besides the Commissioner, the Commissioner's Office has a Deputy, Legislative Director, Communications Director, Legal Policy Advisor, and an assistant.

Internal program support services provide employee services, budget and fiscal control, and information systems management. The Deputy Commissioner manages the Division Administrators, agency Legal Policy Advisor, Technical Assistance for Employers Program Manager, Administrative Prosecution Unit Manager, and the Business Unit Services Manager.

## Technical Assistance for Employers Program

To help Oregon employers comply with employment laws, the Bureau of Labor and Industries Technical Assistance for Employers Program offers telephone and web-based information, pamphlets, facts sheets, handbooks, posters, and general and customized seminars and workshops. Two positions (one program coordinator and an Administrative Specialist) are supported with General Funds. The remaining four positions (the manager and three program coordinators) are supported with Other Funds received from the sales of publications and seminar registrations.

### **Quick Facts**

- Staff answers over 17,500 telephone and email inquiries from employers annually.
- The program publishes eight employer handbooks, including: *Wage and Hour Laws; Employee Classification and Wage and Hour Exemptions; Civil Rights Laws; Child Labor Laws; Family Leave Laws in Oregon; Policy Writing Guidelines; Legal Hiring Practices; and Documentation, Discipline and Discharge.*
- The unit publishes composite posters of required employer postings under stand and federal laws in both English and Spanish. Posters are available for smaller employers with fewer than 24 employees as well as larger employers. A "12-in-1" composite poster is also available for agriculture employers.
- Trainers conduct hundreds of seminars and personalized site visits each year. The seminars are open to employers throughout the state, and the Technical Assistance for Employers Program also provides customized seminars upon request.
- The program trains on average 4,000 managers, supervisors and employers each year.

## Administrative Prosecution Unit

The Administrative Prosecution Unit (APU) is responsible for processing the contested cases of the agency's Wage and Hour and Civil Rights Divisions pursuant to the Administrative Procedures Act (APA) and BOLI contested case hearing rules. The unit presents cases to BOLI's Administrative Law Judge (ALJ) at hearing in various

# Program Activities and Target Groups

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locations around the state. The ALJ issues a proposed order which is subsequently reviewed and made final by the Commissioner.

## Quick Facts

The APU:

- processes an average of 140 cases annually
- schedules a hearing date for contested cases within 30 days of receipt of the case
- settled 82% of the cases assigned to it in FY 2012 without requiring a contested case hearing
- reduced the amount of time to resolve cases by 30% in FY 2012

## Apprenticeship and Training

Oregon's Apprenticeship and Training Division, part of the Bureau of Labor and Industries, approves and registers apprenticeship training programs, and certifies 1,200 journey workers per year through collaborations with business, labor, government, and education partners. These programs provide career training and employment opportunities in technical and craft occupations. ATD provides services to over 4,500 employers. Registered apprenticeship is a sustainable, employer-driven training model offering equal employment opportunities for all Oregonians, moving people directly into career pathways and family wage jobs.

The division registers occupational skill standards and agreements between apprentices and employers. It works with local apprenticeship committees across the state to ensure that apprenticeship programs in technical and craft occupations provide quality training and equal employment opportunities, particularly for women and minorities.

## Quick Facts

- Total active apprentices June 30, 2012: 4,853.
- Apprentices are training under 154 occupational standards in Oregon.
- New minority registrations in apprenticeship programs exceed 16% of all registrations.
- Approximately 5.87 % of apprentices are female as of July 2012.
- During FY 12, 9,027 individuals were actively participated in a registered apprenticeship program and 4,564 employers were eligible to use apprentices.

## Division Activities

As authorized by ORS chapter 660, the Apprenticeship and Training Division:

# Program Activities and Target Groups

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- Works with business, labor, government and educational institutions to increase training and employment opportunities by promoting apprenticeship;
- Registers occupational skill standards and apprenticeship agreements; and
- Helps local apprenticeship committees statewide to ensure quality training and equal employment opportunities, particularly for veterans, women and minorities engaged in technical and craft occupations, by providing technical assistance and conducting compliance audits.

Pursuant to an interagency agreement with the Oregon Department of Transportation (ODOT) the division administers a supportive services program to increase diversity in the highway construction workforce reducing barriers to entry into registered apprenticeship programs and improving completion rates.

*Funding Source:* General Fund; Federal Funds – Veterans Contract; Other Funds – Oregon Department of Transportation Interagency Agreement.

## **Division Goals**

- Establish more new apprenticeship programs in the construction, manufacturing and other key industries to provide opportunities for adults to receive training that provides access to family-wage jobs.
- Develop high quality jobs through professional technical apprenticeship programs that meet employers' increased demands for a skilled workforce.
- Continue to coordinate with state and local contracting agencies to maximize training and diversity opportunities.

Increase minority participation to 16% of registered apprentices and increase female participation by 10%.

## **Civil Rights Division**

The Civil Rights Division enforces laws that grant job seekers and employees equal access to jobs, promotions, and a work environment free from discrimination and harassment; ensures job protection when reporting worksite safety violations, using family leave provisions or the workers' compensation system; provides protection for individuals seeking housing or the use of public facilities (retail establishments, transportation, etc.); and enforces laws that provide equal access to career schools.

## **Quick Facts**

- The division responds to more than 35,000 inquiries each year.
- The division investigates approximately 2,000 complaints each year.
- Approximately 95% of complaints filed relate to employment; 5% to housing; and 1% to public accommodation.

# Program Activities and Target Groups

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- Most complaints involve at least one of the four protected classes: disability 25%; sex discrimination, 25%; injured worker, 21%; and race/color, 17%

## Division Activities

ORS chapter 659A, and ORS 171.120 to 171.125, 345.240, 441.178, and 654.062.

- Educates the public about and enforces laws prohibiting unlawful discrimination in employment, housing, public accommodation and career schools.
- Responds to inquiries regarding discrimination.
- Conducts unbiased investigations of discrimination complaints.
- Attempts to settle complaints through fact-finding conferences, conciliations, and other alternative dispute resolution techniques.

*Funding Source:* Federal Funds – EEOC Contract; Other Funds- City Contracts, Workers’ Benefit Fund, OSHA Contract; General Fund.

## Division Goals

- Improve the effectiveness of the division’s intake and investigation processes.
- Provide responses to 85% of inquiries on whether allegations may violate Oregon’s civil rights laws within 1-2 business days.
- Conduct 65% of interviews with civil rights complainants within an average of 45 days to quickly determine if a sufficient basis exists for a full investigation.
- Maintain average case completion time of less than 180 days in 65% of investigations.

## Wage and Hour Division

The Wage and Hour Division serves Oregon wage earners by enforcing laws covering state minimum wage and overtime requirements, working conditions, child labor, farm and forest labor contracting, and wage collection. The division enforces the payment of the prevailing wage rates required to be paid to construction workers on public works projects. BOLI determines and publishes prevailing wage rates based on an annual construction industry survey.

Many people seeking help from the bureau have lost their jobs and rely on the agency to collect wages owed. Through the Wage Security Fund, the division can help workers whose employers have gone out of business without sufficient funds to pay their final wages. Often the workers receiving protection are the most economically vulnerable, including minors and farm workers, who are not well informed about their rights.

## Quick Facts

- An average of 2,300 wage claims are filed annually.
- The division collects an average of \$1.7 million a year in wages owed to workers.

# Program Activities and Target Groups

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- The division issues 4,300 certificates each year to employers of minors.
- The division paid out over \$1.1 million in wages due in the 2011-2013 biennium to nearly 800 workers through the Wage Security Fund.
- Compliance specialists conduct approximately 150 prevailing wage rate investigations each year.

## Division Activities

### Child Labor

ORS 653.305 to 653.545

- Reviews employment certificate applications.
- Issues annual employment certificates and other special permits to employers of minors.
- Conducts approximately 25 child labor investigations annually.
- Assesses civil penalties and revokes the right to hire minors of employers who violate the child labor law.

*Funding Source:* General Fund

### Farm/Forest Labor Contractors and Camp Operators

ORS 658.405 to 658.503; 658.705 to 658.850.

- Licenses farm and forest labor contractors and camp operators.
- Conducts investigations and workplace compliance inspections; enforces working conditions in farm and reforestation activities, including minimum wage/wage collection and child labor enforcement.
- Provides educational and training assistance for contractors, contracting agencies, employees and public entities.
- Assesses civil penalties and debars contractors when warranted for violations of law.

*Funding Source:* Other Funds - Licensing Fees; General Fund.

### Prevailing Wage

ORS 279C.800 to 279C.870

- Issues Prevailing Wage Rate law coverage predeterminations upon request.
- Publishes applicable prevailing rates of wages to be paid on public works contracts. (Rates are determined by the commissioner based on extensive data collected by Construction Industry Occupational Wage Surveys.)
- Conducts a statewide educational program for contracting agencies and contractors.
- Conducts investigations, and assesses civil penalties and may debar contractors who violate the law.

# Program Activities and Target Groups

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*Funding Source:* Other Funds - Prevailing Wage Rate Fund (.01% fee assessed on contract price of public works)

## Wage Claims and Minimum Wage Enforcement ORS chapters 652 and 653

- Investigates and resolves wage claims and complaints received.
- Administers the Wage Security Fund.
- Enforces group health insurance termination notice provisions.

*Funding Source:* General Fund; Other Funds - Wage Security Fund (.03 % of Unemployment Insurance Tax).

### Division Goals

- Send a Notice of Claim to employers upon receipt of a wage claim at least 50% of the time within 12 days of receipt
- Assign 50% of wage claims for investigation to a Compliance Specialist within 30 days following a response from the employer (or no response) to the Notice of Claim
- Complete 50% of wage claim investigations within 35 days
- Process 75% of Wage Security Fund claims within 30 days.
- Complete 50% of Prevailing Wage Rate investigations within 90 days.
- Issue 75% of predeterminations regarding application of Prevailing Wage Rate law to project within 15 working days.

# Performance Measures

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The bureau's goals, as described in the mission statement, relate to income security, workforce development, and advancing employment opportunities. The Civil Rights and Wage and Hour Divisions enforce laws that ensure that employees receive wages when due and are able to work in a nondiscriminatory environment. The Civil Rights Division also enforces law to ensure non-discrimination in access to public accommodations and housing. The Technical Assistance for Employers Program's mission is to educate employers, emphasize compliance, and assist employers in avoiding enforcement actions. TA is highly successful in achieving its performance measures. The Administrative Prosecution Unit is the administrative adjudication arm of the agency. It is the goal of the agency to properly interpret and apply the laws BOLI is charged with enforcing, measured in part by the percentage of contested case decisions that are upheld on appeal by the courts.

BOLI's staffing levels have been reduced by approximately 36% since the 1993-95 biennium; from 159 FTE to 101 FTE in 2011-13. The bureau has dealt with the loss of staffing and shrinking resources that do not keep pace with inflation by closing offices, reducing administrative costs, while trying to maintain core services wherever possible. The workload is primarily driven by the number of complaints the agency receives relating to wages and hours worked, terms and conditions of employment, and rights of workers to equal and nondiscriminatory treatment.

Despite budget and staff reductions made, the agency has been successful to a large extent in meeting its performance goals. Highlights of the agency's 2012 Annual Performance Progress Report (APPR) for Fiscal Year 2011-2012 include:

- The Apprenticeship and Training Division exceeded its goals in two out of three of its measures; the number of apprentices completing their programs and receiving journey level certificates, and the percentage of minority apprentices.

The number of new apprentice registrations continued to fall short of the division's goal, which the division attributes to the economic downturn that has affected employment in general and specifically, the rate at which programs can accept new apprentices for training. However, new registrations have steadily increased the past three years and increased 27% over the previous year in FY 2012, which appears to indicate a positive turnaround in construction industry employment.

- The Civil Rights Division continues to exceed its target of responding to initial intake inquiries within two business days, and was within 5% and 7% of its goals relating to conducting initial investigative interviews and timely completion of investigations. The enactment of new civil rights legislation without additional staff, combined with staff reductions due to budget shortfalls has had a significant impact on the workload of the division.
- The Wage and Hour Division substantially exceeded all four of its performance measure goals in FY 2012 relating to timely processing of wage claims and PWR investigations and predeterminations.



# Performance Measures

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- The agency did not meet its performance goal pertaining to the percentage of BOLI Final Orders upheld on appeal in FY 2012; however, only one order was appealed during this period. Because of the extremely low number of orders appealed, it may be appropriate to revise this performance measure in the future.
- The Technical Assistance for Employers Program exceeded both of its performance measure goals pertaining to timely responses to employer inquiries and high quality seminars for employers.

# Program Changes/Budget Cut Impacts

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As indicated on the chart on page 5, due to budget cuts made over successive biennia, BOLI has incurred cumulative staff reductions of approximately 36% since the 1993-95 biennium; from 159 FTE to 101 FTE in 2011-13. As a result, has necessarily had to reduce services. The agency has prioritized its services using the following criteria:

- Prioritize statutorily required duties ahead of discretionary duties
- Prioritize activities that serve all Oregonians ahead of activities that service a particular group of Oregonians
- Prioritize activities that are used by or benefit economically vulnerable Oregonians
- Prioritize programs that use federal or other funds to operate or help administer them
- Prioritize activities that support key state benchmarks related to income security, workforce development and equal opportunity
- Prioritize activities that cannot be privatized effectively or that have no private equivalent (e.g., no private right of action) over activities for which there is an alternative that Oregonian can access
- Prioritize programs that ease the burden on the judiciary (e.g., enforcement of claims that would otherwise be directed to the courts)

While BOLI has maintained core services in its major program areas, certain services and activities have been reduced or eliminated, and virtually all proactive enforcement activities by the agency have been eliminated. For example, in addition to its locations in Portland, Salem, and Eugene, BOLI at one time had “full service” offices (with apprenticeship, civil rights, and wage and hour staff) in Pendleton, Medford and Bend. Now, only one BOLI staff person is stationed in Medford and Bend, and no staff is currently located in Pendleton.

The BOLI Farm Labor Unit, previously consisting of a manager, four compliance specialists, three field representatives, and support staff, has been eliminated, and although existing staff investigate complaints received alleging violations of the farm labor contractor laws, no proactive outreach to farm/forest workers or contractors is currently conducted.

Similarly, due to reduced resources, civil rights and wage and hour investigations are predominantly complaint-driven, and very limited outreach to vulnerable employees by the divisions is possible.

Despite budget and staff reductions made, the legislature over successive biennia has enacted significant new legislation, particularly in the area of civil rights protections as follows:

## 2007

- SB 2 – Oregon Equality Act—makes it unlawful to discriminate against individuals based on their sexual orientation or gender identity in employment, housing, career schools and places that serve the public.
- SB 822 – the Veterans Preference Act--requires public employers to give hiring preference points to veterans and disabled veterans.

# Program Changes/Budget Cut Impacts

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- SB 946 --the Oregon Crime Victims Leave Act--requires employers with six or more employees to grant employees a “reasonable” leave of absence if the employee or the employee’s minor child needs time off to seek medical treatment, obtain counseling, relocate, get legal advice, or contact law enforcement personnel because the individual is a victim of certain crimes.

## 2009

- HB 2510—Strengthens veterans’ preference in hiring and promotion for public employment, clarifying definitions, and removing the 15-year limit on the preference.
- HB 2600—Requires certain lodging facilities with 175 or more units to provide a lift system for persons with disabilities to access beds, toilets, and showers or baths.
- HB 2744—Requires employers of 25 or more persons in Oregon to provide leave to spouses of service members prior to deployment or during leave from active duty during periods of military conflict.
- HB 3162—Makes discrimination against an employee who reports what they believe is a violation of state or federal laws, rules, or regulations an unlawful employment practice.
- HB 3256—Establishes protections for uniformed service members from unlawful employment practices by employers on the basis of service commitments.
- SB 786—Require employers to provide reasonable accommodation to the religious observance or practice of an employee, unless doing so would impose an undue hardship on the employer. The undue hardship standard was changed from “de minimus cost or expense” to “significant difficulty or expense.” This bill retained the ban on religious dress in public schools.
- SB 874—Conforms Oregon disability law with the Americans with Disabilities Act Amendment Acts of 2008, strengthening protections for individuals with disabilities.
- SB 928—Prohibits employers from taking certain employment actions against victims of domestic violence, sexual assault, or stalking. Requires employers to make reasonable accommodations.

## 2010

- HB 2686—Repealed the ban on the wearing of religious dress while engaged in the performance of duties as a public school teacher.
- SB 996—Expands protections under the public employee whistleblower law (ORS 659A.203) for employees who report violations of the law and safety dangers to include discussions with elected officials and auditors.
- SB 1045—Prohibits the use of credit histories for employment purposes (pre-employment screenings or promotions) and makes use of credit histories an unlawful employment practice enforceable by BOLI.

## 2011

- HB 2403—Directs certain state agencies (including BOLI) to partner with the Oregon Military Department to provide reintegration services for veterans. The division began partnering with Oregon Department of Veterans Affairs (ODVA) before the effective

# Program Changes/Budget Cut Impacts

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date of this legislation. The division has referred 47 veterans to the ODVA since July 2011.

## 2012

- HB 1548---Prohibits employers and employment agencies from publishing job vacancy advertisements that limit the application pool to persons who are currently employed. The legislation authorizes BOLI to issue civil penalties of up to \$1,000 per violation per ORS 659A.855. The legislation authorizes the Commissioner of the Bureau of Labor and Industries to file a complaint alleging an unlawful practice other than an unlawful employment practice.

Although some much-needed position restorations were made by the 2009 legislature, the division's total FTE did not increase from the 2007 total FTE due to General Fund cuts and shortages in Federal Funds and Other Funds. In addition, due to budget shortfalls, the division had to eliminate one Senior Civil Rights Investigator in 2011; and leave vacant two Senior Civil Rights Investigator positions in 2012. The loss of these positions has impacted the division's ability to conduct timely and thorough civil rights investigations.

Similarly, due to budget shortfalls in the most recent biennium, a permanent reduction of 1.0 FTE Wage and Hour Compliance Specialist occurred on July 1, 2011. Current resources only support five (5.0 FTE) General Fund Wage and Hour Compliance Specialists statewide to investigate claims and complaints regarding minimum wage, overtime, wage collection, working conditions, and child labor and farm/forest labor contractor matters.

During the 2011-2013 biennium, as the result of a General Fund shortfall in BOLI's budget of over \$1 million, the agency was forced to lay off three of its five General Fund Wage and Hour Compliance Specialists, representing a 60% reduction in General Fund compliance staff. As a result, in order to preserve its ability to process claims from workers who have not been paid minimum wage or overtime and respond to critical child labor and farm labor matters, the division found it necessary for six months in FY 2012-13 to eliminate its acceptance and processing of wage collection claims that did not involve alleged minimum wage overtime, prevailing wage violations, or claims on the Wage Security Fund. Two of these compliance specialist positions were restored by the Emergency Board in December, 2012, enabling the division to resume processing of most wage claims.

Since the 1993-95 biennium when ATD was generally funded to support 34.5 FTE, staffing has decreased to its current level of 16 FTE, the most recent reduction being the loss of 4.0 FTE in June 2012. Despite varying apprentice utilization rates over the past decade, requests for services from the division by employers and the workforce community have increased. In order for ATD to meet its core mission, respond to requests to expand and assist in diversifying demographics in the vocational and technical trades and to assist in the revitalization of Oregon's economy replacement of staff resources that have been eliminated over the past few years will be necessary.

# Program Changes/Budget Cut Impacts

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With reduced staffing, the division has principally focused on the basic tasks of (1) registering apprentices and apprenticeship programs, and (2) performing compliance reviews of joint apprenticeship and training committees to ensure that apprentices are treated fairly, paid properly, and trained appropriately. Attempts to recruit new occupations and employers to the apprenticeship model of training have been drastically reduced and technical assistance is only available on a limited basis.

Apprenticeship Representative service levels have risen from approximately 18 programs per representative to 23 programs per representative, meaning reduced service to each committee and far fewer compliance reviews. ATD has limited discretionary or supportive services where possible, such as cutting back on coordination with other workforce development agencies and providers, assistance with outreach and recruitment activities, and web support to promote apprenticeship opportunities, in order to focus on core duties of compliance and registration.

As the economy slowly improves, ATD finds that it is frequently unable to service requests for technical assistance or conduct compliance reviews in a timely manner due to recent staff reductions. As currently staffed, ATD struggles to successfully complete its core missions of registering and credentialing new programs and apprentices; conducting program quality compliance reviews and providing technical assistance to programs.

## **Program Delivery Improvements**

In order to improve the effectiveness and efficiency of the agency's Hearings Unit, comply with legislative directives to reduce management service staff, and reduce the agency's administrative costs, the Commissioner's Office implemented a reorganization plan during the 2011-13 biennium that reclassified two management positions and abolished a third; the agency's HR/Employee Services Manager (PEM D) position. As part of this reorganization, the bureau contracted with the Department of Consumer and Business Services (DCBS) to provide essential HR services, resulting in reduced administrative costs.

As part of this reorganization, the agency was able to establish a new Chief Prosecutor position, enhancing the efficiency and effectiveness of the Hearings Unit (renamed Administrative Prosecution Unit) and agency's legal policy advisor. The focus of the APU is to more expeditiously process the agency's contested cases, with a goal of scheduling cases for hearing within 30 days of assignment to the unit. This reorganization will also allow the agency to develop a mediation process to resolve cases outside the formal hearings process.

In addition to these program and efficiency improvements, the Governor's budget requires increased efficiency in the operation of state government and additional savings in administrative expenditures.

Package 091 has been included in all agency budgets as a placeholder for administrative efficiencies found in Finance, IT, HR, Accounting, Payroll, and Procurement activities. The Improving Government subcommittee of the Enterprise Leadership Team, of which BOLI is a member, will be identifying proposed efficiencies or changes in the delivery of service to meet the funding level in the Governor's budget. A draft plan will be developed in March. Agencies

# Program Changes/Budget Cut Impacts

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have been asked not to develop implementation plans for Package 091 until those proposed changes have been identified.

Because BOLI employs fewer than 100 employees, the agency is not subject to the provisions of House Bill 2020 (2011) or HB 4131 (2012) relating to staff/supervisory ratios. However, as noted above, the agency did, during the course of the 2011-13 biennium reclassify two management positions and abolish a third.

# Apprenticeship and Training Division

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## Program Summary

The Apprenticeship and Training Division of the Bureau of Labor and Industries approves and registers apprenticeship training programs, and certifies 1,200 journey workers per year through collaborations with business, labor, government, and education partners. These programs provide career training and employment opportunities in technical and craft occupations. ATD provides services to over 4,500 employers. Registered apprenticeship is a sustainable, employer-driven training model offering equal employment opportunities for all Oregonians, moving people directly into career pathways and family wage jobs.

The division helps develop and registers occupational skill standards and agreements between apprentices and employers. It works with local apprenticeship committees across the state to ensure that apprenticeship programs in technical and craft occupations provide quality training and equal employment opportunities, particularly for women and minorities.

## Quick Facts

- Total apprenticeship registrations in as of June 30, 2012 (FY 12): 4,853
- Apprentices are training under 154 occupational standards in Oregon.
- New Registrants in FY 2012: 2,022
- Minority participation in apprenticeship programs is 14.24 percent.
- Approximately 5.87 percent of apprentices are female.

## Program Delivery

As authorized by ORS chapter 660, the Apprenticeship and Training Division:

- Works with business, labor, government and educational institutions to increase training and employment opportunities by promoting apprenticeship;
- Registers occupational skill standards and apprenticeship agreements; and
- Helps local apprenticeship committees statewide to ensure quality training and equal employment opportunities, particularly for veterans, women and minorities engaged in technical and craft occupations, by providing technical assistance and conducting compliance audits.

Pursuant to an interagency agreement with the Oregon Department of Transportation (ODOT) the division administers a supportive services program to increase diversity in the highway construction workforce reducing barriers to entry into registered apprenticeship programs and improving completion rates.

# Apprenticeship and Training Division

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*Funding Source:* General Fund; Federal Funds – Veterans Contract; Other Funds – Oregon Department of Transportation Interagency Agreement.

## **Division Goals**

- Establish more new apprenticeship programs in the construction, manufacturing and other key industries to provide opportunities for adults to receive training that provides access to family-wage jobs.
- Develop high quality jobs through professional technical apprenticeship programs that meet employers' increased demands for a skilled workforce.
- Continue to coordinate with state and local contracting agencies to maximize training and diversity opportunities.
- Increase minority participation to 16% of registered apprentices and increase female participation by 10%.

## **Program Outcomes**

**Ensure registered apprentices are receiving valuable learning experiences:** Measured by the number of apprentices receiving journey level certificates.

**Increase skilled workforce by increasing the number of newly registered apprentices:** Measured by the total number of newly registered apprentices.

**Increase the number of minority participants in apprenticeship programs:** Increase the percentage of new apprentices who are minorities.

## **Evidence of Returns/Outcomes**

Statistical data show that for every \$1 invested per year in apprenticeship by government, apprentices return an average of \$20.06 per year in state and federal income taxes. For the same \$1 invested per year by Government, employers invest over \$134 per year in wages paid to apprentices.

## **Citizens Affected**

Approximately 9,027 individuals were actively registered as apprentices at some time in FY 12 and 4,564 employers were eligible to use apprentices in FY 12.



# **Civil Rights Division**

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## **Program Summary**

Oregon's Civil Rights Division, a part of the Bureau of Labor and Industries, protects all Oregonians from unlawful discrimination, investigating allegations of civil rights violations in workplaces, career schools, housing, and public accommodations. With only 29.50 FTE, the division puts an average of \$1.1 million every year into the hands of Oregonians that faced unlawful discrimination, much of it to workers who could not have afforded to hire an attorney to seek justice through the court system.

The Civil Rights Division has responsibility for enforcing laws prohibiting unlawful discrimination in employment, housing, public accommodation, and career schools.

The Civil Rights Division enforces laws that:

- Grant job seekers and employees equal access to jobs and promotions, and a work environment free from discrimination and harassment;
- Ensure job protection when employees report worksite safety violations, use protected leave provisions, or access the workers' compensation system;
- Protect those seeking housing or the use of public accommodations (such as restaurants, retail establishments, and transportation); and
- Provide equal access to career schools.

## **Enabling Legislation/Program Authorization**

CRD's enforcement authority stems from:

- ORs chapter 659A (civil rights laws relating to employment, housing, and public accommodations)
- ORs 171.120 to 171.125 (nondiscrimination in employment relating to legislators)
- ORs 345.240 (nondiscrimination in career schools)
- ORs 399.230, 399.235, and 408.230 (employment rights of military personnel and veterans)
- ORs 441.178 (retaliation against nursing staff)
- ORs 654.062 (retaliation for workplace safety complaints)

## **Quick Facts**

The Civil Rights Division:

- Responds to more than 35,000 inquiries about civil rights protections each year.
- Conducts unbiased investigations of discrimination complaints. Approximately 95% of complaints relate to employment; 5% to housing; and 1% to public accommodation. Most complaints that are filed involve at least one of four protected classes: disability, 25%; sex discrimination, 25%; injured worker, 21%; and race/color, 17%.
- Attempts to settle complaints through fact-finding conferences, conciliations, and other alternative dispute resolution techniques.

# Civil Rights Division

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- Processes or investigates approximately 2,000 complaints of unlawful discrimination each year.

## Program Delivery

**The work of the Civil Rights Division (CRD) directly correlates with Strategy 5: Provide education, advocacy and regulatory efforts to ensure the safety, soundness and availability of markets for goods, services, financial products and labor.**

CRD is the only agency in Oregon that has the authority to enforce civil rights laws protecting Oregonians from unlawful discrimination where they work, live, play and when they patronize places of public accommodation, such as retail establishments, public transportation and parks.

CRD's mission is aligned with the strategy's primary focus to ensure that people are not taken advantage of or abused by unfair practices. The division provides protections for the most vulnerable Oregonians, many of whom are: low-income; persons with disabilities; racial and sexual minorities; victims of domestic violence, sexual assault or stalking; elderly; or part of a religious minority. The division educates the public about their rights and protects those who assert their rights against unlawful retaliation. CRD works to eliminate the effects of unlawful practices by awarding actual damages suffered by the complainant and by providing injunctive and other equitable relief to prevent further violations. In FY 2011, the division awarded \$1,553,084.82 in damages for complainants. In FY 2012, the division awarded \$975,018.07 in damages for complainants.

## Funding Streams

CRD is primarily a General Fund program, but receives significant Federal Funds and Other Funds under contracts with other government agencies, including:

### Federal Funds:

U.S. Equal Employment Opportunities Commission (EEOC) - \$787,200 for approximately 1,000 cases per year. Paying just \$650 per case (up to a cap determined by the federal budget climate), the EEOC contract rarely covers half the cost of a case and often, because the funding cap is not tied to actual caseloads, shifts the cost of shared cases toward the General Fund.

U.S. Department of Housing and Urban Development (HUD) - \$480,000 for approximately 100 cases per year. HUD has certified Oregon's fair housing laws as substantially equivalent to the federal Fair Housing Act, authorizing CRD to enforce civil rights protections in housing under state and federal law simultaneously.

### Other Funds:

Oregon Occupational Safety and Health Division (OR-OSHA) - \$320,000 for approximately 310 cases per year. OR-OSHA contracts with CRD to process complaints of retaliation for opposing unsafe and unhealthy working conditions.

# Civil Rights Division

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Workers' Benefit Fund - \$745,437 for approximately 360 cases per year. Discrimination and retaliation complaints from injured workers using the workers' compensation system comprise 20 to 23 percent of the division's annual caseload and required the equivalent of four full-time investigators for the 2009-2011 biennium.

## Program Outcomes

Processing inquiries, taking in formal complaints, and investigating those complaints constitute the core functions of the division. Although CRD has consistently met or exceeded its target to respond to 85% of initial intake inquiries within two business days, the division is struggling to meet its other two targets for completing 65% of initial interviews within 45 days, and completing 65% of its investigations within 180 days. Initial intake inquiries were conducted within an average of 54.38 days (45 days was the target); and the total investigative length was an average of 172.48 days, (with the goal being 180 days or fewer 65% of the time). When averaged over four quarters, the division completed 58% of its investigations within the target time frame. The division fell short during the first three quarters, but actually exceeded the target by two percentage points (67%) during the fourth quarter.

The division is working to better manage the increasing caseloads and focus on the most meritorious cases by implementing a new triaging system to optimize investigative resources.

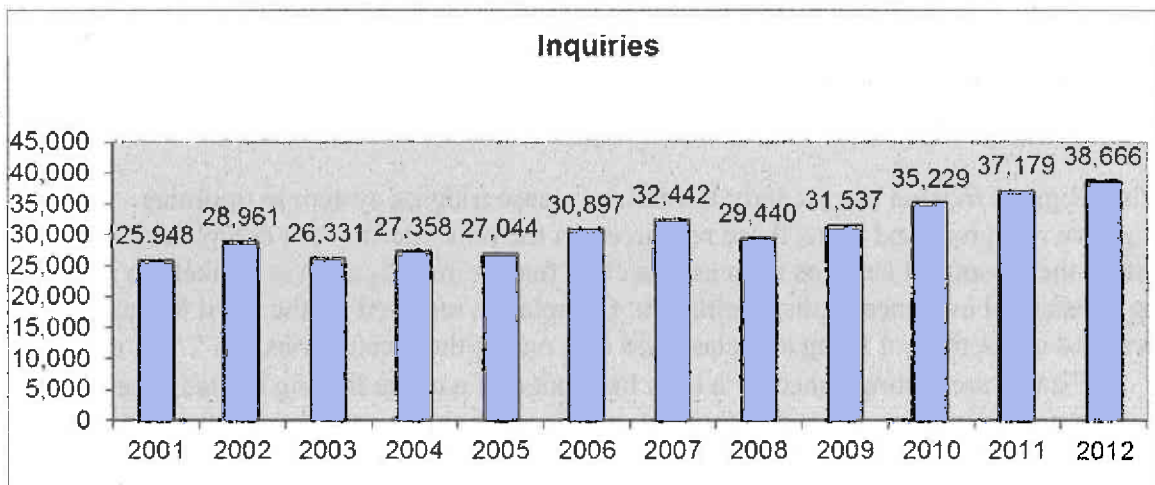
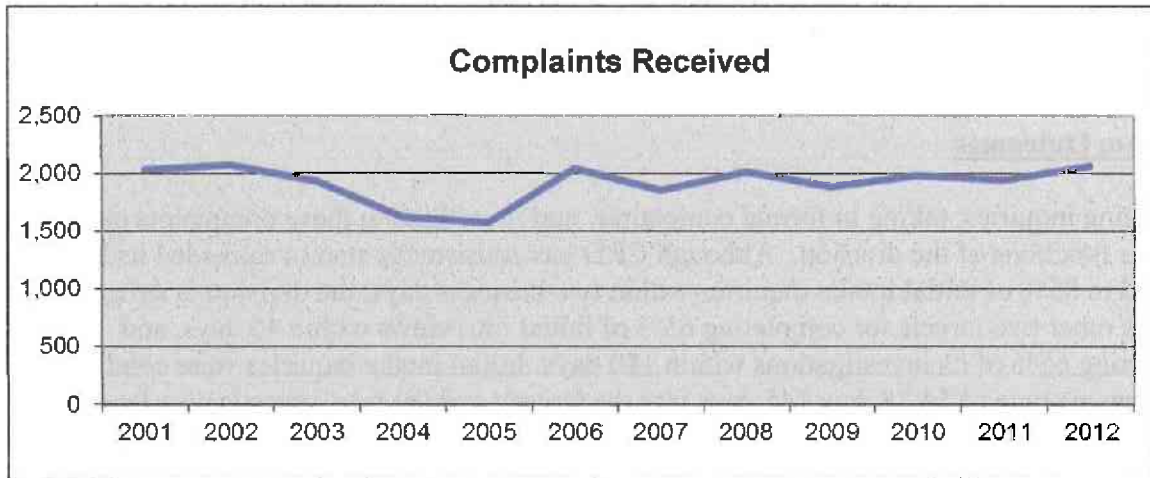
The Civil Rights Division has recently formalized a case triaging system to optimize investigative resources and focus those resources on the most meritorious complaints, by expediting the closure of cases as soon as it is clear further investigation is unlikely to result in finding substantial evidence of discrimination. Complaints received by the Civil Rights Division are reviewed at the time of filing and classified into one of three categories: "A", "B" or "C."

- "A" cases are distinguished by a high likelihood of a cause finding related to an egregious violation, or pose important questions of public concern; these cases are prioritized for expedited and intensive investigation.
- "B" cases are those cases which need more information in order to determine whether there will likely be substantial evidence of a violation.
- "C" cases are identified at intake when the complainant has offered no reason to believe further investigation is likely to yield substantial evidence of a violation.

These recent process improvement changes will facilitate faster disposition of many complaints by expediting initial reviews, assigning complaints to quality-controlled tracks for further action and issuing determinations to the involved parties sooner. These changes will fundamentally alter expectations of quality and timeliness for CRD stakeholders. In part, the changes are necessitated by decreasing resources while (1) demand for complaint investigations has been remarkably steady, and (2) new legal protections drive increased demand for information about individuals' rights.

# Civil Rights Division

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# Wage and Hour Division

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## Program Summary

The Wage and Hour Division protects the employment rights of Oregonians by investigating claims and complaints from workers relating to the payment of wages and working conditions, including minimum wage and overtime; protecting children in the workplace; enforcing payment of prevailing wage rates on public works contracts; and licensing and regulating farm and forest labor contractors.

- The division protects the rights of workers who do not have the resources to hire an attorney by investigating and resolving thousands of wage claims and other types of employment complaints (e.g., failure to timely pay wages and failure to provide rest breaks and meal periods) that are filed annually. Approximately 56% of the wage claims received by the division are minimum wage or overtime claims.
- The division assists displaced workers by paying final wages from the Wage Security Fund when employers have gone out of business and have insufficient funds to pay outstanding wages. Over \$18 million has been paid to more than 17,000 displaced Oregon workers since the program's inception.
- The division protects minors (children under 18 years of age) in Oregon workplaces by issuing thousands of employment certificates and permits annually, ensuring that minors are employed safely and are not exploited by unscrupulous employers.
- The division ensures compliance with the Farm Labor Contractor Law by farm and forest labor contractors, protecting agricultural and forest workers from exploitation and abuse.
- The division enforces the Prevailing Wage Rate (PWR) laws, protecting local wage standards on taxpayer-funded public works projects.

The division's enforcement of the state's wage and hour laws plays an integral role in protecting the financial security of low-income employees, including children, migrant farm workers, and non-English speakers, and providing access to justice for those workers who lack the ability or resources to defend themselves against employers who have violated the law. Without the division's intervention, many violations of the state's employment laws would go unchecked, resulting in financial hardship to thousands of workers each year, preventable injuries, and even deaths.

## Quick Facts

- An average of 2,300 wage claims are filed annually.
- The division collects an average of \$1.7 million per year in wages owed to workers.
- The division has paid out over \$1.1 million in wages due in the 2011-2013 biennium to nearly 800 workers through the Wage Security Fund.

# Wage and Hour Division

- Compliance specialists conduct approximately 150 prevailing wage rate investigations each year.
- The division issues approximately 4,300 certificates each year to employers of minors.
- The division issues approximately 300 farm/forest labor contractor licenses each year.

## Program Delivery

The Wage and Hour Division is comprised of 29 FTE, which is divided between investigative staff (six general compliance specialists, five prevailing wage compliance specialists, one prevailing wage lead worker), office support staff (10 positions), and management (four positions). Three positions are currently vacant and not funded.



The division gives priority to the following programs:

- Wage Security Fund investigations and payments;
- Child labor investigations and issuance of employment certificates;
- Minimum wage and overtime wage claims;
- Farm/Forest Labor Contractor licensing and investigations;
- Prevailing wage rate enforcement; and,
- Prevailing wage rate education.

Current resources support only four (4.0 FTE) General Fund Wage and Hour Compliance Specialists and two (2.0 FTE) Other Fund (Wage Security Fund) Wage and Hour Compliance Specialists statewide to investigate claims and complaints regarding minimum wage, overtime, wage collection, working conditions, and child labor and farm/forest labor contractor matters.

# Wage and Hour Division

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As a consequence of budget shortfalls in the most recent biennium, a permanent reduction of 1.0 FTE Wage and Hour Compliance Specialist occurred on July 1, 2011. Moreover, during the 2011-13 biennium, as a result of a General Fund shortfall in BOLI's budget of over \$1 million, the agency was forced to lay off three of its five General Fund Wage and Hour Compliance Specialists, representing a 60% reduction in General Fund compliance staff. As a result, in order to preserve its ability to process claims from workers who had not been paid minimum wage or overtime and to respond to critical child labor and farm labor matters, the division found it necessary in fiscal year 2012-13—from June 2012 through December 2012—to eliminate its acceptance and processing of wage collection claims not involving alleged minimum wage, overtime, or prevailing wage violations, or claims on the Wage Security Fund. Over 200 claims were closed as a result of the division's reduced capacity to conduct investigations. In addition, the ability of the division to follow up on possible violations of the Child Labor and Farm Labor Contractor Laws was significantly reduced. The division was only again able to begin investigating discretionary wage claims (not involving minimum wage, overtime, prevailing wage, or Wage Security Fund) after the Emergency Board restored funding for two of the compliance specialist positions in December 2012.

## Program Outcomes

The division's performance measures emphasize the timely processing of wage claims and investigations to minimize economic hardships to workers and disruption to businesses. In FY 2011-2012, the division continued to exceed its performance measures in spite of limited resources:

- Nearly 93% of Wage Security Fund claims are processed within 30 days of filing (goal = 75%);
- Nearly 65% of wage claims are resolved within 35 days of being assigned to a compliance specialist for investigation (goal = 50%);
- Over 64% of prevailing wage investigations are completed in less than 90 days (goal = 50%)

In recent years, in spite of economic conditions and a depressed job market that have impacted the division's program data, both the amount of wage collections made by the division and the public's demand for the division's services have remained relatively constant, as information in the following tables demonstrate:

# Wage and Hour Division

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## Wages Collected

Biennium	Amount of Total Wages Collected	Amount of Prevailing Wages Collected
2003-05	\$2,430,633	\$ 859,429
2005-07	\$3,835,866	\$2,030,322
2007-09	\$3,002,190	\$1,560,668
2009-11	\$3,420,703	\$2,294,209

## Wage Security Fund Payments

Biennium	Number of Wage Security Fund Claims Paid	Amount Paid from Wage Security Fund
2003-05	1,427	\$2,459,559
2005-07	1,153	\$1,641,173
2007-09	1,465	\$1,871,854
2009-11	902	\$1,337,571

## Child Labor Employment Certificates Issued

Biennium	Number of Employment Certificates Issued
2003-05	9,949
2005-07	10,213
2007-09	9,507
2009-11	8,056

## 10-Year Outcome

According to statistics compiled by the Oregon Employment Department, average employment in Oregon for 2011 totaled over 1.6 million workers. Additionally, in 2009, the Oregon Employment Department found that nearly 10 percent of all nonfarm payroll jobs in the state were paid at or close to the minimum wage.

The division directs its activities toward defending the workplace rights of Oregonians, with an emphasis on protecting the financial security of low-wage earners. The division's programs not only play a critical role in ensuring that Oregonians are properly compensated for work they have performed but are integral to accomplishing the following objectives:

- Protecting wage and working conditions on the job;
- Increasing family stability and child safety by safeguarding the financial security of individuals and families;



# Wage and Hour Division

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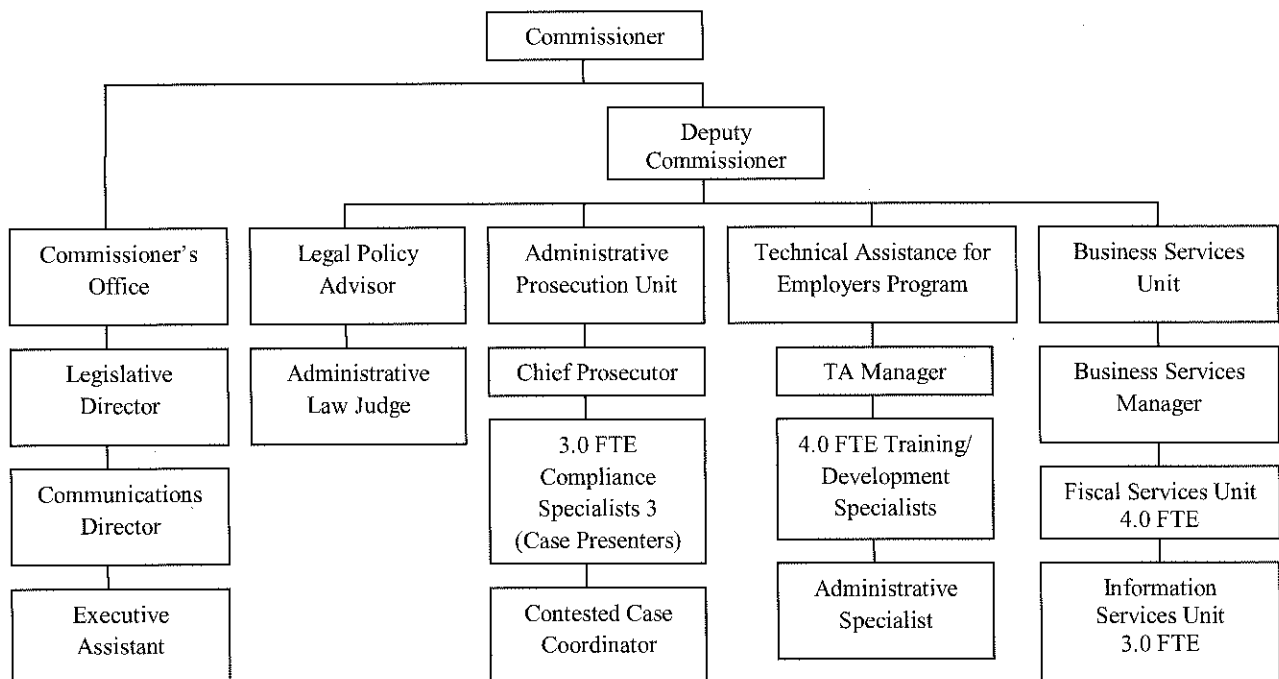
- Improving Oregonian's access to justice by providing an effective means to recover unpaid wages for workers who lack the resources to take action privately;
- Ensuring the timely resolution of disputes between employees and employers;
- Restoring balance when there are disparities in knowledge or power that place workers in positions where they are unable to provide for their own protection;
- Protecting workers against unfair employment practices; and,
- Supporting law-abiding employers who are competitively disadvantaged by businesses that do not comply with the state's wage and hour regulations.

# Commissioner's Office

## Program Summary

The Commissioner's Office provides policy direction and overall management of the bureau's programs. Besides the Commissioner, the Commissioner's Office has a Deputy, Legislative Director, Communications Director, Legal Policy Advisor, and an assistant.

Internal program support services provide employee services, budget and fiscal control, and information systems management. The Deputy Commissioner manages the administrators of the Apprenticeship and Training, Civil Rights, and Wage and Hour Divisions; the agency's Legal Policy Advisor, Technical Assistance for Employers Program Manager, Administrative Prosecution Unit Manager, and Business Unit Services Manager.



## Program Delivery

Staff in the Commissioner's Office:

- Develop policy, provide overall administrative and management services, perform strategic planning, and develop partnerships with local, state and federal governments and the general public;
- Provide coordinated information to the public and respond to media inquiries about agency programs and enforcement actions;
- Oversee the agency's intergovernmental relations activities;
- Act as the agency's liaison to the Legislative Assembly, other state agencies and other elected officials;

# Commissioner's Office

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- Act as the bureau's liaison to the Department of Justice on general legal matters;
- Assist in the interpretation of laws and the preparation of legislation, policies and rules; and
- Coordinate rulemaking.

## Program Improvements

### Agency Reorganization

To improve the effectiveness and efficiency of the agency's Hearings Unit, comply with legislative directives to reduce management service staff, and reduce the agency's administrative costs, the agency implemented a reorganization plan during the 2011-13 biennium that enabled the agency to:

- Establish a Chief Prosecutor position responsible for overseeing the timely and effective prosecution of cases referred to the Hearings Unit by the Civil Rights and Wage and Hour Divisions;
- Reclassify the agency's Information Services Unit Manager (PEM D) position to a non-management Info Systems Specialist 7;
- Abolish an Internal Operations Manager (PEM A) position in the Apprenticeship and Training Division;
- Abolish the agency HR/Employee Services Manager (PEM D) position and contract with DCBS for the provision of HR services.

### Improved Access to BOLI Final Orders

Oregon law provides BOLI with the authority to enforce specific laws pursuant to the processes provided in the Oregon Administrative Procedures Act (APA). When a BOLI Civil Rights or Wage and Hour investigation ends in a finding of a violation, charges may be issued against the employer/respondent, who may request a contested case hearing. At the conclusion of a hearing, the Commissioner issues a final order which not only makes findings and conclusions about the particular case, but which also may be used for precedent in deciding future cases.

Since 1972, BOLI has conducted more than 600 contested case hearings in which the Commissioner issued Final Orders interpreting and applying to fact situations the many statutes and administrative rules enforced by BOLI. Until recently, the Final Orders were published in a total of 30 soft-bound books called *BOLI Orders*, each containing about 300 pages. Beginning with *BOLI Orders*, Volume 31, BOLI stopped publishing "hard copy" *BOLI Orders*. On January 16, 2013, BOLI officially converted to electronic publishing of *BOLI Orders* by placing a link to the entire collection on BOLI's website home page. BOLI plans to continue electronically publishing newly issued BOLI Orders on the BOLI website.

In addition, BOLI publishes a Digest of summaries of substantive and procedural principles of law set out in volumes of *BOLI Orders*. Currently, two cumulative Digests have been published in hard copy, the first covering *BOLI Orders* vols. 1-28 and the second covering *BOLI Orders*

# Commissioner's Office

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vols. 29-31. Both Digests can now be accessed on the agency's website by clicking on links provided on the website. A cumulative Digest for *BOLI Orders* vols. 32-34 will be available on the website when *BOLI Orders*, vol. 32 is published.

The website also includes helpful "Legal Research Tips" for how to research BOLI cases and particular issues.

# **Administrative Prosecution Unit**

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## **Program Summary**

- The Administrative Prosecution Unit (APU) is responsible for processing the contested cases of the agency's Wage and Hour and Civil Rights Divisions at every step of the case pursuant to the Administrative Procedures Act (APA) and BOLI contested case hearing rules; from drafting the charging document to final disposition. The unit presents cases to BOLI's Administrative Law Judge (ALJ) at hearing in various locations around Oregon. The ALJ issues a proposed order which is subsequently reviewed and made final by the Commissioner.
- The unit is made up of 3.0 (three) FTE case presenters (currently only two positions are filled for budgetary reasons), one .5 FTE administrative support position, and the Chief Prosecutor position.
- The Chief Prosecutor manages the unit and carries a reduced caseload, as well.

## **Quick Facts**

The APU:

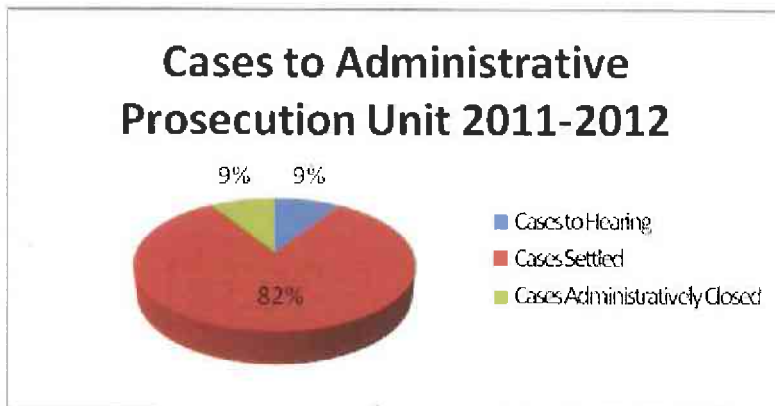
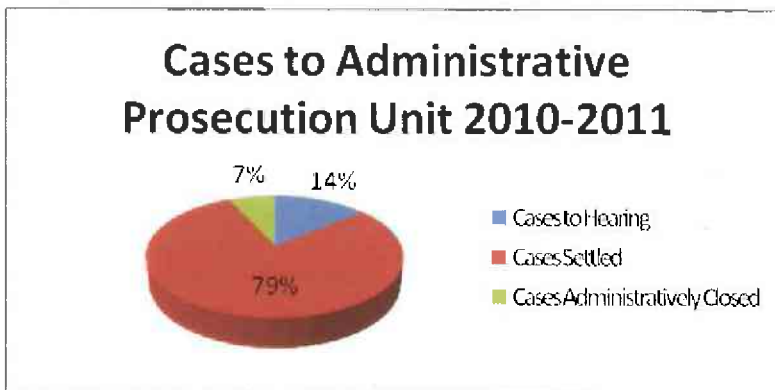
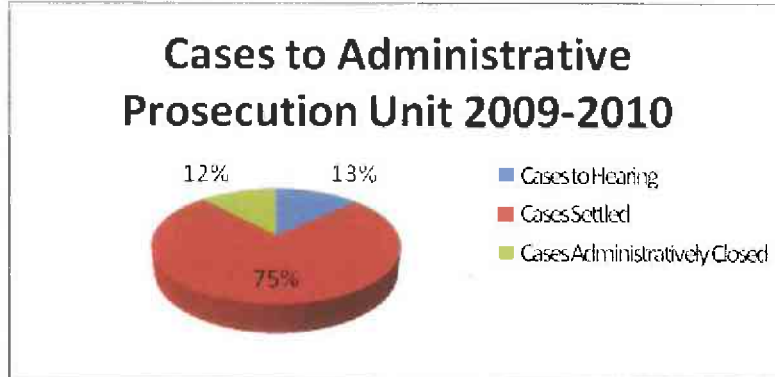
- processes an average of 140 cases annually
- schedules contested case hearings within 30 days of receiving the case
- settled 82% of the cases assigned to it in FY 2012 without requiring a contested case hearing
- reduced the amount of time to resolve cases by 30% in FY 2012

## **Program Delivery and Outcomes**

- In order to improve effectiveness and efficiency, comply with legislative directives to reduce management service staff, and reduce the bureau's administrative costs, the bureau implemented a reorganization plan during the 2011-2013 biennium. As part of that reorganization, the agency created an Administrative Prosecution Unit (separate from the ALJ) and established a Chief Prosecutor position. The goal of the reorganization was to enhance the efficiency and effectiveness of the APU.
- Over the last ten years, the APU (formerly Hearings Unit) has managed the loss of staff, including one of two of its Administrative Law Judges, in part by increasing its efforts to conciliate and settle cases before hearing. Hearings can cost the State of Oregon upwards of \$7,000 or more depending on various factors, including but not limited to: travel costs, hearing location-related costs, necessity of an interpreter, etc. The APU and bureau are committed to resolving contested cases as quickly and efficiently as possible with the best outcome possible for all parties.

# Administrative Prosecution Unit

- Since creation of the APU, the bureau has created policies and goals concerning the performance and efficiency of the APU.<sup>1</sup>
- As shown on the following charts, the unit has consistently maintained a high settlement rate on cases. For the most recent completed fiscal year, the APU had an 82% settlement rate.

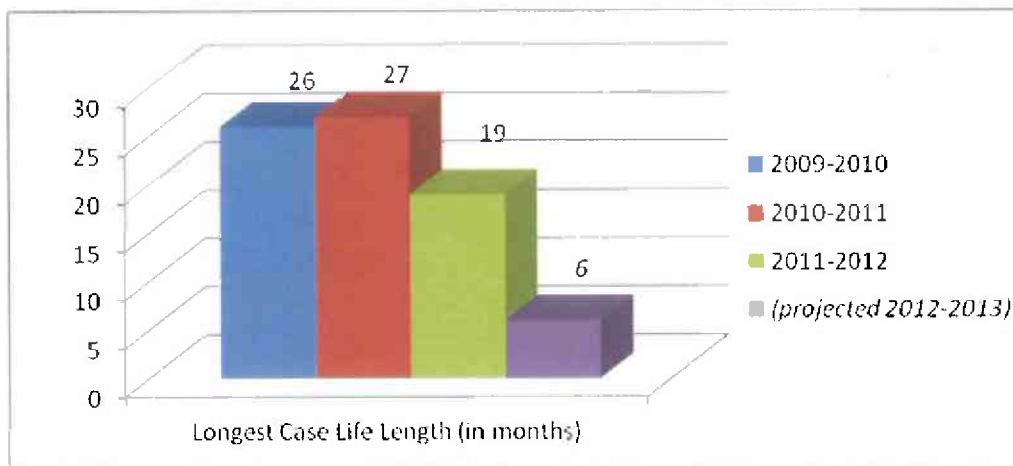


<sup>1</sup> BOLI's only current hearings-related KPM relates to the percentage of final orders issued by the agency that are upheld on appeal to the Oregon Court of Appeals, which does not directly relate to the performance of the APU.

# Administrative Prosecution Unit

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- Another important goal established in the reorganization to increase the likelihood of settlement and achieve greater efficiency was to move cases through the bureau's hearings process faster. The APU began double-setting cases for hearing in December 2012, similar to a circuit court style of docketing. In years past, cases could take over two years to get to final disposition.
- Due to the change in docketing style, the APU currently schedules a hearings date within 30 days of receipt of a case, and all cases are set for hearing a maximum of six months from the current month. This should be reflected in the charting of case lives for the 2012-2013 fiscal year. This modification in docketing style should enable parties to achieve settlements/final disposition much faster than in previous years.



- The agency also plans to expand its use of pre-hearing mediation using existing resources made available in the reorganization.

# **Technical Assistance for Employers Program**

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## **Program Summary**

The Technical Assistance for Employers Program (TA) provides Oregon employers with resources and training on wage and hour laws, civil rights laws, and management practices to help employers comply with employment laws.

The unit is comprised of 6.0 (six) FTE employees; 1.0 (one) manager (Principal Executive/Manager E), 4.0 (four) program coordinators (Training and Development Specialists 2), and 1.0 (one) Administrative Specialist 2.

## **Program Funding**

Two positions (one program coordinator and the Administrative Specialist) are supported with General Funds. The remaining four positions (the manager and three program coordinators) are supported with Other Funds received from the sales of publications and seminar registrations. In 2012-13, one General Fund program coordinator position remained vacant for budgetary reasons.

## **Quick Facts**

- Staff answer over 17,500 telephone and email inquiries from employers annually.
- The program publishes eight employer handbooks, including: *Wage and Hour Laws; Employee Classification and Wage and Hour Exemptions; Civil Rights Laws; Child Labor Laws; Family Leave Laws in Oregon; Policy Writing Guidelines; Legal Hiring Practices; and Documentation, Discipline and Discharge.*
- The unit publishes composite posters of required employer postings under stand and federal laws in both English and Spanish. Posters are available for smaller employers with fewer than 24 employees as well as larger employers. A “12-in-1” composite poster is also available for agriculture employers.
- Trainers conduct hundreds of seminars and personalized site visits each year. The seminars are open to employers throughout the state, and the Technical Assistance for Employers Program also provides customized seminars upon request.
- The program trains on average 4,000 managers, supervisors and employers each year.

## **Program Delivery and Outcomes**

Employers access TA services through several methods:

### **Employer Assistance Phone Line and Email**

Employers call or email the TA unit with questions about employment law topics. Questions range from routine inquiries (e.g., final paycheck deadlines) to more complex issues (e.g., reasonable accommodation for a disabled employee). The unit’s goal is to provide a response within 24 hours. In 2011-12, the unit responded to over 17,500 inquiries with over 98 percent returned the same day or within 24 hours.



# **Technical Assistance for Employers Program**

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## **Employer Handbooks and Posters**

The unit researches, writes, and publishes eight handbooks for employers. The program published seven new or revised handbooks from July 2011 through December 2012: Wage and Hour Laws, Employee Classification and Wage & Hour Exemptions, Civil Rights Laws, Child Labor Laws, Policy Writing Guidelines, Legal Hiring Practices, and Documentation, Discipline and Discharge. An updated version of Family Leave Laws in Oregon will be published in 2013.

The unit publishes composite posters of required employer postings under state and federal laws in both English and Spanish. Posters are available for smaller employers with fewer than 24 employees as well as larger employers. A “12-in-1” composite poster is also available for agriculture employers.

In 2011-12, almost 12,000 handbooks and posters were purchased by employers.

## **Employer Training**

Technical Assistance conducted 55 public seminars and 78 customized seminars in FY 2011-12. Over 3800 employers received training, and the average evaluation for the seminars was 4.6, indicating a high level of satisfaction with the training.

The 28<sup>th</sup> Annual Employment Conference featured over 22 training sessions and attracted over 325 attendees from all areas of Oregon.

The unit has developed partnerships with organizations such as the Oregon Employer Council to bring seminars to all areas of the state. In 2011-12, 65 percent of the seminars were conducted in Portland/Salem/Eugene and 35 percent in other areas of the state.

Due to the high number of inquiries from state agencies, Technical Assistance conducted a series of six employment law seminars for state agencies at no cost in 2011-12 including sessions on Workplace Harassment and Veterans Preference in Public Employment.

TA also developed six new seminar presentations in the 2011-13 biennium involving such topics as “The Life of a Workers’ Compensation Claim,” “Developing An Employee Handbook,” and a 6-month New Supervisor Series in order to provide employers with information relating to the most current developments in labor law.

In addition, TA conducted special sessions at events hosted by the Oregon Employer Council, SCORE, Society of Human Resource Managers, LERC, Small Business Development Center, American Payroll Association, and a training session on wage and hour laws for the Chinese-American business community.

## **Website information**

Information on BOLI’s website includes over 70 Fact Sheets on employment law-related issues with information on some of the most common employer questions. The unit also writes

# **Technical Assistance for Employers Program**

employment-related articles that are distributed to over 32 newspapers and business associations around the state, as well as being posted on the website.

# Appendix

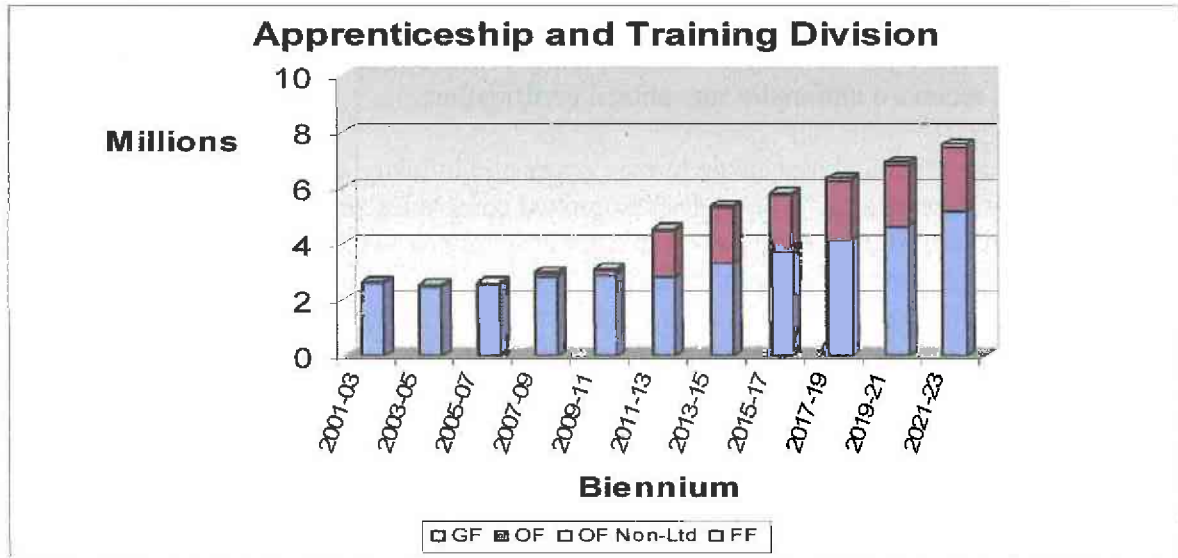
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- Governor's 10-Year Plan Buy Sheet Updates
- Annual Performance Progress Report
- Position Reclassification Summary
- Summary of New Hires
- BOLI Proposed Legislation
- Proposed Information Technology Projects

# **Governor's 10-Year Plan Buy Sheet Updates**

# Bureau of Labor and Industries: Apprenticeship and Training Division

Primary Outcome Area: Economy and Jobs  
Secondary Outcome Area: Education  
Program Contact: Stephen Simms, Administrator: 971-673-0777



## Executive Summary

Oregon's Apprenticeship and Training Division, part of the Bureau of Labor and Industries, approves and registers apprenticeship training programs, and certifies approximately 1,200 journeyworkers per year through collaborations with business, labor, government, and education partners. These programs provide career training and employment opportunities in technical and craft occupations. ATD provides services to over 4,500 employers. Registered apprenticeship is a sustainable, employer-driven training model offering equal employment opportunities for all Oregonians, moving people directly into career pathways and family wage jobs. The division is currently authorized for 18 FTE.

## Program Description

The Apprenticeship and Training Division (ATD) supports Oregonians by:

- Helping business and industry to identify skill gaps and develop training programs;
- Registering and monitoring the operation of apprenticeship programs;
- Registering apprentices in programs and issuing credentials upon completion of programs;
- Conducting annual program compliance reviews;

- Providing technical assistance to improve program operations, promote partnerships with the public education system, and develop diverse pools of applicants;
- Providing outreach and promotion of apprenticeship opportunities, with an emphasis on the recruitment of veterans, women, and people of color; and
- Collaborating with other state agencies with respect to classroom training, licensing, certification, and outreach.

As of June 30, 2012, there were 4,853 active apprentices and 4,564 employers participating in 159 approved programs in Oregon. Individuals in registered apprenticeship programs are paid from day one and receive raises as they attain additional skills through structured, supervised, on-the-job training and related classroom instruction. Upon completion, apprentices receive a nationally recognized certification.

ATD provides technical assistance to employers and industry groups operating apprenticeship programs. Nationally recognized companies such as Boeing and Intel Corporation are program sponsors, as are many family owned businesses, all collaborating in a public/private partnership with the government to create a highly skilled workforce. Most apprenticeship programs partner with local community colleges, with tuition frequently paid by the employer, enabling apprentices to earn college credit or obtain an associates' degree.

### **Program Justification and Link to the 10-Year Outcome**

ATD has not conducted a return on investment analysis on the value of registered apprenticeship since the 2003-05 biennium, but that analysis showed that for every \$1,000 invested by the State of Oregon to support the Apprenticeship and Training Division, apprentices returned an estimated \$5,150 back to the state in income taxes for that same period. A 2008 study by the National Association of State and Territorial Apprenticeship Directors showed that for every \$1 invested in apprenticeship administration by the state and federal governments, apprentices paid an average of \$20.60 in state/federal income taxes.

The services provided by ATD are distinctly different from other public workforce investment system programs because apprenticeship is not a social service program. Private industry pays for the operation of each program, apprentice wages, and educational costs without taxpayer subsidies while ATD provides oversight and technical assistance, making apprenticeship a sustainable workforce strategy.

Oregon's registered apprenticeship program embodies Strategy 3 of the Economy and Jobs Policy Vision, meeting the skilled labor demands of employers at the local level. It is an essential tool in closing the state's middle-skill job gap in most occupations. Middle-skill jobs are those requiring more than a high school education but less than a four-year degree. Middle-skill jobs currently make up the largest segment of jobs in our economy and will continue to do so for years to come. These jobs are primarily in the "middle 40" of Oregon's 40-40-20 plan. As more employers become active participants in developing their work forces, value can be realized by utilizing registered apprenticeship. Registered apprenticeship is a people-based strategy where employers and educators directly collaborate to cultivate a skilled workforce.

While the current base for registered apprenticeship in Oregon is principally in the construction industry, the combination of occupational standards, supervised on-the-job training, and classroom instruction make the apprenticeship model applicable to almost any industry cluster. Expanded use of the apprenticeship model of training would help Oregon maximize its investments in the community college system by combining classroom education with on-the-job experience. ATD is the conduit and resource center for businesses and industry to develop and operate training programs built to their specifications.

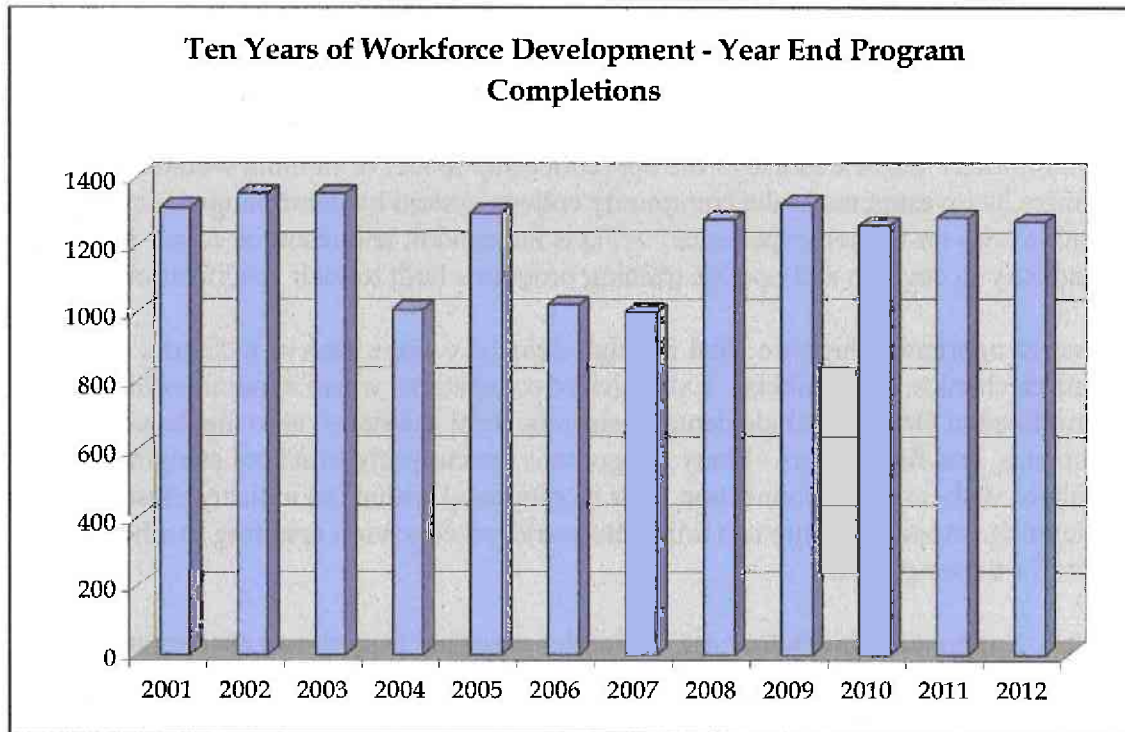
Registered apprenticeships are ideal for high-demand careers such as industrial electricians, aircraft mechanics, or plumbers. Examples of occupations where apprenticeships are underutilized in Oregon include dental assistants, legal assistants, auto mechanics, accountants, and fire fighters. Many Oregonians are currently in school studying these disciplines with no direct connection to or employment within the industry cluster that they are pursuing. Apprenticeship can articulate work and education resulting in a better trained worker for the employer.

Registered apprenticeship helps ease the burden resulting from the recent decline and underfunding of career and technical education (“CTE”) in the state. Registered apprenticeship recognizes the significant value of CTE as a tool for preparing current and future workers and creating more opportunities for students transitioning out of high school. Expanding CTE and career pathways in high-demand occupations, enhancing dual enrollment opportunities, and increasing articulation agreements between community colleges and universities are all steps that would help build the employee base for employers and would feed the registered apprenticeship system. ATD collaborates with public education partners to make apprenticeship a step along a career highway, providing training tailored to the needs of the job market -- closer to the employers and available jobs.

### **Program Performance**

- Total apprenticeship registrations as of June 30, 2012 (FY 2012): 4,853
- New Registrants in FY 2012: 2,022
- Participating employers in FY 2012: 4,564
- New employers for FY 2012: 274

ATD assists registered apprenticeship programs in certifying approximately 1,200 new journey workers every year (depending upon the health of the economy), as indicated in the chart below showing the number of individuals who have completed their programs over the past 10 years. During the current economic downturn, ATD’s efforts to assist industry in retaining its current apprentices has actually helped industry increase the total number of individuals completing their apprenticeship programs over the past three years. These men and women now have a nationally recognized work credential and the ability to earn steady family wages. Based upon recent ATD budgeting trends, the state’s investment in each completed apprentice is only \$1,013.



Through its program review and technical assistance efforts, ATD has assisted business and industry in closing historic disparities in the number of women and ethnic minorities training in the technical trades. Despite decreasing demand for apprentices over the past four years due to the declining economy, minorities and women have gradually increased their participation in registered apprenticeship programs.

Retention efforts have served to narrow the participation gap. Our programs have done a good job retaining minority apprentices and minimizing the impact of the current economic downturn on our efforts to diversify the state's workforce. As indicated in the following chart, the percentages of women and minorities participating in registered apprenticeship programs have continued to gradually rise, despite an overall decline in the gross number of active registrations.

**Apprenticeship Participation by Gender and Ethnicity**

Year	Total # of Apprentices	# of Women	% Women	# of Minorities	% Minorities
2001	6115	303	4.89%	711	11.48%
2002	5744	290	5.05%	674	11.73%
2003	5506	277	5.03%	675	12.26%
2004	5260	252	4.81%	637	12.11%
2005	6003	296	4.93%	747	12.44%
2006	6489	334	5.15%	859	13.24%
2007	7225	407	5.63%	995	13.77%
2008	8096	429	5.29%	1114	13.76%



2009	7133	374	5.24%	978	13.71%
2010	5741	329	5.73%	791	13.84%
2011	5065	293	5.78%	712	14.06%
2012	4853	285	5.87%	691	14.24%

During the same time period, minorities have gradually increased their percentage of the number of individuals completing their apprenticeship programs. Program compliance and technical assistance activities from ATD have focused on the need for programs sponsors to address operational issues that result in a disparate impact for women and minorities. While similar gains have not yet been realized for women, ATD continues to work with program sponsors and community group to ensure equal access to trades careers.

**Individuals Completing Apprenticeship Programs**

Year	Total # of Completing Apprentices	# of Women	% Women	# of Minorities	% Minorities
2001	1312	50	3.81%	120	9.15%
2002	1353	55	4.07%	123	9.09%
2003	1354	33	2.44%	106	7.83%
2004	1013	44	4.34%	83	8.19%
2005	1297	39	3.01%	138	10.64%
2006	1026	22	2.14%	125	12.18%
2007	1006	44	4.37%	112	11.13%
2008	1276	53	4.15%	140	10.97%
2009	1323	68	5.14%	147	11.11%
2010	1260	41	3.25%	142	11.27%
2011	1283	57	4.44%	160	12.47%
2012	1272	49	3.85%	140	11.0%

**Enabling Legislation/Program Authorization**

ORS chapter 660 establishes the statutory authority for the Apprenticeship and Training Division. This chapter encourages the development of formal occupational skill standards and the creation of local apprenticeship committees through the voluntary cooperation of management, labor, and government. The Oregon State Apprenticeship and Training Council advises ATD on issues regarding the operation of registered apprenticeship programs in the state.

**Funding Streams**

This program is funded almost entirely with General Fund. A small amount of Federal Funds (\$120,000), from a contract with the U.S. Department of Veterans Affairs, provides for targeted on-the-job training for qualified veterans. An interagency agreement with the Oregon Department of Transportation for \$1.5 million each biennium (Other Funds) provides

for targeted outreach, recruitment, retention, and supportive services to individuals interested in careers in the heavy highway construction trades.

### **Significant Proposed Program Changes from 2011-13**

#### **Restoration of Two Eliminated Apprenticeship Representative Positions**

The Apprenticeship and Training Division (ATD) requested in its Agency Requested Budget additional General Funds to restore 2.0 FTE Apprenticeship Representative positions that were eliminated in June 2012. Restoration would allow ATD to resume curtailed technical assistance activities to all registered apprenticeship programs. Restoration would also allow the ATD to complete program compliance reviews in a timely manner and engage in more program expansion activities.

#### **Quantifying Results:**

- Increase number of program compliance reviews by 50% annually after 12 months.
- Increase minority graduation rate by 10% after 24 months.
- Increase female participation rate by 1% after 12 months.
- Increase total registrations by 2% after 12 months.

This request was not approved, and is not included in the Governor's Balanced Budget.

#### **Staff Restoration Package (High School Integration)**

The division also requested additional General Funds to restore 1.0 FTE Program Analyst 2 to support the High School to Apprenticeship Integration program to link local apprenticeship programs, contractors and employers directly to in-school manufacturing and construction skills classes and afford students the ability to receive traditional classroom teaching in conjunction with construction site visits and instruction.

#### **Quantifying Results:**

- Increased number of high school programs across Oregon that offer students access to youth apprenticeship programs, particularly registered youth apprenticeships.
- Increased number of students completing high school and moving directly into registered adult apprenticeships.
- Increased number of educators participating as summer interns in skilled trade industries, and in skilled trade industry-focused professional development opportunities.
- Increased number of partnered secondary schools, community colleges, Joint Apprenticeship Training Committees, and employers that collaborate to create apprenticeship preparation, pre-apprenticeship, and registered youth apprenticeship options for students.
- Some college completion - through articulated credit between high schools, community colleges, and the related training of registered youth apprenticeships.

- Postsecondary credentials - through attainment of advanced credentials within apprenticeship.

This request also was not approved.

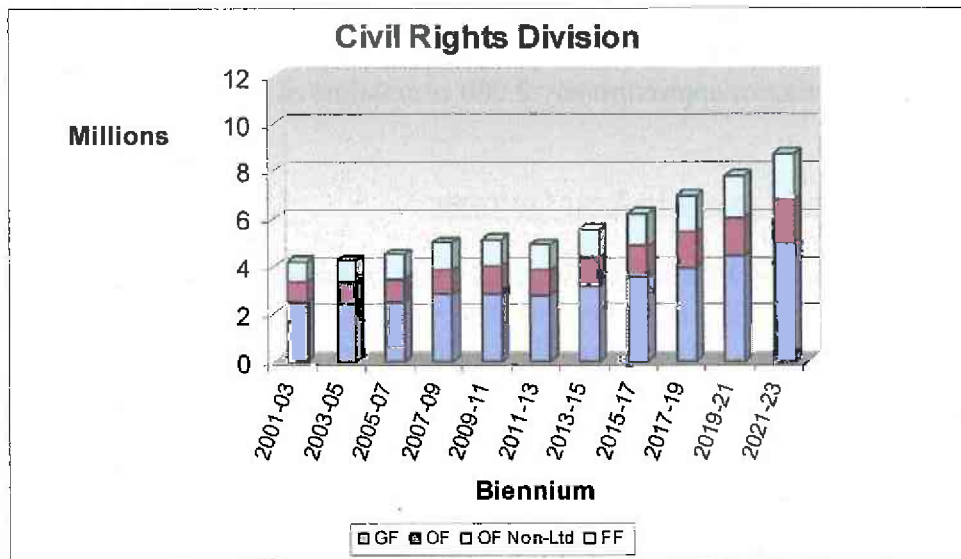
# Bureau of Labor and Industries: Civil Rights Division

Primary Outcome Area: Safety

Secondary Outcome Area:

Program Contact:

Amy K. Klare, Administrator; 971-673-0792



## Executive Summary

Oregon’s Civil Rights Division, a part of the Bureau of Labor and Industries, protects all Oregonians from unlawful discrimination, investigating allegations of civil rights violations in workplaces, career schools, housing, and public accommodations. With only 29.50 FTE, the division puts an average of \$1.1 million every year into the hands of Oregonians that faced unlawful discrimination, much of it to workers who could not have afforded to hire an attorney to seek justice through the court system.

## Program Description

The Civil Rights Division has responsibility for enforcing laws prohibiting unlawful discrimination in employment, housing, public accommodation, and career schools.

The Civil Rights Division enforces laws that:

- Grant job seekers and employees equal access to jobs and promotions, and a work environment free from discrimination and harassment;
- Ensure job protection when employees report worksite safety violations, use protected leave provisions, or access the workers’ compensation system;
- Protect those seeking housing or the use of public accommodations (such as restaurants, retail establishments, and transportation); and

- Provide equal access to career schools.

#### The Civil Rights Division:

- Responds to more than 35,000 inquiries about civil rights protections each year.
- Conducts unbiased investigations of discrimination complaints. Approximately 95% of complaints relate to employment; 5% to housing; and 1% to public accommodation. Most complaints that are filed involve at least one of four protected classes: disability, 25%; sex discrimination, 25%; injured worker, 21%; and race/color, 17%.
- Attempts to settle complaints through fact-finding conferences, conciliations, and other alternative dispute resolution techniques.
- Processes or investigates approximately 2,000 complaints of unlawful discrimination each year.

#### **Program Justification and Link to 10-Year Outcome**

**The work of the Civil Rights Division (CRD) directly correlates with Strategy 5: Provide education, advocacy and regulatory efforts to ensure the safety, soundness and availability of markets for goods, services, financial products and labor.**

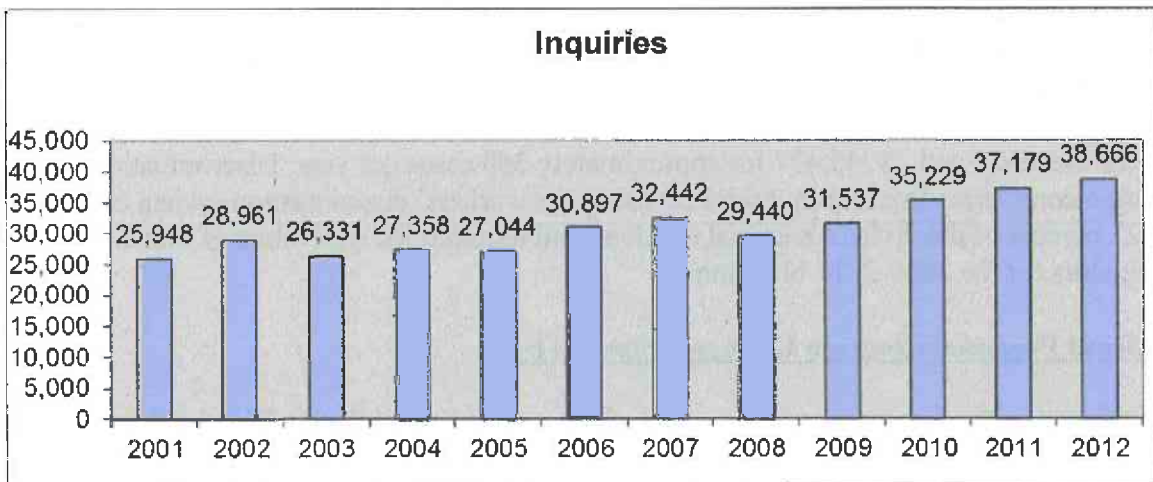
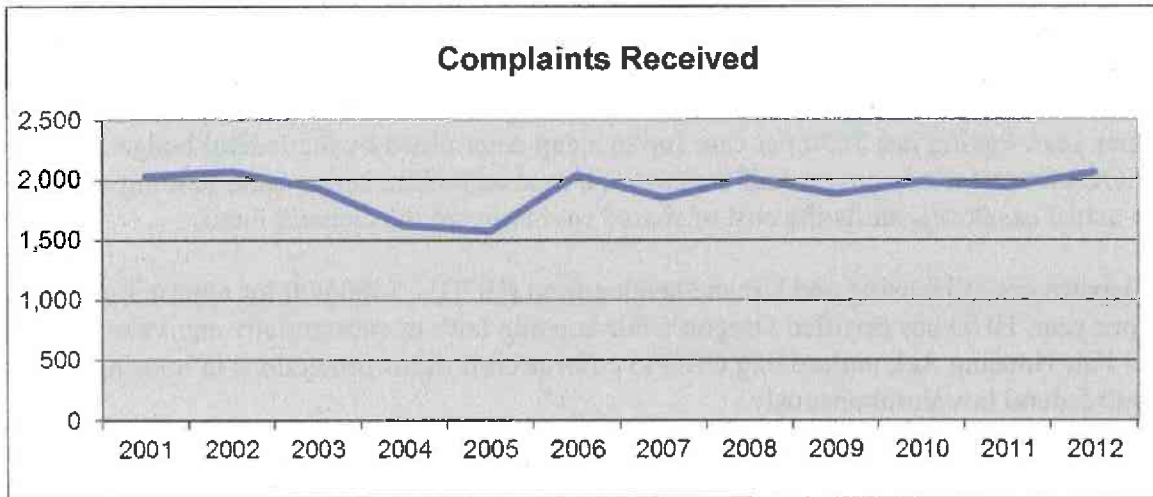
CRD is the only agency in Oregon that has the authority to enforce civil rights laws protecting Oregonians from unlawful discrimination where they work, live, play and when they patronize places of public accommodation, such as retail establishments, public transportation and parks.

CRD's mission is aligned with the strategy's primary focus to ensure that people are not taken advantage of or abused by unfair practices. The division provides protections for the most vulnerable Oregonians, many of whom are: low-income; persons with disabilities; racial and sexual minorities; victims of domestic violence, sexual assault or stalking; elderly; or part of a religious minority. The division educates the public about their rights and protects those who assert their rights against unlawful retaliation. CRD works to eliminate the effects of unlawful practices by awarding actual damages suffered by the complainant and by providing injunctive and other equitable relief to prevent further violations. In FY 2011, the division awarded \$1,553,084.82 in damages for complainants. In FY 2012, the division awarded \$975,018.07 in damages for complainants.

#### **Program Performance**

Processing inquiries, taking in formal complaints, and investigating those complaints constitute the core functions of the division. Although CRD has consistently met or exceeded its target to respond to 85% of initial intake inquiries within two business days, the division is struggling to meet its other two targets for completing 65% of initial interviews within 45 days, and completing 65% of its investigations within 180 days. Initial intake interviews were conducted within an average of 54.38 days (45 days was the target); and the total investigative length was an average of 172.48 days, (with the goal being 180 days or fewer 65% of the time). When averaged over four quarters, the division completed 58% of its investigations within the target time frame. The division fell short during the first three quarters, but actually exceeded the target by two percentage points (67%) during the fourth quarter.

The division is working to better manage increasing caseloads and focus on the most meritorious cases by implementing a new triaging system to optimize investigative resources. These recent process improvement changes will facilitate faster disposition of many complaints by expediting initial reviews, assigning complaints to quality-controlled tracks for further action and issuing determinations to the involved parties sooner. These changes will fundamentally alter expectations of quality and timeliness for CRD stakeholders. In part, the changes are necessitated by decreasing resources while (1) demand for complaint investigations has been remarkably steady, and (2) new legal protections drive increased demand for information about individuals' rights.



**Enabling Legislation/Program Authorization**

CRD's enforcement authority stems from:

- ORs chapter 659A (civil rights laws relating to employment, housing, and public accommodations)
- ORs 171.120 to 171.125 (nondiscrimination in employment relating to legislators)
- ORs 345.240 (nondiscrimination in career schools)

ORS 399.230, 399.235, and 408.230 (employment rights of military personnel and veterans)

ORS 441.178 (retaliation against nursing staff)

ORS 654.062 (retaliation for workplace safety complaints)

### **Funding Streams**

CRD is primarily a General Fund program, but receives significant Federal Funds and Other Funds under contracts with other government agencies, including:

#### Federal Funds:

U.S. Equal Employment Opportunities Commission (EEOC) - \$787,200 for approximately 1,000 cases per year. Paying just \$650 per case (up to a cap determined by the federal budget climate), the EEOC contract rarely covers half the cost of a case and often, because the funding cap is not tied to actual caseloads, shifts the cost of shared cases toward the General Fund.

U.S. Department of Housing and Urban Development (HUD) - \$480,000 for approximately 100 cases per year. HUD has certified Oregon's fair housing laws as substantially equivalent to the federal Fair Housing Act, authorizing CRD to enforce civil rights protections in housing under state and federal law simultaneously.

#### Other Funds:

Oregon Occupational Safety and Health Division (OR-OSHA) - \$320,000 for approximately 310 cases per year. OR-OSHA contracts with CRD to process complaints of retaliation for opposing unsafe and unhealthy working conditions.

Workers' Benefit Fund - \$745,437 for approximately 360 cases per year. Discrimination and retaliation complaints from injured workers using the workers' compensation system comprise 20 to 23 percent of the division's annual caseload and required the equivalent of four full-time investigators for the 2009-2011 biennium.

### **Significant Proposed Program Changes from 2011-13**

As mentioned in the discussion of program performance, the Civil Rights Division has recently formalized a case triaging system to optimize investigative resources and focus those resources on the most meritorious complaints, by expediting the closure of cases as soon as it is clear further investigation is unlikely to result in finding of substantial evidence of unlawful discrimination. Complainants received by the Civil Rights Division are reviewed at the time of filing and classified into one of three categories: "A", "B" or "C."

- "A" cases are distinguished by a high likelihood of a "cause" finding of unlawful discrimination related to an egregious violation, or pose important questions of public concern; these cases are prioritized for expedited and intensive investigation.
- "B" cases are those cases which need more information in order to determine whether there will likely be substantial evidence of a violation.

- “C” cases are identified at intake when the complainant has offered no reason to believe further investigation is likely to yield substantial evidence of a violation.

### **Establish Civil Rights Field Representative 2**

The Civil Rights Division requested in its 2013-15 Agency Requested Budget an additional .5 FTE General Fund Civil Rights Field Representative 2 to ensure timely, quality civil rights complaint investigations, given the new laws the legislature has charged the division with enforcing, and to help the division fulfill its contractual obligations with the Equal Employment Opportunity Commission (EEOC), the US Department of Housing and Urban Development (HUD), and the Oregon Department of Consumer and Business Services (DCBS) for OSHA retaliation and injured worker discrimination complaints.

Due to past and more recent budget cuts over successive biennia, the division has struggled to meet its performance objectives for timeliness at both the intake and investigative levels. As caseloads increase, intake officers and investigators spend less time on each case and quality suffers.

The division and the EEOC have concurrent jurisdiction over cases filed under the Civil Rights Act of 1964 as amended, the Americans with Disabilities Act, and the Age Discrimination in Employment Act. These cases constitute approximately 50 percent of the division’s workload, or approximately 900-1000 cases per year. Through a formal work sharing agreement, the EEOC pays the division a maximum amount based on a specific number of cases. Due to fluctuations in the federal budget, the number of authorized contract cases per year varies without regard to the actual workload, shifting costs of shared cases to General Funds.

The division is paid a fixed rate of \$650 per case, which covers only about half of the actual cost per investigation. The amount paid per case does not increase commensurately to account for cost of living adjustments, salary increases, and services and supplies. Due to a shortage in federal funds during the 2007-09 biennium, the division had to eliminate a Senior Civil Rights Investigator position, compromising the division’s ability to fulfill its EEOC contract as well as other contractual obligations with the Oregon Department of Consumer and Business Services.

Increasing a currently funded .50 FTE Civil Rights Field Representative 2 position to 1.0 FTE would allow the division to improve timely processing of civil rights complaints and meet its contractual obligations for the 2013-15 biennium, and help to provide stability for future biennia. This General Fund request was not approved in the Governor’s Balanced Budget.



### **Civil Rights Intake Officer Reclassification**

The division also requested increases in Other Fund and Federal Fund expenditure limitations to reclassify two (2) current Administrative Specialist 2 (Intake Officer) positions as Civil Rights Field Representatives 1 to perform preliminary investigations and assist the division in meeting its contractual obligations in 2013-2015. The division currently has 15.5 FTE Civil Rights Field Representative 2 positions, down from 16.5 in 2011. While the number of investigators has decreased, the number of intake inquiries and complaints have continued to increase. Between 2007 and 2012 the legislature enacted 16 new laws that fall under the division's jurisdiction. (A complete list of new laws is provided in the budget narrative.) In order to better manage increased investigator case loads and focus on the most meritorious cases, the division has developed a system to triage complaints based on the likelihood of a substantial evidence finding of unlawful discrimination. Cases that have no merit on their face are quickly dismissed, thereby freeing up the investigators' time for more meritorious complaints that require full investigation. The process requires the division's intake officers to perform further investigative interviews of the complainants. These interviews become intricate parts of the complaints and play a key role in the investigation process.

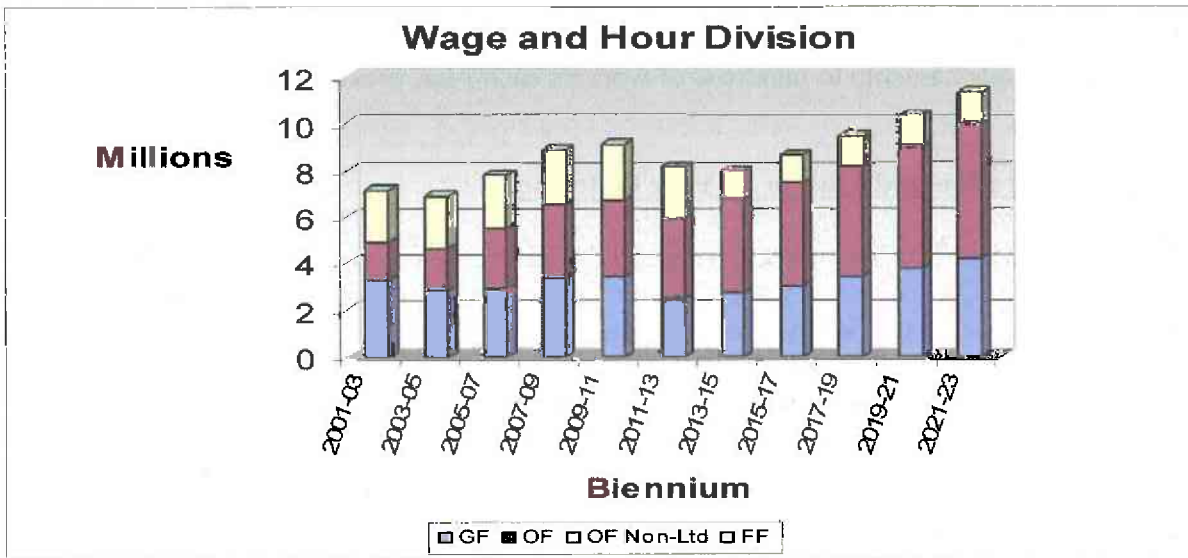
The intake officers currently perform some of the functions of an investigator, such as analyzing the complaint, performing interviews, and determining jurisdiction based on the applicable civil rights laws. Reclassification of these positions would allow the division to mitigate the reduction in resources over the past few years by assigning even more investigative tasks to these staff, reducing investigator workloads and enhancing the division's ability to conduct timely investigations. These Other and Federal Fund expenditure increases were approved in the Governor's Balanced Budget.

### **Lead Work Differential for Head Housing Investigator**

The division also requested an increase in Federal Fund expenditure limitation to provide funding to pay for an unbudgeted lead salary differential for the division's head housing investigator. In order to meet its contractual obligations with the US Department of Housing and Urban Development (HUD), the division established a lead housing investigator position for Fair Housing Investigations. This employee serves as the primary contract liaison with HUD's Regional Office in Seattle. This employee also works with the division administrator and operations managers to ensure that the division conducts timely, comprehensive and thorough fair housing investigations and related enforcement activities for continued certification as a substantially equivalent agency. This Federal Fund expenditure increase was approved in the Governor's Balanced Budget.

# Bureau of Labor and Industries: Wage and Hour Division

Primary Outcome Area: Safety  
Secondary Outcome Area: N/A  
Program Contact: Gerhard Tacubel, Administrator; 971-673-0837



## Executive Summary

With only 29.00 FTE, Oregon’s Wage and Hour Division (WHD), part of the Bureau of Labor and Industries, defends the rights of workers to receive the wages they have earned and to work in a safe environment by enforcing state minimum wage, prevailing wage, overtime, and working conditions laws. The division also protects the safety and well-being of children and farm and forest workers by enforcing child labor laws and farm/forest labor contractor laws. These protections are especially endangered by unscrupulous employers who, if not for WHD, could easily take advantage of minors, workers with language barriers, and other vulnerable populations. Such employers not only harm their workers but unfairly gain an advantage over the law-abiding employers that WHD tries to support.

## Program Description

Oregon’s Wage and Hour Division:

- Stands up for workers who do not have the resources to hire an attorney by investigating and resolving hundreds of wage claims and other types of employment complaints (e.g., failure to timely pay wages and failure to provide rest breaks and meal periods) that are filed annually.
- Helps displaced workers by paying final wages from the Wage Security Fund when employers have gone out of business and have insufficient funds to pay outstanding wages. Over \$18 million has been paid to more than 17,000 displaced Oregon workers.
- Protects minors (children under 18 years of age) in Oregon workplaces by issuing thousands of employment certificates and permits annually, ensuring that minors are employed safely and are not exploited by unscrupulous employers.

- Ensures compliance with the Farm Labor Contractor Law by farm and forest labor contractors, protecting agricultural and forest workers from exploitation and abuse.
- Enforces the Prevailing Wage Rate (PWR) laws, protecting local wage standards on taxpayer-funded public works projects.

The populations served by the division are largely unrepresented, low-income employees who are vulnerable to exploitation, including children, migrant farm workers, and non-English speakers, who lack the ability or resources to defend themselves against unscrupulous employers. Without intervention by WHD, many violations of employment laws would go unchecked, resulting in financial hardship to hundreds of workers each year, preventable injuries, and even deaths.

**Program Justification and Link to 10-Year Outcome**

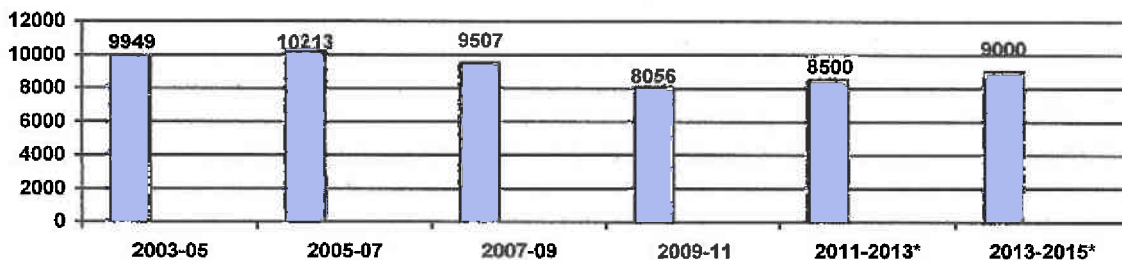
WHD’s programs and activities directly relate to the Safety Outcome objective to protect the safety and rights of Oregonians at work. The division’s services to low-income, “at risk” employees are critical to the Safety Outcome objectives and strategies to create a working environment that is safe for all citizens. In addition, the division’s programs are integral to the following stated Safety Outcome objectives and strategies:

- Protect wage and work conditions on the job
- Increase family stability and child safety
- Strengthen employment-related services
- Improve employment and prosperity outcomes
- Improve citizen access to justice and the ability to exercise their rights
- Prevent, treat, and sanction dysfunctional employer behavior and unethical business practices
- Ensure timely resolution of disputes between employees and employers
- Provide “balance” when there are imbalances of knowledge or power that place workers in a position where they are unable to provide for their own protection
- Ensure that workers are not taken advantage of or abused by unfair practices

Moreover, enforcement of wage and hour laws is fundamental to creating prosperity opportunity for all Oregonians: low-income, working families are exceptionally vulnerable to exploitative employers if BOLI does not have the resources to stand up for them.

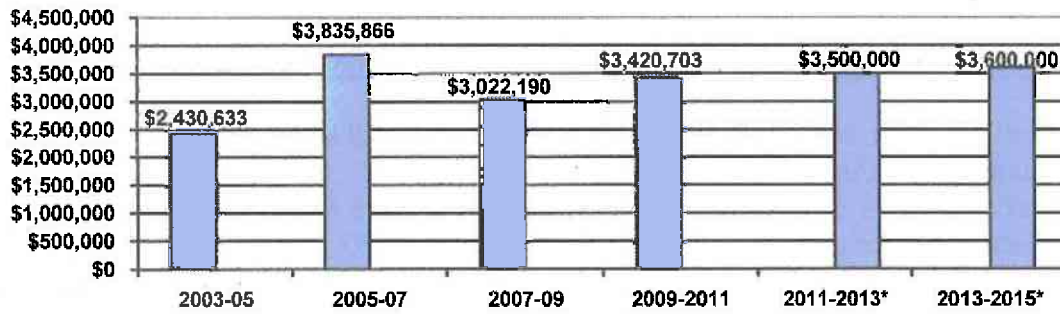
**Program Performance**

**Child Labor Employment Certificates Issued**

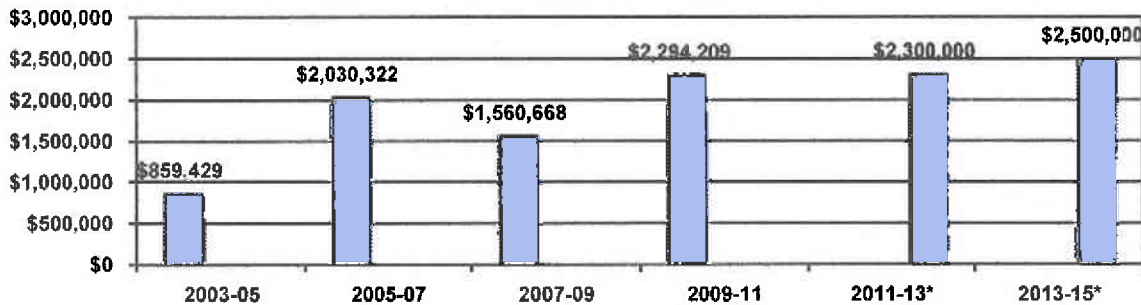


\*projected

## Wages Collected



## Prevailing Wage Rate Collections



\*projected

The division's performance measures emphasize the timely processing of wage claims and investigations to minimize economic hardships to workers and disruption to businesses. For example, it is the division's goal to pay the final wages owed to employees of insolvent employers from the Wage Security Fund within 30 days of receipt of a claim and to resolve disputed wage claims assigned to a compliance specialist within 35 days. Even with its limited resources, the division was able to exceed both of these performance measure goals in FY 2011-2012.

As the charts above show, the economy and depressed job market have created fluctuations in the division's program data, but wage collections have remained comparatively stable and demand for the division's services has remained constant regardless of economic conditions. Most workers who file claims or complaints with WHD have no other recourse for addressing their issues.

Budget and staff reductions over the past several biennia have virtually eliminated the division's public outreach capacity, leaving the division's enforcement programs entirely complaint-driven. This has impacted the numbers of claims filed and investigations conducted.

The General Fund now supports only five (5.0 FTE) Wage and Hour Compliance Specialists statewide to investigate minimum wage and overtime wage claims and other wage and hour-related complaints and to conduct child labor and farm/forest labor contractor investigations.

## Enabling Legislation/Program Authorization

<u>Program/Activity</u>	<u>Statutory Authority</u>	<u>Mandatory or Discretionary?</u>
➤ Pay qualified workers from Wage Security Fund	ORS 652.414	Mandatory
➤ Issue Employment Certificates and permits to employers of minors	ORS 653.307	Mandatory
➤ Investigate reports of child labor law violations	ORS 653.535; 653.540	Mandatory
➤ Conduct annual PWR survey/publish wage rates	ORS 279C.815	Mandatory
➤ Issue PWR project coverage determinations	ORS 279C.817	Mandatory
➤ License Farm/Forest Labor Contractors	ORS 658.410	Mandatory
➤ Investigate wage claims of farm/forest workers and violations of Farm Labor Contractor Law	ORS 658.407	Mandatory
➤ Investigate wage claims	ORS 652.330; 653.040	Discretionary
➤ Enforce working conditions regulations	ORS 653.040	Discretionary
➤ Investigate PWR violation allegations	ORS 279C.850	Discretionary

## Funding Streams

- WHD's wage claim, working conditions, child labor, and farm/forest labor enforcement programs are General Funded.
- The Wage Security Fund program is Other Funded by a diversion of 0.03 of 1% of the employment tax collected from employers biennially (ORS 652.409; 657.439(2)(a)).
- The Prevailing Wage Rate program is Other Funded by fees paid by public contracting agencies (one-tenth of 1% of the public contract price), which pay for construction industry surveys, an education program for contractors and contracting agencies, and enforcement of the PWR law (ORS 279C.825).
- The farm labor contractor licensing program is Other Funded by annual license fees paid by farm and forest labor contractors (ORS 658.413).

## Significant Proposed Program Changes from 2011-13

### Restoration of Wage and Hour Compliance Specialist

Due to budget shortfalls in the 2011-13 biennium, a permanent elimination of 1.0 FTE Compliance Specialist occurred on July 1, 2011, reducing to five the number of Wage and Hour Compliance Specialist positions supported by General Funds. Additionally, as the result of a General Fund shortfall in BOLI's budget of over \$1 million during this same biennium, the agency was forced to lay off three of the five General Fund Wage and Hour Compliance Specialists, representing a 60% reduction in General Fund compliance staff. As a result, in order to preserve its ability to process claims from workers who have not been paid minimum wage or overtime and respond to critical child labor and farm labor matters, the division found it necessary in fiscal year 2012-13 to eliminate its acceptance and processing of wage collection claims that do not involve alleged minimum wage, overtime, prevailing wage violations, or claims on the Wage Security Fund. The Emergency Board eventually restored funding for two of the positions, a decision that permitted the division to again accept wage collection claims. Although the three compliance positions that were laid off in FY 2012-13 are budgeted for the

2013-15 biennium, the division requested in its Agency Requested Budget additional General Funds to restore one (1.0 FTE) General Fund Wage and Hour Compliance Specialist in order that it might achieve a level of staffing adequate for the effective investigation of claims and complaints regarding minimum wage, overtime, wage collection, working conditions, and child and farm labor matters on a statewide basis. This request was not approved and is not included in the Governor's Balanced Budget.

### **Increase in Farm Labor Contractor Fees**

The division also requested authorization (both legislative and budgetary) to increase Farm Labor Contractor (FLC) licensee fees and Other Fund limitation to fully fund the Farm Labor Contractor licensing program. Oregon law mandates that farm and forest labor contractors be licensed by BOLI/WHC. The division issues over 300 Farm and Forest Labor Contractor licenses each year. License fees to fund the licensing program were first implemented in 1999 and have not increased since then.

Only one employee, a bilingual Administrative Specialist 1, funded by the license fees paid by FLC applicants, processes and issues these licenses. Primarily due to inflation, fee revenue collected in this program is no longer sufficient to cover the costs of the position and associated costs of licensing these contractors. Program expenditures for the 2013-15 biennium are projected to be \$180,000, while fee revenues at the current rates are projected to generate only \$140,000. The division is proposing legislation to increase license fees in order to generate an additional amount of revenue (\$58,100) to fully fund the program in the 2013-15 biennium and projected inflation costs through 2017-19. This proposal was approved and is included in the Governor's Balanced Budget.

### **Contract for Professional (HR) Services**

In order to improve the effectiveness and efficiency of the agency's Hearings Unit; comply with legislative directives to reduce management service staff; and reduce the agency's administrative costs, the bureau implemented a reorganization plan during the 2011-13 biennium that reduced, abolished, or reclassified three management positions, including abolishing the agency's HR/Employee Services Manager position. As part of this reorganization, the bureau contracted with the Department of Consumer and Business Services (DCBS) to provide essential HR services, resulting in reduced administrative costs. The agency requested an increase in General Funds to continue contracting with DCBS for its essential HR services in 2013-15 at an estimated cost savings of approximately 20% in HR/administrative costs. This request was not approved, and is not included in the Governor's Balanced Budget.

### **Bilingual Differentials**

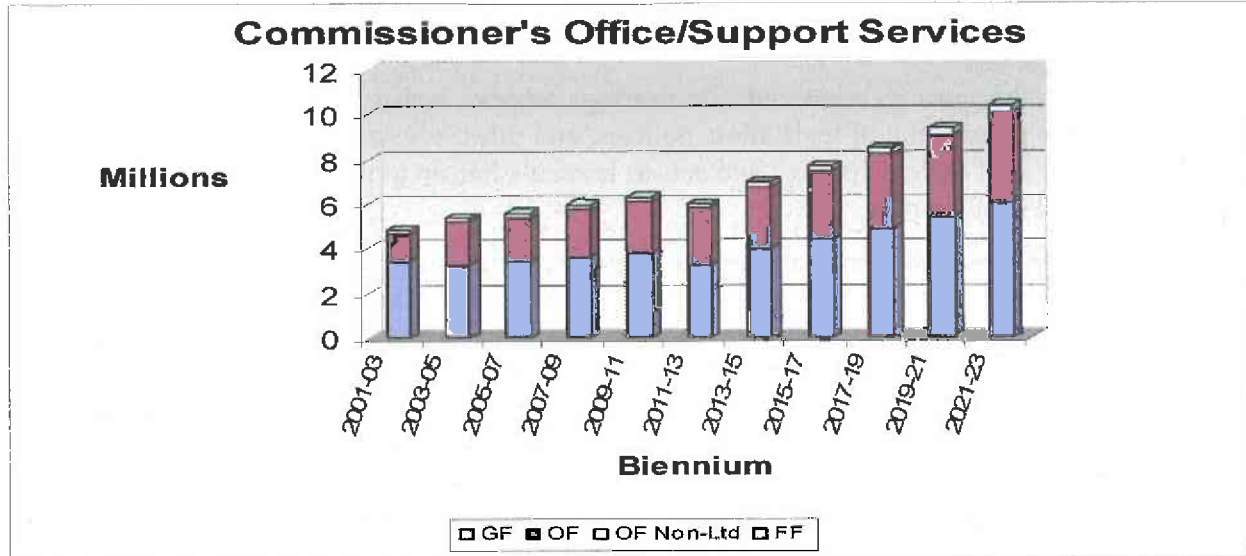
Also requested was additional Other Fund expenditure limitation to pay for unbudgeted bilingual salary differentials for Wage and Hour Division staff that provide assistance to Spanish-speaking members of the public accessing the services of the division. This request was approved and is included in the Governor's Balanced Budget.

# Bureau of Labor and Industries: Commissioner's Office and Program Support Services

Primary Outcome Area: Economy and Jobs

Secondary Outcome Area:

Program Contact: Christie Hammond, Deputy Commissioner; 971-673-0785



## Executive Summary

This “program” has two parts:

- The Commissioner's Office (CO) provides leadership, planning, policy direction, and public outreach services for the Bureau of Labor and Industries (BOLI), including engaging with employers and workers to gain and apply their perspectives to public policy issues. The Commissioner's Office oversees all BOLI programs and ensures advancement of BOLI's mission: to protect employment rights, advance employment opportunities, and protect access to housing and public accommodations free from discrimination.
- BOLI's Program Support Services include: the state's leading employer service in the Technical Assistance for Employers Program; a fiscal and budget unit; employee services resources; a small information technology team; and an Administrative Prosecution Unit that conducts contested case hearings. These essential services support the operation of the bureau's principal programs in the Apprenticeship and Training, Civil Rights, and Wage and Hour Divisions.

## Program Description

The Commissioner's Office provides leadership, planning, policy direction, and public outreach services for BOLI. These services are provided by five staff: the Commissioner of the Bureau of Labor and Industries, who is a statewide elected official; a Deputy Commissioner; a legal policy

advisor; a legislative and communications director; and an executive assistant. The Commissioner is the chairperson of the State Apprenticeship and Training Council. The Commissioner's Office:

- Develops policy, provides overall administrative and management services, performs strategic planning, and develops partnerships with local, state, and federal governments and the general public;
- Provides coordinated information to the public (including responses to public records requests) and responds to media inquiries about agency programs, workforce development efforts, and enforcement actions;
- Oversees the agency's intergovernmental relations activities; coordinates rulemaking; and acts as the agency's liaison to the legislature, other state agencies, and other elected officials; and
- Directs the agency's contested case hearings process; assists in the interpretation of laws and the preparation of legislation, policies, and rules; advises the Commissioner and agency staff on legal policy; and acts as bureau's liaison to the Department of Justice on general legal matters.

BOLI's Program Support Services perform five critical functions:

- Technical Assistance for Employers Program: Provides Oregon employers with education and training resources, including: free telephone and web-based assistance and answers to compliance questions, centralized access to required workplace postings, low-cost informational handbooks on lawful employment practices, and general and customized seminars and workshops on employment law and management practices. The program:
  - Answers approximately 18,000 telephone and website inquiries each year.
  - Conducts an average of 125 public seminars and customized seminars each year.
  - Publishes eight updated employer handbooks each biennium.
  - Writes and distributes weekly employment-related articles and advice columns to over 32 newspapers and business associations.
  - Creates and publishes several posters, including 6-in-1, 8-in-1, and 11-in-1 composite posters (in English and Spanish), which satisfy employer posting requirements under state and federal laws.
- Fiscal Services: Processes awards to wage claimants and civil rights complainants, ensuring timely payments to Oregonians who unlawfully lost wages or were unlawfully discriminated against. The team also provides centralized accounting, purchasing, payroll, mail, printing, and procurement services; and coordinates budget development, expenditure monitoring and analysis, contract administration, and telecommunications activities.
- Information Technology Services: Develops, implements, and maintains statewide complaints databases and other management information systems, email, and other hardware and software; provides network, PC, and printer support; and troubleshoots information systems problems.
- Administrative Prosecution Unit: Provides adjudication and alternative dispute resolution of wage and hour and civil rights cases; issues Commissioner's final orders that set precedent for future cases; and publishes all Commissioner's final orders, making the principles of law available to the public.
- Employee Services: Provides human resources functions related to personnel, affirmative action, equal opportunity, safety, wellness, labor/management relations, workers' compensation, training and staff development, and transportation alternatives. During the 2012-2013 biennium, the agency entered into a contract with the Department of Consumer



and Business Services (DCBS) to provide most of these services at an estimated administrative cost savings of 20%.

### **Program Justification and Link to 10-Year Outcome**

#### **Commissioner's Office:**

To achieve the Economy and Jobs 10-year outcome, it is critical for Oregon to develop, strengthen, and retain its workforce. It is also essential for state agencies to actively engage with Oregonians, particularly organized labor and business groups, which are the top constituencies for public outreach by the Commissioner's Office. Leading the bureau's programs -- including the Apprenticeship and Training Division (ATD), the Civil Rights Division (CRD), and the Wage and Hour Division (WHD) -- the Commissioner's Office ensures a highly skilled workforce that is paid properly and treated fairly. The bureau's two enforcement divisions (CRD and WHD) are on the front line in ensuring equity and the opportunity for prosperity for Oregonians. And ATD's registered apprenticeship program is the embodiment of Strategy 3 of the Economy and Jobs Policy Vision, meeting the skilled labor demands of Oregon employers.

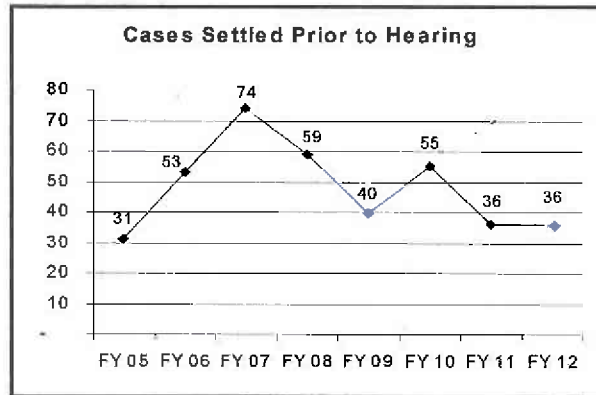
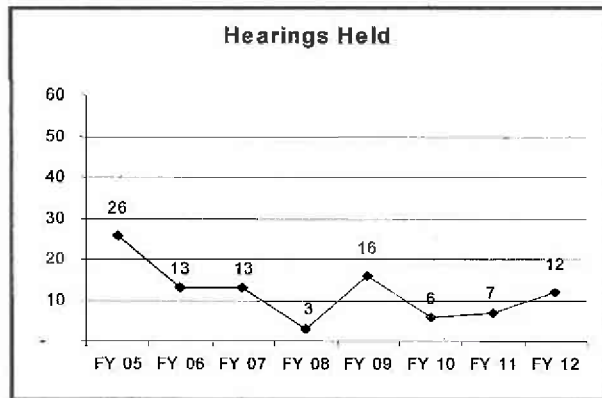
#### **Program Support Services:**

Program Support Services provide the necessary infrastructure to support the Commissioner's Office and the bureau's three divisions as they work to achieve the state's 10-year outcomes. In addition, the Technical Assistance for Employers program's support for employers advances the goal of a fertile economic environment (strategy 2.2) even more directly than many of the steps outlined in the policy vision (see page 9).

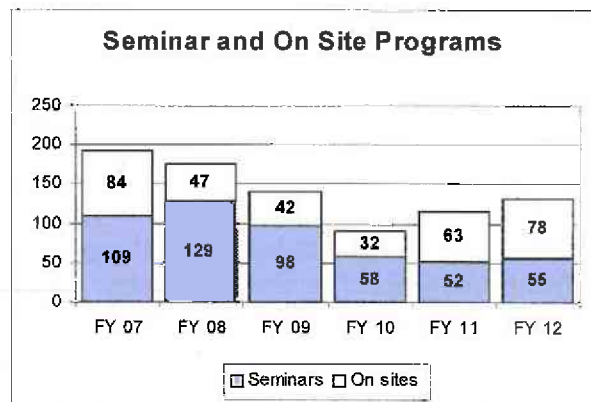
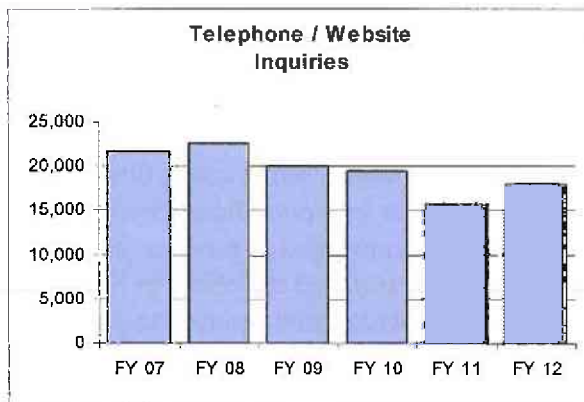
### **Program Performance**

In 2011, the Commissioner's Office won the enactment of an important bill revising Oregon's apprenticeship and training statutes. The changes brought state law into compliance with federal requirements and ensured that Oregon's apprenticeship program continued to produce journeyworker certificates recognized across the country. At the same time, CO staff led the effort to bring career and technical education classes back to Oregon's schools and provide grant funding to jump-start this effort in communities across the state. The Commissioner's Office has led the bureau in very difficult financial times, through strategic planning, careful resource management, and changes in processes to manage more work with fewer staff.

Over the last ten years, the Hearings Unit has managed the loss of staff, including one of its two Administrative Law Judges, in part by increasing its efforts to conciliate and settle cases before hearing. In order to improve the effectiveness and efficiency of the Hearings Unit, comply with legislative directives to reduce management service staff, and reduce the agency's administrative costs, the bureau implemented a reorganization plan during the 2011-13 biennium that reduced, abolished, or reclassified three management positions, including abolishing the agency's HR/Employee Service Manager position, saving an estimated 20% in administrative costs to the agency. As part of this reorganization, the agency was able to establish a new Chief Prosecutor position, enhancing the efficiency and effectiveness of the Hearings Unit (renamed Administrative Prosecution Unit) and agency's legal policy advisor. The focus of the APU is to more expeditiously process the agency's contested cases, with a goal of scheduling cases for hearing within 30 days of assignment to the unit. This reorganization will also allow the agency to develop a mediation process to resolve cases outside the formal hearings process.



Inquiries to the Technical Assistance for Employers Program's free telephone hotline and email response service are a good measure of the productivity of this small team. The number of inquiries increased 12.5% in 2012. Likewise, the number of public seminars and customized, onsite seminars and workshops conducted indicates the significant demand for employer assistance services. Despite a drop in the number of seminars and onsite programs presented in recent years (coinciding with the economic downturn), there has been a major rebound in the 2011-2013 biennium, both in the number of trainings and the average attendance at each session. For example, in 2007 approximately 2700 individuals were trained; in FY 2012, TA trained over 3800 individuals.



### Enabling Legislation/Program Authorization

BOLI and the Commissioner's position are established in ORS chapter 651. That chapter also authorizes the employment of staff to carry out the duties of the Commissioner and bureau.

### Funding Streams

The Commissioner's Office and Program Support Services are funded primarily with General Funds. Other Funds and Federal Funds are also used to fund the duties and support services of this program.

### Significant Proposed Program Changes from 2011-13

#### Contract for HR Services

In order to improve the effectiveness and efficiency of the agency's Hearings Unit; comply with legislative directives to reduce management service staff; and reduce the agency's administrative costs, the bureau implemented a reorganization plan during the 2011-13 biennium that reduced, abolished, or reclassified three management positions, including abolishing the agency's HR/Employee Services Manager position. As part of this reorganization, the bureau contracted with the Department of Consumer and Business Services (DCBS) to provide essential HR services, resulting in reduced administrative costs. The agency requested \$48,281 in General Funds in its Agency Requested Budget and an increase of \$72,752 in Other Fund expenditure limitation to continue contracting with DCBS for its essential HR services in 2013-15 at an estimated cost savings of approximately 20% in HR/administrative costs. (Additional proportional amounts were requested for these services from other divisions in the agency, i.e., the Apprenticeship and Training Division (Economy and Jobs), and the Civil Rights and Wage and Hour Divisions (Safety)). Although the Other Fund expenditure limitation request was approved and is included in the Governor's Balanced Budget, the General Fund Request was not approved.

The agency also requested an Other Fund limited duration position in its Technical Assistance Program be made permanent in order to continue the current level of services being provided by the unit. In addition, \$172,106 in additional General Funds were requested in order to shift an existing Technical Assistance trainer from Other Funds to General Funds, enabling the unit to increase the provision of services in rural areas of the state that are currently cost prohibitive, and provide more services free of charge to employers who are unable to pay to attend seminars and purchase educational materials. The Other Funded position was approved and is included in the Governor's Balanced Budget: The General Fund position was not.

Also requested was an additional \$8,566 in General Funds and an increase of \$7,075 in Other Fund expenditure limitation to pay for unbudgeted bilingual salary differentials for Technical Assistance Unit staff who provide employment-related seminars and consulting services to Spanish-speakers. Again, the General Fund budget request was denied; the Other Fund request was approved and is included in the Governor's Balanced Budget.

#### Information Technology Differential Compensation

In order to improve the effectiveness and efficiency of the agency; comply with legislative directives to reduce management service staff; and reduce the agency's administrative costs, the bureau implemented a reorganization plan during the 2011-13 biennium that reduced, abolished, or reclassified three management positions, including reclassifying the agency's Information Services Manager (PEM D) position to a represented Information Systems Specialist 7 lead worker position.

As part of this reorganization, the bureau consolidated the supervision duties of the information technology staff under the bureau's Business Service Manager. The newly reclassified ISS7 lead worker provides vision and leadership for developing and implementing information technology initiatives, and directs the planning and implementation of enterprise IT systems in support of business operations in order to improve cost effectiveness, service quality, and business development. This position is also responsible for planning the information processing needs and coordinating the acquisition of computer hardware and software, establishing computer security policies and procedures, directing and developing feasibility studies, coordinating and monitoring information systems project development and implementation, negotiating and monitoring hardware and software maintenance contracts, and ensuring the unit provides adequate levels of support to users, systems and equipment.

Pursuant to the Collective Bargaining Agreement, the level of assigned duties of this position requires a 10% lead worker differential compensation.

### Information Technology: Migration from Netware to Windows / Virtualization / VMWare

The Bureau of Labor and Industries maintains a network environment that is intended to ensure the agency has a stable and secure environment to complete its core functions, which aligns with state wide standards, and is cost effective and efficient.

Novell Netware network is presently the network system for the Bureau of Labor and Industries and was selected as the standard network system during a time when Novell Networks were commonplace in the business world. Over the years, Microsoft Windows network has slowly been replacing it as the business standard.

It is apparent that the use of Novell Netware network in the state, both in the number of installations and users, continues to decrease. Overall, Novell's share of the network market has decreased significantly. BOLI is thus experiencing a number of problems with continued use of the Novell Network:

- (1) Increasing difficulty and higher costs in obtaining network technical support.
- (2) Increasing maintenance costs.
- (2) Incompatibility with state wide standards.
- (3) Unfamiliarity with Novell Netware network by new staff hired by the agency.

Novell Netware network has reached its end-of-life for BOLI. BOLI plans to migrate to the statewide standard; the more mainstream Microsoft Windows Network.

### Providing Oracle Database Support and Enhancements

The agency submitted a General Fund Program Option Package (POP) in its Agency Requested Budget to provide ongoing funding to maintain BOLI's Oracle database. BOLI maintains an Oracle database as the storage media for all of the bureau's MIS and database applications. Due to budget reductions in the 2009-11 and the 11-13 biennia, BOLI was required to eliminate a data base analyst position in each biennium to help preserve core services to the public. With the elimination of these two positions, BOLI is left with no dedicated staff person to maintain or provide user support services in connection with its database systems and applications.

The POP proposed contracting out the technical and user support functions to maintain the agency's current database applications. Although the requested amount would help fund ongoing technical and user support functions, it would not provide for any robust enhancements or major version upgrades. The request was denied in the Governor's Balanced Budget.

### Migration from Microsoft Office to 2003 to Microsoft Office 2010

Microsoft Office 2003 is the productivity suite currently in use at the Bureau of Labor and Industries. It is apparent that use of the Microsoft Office 2003 suite by both the public and other governmental agencies is on the decrease. BOLI will have to endure a growing number of difficulties with the continued use of the Microsoft Office 2003 suite including the following:

1. The software life cycle for Microsoft Office 2003 will end on April 8, 2014, at which point there will be no new security updates, non-security hot fixes, support options or online technical content updates;
2. New staff entering the agency are often unfamiliar Microsoft Office 2003 suite;
3. General and advanced training programs are no longer available;
4. There has been a continual rise in version-related discrepancies when communicating with the public and other governmental agencies; and
5. Compatibility issues with the other software products currently in use by BOLI including the agency's email client; Outlook 2010.

Microsoft Office 2003 has reached its end-of-life for BOLI. BOLI plans to migrate to the more mainstream Microsoft office 2010. In addition, BOLI will also establish Microsoft Office 2010 as its PC client standard.

The creation of forms, licenses and other documents are critical functions for the agency. The transmission of electronic documents between staff within BOLI, and between other governmental and public entities is a routine business function for all BOLI staff. A POP was proposed, which would improve agency productivity by allowing more efficient communication both within and outside BOLI by standardizing formatting, allowing for easier creation of portable document formats, and easing compatibility issues with other software products including BOLI's own email client; Outlook 2010. The proposed package would have also enabled BOLI to continue to meet statewide security standards by allowing for continued security updates, non-security hot fixes, support options, and online technical content updates. This migration would have also allowed new staff to continue to use their current skill sets without having to use valuable staff time to retrain them to use an outdated product. The POP was not approved and is not included in the Governor's Balanced Budget.

# Annual Performance Progress Report

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**LABOR and INDUSTRIES, BUREAU of**  
**Annual Performance Progress Report (APPR) for Fiscal Year (2011-2012)**

Original Submission Date: 2012

Finalize Date: 1/31/2013

2011-2012 KPM #	2011-2012 Approved Key Performance Measures (KPMs)
1	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.
2	Timely Processing of Civil Rights Complaints: Percentage of target met for timely: intake, completion of perfected charge, initial interview and investigation (composite measure).
3	Timely Processing of Wage and Hour Complaints: Percentage of target met for timely: intake and jurisdiction determination; demand letter, investigation; Composite measure.
4	WHD: Percentage of WSF claims processed within fewer than 30 days.
5	WHD: Percentage of PWR investigations completed within 90 days.
6	ATD: Number of apprentices receiving journey level certificates.
7	ATD: Number of newly registered apprentices.
8	Apprenticeship Participation: Percentage of new apprenticeship participants who are minorities.
9	HU: Percentage of final orders upheld on appeal to the Oregon Court of Appeals.
10	TA: Percentage of employer technical assistance calls or emails returned no later than the next business day.
11	TA: Percentage of public seminars conducted by TA with an average satisfaction rating of 4 or higher on a 5 point scale on the evaluations.
12	Prevailing Wage Rate Pre-determinations - Response time for requests by public agencies concerning potential coverage of projects under state Prevailing Wage laws.



<b>New Delete</b>	<b>Proposed Key Performance Measures (KPM's) for Biennium 2013-2015</b>
	<b>Title:</b>  <b>Rationale:</b>

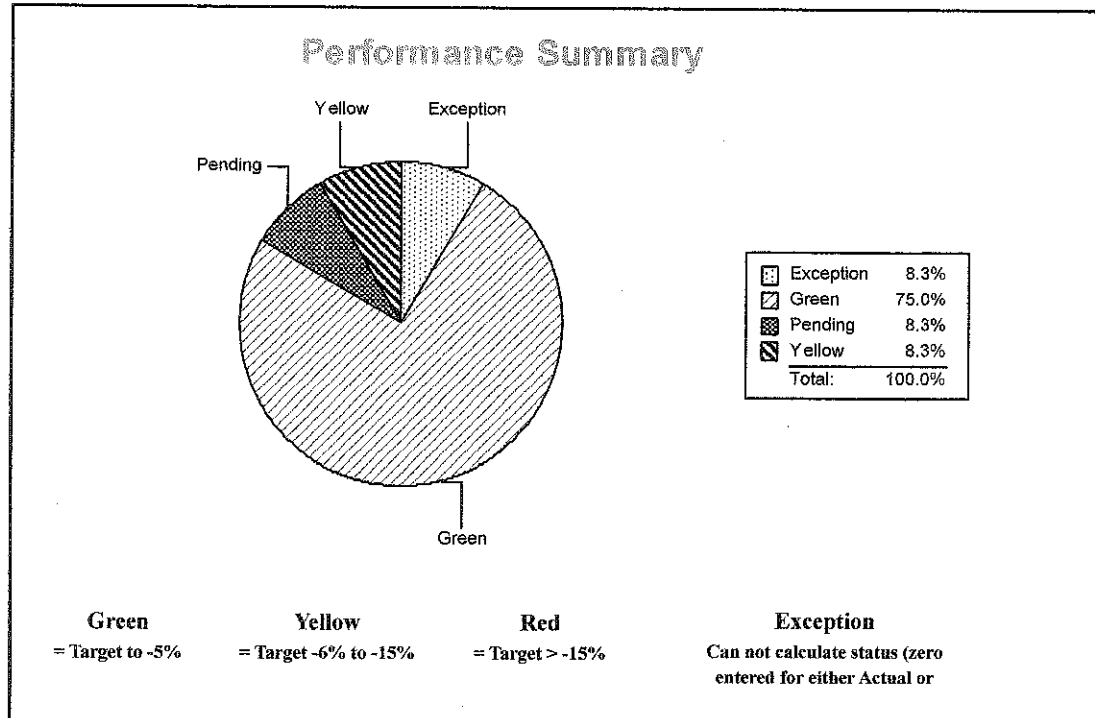
**Agency Mission:** The mission of the Bureau of Labor and Industries is to protect employment rights, advance employment opportunities, and protect access to housing and public accommodations free from discrimination.

**Contact:** Christie Hammond, Deputy Commissioner

**Contact Phone:** 971-673-0785

**Alternate:** Elizabeth Cushwa, Legislative Manager

**Alternate Phone:** 971-673-0786



**1. SCOPE OF REPORT**

The Bureau of Labor and Industries (BOLI) has three major divisions; the Apprenticeship and Training Division (ATD), Civil Rights Division (CRD), and Wage and Hour Division (WHD), as well as the Technical Assistance for Employers Program (TA) and the Administrative Prosecution Unit (APU). Performance measures have been established for each division, unit, and program. Current measures for the divisions include four WHD measures, one CRD measure, and three measures for the Apprenticeship and Training Division (ATD). Performance measures also include one measure relating to the agency's contested cases and two for the agency's Technical Assistance for Employers Program (TA).

## **2. THE OREGON CONTEXT**

The bureau's goals, as described in the mission statement, relate to income security, workforce development, and advancing employment opportunities. There are no overarching Oregon Benchmarks that reflect the specific mission of the agency. The Civil Rights and Wage and Hour Divisions enforce laws that ensure that employees receive wages when due and are able to work in a nondiscriminatory environment. The Civil Rights Division also enforces law to ensure non-discrimination in access to public accommodations and housing. The Technical Assistance for Employers Program's mission is to educate employers, emphasize compliance, and assist employers in avoiding enforcement actions. TA is highly successful in achieving its performance measures. The Administrative Prosecution Unit is the administrative adjudication arm of the agency. It is the goal of the agency to properly interpret and apply the laws BOLI is charged with enforcing, measured in part by the percentage of contested case decisions that are upheld on appeal by the courts.

## **3. PERFORMANCE SUMMARY**

The bureau's successes in relation to its current performance measure goals include: (1) The Apprenticeship and Training Division exceeded its goals in two out of three of its measures; the number of apprentices completing their programs and receiving journey level certificates, and the percentage of minority apprentices. The number of new apprentice registrations continued to fall short of the division's goal, which the division attributes to the economic downturn that has affected employment in general and specifically, the rate at which programs can accept new apprentices for training. However, new registrations have steadily increased the past three years and increased 27% over the previous year in FY 2012, which appears to indicate a positive turnaround in construction industry employment. (2) The Civil Rights Division continues to exceed its target of responding to initial intake inquiries within two business days, and was within 5% and 7% of its goals relating to conducting initial investigative interviews and timely completion of investigations. The enactment of new civil rights legislation without additional staff, combined with staff reductions due to budget shortfalls has had a significant impact on the workload of the division. (3) The Wage and Hour Division substantially exceeded all four of its performance measure goals in FY 2012. (4) The agency did not meet its performance goal pertaining to the percentage of BOLI Final Orders upheld on appeal in FY 2012; however, only one order was appealed during this period. Because of the extremely low number of orders appealed, it may be appropriate to revise this performance measure in the future. (5) The Technical Assistance for Employers Program exceeded both of its performance measure goals and continues to perform highly.

## **4. CHALLENGES**

BOLI's staffing levels have been reduced by approximately 36% since the 1993-95 biennium; from 159 FTE to 101 FTE in 2011-13. The bureau has dealt with the loss of staffing and shrinking resources that do not keep pace with inflation by closing offices, reducing administrative costs, while trying to maintain core services wherever possible. The workload is primarily driven by the number of complaints the agency receives relating to wages and hours worked, terms and conditions of employment, and rights of workers to equal and nondiscriminatory treatment.

## **5. RESOURCES AND EFFICIENCY**

BOLI's funding sources are comprised of 47.8% General Funds, 5.7% Federal Funds, 37.2% Other Funds, and 9.3% Non-Limited Funds (Wage Security Fund).

The agency's 2011-13 legislatively adopted budget contains \$23.62 million in total funds. This includes \$11.28 million in General Funds, \$8.78 million in Other Funds, \$1.35 million in Federal Funds, and \$2.2 million in Non-Limited Other Funds.

Funds are distributed to agency divisions and units as follows:

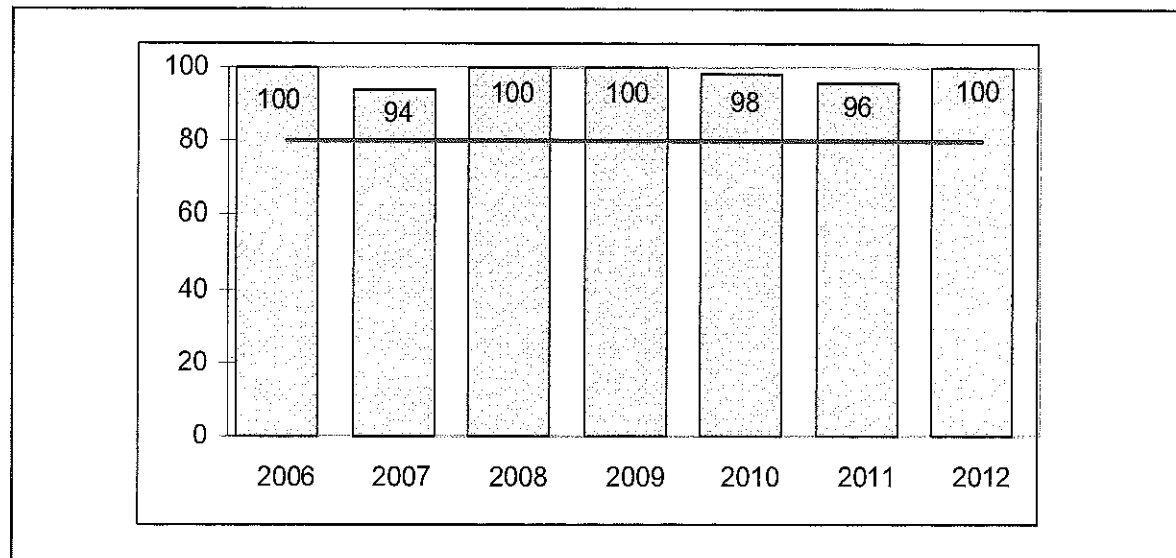
**Apprenticeship and Training Division:** For the 2011-13 biennium, ATD is supported almost exclusively with General Funds in the amount of \$2.798 million. ATD has 18 approved FTE and a total funds budget of \$4.524 million. Of its total fund budget, approximately \$1.5 million is dedicated to ODOT's Heavy Highway Construction Supportive Services program (administered by BOLI), which pays for 1.0 FTE and funds service providers awarded contracts by the division. ATD receives a small amount of Federal Funds, \$88,596, to administer on-the-job training programs for veterans through the Veterans Administration.

**Civil Rights Division:** For the 2011-13 biennium, the CRD has 29.5 approved FTE and is funded by \$2.748 million in General Funds; \$1.055 million in Other Funds; and \$1.109 in Federal Funds -- for a total funds budget of \$4.9 million. Federal Funds come from contracts with the Equal Opportunity Commission and the U.S. Department of Housing and Urban Development, which partially supports the costs of civil rights investigations where federal and state jurisdictions overlap. Other Funds come primarily from OR-OSHA and the Injured Worker Benefit Fund; these funds support the investigation of allegations of retaliation against workers who report workplace safety concerns and allegations of discrimination against injured workers.

**Wage and Hour Division:** For the 2011-13 biennium, WHD has 29 approved FTE and \$2.472 million in General Funds, \$3.492 million in Other Funds, and \$2.2 million in Non-Limited Other Funds. The division's total budget is \$8.16 million. Other Funds are derived primarily from farm/forest labor contractor licensing fees, to support the costs of licensing contractors, and assessments on prevailing wage contracts, to fund the prevailing wage unit. Non-Limited Other Funds come from the Wage Security Fund (WSF) and are dedicated to the payment of final wages for employees whose employers cease operations and default on final paychecks. WSF revenues are derived from the diversion of a fractional percentage of unemployment insurance taxes paid by employers once every two years that are deposited to the Wage Security Fund.

**Commissioner's Office:** For the 2011-13 biennium, the Commissioner's Office and program support services (which include the Technical Assistance for Employers Program, Administrative Prosecution Unit, Information Services Unit, an administrative law judge, Fiscal Services Unit, employee services, legal policy, public information, and intergovernmental affairs) have a total budget of \$6.017 million and 24.5 FTE. The Technical Assistance for Employers (TA) Program is primarily funded with Other Funds (\$1.178 million) derived from the sales of its publications and seminars for employers. The program has a small General Fund budget of \$345,000 and a total of 6.0 FTE. The Administrative Prosecution Unit is approved for 5 FTE and a total budget of \$1.259 million. Other program support services have 13.5 approved FTE (including the commissioner, deputy commissioner, legislative director, executive assistant, and 9.5 FTE fiscal/IT staff) and a total budget of \$3.235 million.

<b>KPM #1</b>	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.	2006
<b>Goal</b>	Demonstrate a commitment to quality customer service.	
<b>Oregon Context</b>	Quality public service.	
<b>Data Source</b>	TA Customer Satisfaction Survey.	
<b>Owner</b>	BOLI, Christie Hammond, 971-673-0785	



**1. OUR STRATEGY**

The Technical Assistance for Employers (TA) Unit educates employers about relevant labor laws by offering handbooks, seminars around the state, and on-site training sessions, as well as an annual comprehensive 2-day training conference with presenters from both the public and private sectors.

**2. ABOUT THE TARGETS**

Through evaluations and feedback, the agency uses information provided by employers to assess services needed and the quality of those provided by TA.

**3. HOW WE ARE DOING**

The Technical Assistance for Employers (TA) Unit consistently performs well above target levels.

**4. HOW WE COMPARE**

BOLI is unaware of any other similar public self-supporting program that provides this type of technical assistance.

**5. FACTORS AFFECTING RESULTS**

The addition of a third program coordinator in the Technical Assistance for Employers Program for the 2011-13 biennium has greatly improved TA's capacity and performance.

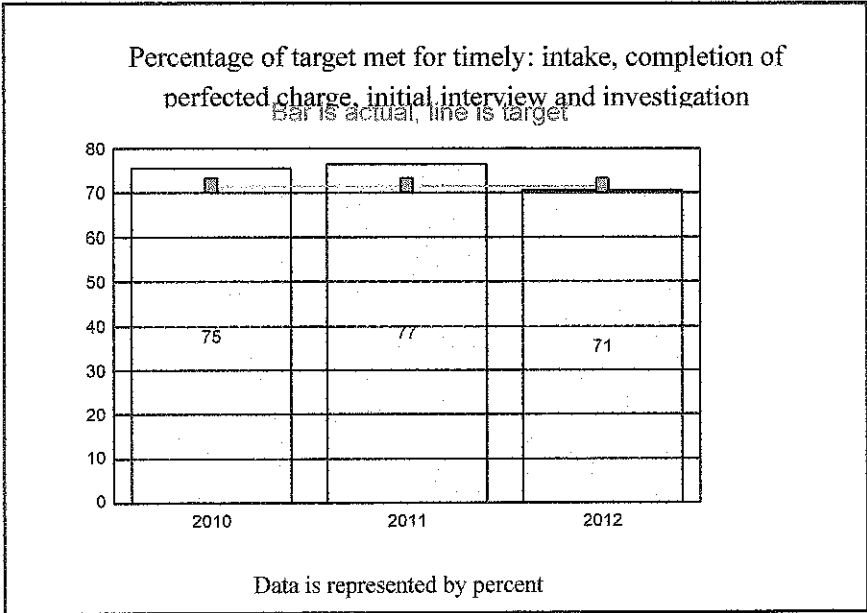
**6. WHAT NEEDS TO BE DONE**

TA staff will continue to solicit input from employers about training topics and information needs, and make adjustments to the content and delivery of its training based on feedback received.

**7. ABOUT THE DATA**

TA Seminar Survey Data for July 1, 2011-June 30, 2012.

<b>KPM #2</b>	Timely Processing of Civil Rights Complaints: Percentage of target met for timely: intake, completion of perfected charge, initial interview and investigation (composite measure).	2009
<b>Goal</b>	Timely processing of Civil Rights Complaints: To protect the rights of workers through a comprehensive, rigorous and timely investigation of civil rights complaints.	
<b>Oregon Context</b>	This measure does not directly align to any Oregon Benchmark.	
<b>Data Source</b>	IMPACT relational database. Data for July 1, 2011-June 30, 2012.	
<b>Owner</b>	BOLI, Christie Hammond, 971-673-0785	



**1. OUR STRATEGY**

The Civil Rights Division seeks to conduct prompt services and fair investigations on all complaints filed with the division alleging civil rights violations in

employment law, public accommodations, career schools and housing. A timely intake process (screening) helps an individual understand whether or not their experience amounts to or may amount to a violation of the civil rights laws of the state of Oregon, and if so, file a timely complaint and meet statutory filing deadlines. Timely initial interviews (with both the complainant and respondent) and investigations provide the best opportunity for a successful resolution, when the parties, records and witnesses are still available and information is “fresh.”

## 2. ABOUT THE TARGETS

The rationale for these targets is to provide prompt intake information to individual inquiries as well as provide for timely investigations and resolutions to the complaints filed with the division. These targets break down the progression of a civil rights complaint, from the initial inquiries from individuals who believe they may have been discriminated against, to the initial investigative interview with a senior civil rights investigator, and finally, the completion of the investigation.

## 3. HOW WE ARE DOING

Although the division has consistently met or exceeded its target to respond to 85% of initial intake inquiries within two business days, the division is struggling to meet its other two targets for completing 65% of initial interviews within the first 45 days, and completing 65% of its investigations within the first 180 days. On average, initial intake inquiries were responded to in an average of 1.8 days (2 business days was the target); initial interviews were conducted within an average of 54.38 days (45 days was the target); and the total investigative length was an average of 172.48 days, (with the goal being fewer than 180 days 65% of the time). When averaged for over four quarters, the division completed 58% of its investigations within the target time frame. The division fell short during the first three quarters, but actually exceeded the target by two percentage points (67%) during the fourth quarter.

## 4. HOW WE COMPARE

The division is not aware of any other states that measure the timeliness of these same three “phases” of civil rights complaint processing.

## 5. FACTORS AFFECTING RESULTS

The legislature, over successive biennia, has enacted significant new legislation that has impacted the work of the division, without providing any additional staff. Due to budget shortfalls, the division was forced to eliminate one senior civil rights investigator position in 2011. In addition, the division had to lay off two additional senior civil rights investigators in 2012, and these positions must be left vacant through the end of the 2013 fiscal year.



In addition, staff layoffs in the Wage and Hour and Apprenticeship and Training Divisions, led to additional lay offs when these staff bumped into the Civil Rights Division, due to their seniority in state service. These staffing interruptions have greatly impacted the division's ability to consistently meet its performance objectives.

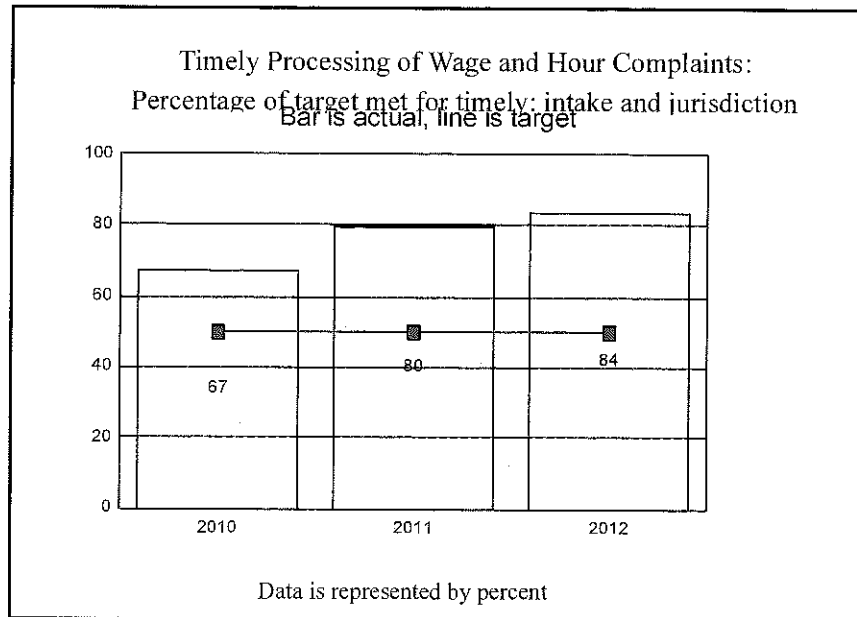
#### **6. WHAT NEEDS TO BE DONE**

The division will continue to struggle with meeting all of its performance goals without additional staff. The investigators' caseloads are continuing to increase, despite our efforts to triage cases based on their potential merit. Additional resources would increase the division's ability to process intake inquiries faster and complete investigations in a timely manner.

#### **7. ABOUT THE DATA**

IMPACT relational database. Data for July 1, 2011-June 30, 2012. Intake inquiries and civil rights charges are logged in the database as they are received and assigned for intake follow-up and investigation. The length of time between an initial intake call and the return call is used to calculate the average number of business days to respond to intake inquires. The time elapsed between the assignment of a case to an investigator and completion of the initial interview with the complainant is used to calculate the percentage of initial interviews conducted within 45 days. The length of time between the date a complaint is assigned for investigation and the date the complaint is closed or referred from the investigator is used to calculate the average number of days to investigate a complaint. Data for this measure is taken from the agency database.

<b>KPM #3</b>	Timely Processing of Wage and Hour Complaints: Percentage of target met for timely: intake and jurisdiction determination; demand letter, investigation: Composite measure.	2009
<b>Goal</b>	Timely process of Wage and Hour Complaints: To protect the rights of workers through a comprehensive, rigorous and timely investigation of wage claims filed with the Wage and Hour Division.	
<b>Oregon Context</b>	This measure does not directly align to any Oregon Benchmark.	
<b>Data Source</b>	IMPACT relational database. Data for July 1, 2011-June 30, 2012.	
<b>Owner</b>	BOLI, Christie Hammond, Deputy Commissioner, 971-673-0785	



**1. OUR STRATEGY**

The Wage and Hour Division seeks to conduct prompt and fair investigations to resolve wage claims. A timely initial review (screening) of a wage claim

provides the employee with needed information regarding the agency's ability to further process the claim and/or other options available to the claimant (Phase I). The timely assignment of the claim to an investigator (Phase II) and then a timely investigation (Phase III) provide the best opportunity for a successful resolution, when the parties, records and witnesses are still available and information is "fresh." These 3-phase measures provide agency management with information for analyzing performance and doing targeted process improvements to improve overall performance and timeliness.

## 2. ABOUT THE TARGETS

The rationale for this 3-part measure is to promptly resolve wage claims as soon as possible to provide claimants with the income security they need to support themselves and their families. This composite measure breaks down the processing of a wage claim and measures timeliness during three distinct phases of the wage claim process--from receipt of the claim to the initial contact with the employer, to the time before it is assigned for investigation, and finally, completion of the investigation.

## 3. HOW WE ARE DOING

Although due to cuts made to the agency's budget in FY 2012, the division was forced to reduce the numbers and types of wage claims processed for part of the year, the division significantly exceeded its targets in all three "phases" of this composite KPM, and improved its performance from the previous year in two of the three phases. Demand letters to employers were sent in less than 12 days for 86.7% of the claims received in FY 2012 (compared to 82% the previous year). Likewise, the division exceeded its goal of assigning 50% of wage claims for investigation within 30 days, continuing to assign 100% of cases within 30 days of a Notice of Claim being sent to the employer and either receiving a response from the employer or the employer failing to respond (Phase II). The division also exceeded its goal of completing 50% of its wage claim investigations with 35 days (Phase III) by completing 64.7% of its investigations within this time period (compared to 57.1% the previous year).

## 4. HOW WE COMPARE

The division is not aware of any other states that measure the timeliness of these same three "phases" of wage claim processing.

## 5. FACTORS AFFECTING RESULTS

In FY 2012, the division continued to exceed its performance goals despite an increase in the number of wage claim investigations it conducted. The number of wage claim investigations rose to 1,075, compared to 821 in the previous year. However, at the onset of FY 2013, due to budget reductions, the division was compelled to reduce investigative staff by three positions and, consequently, to restrict the types of wage claims it accepted for investigation. Beginning in

July 2012, the division began to investigate only those wage claims involving nonpayment of minimum wage or overtime and claims qualifying for payment from the Wage Security Fund. The single most critical factor in the division's wage claim performance is the availability of trained staff to process and investigate wage claims. In order to resolve wage claims efficiently and expediently, the division requires adequate compliance resources to retain compliance staff and maintain service levels.

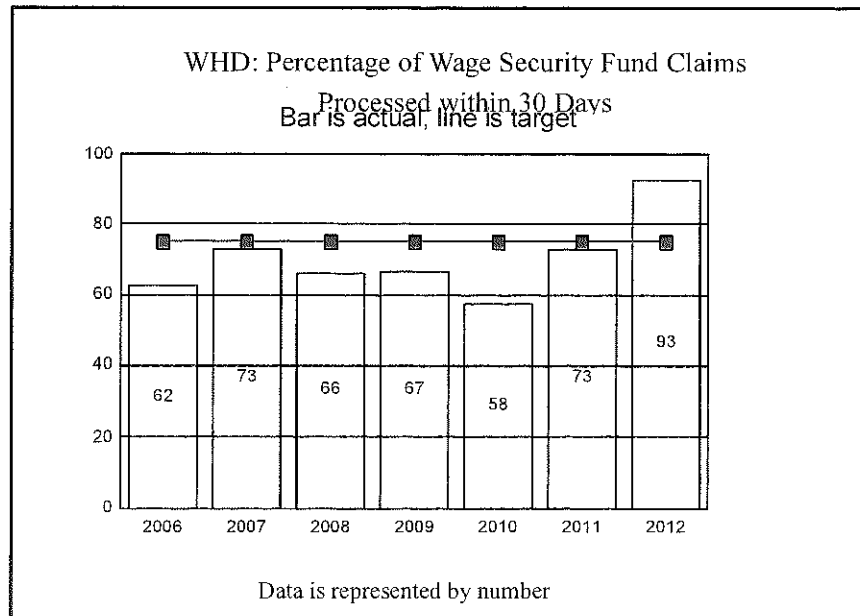
#### **6. WHAT NEEDS TO BE DONE**

In December 2012, the Emergency Board restored funding for two of the three Wage and Hour Compliance Specialist positions that had been eliminated in July 2012 on account of budget reductions. Additional resources to restore the third 1.0 FTE Wage and Hour Compliance Specialist would augment the division's ability to investigate all types of wage claims and to resolve wage disputes in a timely manner.

#### **7. ABOUT THE DATA**

IMPACT relational database. Data for July 1, 2011-June 30, 2012. Cases are logged in the database as they are received and assigned for investigation. The length of time between the date a claim is received and the date a demand letter is sent (for claims where a demand letter was sent) is used to calculate the number of wage claims processed in less than 12 days; the length of time between the date a claim is identified as pending assignment and the date it is assigned for investigation (for claims assigned for investigation) is used to calculate the number of claims assigned within 30 days; the length of time between the date a claim is assigned for investigation and the date the claim is closed or referred from the investigator is used to calculate the number of claims investigated in fewer than 35 days. Data for this measure is taken from the agency database.

<b>KPM #4</b>	WHD: Percentage of WSF claims processed within fewer than 30 days.	2005
<b>Goal</b>	WHD: Promptly pay benefits from Wage Security Fund (WSF) to workers who do not receive wages already earned when a business fails.	
<b>Oregon Context</b>	This measure does not directly align to any Oregon Benchmark.	
<b>Data Source</b>	IMPACT relational database. Data for July 1, 2011-June 30, 2012.	
<b>Owner</b>	BOLI, Christie Hammond, 971-673-0785	



**1. OUR STRATEGY**

The Wage and Hour Division (WHD) administers the Wage Security Fund, which is available to pay up to \$4,000 of the final wages owed to employees of employers that go out of business and are financially unable to meet their final payroll obligations. The Wage Security Fund (WSF) is unique to Oregon and

assists workers in meeting their financial obligations when their paychecks do not arrive as expected.

## 2. ABOUT THE TARGETS

It is the division's goal to process Wage Security Fund claims within 30 days if possible. The target is designed to get funds as quickly as possible to employees who have lost their jobs and are not paid for the work they performed in order to assist them in meeting their financial obligations.

## 3. HOW WE ARE DOING

The division has struggled to meet this performance measure in the past, but by prioritizing Wage Security Fund claims ahead of others, was successful in exceeding its goal of processing 75% of Wage Security Fund claims within 30 days in 2011-12 by processing 92.6% of claims received in this period of time. 97.5% of Wage Security Fund claims received were processed within 45 days.

## 4. HOW WE COMPARE

Because no other state administers a fund like the Wage Security Fund (only Maine has a similar type of fund), it is not possible to compare performance in this area.

## 5. FACTORS AFFECTING RESULTS

Workload is difficult to predict since it is based on the rate and scale of business closures, and it is often difficult to obtain needed documentation from businesses that have abruptly closed or declared bankruptcy. In addition, investigators who process and investigate Wage Security Fund claims are also responsible for investigating other types of claims, and the volume of these other claims in the system and investigator caseloads affect the division's Wage Security Fund claim processing performance.

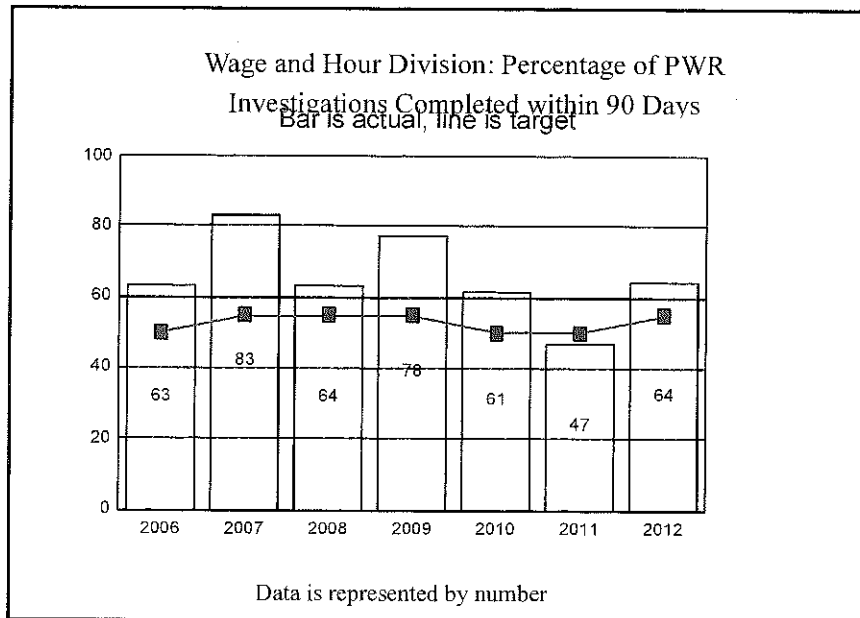
## 6. WHAT NEEDS TO BE DONE

By prioritizing its processing of these claims and working with staff to identify ways in which processes can be expedited, the division significantly improved its performance in the timely processing of Wage Security Fund claims this biennium; improving performance by nearly 20%. The division will continue to prioritize and emphasize the timely processing of these claims in order to meet and maintain the goal for this performance measure.

**7. ABOUT THE DATA**

IMPACT relational database. Data for July 1, 2011-June 30, 2012. Claims are logged in the database as they are received and assigned to staff. Time elapsed between initial receipt of a claim and when the claim is authorized for payment from the WSF is used to calculate the percentage of claims processed in 30 days or less.

<b>KPM #5</b>	WHD: Percentage of PWR investigations completed within 90 days.	2005
<b>Goal</b>	WHD: Resolve prevailing wage rate (PWR) complaints quickly to protect both the worker and the public's investment in infrastructure.	
<b>Oregon Context</b>	This measure does not directly align to any Oregon Benchmark.	
<b>Data Source</b>	IMPACT relational database. Data for July 1, 2011-June 30, 2012.	
<b>Owner</b>	BOLI, Christie Hammond, 971-673-0785	



**1. OUR STRATEGY**

The Prevailing Wage Rate Unit of the WHD is charged with enforcing the payment of prevailing wages on (a) public works projects of \$50,000 or more that are carried on by or contracted for by a public agency, or (b) privately-owned projects that use more than \$750,000 in public funds. The prompt resolution of



PWR investigations is important to both workers who are owed wages and construction contractors whose bonds may be tied up until the investigation is concluded.

## 2. ABOUT THE TARGETS

PWR investigations are complaint based. The PWR Unit investigates allegations that contractors employing workers on projects covered by the prevailing wage law are not paying the applicable wage rates required under the law. These investigations can involve lengthy examinations of projects and payroll records covering several months to determine whether wages are owed to workers. The division has established a target of completing 50% of its PWR investigations within 90 days.

## 3. HOW WE ARE DOING

The PWR Unit improved its performance over the previous fiscal year by nearly 18% in FY 2012 and exceeded its target of completing 50% of all PWR investigations in 90 days or less by completing 64.1% of all PWR investigations within this period of time.

## 4. HOW WE COMPARE

WHD is unaware of other state's timelines for conducting prevailing wage investigations.

## 5. FACTORS AFFECTING RESULTS

The single most critical factor in the division's performance in this measure is the availability of trained staff to process and investigate PWR complaints. In order to resolve PWR complaints efficiently and expediently, the division requires adequate compliance resources to retain compliance staff and maintain service levels.

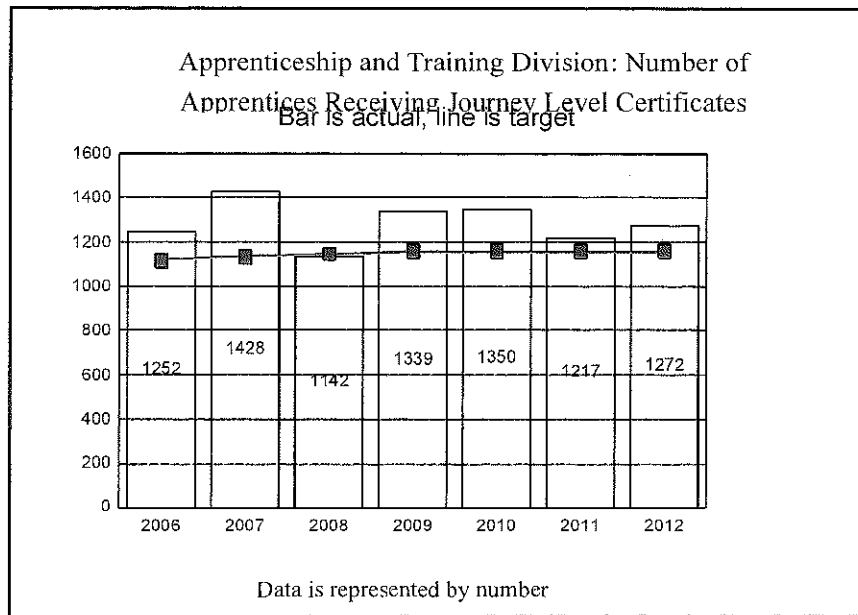
## 6. WHAT NEEDS TO BE DONE

The PWR Unit continues to encourage the use of project predeterminations to determine coverage under the PWR law, which the agency believes reduces a certain number of cases in which application of the law to the project is an issue. The Unit conducts bi-weekly meetings to work on improving its processes and efficiency, which have proven effective in increasing the timeliness of case processing.

**7. ABOUT THE DATA**

IMPACT relational database. Data for July 1, 2011-June 30, 2012. Cases are logged in the database as they are received and assigned for investigation. Time elapsed between the assignment of a case for investigation and the final closure of a case is used to calculate the percentage of cases processed in 90 days or less.

<b>KPM #6</b>	ATD: Number of apprentices receiving journey level certificates.	2005
<b>Goal</b>	ATD: Ensure registered apprentices are receiving valuable learning experiences.	
<b>Oregon Context</b>	This measure does not directly align to any Oregon Benchmark.	
<b>Data Source</b>	Division Management Information System. Data for July 1, 2011-June 30, 2012.	
<b>Owner</b>	BOLI, Christie Hammond, 971-673-0785	



**1. OUR STRATEGY**

The Apprenticeship and Training Division (ATD) seeks to ensure that registered apprentices are receiving valuable learning experiences, completing their training, and going on to receive an industry recognized credential – referred to as a journey level certificate.

The Oregon State Apprenticeship and Training Council (OSATC) provides policy direction and approves local apprenticeship committees and their occupational standards. The division plays an administrative role in this process and provides technical support to the OSATC and local apprenticeship committees to develop apprenticeship-training standards, certify registered training agents and apprentices and ensure quality-training standards are met. Furthermore, the division facilitates the growth and promotion of the apprenticeship model of training by assisting communities in building partnerships with educational institutions, government agencies, private training agents and various other community partners.

This goal is directly related to the agency's core mission of advancing employment opportunities. Apprenticeship programs provide supervised, structured training for high skill jobs; programs combine theoretical knowledge with hands-on experience and are based on a recognized set of skill standards. Graduates of these programs have higher employment potential in high demand industries in Oregon. Despite the lack of work for many apprentices, the division has assisted industry in developing policies that permit apprentices to complete their programs in a timely manner.

## 2. ABOUT THE TARGETS

ATD and the Oregon State Apprenticeship and Training Council want to make sure that apprenticeship programs are doing their best to ensure apprentices complete their training. The annual target of 1160 apprentices receiving journey level certification was based on data from FY 2004 (when the measure was created) and on economic predictions of a growing economy and historical performance. While this performance measure tracks the total number of completions from apprenticeship programs, it does not measure a number of equally important aspects, like the ratio of new apprentices who complete their programs to those who do not (completion rates), the quality of their training, or the availability of jobs upon completion of an apprenticeship program.

## 3. HOW WE ARE DOING

With 1,272 apprenticeship graduations in FY 2012, the division exceeded its goal of 1,160 apprentices receiving journey level certificates. The increase in completions is primarily due to increased work being available due to the improving economy resulting in late term apprentices being able to complete their programs more quickly than anticipated. However, the division recognizes that employment projections continue to forecast a severe shortage of skilled craft workers within the next 10 years. These are the plumbers, electricians, millwrights, and manufacturers that make up the infrastructure of the state's economy. The division is pleased that apprenticeship programs and employers moved more apprentices towards completion when work started to become scarce and will reinforce the need for industry to refocus its efforts to attract and retain new apprentices as the economy begins to recover.

## 4. HOW WE COMPARE

By way of comparison, the State of Washington, with 12,519 registered apprentices for the 2011 calendar year, reports that 1,743 individuals completed their program and received journey level certification in the last calendar year (2011).

## 5. FACTORS AFFECTING RESULTS

The target was based on FY 2004 data and the industry experienced a significant increase in growth through 2008. If the economy had remained steady, those apprentices would have graduated in 2011 and 2012. The ensuing recession created an incentive for employers to maintain current apprentices through graduation rather than incurring the cost of starting new apprentices. The relative high number of completions during the recession is the result of concerted efforts by employers to complete individual already in the system rather than start lower paid new apprentices. Compliance efforts undertaken by the division to ensure quality standards have also increased completion rates of apprentices.

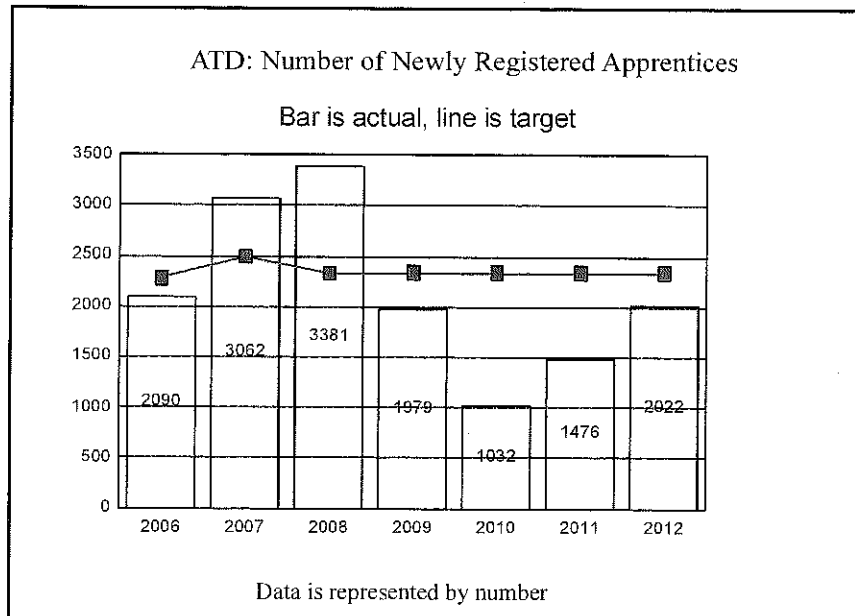
## 6. WHAT NEEDS TO BE DONE

ATD needs to continue to work with its Joint Apprenticeship and Training Committees (JATCs) to ensure that they provide appropriate resources and mentorship to those who sincerely seek to obtain a journey level certificate. High compliance standards have led to high apprenticeship completion rates in Oregon, and the division will continue this effort. At the same time, the division needs to provide program sponsors with information showing that the decline in new apprentices registered between 2009 and 2012 may result in a lack of qualified workers three to five years out, and encourage them to start training a new cadre of apprentices. In addition, the division needs to continue to focus apprenticeship outreach and recruitment efforts toward high demand industry sectors.

## 7. ABOUT THE DATA

Division Management Information System. Data for July 1, 2011-June 30, 2012.

<b>KPM #7</b>	ATD: Number of newly registered apprentices.	2005
<b>Goal</b>	ATD: Increase skilled workforce by increasing the number of newly registered apprentices.	
<b>Oregon Context</b>	This measure does not directly align to any Oregon Benchmark.	
<b>Data Source</b>	Division Management Information System. Data for July 1, 2011-June 30, 2012.	
<b>Owner</b>	BOLI, Christie Hammond, 971-673-0785	



**1. OUR STRATEGY**

Projected workforce shortages make it essential that more apprentices enter training programs. While BOLI does not play a direct role in the hiring of new apprentices, the division’s outreach and recruitment activities as well as its technical assistance provided to employers about the benefits of structured

workforce training has assisted employers in deciding to build their workforce through apprenticeship. This goal is directly related to the agency's core mission of advancing employment opportunities.

## **2. ABOUT THE TARGETS**

The target was based on FY 2004 data and the construction industry had experienced significant growth through 2008. That growth resulted in a substantial increase in the number of newly registered apprentices through 2008. The subsequent recession created an incentive for employers to maintain current apprentices through completion of their programs rather than incurring the cost of starting new apprentices.

## **3. HOW WE ARE DOING**

The economic downturn has significantly affected the rate at which new apprentices have been accepted into programs. During the growth period of 2006 through 2008, an average of 2,853 new apprentices were registered each year. That figure fell to an average of 1,492 new apprentices registered each year during the peak of the recession in 2009 through 2011. Employers do not register apprentices when there is no long term work available. ATD and the JATCs fell far short of reaching their goal in this area and registered a total of 2,022 new apprentices in FY 2012. This is, however, an increase in registrations over the past three years and indicates the beginning of a turnaround in the construction industry employment that may be sustainable.

## **4. HOW WE COMPARE**

The State of Washington reports that it registered 2,346 new apprentices in the 2011 calendar year. Although this number is significantly higher than the number of new registrants in Oregon, Washington has a significantly larger population than Oregon and the rate of apprenticeship completion is not nearly as high as Oregon's. In effect, this means Washington must register more apprentices to get the same number of graduates. Like Oregon, Washington also experienced a significant drop in the number of new apprentices, most likely due to the down economy.

## **5. FACTORS AFFECTING RESULTS**

Industry growth and occupational demand is affecting the growth rate of newly registered apprentices. As the economy continues to rebound, the division anticipates that it will be able to meet its targets in upcoming years.

## **6. WHAT NEEDS TO BE DONE**

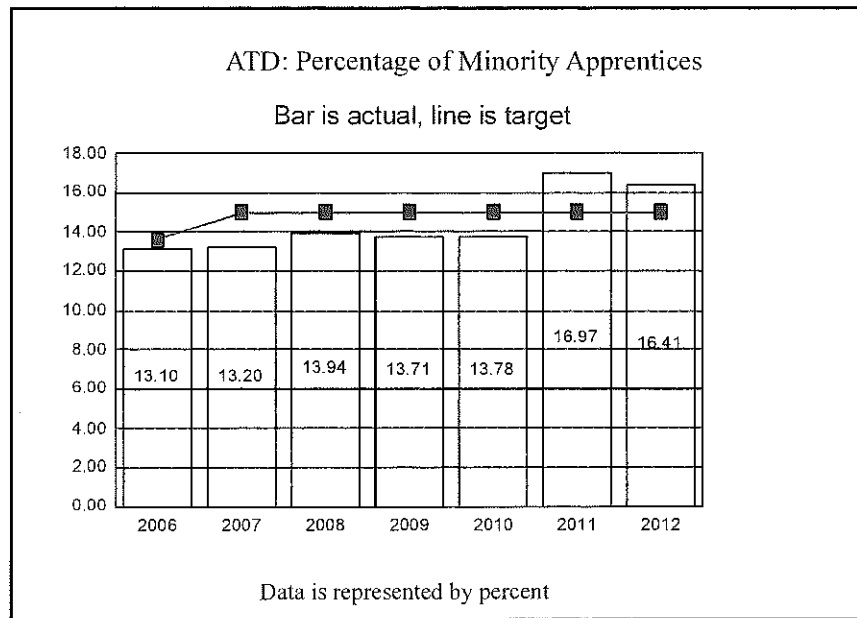
If the current recession is indeed subsiding, ATD will need to work with outreach and recruitment sources to help ensure that a qualified pool of new applicants is available to industry. A sustained increase in registrations will not occur until increased commercial construction and heavy manufacturing activity creates a demand for new workers. As the cadre of apprentices starting their programs in 2007 and 2008 begins to complete their programs, employers will need to start new apprentices to replace retiring workers and to meet the needs from the anticipated economic recovery. Although this goal was set based on economic predications made in FY 2004, it has not been updated due to current economic uncertainties. As with KPM #6, this measure and its targets would be more informative if annual performance goals for new apprentices registered were based on projected future demand in each sector (and factored in the historical completion rates of each program).

**7. ABOUT THE DATA**

Division Management Information System. Data for July 1, 2011-June 30, 2012.



<b>KPM #8</b>	Apprenticeship Participation: Percentage of new apprenticeship participants who are minorities.	2005
<b>Goal</b>	Increase the number of minority participants in apprenticeship programs.	
<b>Oregon Context</b>	This measure does not directly align to any Oregon Benchmark.	
<b>Data Source</b>	Division Management Information System. Data for July 1, 2011-June 30, 2012.	
<b>Owner</b>	BOLI, Christie Hammond, 971-673-0785	



**1. OUR STRATEGY**

The Apprenticeship and Training Division (ATD) and Oregon State Apprenticeship and Training Council (OSATC) are working to increase the diversity in the apprenticeable construction trades. Federal law requires apprenticeship programs to include affirmative action plans, and BOLI works with individual

apprenticeship programs to adopt and implement appropriate plans and achieve results. Recognizing that increased diversity can only come through new workers entering the industry, BOLI staff works with education and workforce partners, ODOT, urban renewal agencies, industry associations, labor organizations and community groups to help increase minority participation in apprenticeship programs. BOLI and ATD will try to channel momentum toward high-wage, high-demand jobs, through the promotion and restoration of vocational-technical education at the middle and high school levels and coordinate those efforts with adult apprenticeship opportunities.

## 2. ABOUT THE TARGETS

The targets are set to increase the percentage of minority apprentices participating in apprenticeship programs until such a point where apprenticeship programs are proportionally representative of the state's minority workforce population.

## 3. HOW WE ARE DOING

After making years of steady progress toward meeting the goal of 15% of newly registered apprentices representing minority populations, the division exceeded its goal in FY 2011 and in FY 2012, 16.41% of new apprentice registrations were protected class minority populations. Despite the decrease in overall apprenticeship registration, minority populations do not seem to have been disproportionately impacted. The division works directly with programs showing particularly low minority participation rates to improve their affirmative action plan and increase minority participation in the program.

## 4. HOW WE COMPARE

Oregon lags behind most other states with respect to the percentage of minority participants in registered apprenticeship programs. Nonetheless, minority apprentice registrations have exceeded the percentage of the state's total minority workforce (15%), the basis for the performance target. In calendar year 2011, 21% of all new apprenticeship registrations in Washington State were minorities.

## 5. FACTORS AFFECTING RESULTS

The results are affected by the unmet need of conducting increased outreach, mentorship and increased partnering with community groups especially in areas with large minority populations, industry associations such as OAME, labor organizations, minority business owners, urban renewal agencies, workforce partners and ODOT. State and local contractual requirements mandating the use of apprenticeship training on some public and private projects have also created additional apprenticeship opportunities that are more frequently being filled by women and people of color. Support for these individuals as they enter the apprenticeship system has been provided through the BOLI-ODOT Supportive Services program.

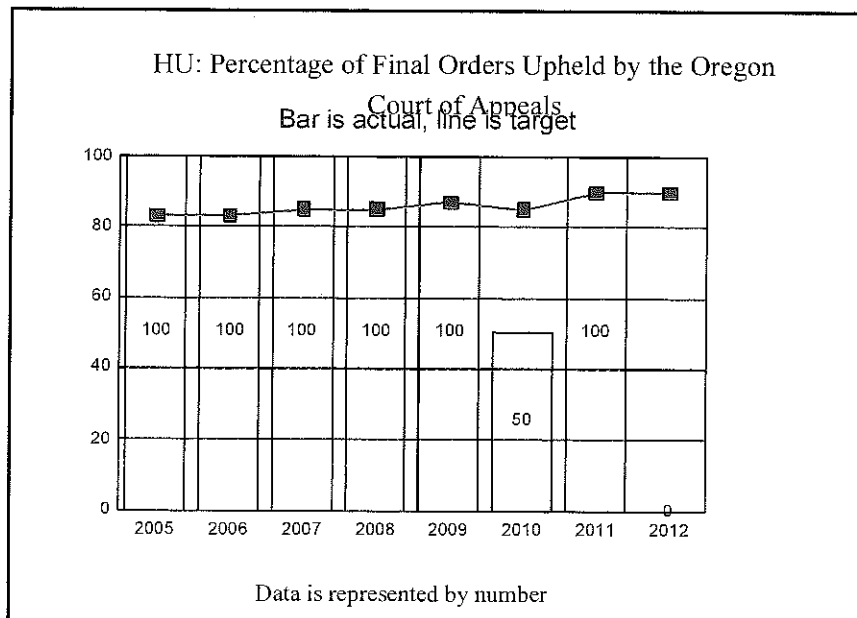
**6. WHAT NEEDS TO BE DONE**

ATD will continue to devote time to technical assistance to JATCs so they can have an increasing pool of minority applicants for their programs. With only nine apprenticeship representatives to serve the state with a growing number of apprentices and committees, and when the staff's primary role is compliance, it is difficult to provide additional assistance to the JATCs.

**7. ABOUT THE DATA**

Division Management Information System. Data for July 1, 2011-June 30, 2012.

<b>KPM #9</b>	HU: Percentage of final orders upheld on appeal to the Oregon Court of Appeals.	2004
<b>Goal</b>	Final orders issued reflect agency policy and are legally sound.	
<b>Oregon Context</b>	This measure does not directly align to any Oregon Benchmark.	
<b>Data Source</b>	Oregon Court of Appeals and Supreme Court Reporters.	
<b>Owner</b>	BOLI, Christie Hammond, 971-673-0785	



**1. OUR STRATEGY**

The bureau's Administrative Prosecution Unit (APU) (formerly Hearings Unit) pursues the agency's wage and hour and civil rights administratively contested cases. As part of this process, the Commissioner of the Bureau of Labor and Industries issues final orders that become agency precedent. It is the agency's

goal to have final orders issued by the commissioner that are appealed by respondents upheld by the Oregon Court of Appeals and the Supreme Court.

This goal is directly related to BOLI's mission of protecting employment rights.

## 2. ABOUT THE TARGETS

It is important to set a high target for this measure to maintain excellence and the agency's credibility in the administrative processing of wage and hour and civil rights contested cases in enforcing wage and hour and civil rights laws.

## 3. HOW WE ARE DOING

In FY 2012, the Oregon Court of Appeals issued one opinion regarding a BOLI Final Order, overturning the Commissioner's order and remanding the case to BOLI for further proceedings under a standard the court ruled was correct. BOLI has petitioned the Oregon Supreme Court for review of the Court of Appeal's opinion, and that petition is pending. So far in FY 13, one BOLI final order has been appealed to the Oregon Court of Appeals, and the appeal is pending. It is important to note that BOLI has historically had a high percentage of its final orders upheld on appeal and until FY 2012, had only lost one case on appeal since FY 2005. (*Emerald Steel Fabricators, Inc., vs. BOLI* was overturned by the Oregon Supreme Court in April 2010. This final order, which was issued in 2005, required an employer to determine whether use of medical marijuana could be a reasonable accommodation for an employee's disability.) It should also be noted, however, that the number of contested case hearings has significantly declined over the past 10 years and it is now far more common for cases to settle and not to go through a hearing. The decreased number of contested case hearings has also decreased the number of appeals: Only one appeal was ruled on in both FY 2012 and FY 2011 compared with two such rulings in FY 2010.

## 4. HOW WE COMPARE

It is difficult to compare this data with other jurisdictions.

## 5. FACTORS AFFECTING RESULTS

The number of contested case hearings at BOLI has decreased significantly over the past 10 years. It is now far more common for the Administrative Prosecution Unit to settle cases than have them go through a hearing. This has the effect of reducing court appeals, since BOLI is not issuing as many final orders as it has historically. BOLI views the increase in settlements and the decrease in contested case hearings as a generally positive outcome, but it means fewer and fewer opinions are issued on appeals each year.

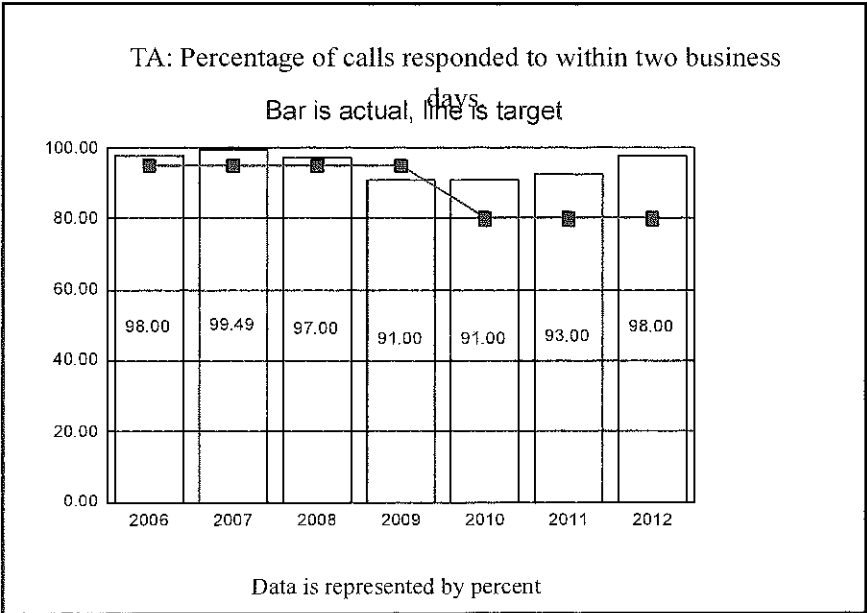
**6. WHAT NEEDS TO BE DONE**

The agency continues to set high standards for its Administrative Prosecution Unit and administrative law judge.

**7. ABOUT THE DATA**

Oregon Court of Appeals and Supreme Court Reporters; Opinions issued July 1, 2011-June 30, 2012 on BOLI final orders. The agency uses the date the opinion was issued to track performance in this area--Opinions can often be issued years after BOLI's final order on the same case.

<b>KPM #10</b>	TA: Percentage of employer technical assistance calls or emails returned no later than the next business day.	2005
<b>Goal</b>	TA: Employers receive prompt, accurate technical assistance to comply with Oregon law.	
<b>Oregon Context</b>	This measure does not directly align to any Oregon Benchmark.	
<b>Data Source</b>	Internal Tracking System. Data for July 1, 2011-June 30, 2012.	
<b>Owner</b>	BOLI, Christie Hammond, 971-673-0785	



**1. OUR STRATEGY**

The goal for the Technical Assistance for Employers program (TA) is to provide employers with prompt, accurate technical assistance to comply with Oregon law. Employers with employment law questions often need immediate answers, and a prompt response can be essential to avoiding prolonged disputes.

Assisting employers in complying with the law is related to the agency's core mission of protecting employment rights.

## 2. ABOUT THE TARGETS

This target is to ensure that employers receive a timely response to their technical assistance questions. Employers with technical questions need timely answers in order to avoid complaints and exacerbating situations currently happening in the workplace. Responding to employers' questions by the following business day is a reasonable goal.

## 3. HOW WE ARE DOING

TA exceeded its performance target this fiscal year and returned 98% of calls and emails within one business day. The unit responded to 17,626 phone calls and emails, of which only 329 were returned outside the 24-hour target. This is a remarkable achievement given that three program coordinators, one administrative specialist and one manager fielded over 17,500 employer inquiries and conducted 133 seminars in FY 2012. This achievement was due in large part to the general fund support for one program coordinator and administrative specialist that was approved for the 2011-2013 biennium. This allocation has allowed the program to focus more resources on the free services provided to employers like the technical assistance hotline, continuing seminars in rural areas that would not otherwise be feasible (as the seminar fees do not cover the expenses), and providing information via the website and advice columns, which are accessible to all employers—not just those who attend seminars or purchase handbooks.

## 4. HOW WE COMPARE

TA is unaware of any similar public self-supporting program that provides such technical assistance in any state. Given the increased number of calls and the complexity of the inquiries, it is significant that performance has stayed consistently high in this area.

## 5. FACTORS AFFECTING RESULTS

Factors affecting results involve the number of calls and emails received and the competing demands on the staff to perform seminars, both public and on-site private ones tailored to the employer's needs. Because TA's budget is derived primarily from the sale of its seminars, handbooks, and posters, staff must prioritize those duties above the employer assistance hotline. The addition of new Fact Sheets and FAQs on the agency's website, as well as the seven new and revised handbooks published by the unit, have reduced the number of phone calls and email inquiries.

## 6. WHAT NEEDS TO BE DONE

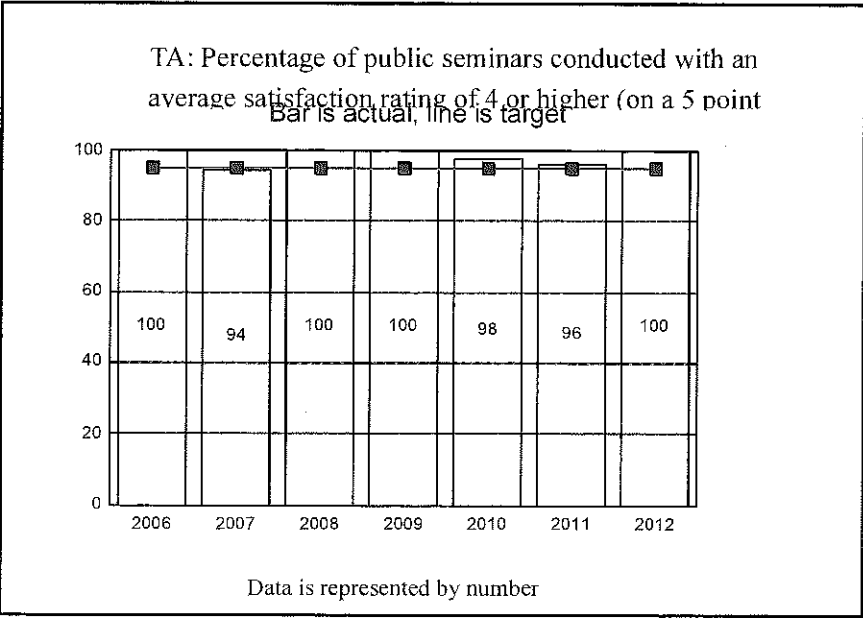


The TA program continues to reorganize and allocate resources to become more responsive to employer demands and to provide updated information on new laws and concerns to employers.

**7. ABOUT THE DATA**

Internal Tracking System. Data for July 1, 2011-June 30, 2012. Calls are logged as they come in and again when they are responded to. The time elapsed between an employer's initial call or email and when TA staff returns the call or email is used to calculate the percentage of calls responded no later than the next business day.

<b>KPM #11</b>	TA: Percentage of public seminars conducted by TA with an average satisfaction rating of 4 or higher on a 5 point scale on the evaluations.	2005
<b>Goal</b>	TA: Seminars for employers provide accurate information in a user-friendly atmosphere to assist them in complying with the law.	
<b>Oregon Context</b>	This measure does not directly align to any Oregon Benchmark.	
<b>Data Source</b>	TA Seminar Survey. Data for July 1, 2011-June 30, 2012.	
<b>Owner</b>	BOLI, Christie Hammond, 971-673-0785	



**1. OUR STRATEGY**

The Technical Assistance for Employers program offers a variety of training seminars for Oregon employers, supervisors, managers, and human resource professionals. Technical Assistance trainers work closely with bureau enforcement divisions to provide employers with educational seminars that cover the

latest developments in employment law. The goal for the Technical Assistance for Employers program (TA) is for employers to receive accurate technical assistance in its seminars to comply with Oregon law. Seminars are conducted on a range of employment law topics including: Wage and Hour Laws, Leave Laws in Oregon, Civil Rights and Harassment in the Workplace, Employee Supervision, Payroll Issues, and Recordkeeping Requirements. The program applied for and received approval for seminar attendees to receive HRCI credits and continuing education credits from the Landscape Contractors Board and Construction Contractors Board. These certifications enhance the value of the seminars to attendees. The program has partnered with organizations such as the Oregon Employer Council to ensure that seminars are provided throughout Oregon at a reasonable cost for attendees. Partial General Fund support has allowed the program to provide free public seminars and make presentations at no cost for business associations and other groups. TA strives for its seminar attendees to rank their experience highly and give a high score to the value of their seminar attendance. In helping employers understand and comply with the law, this goal is directly related to the agency's mission of protecting employment rights.

## **2. ABOUT THE TARGETS**

The rationale for the target is to ensure that employers receive quality training in how to comply with state and federal employment laws and rate their seminar experience highly. Employers report in the survey their satisfaction with the training, the value of the information received, usefulness of training materials, and suggestions for future training topics.

## **3. HOW WE ARE DOING**

The Technical Assistance for Employers program has exceeded its performance goal for this measure. In FY 2012, TA conducted a total of 133 seminars, and 100% of all seminars had an average respondent score of 4 or higher. These high scores mean seminar attendees place a high value on the information received and are very satisfied with the seminars conducted by the program.

## **4. HOW WE COMPARE**

TA is unaware of any other similar public self-supporting program that provides such technical assistance. Average satisfaction levels, however, have remained consistently high from year to year and TA has consistently exceeded the performance goal for this measure.

## **5. FACTORS AFFECTING RESULTS**

The addition of a third program coordinator for the 2011-2013 biennium has greatly improved the TA program's capacity and performance. Restoring the hours the Employer Assistance Hotline is open and the ability to provide (limited) free seminars and updated employer handbooks is a valuable service to

Oregon employers and employees.

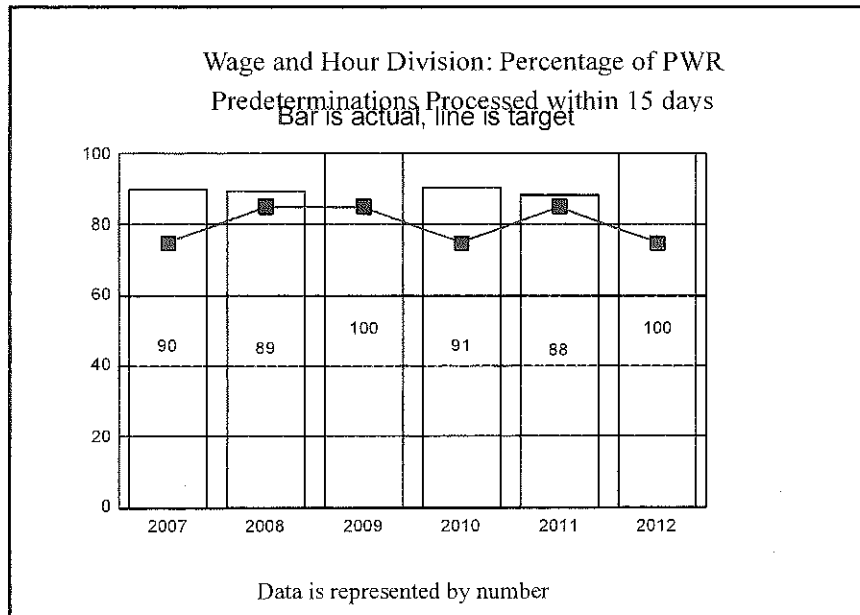
## 6. WHAT NEEDS TO BE DONE

TA staff will continue to solicit input from employers about training topics and information needs. The program published seven new or revised handbooks from July 2011 through December 2012: Wage and Hour Laws, Employee Classification and Wage & Hour Exemptions, Civil Rights Laws, Child Labor Laws, Policywriting Guidelines, Legal Hiring Practices, and Documentation, Discipline and Discharge. In 2012, the "New Supervisor Series" training was released with attendees attending a monthly 3-hour seminar over a 6-month period. The website continues to be updated with new information and employer resources. Staff members must continue to stay current on new laws and information and to continue to improve presentation skills and training materials.

## 7. ABOUT THE DATA

TA Seminar Survey. Data for July 1, 2011-June 30, 2012. Immediately following each seminar conducted by the TA program, attendees are asked to complete a customer satisfaction survey comprised of nine questions. The responses from each seminar are averaged to calculate the average satisfaction rating for that particular seminar. Out of the approximately 4000 attendees, only 14 attendees scored a seminar at 3 or under.

<b>KPM #12</b>	Prevailing Wage Rate Pre-determinations - Response time for requests by public agencies concerning potential coverage of projects under state Prevailing Wage laws.	2006
<b>Goal</b>	It is the goal of the agency's Prevailing Wage Unit to issue determinations regarding application of the prevailing wage law to projects within 15 business days of receipt of a request for a coverage determination.	
<b>Oregon Context</b>	This measure does not directly align to any Oregon benchmark.	
<b>Data Source</b>	IMPACT relational database. Data for July 1, 2011-June 30, 2012.	
<b>Owner</b>	BOLI, Christie Hammond, 971-673-0785	



**1. OUR STRATEGY**

The PWR Unit strives to provide timely responses to parties requesting predeterminations regarding the potential coverage of projects

under the state prevailing wage rate law. The unit began issuing predeterminations in 2006 and has since hired a new investigator which has allowed the unit to respond timely to requests for coverage pre-determinations. These determinations provide public agencies and contractors with more certainty about whether projects are potentially covered by the PWR law, and helps contractors avoid inadvertent violations.

## **2. ABOUT THE TARGETS**

In 2007, the legislature adopted legislation requiring the bureau to issue determinations within 60 days. The agency has endeavored to issue determinations in a much shorter period of time -- within 15 business days.

## **3. HOW WE ARE DOING**

Even though the number of predetermination requests increased 82% (from 17 requests in FY 2011 to 31 requests in FY 2012), the division/PWR Unit exceeded its goal of processing 75% of predeterminations requested within 15 days by processing 100% of predeterminations within this period of time.

## **4. HOW WE COMPARE**

The WHD knows of no similar coverage predetermination process to which it can compare.

## **5. FACTORS AFFECTING RESULTS**

The authorization of an additional employee in the unit has enabled the division to assign an experienced PWR Unit employee primarily to issue predeterminations. This reduces conflicting priorities in work duties experienced by other unit staff.

## **6. WHAT NEEDS TO BE DONE**

The division will continue to emphasize its predetermination process for early resolution of PWR issues.

## **7. ABOUT THE DATA**

IMPACT relational database. Data for July 1, 2011-June 30, 2012. As predetermination requests are received, they are logged in the division's database and assigned to staff. Time elapsed between the initial receipt of a predetermination request (with complete information) and the date the determination is issued is used to calculate the percentage of predeterminations issued in 15 days or less.

**Agency Mission:** The mission of the Bureau of Labor and Industries is to protect employment rights, advance employment opportunities, and protect access to housing and public accommodations free from discrimination.

**Contact:** Christie Hammond, Deputy Commissioner

**Contact Phone:** 971-673-0785

**Alternate:** Elizabeth Cushwa, Legislative Manager

**Alternate Phone:** 971-673-0786

The following questions indicate how performance measures and data are used for management and accountability purposes.

**1. INCLUSIVITY**

\* Staff :

\* Elected Officials:

\* Stakeholders:

\* Citizens:

**2 MANAGING FOR RESULTS**

**3 STAFF TRAINING**

**4 COMMUNICATING RESULTS**

\* Staff :

\* Elected Officials:

\* Stakeholders:

\* Citizens:



# **Position Reclassification Summary**

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# 2011-13 Biennium

Permanent Financing Plan for: BUREAU OF LABOR AND INDUSTRIES (Agency Name)

Agency Number: 83900

SABR Coordinator: TERRY BONEBRAKE

DAS Budget Analyst: Tamara Brickman

Phone: 971-673-0812

(Required) Agency Plan Number: \_\_\_\_\_

Action	Repr. Class No. & Pay/Rq Opts	Class Title	Position Number	Salary Type	Range	Top Step	# of Mos.	Biennial Cost	Detail Cross Ref (DCR)	GF		OF		FF		LF	
										%	\$	%	\$	%	\$	%	\$
<b>REQUEST SECTION:</b>																	
<i>Reclass ↑</i>																	
To	OA C0871 AA	Ops & Policy Analyst 2	8390526	PF	27	5,524	24.00	132,576	050-09-00-00000	100.00%	132,576	-	-	-	-	-	-
From	OA C0104 AA	Office Specialist 2	8390526	PF	15	3,132	24.00	75,168	050-09-00-00000	100.00%	75,168	-	-	-	-	-	-
<b>Total Cost</b>											57,408	-	-	-	-	-	-
<i>Increase Months</i>																	
To	MESN Z7010 AA	PEM F	8390103	PF	35X	8,613	24.00	206,712	010-01-00-00000	86.00%	177,772	14.00%	28,940	-	-	-	-
From	MESN Z7010 AA	PEM F	8390103	PP	35X	8,613	6.00	51,678	010-01-00-00000	100.00%	51,678	-	-	-	-	-	-
From	MESN Z7010 AA	PEM F	8390103	PP	35X	8,613	6.00	51,678	010-04-00-00000	62.00%	32,040	38.00%	19,638	-	-	-	-
<b>Total Cost</b>											94,054	9,302	-	-	-	-	
<i>Establish</i>	MESN Z7010 AA	PEM F	8390209	PF	35X	8,490	24.00	203,760	010-04-00-00000	69.09%	140,778	30.91%	62,982	-	-	-	-
<b>Total Request Section</b>											292,240	72,284	-	-	-	-	
<b>FINANCING SECTION</b>																	
<i>Abolish</i>	MMN X7006 AA	PEM D	8390203	PF	31X	6,992	24.00	167,808	010-02-00-00000	74.00%	124,178	26.00%	43,630	-	-	-	-
<b>Total Savings</b>											124,178	43,630	-	-	-	-	
<i>Reduce Months</i>																	
To	MESN Z7010 AA	PEM F	8390103	PP	35X	8,490	6.00	50,940	010-01-00-00000	100.00%	50,940	-	-	-	-	-	-
To	MESN Z7010 AA	PEM F	8390103	PP	35X	8,490	6.00	50,940	010-04-00-00000	62.00%	31,583	38.00%	19,357	-	-	-	-
From	MESN Z7010 AA	PEM F	8390103	PF	35X	8,490	12.00	101,880	010-01-00-00000	100.00%	101,880	-	-	-	-	-	-
From	MESN Z7010 AA	PEM F	8390103	PF	35X	8,490	12.00	101,880	010-04-00-00000	62.00%	63,166	38.00%	38,714	-	-	-	-
<b>Total Savings</b>											82,523	19,357	-	-	-	-	
<i>Reduce Months</i>																	
To	OA C0861 AA	Program Analyst 2	8390587	PF	27	5,524	12.00	66,288	050-10-00-00000	0.00%	-	100.00%	66,288	-	-	-	-
From	OA C0861 AA	Program Analyst 2	8390587	PF	27	5,524	24.00	132,576	050-10-00-00000	50.00%	66,288	50.00%	66,288	-	-	-	-
<b>Total Savings</b>											66,288	-	-	-	-	-	
<i>Reclass ↓</i>																	
To	OA C1487 IA	Information Systems Spc. 7	8390244	PF	31	6,853	24.00	164,472	010-02-00-00000	66.00%	108,552	34.00%	55,920	-	-	-	-
From	MMS X7006 IA	PEM D	8390244	PF	31X	8,089	24.00	194,136	010-02-00-00000	66.00%	128,130	34.00%	66,006	-	-	-	-
<b>Total Savings</b>											19,578	10,086	-	-	-	-	
<b>Total Financing Section</b>											292,567	73,073	-	-	-	-	
<b>Total Request</b>											292,240	72,284	-	-	-	-	
<b>Total Financing</b>											292,567	73,073	-	-	-	-	
<b>Balance from Prior Actions</b>																	
<b>Balance for Future Actions</b>											327	789	-	-	-	0	

# Summary of New Hires

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**Bureau of Labor and Industries**

**Summary of New Hires**  
**July 1, 2011 – January 15, 2013**

<b>Classification</b>	<b>Hire Date</b>	<b>Salary Range</b>	<b>Hiring Step</b>	<b>Comments</b>
Principal Exec/Mgr E	1/10/13	33X	2	Agency Legislative Coordinator
Public Affairs Specialist 3	1/7/13	31X	3	Executive Appointment -- Exceptional qualifications/ Recruitment difficulties
Civil Rights Field Rep 2	12/17/12	23	2	
Principal Exec/Mgr F	10/22/12	35X	8	Chief Administrative Prosecutor - Executive Appointment Exceptional qualifications/Recruitment difficulties
Office Specialist 2	9/1/12	15	3	Exceptional qualifications/Paid a substantially higher rate of previous place of employment
Office Specialist 2	7/17/12	15	2	
Office Specialist 2	5/21/12	15	2	
Office Specialist 2	9/26/11	15	3	Exceptional qualifications/Paid higher rate at previous place of employment
Administrative Specialist 2	9/1/11	19	5	Employee previously worked for agency as temp/ exceptional qualifications (certified paralegal)
Apprenticeship Representative	8/16/11	23	4	Exceptional qualifications/Paid a substantially higher rate at previous place of employment
Office Specialist 2	8/4/11	15	2	

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# **BOLI Proposed Legislation**

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**Summary of 2013 BOLI Legislation**

<b>Bill Number</b>	<b>Title</b>	<b>Description</b>	<b>Related Statute(s)</b>
HB 2110	CTE Grant Funding	Allocate funds to the Career Technical Education Revitalization Grant Fund. Reorganize some of the grant criteria based on stakeholder feedback. (Bill is solely a funding allocation; no policy language.) No direct budget impact on BOLI.	344.075
HB 2111	Civil Rights Law Clean-up: "Materially restricts"	Delete "materially" from 659A.104 (3), which raises the standard it would take for an individual to be considered as disabled and therefore covered under the law. This language did not appear in the previous ORS, ADAA or in the ADA, and appears to be carried over as an LC drafting error.	659A.104 (3)
HB 2112	Civil penalties for unlawful deductions	BOLI is only currently able to assess civil penalties for violations of ORS 652.610 (4), not other violations of the wage deduction statutes. Concept would be to allow BOLI to assess civil penalties for any violation of 652.610. The civil penalties section of chapter 652 would need amendment.	652.900 (Civil Penalty Statute)
SB 135	Abolish Wage and Hour Commission	Amend ORS chapter 653 and transfer the duties and functions of the Wage and Hour Commission to the Bureau of Labor and Industries. Contrary to its name, the Wage and Hour Commission has not had authority outside overseeing the state's child labor regulations since 1985, at which time the legislature transferred all but the commission's child labor rulemaking authority to the Bureau.	many references in 653
HB 2113	Farm Labor Contractor License Fees	Increases license fees charged to farm labor contractors to levels sufficient sustain the program. (See detail on reverse.)	658.413

### HB 2113 Proposed Farm Labor Contractor Fee Increases

<b>Based on Current Data (Projected Expenditure of \$180,000/Biennium)</b>	<b>Current Fees</b>	<b>Proposed Fees</b>
72 farm (only) labor contractor licenses	\$100/license	\$150/license
7 farm labor contractor licenses with camp indorsements	\$150/license	\$200/license
208 farm/forest labor contractor licenses	\$250/license	\$350/license
2 farm/forest labor contractor licenses with camp indorsements	\$300/license	\$400/license
14 farm (only) labor contractor employee indorsement licenses	\$100/license	\$150/license
7 "exempt" farm/forest labor contractor licenses	\$250/license	\$350/license
27 forest labor contractor employee indorsement licenses	\$250/license	\$350/license
<b>Total annual revenue =</b>	<b>\$70,750</b>	<b>\$99,800</b>
<b>Total biennial revenue</b>	<b>\$141,500</b>	<b>\$199,600</b>

# **Proposed Information Technology Projects**

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## **Package 104 - - Information Technology: Migration from Netware to Windows / Virtualization / VMWare**

### **Purpose:**

The Bureau of Labor and Industries maintains a network environment that is intended to ensure the agency has a stable and secure environment to complete its core functions, which aligns with state wide standards, and is cost effective and efficient.

Novell Netware network is presently the network system for the Bureau of Labor and Industries and was selected as the standard network system during a time when Novell Networks were commonplace in the business world. Over the years, Microsoft Windows network has slowly been replacing it as the business standard.

It is apparent that the use of Novell Netware network in the state, both in the number of installations and users, continues to decrease. Overall, Novell's share of the network market has decreased significantly. BOLI is thus experiencing a number of problems with continued use of the Novell Network:

- (1) Increasing difficulty and higher costs in obtaining network technical support.
- (2) Increasing maintenance costs.
- (2) Incompatibility with state wide standards.
- (3) Unfamiliarity with Novell Netware network by new staff hired by the agency.

Novell Netware network has reached its end-of-life for BOLI. BOLI plans to migrate to the statewide standard; the more mainstream Microsoft Windows Network.

Network services are a critical function for the agency. Network communications between staff within BOLI, other state agencies, and parties outside the state system are a routine and core business function. This proposal will improve BOLI's ability to effectively communicate within and outside of the agency, reduce hardware replacement costs, and streamline network backup processes.

### **How Achieved:**

BOLI will purchase the necessary hardware, software and licenses, and contract the installation of the software on the agency's servers. BOLI IT staff will be trained on Windows Server, Windows Network administration and the VMWare software.

The desired outcome of this project is to convert from Novell Netware network to Microsoft Windows network with VMWare, eliminate two servers from BOLI's Salem and Eugene offices, replace the main server in Portland, and install a backup server in the Portland office that will be mirrored to the main server. Once completed, backup operations will be consolidated and simplified since it will only need to be performed in Portland. In addition, BOLI would be moving from a tape to a disk backup process, which will decrease the time it takes to perform the daily backup process.

BOLI proposes migrating to Microsoft Windows network by contracting out the engineering services for the migration work. Existing IT staff will be trained on Microsoft Windows network administration and on providing user support. This will entail:

1. Purchasing hardware and software licenses.
2. Training two IT staff on Microsoft Windows network administration.
3. Training all three IT staff on providing support to users on Microsoft Windows Network.
4. Training all BOLI staff on using Microsoft Windows Network.
5. Contracting engineering services to set up and configure the Microsoft Windows network servers and for migrating all the data to the new server. This includes both personal data and division data.

The total cost of this project is \$60,000. These costs are broken down into the following categories:

1. Network Engineering: \$15,000
2. Shared Storage: \$15,000
3. IT Staff Training: \$5,000
4. Microsoft Software: \$10,000
5. VMWare Licensing: \$15,000

Recurring costs for future biennia include:

1. Yearly Network Engineering: \$5,000
2. Yearly VMWare Licensing: \$5,000

Although various options have been discussed, the only other viable option would be to do nothing and remain on a Novell Netware network. If nothing is done, there would be no migration costs or additional software expense, but due to the replacement schedule, hardware servers in the Eugene and Salem offices would still need to be replaced at a cost of at least \$20,000 (\$10,000 each). This would result in eliminating any potential cost savings of replacing those servers in the 2013-15 biennium and beyond. As Novell continues to lose its share of the network market, it is becoming more difficult and costly to procure technical support and maintenance that will support a Novell Netware network. In addition to the hardware replacement cost, there would also be the increased costs of Novell maintenance, which would be approximately \$9,000 for the 2013-15 biennium.

At a time when we are attempting to increase efficiency, reduce costs, and standardize systems the option of staying with the current environment would continue to present challenges. Doing nothing simply delays the need for the migration, requires unnecessary server replacement costs, requires increased technical support costs and continues to put BOLI outside the statewide standard as identified by the Department of Administrative Services.

#### **Staffing Impact:**

No new positions are required for the package. The duties of BOLI's ISS2 (1.0 FTE) and ISS4 (1.0 FTE) positions will be involved with most of the migration work on individual PC's and

ongoing support of Microsoft Network and servers. These positions currently support Novell Netware, servers, and BOLI clients, so the staffing impact of this package will be minimal and due mostly to the initial training time. Training of all BOLI staff on Microsoft Network is expected to take minimal time.

**Quantifying Results:**

The agency expects the migration from Novell Netware network to Microsoft Windows network will be completed during the second-half of the 2013-15 biennium. This includes installing the necessary hardware and software, training all IT and BOLI staff, and contracting and coordinating the necessary services.

**Revenue Source:**

General Fund - - \$60,000.

## **Package 105 - -Providing Oracle Database Support and Enhancements**

### **Purpose:**

The purpose of this package is to provide ongoing funding to maintain BOLI's Oracle database. BOLI maintains an Oracle database as the storage media for all of the bureau's MIS and database applications. Due to budget reductions in the 2009-11 and the 11-13 bienniums, BOLI was required to eliminate a data base analyst position in each biennium to help preserve core services to the public. With the elimination of these two positions, BOLI is left with no dedicated staff person to maintain or provide user support services in connection with its database systems and applications.

### **How Achieved:**

BOLI would contract out the technical and user support functions to maintain the agency's current database applications. Although the requested amount would help fund ongoing technical and user support functions, it would not provide for any robust enhancements or major version upgrades.

### **Staffing Impact:**

No new positions will be required for the package. All duties will be contracted out.

### **Revenue Source:**

General Fund - - \$20,000 as recurring costs.

## **Package 106 - - Migration from Microsoft Office to 2003 to Microsoft Office 2010**

### **Purpose:**

Microsoft Office 2003 is the productivity suite currently in use at the Bureau of Labor and Industries. It is apparent that use of the Microsoft Office 2003 suite by both the public and other governmental agencies is on the decrease. BOLI will have to endure a growing number of difficulties with the continued use of the Microsoft Office 2003 suite including the following:

1. The software life cycle for Microsoft Office 2003 will end on April 8, 2014, at which point there will be no new security updates, non-security hot fixes, support options or online technical content updates;
2. New staff entering the agency are often unfamiliar Microsoft Office 2003 suite;
3. General and advanced training programs are no longer available;
4. There has been a continual rise in version-related discrepancies when communicating with the public and other governmental agencies; and
5. Compatibility issues with the other software products currently in use by BOLI including the agency's email client; Outlook 2010.

Microsoft Office 2003 has reached its end-of-life for BOLI. BOLI plans to migrate to the more mainstream Microsoft office 2010. In addition, BOLI will also establish Microsoft Office 2010 as its PC client standard.

The creation of forms, licenses and other documents are critical functions for the agency. The transmission of electronic documents between staff within BOLI, and between other governmental and public entities is a routine business function for all BOLI staff. The proposed package will improve agency productivity by allowing more efficient communication both within and outside BOLI by standardizing formatting, allowing for easier creation of portable document formats, and easing compatibility issues with other software products including BOLI's own email client; Outlook 2010. The proposed package will also enable BOLI to continue to meet statewide security standards by allowing for continued security updates, non-security hot fixes, support options, and online technical content updates. This migration will also allow new staff to continue to use their current skill sets without having to use valuable staff time to retrain them to use an outdated product.

### **How Achieved:**

BOLI has already purchased the necessary software and hardware as part of the agency's earlier email product migration from GroupWise to Outlook 2010. BOLI has also completed the compatibility verifications of all current hardware, database applications, and other software. In order to complete this transition, BOLI must upgrade all agency laptops and desktop PCs to Microsoft Office 2010, migrate all existing forms, macros, and documents to the Microsoft Office 2010 format, and train all BOLI staff to be able to effectively and efficiently use Microsoft Office 2010.

The desired outcomes of this project are to eliminate the use of the older outdated software from all BOLI laptop and desktop PCs to ensure that all staff members are appropriately

trained to allow them to continue to produce their current work products while improving their ability to effectively communicate within and outside the agency, and to produce an increase in overall productivity. This migration will also insure that BOLI is using the Department of Administrative Services' recommended productivity suite and is able to continue to meet the statewide software and data security recommendations.

BOLI proposes migrating to Microsoft Office 2010 using in-house labor for the software migration and by contracting out services for the training of staff. This will entail:

1. Contracting with a vendor to train all BOLI staff on the general use of the Microsoft Office 2010 software suite.
2. Migrating all desktop PCs and laptops to the Microsoft Office 2010 software suite.
3. Migrating all current forms, macros, merges, labels and documents to Microsoft Office 2010 format.
4. Contracting with a vendor to provide advanced training for a select group of BOLI staff and two IT staff members on the more complex functions of Microsoft Office 2010.

The total cost of this one-time project is \$25,000. These costs are for contracting with a vendor to supply Microsoft Office 2010 training to all BOLI staff members.

One alternative was considered: Doing nothing and continue using Microsoft Office 2003. BOLI could continue using Office 2003. There would be no migration costs, but due to the software life cycle of Microsoft Office 2003, all support for the software will end on April 8, 2014, meaning there will be no new security updates, non-security hot fixes, assisted support options or online technical content updates. BOLI would also face a lack of independent software vendors' and hardware manufacturers' support since most plan to phase out support of the older office products beginning in 2012. This would leave the agency with an unsupported and unpatched software environment that is vulnerable to security risks.

BOLI would be forced to continue to use an outdated productivity suite facing more and more compatibility issues with new and existing software, including the agency's current email client, Microsoft Outlook 2010. Again, BOLI is concerned about the end of the Office 2003 life cycle, and its ability to maintain a productivity suite being used by fewer and fewer government agencies and members of the public. At a time when it is more critical than ever to increase efficiency and work better with other governmental agencies and the public, staying with Microsoft Office 2003 presents a multitude of challenges and is causing increasing frustration by users. Doing nothing simply delays the migration, puts BOLI's data security at risk, and resolves none of the issues.

#### **Staffing Impact:**

No new positions are required for the package. BOLI's ISS2 (1.0 FTE) position will be involved with the migration work and ongoing support of Microsoft Office 2010. This position currently supports the Microsoft Office 2003 suite, so the staffing impact of this package will be minimal and due mostly to the initial software installation and training time. Training of all BOLI staff on Microsoft Office 2010 is expected to take no more than eight hours total.

#### **Quantifying Results:**

The agency expects the migration from Microsoft Office 2003 to Microsoft Office 2010 to be completed during the first half of the 2013-2015 biennium. This includes installing the necessary software, training all IT and BOLI staff, and contracting and coordinating the necessary services. As presented previously, the timeline is:

1. Begin general staff training by September 1, 2013.
2. Begin the software upgrade to Microsoft Office 2010 by September 15, 2013.
3. Begin migration of all forms, macros, merges, labels and documents to Office 2010 format by October 1, 2013.
4. Complete basic staff training by November 1, 2013.
5. Complete the software upgrade to Microsoft Office 2010 by December 1, 2013
6. Complete advanced IT and staff training by January 1, 2014.
7. Complete the migration of all forms, macros, merges, labels and documents to Office 2010 format by March 1, 2014.

**Revenue Source:**

General Fund - - \$25,000 (one-time).