

EMPLOYMENT RELATIONS BOARD

The Employment Relations Board (ERB) mission is to resolve disputes concerning labor relations.

ERB is governed by the following: (a) collective bargaining law that covers public employees of the State of Oregon and its cities, counties, school districts, and other local governmental units, such as special districts; (b) State Personnel Relations Law, which creates appeal rights for non-union state employees who believe they were treated unfairly in the workplace; and (c) private sector labor-management relations law, which addresses collective bargaining for private sector employers who are exempt from federal law under the National Labor Relations Act.

ERB provides four main services to help employers, employees, and labor organizations resolve their disputes: (1) labor mediation and training; (2) contested case hearings; (3) union representation elections; and (4) labor appeal cases. Board orders can be appealed to the Oregon Court of Appeals, which can then be further appealed to the state Supreme Court. The Board is comprised of a three member panel appointed by the Governor and approved by the Senate for four year terms. The Board Chair, designated by the Governor, serves as the executive director of the agency.

EMPLOYMENT RELATIONS BOARD	2009-11 Actuals	2011-13 Leg. Approved	2013-15 Current Service Level	2013-15 Governor's Budget	2013-15 Co-Chairs' Budget (1.0)	% Change 2011-13 LAB to 2013-15 CSL
General Fund	1,621,408	1,932,803	2,104,873	2,058,918	0	8.9%
Other Funds	1,471,941	1,862,696	2,141,431	2,092,888	0	15.0%
TOTAL FUNDS	\$3,093,349	\$3,795,499	\$4,246,304	\$4,151,806	\$0	11.9%
Positions	13	13	13	13	0	0.0%
FTE	12.50	13.00	13.00	13.00	0.00	0.0%

Major Revenues	Budget Environment	Comparison by Fund Type																				
<ul style="list-style-type: none"> Supported with General Fund (\$2.1 million) and Other Funds (\$1.8 million). General Fund revenue supports labor relations functions conducted on behalf of local government. Other Fund revenue generally supports labor relations functions conducted on behalf of state government. Revenue is from an assessment on each on state agency's full-time equivalent employees. The assessment is \$1.65 per FTE per month, which is down from \$1.70 for the current biennium (\$1.5 million). 	<ul style="list-style-type: none"> There are an estimated 3,000 employers and 250,000 employees within ERB's jurisdiction. Caseloads are cyclical (i.e., vary by fiscal year) and influenced by the renegotiation of multi-year labor contracts. The majority of mediation (87%) and hearings (73%) caseloads are attributable to local government. Fiscal Year 2012 caseloads for mediation (115), hearings (158), and elections (39) are above historic averages. 	<div style="text-align: center;"> <p>EMPLOYMENT RELATIONS BOARD</p> <table border="1"> <caption>Revenue Data from Chart (Millions of Dollars)</caption> <thead> <tr> <th>Year</th> <th>General Fund/Lottery</th> <th>Other Funds</th> <th>Federal Funds</th> </tr> </thead> <tbody> <tr> <td>2009-11</td> <td>\$1.6</td> <td>\$1.5</td> <td>\$0.0</td> </tr> <tr> <td>2011-13</td> <td>\$1.9</td> <td>\$1.9</td> <td>\$0.0</td> </tr> <tr> <td>2013-15 CSL</td> <td>\$2.1</td> <td>\$2.1</td> <td>\$0.0</td> </tr> <tr> <td>2013-15 GB</td> <td>\$2.1</td> <td>\$2.09</td> <td>\$0.0</td> </tr> </tbody> </table> </div>	Year	General Fund/Lottery	Other Funds	Federal Funds	2009-11	\$1.6	\$1.5	\$0.0	2011-13	\$1.9	\$1.9	\$0.0	2013-15 CSL	\$2.1	\$2.1	\$0.0	2013-15 GB	\$2.1	\$2.09	\$0.0
Year	General Fund/Lottery	Other Funds	Federal Funds																			
2009-11	\$1.6	\$1.5	\$0.0																			
2011-13	\$1.9	\$1.9	\$0.0																			
2013-15 CSL	\$2.1	\$2.1	\$0.0																			
2013-15 GB	\$2.1	\$2.09	\$0.0																			

Major Revenues	Budget Environment	Comparison by Fund Type
<ul style="list-style-type: none"> • Significant portion of the state agency assessment revenue originates as General, Lottery, Other Funds, or Federal Funds. • Other sources of revenue include fees from filing unfair labor complaints/answers and mediation/arbitration panel fees. Fees were last increased in 2011 (\$251,005). • Approximately \$386,000 of available ending cash balance is used to fund operating costs, leaving slightly less than three months reserve (\$246,256). 	<ul style="list-style-type: none"> • Fiscal Year 2012 timeframes for disposition of mediation (51 days) hearings (575 days), and elections (377 days) are above historic averages. • A recent increase in Oregon Court of Appeal reversals (or remands) of ERB rulings, which previously hadn't occurred since 2007. • A 100% turnover in the Board in the last year, including two Board chairs/executive directors in the last two years. • The state's collective bargaining environment has generally become more contentious with diminished state and local government resources. This has increased caseloads, challenges, and appeals of Board decisions. • External scrutiny has focused on the agency's local government funding model, its case management practices, and its timely disposition of cases. 	

MAJOR CHALLENGES AND DECISION POINTS

The 2013-15 current service level budget of \$4.2 million is \$450,805, or 11.9%, more than the 2011-13 legislatively approved budget (LAB) of \$3.8 million. The number of positions (13) and FTE (13.00) has remained unchanged from the prior biennium.

The General Fund portion of the CSL budget totals \$2.1 million and is \$172,070, or 8.9%, more than the LAB. The Other Funds budget totals \$2.1 million and is \$278,735, or 15%, more than the LAB.

The CSL budget is comprised of \$3.6 million in personal services (85%) and \$626,957 in services and supplies (15%).

At this time, no material adjustments to the current service level have been identified. The agency has not requested any policy package enhancements or fee increase. The Governor's budget includes reductions for PERS and statewide administrative savings.

The following is a list of currently identified challenges and decision points for this agency.

1. The timely disposition of cases continues to be an issue, but one that is not easily resolved. While the backlog of cases has been eliminated, case filings are increasing and cases are becoming more contentious. The average number of days to process a case is influenced by the actions and availability of the parties and is not always under the control of the agency. In past biennia, budget reductions (i.e., furloughs), employee and Board member turnover, and an Other Funds revenue shortfall that precluded the hiring of a mediator have negatively impact the timely disposition of cases. The agency is now fully staffed, but the training of new hires can be extensive and lengthy give few individuals have subject matter expertise in labor law.
2. Long standing concern by the Legislature over the timely disposition of cases lead to a 2012 budget note (see next page). The agency has been engaged with stakeholders and already implemented administratively some of the recommended changes, which it believes has led to some incremental improvement in the disposition of its cases. A full report will be presented to the 2013 Legislature.

3. The elimination of the travel budget that allowed Administrative Law Judges (ALJ) to travel to local jurisdiction has mean that most hearings are conducted in Salem. This means that instead of one ALJ traveling to the community where most of the witnesses work or reside, the public employer and the union must pay to have witnesses travel to Salem, which can be a significant expense to the jurisdiction involved. Alternatively, ALJs are able to process more cases by spending less time in transit to local jurisdictions.
4. The inability of parties to file cases electronically is a developing issue for the agency, which has limited information technology support provided by the Department of Administrative Services.

2012 Budget Note Report for 2013 [SB 5701 (2012)]

The Employment Relations Board is directed to undertake the following items and then report to the appropriate policy committee and the Joint Committee on Ways and Means during the 2013 legislative session:

1. Review its administrative processes and procedures and make any necessary changes to improve the timely disposition of hearing and mediation cases;
2. Propose to the 2013 Legislature an expedited hearings process as well as any statutory changes that will improve the timely disposition of its hearing and mediation cases;
3. Conduct a review of recent opinions issued by the Board and its administrative law judges to evaluate the quality of opinions issued and how they and be improved upon; and
4. Report on the number of frivolous claims and recommendations for reducing the number of such claims.