

**EMPLOYMENT RELATIONS BOARD
PRESENTATION TO THE GENERAL GOVERNMENT SUBCOMMITTEE OF
THE JOINT COMMITTEE ON WAYS AND MEANS
MARCH 12, 2013**

TABLE OF CONTENTS

Mission, Goals, and Historical Perspective	1
Programs, Program Delivery, and Target Groups	4
Performance Measures	6
Major Budget Drivers, Environmental Factors, and Major Changes to the Agency	7
Specific Actions to Contain Costs and Improve Program Delivery	10
Major Budgetary Issues	12
Summary of Proposed Legislation Affecting the Agency	13
Proposed Information Technology	14
Appendix A: Workload	15
Appendix B: Fee Schedule	16
Appendix C: State Assessment FAQs	18
Appendix D: Case Processing Flow Charts	20
Appendix E: Org Chart	22
Appendix F: Personnel	23
Appendix G: Program Funding Team Round 2	25
Appendix H: Agency Performance Update, First 6 Months of FY 2013	34
Appendix I: Annual Performance Progress Report, FY 2012	36

MISSION, GOALS, AND HISTORICAL PERSPECTIVE

AGENCY SUMMARY

The Employment Relations Board's mission is to resolve workplace disputes for an estimated 3,000 employers and 250,000 employees in the private and public sectors in Oregon. The agency has 13 employees, including three full-time Board members. The Board members are appointed by the Governor and confirmed by the Senate. The Governor selects one member as Board Chair to serve as the agency administrator. The Board is essentially the labor law court in Oregon.

JURISDICTION

The Board administers and enforces four separate statutory schemes:

- 1) The Public Employee Collective Bargaining Act (ORS 243.650 to 243.782). This law gives public employees the right to bargain collectively and establishes the specifics of the bargaining process. The Board has jurisdiction over the state, cities, counties, school districts, and all other public bodies in the state.
- 2) State Personal Relations Law (ORS chapter 240). This law applies only to the state, not to local government. It is the civil service law for state employees who are not unionized. The agency resolves employee appeals of certain personnel actions affecting an employee. These include disputes concerning issues such as discipline, demotion, suspension, termination, lay off, and classification.
- 3) State Conciliation Service (ORS 662.405 to 662.455). This law mandates the existence of a State Conciliation Service to provide assistance to employers and employees in resolving labor disputes. The State Conciliation Service provides mediation and conciliation services to resolve collective bargaining disputes, contract grievances, unfair labor practices, and representation matters; provides training in methods of alternative dispute resolution, labor/management cooperation, problem solving, and other similar programs designed for the specific needs of the parties; and maintains a list of qualified labor arbitrators who are available to assist parties in a labor dispute.
- 4) Private Sector Bargaining Law (ORS chapters 662 and 663). These statutes provide collective bargaining rights for certain private sector employees whose employers are too small to be covered by the National Labor Relations Act (the federal bargaining law). The agency has very few cases under these statutes.

STAFFING

Since March 2012, the entire composition of the Board has changed, with three newly-appointed members who are also new to the agency. Additionally, there are two new mediators and a new State Conciliator, who was promoted from a mediator position. Finally, a new Elections Coordinator/Mediation Assistant started in January 2013. In an agency with thirteen employees, six are new to the agency while a seventh is new to her position within one year's time.

WORKLOAD

Requests for agency services have increased in recent years. In the hearings office, the number of cases filed has increased by 39% since FY 2008. In FY 2012, 159 cases were filed with the agency; in FY 2011, 139 cases; and in FY 2008, 97 cases. The agency expects case filings to continue to increase.

Contract mediation cases are cyclical due to the state contracts, which are negotiated in odd-numbered years. Contract mediation cases have increased by almost 10% since FY 2008. In FY 2012, 92 contract mediation cases were filed with the agency; in FY 2011, 66 cases; and in FY 2008, 83 cases. The agency expects FY 2013 contract mediation cases to remain at or near the FY 2012 level.

Contract mediation and hearings cases have become increasingly complex, requiring increased time to resolve them. The current economic crisis makes cases much more difficult to resolve.

Timeliness is an important workload factor but is not the agency's only concern. The parties and the public must have trust and confidence in the agency's decisions. The agency balances the need for prompt decisions with the need to carefully consider each case on its facts and merits. Caseload and timeliness are, however, easier to track and give some rough indication of the amount of work that comes before the agency and the Board.

Appendix A: Workload Charts.

GOALS

Long-Term Goals:

The agency has three important goals: (1) assist in the development of harmonious and cooperative relationships between public employers and their employees; (2) enforce the laws involving the rights of public employees to organize and negotiate collectively with their employers; and (3) protect the public by forestalling the interruption of public services due to labor disputes.

Short-Term Goals:

The agency is currently focused on improving processes and decreasing the amount of time to process recommended and final orders. The agency has received suggestions from stakeholder groups about process changes and will give these careful consideration. Internally, the Board has established and is enforcing timelines for issuance of recommended and final orders.

FUNDING SOURCES

The Employment Relations Board has three funding sources:

- 1) General Fund: Approximately 50% of the agency's funding comes from the General Fund. This money pays for the services the agency provides to local government entities.
- 2) Fees: Approximately 6% of the agency's funding comes from fees, primarily fees to file or answer an unfair labor practice complaint and fees for mediation services. These fees help pay for services to local governments. (Appendix B: Fee Schedule.)
- 3) State Assessment: Approximately 44% of the agency's budget comes from a per capita assessment on state agencies. These funds pay for services the agency supplies to the state. The rate proposed for the 2013-2015 biennium is \$1.65 per employee per month, a reduction of \$.05. (Appendix C: State Assessment FAQs.)

PROGRAMS, PROGRAM DELIVERY, AND TARGET GROUPS

PROGRAMS

The agency has responsibility for four programs: Board and Administration, Conciliation, Hearings, and Elections.

Board and Administration. The Board is the state's "labor law court" for labor-management disputes within state and local governments and for certain private sector entities exempt from the National Labor Relations Act. The three-member Board issues final agency orders in contested case adjudications of unfair labor practice complaints, representation matters, appeals from state personnel actions, declaratory rulings, and related matters. The three Board members are appointed by the Governor and confirmed by the Senate, and the Governor appoints one member as Chair.

The Board Chair acts as the agency administrator in addition to the regular duties as a Board member. The Chair is responsible for the agency budget and all other administrative decisions. The Chair is supported by the agency's office administrator, and the board secretary assists the Board and office administrator.

Conciliation Services. The Conciliation Service Office provides mediation and conciliation services to resolve collective bargaining disputes, contract grievances, unfair labor practices, and representation matters; provides training in methods of alternative dispute resolution, labor/management cooperation, problem solving, and other similar programs designed for the specific needs of the parties; and maintains a list of qualified labor arbitrators who are available to assist parties in a labor dispute. One .5 FTE support staff assists Conciliation Services.

Hearings. The administrative law judges (ALJs) conduct contested case hearings on unfair labor practice complaints filed by public employers or labor organizations, state personnel appeals, and representation matters referred by the elections coordinator. Following contested case hearings, the ALJs issue recommended decisions which the parties may appeal to the Board. One support staff assists the three ALJs.

Elections. The Elections Office consists of a .5 FTE elections coordinator who processes all petitions involving union representation and composition of the bargaining unit, conducts elections when necessary, certifies election results, and conducts card check certifications.

TARGET GROUPS

The agency's customers include the state and state employees; local government entities and their employees, including school, police, and fire districts; labor organizations; and private sector employers and employees who are exempt from the National Labor Relations Act.

Appendix D: Case Processing Flow Charts.

Appendix E: Org Chart.

PERFORMANCE MEASURES

The Employment Relations Board (“ERB” or “agency”) does not implement any programs or policies, but rather administers and enforces specific statutory schemes. As a result, ERB is unlike most other agencies in that it cannot measure outcomes. ERB can only measure output.

Management uses this information to monitor efficiency, quality of work, and timeliness, and to evaluate the needs of its staff. This information guided the Board when establishing timelines for issuance of recommended and final orders.

ERB did not meet the established performance measures in FY 2012. After the 2013 Legislative Session, the Board will review the agency’s Key Performance Measures to determine whether they remain relevant and realistic, and propose changes for the 2015-2017 biennium.

Hearings and Board: The amount of time to process a contested case from filing to the final order took an average of 575 days, almost double the agency’s goal of 300 days. Over the last few biennia, the agency accrued a backlog of cases. The agency is currently focused on improving processes and decreasing the amount of time to process recommended and final orders. The Board has established and is enforcing timelines for issuance of recommended and final orders.

Mediation: The average number of days until a mediator is available to work with the parties increased by approximately 23% in FY 2012, 27% longer than the target. The Conciliation Service Office is now fully staffed and is expected to meet this target in the future.

Elections: Uncontested elections cases continue to be processed in a timely manner.

Appendix H: Agency Performance Update, First 6 Months of Fiscal Year 2013.

Appendix I: Annual Performance Progress Report for Fiscal Year 2012.

MAJOR BUDGET DRIVERS, ENVIRONMENTAL FACTORS, AND MAJOR CHANGES TO THE AGENCY

NEW PROGRAMS

The agency's programs have not changed significantly in the last ten years. In 2007, House Bill 2891 created a provision allowing public employees to designate a collective bargaining representative without an election ("card check"). Since that time, 28 card check cases have been filed with the agency.

BUDGET DRIVERS AND ENVIRONMENTAL FACTORS

Major drivers for the Employment Relations Board include workload, the economy, personnel, and funding sources.

Workload

Requests for agency services have increased in recent years. In the hearings office, the number of cases filed has increased by 39% since FY 2008. In FY 2012, 159 cases were filed with the agency; in FY 2011, 139 cases; and in FY 2008, 97 cases. The agency expects case filings to continue to increase.

Contract mediation cases are cyclical due to the state contracts, which are negotiated in odd-numbered years. Contract mediation cases have increased by almost 10% since FY 2008. In FY 2012, 92 contract mediation cases were filed with the agency; in FY 2011, 66 cases; and in FY 2008, 83 cases. The agency expects FY 2013 contract mediation cases to remain at or near the FY 2012 level.

Contract mediation and hearings cases have become increasingly complex, requiring increased time to reach a resolution. The current economic crisis makes cases much more difficult to resolve. These problems were demonstrated by the unprecedented situation the agency faced in April and May 2012 when three school districts went on strike. Agency resources were strained as the mediators worked long and hard to resolve these disputes.

Appendix A: Workload Charts.

The Economy

The economic downturn that began in 2008 is continuing to have an impact on the agency, both in workload and personnel. In January 2009, one mediator and one administrative law judge position were each reduced by 25% as part of the agency's General Fund reductions, and these reductions were carried forward into the 2009-11 biennium. Both positions became vacant at the beginning of FY 2010; the mediator position remained vacant until January 2012 and the ALJ position was filled in May 2010. At the same time, the agency's workload increased.

Beginning July 1, 2010, to accommodate the June 2010 Governor's allotment reduction, each Board Member agreed to take an extra two furlough days per month in addition to the mandated statewide furloughs. The Board members agreed that this reduction would be the least harmful in the short run to the agency and its constituents.

In response to the September 2010 allotment reduction, the rest of the professional staff also took additional furlough days: the three administrative law judges and the office administrator, two unpaid days per month, and the two mediators, one unpaid day per month. Again, this was in addition to the mandatory statewide furlough days.

Personnel

Since March 2012, the entire composition of the Board has changed, with three newly-appointed members who are also new to the agency. Additionally, there are two new mediators and a new State Conciliator, who was promoted from a mediator position. Finally, a new Elections Coordinator/Mediation Assistant started with ERB in January 2013. In an agency with thirteen employees, six are new to the agency while a seventh is new to her position, all within one year's time.

One mediator position, which became vacant in October 2010, was not filled until January 2012 because of funding issues and a failed recruitment. The 2011 Legislature allowed a shift in Other Fund resources to ease the funding issue. Having this position vacant substantially increased the workload of the other two mediators. They were conducting as many as four mediations a week, and sometimes two in one day. Mediation sessions are lengthy and often conducted outside of an 8:00 a.m. to 5:00 p.m. workday. Added to the mediators' workload is the travel time that is often required, since the mediators serve all areas of the state. Filling the third mediator position has eased this burden somewhat; however, it is essential that the agency retain this position to provide effective service to stakeholders.

One administrative law judge position became vacant in July 2009. The 2009 legislature reduced this position to .75 FTE, and the agency faced the difficulty of filling this part-time position. The position remained vacant until funding accrued to hire an ALJ full time for the remainder of the biennium. Even then, the agency had great difficulty in attracting qualified applicants for this position.

Funding Sources

For many years, the legislature has explored alternative funding options for the agency. During the 2011 Legislative Session, the Co-Chairs of the General Government Subcommittee convened a workgroup of labor and management representatives to prepare alternative funding options for the agency. The workgroup was to draft legislation for the Co-Chair's consideration that provided at least one option for funding ERB with a revenue source(s) other than General Fund. The members were unable to reach consensus on any alternative funding option.

Ways and Means subsequently restored General Fund for the first year of the biennium; funding for local government services for the second year of the biennium was not included. Instead, Budget Note #1 in Senate Bill 5510 (2011) directed the Governor's Office to convene a workgroup to develop options and make recommendations to the 2012 Legislative Session on an assessment-based model to fund services provided to local government entities and employees. The second workgroup met several times but was unable to reach consensus on an alternative funding option for the 2012 Legislature to consider, and General Fund was restored for FY 2012.

SPECIFIC ACTIONS TO CONTAIN COSTS AND IMPROVE PROGRAM DELIVERY

Over the last several biennia, the agency has reduced services and supplies to a minimum. Other actions taken to contain costs include:

- The agency now requires the use of motor pool or rental cars for all vehicle travel in excess of 150 miles round trip unless: (1) use of a private vehicle is more cost effective, or (2) a vehicle with chains is not available during inclement weather. This change saved the agency approximately \$6,700 during the 2009-2011 biennium. The cost savings for the 2011-13 biennium will not be as great due to the rising costs for fuel and use of motor pool and rental cars.
- ERB allows some witnesses to testify via telephone to reduce expenses for the parties. In addition, the agency is experimenting with the use of video conferencing for hearings. The Department of Human Services has been very helpful, sharing their expertise and equipment. The agency will continue to expand its use of this technology, as appropriate.
- The agency purchases training materials, allowing multiple employees to receive the benefits of the training for a single fee. It also encourages employees to make more use of the statewide iLearn on-line training system.

Some actions to contain costs have a negative impact on program delivery, such as:

- Restrictions on ALJ travel have been in place since the 2007-09 biennium. Previously, ALJs traveled to the community where the dispute arose. This means that time ALJs previously spent on travel can now be devoted to conducting hearings and writing recommended orders. It also means, however, that school districts and local governments must bear the expense of traveling to Salem for hearings. For local governments located far from Salem, this expense can be large.
- In 2007, ERB removed the supervisory and administrative duties from the management position of chief administrative law judge (ALJ) and then reclassified the position downward to a classified ALJ position. The Board Chair now supervises the three ALJs and, with assistance from the office administrator, handles the administrative duties previously handled by the chief ALJ. This gives the ALJs more time to process cases, conduct hearings, and write recommended orders. It does, however, reduce the amount of time the Board Chair can devote to writing orders.

One action, implementation of equity differentials, has positively impacted program delivery but at an increased cost.

The agency has had great difficulty in finding qualified applicants for its vacant positions. In order to attract, obtain, and retain qualified applicants and employees, the agency asked the Department of Administrative Services (DAS) to review and resolve salary inequities for the classifications of Legal Secretary, Administrative Law Judge 3, and Mediator. Effective June 1, 2012, DAS approved equity differentials of approximately 12 to 15 percent for employees in these classifications. DAS also approved an equity differential for the employee in the Administrative Specialist 2 position to maintain internal equity. Since these differentials were approved, the agency has had highly successful recruitments for the Mediator and Administrative Specialist 2 positions. The agency has also retained staff that likely would have left the agency.

The agency continues to monitor and evaluate all business processes for additional efficiencies and cost savings. Because approximately 85% of the agency budget is for personal services, there are no major opportunities to save money.

MAJOR BUDGETARY ISSUES

The agency has no major issues with the Governor's Recommended Budget for the 2013-2015 biennium. However, the agency needs to look at funding for travel for 2015-2017.

Mediation: The increased number of mediation cases and the increased costs for travel currently puts a strain on the agency's travel expenditures. The agency believes that the amount budgeted for 2013-2015 will be adequate. However, it foresees a need to submit a policy option package to increase funding for travel in the 2015-2017 agency request budget.

Hearings: Agency stakeholders have asked the board to reinstate travel for the ALJs. Restrictions on ALJ travel have been in place since 2007. Previously, ALJs traveled to the community where the dispute arose. This means that time ALJs previously spent on travel can now be devoted to conducting hearings and writing recommended orders. It also means, however, that school districts and local governments must bear the expense of getting witnesses to Salem for hearings. For local governments located far from Salem, this expense can be large.

Some parties have offered to reimburse the agency for ALJ travel expenses. However, the agency needs to either resolve all issues related to reimbursement or request additional funding from the legislature. The agency will continue to work with stakeholders on this matter, and anticipates submitting a policy option package to fund ALJ travel in the 2015-2017 agency request budget.

SUMMARY OF PROPOSED LEGISLATION AFFECTING THE AGENCY

STATUTES ADMINISTERED BY THE AGENCY

Generally, when a statute that the agency administers is revised, workload is impacted due to litigation about the meaning of the revised statute. Most of the proposed legislation will have a limited impact on agency operations, which the agency can absorb in its normal course of business.

Two bills, however, would have a major impact on the agency budget and operations:

HB 3061, which requires the agency to conduct annual recertification elections for appropriate bargaining units. The agency has not yet prepared a fiscal impact for this legislation; however, it would require the addition of multiple staff members. The agency has certified at least 1,300 bargaining units since the 1980s.

SB 570, which establishes foster parents as public employees for purposes of labor organization activities. The agency has not yet prepared a fiscal impact for this legislation. In 2011 the agency did an election for the Homecare Commission unit. Approximately 7,700 ballots were mailed out, and the election cost more than \$15,000 plus staff time. Most of the agency staff (administrative law judges and mediators included) participated in the election.

The agency will be working with the Department of Human Services to prepare a fiscal impact statement for this legislation.

ADMINISTRATION

A number of bills have been proposed that will affect the administration of the agency. These include changes to the administrative rules process, public meetings law, and the budget process.

HIGHER EDUCATION

A number of bills propose changing individual institutions or the entire the Oregon University System to public corporations. Any of the proposed changes could impact the agency's State Assessment revenue.

PROPOSED INFORMATION TECHNOLOGY

The agency does not plan to make major changes to its information technology. However, some changes are currently underway and the agency is considering others.

Server: At this time, the agency is switching to the DAS servers. This will expand the agency's capacity and eliminate the need to replace its on-site server. The agency is considering on-line filing and other IT projects that will require this expanded capacity.

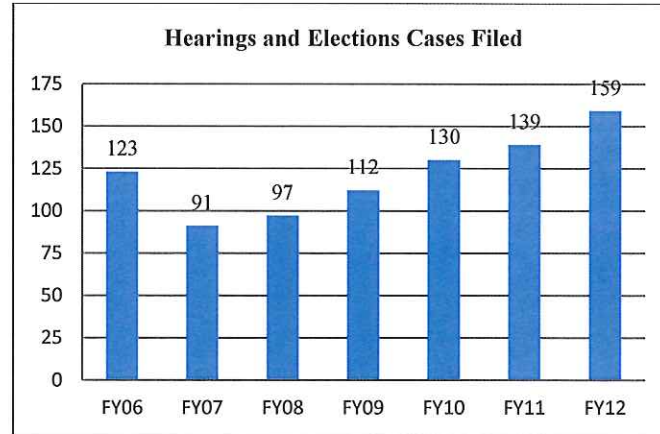
On-line filing: Stakeholders have asked the agency to start accepting on-line filing of documents and on-line payment of fees. The agency will be exploring the options either already or soon to be in place at other agencies, such as E-Court filing.

Databases: The agency has several Microsoft Access databases to track its cases. These databases need to be updated to the newest version of Microsoft Access and to include fields for additional data to be tracked. DAS will assist the agency with this project.

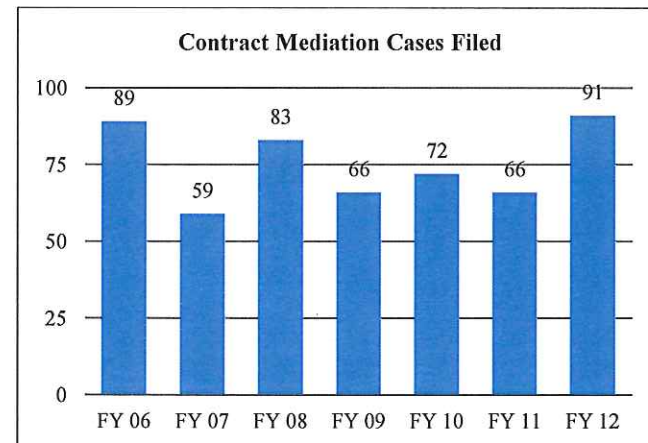
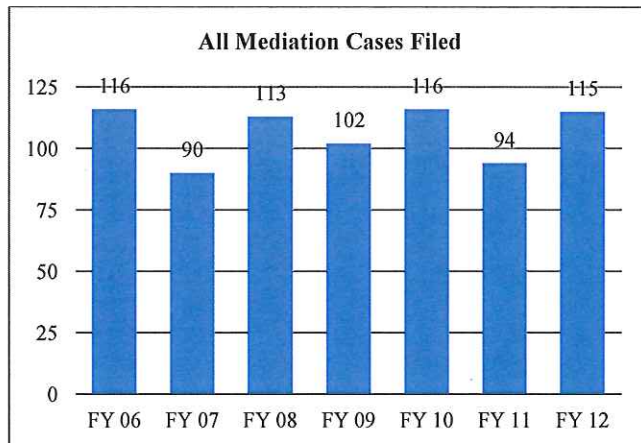
Other software: The agency has been asked to establish a searchable database of its orders. The Oregon State Bar used to have such a database, but it was discontinued when they switched vendors. The agency will work with the State Bar to try to reestablish this database. It will also investigate systems used by other state agencies to try to find an established system which will work for this purpose.

APPENDIX A WORKLOAD CHARTS

HEARINGS AND ELECTIONS



MEDIATION



APPENDIX B STATE ASSESSMENT FAQs

Why is the Employment Relations Board supported by an assessment?

The 1969 Legislative Assembly created the state assessment to divide the cost of operating the agency among various divisions of state government.

What does the assessment support?

The assessment supports the operating costs and administrative expenses of the agency for the services the agency provides to the state and its employees.

Who is assessed?

Each state agency pays an assessment based on the number of covered employees. Covered employees are those who have a right to protections under the State Personnel Relations Law (SPRL) or the right to organize under the Public Employment Collective Bargaining Act. Exempt employees such as elected officials and persons appointed to serve on boards and commissions are not subject to the assessment.

What services are provided to agencies in return for their assessment payment?

The Employment Relations Board processes and decides appeals filed by state employees under the State Personnel Relations Law; it mediates contract disputes between state agencies and labor organizations; it hears and resolves unfair labor practice complaints filed by or against a state agency; and it processes petitions from state employees who want to be represented by a labor organization.

How many staff provide these services?

The agency currently has three mediators and a half-time support staff; three administrative law judges and one support staff; a half-time elections coordinator; an office administrator; and three Board members with one support staff (13.0 FTE). About 40% of their time is spent on services to state agencies.

How much has the agency assessed in recent biennia?

Biennium	Budget	Actual/ Projected Revenue	Amount per Covered Employee	Estimated Number of Employees
2013-15	1,504,800		\$1.65	38,000
2011-13	1,535,400	1,578,073	\$1.70	38,000
2009-11	1,554,000	1,667,118	\$1.75	37,000
2007-09	1,332,000	1,391,619	\$1.50	37,000
2005-07	1,198,800	1,198,718	\$1.35	37,000
2003-05	1,085,400	1,108,593	\$1.35	33,500
2001-03	1,043,280	1,098,863	\$1.35	32,200
1999-01	1,005,480	1,066,315	\$1.33	31,500
1997-99	1,046,760	1,106,308	\$1.43	30,500

How much is the assessment proposed for the 2013-15 biennium?

The agency proposes to lower the assessment rate to \$1.65 per covered employee. The rate for 2011-13 was \$1.70. The agency's 2013-15 budget request does not contain any policy packages.

**APPENDIX C
FEE SCHEDULE**

ARBITRATOR PANEL FEES:

Application Fee	\$ 50.00
Annual Fee to Remain on Panel	\$ 100.00

OAR 115-040-0030

FILING FEES:

Unfair Labor Practice	\$ 300.00
Unfair Labor Practice Answer	\$ 300.00
Intervenor	\$ 300.00

OAR 115-035-0035, 115-070-0000, 115-070-0035

MEDIATION FEES:

Collective Bargaining Mediations: (Each party pays one-half of the fee)	(a) \$1,000 for the first two mediation sessions (b) \$500 for the third mediation session (c) \$750 for the fourth mediation session (d) \$1,000 for each additional mediation session
Grievance/ULP Mediations	\$ 500.00 (\$250.00 for each party)
Facilitation Time billed will include travel time	\$ 60.00 per hour

Training	
Two-day training program	\$ 2,500.00
One-day refresher training	\$ 1,500.00
Half-day program	\$ 700.00

OAR 115-040-0005

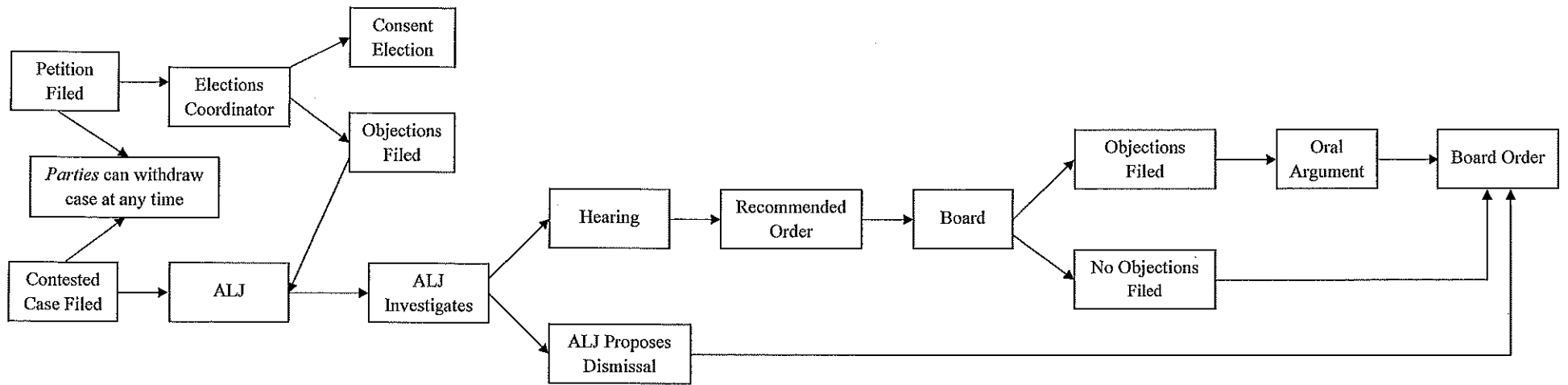
MISCELLANEOUS FEES:

Copies of transcript or document of public record certified as a true copy	\$ 1.50 per page
Other copies and public records Actual costs may include the cost to locate, compile, prepare, and deliver copies or to make available documents for inspection	\$.25 per page + actual costs
Copy of recording of a hearing	\$ 15.00 for the first CD
	\$ 10.00 for each subsequent CD
Subscription for copies of Board Orders	\$ 150.00 per calendar year
Fax Filing Fee	\$ 25.00

OAR 115-010-0032, 115-010-0115

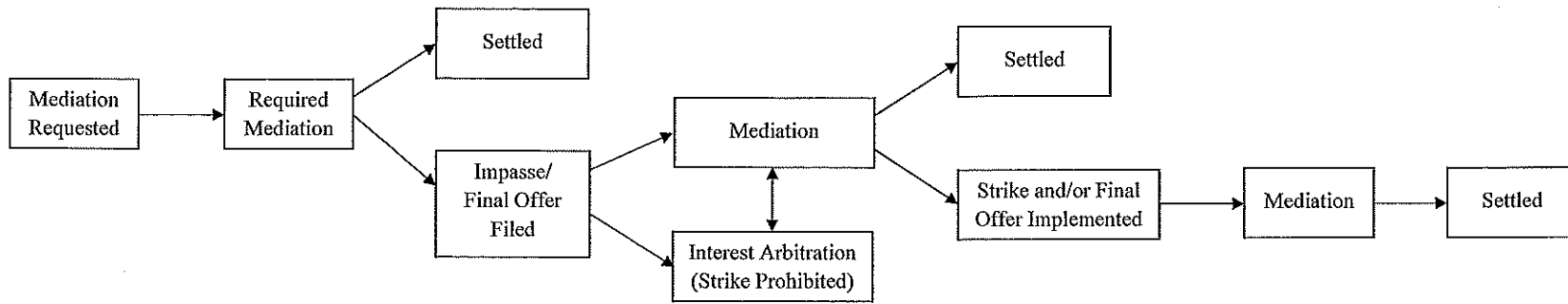
Note: No fees will be charged to state agencies for providing copies of Board transcripts, tapes, orders, or any document or exhibit included in a case record which is not exempt from disclosure under ORS 192.410 to 192.505.

**APPENDIX D
CASE PROCESSING FLOW CHARTS
HEARINGS AND ELECTIONS**

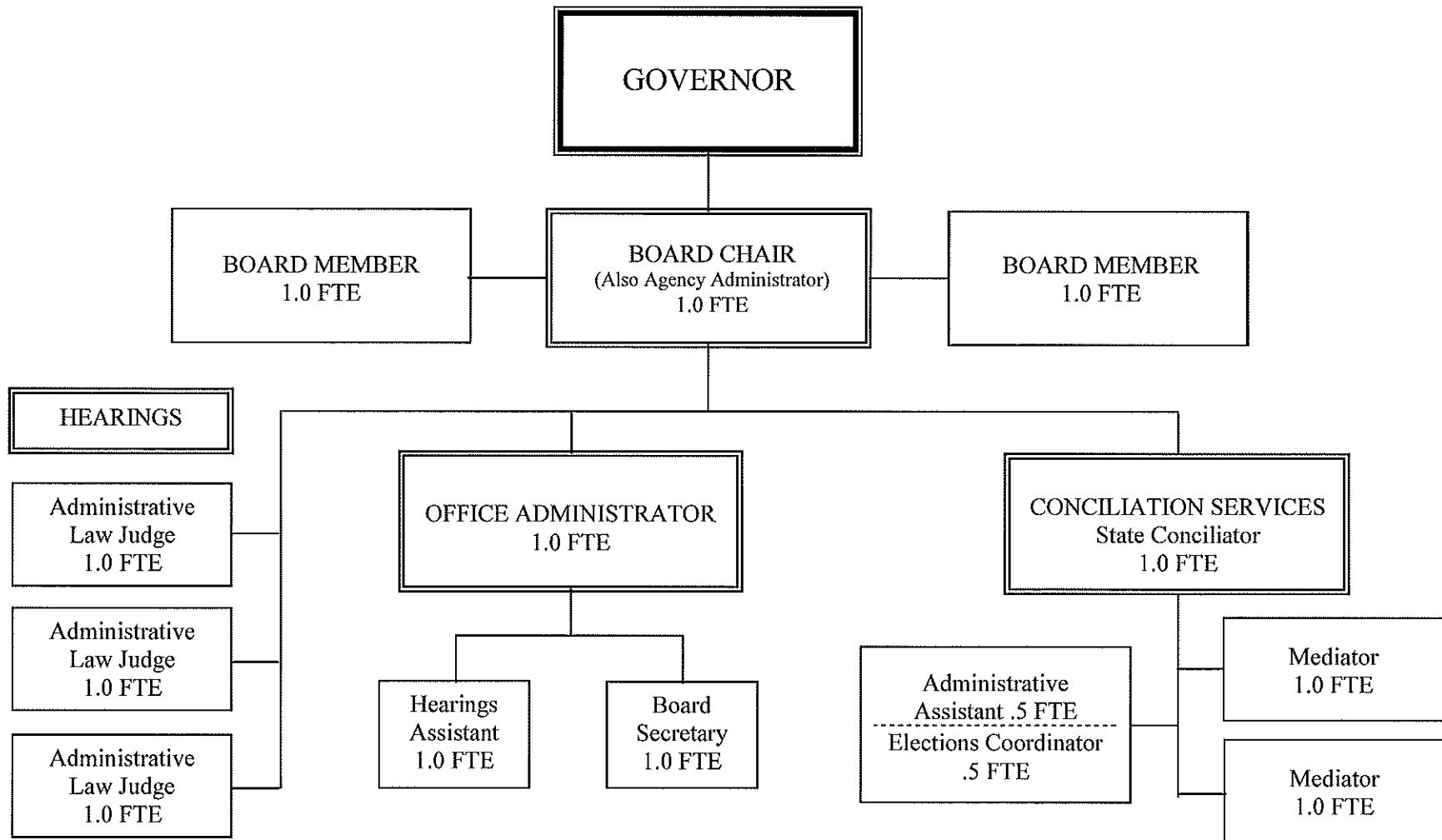


Cases can be withdrawn by parties prior to issuance of a Board Order

**APPENDIX D
CASE PROCESSING FLOW CHARTS
CONTRACT MEDIATION**



**APPENDIX E
2013-2015 Org Chart
(No change from 2011-2013)**



**APPENDIX F
PERSONNEL, 2011-13 BIENNIUM**

NEW HIRES

CLASSIFICATION	SALARY RANGE	STEP	JUSTIFICATION
ERB Mediator	32	4	This employee transferred from another state agency and was placed at the appropriate step pursuant to DAS Statewide Policy 20.005.10, "Normal hiring rates *** The first four steps of all other ranges."
ERB Mediator	32	9	An extremely well-qualified employee from another state agency was willing to take a voluntary demotion to work as an ERB Mediator. Pursuant to DAS Statewide Policy 20.005.10, the employee was put at the top step of the classification.
Administrative Specialist 2	19	8	The pool of applicants for this recruitment was not very strong. One well-qualified applicant was very interested in the position and accepted a significant reduction in salary to take the position.
PEM F (State Conciliator)	35X	9	This statutorily-required position is crucial to agency operations and requires specialized knowledge and skills, especially knowledge of the Public Employee Collective Bargaining Act and dispute resolution methods. One agency employee was uniquely qualified, having the requisite knowledge and skills required for this position. Because of salary compression issues, the employee was placed at the top step of the salary range.
PEM G (Board Member)	38X	Off step/above top of salary range	The Governor's Office appoints Board Members and negotiates salary. An extremely well-qualified employee from another state agency was willing to take this position; the Governor's Office requested a payline exception, which was approved..
PEM G (Board Member)	38X	8	The Governor's Office appoints Board Members and negotiates salary.

CLASSIFICATION	SALARY RANGE	STEP	JUSTIFICATION
PEM H (Board Chair)	38X	7	The Governor's Office appoints one of the Board Members as Chair. Upon promotion, the employee was given a salary increase to the next higher step in the new salary range pursuant to DAS Statewide Policy 20.005.10.
PEM H (Board Chair)	38X	8	The Governor's Office appoints one of the Board Members as Chair. Upon promotion, the employee was given a salary increase to the next higher step in the new salary range pursuant to DAS Statewide Policy 20.005.10.

POSITION RECLASSIFICATIONS: None

SALARY EQUITY DIFFERENTIALS

ERB employees are classified unrepresented and have been compensated at a lower rate than employees in the same management service and classified represented classifications. This inequity hampered the agency's ability to recruit and retain quality applicants. The Department of Administrative Services reviewed the compensation plans and acknowledged the inequities. They proposed a temporary salary equity differential to match the management service compensation plan for those positions. These differentials are tied to the positions (not the employees). The differentials average approximately 15%.

The positions affected are:

- Administrative Law Judge 3, Salary Range 37
- ERB Mediator, Salary Range 32
- Administrative Specialist 2, Salary Range 19
- Legal Secretary, Salary Range 17

**APPENDIX G
PROGRAM FUNDING TEAM ROUND 2**

EMPLOYMENT RELATIONS BOARD, Round 2

Primary Outcome Area: Improving Government
Secondary Outcome Area: None
Program Contact: Kathryn Logan, Board Chair, 503-378-8038
Updated: March 2013

Executive Summary

The Employment Relations Board (ERB) administers the collective bargaining law that covers public employees of the State of Oregon and its cities, counties, school districts, and other local governments; hears and decides appeals from certain non-union state employees concerning personnel practices; and administers the collective bargaining law for private sector employers and employees who are not covered by the National Labor Relations Act.

Resolution of workplace disputes ensures that the public will continue to receive high-quality public services without impairment or interruption, creates a more stable and productive workforce, and reduces the costs of recruitment and training. Companies deciding whether to relocate in Oregon, as well as those deciding whether to stay, inevitably consider whether there are reliable, efficient, high-quality public services to support their business.

Program Description

The mission of ERB is to resolve disputes concerning employment relations for approximately 3,000 employers and 250,000 employees in Oregon's public and private sectors. The agency consists of four programs: Board and Administration, Conciliation, Hearings, and Elections. It provides the following services: mediation, contested case hearings under the State Personnel Relations Law and Public Employee Collective Bargaining Act, representation elections, and certification of a bargaining unit without an election (card check). Parties are statutorily required to use ERB's services to resolve unfair labor practice complaints or if they are unable to resolve contract disputes on their own at the bargaining table.

In addition, state employees in classified service who are not represented by a union and those in management service have the right to appeal to ERB any suspension, reduction, demotion, dismissal, reprimand, discipline, or other personnel action. Approximately 40% of the agency's time is spent on state government cases, and 60% on local government cases.

Like the courts, the agency's task is to apply the law in a neutral fashion to resolve disputes between parties. The agency has no interest in which party prevails. Parties come to the agency when they are unable to resolve disputes on their own. The parties served are located throughout Oregon, and include employees and employers of state, city, and county governments; school districts; police and fire districts; community colleges; and higher education.

Program Justification and Link to 10-Year Outcome

The public policy underlying these laws is to promote workplace stability and reduce workplace disputes and the accompanying costs and disruption of public services. Resolution of workplace disputes ensures that the public will continue to receive high-quality public services without impairment or interruption, creates a more stable and productive workforce, and reduces the costs of recruitment and training. Equally important, resolution of workplace disputes is faster, more efficient, and less expensive than settling disagreements through court proceedings. The Employment Relations Board falls into the Improving Government outcome area.

The Public Employee Collective Bargaining Act was modeled after the National Labor Relations Act (NLRA). The procedures used by the National Labor Relations Board to administer the NLRA were not adopted due to cost and the numbers of staff required. Because of the great difference between Oregon's law and those of other states, it is difficult to compare our statutory schemes and practices.

Program Performance

As established by statute, the agency is the forum for state and local government employers and employees and private sector employers and employees not covered by federal law to resolve disputes concerning employment relations. Because the agency is a quasi-judicial body, it is difficult to measure the quality of its work, so its performance measures are based on output, not outcomes.

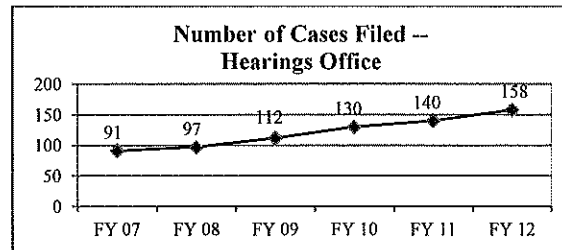
Performance is measured in a number of ways, and each of the agency's four programs is addressed by key performance measures. The aspect of performance most readily measured is timeliness. Timeliness, however, is not the agency's only concern. The parties must have trust and confidence in the agency's decisions. Trust and confidence are enhanced when the agency demonstrates that it considers each case carefully and decides it in accordance with the law. Thus, the agency balances the need for prompt decisions with the need to carefully consider each case on its facts and merits.

The number of cases is an imperfect measure of workload because it does not reflect the complexity of a case or the time required to resolve it. Cases have become more complex and disputes more difficult to resolve because of salary freezes, furlough days, the rising cost of health insurance, and other factors beyond the agency's control. In addition, state cases, especially State Personnel Relations Law appeals, can be very complex and require more time and research to resolve.

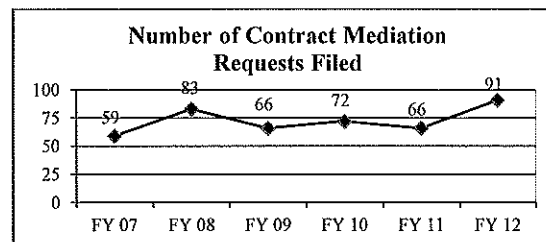
ERB has and will continue to address the following performance issues:

Increased work load: The agency's workload has increased over the past FY.

Hearings: 159 cases were filed in FY 2012; this represents a 13% increase over the number of cases filed in FY 2011.



Mediation: 91 requests for mediation were received in FY 2012; this represents a 47% increase over the number of requests for mediation received in FY 2011.



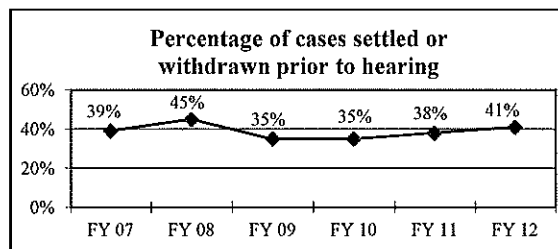
Management to Avoid Conflict: ERB operates as the state's "labor relations court" in adjudicating disputes between public employees and their unions and public employers. The three-person Board must maintain neutrality in its dealings with unions and employers.

Mediators also must remain neutral in order to effectively resolve negotiations disputes and grievances. For these reasons, ERB is limited in the extent to which it can work with DAS Human Resources to evaluate opportunities for avoiding workplace disputes. The agency can neither recommend nor require training for these agencies; to do so would jeopardize the agency's neutrality.

ERB's mediators can and do offer voluntary training in interest-based problem solving, however. ERB will widely publicize the program so that employers are aware of its availability and advantages.

Disposition of Cases Without a Hearing:

	FY 12	FY 11	FY 10
Dismissal Orders Issued	3	8	8
# of Orders -- Contested Cases	27	25	22
Total # of Board Orders	36	40	34
Percent Dismissed Without a Hearing	8.33%	20.00%	23.53%



It is neither practical nor feasible to impose financial incentives to discourage filing inappropriate cases. ERB cannot use hourly billing as a disincentive. The agency will, however, explore the following options to discourage parties from filing unfair labor practice complaints that lack merit:

- Evaluate the standard for dismissing a case. Currently, ERB must dismiss a case if it does not present an issue of fact or law that warrants a hearing. ERB staff and stakeholders will examine this standard and determine if it is sufficient.
- Promote settlement of cases by ALJs and mediators prior to hearing.

Number of Cases Appealed and Results of Appeal:

	FY 12	FY 11	FY 10	FY 09	FY 08	FY 07
Cases Appealed:	4.0	2.0	7.0	6.0	4.0	6.0
Cases Decided	8.0	4.0	2.0	2.0	5.0	4.0
Affirmed/Dismissed	4.0	4.0	2.0	2.0	5.0	3.0
Reversed/Remanded	4.0	0.0	0.0	0.0	0.0	1.0
Total # of Board Orders	36.0	40.0	34.0	29.0	36.0	27.0
% Reversed/Remanded	11.11%	0.00%	0.00%	0.00%	0.00%	3.70%

Reducing Time to Process a Contested Case:

A serious concern for ERB’s stakeholders has been the amount of time needed to process a contested case in which a hearing is required. ERB has taken the following steps to reduce the time required to process a contested case:

- Established and enforced time limits for issuance of recommended and final orders. As a result of imposing these time limits, the backlog of cases that developed over the past few years has virtually ended. At the time this document was prepared, only one recommended order has been pending for more than five months, and only two final orders have been pending for more than 60 days.
- Focused Board resources on completing and issuing final orders. During the first six months of the fiscal year, the Board issued **14** final orders; during the last six months of the fiscal year, the Board issued **22** final orders, a substantial increase. During the month of June 2012 alone, the Board issued **9** final orders; this productivity is unprecedented.

ERB’s ten-year goal is to reduce the time required to process a contested case in which a hearing is required to 300 days. ERB will, however, take the following steps to determine if this is a reasonable time line:

- Conduct a survey of other states to determine whether the 300-day resolution time goal should be updated. The agency will be assisted by staff from the University of Oregon Labor Education Research Center in conducting this survey and evaluating the 300-day goal.

- Form a group of stakeholders and staff to identify the work flow and determine where other efficiencies may be found. In particular, the group will examine the administrative rules applying to contested case hearings and make changes to the rules to speed up case processing.

Enabling Legislation/Program Authorization

The agency administers three separate statutory schemes:

1. Public Employee Collective Bargaining Act (ORS 243.650 through 243.795) which establishes collective bargaining in state and local government;
2. State Personnel Relations Law (ORS Chapter 240) which creates appeal rights for non-union state employees who believe they were treated unfairly in the workplace; and
3. Private sector labor-management relations law (ORS 662.010 through 662.455, and 663.005 through 663.295) which establishes collective bargaining rights for private sector employers and employees who are not covered by federal law.

Funding Streams

The agency has three sources of funding.

General Fund: General Fund revenues have historically funded the majority of the agency's work performed on behalf of local governments (such as school districts, fire, police, etc.). Approximately **60%** of the work performed by ERB is performed for local governments.

Other Funds/State Assessment: A per capita assessment on state agencies helps fund the agency's work performed on behalf of the state and its employees. The rate estimated for the 2013-2015 budget is \$1.65 per month per covered employee and an estimate of 38,000 covered state employees. Projected revenue for the 2013-2015 biennium is \$1,504,800. ORS 240.167. Approximately **40%** of the work performed by ERB is performed for state agencies.

Other Funds/Fee Revenue: Fees are collected for conciliation services, filing unfair labor practice complaints and answers, and miscellaneous revenues, such as copy charges. ORS 240.610, 243.672, 662.445, 663.180, 663.185, and 192.440. Along with General Fund, fee revenue is intended to fund services to local governments. Projected fee revenue for the 2013-2015 biennium is \$251,005.

Changes and Challenges to Funding: General fund revenues have declined in recent years. The per capita assessment on state employees will be \$1.65 per employee for the 2013-2015 biennium. This is a decrease of \$.05 per employee from the 2011-2013 biennium. The reduction occurred because a surplus of these funds accumulated during the prior biennium. Other funds from fees charged to local government entities are expected to remain static for the next several biennia while personal services costs are expected to rise. The agency will continue to look for a solution.

Significant Proposed Program Changes from 2011-13

No program changes are proposed for the 2013-2015 biennium. The 2013-2015 Agency Request Budget maintains Current Service Level.

	2001-03 Actuals	2003-05 Actuals	2005-07 Actuals	2007-09 Actuals	2009-11 Actuals	2011-13 LAB	2013-15	2015-17	2017-19	2019-21	2021-23
<u>Program Budget</u>											
General Fund	1,280,057	1,307,322	1,449,843	1,781,460	1,621,408	1,932,802	2,058,918	2,365,244	2,622,044	2,909,512	3,232,730
Lottery Funds											
Other Funds	1,513,208	1,315,550	1,351,934	1,581,906	1,471,941	1,862,696	2,092,888	2,398,647	2,656,367	2,944,704	3,268,793
Other Funds - Nonlimited											
Federal Funds											
Federal Funds - Nonlimited											
Total Funds	2,793,265	2,622,872	2,801,777	3,363,366	3,093,349	3,795,498	4,151,806	4,763,891	5,278,411	5,854,216	6,501,523
Positions	16	14	12	13	13	13	13	13	13	13	13
FTE	16.00	12.17	12.00	13.00	12.50	13.00	13.00	13.00	13.00	13.00	13.00

Program Performance

Quantity Metric	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
<i>Cases filed -- Hearings and Elections</i>	117	158	155	160	112	123	91	97	112	130	139	159
<i>*Contract Mediation Requests Received-- Conciliation Service Office</i>	82	84	77	99	91	89	59	83	66	72	66	91

*Note: During times when staff was reduced, some requests for optional services were not accepted, *i.e.*, training, so data for Contract Mediation Requests is displayed.

Quality Metric

	CY 2001	CY 2002	CY 2003	**FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
<i>Percentage of Board Orders reversed on appeal</i>	12%	12%	12%	5%	4%	0%	0%	0%	0%	0%	11%
<i>Percent of contract negotiation disputes resolved by mediation for:</i>											
<i>Strike Prohibited</i>	83%	84%	43%	76%	73%	76%	69%	82%	40%	50%	68%
<i>Strike Permitted</i>	98%	100%	91%	95%	87%	90%	98%	98%	94%	85%	79%

** Note: Converted from Calendar Year to Fiscal Year. CY data not available for 2004; FY 2005 data is for 18 months.

Timeliness Metric

	CY 2001	CY 2002	CY 2003	**FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
<i>Average number of days to process a case that involves a hearing, from the date of filing to the date of the final order</i>	364	274	299	412	380	714	616	525	485	487	575
<i>Mediator Availability: Average number of days following a request for mediation to date:</i>											
<i>Mediator is available</i>					31	28	31	27	46	31	38
<i>First mediation session occurs</i>					45	44	48	43	66	47	51

** Note: Converted from Calendar Year to Fiscal Year. CY data not available for 2004; FY 2005 data is for 18 months.

Cost Per Unit Metric

None

**APPENDIX H
AGENCY PERFORMANCE UPDATE
FIRST 6 MONTHS OF FISCAL YEAR 2013**

CASES FILED – HEARINGS / REPRESENTATION

	FY 13 – 1 st 6 months	FY 12	FY 11
Cases Filed	79	159	139
Number of Cases Withdrawn Before Hearing	37	80	64
Number of Cases Dismissed	12	3	8

RECOMMENDED ORDERS ISSUED:

	FY 13 – 1 st 6 months	FY 12	FY 11
Recommended Orders Issued	12	23	19
Average Number of Days from Close of Record To Issue	146	211	197
Average Number of Days from Filing To Issue	332	475	425

FINAL BOARD ORDERS ISSUED IN CONTESTED CASES:

	FY 13 – 1 st 6 months	FY 12	FY 11
Final Board Orders in Contested Cases	20	27	25
Average Number of Days from Submission To Issue	91	168	141
Average Number of Days from Filing To Issue	536	575	487

APPENDIX I

**Agency Management Report
KPMs for Reporting Year 2011**

Original Submission Date: September 28, 2012

Agency: EMPLOYMENT RELATIONS BOARD

	Green = Target to -5%	Yellow = Target -6% to -15%	Red = Target >-15%	Pending	Exception Cannot calculate status (zero entered for either Actual or Target)
Summary Stats: FY 11	20.00%	20.00%	60.00%	0.00%	0.00%

Detailed Report:

KPMs	Actual	Target	Status	Most Recent Year	Management Comments
1a. Union representation – Average Number of days to resolve a petition for union representation when a contested case hearing is required.	377	225	Red	2011	<p>The agency's performance has deteriorated in this area. In FY 12, it took 152 days (67%) longer than the 225-day target.</p> <p>The agency had accrued a backlog of cases, many of which were resolved during FY 2012. Some of these cases took more than 500 days to process, which is reflected in the statistics for this year.</p> <p>A third ALJ was hired in mid-2010, and it can take two years for an ALJ to become fully conversant on the statutes and case precedent. The agency expects performance to improve now that the newest ALJ is trained and up to speed.</p> <p>Although contested representation cases are generally given priority, the ALJs have to look at all their cases and set priorities to ensure that those with a possible high negative impact (e.g., terminations, cases that may involve a back pay award) are processed as quickly and efficiently as possible.</p>
1b. Union representation – Average number of days to resolve a petition for union representation when a contested case hearing is not required.	54	79	Green	2011	<p>The agency continues to resolve these cases faster than the target. In FY 12, the average was 25 days better than the target, ensuring public employees timely resolution of questions regarding their workplace rights.</p>

KPMs	Actual	Target	Status	Most Recent Year	Management Comments
2a. Administrative Law Judge (ALJ) hearings – Average number of days from the date of filing of a contested case to the first date an ALJ is available to hear the case.	84	60	Red	2011	<p>Performance has improved in this category. In FY 12, it took 24 days (40%) longer than the 60-day target. A backlog of cases, staffing issues, and an increase in cases filed contributed to the result.</p> <p>The agency expects performance to improve now that the newest ALJ is trained and up to speed.</p>
2b. Administrative Law Judge (ALJ) hearings – Average number of days from the date of filing of a contested case to the actual date of the hearing.	167	90	Red	2011	<p>In FY 12, it took 77 days (85%) longer than the 90-day target. A backlog of cases, staffing issues, and an increase in cases filed contributed to the result.</p> <p>The agency expects performance to improve now that the newest ALJ is trained and up to speed.</p>
3. Settling cases – Percentage of cases assigned to an ALJ that are settled or withdrawn prior to hearing.	41%	40%	Green	2011	<p>The agency's performance exceeded its goal of 40%. The parties are in sole control of whether a settlement occurs, and the ongoing economic situation makes settling cases much more difficult.</p>
4. Recommended orders – Average number of days for an Administrative Law Judge to issue a recommended order after the record in a contested case hearing is closed.	211	60	Red	2011	<p>In FY 12, the Hearings Office missed the target by 151 days. A backlog of cases, staffing, and an increase in cases filed all contributed to the result.</p> <p>The agency expects performance to improve now that the newest ALJ is trained and up to speed.</p>
5. Final Board orders – Average number of days from submission of a case to the Board until issuance of a final order.	132	70	Red	2011	<p>In FY 12, the Board cleared most of the old cases in its backlog, which is reflected in the statistics for this measure. Performance is expected to improve for FY 13.</p>
6. Process complaints in a timely manner – Average number of days to process a case that involves a hearing, from the date of filing to the date of the final order.	575	300	Red	2011	<p>The agency's performance has deteriorated in this area. In FY 12, it took 275 days (92%) longer than the 300-day target. However, this statistic reflects a reduction in the backlog of old cases that had accrued. There are still several aged cases remaining, which will be reflected in FY 13 statistics.</p>

KPMs	Actual	Target	Status	Most Recent Year	Management Comments
7a. Appeals – Percentage of Board Orders which are appealed.	11%	15%	Green	2011	The Board has no control over the number of appeals filed. The number of appeals does, however, indicate to some extent the labor-management community's acceptance of the Board's decisions. The number of cases affirmed on appeal (KPM 7b) is a better measure of the Board's skill and effectiveness.
7b. Appeals – Percentage of Board Orders which are reversed on appeal.	11%	10%	Yellow	2011	The agency slightly missed its target in FY 12. Some of these orders had been on appeal for more than three years. At this time, seven agency orders are on appeal.
8a. Mediation effectiveness – Percentage of contract negotiations disputes that are resolved by mediation for strike-permitted employees.	79%	94%	Red	2011	The agency's performance deteriorated slightly in this category. In collective bargaining negotiations, the parties alone control whether a settlement occurs. Many factors influencing settlement are outside of the mediator and parties' control. For example, the ongoing economic downturn has led to salary freezes, furlough days, and an increase in the cost of health insurance.
8b. Mediation effectiveness – Percentage of contract negotiations disputes that are resolved by mediation for strike-prohibited employees.	68%	80%	Yellow	2011	Performance in this category improved considerably in FY 12 but missed the target by 24%. In collective bargaining negotiations, the parties alone control whether a settlement occurs. Many factors influencing settlement are outside of the mediator and parties' control. For example, the ongoing economic downturn has led to salary freezes, furlough days, and an increase in the cost of health insurance.

KPMs	Actual	Target	Status	Most Recent Year	Management Comments
9a. Mediator Availability – Average number of days following a request for mediation assistance in contract negotiations to the date a mediator is available to work with the parties.	38	30	Red	2011	The agency's performance deteriorated slightly in this category. One mediator position, which became vacant in October 2010, was not filled until January 2012 because of funding issues. The 2011 Legislature allowed a shift in Other Fund resources to ease the funding issue; however, funding for the position continues to be an issue. The agency expects performance to improve now that the office is fully staffed.
9b. Mediator Availability – Average number of days following a request for mediation assistance in contract negotiations to the date the first mediation session occurs.	51	45	Yellow	2011	The agency's performance deteriorated slightly in this category. One mediator position, which became vacant in October 2010, was not filled until January 2012 because of funding issues. The 2011 Legislature allowed a shift in Other Fund resources to ease the funding issue; however, funding for the position continues to be an issue. The agency expects performance to improve now that the office is fully staffed.
10. Customer Satisfaction – Percent of customers rating their satisfaction with the agency's customer services as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, and availability of information.	76	85	Red	2010	The agency did not meet its target in any category. The agency's overall rating was 20% below the target. The ratings declined for Accuracy (93% to 82%), Expertise (98% to 89%), and Helpfulness (95% to 87%) from FY 10, and improved in Timeliness (30% to 62%) and Information Availability (73% to 86%), although still below targets. Timeliness is an ongoing problem. The agency is reviewing internal procedures and meeting with staff to find efficiencies as well as working with constituents to find ways to streamline processes and procedures. Comments offered on the survey indicate that the level of staffing and changes in personnel continue to be of concern. Now that the agency is fully staffed, it expects to see better ratings.

EMPLOYMENT RELATIONS BOARD

Annual Performance Progress Report (APPR) for Fiscal Year 2012

Original Submission Date: September 28, 2012

2011-13 KPM#	2013-15 Key Performance Measures (KPMs)
1a	Union representation – Average number of days to resolve a petition for union representation when a contested case hearing is required.
1b	Union representation – Average number of days to resolve a petition for union representation when a contested case hearing is not required.
2a	Administrative Law Judge (ALJ) hearings – Average number of days from the date of filing of a contested case to the first date an ALJ is available to hear the case.
2b	Administrative Law Judge (ALJ) hearings – Average number of days from the date of filing of a contested case to the actual date of the hearing.
3	Settling cases – Percentage of cases assigned to an ALJ that are settled or withdrawn prior to hearing.
4	Recommended orders – Average number of days for an Administrative Law Judge to issue a recommended order after the record in a contested case hearing is closed.
5	Final Board orders – Average number of days from submission of a case to the Board until issuance of a final order.
6	Process complaints in a timely manner – Average number of days to process a case that involves a hearing, from the date of filing to the date of the final order.
7a	Appeals – Percentage of Board Orders which are appealed.
7b	Appeals – Percentage of Board Orders which are reversed on appeal.
8a	Mediation effectiveness – Percentage of contract negotiation disputes that are resolved by mediation for strike-permitted employees.

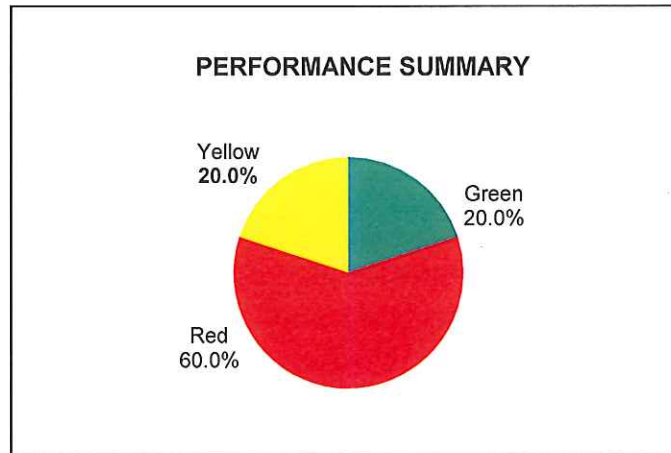
2011-13 KPM#	2013-15 Key Performance Measures (KPMs)
8b	Mediation effectiveness – Percentage of contract negotiation disputes that are resolved by mediation for strike-prohibited employees.
9a	Mediator availability – Average number of days following a request for mediation assistance in contract negotiations to the date a mediator is available to work with the parties.
9	Mediator availability – Average number of days following a request for mediation assistance in contract negotiations to the date the first mediation session occurs.
10	Customer Satisfaction – Percentage of customers rating their overall satisfaction with the agency’s customer service as “good” or “excellent:” overall, timeliness, accuracy, helpfulness, expertise, availability of information.

AGENCY NAME: Employment Relations Board

I. EXECUTIVE SUMMARY

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

Contact: Susan Rossiter, Board Chair	Phone: 503-378-3807
Alternate: Leann G. Wilcox, Office Administrator	Phone: 503-378-8610



Green = Target to -5%
Yellow = Target -6% to -15%
Red = Target >-15%

1. SCOPE OF REPORT

The agency is responsible for four programs: (1) Board and Administration, (2) Conciliation Services, (3) Hearings, and (4) Elections. The programs are each addressed by key performance measures.

The agency's performance measures do not provide a comprehensive understanding of the agency's performance. Because the agency is a quasi-judicial body, it is difficult to measure the quality of its work. Like the courts, the agency's task is to apply the law in a neutral fashion to resolve disputes between parties. The agency has no interest in which party prevails. The aspect of performance that can most readily be measured is timeliness. As a result, many of the agency's performance measures concern timeliness.

Timeliness, however, is not the agency's only concern. The parties must have trust and confidence in the agency's decisions. Trust and confidence are enhanced when the agency demonstrates that it considers each case carefully and decides it in accordance with the law. Thus, the agency balances the need for prompt decisions with the need to carefully consider each case on its facts and merits.

2. THE OREGON CONTEXT

The public policy underlying the work of the Employment Relations Board is to promote workplace stability and reduce workplace disputes and the accompanying costs and disruption of public services. All Oregonians benefit from the agency's services. Resolution of workplace disputes ensures that the public will continue to receive high-quality public services without impairment or

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

interruption, creates a more stable and productive workforce, and reduces the costs of recruitment and training. Equally important, the agency's resolution of workplace disputes is faster, more efficient, and less expensive than resolving disagreements through court proceedings.

Although the agency's Key Performance Measures have no primary links to Oregon Benchmarks, the agency's work supports the state's goal of economic growth. Companies deciding whether to relocate in Oregon, as well as those deciding whether to stay, inevitably consider whether there are reliable, efficient, high-quality public services to support their business.

3. PERFORMANCE SUMMARY

The agency met its target for three measures ("green" category), was close to target for three measures ("yellow" category), but missed the target for nine of its key performance measures ("red" category). Of the nine measures in the red category, agency performance declined for five measures but improved for three measures and remained the same on one.

Overall, it is still taking too long for the agency to resolve cases. The average number of days to process a case that involves a hearing from the date of filing to the date of the final order increased by 88 days compared to FY 2011. However, that figure is high because it reflects a number of old cases that were resolved as the agency cleared its backlog.

4. CHALLENGES

There are several challenges faced by the agency which it cannot control. For example, in collective bargaining negotiations, the parties alone control whether a settlement occurs. In contested case hearings, scheduling a hearing is affected by, among other issues, the parties and witnesses' availability and on-going settlement negotiations between the parties.

Other factors challenging the agency include the economic crisis and resulting budget shortfalls, an increased caseload, and funding and personnel issues.

- The economic downturn the last several years has made public sector labor relations more contentious. Cases have become more complex, disputes more difficult to resolve, and obtaining settlements more difficult because difficult economic circumstances mean employers must propose (and make) cuts in wages and benefits.
- An increased caseload is major reason for delay in processing cases. In FY 2012, 158 new cases were filed with the Hearings Office. That is a 13% increase (18 cases) over the number of new cases filed in FY 2011. However, it is an increase of 41% (46 cases) filed compared to FY 2009 and 74% (67 cases) compared to FY 2007. Also in FY 2012, 91 requests for mediation were filed with the Conciliation Service Office, an increase of 26 requests (38%) compared to FY 11.
- Inadequate staffing is a another major cause of delays in resolving cases. There were a number of personnel issues during FY 2012, including substantial changes in the membership of the Board. One member retired, one was not reappointed, and the Governor designated a new Board Chair.

AGENCY NAME: Employment Relations Board

I. EXECUTIVE SUMMARY

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

One mediator position, which became vacant in October 2010, was not filled until January 2012 because of funding issues. The 2011 Legislature allowed a shift in Other Fund resources to ease the funding issue; however, funding for the position continues to be an issue.

There were also other personnel changes during FY 2012. The agency's Elections Coordinator, who had been with ERB for more than 20 years, retired and another staff member assumed the position. It will take a long time and much hard work to become fully conversant with the requirements of that position. In addition, that change required the agency to hire a new Hearings Assistant. Experienced staff has spent, and continues to spend, a significant amount of time training these two employees.

5. RESOURCES USED AND EFFICIENCY

The Legislatively Approved Budget for the 2011-13 biennium is \$3,795,499. The budget provides \$3,194,287 for personal services (about 84% of the budget) and \$601,212 for services and supplies.

Under the new Board Chair, the agency is reviewing its organization, processes, and procedures to streamline work and maximize its resources. Staff are expected to process cases and requests in a more timely manner. Deadlines have been established for issuing recommended orders, and the Board is imposing timelines on itself to produce final orders faster. In the last six months of the biennium, the Board issued 22 final orders compared to 14 during the first six months.

Restrictions on ALJ travel have continued. Previously, ALJs traveled to the community where the dispute arose. ALJs now travel only for state cases and in instances when conducting the hearing in Salem would cause irreparable harm to a community. This means that time ALJs previously spent on travel can now be devoted to conducting hearings and writing recommended orders. It also means, however, that school districts and local governments must now bear the expense of getting witnesses to Salem for hearings. For local governments located far from Salem, this expense can be large.

The agency continues to monitor and evaluate all business processes for additional efficiencies and cost savings. Because more than 84% of the agency budget is for personal services, there are no major opportunities to save money.

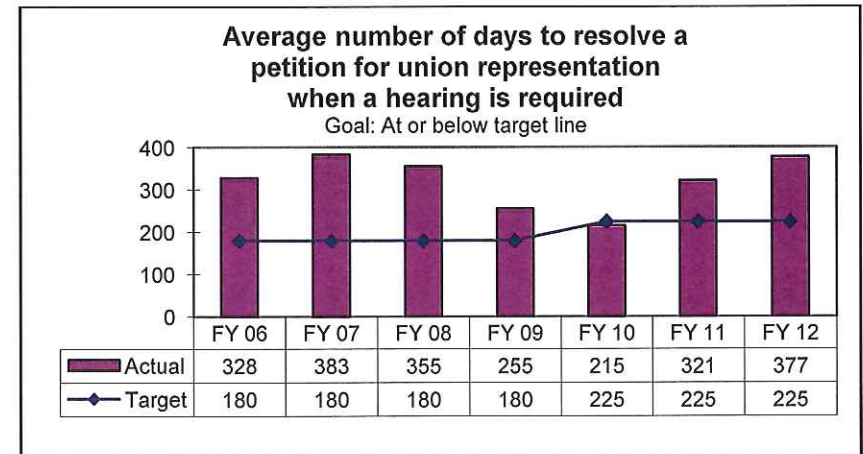
Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #1a	UNION REPRESENTATION Average number of days to resolve a petition for union representation when a contested case hearing is required.	Measure since: 2006
Goal	# 1 – To timely process petitions concerning union representation.	
Oregon Context	Mission.	
Data source	Data is reported for the year the process is complete. A petition is resolved when the results of an election or card check are certified or when the Board issues an order clarifying the bargaining unit or dismissing the petition.	
Owner	Elections Office: Susan Rossiter, Board Chair, 503-378-3807	

1. OUR STRATEGY

The agency goal is to reduce the time it takes to resolve a representation petition that requires a contested case hearing. The strategy to meet the goal requires administrative law judges (ALJs) to give these cases priority when scheduling and holding hearings. When appropriate, the ALJs will work with the parties to help them reach a mutually agreeable settlement prior to a contested case hearing.

Agency constituents are state and local governments and their employees covered by the Public Employee Collective Bargaining Act (PECBA). Private sector employers and employees who are exempt from the National Labor Relations Act can also file representation cases with the Board.



2. ABOUT THE TARGETS

The time needed to resolve representation cases that require a contested case hearing should be at or below the target. The targets are based on history, staffing, and the needs of the agency’s constituents. Faster resolution reduces workplace disruption, saves taxpayers money, increases productivity, and ensures that employees promptly receive the rights they are entitled to under the law. Because of the importance to the parties and the public, contested representation cases should be resolved faster than other cases requiring contested case hearings.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

3. HOW WE ARE DOING

Due to personnel changes and increased workload, the agency has once again accrued a backlog of cases. During FY 2012, however, four old representation cases were resolved. Two of these cases took more than 500 days to process, which is reflected in the statistics for this year. The agency expects the remainder of the backlog to be cleared by mid-September 2012.

4. HOW WE COMPARE

No comparative data is available. The National Labor Relations Board and comparable agencies in other states are structured differently and guided by different requirements and statutory obligations, so no comparison can be made.

5. FACTORS AFFECTING RESULTS

The two factors that have the greatest impact on performance results are personnel changes and increased caseload. During FY 09, the agency had only two ALJs. In mid-2010, a third ALJ was hired, but it can take up to two years for an ALJ to become fully conversant on the statutes and case precedent. In addition, staff time was reduced by furlough days. Once again, a backlog accrued. The agency expects performance to improve now that the newest ALJ is trained and up to speed.

In difficult economic periods such as this, labor relations disputes increase. The number of cases filed with the agency has steadily increased over the last several years, with 158 new cases filed in FY 12, a 13% increase (18 cases) over FY 11. Compared to FY 09, this is an increase of 46 cases (41%), and an increase of 67 cases from FY 07 (74%).

Although contested representation cases are generally given priority, the ALJs have to look at all their cases and set priorities to ensure that those with a possible high negative impact (*i.e.*, terminations, cases that may involve a back pay award, cases where bargaining is stalled until the case is resolved) are processed as quickly and efficiently as possible.

6. WHAT NEEDS TO BE DONE

The ALJs will continue to put extra emphasis on resolving the backlog and continue to emphasize resolving contested representation cases in a more timely and efficient manner. This will reduce workplace disruption, save taxpayers money, increase productivity, and ensure that employees' statutory rights are enforced. The Board will work with the ALJs to ensure these cases are resolved in a timely manner. To further expedite case processing, some cases will be assigned to ALJs to conduct a hearing and make findings of fact; the cases will then be submitted directly to the Board of issuance of a final order.

7. ABOUT THE DATA

The reporting cycle is fiscal year. Reports are compiled from an agency database that was designed to ensure accuracy and consistency of information.

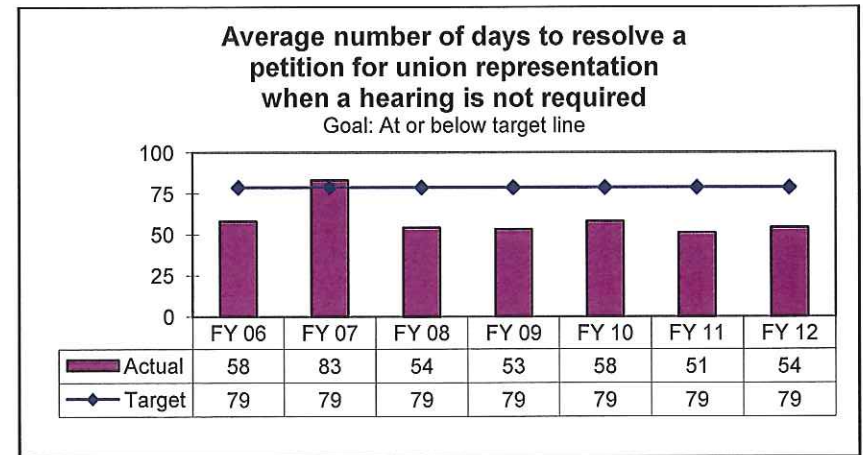
Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #1b	UNION REPRESENTATION Average number of days to resolve a petition for union representation when a contested case hearing is not required.	Measure since: 2006
Goal	# 1 – To timely process petitions concerning union representation.	
Oregon Context	Mission.	
Data source	Data is reported for the year the process is complete. A petition is resolved when the results of an election or card check are certified or when the Board issues an order clarifying the bargaining unit or dismissing the petition.	
Owner	Elections Office: Susan Rossiter, Board Chair, 503-378-3807	

1. OUR STRATEGY

The agency goal is to promptly process representation cases that do not require a contested case hearing. The agency consistently meets or exceeds its target. The agency will continue to reach out to its customers, providing education on process, procedures, and the need to submit accurate information and properly completed paperwork.

Agency constituents are state and local governments and their employees covered by the Public Employee Collective Bargaining Act (PECBA). Private sector employers and employees who are exempt from the National Labor Relations Act can also file representation cases with the Board.



2. ABOUT THE TARGETS

The length of time to process an uncontested representation petition should be at or below the target. Prompt processing helps minimize the length of organizing campaigns that occur in and around the workplace while the petition is pending. It also ensures that employees get a timely resolution of questions regarding their workplace rights. The targets are based on history, the needs of the agency’s constituents, and statutory requirements.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

3. HOW WE ARE DOING

The agency continues to do better than its target of 79 days to process an uncontested representation petition. In FY 12, the average was 25 days better than the target.

4. HOW WE COMPARE

No comparative data is available. The National Labor Relations Board (NLRB) and comparable agencies in other states are structured differently and guided by different requirements and statutory obligations, so no comparison can be made. For instance, although the NLRB completes employee elections 40-45 days after the petition is filed, it conducts on-site elections. ERB lacks the personnel and funding to conduct on-site elections. As a consequence, ERB conducts elections by mail which adds at least two to three weeks to the process.

5. FACTORS AFFECTING RESULTS

Incomplete paperwork and inaccurate information from the parties can delay processing a petition.

6. WHAT NEEDS TO BE DONE

A new Elections Coordinator took over at the end of FY 12 after the previous incumbent, who had been with the agency for more than 20 years, retired. The coordinator will continue to work closely with petitioners to obtain the information and paperwork necessary to process uncontested cases in an efficient and timely manner. In addition, the agency will continue to look for options and efficiencies to further enhance the program.

7. ABOUT THE DATA

The reporting cycle is fiscal year. Reports are compiled from an agency database that was designed to ensure accuracy and consistency of information.

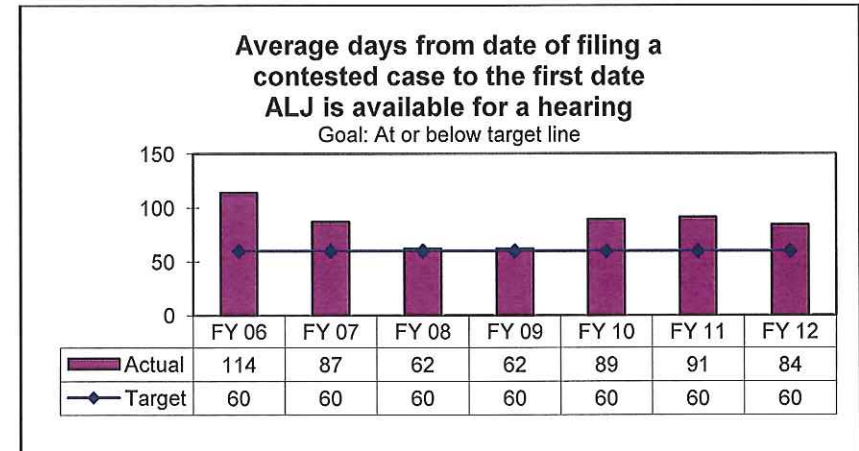
Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #2a	ADMINISTRATIVE LAW JUDGE (ALJ) HEARINGS Average number of days from the date of filing of a contested case to the first date an ALJ is available to hear the case.	Measure since: 2006
Goal	#2 – To timely process complaints and appeals.	
Oregon Context	Mission.	
Data source	Data is counted in the year ALJ is first available.	
Owner	Hearings Office: Susan Rossiter, Board Chair, 503-378-3807	

1. OUR STRATEGY

The agency goal is to conduct contested case hearings promptly after a case is filed. The administrative law judges (ALJs) will continue to schedule and hold hearings as quickly as calendars and the availability of parties and witnesses allow.

Agency constituents are state and local governments and their employees covered by the Public Employee Collective Bargaining Act (PECBA), and the State and its employees covered by the State Personnel Relations Law. Private sector employers and employees who are exempt from the National Labor Relations Act can also file cases with the Board.



2. ABOUT THE TARGETS

The average number of days to the first date an ALJ is available for a hearing should be at or below the target. The sooner an ALJ is available and a hearing is held, the faster a case can be resolved. The targets are based on history, staffing, and the needs of the agency and its constituents.

3. HOW WE ARE DOING

The agency’s performance has improved in this area. In FY 12, it took 24 days (40%) longer than the 60-day target, an improvement of 12% compared to FY 11. The agency expects to see continued improvement in this area for FY 13.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

4. HOW WE COMPARE

There is no comparative data available.

5. FACTORS AFFECTING RESULTS

The two factors that have the greatest impact on performance results are personnel changes and increased caseload. During FY 09, the agency had only two ALJs. In mid-2010, a third ALJ was hired, but it can take up to two years for an ALJ to become fully conversant on the statutes and case precedent. In addition, staff time was reduced by furlough days. Once again, a backlog accrued. The agency expects performance to improve now that the newest ALJ is trained and up to speed.

In difficult economic periods such as this, labor relations disputes increase. The number of cases filed with the agency has steadily increased over the last several years, with 158 new cases filed in FY 12, a 13% increase (18 cases) over FY 11. Compared to FY 09, this is an increase of 46 cases (41%), and an increase of 67 cases from FY 07 (74%).

6. WHAT NEEDS TO BE DONE

As the backlog decreases, the agency expects performance to improve. The agency will make every effort to minimize the impact of furlough days, to streamline processing, and to find efficiencies.

7. ABOUT THE DATA

The reporting cycle is fiscal year. Data is compiled from an agency database that was designed to ensure accuracy and consistency of information.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #2b	ADMINISTRATIVE LAW JUDGE HEARINGS Average number of days from the date of filing of a contested case to the actual date of the hearing.	Measure since: 2006
Goal	#2 – To timely process complaints and appeals.	
Oregon Context	Mission.	
Data source	Data is counted in the year in which the first day of hearing is held.	
Owner	Hearings Office: Susan Rossiter, Board Chair, 503-378-3807	

1. OUR STRATEGY

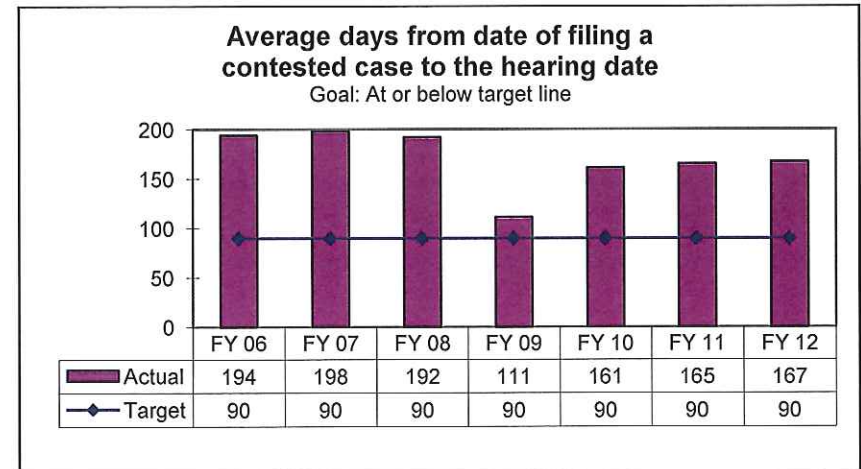
The administrative law judges (ALJs) will continue to schedule and hold hearings as quickly as calendars and the availability of parties and witnesses allow.

Agency constituents are state and local governments and their employees covered by the Public Employee Collective Bargaining Act (PECBA), and the State and its employees covered by the State Personnel Relations Law. Private sector employers and employees who are exempt from the National Labor Relations Act can also file cases with the Board.

2. ABOUT THE TARGETS

The sooner a hearing is held, the faster a case can be resolved. The average number of days from filing to the hearing date should be at or below the target. The targets are based on history and the needs of the agency and the agency’s constituents.

The first date an ALJ is available to hear a case (KPM 2a) is a more accurate measurement of workload and efficiency. The actual date a hearing is held can be affected by the parties’ availability, on-going settlement negotiations between the parties, and other factors beyond the control of the ALJ.



Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

3. HOW WE ARE DOING

The agency's performance deteriorated slightly each of the last three fiscal years. In FY 12, it took 77 days (85%) longer than the 90-day target. In FY 11, it took 75 days (83%) longer, and in FY 10, the agency missed the target by 71 days (79%). In FY 09, with three experienced ALJs, the agency missed the target by only 21 days (23%). If caseload continues to increase, the agency anticipates the number of days to the first hearing will remain above the target.

4. HOW WE COMPARE

No comparative data is available.

5. FACTORS AFFECTING RESULTS

The date a hearing is held is affected by the parties and witnesses' availability, on-going settlement negotiations between the parties, and other factors beyond the control of the ALJ. Agency restrictions on ALJ travel cause further delays in setting hearing dates. Parties must find adequate time for themselves and their witnesses to travel to Salem for the hearing. Before the travel restrictions, ALJs traveled to the community where the dispute arose. Under the restrictions, ALJs are allowed to travel only for state cases and in instances when conducting the hearing in Salem would cause irreparable harm to a community as, for example, if all the police officers in a community would otherwise have to travel to Salem to testify at a hearing. This travel restriction provides the ALJs with more time to conduct hearings and write recommended orders, but it can delay the start of the hearing and cause other problems for both staff and the parties.

Staffing levels and expertise along with increased caseloads also impact performance. During FY 09, the agency had only two ALJs. In mid-2010, a third ALJ was hired, but it can take up to two years for an ALJ to become fully conversant with the statutes and case precedent. In addition, staff time was reduced by furlough days. The agency expects performance to improve now that the new ALJ is trained and up to speed.

Difficult economic periods such as this tend to increase labor relations disputes. Over the last several years, the number of cases filed has steadily increased. In FY 12, 158 new cases were filed. That is a 13% increase (18 cases) over the number of new cases filed in FY 11. However, it is an increase of 46 cases (41%) filed compared to FY 09 and 67 cases (74%) compared to FY 07.

6. WHAT NEEDS TO BE DONE

ALJs will schedule and hold hearings as quickly as calendars allow. The agency expects performance to improve now that the newest ALJ is trained and up to speed. Staff will also explore ways to persuade parties to expedite scheduling of hearings.

7. ABOUT THE DATA

The reporting cycle is fiscal year. Data is compiled from an agency database that was designed to ensure accuracy and consistency of information.

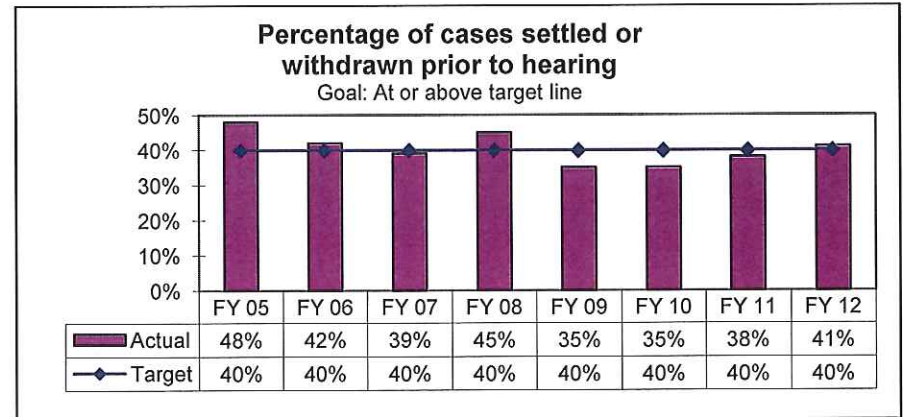
Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #3	SETTLING CASES Percentage of cases assigned to an administrative law judge that are settled or withdrawn prior to hearing.	Measure since: 2005
Goal	#2 – To timely process complaints and appeals.	
Oregon Context	Mission.	
Data source	Percentage of cases assigned to an administrative law judge that are settled or withdrawn prior to hearing. Excludes uncontested representation cases.	
Owner	Hearings Office: Susan Rossiter, Board Chair, 503-378-3807	

1. OUR STRATEGY

As cases are filed, administrative law judges (ALJs) investigate the case and, when appropriate, work with the parties and encourage them to reach a mutually agreeable settlement without a contested case hearing.

Agency constituents are state and local governments and their employees covered by the Public Employee Collective Bargaining Act (PECBA), and the State and its employees covered by the State Personnel Relations Law. Private sector employers and employees who are exempt from the National Labor Relations Act can also file cases with the Board.



2. ABOUT THE TARGETS

Settling cases without a hearing is more efficient and economical. It saves the taxpayers and all the parties time and money. The percentage of cases settled or withdrawn prior to hearing should come in at or above the target. The target was based on past performance.

3. HOW WE ARE DOING

The ALJs settled 41% of their cases in FY 12, slightly better than its goal of 40%. This is an improvement over FY 11, when the ALJs settled 38% of their cases.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

4. HOW WE COMPARE

There is no comparative data available.

5. FACTORS AFFECTING RESULTS

The parties are in sole control of whether a settlement occurs. The ongoing economic downturn makes settlement more difficult. Some of the factors include, but are not limited to, budget shortfalls, salary freezes, furlough days, and the rising cost of health insurance. Disagreements on such issues are complicated and difficult to resolve. In addition, agency staff time was reduced by furlough days.

In difficult economic periods such as this, labor relations disputes increase. The number of cases filed with the agency has steadily increased over the last several years, with 158 new cases filed in FY 12, a 13% increase (18 cases) over FY 11. Compared to FY 09, this is an increase of 46 cases (41%), and an increase of 67 cases from FY 07 (74%).

6. WHAT NEEDS TO BE DONE

ALJs will continue to facilitate mutually agreeable settlements prior to hearing when possible and appropriate.

7. ABOUT THE DATA

The reporting cycle is fiscal year. Data is compiled from an agency database that was designed to ensure accuracy and consistency of information.

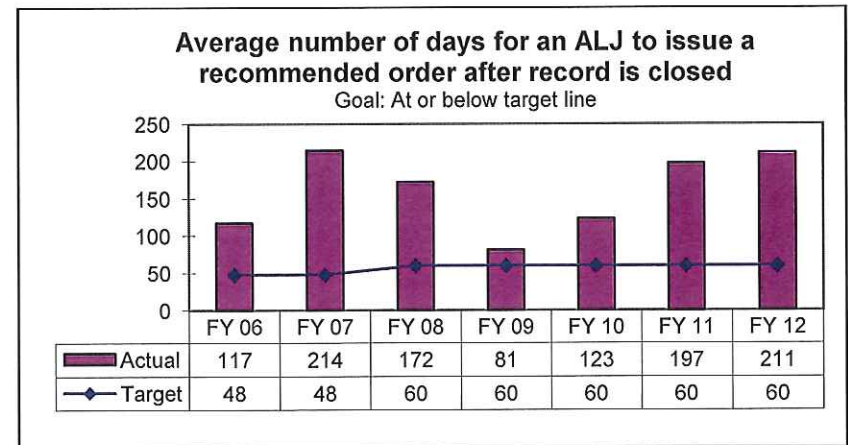
Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #4	RECOMMENDED ORDERS Average number of days for an administrative law judge to issue a recommended order after the record in a contested case hearing is closed.	Measure since: 2001
Goal	#2 – To timely process complaints and appeals.	
Oregon Context	Mission.	
Data source	The record closes at the end of the hearing or upon receipt of post-hearing briefs. Data is reported for the year in which the recommended order is issued.	
Owner	Hearings Office: Susan Rossiter, Board Chair, 503-378-3807	

1. OUR STRATEGY

The agency’s goal is to produce a recommended order as quickly as possible after the hearing ends. The agency is committed to providing time for the administrative law judges (ALJs) to write their recommended orders and will continue restrictions on travel as long as needed.

Agency constituents are state and local governments and their employees covered by the Public Employee Collective Bargaining Act (PECBA), and the State and its employees covered by the State Personnel Relations Law. Private sector employers and employees who are exempt from the National Labor Relations Act can also file cases with the Board.



2. ABOUT THE TARGETS

The average number of days it takes an ALJ to issue a recommended order after the close of record should be at or below the target. A prompt decision by an ALJ helps prevent work stoppages, reduces workplace disruption, saves taxpayers money, and increases productivity.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

3. HOW WE ARE DOING

In FY 12, the ALJs missed the target by 151 days (252%). Due to personnel changes and increased workload, the agency has once again accrued a backlog of cases. During FY 2012, however, 16 old cases were resolved. It took more than 200 days to issue a recommended order in 10 of these cases, and that is reflected in the statistics for this year. In three cases, over 200 days have elapsed since the close of record. Recommended orders in the cases should be issued by mid-September.

4. HOW WE COMPARE

There is no comparative data available.

5. FACTORS AFFECTING RESULTS

The three main factors affecting performance are the economic crisis, an increased caseload, and personnel changes. The difficult economic and budget conditions in place for several years result in cases that have become more complex and disputes that have become more difficult to resolve because of salary freezes, furlough days, the rising cost of health insurance, and other factors beyond the agency's control.

In addition, difficult economic conditions tend to increase labor relations disputes. Over the last several years, the number of cases filed has steadily increased. In FY 12, 158 new cases were filed. That is a 13% increase (18 cases) over the number of new cases filed in FY 11. However, it is an increase of 46 cases (41%) filed compared to FY 09 and 67 cases (74%) compared to FY 07.

Staffing levels and expertise along with increased caseloads also impact performance. During FY 09, the agency had only two ALJs. In mid-2010, a third ALJ was hired, but it can take up to two years for an ALJ to become fully conversant with the statutes and case precedent. In addition, staff time was reduced by furlough days. The agency expects performance to improve and the backlog to be eliminated now that the new ALJ is trained and up to speed.

6. WHAT NEEDS TO BE DONE

The ALJs will prioritize their caseload to provide time after hearings to write recommended orders. The Board chair is closely monitoring workloads and, when necessary, assigning due dates for recommended orders to be issued. The agency expects to see considerable improvement in the length of time it takes to issue a recommended order.

7. ABOUT THE DATA

The reporting cycle is fiscal year. Data is compiled from an agency database that was designed to ensure accuracy and consistency of information.

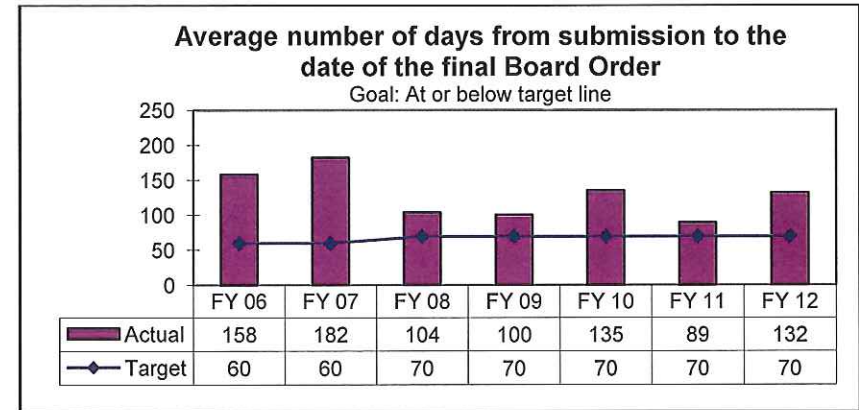
Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #5	FINAL BOARD ORDERS Average number of days from submission of a case to the Board until issuance of a final order.	Measure since: 2001
Goal	#2 – To timely process complaints and appeals.	
Oregon Context	Mission.	
Data source	A case is submitted after oral argument or on the 15 th day after the recommended order is issued if there are no objections. Uncontested representation petitions are considered submitted on the date filed.	
Owner	Board: Susan Rossiter, Board Chair, 503-378-3807	

1. OUR STRATEGY

A case is not complete until the Board issues a final order. Board members will continue to work collaboratively to maximize individual expertise and knowledge to expedite completion of final Board Orders.

Agency constituents are state and local governments and their employees covered by the Public Employee Collective Bargaining Act (PECBA), and the State and its employees covered by the State Personnel Relations Law. Private sector employers and employees who are exempt from the National Labor Relations Act can also file cases with the Board.



2. ABOUT THE TARGETS

The average number of days should come in at or below the target. Delays in cases involving back pay can increase the costs to public employers and to the taxpayers. Faster resolution reduces workplace disruption, saves taxpayers money, increases productivity, and ensures that employees promptly receive the rights they are entitled to under the law. Targets are based on history, staffing, and the needs of our constituents.

3. HOW WE ARE DOING

The agency’s performance has deteriorated in this category and it took 62 days (89%) longer than the goal to issue final orders. Due to personnel changes, the Board accrued a backlog of cases. During FY 2012, however, nine old cases were resolved, and that is reflected in the statistics for this year. In only one case have over 200 days elapsed from the date the case was submitted. The final order will be issued within the next few weeks.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

4. HOW WE COMPARE

There is no comparative data available.

5. FACTORS AFFECTING RESULTS

The three main factors affecting performance are the economic crisis, increased caseload, and personnel changes. The difficult economic and budget conditions in place for several years have had a negative impact on labor relations, and cases have become more complex and disputes more difficult to resolve because of furlough days, salary freezes, the rising cost of health insurance, and other factors beyond the agency's control.

In addition, difficult economic conditions tend to increase labor relations disputes. Over the last several years, the number of cases filed has steadily increased. In FY 12, 158 new cases were filed. That is a 13% increase (18 cases) over the number of new cases filed in FY 11. However, it is an increase of 46 cases (41%) filed compared to FY 09 and 67 cases (74%) compared to FY 07.

Staffing levels and expertise also impact performance. During FY 2012, there were substantial changes in the membership of the Board. One member retired and a new Board Chair was designated. The third Board member was not reappointed, which affected performance during the last six months of the biennium. A third Board member was appointed by the Governor effective July 1, 2012.

Also, the Board chair had to spend considerably more time on administrative duties, such as budget issues, and all Board members have assisted the ALJs when necessary, taking them away from their Board member duties.

6. WHAT NEEDS TO BE DONE

Board members will continue to work collaboratively to maximize individual expertise and knowledge to expedite completion of final Board Orders, to clear up the backlog, and to ensure no additional backlog of cases accrues.

7. ABOUT THE DATA

The reporting cycle is fiscal year. Data is compiled from an agency database that was designed to ensure accuracy and consistency of information.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #6	PROCESS COMPLAINTS IN A TIMELY MANNER Average number of days to process a case that involves a hearing, from the date of filing to the date of the final order.	Measure since: 2001
Goal	#2 – To timely process complaints and appeals.	
Oregon Context	Mission.	
Data source	This excludes any time a case is under the jurisdiction of the appellate courts.	
Owner	Board: Susan Rossiter, Board Chair, 503-378-3807	

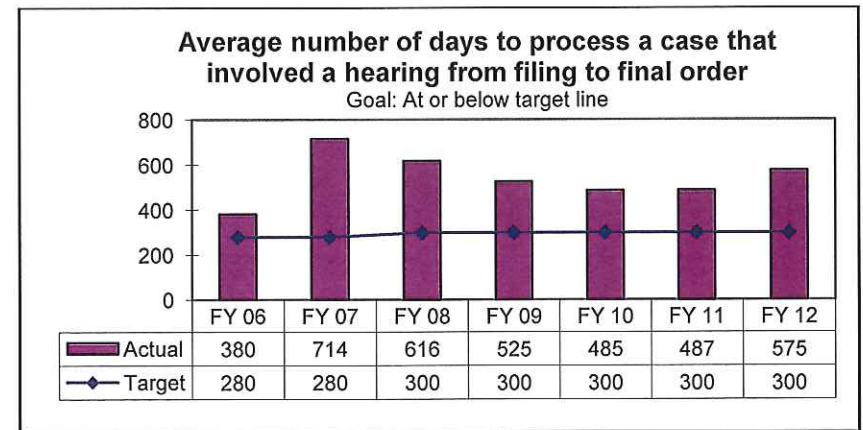
1. OUR STRATEGY

The agency’s goal is to reduce the time it takes to process a case from start to finish. Agency activities designed to reduce delays will continue and, as opportunities arise, new approaches will be developed so the agency can deliver more timely results.

This performance measure combines the steps measured in KPMs 1 through 5 and relates to the agency’s goal to help ensure that high-quality government services to the public continue without impairment or interruption.

Agency constituents are state and local governments and their employees covered by the Public Employee Collective Bargaining Act (PECBA), and the State and its employees covered by the State Personnel Relations Law. Private sector employers and employees who are exempt from the National Labor Relations Act can also file cases with the Board.

Agency constituents are state and local governments and their employees covered by the Public Employee Collective Bargaining Act (PECBA), and the State and its employees covered by the State Personnel Relations Law. Private sector employers and employees who are exempt from the National Labor Relations Act can also file cases with the Board.



2. ABOUT THE TARGETS

The average number of days should be at or below the target. Delays in processing cases involving back pay can increase the costs to public employers and to the taxpayers. Faster resolution helps prevent work stoppages, reduces workplace disruption, saves taxpayers money, increases productivity, and ensures that employees promptly receive the rights they are entitled to under the law.

3. HOW WE ARE DOING

In FY 12, the average number of days to process a case from filing to final order increased considerably (88 days) over FY 11 and was 275 days above the goal. However, this statistic reflects a reduction in the backlog of cases the agency had accrued. There are still a few cases remaining in the backlog, which will be reflected in FY 13 performance statistics.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

4. HOW WE COMPARE

There is no comparative data available.

5. FACTORS AFFECTING RESULTS

The difficult economic and budget conditions in place for several years have had a negative impact on labor relations, and cases have become more complex and disputes more difficult to resolve because of furlough days, salary freezes, the rising cost of health insurance, and other factors beyond the agency's control.

Difficult economic conditions tend to increase labor relations disputes. Over the last several years, the number of cases filed has steadily increased. In FY 12, 158 new cases were filed. That is a 13% increase (18 cases) over the number of new cases filed in FY 11. However, it is an increase of 46 cases (41%) filed compared to FY 09 and 67 cases (74%) compared to FY 07.

Staffing levels and expertise also impact performance. During FY 09, the agency had only two ALJs. In mid-2010, a third ALJ was hired, but it can take up to two years for an ALJ to become fully conversant with the statutes and case precedent. In addition, during FY 2012 there were substantial changes in the membership of the Board. One member retired and a new Board Chair was designated. The third Board member was not reappointed, which affected performance during the last six months of the biennium. A third Board member was appointed by the Governor effective July 1, 2012.

6. WHAT NEEDS TO BE DONE

Agency activities designed to reduce delays will continue and, as opportunities arise, new approaches will be developed so the agency can deliver more timely results. The agency will make every effort to reduce both the current and any future backlog of cases. The agency expects performance to improve now that the newest ALJ is trained and up to speed.

The agency will form a task force consisting of staff and stakeholders to examine the administrative rules for contested cases and recommend changes. Of particular concern to the group will be changes that will reduce the length of time to process a case.

7. ABOUT THE DATA

The reporting cycle is fiscal year. Data is compiled from an agency database that was designed to ensure accuracy and consistency of information. The data are reported when a case is complete.

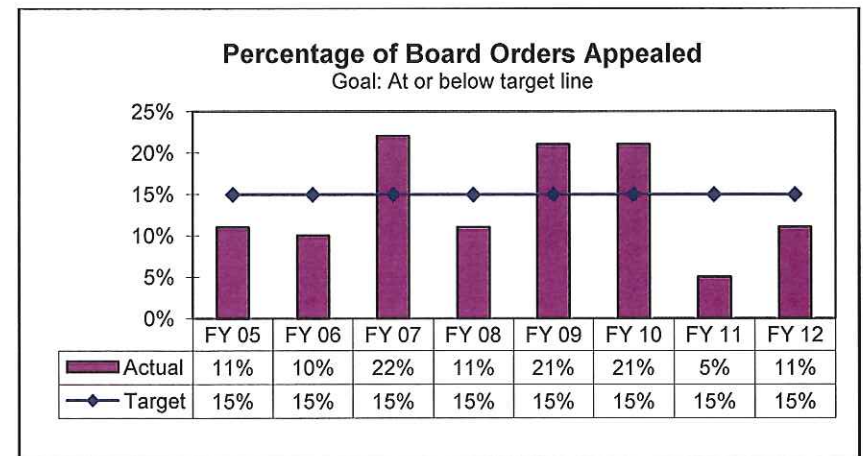
Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #7a	APPEALS Percentage of Board Orders which are appealed.	Measure since: 2004
Goal	#3 – To determine the parties and Court of Appeals’ acceptance of Board decisions.	
Oregon Context	Mission.	
Data source	Data is reported for year the appeal is filed. Percentages are based on the number of Board Orders issued that year.	
Owner	Board: Susan Rossiter, Board Chair, 503-378-3807	

1. OUR STRATEGY

Parties have a right to appeal their cases to the Court of Appeals if they do not agree with the Board’s decision. The Board will continue to emphasize accuracy and compliance with statutes and case law when preparing Board Orders so they can withstand the scrutiny of the appellate courts.

Agency constituents are state and local governments and their employees covered by the Public Employee Collective Bargaining Act (PECBA), and the State and its employees covered by the State Personnel Relations Law. Private sector employers and employees who are exempt from the National Labor Relations Act can also file cases with the Board.



2. ABOUT THE TARGETS

The Board has no control over the number of appeals filed. The number of appeals does, however, indicate to some extent the labor-management community’s acceptance of the Board’s decisions. However, the number of cases affirmed on appeal (KPM 7b) is a better measure of the Board’s skill and effectiveness.

The number of appeals filed should come in at or below the target. Targets are based on history and the needs of our constituents.

3. HOW WE ARE DOING

The parties appealed 11% of the agency’s decision in FY 12, which is better than the target of 15%.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

4. HOW WE COMPARE

There is no comparative data available.

5. FACTORS AFFECTING RESULTS

The difficult economic and budget conditions in place for several years have had a negative impact on labor relations. Cases have become more complex and disputes more difficult to resolve. Such factors include furlough days, salary freezes, the rising cost of health insurance, and other factors beyond the agency's control.

Staffing levels and expertise also impact this measure. During FY 2012 there were substantial changes in the membership of the Board. One member retired and a new Board Chair was designated. The third Board member was not reappointed. A third Board member was appointed by the Governor effective July 1, 2012.

6. WHAT NEEDS TO BE DONE

The Board will continue to emphasize accuracy and compliance with statutes and case law when preparing final Board Orders so they can withstand judicial scrutiny on appeal.

7. ABOUT THE DATA

The reporting cycle is fiscal year. Data is compiled from an agency database that was designed to ensure accuracy and consistency of information.

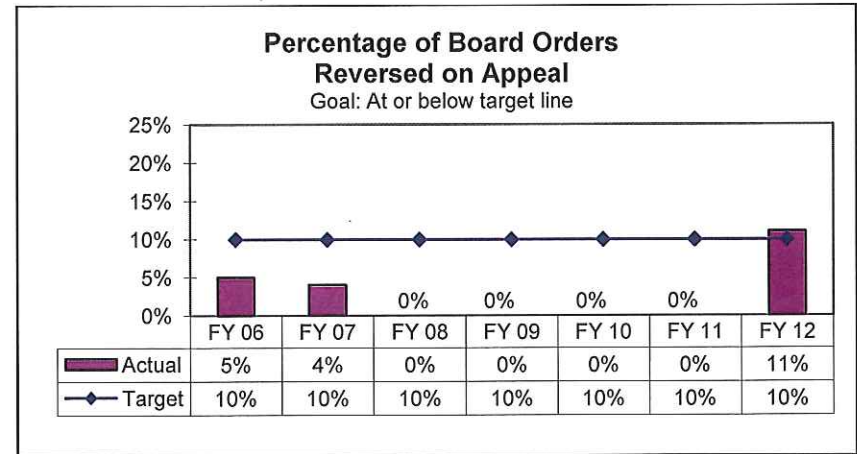
Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #7b	APPEALS Percentage of Board Orders which are reversed on appeal.	Measure since: 2004
Goal	#3 – To determine the parties’ and Court of Appeals’ acceptance of Board’s decisions.	
Oregon Context	Mission.	
Data source	Data is reported for year the judgment is received. Percentages are based on the number of Board Orders issued that year.	
Owner	Board: Susan Rossiter, Board Chair, 503-378-3807	

1. OUR STRATEGY

Parties have a right to appeal their cases to the Court of Appeals if they do not agree with the Board’s decision. The Board will continue to emphasize accuracy and compliance with statutes and case law when preparing Board Orders so they can withstand the scrutiny of the appellate court.

Agency constituents are state and local governments and their employees covered by the Public Employee Collective Bargaining Act (PECBA), and the State and its employees covered by the State Personnel Relations Law. Private sector employers and employees who are exempt from the National Labor Relations Act can also file cases with the Board.



2. ABOUT THE TARGETS

The number of cases reversed on appeal should be at or below target. The Board has no control over the number of appeals filed. However, the number of cases affirmed is a measure of the Board’s skill and effectiveness.

3. HOW WE ARE DOING

The agency missed its target for FY 12 by 10%. Eight cases were decided by the upper courts; four were reversed and remanded and four were affirmed or dismissed.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

4. HOW WE COMPARE

There is no comparative data available.

5. FACTORS AFFECTING RESULTS

The difficult economic and budget conditions in place for several years have had a negative impact on labor relations. Cases have become more complex and disputes more difficult to resolve. Such factors include furlough days, salary freezes, the rising cost of health insurance, and other factors beyond the agency's control.

Staffing levels and expertise also impact this measure. During FY 2012 there were substantial changes in the membership of the Board. One member retired and a new Board Chair was designated. The third Board member was not reappointed. A third Board member was appointed by the Governor effective July 1, 2012.

6. WHAT NEEDS TO BE DONE

The Board will continue to emphasize accuracy and compliance with statutes and case law when preparing final Board Orders so they can withstand judicial scrutiny on appeal.

7. ABOUT THE DATA

The reporting cycle is fiscal year. Data is compiled from an agency database that was designed to ensure accuracy and consistency of information.

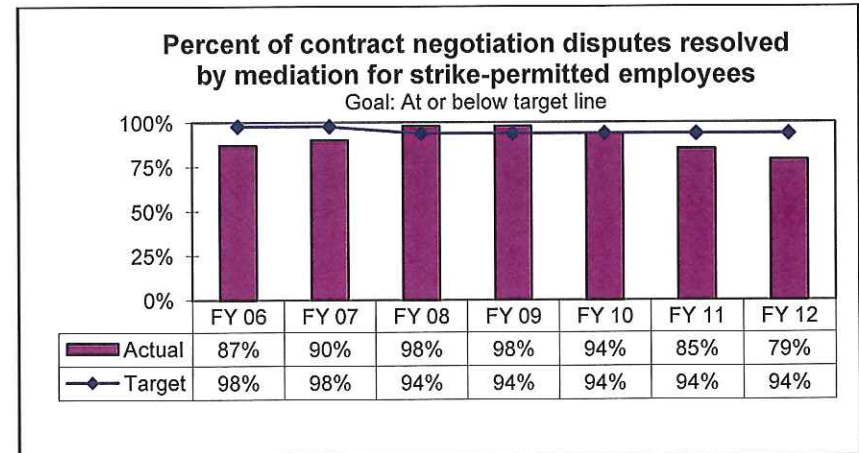
Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #8a	MEDIATION EFFECTIVENESS Percentage of contract negotiations disputes that are resolved by mediation for strike-permitted employees.	Measure since: 2001
Goal	#4 – To resolve collective bargaining negotiation disputes without strikes or interest arbitration.	
Oregon Context	Mission.	
Data source	Percentages are based on the cases resolved in the calendar year reported. It includes settlements before or after impasse <i>but</i> prior to an employee strike or the employer’s unilateral implementation of its final offer.	
Owner	Conciliation: Robert Nightingale, State Conciliator, 503-378-6473	

1. OUR STRATEGY

When parties are unable to agree on terms for a collective bargaining agreement, they generally must engage in mediation with an ERB mediator. The mediator’s goal is to help the parties resolve their dispute. To meet the goal, the agency will continue to work with state and local public employers and unions to mediate collective bargaining disputes.

Agency constituents are state and local governments and their employees covered by the Public Employee Collective Bargaining Act (PECBA), and the State and its employees covered by the State Personnel Relations Law. Private sector employers and employees who are exempt from the National Labor Relations Act can also file cases with the Board.



2. ABOUT THE TARGETS

The percentage of disputes resolved by mediation should be at or above the target. Targets are based on history, staffing, and the needs of our constituents. The goal is to assist public employers and public employee organizations to resolve collective bargaining disputes without strikes thereby preventing injury to the public as well as to governmental agencies and public employees resulting from labor strife.

3. HOW WE ARE DOING

The percentage of contract disputes resolved prior to a strike or the employer’s unilateral implementation of a final offer missed the target by 15% this reporting period.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

4. HOW WE COMPARE

There is no comparative data available. Although collective bargaining mediation is provided by the federal government and other states, the laws under which the services are provided are very different. For instance, mediation provided by the agency is a mandatory step in Oregon's statutory bargaining process, but it is not mandatory for clients under federal jurisdiction and some states. In addition, the number of mediators, the authority of the mediator, the number of constituents served, and the geographic area covered are different within each jurisdiction.

5. FACTORS AFFECTING RESULTS

The agency provides mediation services for the parties under its jurisdiction. Mediators help parties reach a contract settlement, but the parties alone control whether a settlement occurs. Many factors that influence settlement are beyond the control of the mediator and parties. Such factors include, but are not limited to, the economy, health insurance costs, local and statewide political trends, and tax revenues.

Because of the current ongoing economic situation, the mediators are helping manage a contentious and difficult situation in all levels of the public sector. In negotiations, employers are proposing to cut programs, lay off employees, and reduce employee wage and benefit packages. Obtaining settlements is more difficult than at any time in recent memory, and timing is crucial to keep both management and labor – and ultimately the public – from irreparable harm.

One mediator position, which became vacant in October 2010, was not filled until January 2012 because of funding issues. The 2011 Legislature allowed a shift in Other Fund resources to ease the funding issue. Having this position vacant put a large burden on the other two mediators. They were conducting as many as four mediations a week, and sometimes two in one day. Because mediation sessions are usually lengthy and not always conducted during an 8:00 to 5:00 work day, three mediations a week is a barely sustainable workload for a full-time mediator. Added to the mediators' burden is the travel time that is often required of their job, since they serve all areas of the state. Filling the third mediator position has eased this burden; however, funding for the position continues to be an issue.

In addition to the above factors, staff time was reduced by mandatory furlough days while, at the same time, the number of cases filed (*i.e.*, the agency's workload) increased.

6. WHAT NEEDS TO BE DONE

The agency will continue its efforts to meet constituent needs and expectations.

7. ABOUT THE DATA

The reporting cycle is fiscal year. Data is compiled from an agency database that was designed to ensure accuracy and consistency of information.

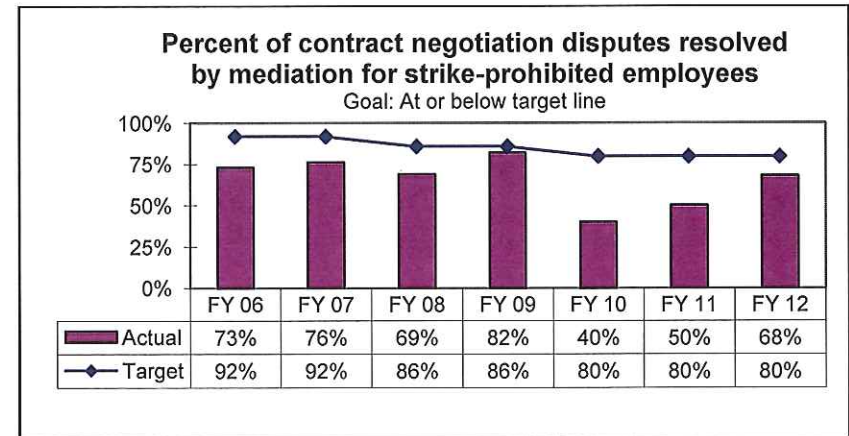
Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #8b	MEDIATION EFFECTIVENESS Percentage of contract negotiations disputes that are resolved by mediation for strike-prohibited employees.	Measure since: 2001
Goal	#4 – To resolve collective bargaining negotiation disputes without strikes or interest arbitration.	
Oregon Context	Mission.	
Data source	Percentages are based on the cases resolved in the calendar year reported. It includes settlements before or after an impasse <i>but</i> before a binding interest arbitration award is issued.	
Owner	Conciliation: Robert Nightingale, State Conciliator, 503-378-6473	

1. OUR STRATEGY

The legislature determined that certain employees, including police, fire, and corrections, should not be allowed to strike. Instead, they engage in interest arbitration if mediation is unsuccessful. The agency’s goal is to resolve bargaining disputes in mediation so that interest arbitration is unnecessary. The agency will continue to work with state and local public employers and unions to mediate collective bargaining disputes and provide training in collaborative bargaining processes and other forms of alternative dispute resolution.

Agency constituents are state and local governments and their employees covered by the Public Employee Collective Bargaining Act (PECBA). Private sector employers and employees who are exempt from the National Labor Relations Act can also file cases with the Board and use the agency’s mediation service to help them resolve their bargaining disputes.



2. ABOUT THE TARGETS

The percentage of disputes resolved by mediation should be at or above the target. Targets are based on history, staffing, and the needs of our constituents. The goal is to assist public employers and public employee organizations to resolve collective bargaining disputes without interest arbitration.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

3. HOW WE ARE DOING

Performance in this category has improved since FY 11, but missed the target by 12%. This is an improvement of 18% compared to FY 11. In calendar year 2003, when the state last suffered an economic turndown, only 43% of these disputes were resolved by mediation for strike-prohibited employees.

4. HOW WE COMPARE

There is no comparative data available. Although collective bargaining mediation is provided by the federal government and other states, the laws under which the services are provided are very different. For instance, unlike Oregon law, the federal law does not require interest arbitration for public safety employees. Further, mediation is a mandatory step in Oregon's statutory bargaining process but not under the federal bargaining process. In addition, the number of mediators, the authority of the mediator, the number of constituents served, and the geographic area covered are different within each jurisdiction.

5. FACTORS AFFECTING RESULTS

Mediators provide assistance to help parties reach a contract settlement, but the parties are in sole control of whether a settlement occurs. Many factors influencing settlement are outside of the mediator and parties' control. For example, the ongoing economic downturn has led to salary freezes, furlough days, and an increase in the cost of health insurance. Another key factor is timing. Delays can harm both management and labor, and through them, the public. In addition, the agency continues to be hampered by unstable funding. The combination of these factors adversely affects the agency's ability to meet its performance measures.

Because of the current ongoing economic situation, the mediators are helping manage a contentious and difficult situation in all levels of the public sector. In negotiations, employers are proposing to cut programs, lay off employees, and reduce employee wage and benefit packages. Obtaining settlements is more difficult than at any time in recent memory, and timing is crucial to keep both management and labor – and ultimately the public – from irreparable harm.

One mediator position, which became vacant in October 2010, was not filled until January 2012 because of funding issues. The 2011 Legislature allowed a shift in Other Fund resources to ease the funding issue. Having this position vacant put a large burden on the other two mediators. They were conducting as many as four mediations a week, and sometimes two in one day. Because mediation sessions are usually lengthy and not always conducted during an 8:00 to 5:00 work day, three mediations a week is a barely sustainable workload for a full-time mediator. Added to the mediators' burden is the travel time that is often required of their job, since they serve all areas of the state. Filling the third mediator position has eased this burden; however, funding for the position continues to be an issue.

The nature of the interest arbitration process also affects the results. Interest arbitration applies only to groups that are prohibited from striking, such as police, fire, and corrections. Historical data indicate that the threat of proceeding to interest arbitration provides less incentive to settle than the threat of a strike, especially during economic downturns. Interest arbitrators must choose between the employer's and union's final offers. The offers from the employer often do not include salary increases and sometimes

AGENCY NAME: Employment Relations Board

II. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

even ask the employees to “give up” something, e.g., pay a portion of the insurance premium. The offers from unions often request increases that public employers believe they cannot afford. As a result, the parties often feel they have nothing to lose by going to interest arbitration.

6. WHAT NEEDS TO BE DONE

The agency will continue its efforts to meet constituent needs and expectations, and will make every effort to minimize the impact of staff cuts and furlough days.

7. ABOUT THE DATA

The reporting cycle is fiscal year. Data is compiled from an agency database that was designed to ensure accuracy and consistency of information.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #9a	MEDIATOR AVAILABILITY Average number of days following a request for mediation assistance in contract negotiations to the date a mediator is available to work with the parties.	Measure since: 2006
Goal	#4 – To resolve collective bargaining negotiation disputes without strikes or interest arbitration.	
Oregon Context	Mission.	
Data source	Data is reported for the year in which the first day of mediation is held.	
Owner	Conciliation: Robert Nightingale, State Conciliator, 503-378-6473	

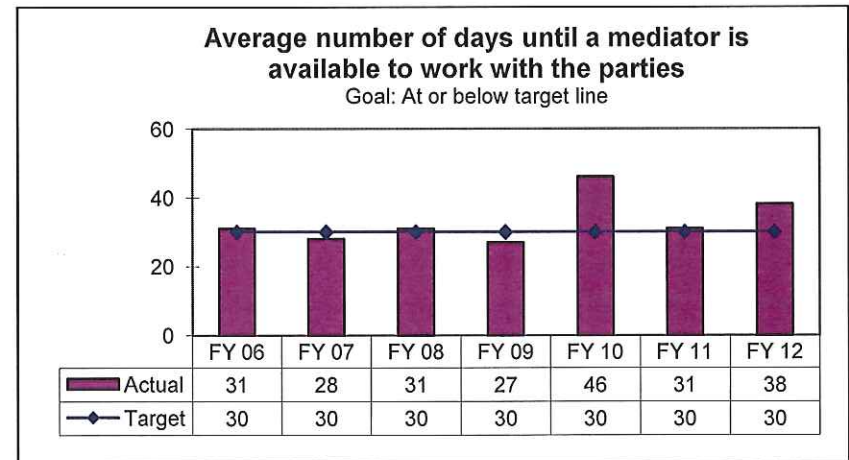
1. OUR STRATEGY

The goal is to work with the agency’s constituents to schedule mediation sessions as soon as calendars allow.

Agency constituents are state and local governments and their employees covered by the Public Employee Collective Bargaining Act (PECBA). Private sector employers and employees who are exempt from the National Labor Relations Act can also file cases with the Board and use the agency’s mediation services to help resolve their bargaining disputes.

2. ABOUT THE TARGETS

Availability of mediators should be at or below the target. The target is based on the agency’s past experience for scheduling meetings within its capacity. These targets do not necessarily meet the needs of our constituents, who would prefer to have mediators available even sooner, but funding and staffing limitations prevent a significantly faster response. Timing is crucial to keep both management and labor from irreparable harm, and through them, the public.



3. HOW WE ARE DOING

In FY 2012, the mediators missed the target by eight days (27%). During the first six months of the fiscal year, there were only two mediators. A third mediator was hired effective January 1, 2012.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

4. HOW WE COMPARE

There is no comparative data available. Although collective bargaining mediation is provided by the federal government and other states, the laws under which the services are provided are very different. For instance, mediation provided by the agency is a mandatory step in Oregon's statutory bargaining process but is not mandatory for clients under federal jurisdiction and some states. In addition, the number of mediators, the authority of the mediator, the number of constituents served, and geographic area covered are different within each jurisdiction.

5. FACTORS AFFECTING RESULTS

A number of factors affect the results. The parties served are located throughout Oregon, so travel time must be taken into account in scheduling, and the schedules of the participants in mediation, often including from 10 to 20 people, must also be accommodated.

One mediator position, which became vacant in October 2010, was not filled until January 2012 because of funding issues. The 2011 Legislature allowed a shift in Other Fund resources to ease the funding issue. Having this position vacant put a large burden on the other two mediators. They were conducting as many as four mediations a week, and sometimes two in one day. Because mediation sessions are usually lengthy and not always conducted during an 8:00 to 5:00 work day, three mediations a week is a barely sustainable workload for a full-time mediator. Added to the mediators' burden is the travel time that is often required of their job, since they serve all areas of the state. Filling the third mediator position has eased this burden; however, funding for the position continues to be an issue.

In addition to the above, staff time was reduced by furlough days while, at the same time, the number of cases filed (*i.e.*, the agency's workload) increased. In FY 12, 91 requests for mediation were filed, an increase of 26 requests (38%) compared to FY 11.

6. WHAT NEEDS TO BE DONE

The agency will continue its efforts to meet constituent needs and expectations.

7. ABOUT THE DATA

The reporting cycle is fiscal year. Data is compiled from an agency database that was designed to ensure accuracy and consistency of information.

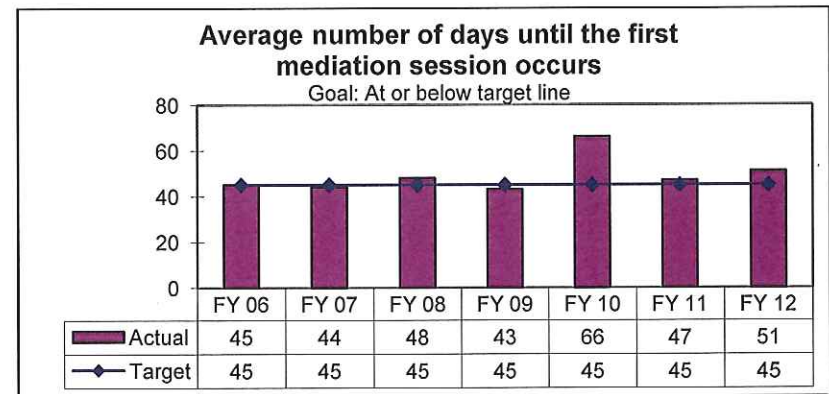
Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #9b	MEDIATOR AVAILABILITY Average number of days following a request for mediation assistance in contract negotiations to the date the first mediation session occurs.	Measure since: 2006
Goal	#4 – To resolve collective bargaining negotiation disputes without strikes or interest arbitration.	
Oregon Context	Mission.	
Data source	Data is reported for the year in which the first day of mediation is held.	
Owner	Conciliation: Robert Nightingale, State Conciliator, 503-378-6473	

1. OUR STRATEGY

The agency’s goal is to work with constituents to hold mediation sessions as soon as calendars allow.

Agency constituents are state and local governments and their employees covered by the Public Employee Collective Bargaining Act (PECBA). Private sector employers and employees who are exempt from the National Labor Relations Act can also file cases with the Board and use the agency’s mediation services to help resolve their bargaining disputes.



2. ABOUT THE TARGETS

The average number of days until the first mediation session occurs should be at or below the target. The target is based on the agency’s past experience for scheduling meetings within its capacity. These targets do not necessarily meet the needs of our constituents, who would prefer to have mediators available even sooner, but funding and staffing limitations prevent a significantly faster response. Timing is crucial to keep both management and labor from irreparable harm, and through them, the public services they provide.

3. HOW WE ARE DOING

In FY 2011, the mediators missed the target by 6 days (13%).

4. HOW WE COMPARE

There is no comparative data available. Although collective bargaining mediation is provided by the federal government and other states, the laws under which the services are provided are very different. For instance, mediation provided by the agency is a mandatory step in Oregon’s statutory bargaining process but is not mandatory for clients under federal jurisdiction and some states.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

In addition, the number of mediators, the authority of the mediator, the number of constituents served, and geographic area covered are different within each jurisdiction.

5. FACTORS AFFECTING RESULTS

A number of factors affect the results. The date the first session is held is affected by the availability of the parties, and the schedules of the participants in mediation, often including from 10 to 20 people, must be accommodated. The parties served are located throughout Oregon, so travel time must be taken into account in scheduling as well.

In addition, one mediator position, which became vacant in October 2010, was not filled until January 2012 because of funding issues. The 2011 Legislature allowed a shift in Other Fund resources to ease the funding issue. Having this position vacant put a large burden on the other two mediators. They were conducting as many as four mediations a week, and sometimes two in one day. Because mediation sessions are usually lengthy and not always conducted during an 8:00 to 5:00 work day, three mediations a week is a barely sustainable workload for a full-time mediator. Added to the mediators' burden is the travel time that is often required of their job, since they serve all areas of the state. Filling the third mediator position has eased this burden; however, funding for the position continues to be an issue.

Staff time was reduced by furlough days while, at the same time, the number of cases filed (*i.e.*, the agency's workload) increased. In FY 12, 91 requests for mediation were filed, an increase of 26 requests (38%) compared to FY 11.

6. WHAT NEEDS TO BE DONE

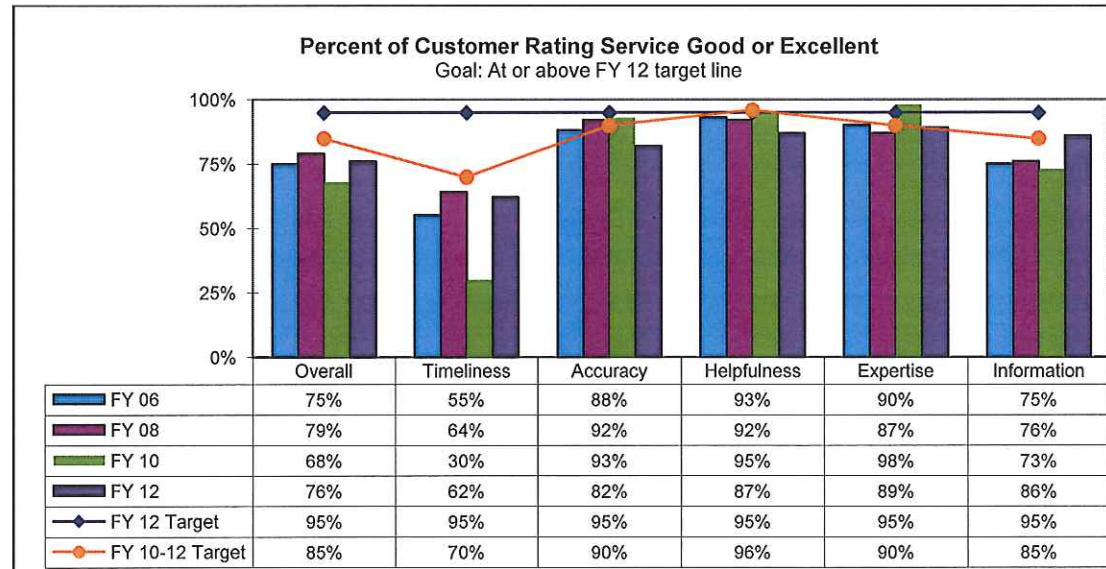
The agency will continue its efforts to meet constituent needs and expectations.

7. ABOUT THE DATA

The reporting cycle is fiscal year. Data is compiled from an agency database that was designed to ensure accuracy and consistency of information.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #10	CUSTOMER SATISFACTION: Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, availability of information.	Measure since: 2006
Goal	#2 – To timely process complaints and appeals.	
Oregon Context	Mission.	
Data source	Online survey.	
Owner	Board: Susan Rossiter, Board Chair, 503-378-3807	



1. OUR STRATEGY

The agency will continue to emphasize customer service as a priority, and continue ongoing training so staff can learn new skills and keep up to date with the latest developments in their areas of expertise. It will continue to focus on improving timeliness and meeting or exceeding its targets in the other categories.

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

2. ABOUT THE TARGETS

This performance measure was established by the legislature in 2005, and the agency used the information from the first survey (2006) to set targets. The legislature changed those targets in 2011. Data should come in at or above the targets.

The questions in the Customer Satisfaction Survey help the agency evaluate its performance. The comments show the agency areas where improvement is required and provide a better understanding of the needs and wants of agency constituents.

3. HOW WE ARE DOING

The agency did not meet its target in any category. The agency's overall rating was 20% below the target. The ratings declined for Accuracy (93% to 82%), Expertise (98% to 89%), and Helpfulness (95% to 87%) from FY 10, and improved in Timeliness (30% to 62%) and Information Availability (73% to 86%), although still below targets.

Timeliness is an ongoing problem. The agency is reviewing internal procedures and meeting with staff to find efficiencies as well as working with constituents to find ways to streamline processes and procedures.

Comments offered on the survey indicate that the level of staffing and changes in personnel continue to be of concern. Now that the agency is fully staffed, the agency expects to see better ratings.

4. HOW WE COMPARE

There is no comparative data available.

5. FACTORS AFFECTING RESULTS

The three main factors affecting performance are the economic crisis, an increased caseload, and personnel changes. The difficult economic and budget conditions in place for several years result in cases that have become more complex and disputes that have become more difficult to resolve because of salary freezes, furlough days, the rising cost of health insurance, and other factors beyond the agency's control.

In addition, difficult economic conditions tend to increase labor relations disputes. Over the last several years, the number of cases filed has steadily increased. In FY 12, 158 new cases were filed with the Hearings Office and Elections. That is a 13% increase (18 cases) over the number of new cases filed in FY 11. However, it is an increase of 46 cases (41%) filed compared to FY 09 and 67 cases (74%) compared to FY 07. The Conciliation Service Office saw an increase of 26 more mediation requests (38%) compared to FY 11 but one mediator position was vacant for the first six months of the fiscal year.

Inadequate staffing levels are clearly reflected in many of the agency's performance measures. During FY 12, the ALJs and the Board again amassed a backlog of cases and mediators were not available as soon as constituents desired. The poor ratings for timeliness and quality of work are predictable and, at least in part, accurate. Now that staffing is at legislatively authorized levels and new employees at or near optimum level, orders are issued in a more timely manner and mediations are more promptly scheduled.

AGENCY NAME: Employment Relations Board

II. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

As an example of the agency's efforts to improve in the area of timeliness, nine final orders were issued in June 2012 – an unprecedented number. With the changes being made in agency operations, it is expected that ratings will improve in the 2014 survey.

6. WHAT NEEDS TO BE DONE

Agency activities designed to reduce delays and increase the quality of work will continue and, as opportunities arise, new approaches developed so the agency can deliver timely and accurate results.

7. ABOUT THE DATA

The 2012 Customer Satisfaction Survey was conducted online between March 16 and April 9, 2012, using an online survey tool called "Survey Monkey." The agency used its mailing lists of constituents, practitioners, and other interested parties, approximately 365 contacts. Forty-eight people participated in the survey, a response rate of 13%. The 2008 and 2010 surveys were also conducted online, and the 2006 survey was conducted by an outside vendor.

AGENCY NAME: Employment Relations Board**III. USING PERFORMANCE DATA**

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

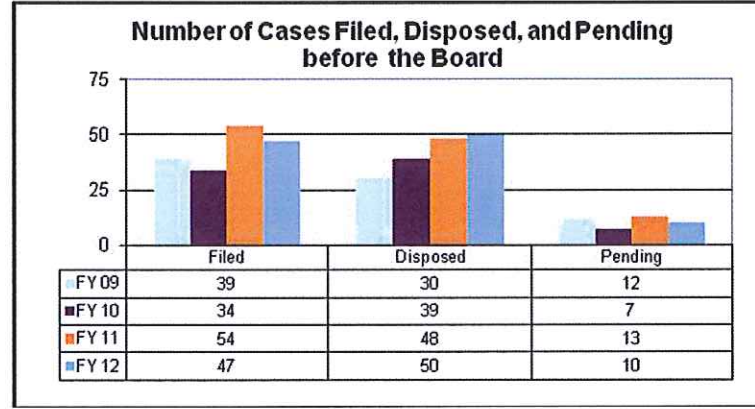
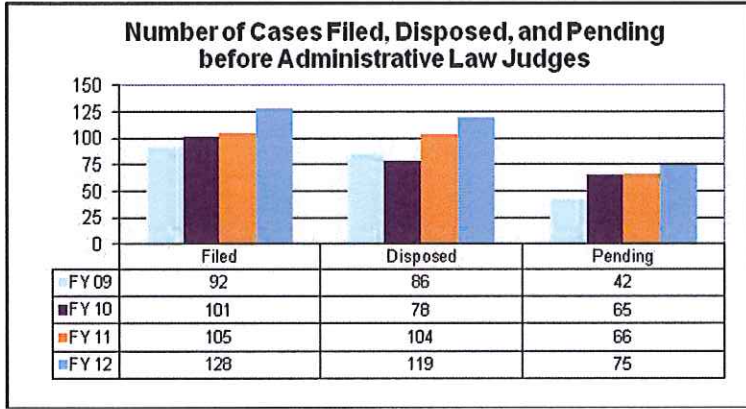
Contact: Susan Rossiter, Board Chair	Phone: 503-378-3807
Alternate: Leann G. Wilcox, Office Administrator	Phone: 503-378-8610

The following questions indicate how performance measures and data are used for management and accountability purposes.	
<p>1 INCLUSIVITY Describe the involvement of the following groups in the development of the agency's performance measures.</p>	<ul style="list-style-type: none"> • Staff: Staff and stakeholders provided input on agency workloads and the timely delivery of services for elections, mediations, and contested cases. Measures were derived from this input. • Elected Officials: Elected officials reviewed and added measures for the agency to track. • Stakeholders: Staff and stakeholders provided input on agency workloads and the timely delivery of services for elections, mediations, and contested cases. Measures were derived from this input. • Citizens: N/A.
<p>2 MANAGING FOR RESULTS How are performance measures used for management of the agency? What changes have been made in the past year?</p>	<p>This data measures the agency's success toward achieving agency goals and assists in determining what changes may be necessary. It also influences the agency's budget and caseload priorities, including case assignment, case management, evaluation of agency performance, and staffing.</p>
<p>3 STAFF TRAINING What training has staff had in the past year on the practical value and use of performance measures?</p>	<p>The agency performance measures coordinator (office administrator) attends the performance Measure Roundtables presented by the DAS Budget and Management and Legislative Fiscal performance measures coordinators. This training is on going, and the information is shared with agency staff.</p>
<p>4 COMMUNICATING RESULTS How does the agency communicate performance results to each of the following audiences and for what purpose?</p>	<ul style="list-style-type: none"> • Staff: Results are shared with staff on a regular basis. • Elected Officials: Elected Officials receive annual reports; additionally, data collected for these measures and for other areas of interest is shared with officials as requested. • Stakeholders: Annual reports are posted on the agency website. In addition, constituents are invited to periodic brown bag lunches to give the agency input on its work and what needs to be done and to share information, such as performance measure results. • Citizens: Annual reports are posted on the agency website.

ADDENDUM TO ANNUAL PERFORMANCE PROGRESS REPORT FOR FISCAL YEAR 2012

CASELOAD -- The Legislature eliminated caseload measures from the agency’s list of Key Performance Measures but requested the agency to continue to track the information.

Number of cases (i) filed/ (ii) disposed/ (iii) pending before: (a) Administrative Law Judges; (b) The Board. (All cases except uncontested representation petitions with no Board order issued.)



For cases pending at the close of the reporting period: (a) average number of days from filing for cases pending before ALJs; (b) average number of days from submission for case pending before the Board. (All cases except uncontested representation petitions with no Board order issued.)

