

## Employment Relations Board

	2013-15 Actual	2015-17 Legislatively Approved*	2017-19 Current Service Level	2017-19 Governor's Budget
General Fund	2,031,615	2,463,085	2,720,476	2,768,739
Other Funds	1,955,487	2,067,604	2,164,482	2,268,301
<b>Total Funds</b>	<b>\$3,987,102</b>	<b>\$4,530,689</b>	<b>\$4,884,958</b>	<b>\$5,037,040</b>
Positions	13	13	13	13
FTE	13.00	13.00	13.00	13.00

\*Includes Emergency Board and administrative actions through December 2016.

### Program Description

The Employment Relations Board's (ERB) mission is to resolve disputes concerning labor relations. ERB provides four main services to help employers, employees, and labor organizations resolve their disputes: labor mediation; contested case hearings; labor appeal cases; and union representation certifications and elections. The Board for ERB acts as the state's "labor appeal court" for labor and management disputes within state and local government for an estimated 3,000 employers and 250,000 employees in public and private employment in the state. The agency is responsible for administering specific portions of Oregon law: the Public Employee Collective Bargaining Act, which governs collective bargaining in state and local government; the State Personnel Relations Law, which creates appeal rights for some personnel actions regarding certain non-union state employees who believe they were treated unfairly in the workplace; and the private sector labor-management relations law, which addresses collective bargaining for private sector employers who are not covered by federal law.

ERB is funded with approximately 56% General Fund, 40% state agency assessment, and 4% fee revenue. ERB receives General Fund revenue and charges fees to support labor relations functions conducted on behalf of local government. State government-related activities are supported by an Other Funds assessment totaling \$2.1 million (\$2.38 per employee per month for 36,000 employees). The agency charges fees for the following services: unfair labor practice complaints and answers, grievance mediations, arbitrator panel, training, an hourly rate charged for mediation facilitation, and miscellaneous fees for facsimile filing, copies, etc. Statutory fees and miscellaneous sales revenues total \$258,783. When funding is compared to caseloads, local government represents approximately 70% of contested and mediation cases versus 30% for state agencies.

The agency has not had any Secretary of State audits conducted since last session; however, a standard change of agency head audit perhaps should have been undertaken by the Secretary of State.

### CSL Summary and Issues

The 2017-19 current service level budget for the agency totals \$4.9 million total funds (13.00 FTE). The CSL is \$354,269, or 7.8%, more than the 2015-17 legislatively approved budget of \$4.5 million (13.00 FTE).

### Policy Issues

There are a few new and recurring policy issues identified: (a) increase in the state agency assessment; (b) employee compensation; (c) case management/electronic filing system; and (d) increase in fees charged to arbitrators to be on the agency's arbitrator roster.

The state agency assessment is projected to increase from \$1.92 per employee per month to \$2.38. This is an increase of 24% and will generate \$2.1 million up from \$1.7 million from the prior biennium. State agency assessment revenue has a General Fund component since some agencies use General Fund to pay their assessment. The Governor's budget, after making a number of budget adjustments, made no change to the ERB assessment.

ERB was granted pay adjustments to eight of its 13 employees during the Legislative session in 2014, after initially being denied by the Legislature in 2013. The agency has identified three compensation changes that would be in addition to the current service level:

- The pool of labor attorneys for Board positions often comes from government attorneys for the management position and union attorneys for the labor position because private law firm attorneys would incur a substantial pay cut to become a Board member. ERB states that sufficiently experienced government attorneys (e.g., at Department of Justice) may be paid more than Board members. Additionally, the Board chair, by statute, shall make more than other Board members for performing the duties of agency head. The Emergency Board in December of 2016 adjusted the compensation plan for the Board members, including the chair, effective January 2017.
- ERB also seeks a compensation plan change for the State Conciliator to relieve salary compression between this position and the positions supervised.
- An upward reclassification is also sought for the Business Operations Administrator (i.e., office manager), who is currently being paid work-out-of-class two salary ranges above her budgeted position. The Legislature in 2015 denied ERB's request to reclassify this particular position.

The agency is self-managing a NIC USA information technology contract to design, develop, maintain and host an electronic case management system. Once completed, ERB will be charged an annual licensing and hosting beginning July 2016. Phase 2 of the project would provide stakeholders with the ability to electronically file documents and make e-payments through a web-based portal. While the project appears to be on budget and within scope, the actual status of the project, in terms of schedule, has been difficult to ascertain.

ERB also has a measure to increase fees that arbitrators are charged to be on ERB's arbitrator roster (HB 2264). The Arbitrator Application Fee is proposed to increase from \$50 to \$100; the Arbitrator Annual Fee is proposed to increase from \$100 to \$150. Both fees would generate a total of \$23,400, which is \$8,000 more than current law. The reasons for these fee increases are: (1) the fees have not been adjusted since 2007; (2) parity with similar federal (and some state) fees; and (3) to better reflect the value of the list and the time maintaining that list. Another fee measure adjusts mediation session fees, but with a neutral revenue impact, according to ERB (HB 2263).

#### Other Significant Issues and Current Discussions

ERB successfully emerged from an extended tumultuous period beginning in 2011, which included a 100% turnover in the Board, three successive Board chairs/administrators, and high employee turnover. The operation of the agency, the quality of its findings, and the timely disposition of its cases raised increasing concerns with its stakeholder and the Legislature. ERB has undertaken a number of administrative changes to improve its processes and procedures, including: establishing timelines for issuing orders; identifying specific types of contested cases for expedited processing; involving stakeholders in a review of the agency's processes and procedures; establishing a Rules Advisory Committee; completing an independent review of some recent Board orders; and involving stakeholders in a discussion of complaint or other actions that lack legal merit. The result has been an elimination of all case backlogs and a substantial improvement in the timelines for processing cases. The agency also reviewed and updated its key performance measures. This was done under the leadership of the former Board Chair, who recently retired. The vacated Board member position was filled in October 2016; however, another Board member has recently submitted his resignation.