



Employment Relations Board

Presentation to the Joint Committee On Ways and Means Subcommittee On General Government

Adam Rhynard

Board Chair

February 20, 2017

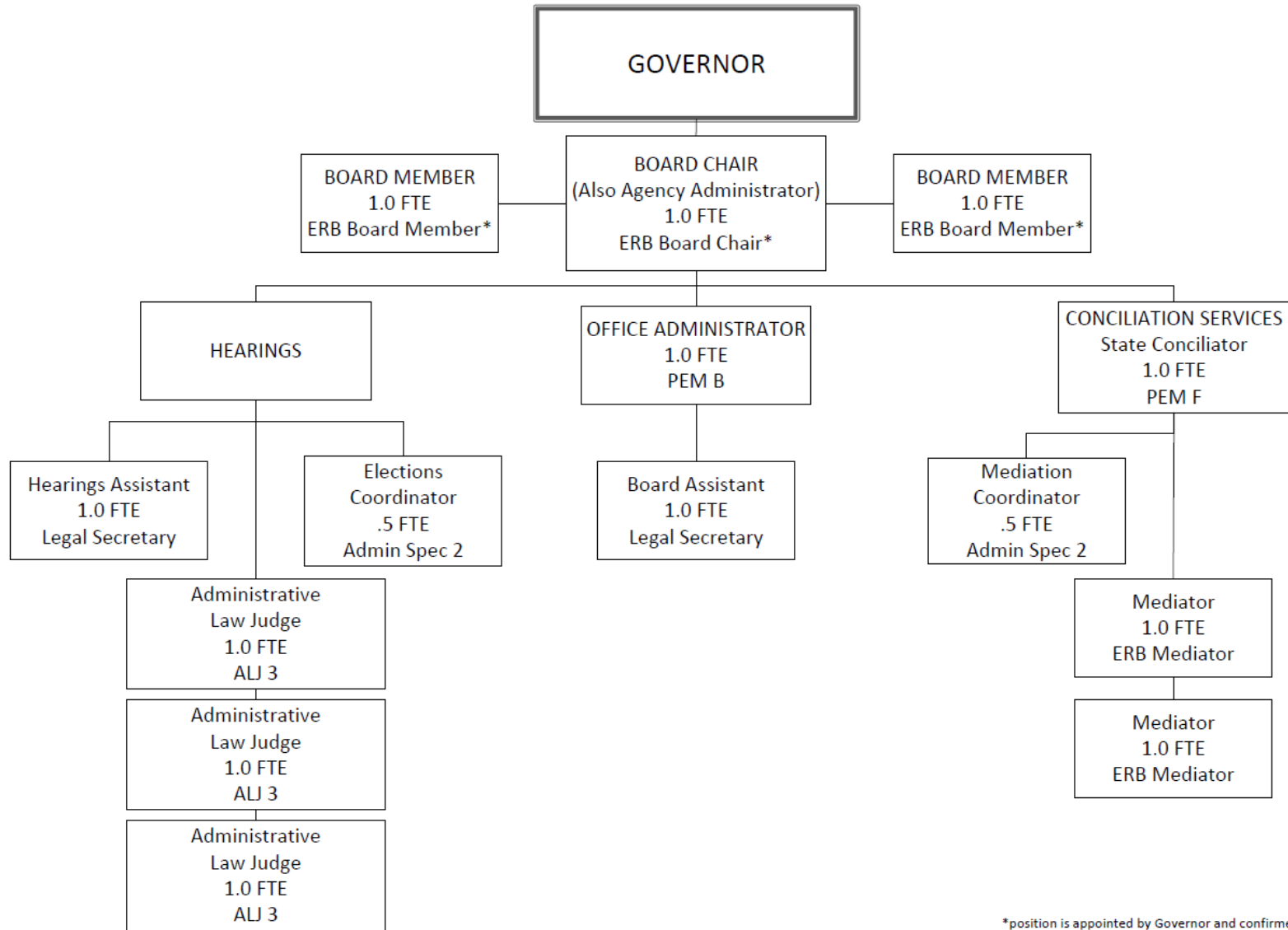


Agency Mission

Resolve disputes concerning labor/employment relations for approximately 3,000 employers and 250,000 employees in the public (and private) sector under our jurisdiction.



Employment Relations Board Program Structure (13 FTE)



*position is appointed by Governor and confirmed by Senate



Statutory Responsibilities

- The Board is statutorily charged with administering 3 statutory schemes, over which it has exclusive jurisdiction:
 - 1. Public Employee Collective Bargaining Act (PECBA)*
 - 2. State Personnel Relations Law (SPRL)*
 - 3. Private Sector Labor-Management

*These two statutes represent almost all of the agency's work.



Statutory Responsibilities

- Dispute resolution agency for all public sector employers, employees, and labor organizations that represent those employees.
 - State agencies
 - Local governments (Cities, counties, school districts, etc.)
- Implement the laws that protect the rights of public employees to organize and negotiate collectively with their employers
- Determine all representation matters regarding public sector employers, employees, and labor organizations
- Resolve appeals from State employees regarding certain types of personnel actions



Statutory Goals

- Develop cooperative relationships between government and its employees
- Provide efficient dispute resolution to minimize interruption of public services
- Protect the public by attempting to assure the orderly and uninterrupted operations and functions of government
- Improve employer-employee relations by providing uniform basis for employee choice in union representation



Fulfilling the Legislative Mandates

- We resolve disputes in multiple ways:
 - Adjudication of unfair labor practice complaints and SPRL appeals
 - Mediation
 - Processing petitions concerning employee representation by a labor organization
 - Maintaining and providing a roster of qualified arbitrators

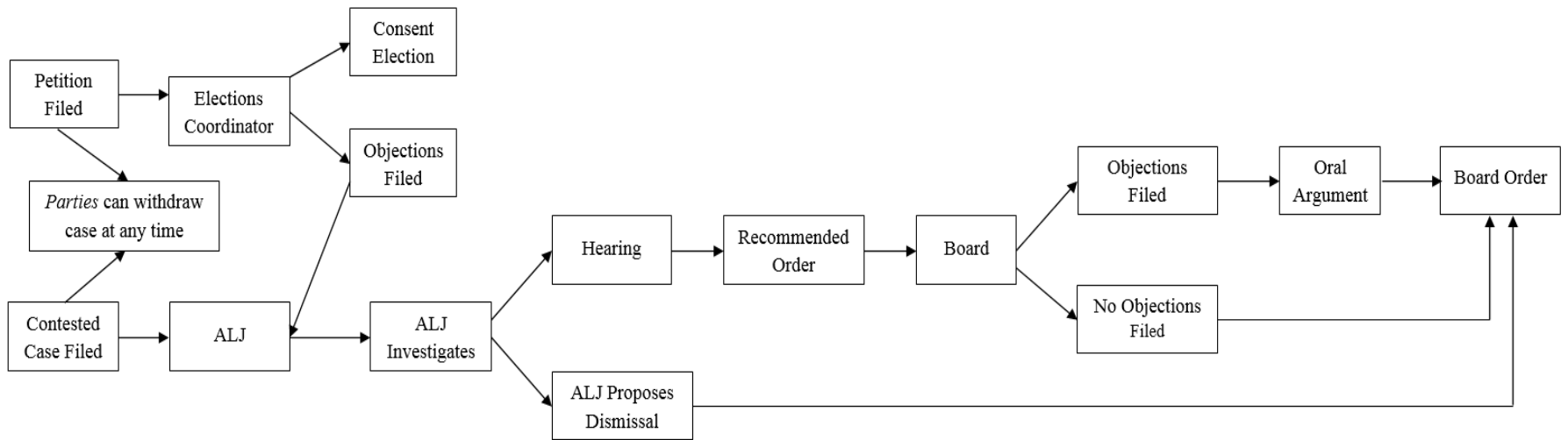


Fulfilling the Legislative Mandates

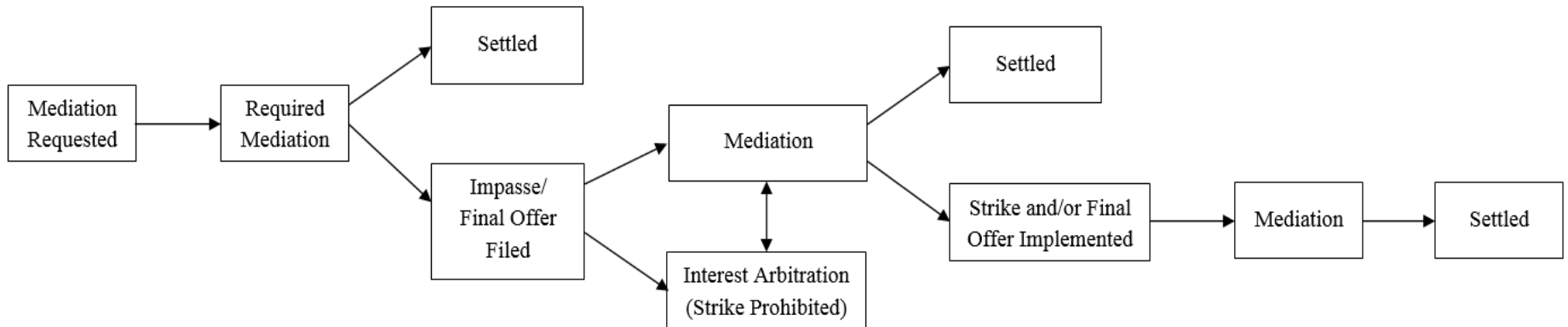
- Contested Case Hearings
 - Board is the state’s “labor appeals court”
- Mediation
 - Assist parties in resolving bargaining dispute without resorting to “self help” (strikes, implementations)
 - Assist parties in resolving disputes without litigation
- Processing Representation Petitions
 - Ensure the right to opt for or against union representation



Case Flow Chart (Hearings & Elections)



Case Flow Chart (Mediation)



Pre-2013

- Enormous backlog of cases
- Long case processing time and delays in issuing Recommended and Final Orders
- Delayed resolution of representation matters
- Lower mediation success rate
- Delayed availability for hearings and mediations
- Agency staff turnover



2013-2015

- Eliminated backlog of cases
- Reduced timelines for processing cases
- Revised Key Performance Measures
- Established timelines for issuing recommended and final orders
- Involved stakeholders in a review of processes/procedures
- Established ongoing Rules Advisory Committee
- Reviewed internal processes to streamline tasks, which highlighted need for case management system

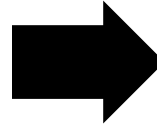


2015-Present

Agency Action

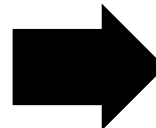
Result

All pending cases timely



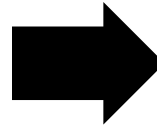
Timely resolution of disputes brought by parties

Further reduction in time to process cases



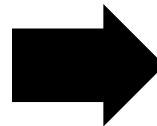
Since 2012: Average time for issuing final orders reduced from 132 days to 26 (44 in 2015); Average time for issuing recommended orders reduced from 211 days to 69 (80 in 2015)

Revised contested case rules with Rules Advisory Committee recommendations and stakeholder public comment



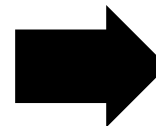
Consolidated and updated rules to improve case processing and clarity of rules

Develop Case Management System



When launched, agency will be more efficient processing cases and will be able to develop and implement e-filing system

Engaged in increased stakeholder outreach (Continuing Legal Education, public meetings, conferences, etc.)



Keep stakeholders engaged and involved. Keep agency informed of stakeholder needs and concerns.

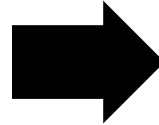


2015-Present

Agency Action

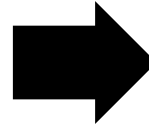
Result

Updated State Personnel Relations Law Digest
(had not been updated since 2008)



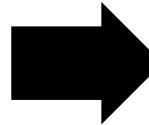
Provided up-to-date digest for individuals/practitioners researching case law

Drafted User Guides to State Personnel Relations Law Cases



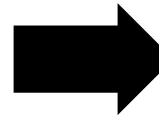
Enhanced communication with customers and stakeholders. Increased public awareness and access to agency procedures and resources

Conducted survey regarding training services, specifically interest-based-bargaining and labor-management committee trainings



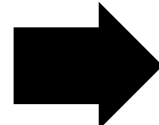
Affirmed quality and efficacy of current training programs and highlighted areas for expansion. Raised greater awareness of training services.

Offered low-cost, ½-day training on effective bargaining in 3 locations (Bend, Medford, Salem)



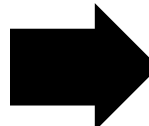
Broadened awareness/understanding of training options and received a number of IBB training requests

In FY15-16, conducted over 90 facilitation sessions re: 9 strike-permitted groups



8 resolved, 1 ongoing. 2 of the more contentious 2014 negotiations (PSU and PPS) requested training and facilitation services.

Improved website with more updates



Provide greater transparency and access to agency information

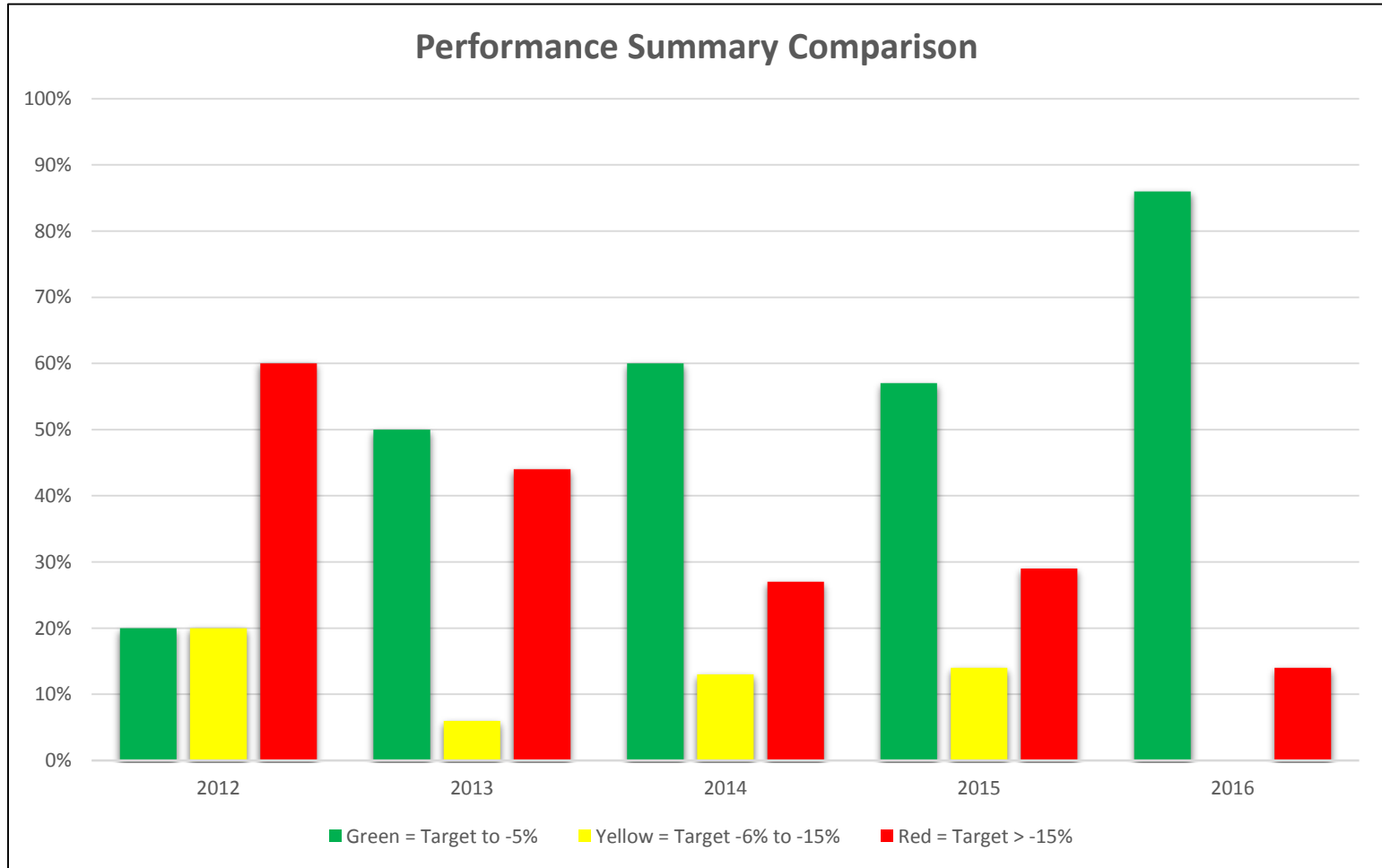


Key Performance Measures

| KPM # | 15-17 Key Performance Measures |
|-------|---|
| 1 | Union representation – Average number of days to resolve a petition for union representation when a contested case hearing is not required. [Green] |
| 2 | 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. [Green] |
| 3 | Final Board orders – Average number of days from submission of a case to the Board until issuance of a final order. [Green] |
| 4 | Mediation effectiveness – Percentage of contract negotiation disputes that are resolved by mediation for strike-permitted employees. [Green] |
| 5 | Appeals – Percentage of Board Orders that are reversed on appeal. [Green] |
| 6 | Mediation effectiveness – Percentage of contract negotiation disputes that are resolved by mediation for strike-prohibited employees. [Green] |
| 7 | Customer Satisfaction Survey – Percentage of customers who responded to survey rating the agency’s customer service as “good” or “excellent”: overall, timeliness, accuracy, helpfulness, expertise, availability of information. [Red (3 yellow, 3 red)—target is 95%] |



Key Performance Summary

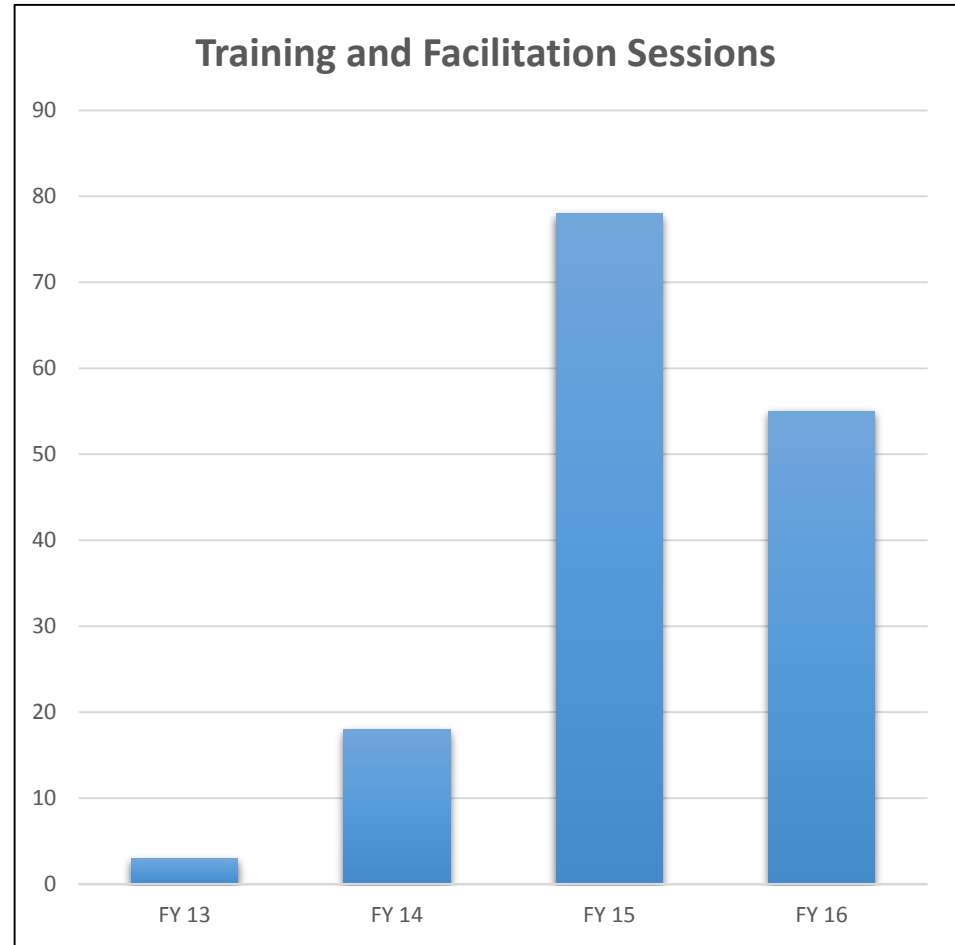
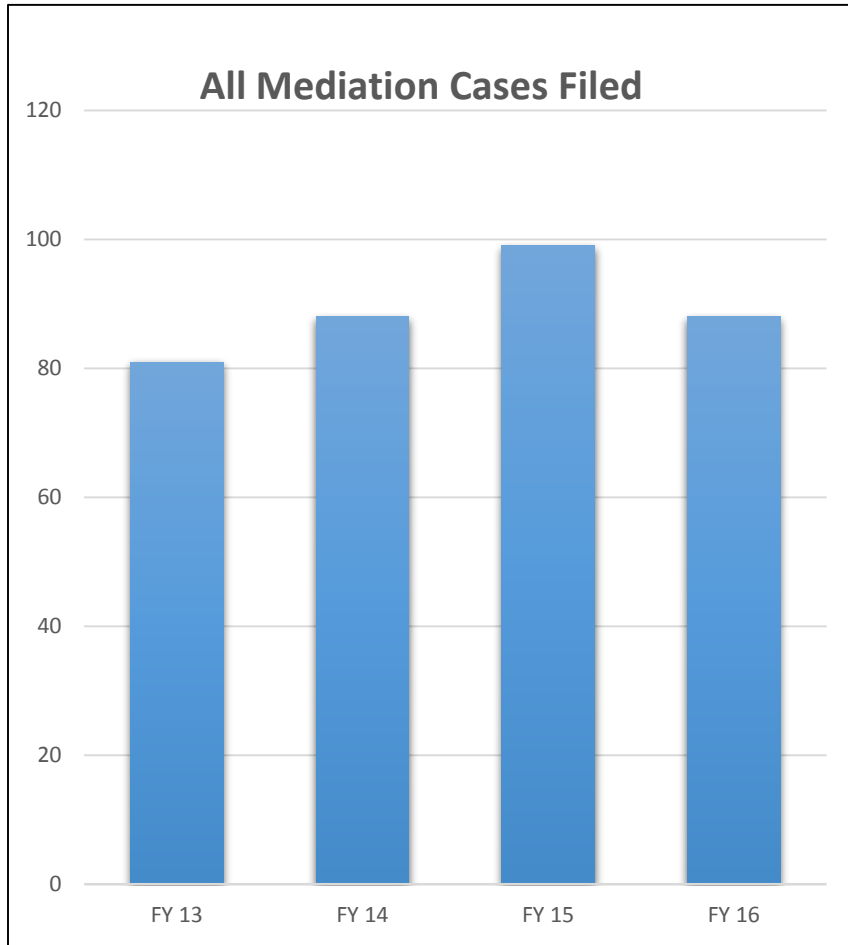


Budget Environment

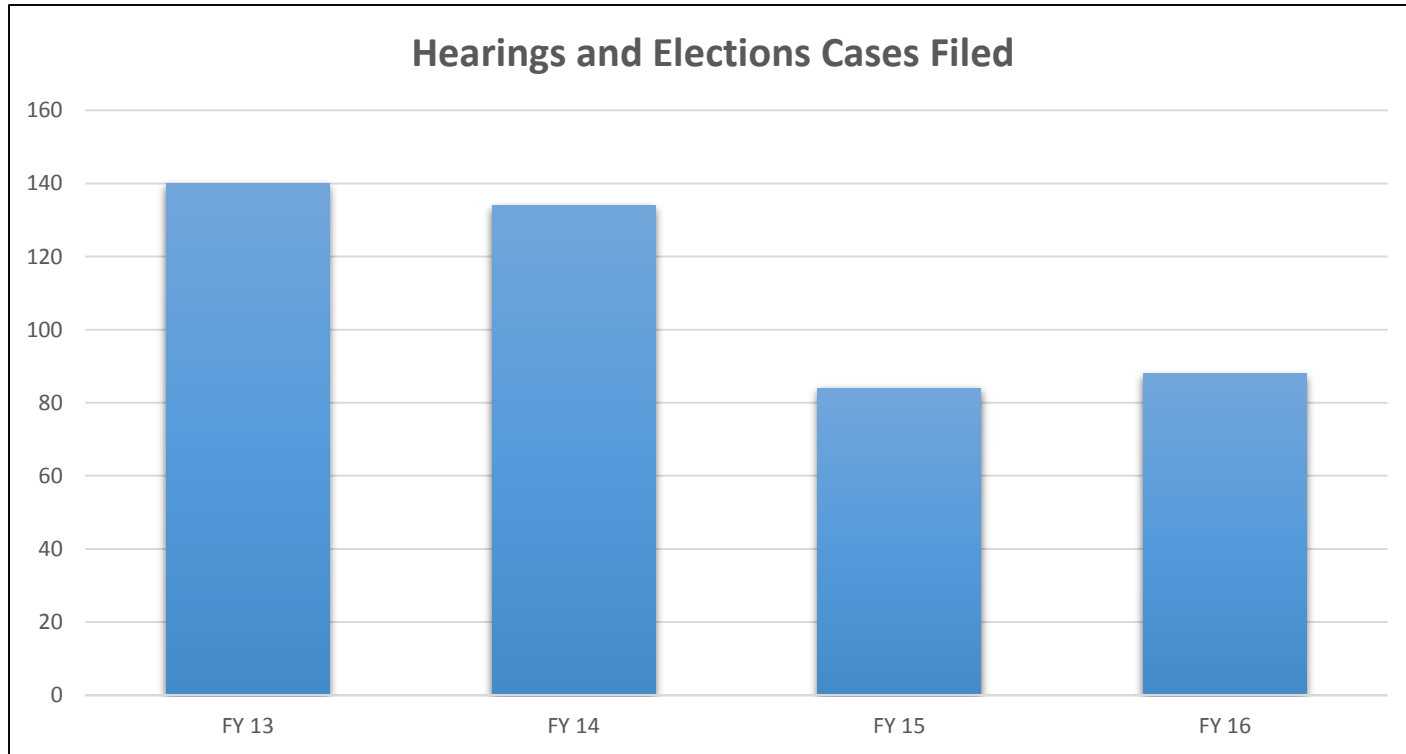
- 13 people to do the work
- Workload is variable depending on multiple factors, including the economy, legislation, and other external factors.
- State contract negotiations cyclical
- Other contract negotiations highly variable
- Increased demand for training and facilitation



Conciliation Case Filings



Hearings and Elections Case Filings



Goals

- Maintain agency timeliness in responding to mediation requests and issuing recommended and final orders
- Continue stakeholder involvement in agency operations
- Implement electronic filing
- Meet mainstream technology enhancements and improvements
- Provide searchable online database of Board orders
- Update online State Personnel Relations Law Digest
- Promote and expand our training and conciliation services
- Collaborate with other neutral organizations to educate and train entities under our jurisdiction in labor/management relations



15-17 LAB Summary

- General Fund (54% of Budget)
- Other Funds State Assessment (40% of Budget)
 - Per capita assessment on state agencies that helps fund the agency's work performed on behalf of the state and its employees
 - \$1.92 State Assessment (Proposed \$2.38 for 17-19)
- Other Fund Fee Revenue (6% of Budget)
 - Three types of fees comprise this fund source
 - Statutory fees for conciliation services
 - Statutory fees for filing unfair labor practice complaints and answers
 - Miscellaneous Revenues (copies and faxes)



Case Management System

- Phase I—Authorized in 2015-17 LAB
 - Deliverables-based project with NIC USA through DAS w/anticipated launch mid-2017.
 - Complex and agency-specific software and build
 - Reduce reliance on paper-heavy manual systems
 - Increase efficiency in agency processes
- Phase II Policy Option Package 101 for 2017-19—
 - Allow for stakeholder e-filing (including online payment)



Other Policy Option Packages

- 100 – Executive Service
 - Board Member/Chair Compensation Plan Change Previously Approved
 - Office Administrator Reclassification
 - State Conciliator Compensation Plan Change
- 102 – Arbitrator Fees Increase (Discussed below in Legislative Concepts—HB 2264)



Legislative Concepts

| Bill Number | Description | Fiscal Impact |
|-------------|---|---|
| HB 2262 | Changes language concerning agency personnel and administration and makes other clarification/housekeeping changes | None |
| HB 2263 | Increases 3rd mediation session fee by \$125 decreases 4th mediation session fee by \$125 | None –revenue neutral |
| HB 2264 | Increases arbitrator application fee from \$50 to \$100 Increases annual fee from \$100 to \$150 to remain on roster | Estimated \$8,000 increase in revenue over the 17-19 Biennium |
| HB 2265 | Expressly allows parties to agree to 150-day bargaining start date | None |



Questions?



Employment Relations Board

Appendices for the
Presentation to the Joint Committee on Ways and Means
Subcommittee on General Government

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Appendix A

Policy Option Package 100

- Funding for DAS Classification & Compensation Changes
- Classification & Compensation Changes for Business Operations Administrator & State Conciliator

Package No. # - 100, Executive Service

| PERSONAL SERVICES | | | | | | | | | | | | | |
|--|---------------------|-----------|-----|----|-----------|-------------|--------------|------------------|-------------|------------------|-------------|-------------|-------------------|
| Classification No. | Classification Name | # of Pos. | FTE | SR | Avg. Step | Avg. Salary | Avg. OPE | GF | Lottery | OF | FF | Non Limited | All Funds |
| MESN Z7006 AA | PEM D | 1 | 1.0 | 31 | 2 | \$794 | \$204 | \$2,692 | | \$2,115 | | | \$4,807 |
| MESN Z7012 AA | PEM G | 2 | 2.0 | 38 | 9 | \$1,355 | \$370 | \$9,739 | | \$7,652 | | | \$17,391 |
| MEAH Z7014 HA | PEM H | 1 | 1.0 | 40 | 9 | \$680 | \$186 | \$2,444 | | \$1,920 | | | \$4,364 |
| MESN Z7010 AA | PEM F | 1 | 1.0 | 35 | 9 | \$468 | \$128 | \$1,682 | | \$1,321 | | | \$3,003 |
| Average salary is the difference from the base salary to the salary rate in POP 100. Most of the costs of the OPE are already in base so the increase in OPE in POP 100 is just due to the difference in salary.61,918 | | | | | | | Salaries | \$61,918 | \$ - | \$48,650 | \$ - | \$ - | \$110,568 |
| | | | | | | | Overtime | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| | | | | | | | Non-PICS OPE | \$372 | \$ - | \$292 | \$ - | \$ - | \$664 |
| | | | | | | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Total Personal Services | | | | | | | | \$ 78,847 | \$ - | \$ 61,950 | \$ - | \$ - | \$ 140,797 |

| | | | |
|----------------------------|-----------------|-----------------|-----------------|
| TOTAL REQUEST | \$ \$ - | \$ \$ - | \$ - |
| TOTAL POSITIONS/FTE | 0.56 | 0 / 0.00 | 0.44 |
| | 0 / 0.00 | 0 / 0.00 | 0 / 0.00 |
| | 0/0.00 | | |



Appendix B

Policy Option Package 101

- Phase 2 of Case Management System to allow for e-filing and online payments
- Deliverables-based contract with NIC USA through DAS

Package No. # - 101, Electronic Filing/Case Management System

| SERVICES AND SUPPLIES | | | | | | |
|------------------------------------|-------------|-------------|-----------------|-------------|-------------|-----------------|
| Description | GF | Lottery | OF | FF | Non Limited | All Funds |
| IT Professional Services | \$ - | \$ - | \$30,000 | \$ - | \$ - | \$30,000 |
| Total Services and Supplies | \$ - | \$ - | \$30,000 | \$ - | \$ - | \$30,000 |



Appendix C

Policy Option Package 102

- Increases arbitrator application fee to be on agency roster from \$50 to \$100
- Increases annual arbitrator fee to remain on agency roster from \$100 to \$150
- Anticipated \$8,000 in increased revenue

| Existing Fee Structure | | | | Proposed Fee Structure | | | |
|------------------------|-------|--------------------------|-------------------|------------------------|-------|--------------------------|-------------------|
| Type of Fee | Fee | Number of fees processed | Revenue Generated | Type of Fee | Fee | Number of fees processed | Revenue Generated |
| Application Fee | \$50 | 12 | \$600 | Application Fee | \$100 | 12 | \$1,200 |
| Annual Fee | \$100 | 148 | \$14,800 | Annual Fee | \$150 | 148 | \$22,200 |
| Total Revenue | | | \$15,400 | | | | \$23,400 |
| Total Increase | | | | | | | \$8,000 |



Appendix D

15-17 Compensation Plan Changes

- DAS Classification and Compensation Plan Changes
- Emergency Board December 13, 2016
- Effective January 1, 2017

| Previous Classification | Class Number | Salary Range | Number of Positions | New Classification | Class Number | Salary Range | Justification |
|-------------------------|--------------|--------------|---------------------|--------------------|--------------|--------------|------------------------------|
| PEM H | 7014 | 40X | 1 | ERB Board Chair | 7530 | 40X | DAS Compensation Plan Change |
| PEM G | 7012 | 38X | 2 | ERB Board Member | 7531 | 38X | DAS Compensation Plan Change |



Appendix E

Ending Balance Form

OTHER FUNDS ENDING BALANCES FOR THE 2015-17 & 2017-19 BIENNIA

Agency: A115 Employment Relations Board
 Contact Person (Name & Phone #): Opal Bontrager, SABRS Coordinator, ph. 503-373-0744

| (a) Other Fund Type | (b) Program Area (SCR) | (c) Treasury Fund #/Name | (d) Category/Description | (e) Constitutional Statutory reference | (f) 2015-17 Ending Balance | | (g) 2017-19 Ending Balance | | (j) Comments |
|---------------------------|---|--------------------------------|-------------------------------|---|----------------------------|---------|----------------------------|---------|---|
| | | | | | In LAB | Revised | In CSL | Revised | |
| Limited | 11500-30 Administration, 11500-40 Mediation, 11500-50 Hearings | 1150001248 - ERB Admin Acct | Operations - State Assessment | ORS 240.167,240.131 | 187,113 | 411,392 | 399,160 | 463,508 | Per agreement with both LFO and CFO SCR 11500-60 Elections was inactivated for the 15-17 budget build. SABRS Coordinator Notes: 1) AY 15-17 Ending Cash in ORBITS in Column (f) is understated. Because actual ending cash for AY 13-15 in the SFMS accounting system was more than estimated in ORBITS, beginning cash adjustments were made in AY 19 ARB. Those actuals were also included in Column (g) to estimate current ending cash balance for AY 15-17. 2) AY 15-17 Ending Balance in Column (g) also reflects current projected revenue and expenditures for the remainder of AY 15-17. Included in these estimates are reduced travel costs due to Governor's mandate for essential travel only for state-wide budget needs. 3) AY 17-19 Ending Cash Balance was figured by adding the portion of the State Assessment for AY 17-19 needed to cover the AY 17-19 CSL expenditures. Revised AY 15-17 Ending Balance of \$411,392 plus \$2,056,320 for f State Assessment figured at \$2.38 per employee for @ 36,000 employees minus CSL State Assessment Expenditures of \$2,004,204 (CSL for personal services changed after the Dec 2016 E Board salary rate changes were entered for AY 17-19).. As usual, this OF ending balance will go up or down, depending on the ERB rate and what actual revenue and expenditures will be. |
| Limited | 11500-30 Administration, 11500-40 Mediation, and 11500-50 Hearings | 1150001248 - ERB Admin Acct | Operations - Fee Revenue | ORS 240.610; ORS 243.672; ORS 662.425, ORS 662.445, ORS 663.180 | 29,911 | 326,632 | 355,068 | 387,297 | Per agreement with both LFO and CFO SCR 11500-60 Elections was inactivated for the 15-17 budget build. SABRS Coordinator Notes: 1) AY 15-17 Ending Cash balance in ORBITS in Column (f) is understated. Because the actual ending cash for AY 13-15 in the SFMS accounting system was more than estimated in ORBITS, beginning cash adjustments were made in AY 17-19 ARB. Those actuals were included in Column (g) to estimate current AY 15-17 ending balance. 2) Column (g) also includes current revenue and expenditures estimates for the remainder of AY 15-17. Included in these estimates are reduced travel costs due to Governor's mandate for essential travel only for state-wide budget needs. 3) AY 17-19 Ending Cash Balance was figured by the revised AY 15-17 Ending Cash of \$326,632 plus AY 17-19 estimate CSL revenue of \$258,783 less AY 17-19 estimated CSL expenditures of \$198,118 (CSL for personal services changed after the Dec 2016 E Board salary rate changes were entered for AY 17-19). |
| Totals | | | | | 217,024 | 738,024 | 754,228 | 850,805 | |



Appendix F

Reduction Options

| ACTIVITY OR PROGRAM | DESCRIBE REDUCTION | AMOUNT AND FUND TYPE | RANK AND JUSTIFICATION |
|--|---|--|--|
| (WHICH PROGRAM OR ACTIVITY WILL NOT BE UNDERTAKEN) | (DESCRIBE THE EFFECTS OF THIS REDUCTION. INCLUDE POSITIONS AND FTE IN 2017-19 AND 2019-21) | (GF, LF, OF, FF. IDENTIFY REVENUE SOURCE FOR OF, FF) | (RANK THE ACTIVITIES OR PROGRAMS NOT UNDERTAKEN IN ORDER OF LOWEST COST FOR BENEFIT OBTAINED) |
| <p>5 % Reduction</p> <p>Board & Administration: Three Board Members reduced to .9 FTE (36 hours per week) each for the Biennium</p> <p>All Programs: Reduce S&S</p> | <p>Board & Administration This option (reduction of Board member and chair hours) will limit the Board’s ability to timely issue final orders. It also could affect the ability to recruit and retain qualified individuals to serve on the Board. This option would likely cause a backlog to accrue at the Board level and would not allow the Board to undertake proactive projects to meet stakeholder needs.</p> <p>All Programs: This option will also reduce funding for other essential services, such as subscription services, transcripts that the agency is required to produce, library resources required to do necessary legal work. This option would also not allow the agency to replace any necessary computer equipment, including hearing equipment. This option would also eliminate employee training.</p> | <p>Personal Services GF: \$61,299 OF: \$48,164 \$109,464</p> <p>Services & Supplies: GF: \$80,682 OF: \$64,394 \$145,076</p> <p>TOTAL REDUCTION: GF: \$141,981 OF: \$112,559 \$254,540</p> | <p>This option will have the least impact on services to constituents, and it will preserve the knowledge and expertise of current staff. However, it will restrict the Board’s ability to issue final orders in a timely manner</p> |



| | | | |
|---|---|--|---|
| <p>10% Reduction Board & Administration: Two Board Members reduced to .8 FTE (32 hours per week), Board chair reduced to .9 FTE each for the Biennium</p> <p>Hearings: Reduce one Administrative Law Judge (ALJ) to .5 FTE</p> <p>All Programs: Reduce S&S</p> | <p>Board & Administration This option (further reduction of Board member hours) would have a severe impact, as the Board members would not be able to timely issue orders or prevent a backlog from accruing. This option would further impede completing other projects (including rulemaking and stakeholder outreach). This option would also further impair recruiting and retaining qualified Board members.</p> <p>Hearings This option (reduction of hours an Administrative Law Judge) would have a severe effect, as it would push back the ability of all ALJs to timely and effectively process cases. That would, in turn, have a domino effect on overall case processing. Additionally, the untimely resolution of labor disputes could ultimately result in disruption of public services.</p> <p>All Programs This option will further reduce funding for other essential services, such as subscription services, transcripts that the agency is required to produce, library resources required to do necessary legal work. This option would also not allow the agency to replace any necessary computer equipment, including hearing equipment. This option would also eliminate employee training. This option would also reduce available money to pay for office equipment, including copier usage.</p> | <p>Personal Services GF: \$181,764 <u>OF: \$142,815</u> \$324,578</p> <p>Services & Supplies: GF: \$92,459 <u>OF: \$74,996</u> \$167,455</p> <p>TOTAL REDUCTION: GF \$274,222 <u>OF \$217,811</u> \$492,033</p> | <p>This option will have severe impact on services to constituents. The length of time it takes to process cases will increase. The agency will not be able to fulfill all of its missions. Additionally, it will be more likely that public services (outside of this agency) will be disrupted.</p> |
|---|---|--|---|



| | | | |
|---|--|--|--|
| <p>15% Reduction Board & Administration: Two Board Members reduced to .8 FTE (32 hours per week), Board chair reduced to .9 FTE each for the Biennium</p> <p>Hearings: Reduce one Administrative Law Judge (ALJ), and reduce the Hearings Assistant to .5 FTE</p> <p>Mediation: Reduce 2 Mediators to .94 FTE</p> <p>All Programs: Reduce S&S</p> | <p>Board & Administration. (See 10% Reduction Option Effects)</p> <p>Hearings This option (elimination of an Administrative Law Judge and reduction of hours of a Hearings Assistant) would bring case processing and resolution of disputes to a crawl and would likely create an inordinate backlog of cases. The effects of this option would also reach Board & Administration, as well as Mediation, given that those divisions would need to devote time to Hearings work that could not be completed due to the reductions.</p> <p>Mediation This option (reduction of hours of two mediators) would impede the agency's ability to timely and effectively mediate disputes (the goal of which is to limit the disruption of public services). This option would also not allow the agency to continue or expand its training operations, which is a core feature of the agency.</p> <p>All Programs (See 10% Reduction Option Effects)</p> | <p>Personal Services GF: \$318,558 OF: \$250,294 \$568,851</p> <p>Services & Supplies: GF: \$92,459 OF: \$74,996 \$167,455</p> <p>TOTAL REDUCTION: GF \$411,015 OF \$325,291 \$736,306</p> | <p>This option will have severe impact on services to constituents. The length of time it takes to process cases will increase. The agency will not be able to fulfill all of its missions. Additionally, it will be even more likely that public services (outside of this agency) will be disrupted.</p> |
|---|--|--|--|



Appendix G

2015-17 Fee Schedule

| Type of Fee | Amount of Fee | Statutes/Rules |
|---|--|---|
| Unfair Labor Practice | Complaint - \$300 Answer - \$300 Intervener - \$300 | ORS 243.672(3); 115-070-0000; 115-070-0035 |
| Arbitrator Panel | Application - \$50 Annual - \$100 | ORS 662.445(2); OAR 115-040-0030(4); |
| Local Public Employer Collective Bargaining Mediation | \$1,000 for the first two sessions \$500 for the third session \$750 for the fourth session \$1,000 for each additional session | ORS 240.610(2); OAR 115-040-0005(1); |
| Local Public Employer Grievance Mediation | \$500 per session – each party pays \$250 | OAR 115-040-0005(2); ORS 662.425; ORS 240.610 |
| Local Public Employer Unfair Labor Practice Mediation | \$500 per session – each party pays \$250 | OAR 115-040-0005(3); ORS 662.425; ORS 240.610 |
| Local Public Employer Training | Two-day training - \$2,500 One-day training - \$1,500 Half-day program - \$700 | ORS 240.610 OAR 115-040-0005(4) |
| Local Public Employer Facilitation | \$60 per hour including travel time | OAR 115-040-0005(4) |
| Public Records | Certified true copies of transcripts and/or documents - \$1.50 per page Other copies and public records - \$.25 per page Copy of the recording of a hearing - \$15.00 for the first CD; \$10 for each subsequent CD Subscription for copies of Board Orders - \$150 per calendar year | 115-010-0032(5) |

Note: As set forth by OAR 115-010-0032(5)(f), 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 that is not exempt from disclosure under ORS 192.410 to 192.505.

