



MEMORANDUM

Prepared for: Oregon State Senate
Date: September 14, 2020
By: Tyler Larson, Analyst
Re: Legislative Review of Executive Appointments

LPRO: LEGISLATIVE POLICY AND RESEARCH OFFICE

EMPLOYMENT RELATIONS BOARD

The Governor has appointed the following individuals to the Employment Relations Board subject to Senate confirmation.¹

Appointees

Jennifer Sung of Portland; Reappointment

Term

Sung: July 1, 2020 – June 30, 2024

Appointment/Confirmation Authority

[ORS 240.060 to 240.065 \(2019\)](#)

Statement of Economic Interest²

Required.

Statutory Requirements³

The board consists of three members appointed by the Governor and subject to confirmation by the Senate (RHYNARD, **SUNG**, UMSCHIED).⁴ Each member of the board must be:

- a citizen of the state;
- known to be in sympathy with the application of merit principles to public employment;
- of recognized standing and known interest in public administration and in the development of efficient methods of selecting and administering personnel; and,
- trained or experienced in labor-management relations and labor law or the administration of the collective bargaining process

In the selection of the members of the Employment Relations Board, the Governor must give due consideration to the interests of labor, management, and the public. No member of the board may hold, or be a candidate for, any public office. Members may have specified financial interests but must be on leave status or act outside of normal work hours when pursuing certain activities.

¹ [Or. Const. art. III sect. 4](#), [ORS 171.562 \(2019\)](#), [ORS 171.565 \(2019\)](#).

² [ORS 244.050 \(2019\)](#).

³ [ORS 182.100 \(2019\)](#) for affirmative action policy and [ORS 236.115 \(2019\)](#) for diversity criteria.

⁴ [ORS 240.060 to 240.065 \(2019\)](#).

Members serve four-year terms and may be removed by the Governor for cause.⁵ The Governor must appoint one of the members as chairperson to serve as the chief administrator of the board.⁶ A majority of the members of the board constitutes a quorum for the transaction of business. Members are paid a salary, with the chairperson receiving a higher salary than the other members.⁷

Duties and Authority

The Employment Relations Board (ERB) resolves disputes concerning labor relations for an estimated 3,000 different employers and 250,000 employees in public and private sector under its jurisdiction.⁸ The board administers:

- 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 certain unrepresented state employees regarding some disciplinary and workplace actions; and
- the Private Employee Collective Bargaining Act, which governs collective bargaining for certain private-sector employees who are subject to the jurisdiction of the National Labor Relations Board.

The board must:⁹

- establish procedures for, investigate, and resolve any disputes concerning the designation of an appropriate bargaining unit;
- establish procedures for, resolve disputes with respect to, and supervise the conduct of elections for the determination of employee representation;
- conduct proceedings on complaints of unfair labor practices by employers, employees, and labor organizations and take such actions with respect thereto as it deems necessary and proper;
- adopt rules relative to the exercise of its powers and authority and to govern the proceedings before it;
- review any personnel action affecting an employee, who is not in a certified or recognized appropriate collective bargaining unit, that is alleged to be arbitrary or contrary to law or rule, or taken for political reason, and set aside such action if it finds these allegations to be correct;
- review and enforce arbitration awards involving employees in certified or recognized appropriate collective bargaining units;
- adopt such rules or hold such hearings as it finds necessary to perform the duties, functions and powers imposed on or vested in it by law;
- employ such personnel as it considers necessary for the efficient administration of its vested duties;

⁵ [ORS 240.065 and 240.075 \(2019\)](#).

⁶ [ORS 240.080 \(2019\)](#).

⁷ [ORS 240.071 \(2019\)](#).

⁸ Employment Relations Board, *About ERB*, <https://www.oregon.gov/erb/Pages/AboutERB.aspx> (last visited August 13, 2020).

⁹ [ORS 243.650 to 243.766 \(2019\)](#), [ORS 240.086 to 240.570 \(2019\)](#), [662.425 to 662.455 \(2019\)](#), [663.020 to 663.295 \(2019\)](#).

- designate a member of the Oregon State Bar as counsel to assist it in the performance of its functions and duties;
- set standards for the assessment of administrative expenses and costs to the various divisions of the service in state government;
- receive, investigate, and adjudicate or otherwise resolve appeals, petitions, and complaints;
- through the chairperson, appoint a conciliator to head the State Conciliation Service;
- at the request of the Governor, instruct a conciliator to investigate any existing or imminent labor dispute, or controversy in the public sector and report the facts of the dispute and the matters in issue to the Governor; and,
- decide in each case whether the unit appropriate for the purposes of collective bargaining is the employer unit, craft unit, plant unit, or subdivision thereof.

The board may:¹⁰

- petition the appropriate circuit court for enforcement of any order issued by the board;
- hold such hearings and make such inquiries as it deems necessary to carry out properly its functions and powers;
- assess civil penalties for specified violations;
- administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by law;
- maintain such action or proceeding at law or in equity as it considers necessary or appropriate to secure compliance with the laws administered by the board;
- charge a fee for mediation services provided by the board;
- prevent any person from engaging in an unfair labor practice;
- on issuance of a complaint charging that any person has engaged in or is engaging in an unfair labor practice, petition the Court of Appeals for appropriate temporary relief or restraining order; and
- at all reasonable times have access to, for the purpose of examination, and the right to copy, any evidence of a person being investigated or proceeded against that relates to any matter under investigation or in question.

¹⁰ [ORS 243.650 to 243.766 \(2019\)](#), [ORS 240.086 to 240.570 \(2019\)](#), [662.425 to 662.455 \(2019\)](#), [663.020 to 663.295 \(2019\)](#).

Executive Appointments Board Roster

Employment Relations Board

Agency: Employment
Authorization: ORS 240.060
Members: Min: 3 Max: 3
Term Length: 4 years Limit: None
Senate confirmation required? Yes
Paid Position: Yes

Policy Area: Labor/Trades

Board Contact:

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Current Appointments:

Member Name and Address (Alphabetical)

Adam L Rhynard, Chair
Public Member

Position Number: 3

Term(s): 10-01-2019 - 09-30-2023
10-01-2015 - 09-30-2019
03-15-2013 - 09-30-2015

Jennifer Sung
Labor

Position Number: 1

Term(s): 07-01-2020 - 06-30-2024
03-15-2017 - 06-30-2020

Lisa M Umscheid
Management

Position Number: 2

Term(s): 07-01-2017 - 06-30-2021
10-17-2016 - 06-30-2017