



Employment Relations Board

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

Adam Rhynard
Board Chair

February 7, 2023

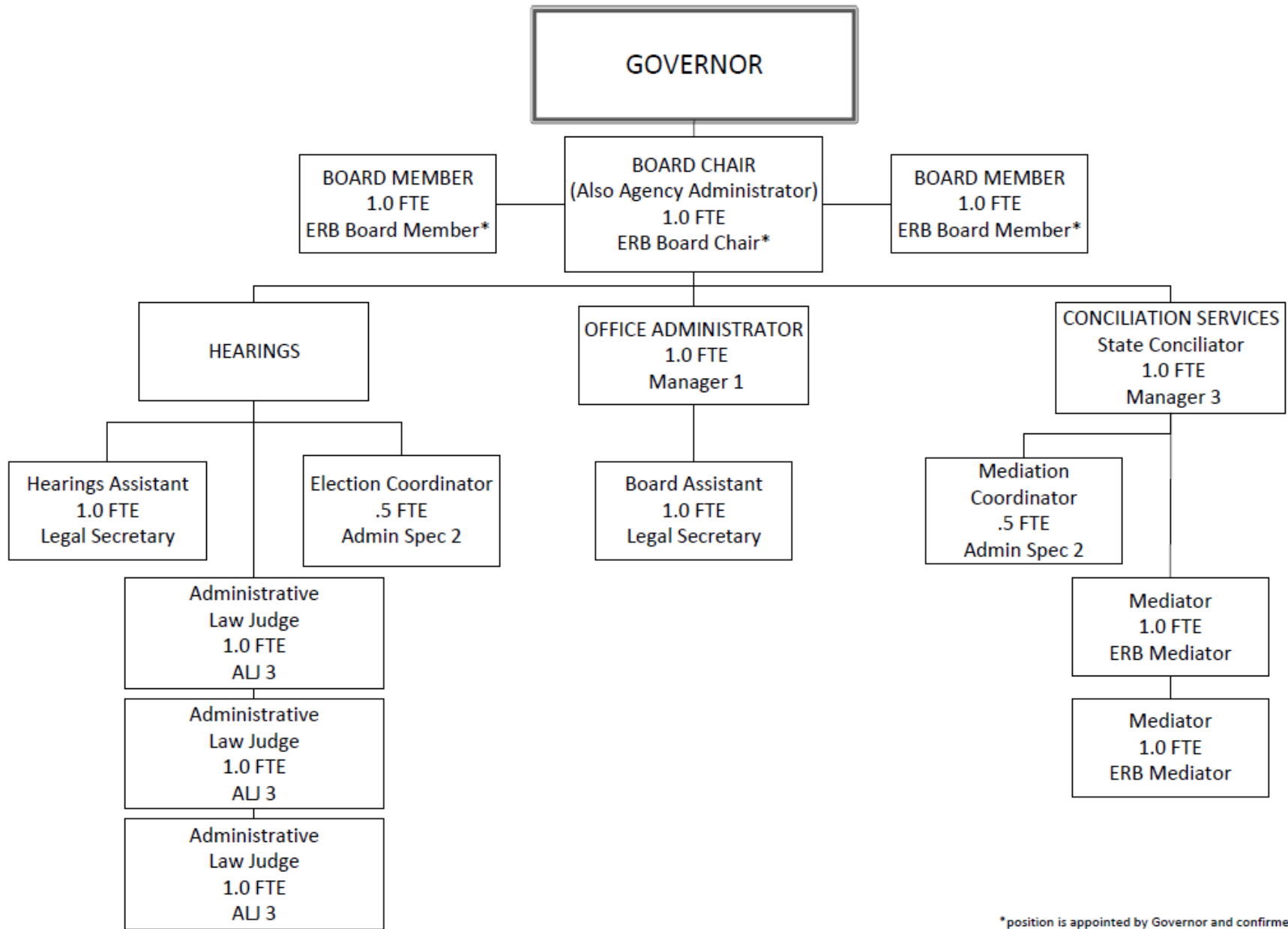


Agency Mission

Resolve disputes concerning labor/employment relations for approximately 275,000 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

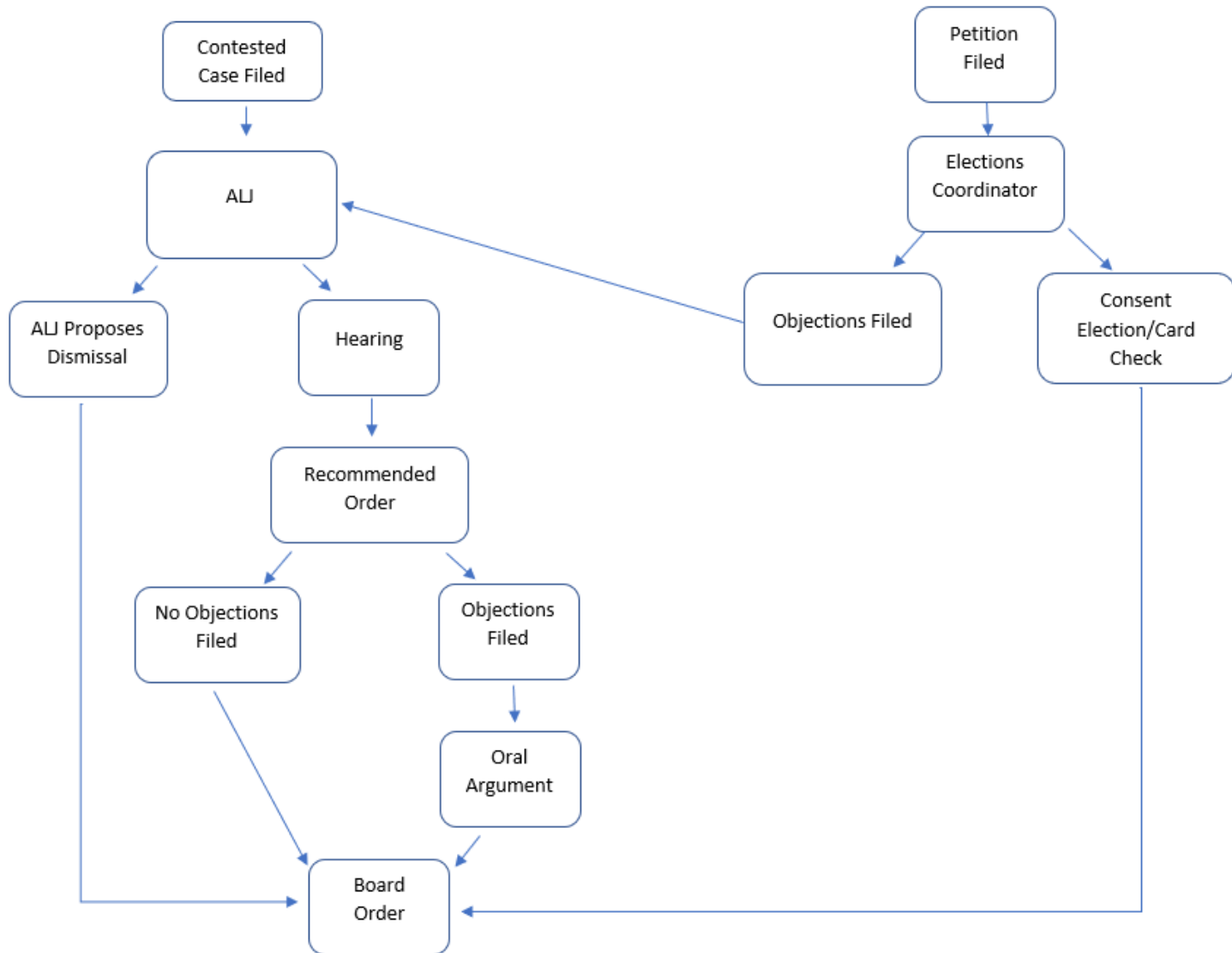


Fulfilling the Legislative Mandates

- Contested Case Hearings
 - ALJs conduct hearings and issue recommended orders
 - 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

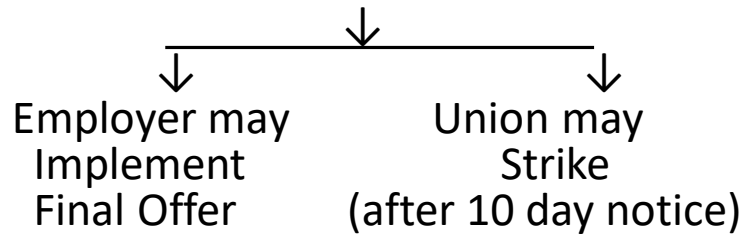


Case Flow Chart (Hearings & Elections)



Case Flow Chart (Mandatory Mediation)

- **Strike Permitted Unit Bargaining Process**
- Direct Bargaining (minimum 150 days)
- ↓
- Mediation (minimum 15 days)
- ↓
- Impasse
- ↓
- Final Offer and Costing
- (within 7 days of impasse)
- ↓
- 30 day Cooling Off Period
-



Case Flow Chart (Mandatory Mediation)

- **Strike Prohibited Unit Bargaining Process**
- Direct Bargaining (minimum 150 days)
- ↓
- Mediation (minimum 15 days)
- ↓
- Impasse
- ↓
- Final Offer, Costing & Petition
- To Initiate Arbitration (within 7 days of impasse)
- ↓
- 30 days Cooling Off Period
- ↓
- Last Best Offer Filed With Arbitrator (14 days before hearing)
- ↓
- Arbitration Hearing (scheduled after Cooling Off Period)
- ↓
- Arbitration Decision (within 30 days from close of hearing)

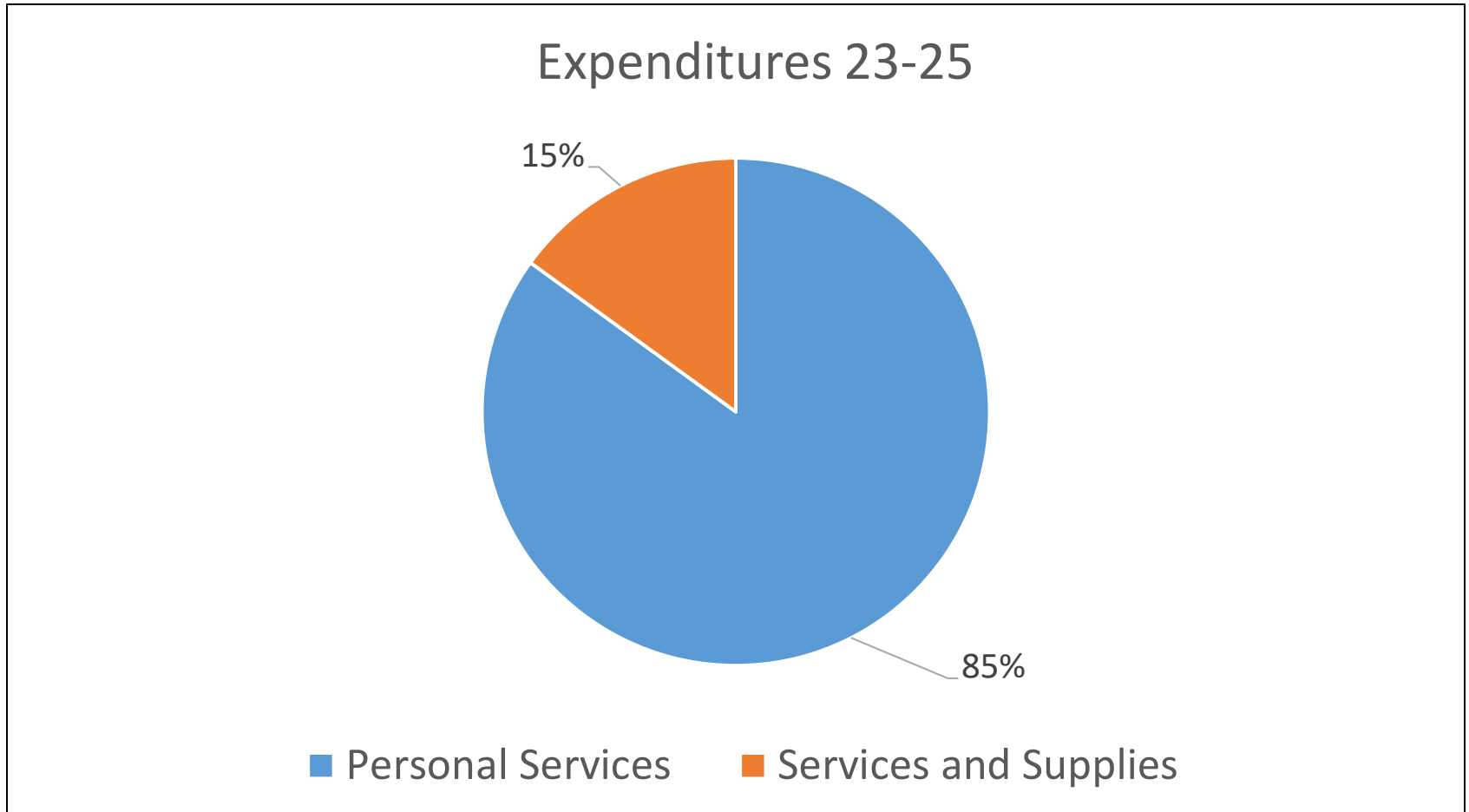


Sources of Revenue

- General Fund (Approximately 55% of Budget)
 - Primary funding source for services provided to local governments
- Other Funds State Assessment (Approximately 35% of Budget)
 - Per capita monthly assessment on state agencies that helps fund the agency's work performed on behalf of the state and its employees
 - Assessment based on number of state employees subject to ERB jurisdiction (typically about 38,000) and historical proportion of agency work done on behalf of state agencies
 - 23-25 request is based on 40,000 employees
- Other Fund Fee Revenue (Approximately 10% 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
 - Statutory fees for arbitration panel and other miscellaneous fees



Agency Use of Revenue

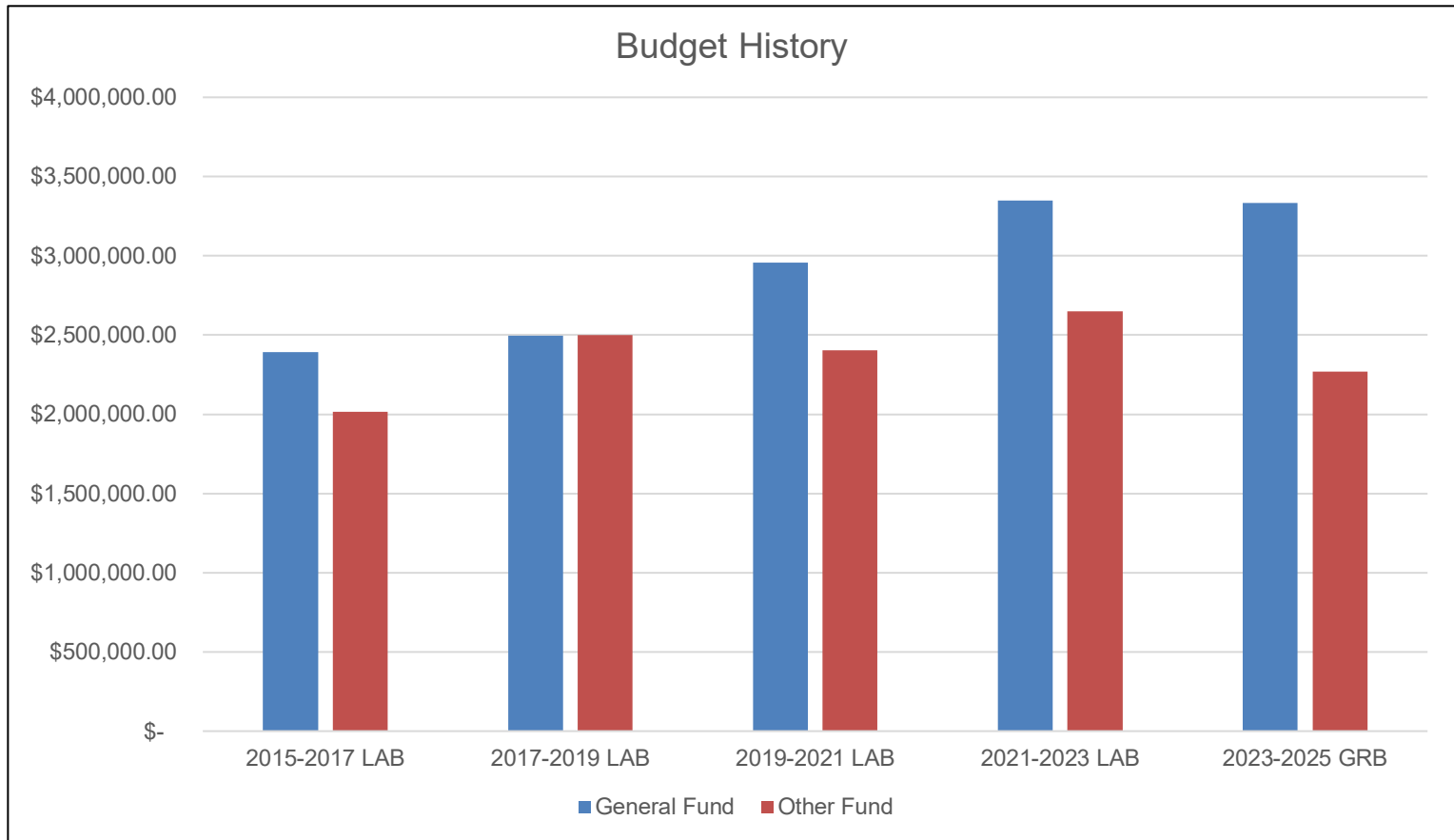


Budget Environment

- 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



Budget History



COVID-19 Impact on Agency

- Required to conduct all services (hearings, oral arguments, mediations, trainings, and facilitations) by electronic means, which was facilitated by Case Management System
- Stakeholder engagement meetings throughout the pandemic and ongoing
- Currently, agency provides parties with the option of in-person versus video-conducted services.
- COVID-related case filings and collective bargaining negotiations over COVID-related issues
- Agency relocation to smaller office and reduction in rent expenses

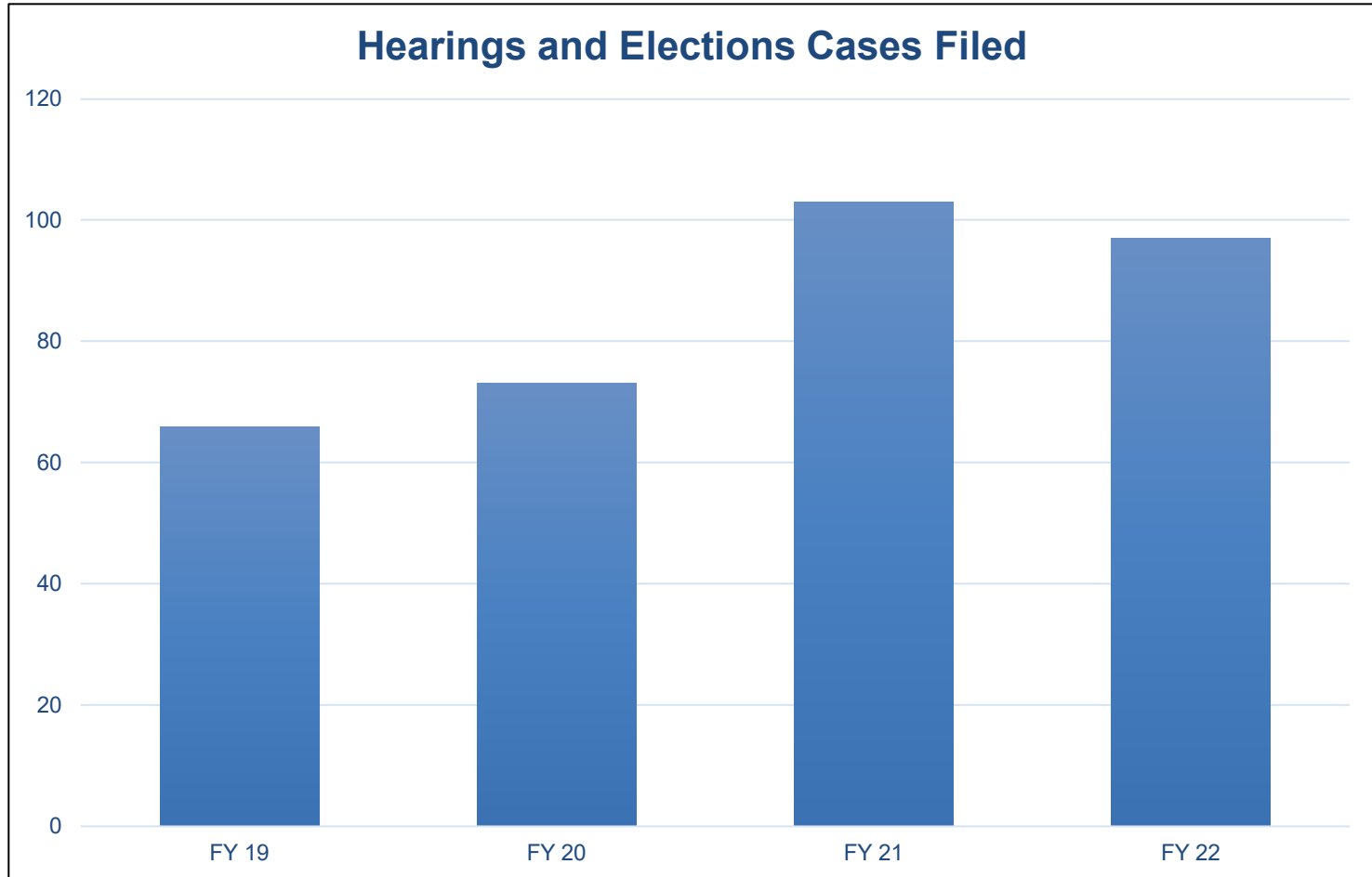


Recent Legislative Changes Related to Agency Operations

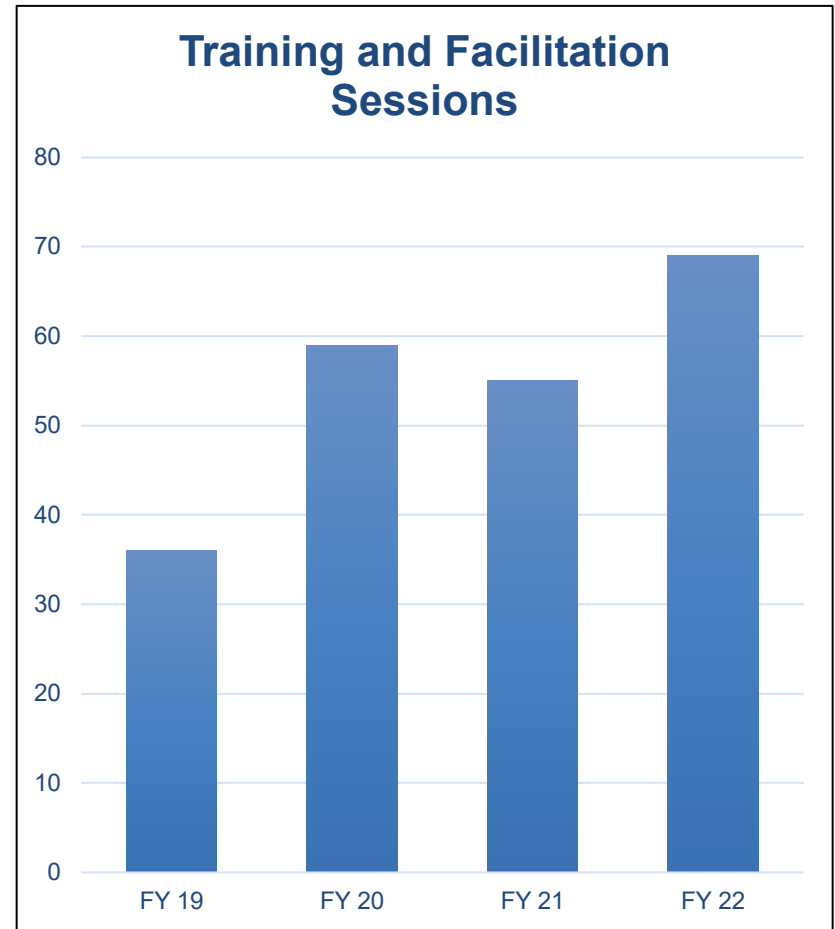
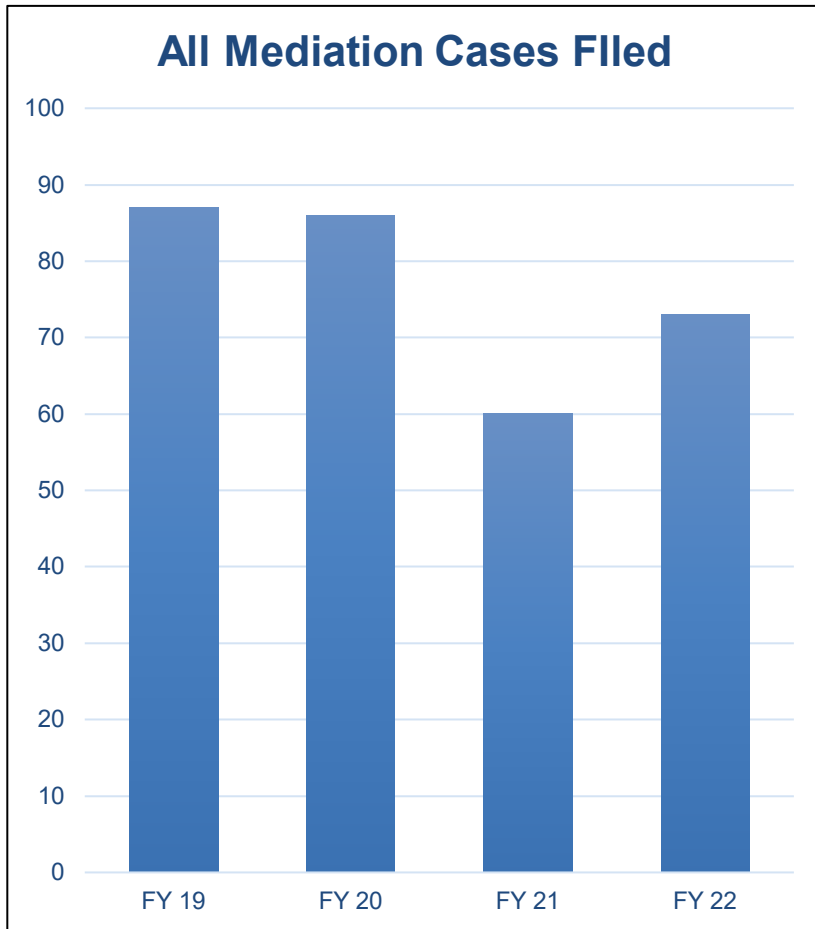
- HB 2930 (Or Laws 2021, ORS 243.706(3))
 - Requires agency to appoint an arbitrator in arbitration proceeding regarding alleged misconduct by law enforcement officer
 - Formation of special rules advisory committee
 - Promulgation of permanent rules to administer HB 2930



Hearings and Elections Case Filings



Conciliation Case Filings



Key Performance Measures

KPM#	23-25 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. [Target 60 days – 2022 data is 47 days, goal met]
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. [Target 100 days – 2022 data is 101 days, goal met]
3	Final Board orders – Average number of days from submission of a case to the Board until issuance of a final order. [Target 50 days – 2022 data is 24 days, goal met]
4	Mediation effectiveness – Percentage of contract negotiation disputes that are resolved by mediation for strike-permitted employees. [Target 95% - 2022 data is 94%, goal met]
5	Appeals – Percentage of Board Orders that are reversed on appeal. [Target is 5% - 2022 data is 0%, goal met]
6	Mediation effectiveness – Percentage of contract negotiation disputes that are resolved by mediation for strike-prohibited employees. [Target 85% - 2022 data is 100%, goal met]
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. [Target is 95% - 2022 data is 92% and above, goal met]



Goals

- Maintain agency timeliness in responding to mediation requests and issuing recommended and final orders
- Continue stakeholder involvement in agency operations, including ongoing Rules Advisory Committee
- Meet mainstream technology enhancements and improvements, including adding features related to e-filing system, virtual hearings/arguments, and searchable Board orders.
- 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
- Expand outreach efforts to broaden arbitrator panel pool



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

Policy Package 100, Funding for TOMP Reclassification of State Conciliator

Due to the TOMP reclassification of the PEM series during PICS freeze, the budget for the State Conciliator position was reduced. When her new classification is created her salary will remain as is. This package is necessary to fund the difference between the “freeze” salary and her actual salary.]

How Achieved: Providing funding will maintain the funding for the salary of the State Conciliator position.

Staffing impact: No new staff needed, but funding needed to pay for existing salary.

Quantifying Results: If approved, the agency will have the necessary funds to pay the existing salary of the State Conciliator position.

Revenue Source: The State Conciliator is part of the Conciliation Service Office (Mediation) section of the budget.

Revenue Source:

Package No. # - 100, Funding for TOMP Reclassification of State Conciliator

PERSONAL SERVICES													
Position No.	Classification Name	# of Pos	FTE	SR	Avg. Step	Avg. Salary	Avg. OPE	GF	Lottery	OF	FF	<u>Non Limited</u>	All Funds
0632001	Being created	1	1	35	10	Keep current	Keep current	.56		.44			
							Salaries Overtime Non-PICS OPE Reconciliation Adjustment	\$10,074		\$7,915			
Total Personal Services								\$10,074		\$7,915			

TOTAL REQUEST	\$10,074		\$7,915			
TOTAL POSITIONS/FTE	0	0 / 0.00	0	0 / 0.00	0 / 0.00	0/0.00



Appendix B

Policy Option Package 101

Policy Package 101, Administrative Specialist 2 Reclassification to Operations & Policy Analyst 1

Purpose:

This request is for funding to reclassify our current Administrative Specialist 2 (AS 2) to Operations & Policy Analyst 1. That reclassification is necessary to allow the agency to adequately provide services to our stakeholders that will require increased duties beyond those currently performed by the AS2 position. The funding for the reclassification would allow the agency to modify and expand responsibility levels within our current AS2 position through a reclassification to assist with advancing and maintaining our services. Although this was initially submitted (and preliminarily approved by Classification and Compensation) as a reclassification to Executive Assistant, statewide Classification and Compensation ultimately determined that the described duties are appropriately classified as an Operations & Policy Analyst 1.

What has changed

The effectiveness and cost savings associated with virtual services has prompted the agency to rethink how we connect with our constituents. Virtual platforms provide new opportunities to provide an expanded range of services, training, and support to a broader range of constituents, especially those in more remote parts of the state.

In addition, emergent needs within the labor management community we serve have prompted the agency to consider how it might allocate staff resources to help address these needs. One example is a growing interest on the part of our constituents to address a lack diversity among arbitrators on our panel. Another need/opportunity relates to high rates of turnover of labor relations practitioners within our stakeholder group prompting a need for training and support of new practitioners in the areas of dispute resolution and negotiation.

To capitalize on opportunities presented by virtual platforms and to address some of the emergent needs within our stakeholder group, below a list of some of the projects we are contemplating:

- Expand and promote labor management training programs conducted by the Conciliation Service. Adapt training to online platform where needed.
- Provide orientation training for constituents new to engagement with ERB services, including newly appointed arbitrators, through videos or live virtual information sessions.
- Develop strategies and programs to increase arbitrator diversity:
 - Develop career pathways through education and training
 - Engage in recruitment efforts
 - Support new arbitrators through facilitation of mentorship programs and community connections.
- Plan and promote an agency sponsored statewide conference in Spring 2023 to commemorate the 50th Anniversary of the PECBA

The following are needs for the proposed reclassified position:



- Assistance with planning, development, promotion and evaluation of training and education programs, including statewide conferences and meetings.
- Coordinate and assist in leading constituent-based task forces/committees (e.g., Arbitrator Diversity, Conference Planning, Training Intake and Needs Assessment)
- Assist with training design
- Assistance with development and evaluation of proposals for legislative and agency rules changes as they relate to new programs.
- Research and report writing in support of legislation and policy/program options as needed
- Assistance in developing budget projections for agency programs
- Legislative watch: tracking of identifying/tracking bills introduced in legislatures which affect agency programs
- Attend all public meetings related to agency programs – serve as a liaison between stakeholders and agency leadership.

The Operations & Policy Analyst 1 classification best captures the duties and responsibilities that we envision being performed by our current AS 2.

How Achieved: Providing funding for the reclassification will make the duties match the job duties that we envision being necessary to provide more effective services to our stakeholders.

Staffing impact: No new staff needed, but funding needed for the reclassification.

Quantifying Results: If approved, the agency will be able to appropriately pay the Operations & Policy Analyst 1 in accordance with the increased job duties and responsibilities.

Revenue Source: The AS 2 is part of the Hearings and Conciliation Service Office (Mediation) section of the budget. This package crosses over two different units.

PERSONAL SERVICES													
Classification No.	Classification Name	# of Pos	FTE	SR	Avg. Step	Avg. Salary	Avg. OPE	GF	Lottery	OF	FF	Non Limited	All Funds
0870	OPA 1	1	1	23	6	\$5,253	\$3018	.56		.44			
							Salaries						
							Overtime						
							Non-PICS OPE						
							Reconciliation Adjustment	\$6,179		\$4,842			
Total Personal Services													

TOTAL REQUEST	\$6,179		\$4,842			
TOTAL POSITIONS/FTE	0	0 / 0.00	0	0 / 0.00	0 / 0.00	0/0.00



Appendix C

Ending Balance Form

UPDATED OTHER FUNDS ENDING BALANCES FOR THE 2021-23 & 2023-25 BIENNA

						118,593			
						20,800			
Agency:		Employment Relations Board				139,394			
Contact Person (Name & Phone #):		Juril Stover, ERB Business Manager and Dan Dunn, SABRS Coordinator for ERB,				85%			
		Juril at 503-378-8610 and Opal at 971-900-9751				15%			

(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)
Other Fund Type	Program Area (SCR)	Treasury Fund #/Name	Category/Description	Constitutional and/or Statutory reference	2021-23 Ending Balance		2023-25 Ending Balance		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	\$ 575,599	\$ 694,192	\$ 546,195	\$ 664,788	LAB & CSL match ORBITS Budget reports. Current (AY23) Estimated ending balance comes from Nov 2022 AY 21-23 projections. Revised AY25 CSL carries forward the difference
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	\$ 100,956	\$ 121,757	\$ 95,799	\$ 116,599	LAB & CSL match ORBITS Budget reports. Current (AY23) Estimated ending balance comes from Nov 2022 AY 21-23 projections. Revised AY25 CSL carries forward the difference
Combined					\$ 676,555	\$ 815,949	\$ 641,994	\$ 781,388	



Appendix D

Reduction Options

Agency Name (Acronym): A115 ERB

2023 - 2025 Biennium

Detail of Reductions to 2023-25 Current Service Level Budget

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Priority (ranked most to least preferred)	Agency	SCR or Activity Initials	Program Unit/Activity Description	GF	LF	OF	NL-OF	FF	NL-FF	TOTAL FUNDS	Pos.	FTE	Used in Gov. Budget Yes / No	Impact of Reduction on Services and Outcomes	
Dept	Prgm/ Div														
Board Admin		115	115-030	Reduce Dues & Subscriptions 95%	11,042					\$ 11,042	0	0.00	Yes	Reductions in S&S will restrict the agency's ability to give employees training and will also greatly restrict the agency's ability to do business.	
Board Admin		115	115-030	Reduce Office Expenses *50%	5,034					\$ 5,034	0	0.00	Yes	Reductions in S&S will greatly restrict the agency's ability to do business.	
Board Admin		115	115-030	Reduce IT Expendable Property 100%	4,320					\$ 4,320	0	0.00	Yes	Reductions in IT will leave the agency using outdated equipment.	
Board Admin		115	115-030	Reduce Training 100%	5,854					\$ 5,854	0	0.00	Yes	Reductions in S&S will restrict the agency's ability to give employees training and will also greatly restrict the agency's ability to do business.	
Board Admin		115	115-030	Reduce Travel 100%	977					\$ 977	0	0.00	Yes	Reductions in S&S will restrict the agency's ability to give employees training and will also greatly restrict the agency's ability to do business.	
Mediation		115	115-040	Reduce Travel 100%	39,947					\$ 39,947	0	0.00	Yes	Reductions in S&S will restrict the agency's ability to give employees training and will also greatly restrict the agency's ability to do business.	
Hearings		115	115-050	Reduce Travel 100%	2,575					\$ 2,575	0	0.00	Yes	Reductions in S&S will restrict the agency's ability to give employees training and will also greatly restrict the agency's ability to do business.	
Board Admin		115	115-030	Reduce Other S&S 8%	13,024					\$ 13,024	0	0.00	No	Reductions in S&S will greatly restrict the agency's ability to do business.	
Board Admin		115	115-030	Reduce Facilities Rental & Taxes 9%	10,161					\$ 10,161	0	0.00	No	Reductions in S&S will greatly restrict the agency's ability to do business.	
Board Admin		115	115-030	Reduce Board Members & Chair FTE to 0.7	206,808		263,209			\$ 470,017	0	0.90	Yes, only eliminated to 9 FTE tho	Reducing hours for Board members will make it difficult to process cases in a timely manner, and a backlog of cases could once again accrue.	
Hearings		115	115-050	Eliminate ALJ FTE	212,740		167,152			\$ 379,892	1	1.00	Yes	Eliminating an ALJ position would have a severe impact on the agency's ability to provide necessary services to our stakeholders. Additionally, eliminating an ALJ position would have a domino effect on the other ALJs whose workload would significantly increase. This would inevitably lead to an increase of time to schedule hearings and issue a recommended orders. The reduction on travel will affect stakeholders outside of the Salem area, as those stakeholders would need to either travel to Salem for hearings or conduct them via videoconference.	
										\$ -					
										\$ -					
										\$ -					
										\$ -					
					512,482	-	430,361	-	-	\$ 942,843	1	1.90			

Target \$ 942,843 15%
 Differen \$ -



Appendix E

2023-25 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 - \$100 Annual - \$150	ORS 662.445(2); OAR 115-040-0030(4)
Local Public Employer Collective Bargaining Mediation	\$1,000 for the first two sessions \$625 for the third session \$625 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	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.

