

HB 5028 A BUDGET REPORT and MEASURE SUMMARY

Carrier: Rep. Levy E

Joint Committee On Ways and Means

Action Date: 05/05/23

Action: Do pass with amendments. (Printed A-Eng.)

House Vote

Yeas: 10 - Breese-Iverson, Evans, Gomberg, Holvey, Lewis, McLain, Pham K, Sanchez, Smith G, Valderrama

Nays: 2 - Cate, Reschke

Senate Vote

Yeas: 8 - Anderson, Campos, Dembrow, Frederick, Gelser Blouin, Girod, Sollman, Steiner

Nays: 1 - Findley

Exc: 2 - Hansell, Knopp

Prepared By: Sione Filimoehala, Department of Administrative Services

Reviewed By: Doug Wilson, Legislative Fiscal Office

Land Use Board of Appeals

2023-25

Budget Summary*

	2021-23 Legislatively Approved Budget ⁽¹⁾	2023-25 Current Service Level	2023-25 Committee Recommendation	Committee Change from 2021-23 Leg. Approved	
				\$ Change	% Change
General Fund	\$ 2,686,644	\$ 2,706,702	\$ 2,772,715	\$ 86,071	3.2%
Other Funds Limited	\$ 36,486	\$ 38,019	\$ 38,019	\$ 1,533	4.2%
Total	\$ 2,723,130	\$ 2,744,721	\$ 2,810,734	\$ 87,604	3.2%

Position Summary

Authorized Positions	7	7	7	0
Full-time Equivalent (FTE) positions	7.00	7.00	7.00	0.00

⁽¹⁾ Includes adjustments through January 2023

* Excludes Capital Construction expenditures

Summary of Revenue Changes

General Fund supports over 98 percent of the Land Use Board of Appeals (LUBA) core operations. The remaining two percent of revenue is Other Funds derived from filing fees, publication sales, and other miscellaneous fees. During the 2023-25 biennium, LUBA anticipates receiving an estimated total of \$97,500 in revenue from filing and other fees. All filing fee revenue received is deposited into the General Fund as a revenue transfer.

Summary of Natural Resources Subcommittee Action

The Land Use Board of Appeals (LUBA) was established in 1979 as an agency with exclusive jurisdiction to review appeals of land use decisions made by local governments and state agencies. LUBA’s decisions are reviewable by appeal to the Court of Appeals. The Legislature intended LUBA to provide prompt, professional, and efficient resolution of land use appeals as well to develop a consistent body of land use law. Prior to its creation, circuit courts reviewed local land use decisions, resulting in excessive scheduling delays and inconsistent interpretations of land use law across the state. LUBA is required by statute to publish its orders and opinions and make them public for citizens, decision-makers, and participants in land use processes to use as guidance for future land use decision-making.

The subcommittee recommended a budget of \$2,810,734 total funds, including \$2,772,715 General Fund and \$38,019 Other Funds expenditure limitation, and seven positions (7.00 FTE). The recommended total funds budget is a 3.2 percent increase from the 2021-23 Legislatively Approved Budget.

The subcommittee recommended the following packages:

Package 101: Legal Staff Reclassification. This package increases General Fund by \$47,191 for costs associated with the reclassification of two existing staff attorney positions. Positions affected by this package are reclassified from Compliance Specialist 3 to Legal Staff to better reflect the positions' requirements and responsibilities. The new classifications are more in line with staff attorney positions in other agencies. The incumbents in the positions are currently working out-of-class and the reclassifications have been approved by the Department of Administrative Services.

Package 801: LFO Analyst Adjustments. This package provides \$18,822 General Fund to fully fund one of three board member positions. During the budget process, the funding level was erroneously calculated at one salary range step lower than necessary. This package corrects the oversight and fully funds the position.

Summary of Performance Measure Action

See attached Legislatively Adopted 2023-25 Key Performance Measures form.

DETAIL OF JOINT COMMITTEE ON WAYS AND MEANS ACTION

Land Use Board of Appeals

Sione Filimoehala – 971-707-8779

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
2021-23 Legislatively Approved Budget at Jan 2023 *	\$ 2,686,644	\$ -	\$ 36,486	\$ -	\$ -	\$ -	2,723,130	7	7.00
2023-25 Current Service Level (CSL)*	\$ 2,706,702	\$ -	\$ 38,019	\$ -	\$ -	\$ -	2,744,721	7	7.00
SUBCOMMITTEE ADJUSTMENTS (from CSL)									
SCR 010 - General Program									
Package 101: Legal Staff Reclassifications									
Personal Services	\$ 47,191	\$ -	\$ -	\$ -	\$ -	\$ -	47,191	0	0.00
Package 801: LFO Analyst Adjustments									
Personal Services	\$ 18,822	\$ -	\$ -	\$ -	\$ -	\$ -	18,822	0	0.00
TOTAL ADJUSTMENTS	\$ 66,013	\$ -	\$ -	\$ -	\$ -	\$ -	66,013	0	0.00
SUBCOMMITTEE RECOMMENDATION *	\$ 2,772,715	\$ -	\$ 38,019	\$ -	\$ -	\$ -	2,810,734	7	7.00
% Change from 2021-23 Leg Approved Budget	3.2%	0.0%	4.2%	0.0%	0.0%	0.0%	3.2%	0.0%	0.0%
% Change from 2023-25 Current Service Level	2.4%	0.0%	0.0%	0.0%	0.0%	0.0%	2.4%	0.0%	0.0%

*Excludes Capital Construction Expenditures

Legislatively Approved 2023 - 2025 Key Performance Measures

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Agency: Land Use Board of Appeals

Mission Statement:

To provide an accessible forum for resolving land use disputes quickly and efficiently and make LUBA decisions available as a decision making resource to state and local legislators, land use decision makers, property owners, and residents of Oregon.

Legislatively Approved KPMs	Metrics	Agency Request	Last Reported Result	Target 2024	Target 2025
1. TIMELY RESOLVE APPEALS - Percentage of appeals of land use decisions that are resolved within statutory deadlines or, if all parties agree, with no more than a 7 day extension of the statutory deadline.		Approved	53%	90%	90%
2. TIMELY SETTLE RECORD - Percentage of record objections that are resolved within 60 days after the record objection is received by LUBA.		Approved	94%	95%	95%
3. RESOLVE ALL ISSUES - Percentage of decisions where all issues are resolved when reversing or remanding a land use decision.		Approved	100%	100%	100%
4. SUSTAINED ON APPEAL - Percentage of final opinions that are sustained on appeal.		Approved	80%	90%	90%
5. CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, availability of information.	1) Overall	Approved	57%	95%	95%
	2) Accuracy		77%	95%	95%
	3) Availability of Information		53%	95%	95%
	4) Expertise		49%	95%	95%
	5) Helpfulness		57%	95%	95%
	6) Timeliness		60%	95%	95%

LFO Recommendation:

LFO recommends the following for the Land Use Board of Appeals' KPMs.

- KPM #1 -- Maintain the 90% target even though the agency has been unable to performance near the target for at least three years. Factors such as Board member turnover since 2018, staff turnover, and growing complexity of the cases have all contributed to the agency's performance. In 2018, the performance was 89% for this KPM.
- KPM #2 --Maintain the 95% target. Performance for the most recent reported year was 94%. For 2020 and 2021, performance had fallen, but in the last six months of 2020 resolved 100% of record objections.
- KPM #3 -- Maintain the 100% target which the agency has met every year since 2003.
- KPM #4 -- Maintain 90% target. Performance on this KPM varies from one year to the next likely based on the individual cases. Since 2003, the agency has had only one year where the percentage of final opinions that have been sustained on appeal fell under 80%.
- KPM #5 -- Maintain the current 95% target on all six categories. The agency generally performed well in all categories until the pandemic and staffing turnover in recent years. The agency changed how data was collected for this KPM in 2021 so no data is available for that year. Performance was significantly down for all categories in 2022.

SubCommittee Action:

Approved the LFO recommendation.