



# Employment Relations Board

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

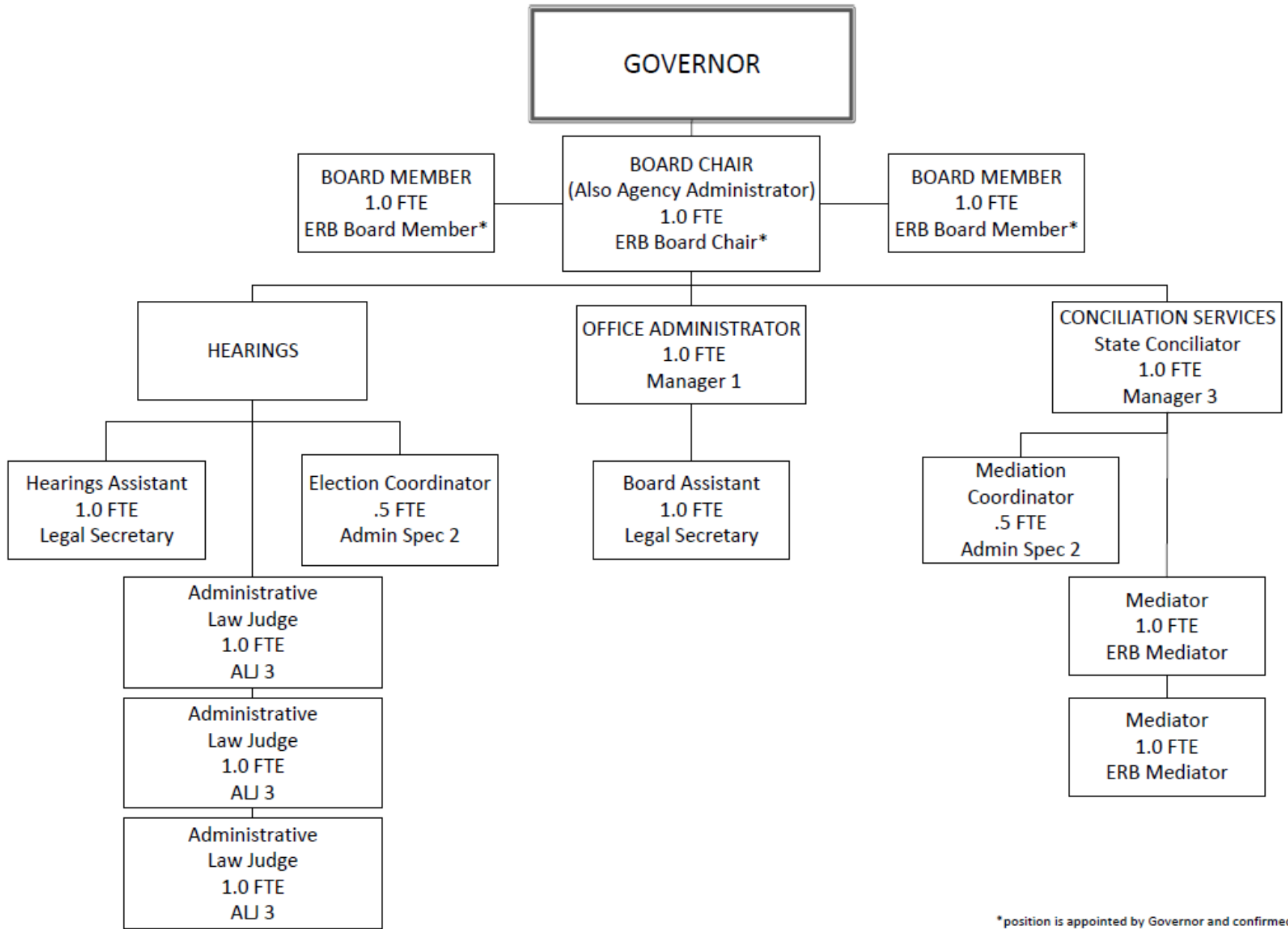
Adam Rhynard

Board Chair

February 3, 2025



# Employment Relations Board Program Structure 13 FTE



\*position is appointed by Governor and confirmed by Senate



# Agency Mission

Resolve labor/employment relations disputes for primarily public sector employers, employees, and labor organizations representing those employees



# Statutory Goals

## ORS 243.656

- Develop cooperative relationships between government and its employees
- Encourage practices fundamental to the peaceful adjustment of labor-management disputes
- 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



# Agency Historical Context and Statutory Responsibilities

- ERB is statutorily charged with administering 3 statutory schemes, over which it has exclusive jurisdiction:
  - 1. Public Employee Collective Bargaining Act (PECBA), enacted in 1973\*
  - 2. State Personnel Relations Law (SPRL)\*
  - 3. Private Sector Labor-Management

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



# Agency Historical Context and 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



# Agency Historical Context/Major PECBA Revisions

- SB 750 (1995)—redefining mandatory subjects of bargaining, revising bargaining procedures, including timelines, midterm bargaining, and factfinding, modifying definition of supervisory employee, adding more union ULPs
- HB 3342 (2013) –prohibiting use of public funds to encourage or discourage union organizing
- HB 2016 (2019)-amendments in response to *Janus* decision, including dues deduction dispute resolution and union access provisions



# 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 (and appointing an arbitrator in certain cases)





# Fulfilling the Legislative Mandates

- Contested Case Hearings
  - ALJs investigate complaints, conduct hearings and issue recommended orders
  - Board is the state’s “labor appeals court”
  - Some disputes presented straight to the Board
- Mediation
  - Assist parties in resolving bargaining dispute without resorting to “self help” (strikes, implementations, interest arbitrations)
  - Assist parties in resolving disputes without litigation
  - Provide labor-management and bargaining training
- Processing Representation Petitions
  - Ensure the right to opt for or against union representation

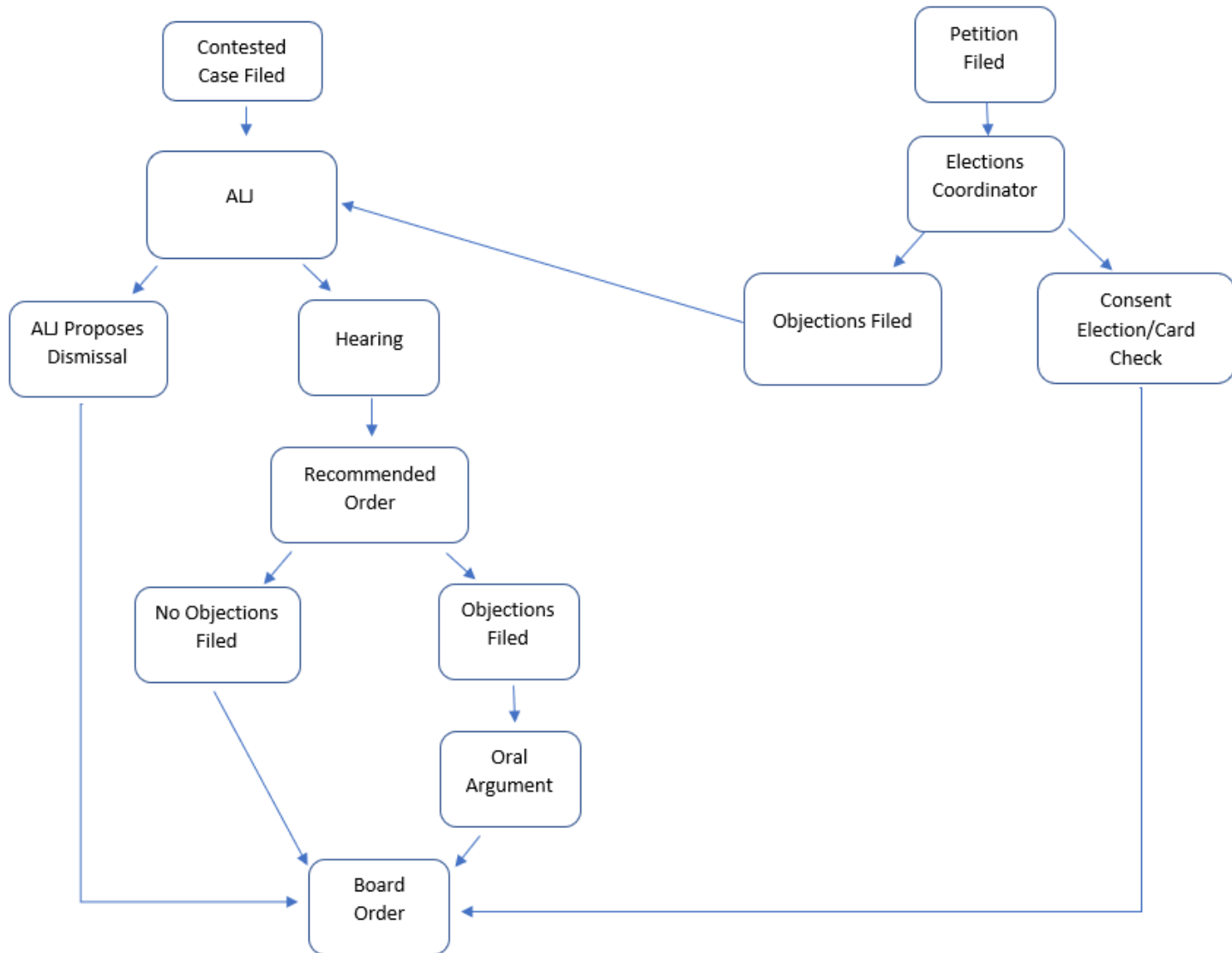


# How We Deliver Services

- Almost all filings and case processing done through Case Management System (some via website/email)
- For hearings, mediation, matters before the Board, parties have the option of in-person, video, or hybrid. Trend of in-person services, which results in more agency travel

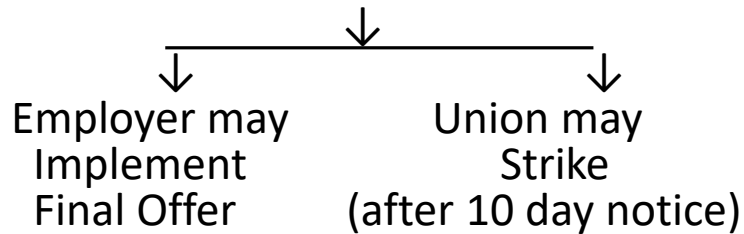


# Case Flow Chart (Hearings & Elections)



# 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)

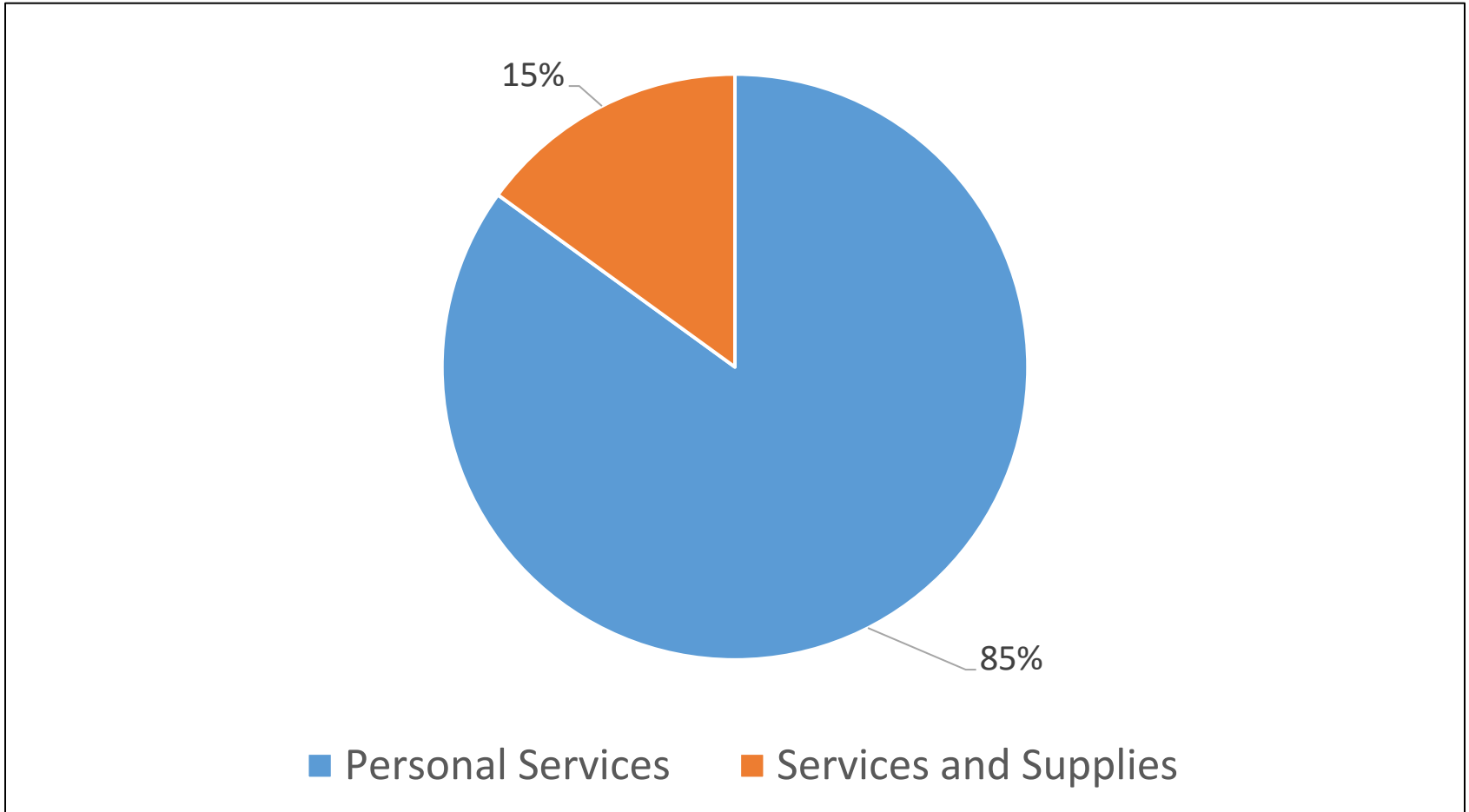


# Expenditure Proportion by Revenue Source

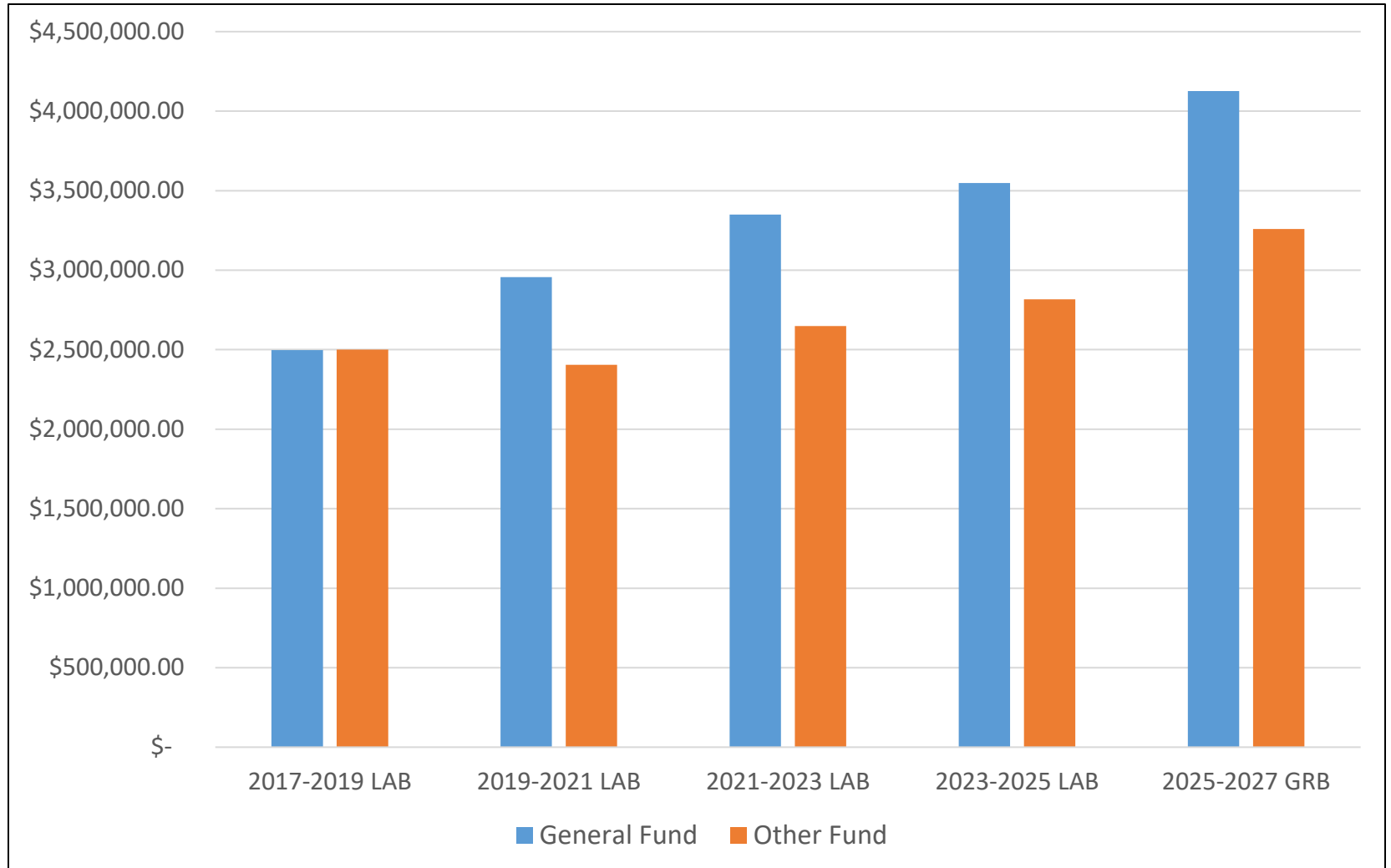
- General Fund (Approximately 56% of Budget)
  - Primary funding source for services provided to local governments
- Other Funds State Assessment (Approximately 39% of Budget)
  - Per capita monthly assessment on state agencies that helps fund the agency's work performed on behalf of the state and its employees
  - Assessment based on number of state employees subject to ERB jurisdiction and historical proportion of agency work done on behalf of state agencies
  - 25-27 request is based on 40,000 employees
- Other Fund Fee Revenue (Approximately 5% 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 Expenditures 25-27



# Budget History



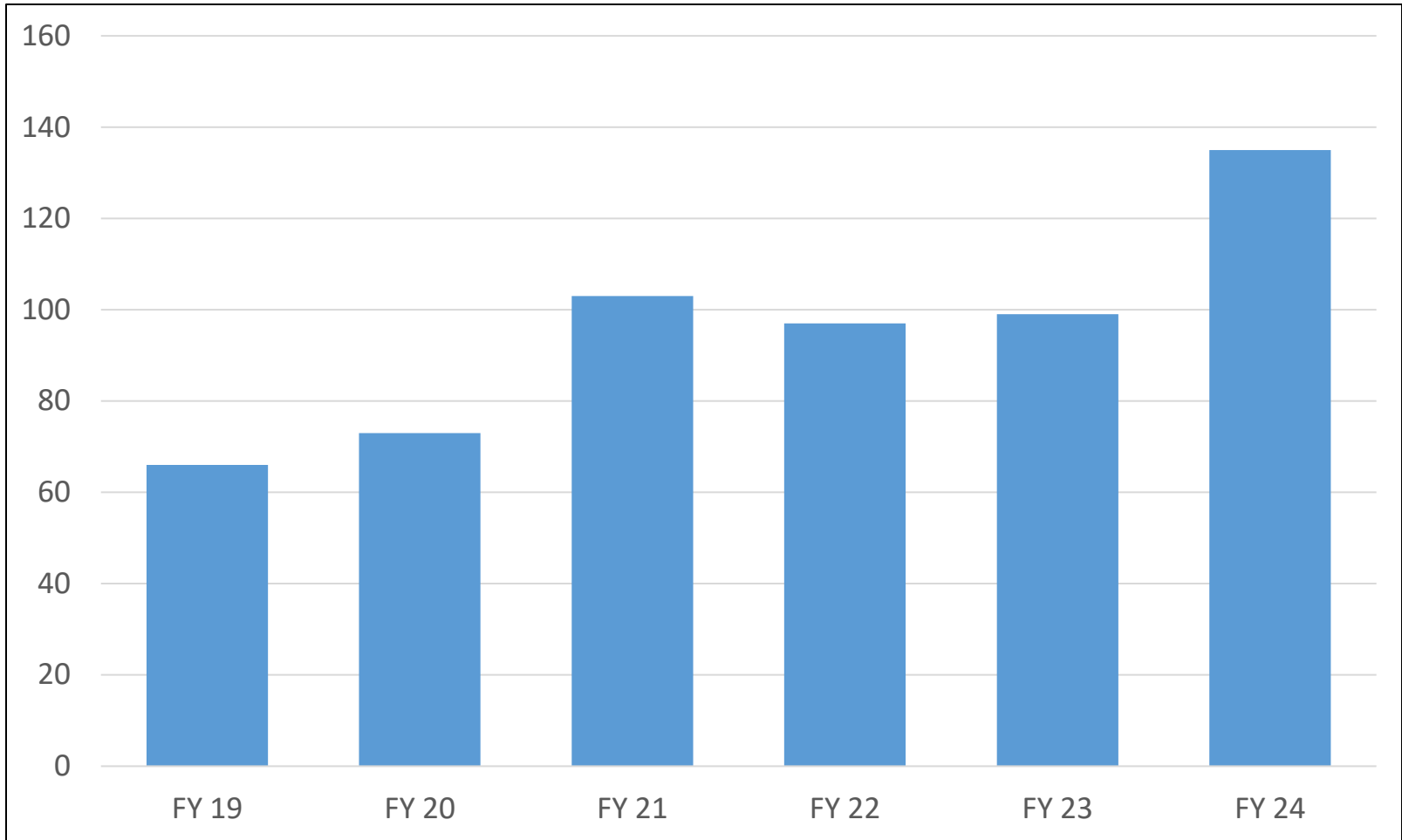


# Current Budget Environment

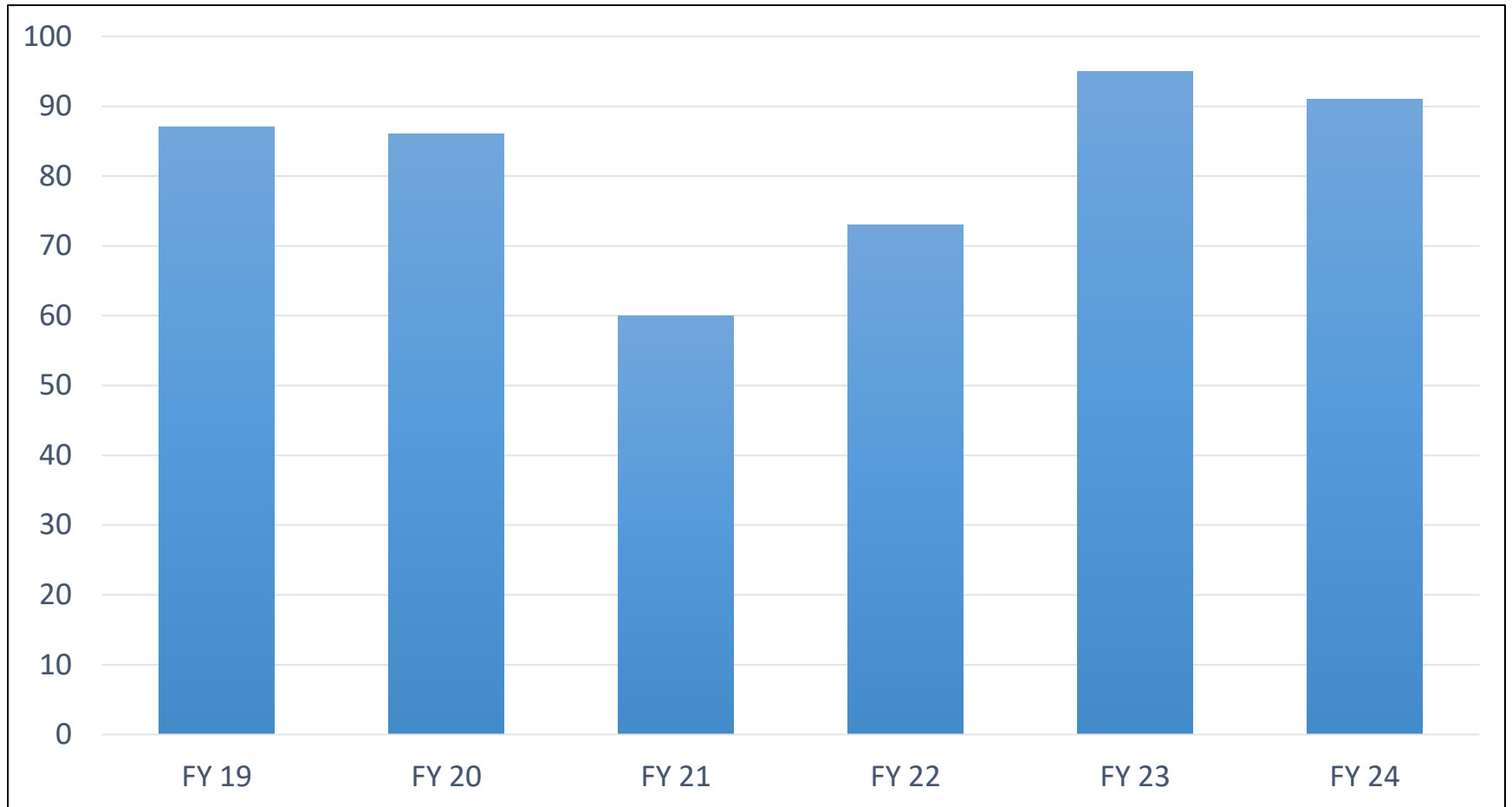
- 13\* people to do the work (\*14 if policy option package approved)
- Historically, workload is variable depending on multiple factors, including the economy, legislation, and other external factors.
- Significant Hearings and Elections caseload increase starting in FY 21 (and another in FY 24)
- For Conciliation Services, significant increase in high-conflict disputes and strikes



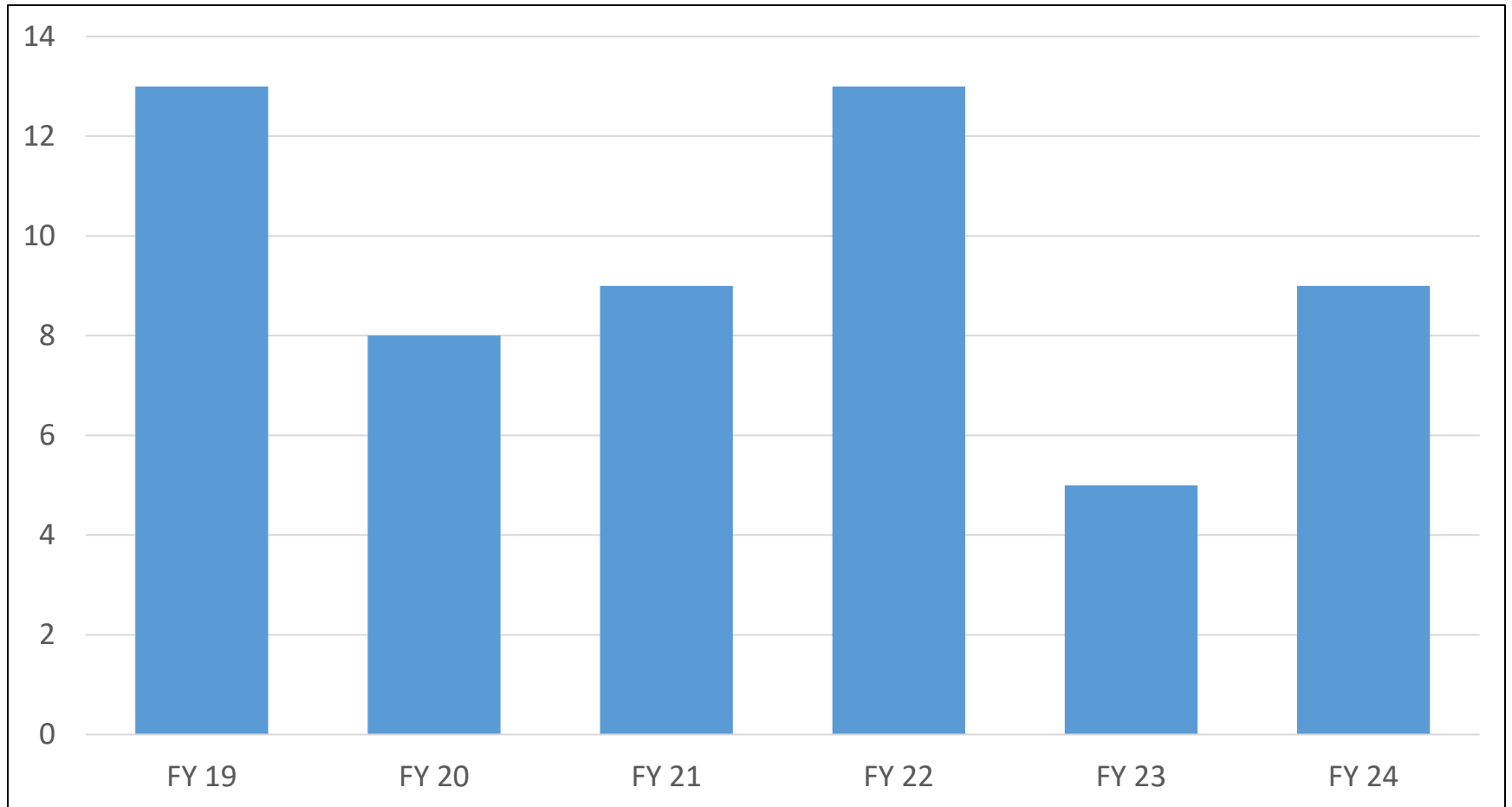
# Hearings and Elections Case Filings



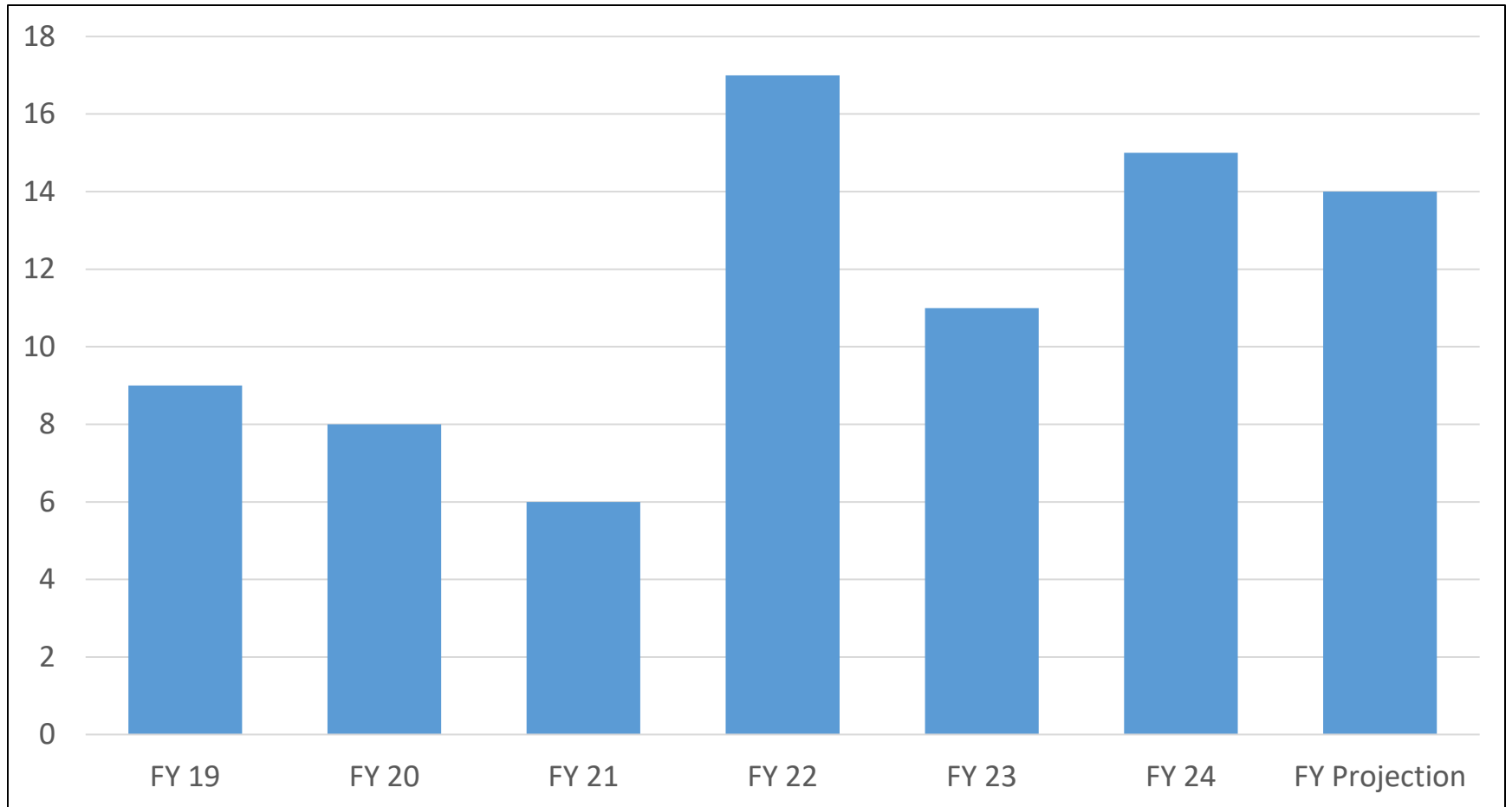
# Mediation Case Filings



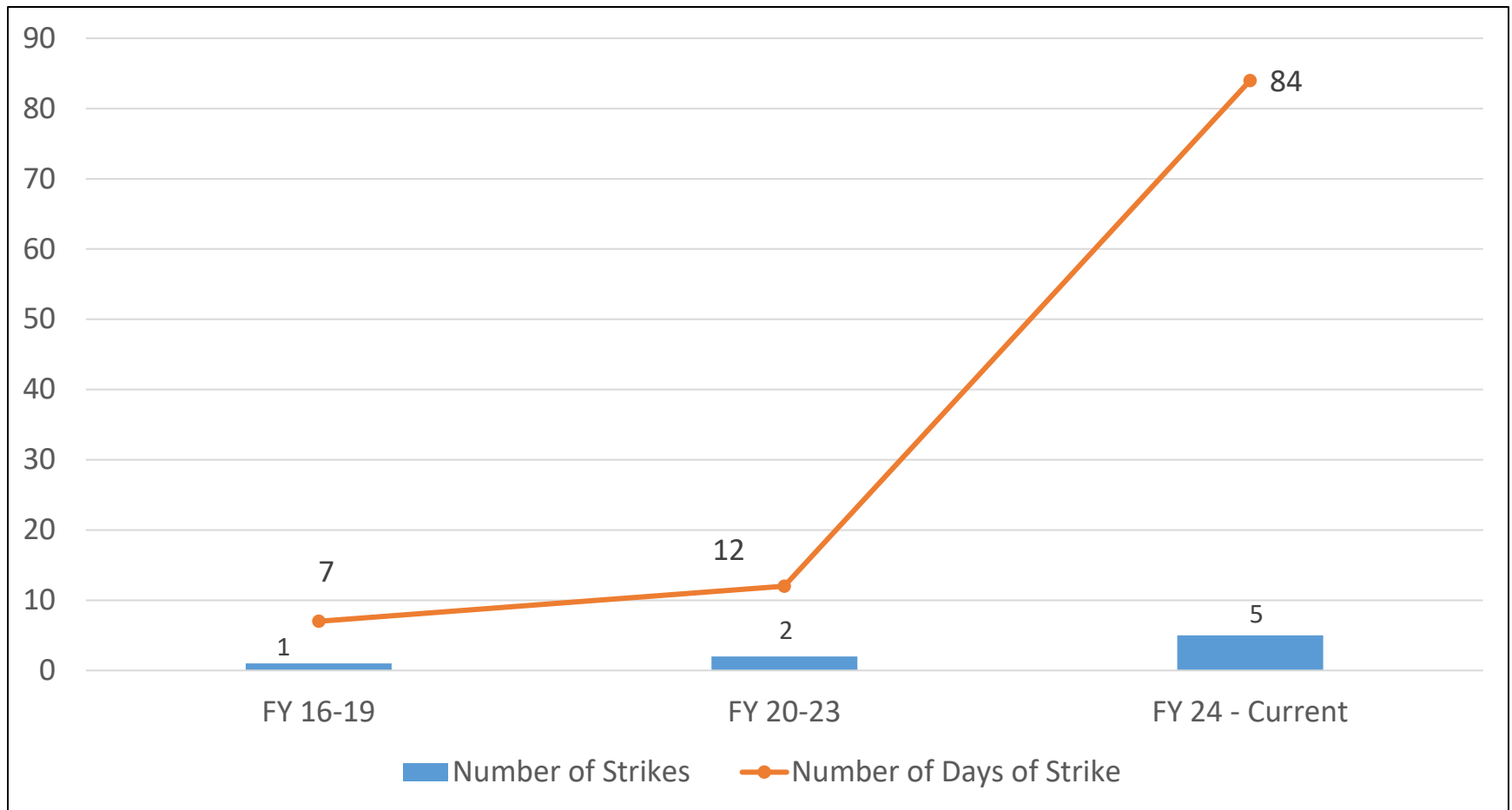
# Training Cases Filed



# Declarations of Impasse



# Strikes and Interruption of Public Services



# Request for Additional Mediator (Policy Option Package 100)

- Adequately staff agency to meet increase in high-conflict disputes
- Make mediator available to constituents in a more timely manner
- Provide necessary collective bargaining training to improve labor-management relationships and reduce high-conflict disputes
- Better ensure uninterrupted delivery of public services



# Key Performance Measures

KPM#	25-27 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 – 2024 data is 34 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 – 2024 data is 91 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 – 2024 data is 22 days, goal met]
4	Mediation effectiveness – Percentage of contract negotiation disputes that are resolved by mediation for strike-permitted employees. [Target 95% - 2024 data is 91%, within -5% of target]
5	Appeals – Percentage of Board Orders that are reversed on appeal. [Target is 5% - 2024 data is 0%, goal met]
6	Mediation effectiveness – Percentage of contract negotiation disputes that are resolved by mediation for strike-prohibited employees. [Target 85% - 2024 data is 95%, 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% - 2024 data is 90% for Overall, within -5% of Target]. Areas for survey improvement: 87% for accuracy; 83% for timeliness and availability of information.





# 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, New Mediator Position**

Purpose: To expand the agency's ability to provide training, facilitation, and mediation services to more fully assist public employers and labor organizations in resolving collective bargaining disputes.

Over the past several biennia, many public sector negotiations reached crisis levels, resulting in costly litigation, increased mediation time and expense, and strike-related expenditures and disruptions for both the affected organizations and communities that they serve. Additionally, during that same period, the agency processed and responded to a high volume of impasse filings and strike notices. Some of these have resulted in strikes and final offer implementations. These costs and disruptions affect a public employer's ability to provide necessary services, which in turn may affect our state's economy.

How achieved: Adding another mediator will allow the agency to train more public employers and labor organizations in collaborative bargaining methods. Having an additional mediator will also provide the agency with the ability to facilitate more contract negotiations between labor and management. In the past, some trainings have needed to be rescheduled or denied because of statutory requirements to hold mediation sessions. An additional mediator will allow the agency to maintain its training commitments while meeting the mediation needs of others.

Staffing impact: The Conciliation Services Office will increase by 1.0 FTE if the package is granted. |

Quantifying results: The goal of this proposal is to reduce the occurrence of adversarial labor-management relations and negotiations that have led to costly litigation and increased polarization around issues that impact public employers and employees and the communities they serve.

The agency will measure progress by tracking the following on an annual basis:

- number of mediation cases that advance to the 30-day cooling off period
- unfair labor practice filings
- strike notices
- final offer implementations
- strikes and other job actions
- number of training and facilitation requests and agency's ability to meet those requests in a timely manner
- Whether parties maintained a non-traditional bargaining approach after training and if they were able to reach settlement without mediation

We will also continue to gather surveys after training and at the end of their negotiations to continuously improve our services and to better meet our policy objectives.



Revenue Source:

Package No. # - 100, Employment Relations Board Mediator

<b>PERSONAL SERVICES</b>														
Classification No.	Classification Name	# of Pos.	FTE	SR	Avg. Step	Avg. Salary	Avg. OPE	GF	Lottery	OF	FF	Non Limited	All Funds	
UA C1542 RA	Employment Relations Board Mediator	1	1	33	7	\$11,028	\$121,103	\$216,732	\$ -	\$169,043	\$ -	\$ -	\$385,775	
								Salaries	\$216,732	\$ -	\$169,043	\$ -	\$385,775	
								Overtime	\$ -	\$ -	\$ -	\$ -	\$ -	
								Non-PICS OPE	\$ -	\$ -	\$ -	\$ -	\$ -	
									\$ -	\$ -	\$ -	\$ -	\$ -	
									\$ -	\$ -	\$ -	\$ -	\$ -	
<b>Total Personal Services</b>									\$216,732	\$ -	\$169,043	\$ -	\$ -	\$385,775

<b>SERVICES AND SUPPLIES</b>						
Description	GF	Lottery	OF	FF	Non Limited	All Funds
New Employment Relations Board Mediator Services and Supplies	\$23,930	\$ -	\$11,356	\$ -	\$ -	\$35,286
<b>Total Services and Supplies</b>	<b>\$23,930</b>	<b>\$ -</b>	<b>\$11,356</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$35,286</b>

<b>TOTAL REQUEST</b>	<b>\$240,662</b>	<b>\$ -</b>	<b>\$180,399</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$421,061</b>
<b>TOTAL POSITIONS/FTE</b>	<b>0.56</b>	<b>0 / 0.00</b>	<b>0.44</b>	<b>0 / 0.00</b>	<b>0 / 0.00</b>	<b>1/1.00</b>



# Appendix B

## Reduction Options

Detail of Reductions to 2025-27 Current Service Level Budget											
Priority (ranked most to least preferred)		Agency	SCR or Activity Initials	Program Unit/Activity Description	GF	OF	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 and Subscriptions by 42%.	11,507	5,969	\$ 17,476			No	This would limit the agency's ability to participate in membership organizations that have proven valuable to the agency and staff.
Board Admin		115	115-030	Reduce Office Expenses by 41%.	5,245	2,210	\$ 7,455			No	This would limit our ability to purchase needed office supplies.
Board Admin		115	115-030	Reduce IT Expendable Property by 55%.	4,096	4,259	\$ 8,355			No	This would limit our ability to purchase needed IT equipment, including laptops, some of which are due to be upgraded in the near future.
Board Admin		115	115-030	Reduce Employee Training by 49%.	5,490	3,967	\$ 9,457			No	This would heavily affect our ability to give employees needed training and severely limit the agency's opportunities to learn about best practices.
Board Admin		115	115-030	Reduce Agency Travel by 70%.	42,669	20,931	\$ 63,600			No	This would greatly impact our ability to deliver in-person services requested by our constituents, particularly with respect to mediation.
Board Admin		115	115-030	Two Board Members and Board Chair reduced to 0.95 FTE (38 hours per week), each for the biennium.	39,877	50,752	\$ 90,629	3	0.15	No	Reducing hours for Board members will make it more difficult to issue final orders in a timely manner.
Hearing		115	115-050	Reduce 1 FTE Administrative Law Judge.	279,396	219,525	\$ 498,921	1	1.00	No	Eliminating an ALJ position would have a severe impact on the agency's ability to provide necessary services to our constituents, from investigating complaints, to conducting prompt hearings and issuing timely orders.



# Appendix C

## Long Term Vacancies

Long-term vacancies as of December 31, 2024											
Agency	SCR	DCR	Pos No	Position Class Comp	Position Title	Pos Type	GF Fund Split	LF Fund Split	OF Fund Split	FF Fund Split	FTE
11500					NO QUALIFYING POSITIONS						-



# Appendix D

## 2025-27 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.

