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# MEMORANDUM

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**To:** Members of the Joint Committee on Ways and Means,  
Subcommittee on Natural Resources

**From:** Matt Stayner, Legislative Fiscal Office  
(503) 986-1840

**Date:** April 22, 2015

**Subject:** Land Use Board of Appeals  
Work Session Recommendations

## Land Use Board of Appeals – Agency Totals

	2011-13 Actual	2013-15 Legislatively Approved	2015-17 Current Service Level	2015-17 LFO Recommended
General Fund	1,319,536	1,573,758	1,730,596	1,775,496
Other Funds	61,346	87,401	28,641	28,641
<b>Total Funds</b>	<b>\$1,380,882</b>	<b>\$1,661,159</b>	<b>\$1,759,237</b>	<b>\$1,804,137</b>
Positions	5	6	6	6
FTE	5.00	5.75	5.75	6.00

Attached are the recommendations from the Legislative Fiscal Office for the Land Use Board of Appeals. It continues funding for the agency at the current service level and provides for:

- An increase from three-quarter time (0.75 FTE) to full time (1.00 FTE) for the staff attorney position at the board. This position was established during the previous biennium to enable the board to maintain compliance with the 77-day statutory deadline for the issuance of final orders and to conduct needed legal research. The budget report language included with the establishment of the position was ambiguous in that it noted that the position was to be phased-in after the first six months of the 2013-2015 biennium, but did not specifically state that the position should or should not be continued at three-quarter time. It is typical that new positions are budgeted at less than 1.00 FTE during the first biennium they are established to account for recruitment and hiring even though the position is intended to be continued during subsequent biennia at full-time. This action makes explicit the intent that the position be continued at 1.00 FTE.

### Adjustments to Current Service Level:

None.

**Accept LFO Recommendation**

*Move the LFO recommendation to HB 5028.*

**OR**

**Change LFO recommendation**

*Move the LFO recommendation to HB 5028, with modifications.*

**Performance Measures**

See attached “Legislatively Proposed 2015-17 Key Performance Measures” form.

**Accept LFO Recommendation**

*Move the LFO recommendation on Key Performance Measures*

**OR**

**Change LFO recommendation**

*Move the LFO recommendation on Key Performance Measures, with modifications.*

**Recommended Changes to Appropriation Bill:**

The Legislative Fiscal Office recommends a budget of \$1,775,496 General Fund, \$28,641 Other Funds, and 6 positions (6.00 FTE) and that House Bill 5028 be amended accordingly.

*Move to amend HB 5028 with the following changes:*

**Section 1**

***Line 6 – Delete [\$1,784,624] and insert \$1,775,496.***

**HB 5028 Final Subcommittee Action:**

***Final Motion:***

**If changed the bill requires changes**

*Move HB 5028 to the full committee with a “do pass” recommendation, as amended.*

	General Fund	Lottery Funds	Other Funds	Federal Funds	Nonlimited Other Funds	Nonlimited Federal Funds	Total Funds	Positions	Full-Time Equivalent (FTE)
<b>2013-15 Agy. Leg. Adopted</b>	<b>1,517,044</b>	-	<b>84,328</b>	-	-	-	<b>1,601,372</b>	<b>6</b>	<b>5.75</b>
2013-15 Ebds, SS & Admin Act	56,714	-	3,073	-	-	-	59,787	-	-
Ways & Means Actions	-	-	-	-	-	-	-	-	-
<b>2013-15 Leg Approved Budget</b>	<b>1,573,758</b>	-	<b>87,401</b>	-	-	-	<b>1,661,159</b>	<b>6</b>	<b>5.75</b>
<b>2013-15 Leg Approved Budget (Base)</b>	<b>1,573,758</b>	-	<b>87,401</b>	-	-	-	<b>1,661,159</b>	<b>6</b>	<b>5.75</b>
Summary of Base Adjustments	120,419	-	(57,178)	-	-	-	63,241	-	-
<b>2015-17 Base Budget</b>	<b>1,694,177</b>	-	<b>30,223</b>	-	-	-	<b>1,724,400</b>	<b>6</b>	<b>5.75</b>
010: Non-PICS Pers Svc/Vacancy Factor	11,173	-	(2,416)	-	-	-	8,757	-	-
030: Inflation & Price List Adjustments	25,246	-	834	-	-	-	26,080	-	-
<b>2015-17 Current Service Level</b>	<b>1,730,596</b>	-	<b>28,641</b>	-	-	-	<b>1,759,237</b>	<b>6</b>	<b>5.75</b>
<b>Adjusted 2015-17 Current Service Level</b>	<b>1,730,596</b>	-	<b>28,641</b>	-	-	-	<b>1,759,237</b>	<b>6</b>	<b>5.75</b>
<b>Total LFO Recommended Packages</b>	<b>44,900</b>	-	-	-	-	-	<b>44,900</b>	-	<b>0.25</b>
<b>2015-17 Legislative Actions</b>	<b>1,775,496</b>	-	<b>28,641</b>	-	-	-	<b>1,804,137</b>	<b>6</b>	<b>6.00</b>
Net change from 2013-15 Leg Approved Budget	201,738	-	(58,760)	-	-	-	142,978	-	0.25
Percent change from 2013-15 Leg Approved Budget	12.8%	0.0%	(67.2%)	0.0%	0.0%	0.0%	8.6%	0.0%	4.4%
Net change from 2015-17 Current Service Level	44,900	-	-	-	-	-	44,900	-	0.25
Percent change from 2015-17 Current Service Level	2.6%	0.0%	0.0%	0.0%	0.0%	0.0%	2.6%	0.0%	4.4%

	General Fund	Lottery Funds	Other Funds	Federal Funds	Nonlimited Other Funds	Nonlimited Federal Funds	Total Funds	Positions	Full-Time Equivalent (FTE)
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2013-15 Ebds, SS & Admin Act	56,714	-	3,073	-	-	-	59,787	-	-
Ways & Means Actions	-	-	-	-	-	-	-	-	-
<b>2013-15 Leg Approved Budget</b>	1,573,758	-	87,401	-	-	-	1,661,159	6	5.75
<b>2013-15 Leg Approved Budget (Base)</b>	1,573,758	-	87,401	-	-	-	1,661,159	6	5.75
Summary of Base Adjustments	120,419	-	(57,178)	-	-	-	63,241	-	-
<b>2015-17 Base Budget</b>	1,694,177	-	30,223	-	-	-	1,724,400	6	5.75
010: Non-PICS Pers Svc/Vacancy Factor	11,173	-	(2,416)	-	-	-	8,757	-	-
030: Inflation & Price List Adjustments	25,246	-	834	-	-	-	26,080	-	-
<b>2015-17 Current Service Level</b>	1,730,596	-	28,641	-	-	-	1,759,237	6	5.75
<b>Adjusted 2015-17 Current Service Level</b>	1,730,596	-	28,641	-	-	-	1,759,237	6	5.75
<b>Total LFO Recommended Packages</b>	44,900	-	-	-	-	-	44,900	-	0.25
<b>2015-17 Legislative Actions</b>	1,775,496	-	28,641	-	-	-	1,804,137	6	6.00
Net change from 2013-15 Leg Approved Budget	201,738	-	(58,760)	-	-	-	142,978	-	0.25
Percent change from 2013-15 Leg Approved Budget	12.8%	0.0%	(67.2%)	0.0%	0.0%	0.0%	8.6%	0.0%	4.4%
Net change from 2015-17 Current Service Level	44,900	-	-	-	-	-	44,900	-	0.25
Percent change from 2015-17 Current Service Level	2.6%	0.0%	0.0%	0.0%	0.0%	0.0%	2.6%	0.0%	4.4%

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**Package 101 Position Restoration**

Package Description This policy package permanently restores the Staff Attorney position from three-quarter time (0.75 FTE) to full-time (1.0 FTE) at a cost of \$44,900 General Fund. The staff attorney position conducts legal research and assists in the drafting of final opinions and orders, on behalf of the three board members. The staff attorney position enables LUBA to maintain compliance with the 77-day statutory deadline for the issuance of final orders (ORS 197.830(14)). Past backlogs and LUBAs previous inability to meet its statutory mandate prompted the Legislature to create a limited duration staff attorney position in 1996. The position was later made permanent and the backlog of final opinions was eliminated in 2002. The position was eliminated during the 2011-13 biennium due to budgetary constraints and partially restored during the 2013-15 biennium.

LFO Recommendation

LFO Recommended	44,900	-	-	-	-	-	44,900	-	0.25
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## Legislatively Proposed 2015-2017 Key Performance Measures

**Agency: LAND USE BOARD of APPEALS**

Mission: 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 the citizens of Oregon.

Legislatively Proposed KPMs	Customer Service Category	Agency Request	Most Current Result	Target 2016	Target 2017
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 KPM	83.00	90.00	90.00
2 - TIMELY SETTLE RECORD - Percentage of record objections that are resolved within 60 days after the record objection is received by LUBA.		Approved KPM	90.00	95.00	95.00
3 - RESOLVE ALL ISSUES - Percentage of decisions where all issues are resolved when reversing or remanding a land use decision.		Approved KPM	100.00	100.00	100.00
4 - SUSTAINED ON APPEAL - Percentage of final opinions that are sustained on appeal.		Approved KPM	80.00	90.00	90.00
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.	Accuracy	Approved KPM	100.00	90.00	90.00
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.	Availability of Information	Approved KPM	90.00	90.00	90.00
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.	Expertise	Approved KPM	100.00	90.00	90.00
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.	Helpfulness	Approved KPM	100.00	90.00	90.00

**Agency: LAND USE BOARD of APPEALS**

Mission: 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 the citizens of Oregon.

<b>Legislatively Proposed KPMs</b>	<b>Customer Service Category</b>	<b>Agency Request</b>	<b>Most Current Result</b>	<b>Target 2016</b>	<b>Target 2017</b>
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.	Overall	Approved KPM	98.00	90.00	90.00
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.	Timeliness	Approved KPM	98.00	90.00	90.00

**LFO Recommendation:**

Approve the 2015-2017 Key Performance Measures and targets as proposed

**Sub-Committee Action:**

HB 5028-1  
(LC 9028)  
4/9/15 (TR/ps)

**PROPOSED AMENDMENTS TO  
HOUSE BILL 5028**

1 In line 6 of the printed bill, delete “\$1,784,624” and insert “\$1,775,496”.

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