



Employment Relations Board

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

Adam Rhynard

Board Chair

February 7, 2019

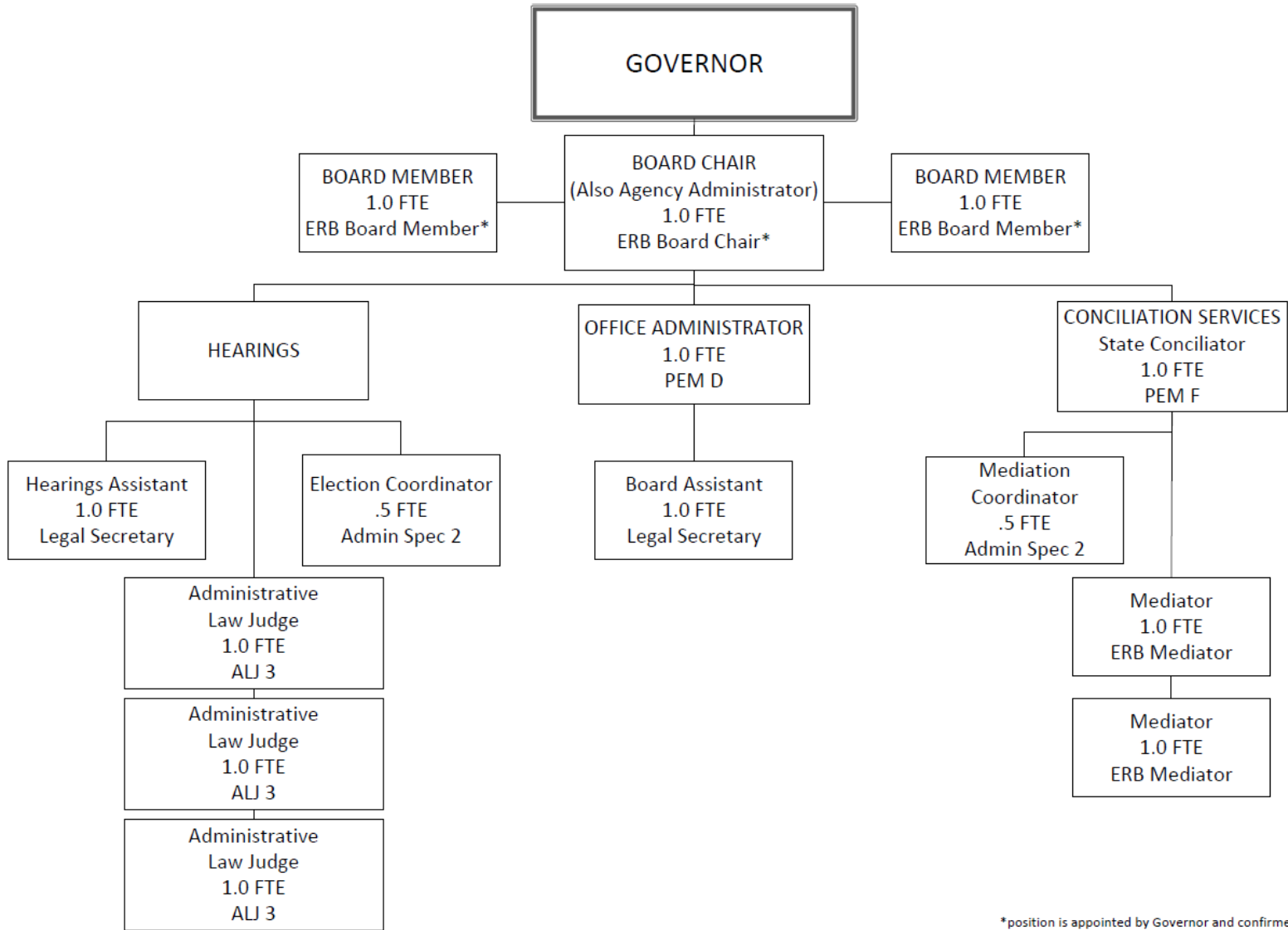


Agency Mission

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

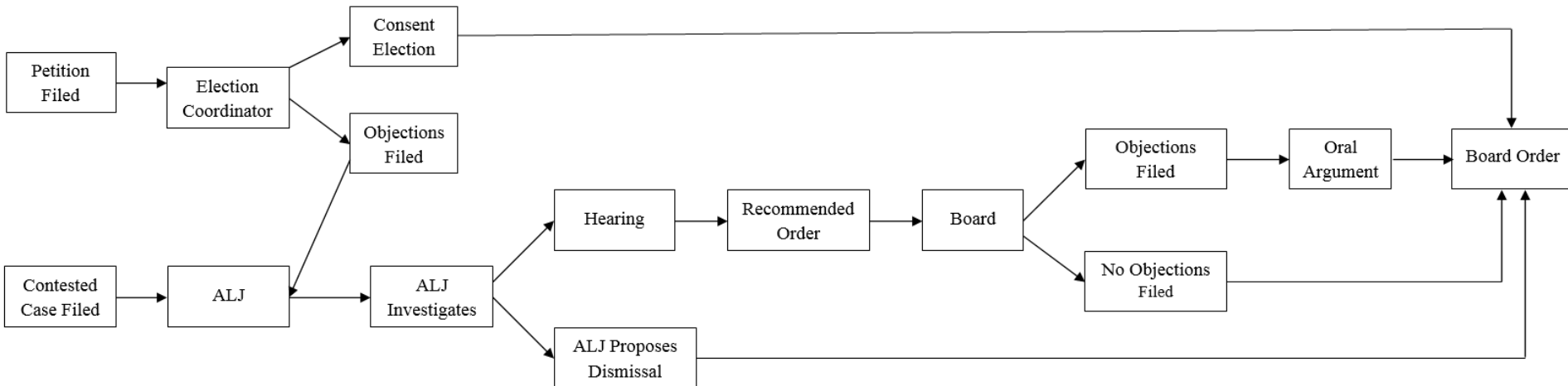


Fulfilling the Legislative Mandates

- 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

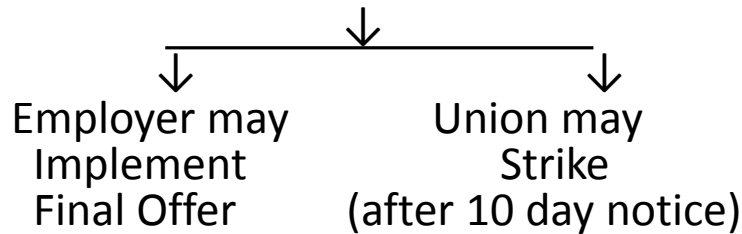


Case Flow Chart (Hearings & Elections)



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)



Pre-2013

- Enormous backlog of cases
- Long case processing time and delays in issuing Recommended and Final Orders
- Delayed resolution of representation matters
- Lower mediation success rate
- Delayed availability for hearings and mediations
- Agency staff turnover



2013-2015

- Eliminated backlog of cases
- Reduced timelines for processing cases
- Revised Key Performance Measures
- Established timelines for issuing recommended and final orders
- Involved stakeholders in a review of processes/procedures
- Established ongoing Rules Advisory Committee
- Reviewed internal processes to streamline tasks, which highlighted need for case management system

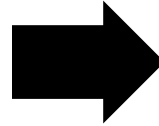


2015-Present

Agency Action

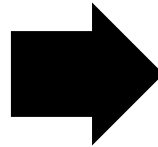
Result

Ensure efficient processing of cases and timely resolution of matters filed by stakeholders



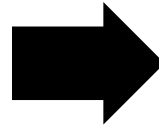
All pending cases timely

Further reduction in time to process cases



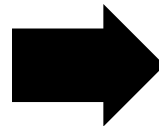
Since 2012 to most current FY (18): Average time for issuing final orders reduced from 132 days to 27' recommended orders reduced from 211 days to 94

Revised contested case rules with Rules Advisory Committee recommendations and stakeholder public comment



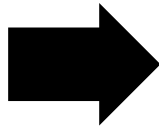
Consolidated and updated rules to improve case processing and clarity of rules

Developed a Case Management System



Agency is able to more efficiently process cases and will be able to develop and implement e-filing system

Complete redesign and modernization of website



Provide users with greater access to information and a more user-friendly experience.

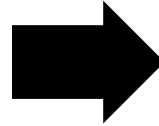


2015-Present

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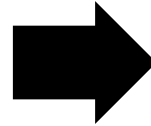
Result

Updated State Personnel Relations Law Digest
(had not been updated since 2008)



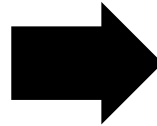
Provided up-to-date digest for individuals/practitioners researching case law

Drafted User Guides to State Personnel Relations Law Cases and Unfair Labor Practices



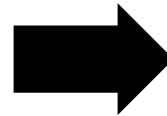
Enhanced communication with customers and stakeholders. Increased public awareness and access to agency procedures and resources

Conducted survey regarding training services, specifically interest-based-bargaining and labor-management committee trainings



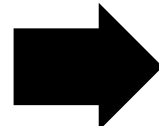
Affirmed quality and efficacy of current training programs and highlighted areas for expansion. Raised greater awareness of training services.

Offered low-cost, ½-day training on effective bargaining in 3 locations (Bend, Medford, Salem)



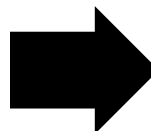
Broadened awareness/understanding of training options and received a number of IBB training requests

Expanded training and facilitation outreach



Conducted over 90 facilitation sessions re: 9 strike-permitted groups and all 9 resolved without strike or implementation.

Engaged in increased stakeholder outreach (Continuing Legal Education, public meetings, conferences, etc.)



Keep stakeholders engaged and involved. Keep agency informed of stakeholder needs and concerns.



Case Management System

- Phase I—Authorized in 2015-17 LAB (Delivered)
 - Deliverables-based project with NIC USA through DAS
 - Complex and agency-specific software and build
 - Reduce reliance on paper-heavy manual systems
 - Increase efficiency in agency processes
- Phase II Authorized in 2017-19 LAB
 - Allow for stakeholder e-filing (including online payment)
 - No user fee to use system or make online payment
 - To be launched March 2019

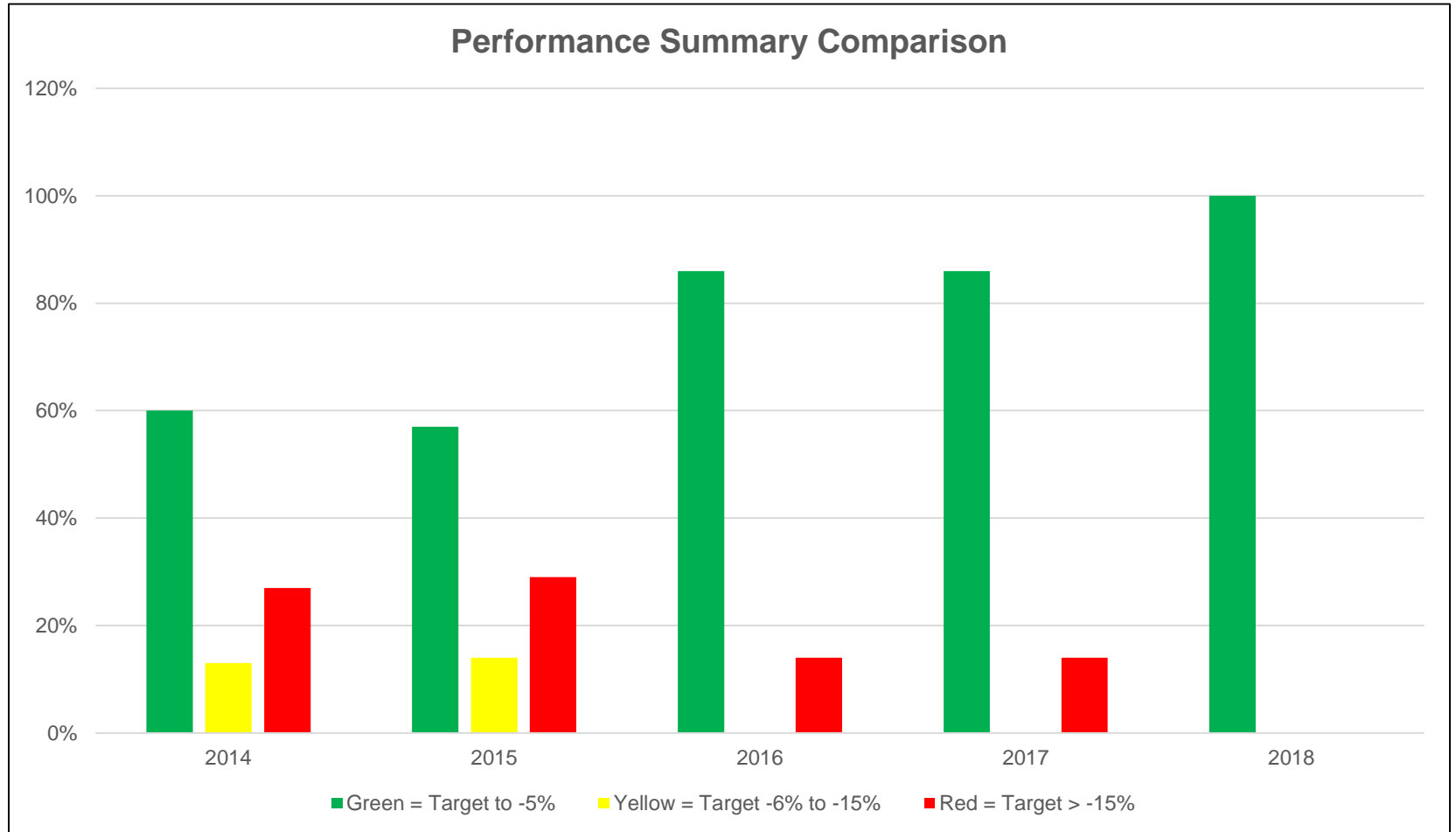


Key Performance Measures

KPM #	17-19 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. [Green]
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. [Green]
3	Final Board orders – Average number of days from submission of a case to the Board until issuance of a final order. [Green]
4	Mediation effectiveness – Percentage of contract negotiation disputes that are resolved by mediation for strike-permitted employees. [Green]
5	Appeals – Percentage of Board Orders that are reversed on appeal. [Green]
6	Mediation effectiveness – Percentage of contract negotiation disputes that are resolved by mediation for strike-prohibited employees. [Green]
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. [Overall Green; 5 Green, 1 Yellow]—target is 95%



Key Performance Summary



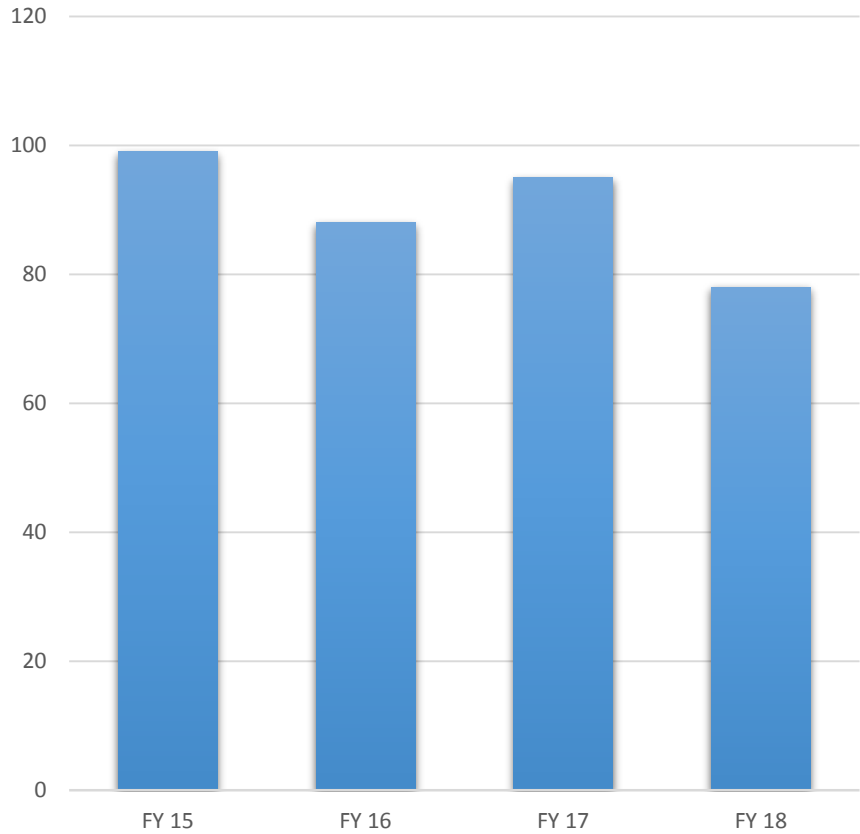
Budget Environment

- 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

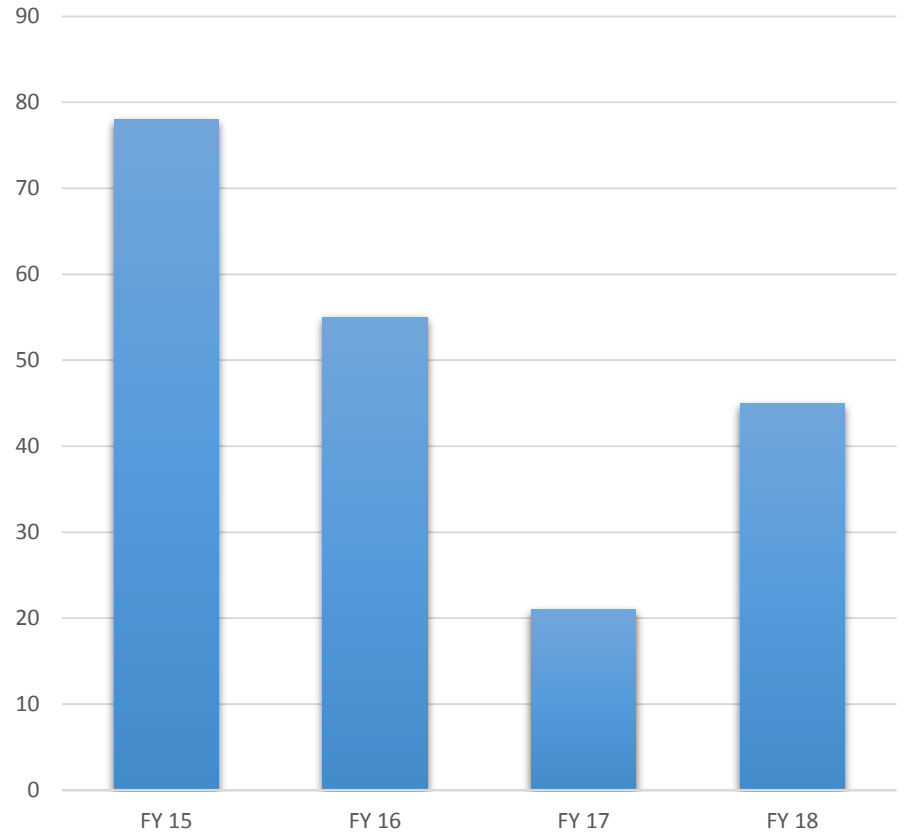


Conciliation Case Filings

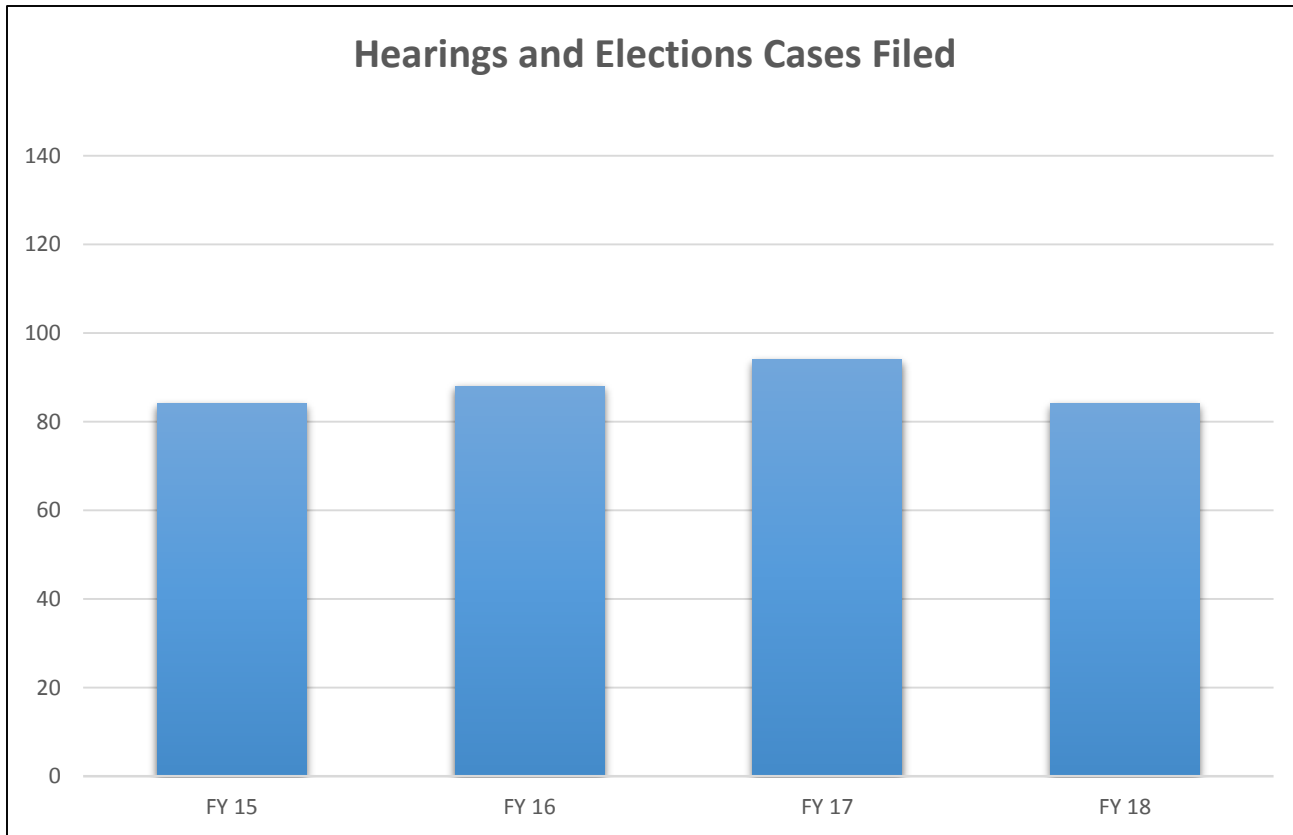
All Mediation Cases Filed



Training and Facilitation Sessions



Hearings and Elections Case Filings



Goals

- Maintain agency timeliness in responding to mediation requests and issuing recommended and final orders
- Continue stakeholder involvement in agency operations
- Implement electronic filing
- Meet mainstream technology enhancements and improvements
- Improve on searchable online database of 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

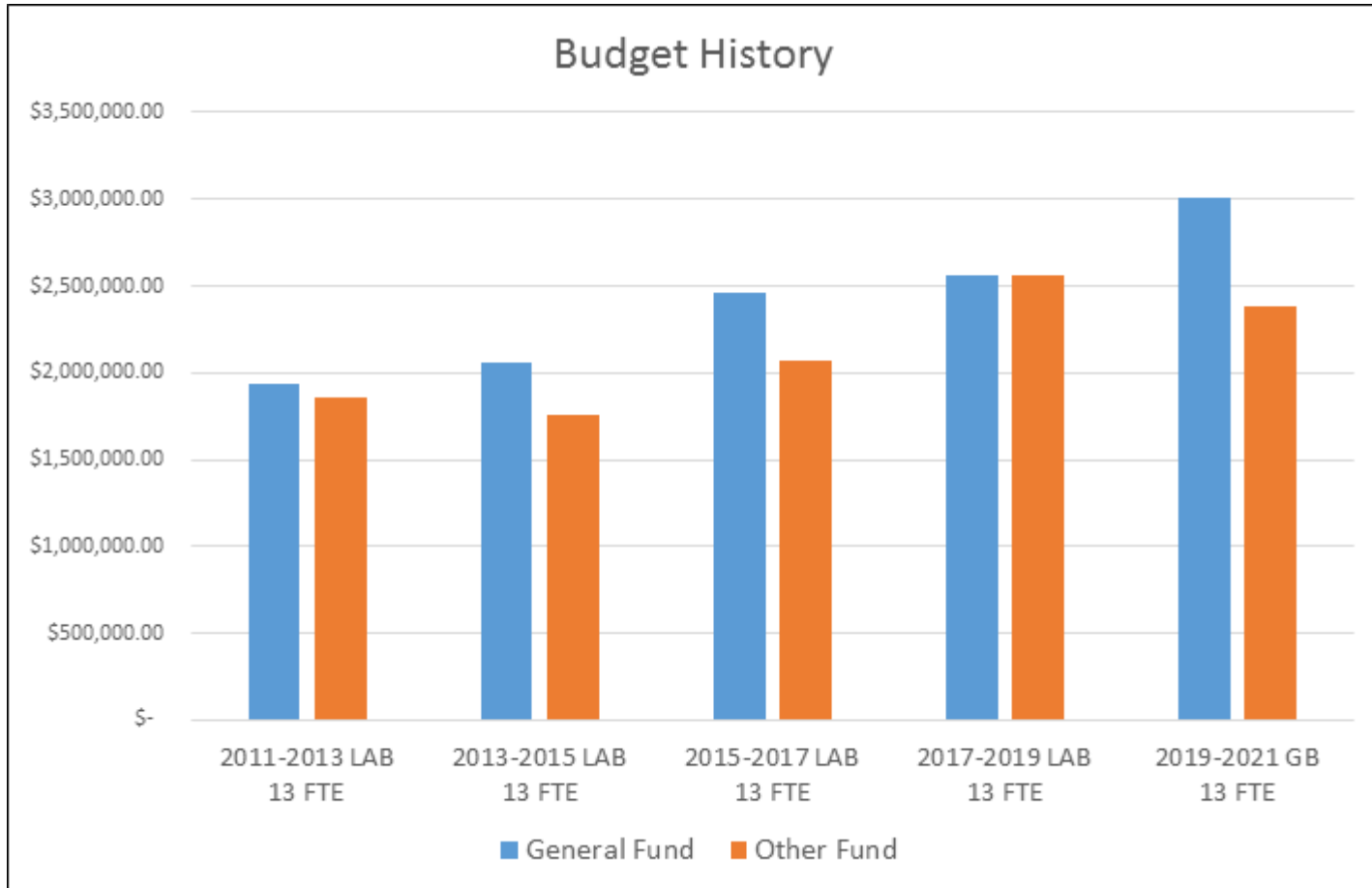


Sources of Revenue

- General Fund
 - Primary funding source for services provided to local governments
- Other Funds State Assessment
 - 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 between 36,000 and 37,000) and historical proportion of agency work done on behalf of state agencies
- Other Fund Fee Revenue
 - 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



Budget History



Policy Option Package

23

- 100 (Technical adjustment to match the Legal Secretary funding split with the funding split for all other agency positions)
 - Legal Secretary Currently 30% GF and 70% OF
 - All other agency staff 56% GF and 44% OF



Legislative Concepts

- HB 2276 (PECBA clean up bill following US Supreme Court decision in *Janus v. AFSCME* regarding fair share fees).



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

- To adjust the Legal Secretary funding split to match the agency staff split

Package No. # - 100, Hearings Assistant Funding Correction

PERSONAL SERVICES															
Classification No.	Classification Name	# of Pos.	FTE	SR	Avg. Step	Avg. Salary	Avg. OPE	GF	Lottery	OF	FF	Non Limited	All Funds		
UA C0110 RP	Legal Secretary	1	1.00	17	5	\$3,486	\$2,329	\$14,535	\$0	\$(14,535)	\$	- \$	- \$		
							Salaries	\$21,753	\$	-\$	\$(21,753)	\$	- \$	- \$	0
							Overtime	\$	- \$	- \$	- \$	- \$	- \$	- \$	
							Non-PICS OPE	\$131	\$	-\$	(\$131)	\$	- \$	- \$	
								\$	- \$	- \$	- \$	- \$	- \$	- \$	
Total Personal Services								\$ 36,419	\$	\$(36,419)	\$	- \$	- \$	\$0	



Appendix B

Ending Balance Form

OTHER FUNDS ENDING BALANCES FOR THE 2017-19 & 2019-21 BIENNIA									
Agency: A115 Employment Relations Board									
Contact Person (Name & Phone #): Juril Stover, ERB Business Administrator, ph. 503-378-8610 and Opal Bontrager, SABRS Coordinator, ph. 503-373-0744									
(a)	(b)	(c)	(d)	(e)	(f)		(g)		(h)
Other Fund Type	Program Area (SCR)	Treasury Fund #/Name	Category/Description	Constitutional and/or Statutory reference	2017-19 Ending Balance		2019-21 Ending Balance		(i)
					In LAB	Revised	In CSL	Revised	Comments
Limited	11500-30 Administration, 11500-40 Mediation, 11500-50 Hearings.	1150001248 - ERB Admin Acct	Operations - State Assessment	ORS 240.167.240.131	255,029	437,767	351,912	463,925	The difference in the estimated revised ending cash balance for AY 19-21 is coming from estimated savings in AY 17-19 as well as collecting the assessment at slightly higher amounts monthly than anticipated. The State Data Processing costs and the IT Professional Services actual costs are coming in less than budgeted. The actual costs for the budgeted case management system are occurring later in the biennia than expected.
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	242,451	123,297	262,187	182,695	Although AY 17-19 Expenditures are projected to be within 97% of the AY 17-19 Legislatively Adopted Budget of \$481,549 for ERB's Miscellaneous Other Fund, the AY 17-19 budgeted revenue for this fund was overstated. It was budgeted to be \$419,663 with current biennial revenue projections totalling @ \$287,218. Please note that, in AY 17-19 only, \$250,000 of General Fund expenditures were moved to the Miscellaneous Other Fund budget. These costs have been moved back to the General Fund Budget for AY 19-21 because not enough miscellaneous fees are received on a continual basis to support these additional costs in ERB's Miscellaneous Other Fund on a regular biennial basis.
Totals					497,480	561,064	614,099	646,620	



Appendix D

2017-19 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.

