

Bureau of Labor and Industries

	2017-19 Actual	2019-21 Legislatively Adopted	2019-21 Legislatively Approved *	2021-23 Current Service Level	2021-23 Governor's Budget
General Fund	12,855,950	14,894,178	14,585,247	15,725,680	17,238,841
Lottery Funds	--	250,000	260,230	--	--
Other Funds	11,457,934	13,953,296	14,812,241	14,679,546	14,719,219
Other Funds (NL)	612,180	900,000	900,000	938,700	938,700
Federal Funds	1,186,762	1,335,294	1,400,145	1,502,094	1,802,960
Total Funds	26,112,826	31,332,768	31,957,863	32,846,020	34,699,720
Positions	106	113	111	108	119
FTE	105.00	109.80	109.08	106.50	117.50

* Includes Emergency Board and administrative actions through January, 2021.

Program Description

The Bureau of Labor and Industries is responsible for the administration and enforcement of a broad range of state laws regarding employment, civil rights, public accommodation, wages, sick leave, and work schedules. In addition, the Bureau approves and registers skilled labor apprenticeship programs, collaborating with employers, higher education and community colleges, the employment department, and local workforce agencies. The agency maintains a Technical Assistance for Employers program that provides training opportunities, printed materials, and telephone inquiry responses to help educate employers on issues of compliance to workplace and employment laws. BOLI also adjudicates and offers - where applicable - alternative dispute resolution of contested wage and hour and civil rights cases.

CSL Summary and Issues

Other Funds revenue shortfalls pertaining to the Commissioner's Office/Support Services and Apprenticeship and Training divisions require a modification of BOLI's current service level, from \$32.8 million total funds to \$32.1 million. The Apprenticeship and Training Division revenue was reduced by \$131,238 to maintain a contractual cap for expenses related to a training contract between the Oregon Department of Transportation and BOLI; a reduction of 2 positions (2.00 FTE) and \$556,656 included in the Commissioner's Office/Support Services division related to the Technical Assistance for Employers Program which is supported by revenue generated from seminars and trainings.

The current service level budget includes a Wage Security Fund totaling \$9.3 million by the end of the 2019-21 biennium (including the transfer of \$1.5 million from this source to the General Fund for purposes of helping to balance the state budget in the August 2021 special legislative session). The Governor's budget assumes the amount of transfer of 0.03% of unemployment taxes paid by employers in the first quarter of the 21-23 biennium and transferred from the Employment Department to the Wage Security Fund pursuant to statute amount to \$6,150,000; administrative expenses of the Department funded by the Wage Security Fund total \$3,458,835; and outgoing payments are

projected to be \$938,700 during the 2021-23 biennium. Overall, the ending balance of the Wage Security Fund is assumed at \$11,032,315. However, these projections should be reassessed in light of updated economic projections, which could affect the amount of the transfer from the Employment Department.

Policy Issues

Caseloads for Civil Rights complaints rose steadily between 2015-2019. The trend may well have continued but for the shift in the amount of time many employees are spending in a communal workplace. BOLI assumed that complaints alleging retaliation declined for similar reasons.

A net of two positions were eliminated in the agency's budget over the course of the 2019-21 biennium, due to budget balancing reductions taken during the August 2021 Special Legislative Session. In addition, \$1.5 million was transferred from the agency's Wage Security Fund to the General Fund.

BOLI's 2020 Annual Performance Progress report indicates decreases in overall rates of customer satisfaction, timely processing of Civil Rights claims and timely processing of Wage and Hour complaints and claims (although in the case of the Wage and Hour division, the agency was still meeting its target of resolving 80% of complaints and 85% of claims in a timely fashion). A steep drop in the completion of prevailing wage rate claims within 90 days was also reported. In contrast, the agency exceed previous years' performance for the apprenticeship and training division. BOLI is attributing the majority of its performance struggles to increases in volume in requests for information from the Technical Assistance for Employers program, and a combination of vacancies and increases in complaints and claims in the Civil Rights and Wage and Hour divisions.

Due to the volume of new legislation and the unusual circumstances of 2020, the Technical Assistance for Employers program has experienced a "spike and flow" of employer inquiries. As new policies or laws became effective, the unit saw a spike in employers seeking guidance on everything from pay equity to COVID-related protected leave, which would dissipate after several weeks. This pattern reportedly remained fairly constant over the course of the biennium. A challenge remains to find a reliable and steady source of funding for this service.

The agency received Veterans Service Funding (Lottery Funds) on a one-time basis to fund a position to promote apprenticeship and training opportunities amongst members of the Oregon National Guard returning from deployment. The position wasn't filled until April of 2020, and due to the pandemic, was unable to participate in various reintegration events or engage with units as anticipated, but has made inroads in establishing various public and private partnerships through outreach to veterans' groups and service organizations. There may be legislation introduced to continue this position in the 2021-23 biennium.

Pandemic-Related Issues

The Pandemic has accelerated BOLI's utilization of webinars and remote training opportunities in the Technical Assistance for Employers program. Because of the inability to gather in 2020, revenues for the division were initially down, but the agency was able to utilize federal Coronavirus Relief Funds, largely because so much of the information being disseminated was related to workplace safety due to COVID-19. An organized pivot has been made to digital presentations. For the 2021-23 biennium, sales revenue projections that help to support the program are \$1.6 million. The transition from more in-person seminars and conferences to web-based learning opportunities has the potential to result in broader participation, since employers don't have to travel, but it will likely take the whole of the 21-23 biennium to confidently assert existence of a trend.

Other Significant Issues and Background

The agency was directed via budget note to research and develop alternatives for generating non-General Fund operating revenue to support agency activities and services related to apprenticeship and training. The agency submitted a written report which described its process for gathering information and input related to alternatives, and concluded that possibilities included the following:

- Charging a fee for apprenticeship completion certificates. Only about 2,500 certificates are issued per biennium, and the fee would have to be substantial to cover the \$3.3 million in General Fund support to the division;
- Embarking on a pilot project whereby employers on prevailing wage projects who did not utilize registered apprentices would be charged a percentage of the prevailing wage fringe benefit package to generate revenue for BOLI; or
- Piloting an extra fee for Technical Assistance to Employers seminars in the areas of apprenticeship recruitment, outreach, program development, operations and administration. It's unknown how much this might generate.

None of the alternatives had support amongst those who attended BOLI-sponsored meetings on the subject, with some indicating that these alternatives disincentivized workforce training or use of union labor. Further, none of the alternatives were recommended by the Labor Commissioner.

The Governor's budget for BOLI includes adjustments applied to all agencies, including elimination of long-term vacancies, removal of inflation attributable to service and supplies expenses, adjustments to DAS and Attorney General charges, consolidation of state electronic mail systems. The Governor's Budget includes a transfer of \$1,909,830 from the Wage Security Fund to restore two Technical Assistance for Employers program positions (Policy Option Package 103), and to support nine additional positions in the Civil Rights division (Policy Option Package 130) to meet workload demands, a portion of which stems from a decision to resume investigation of violations of federal fair housing laws. Historically, the Legislature has sought to ensure that agency administrative expenses funded from the Wage Security Fund are tied primarily to work related to wage and hour issues, with a minimal amount of cost allocation/agency overhead to support a portion of the Commissioner's Office/Support Services. As such, this \$1.9 million transfer is assumed to be one-time in nature, and funding these positions in future biennia would require ongoing General Fund support, should they be approved. Other investments that are part of the Governor's Budget include the following:

- \$214,912 General Fund and one position (1.00 FTE) to address workload issues in the division of the agency that addresses appeals of agency enforcement decisions on civil rights and wage and hour violations;
- \$3,031 General Fund and \$135,475 Other Funds to reclassify certain investigator positions in the Wage and Hour division;
- \$193,551 Other Funds and one position (1.00 FTE) to address workload in the Wage and Hour Division;
- And \$222,114 General Fund, \$392,771 Other Funds and two positions (2.00 FTE) to increase and support compliance, equity and inclusion in the Apprenticeship and Training Division.

Key Performance Measures

A copy of the BOLI Annual Performance Progress Report can be found on the LFO website:

[https://www.oregonlegislature.gov/lfo/APPR/APPR_BOLI_2020-07-24%20\(1\).pdf](https://www.oregonlegislature.gov/lfo/APPR/APPR_BOLI_2020-07-24%20(1).pdf)