

**Review of
Semi-Independent
Agency Reports**

April 1, 2020



Legislative Fiscal Office

REVIEW AUTHORITY AND PURPOSE OF REPORT

ORS 182.472 directs the Legislative Fiscal Office to review reports submitted by the 12 semi-independent agencies listed below and issue a statement of findings and conclusions to the Joint Legislative Audit Committee and the Joint Committee on Ways and Means. This report fulfills this requirement.

- 1) Board of Architect Examiners
- 2) Appraiser Certification and Licensure Board
- 3) Board of Examiners for Engineering and Land Surveying
- 4) Board of Geologist Examiners
- 5) Landscape Architect Board
- 6) Landscape Contractors Board
- 7) Board of Massage Therapists
- 8) Board of Optometry
- 9) Physical Therapist Licensing Board
- 10) Oregon Patient Safety Commission
- 11) Oregon Wine Board
- 12) Citizens' Initiative Review Commission

SEMI-INDEPENDENT AGENCIES HISTORY AND BACKGROUND

The Oregon Legislature first looked at the semi-independence model in 1991 and granted the Travel Information Council, Oregon Film and Video Group, and Oil Heat Commission (now defunct) this semi-independent status. In 1997, the Board of Optometry, Board of Geologist Examiners, Board of Architect Examiners, Board of Examiners for Engineering and Land Surveying, and Landscape Architect Board were granted semi-independent status. The Board of Massage Therapists and Physical Therapist Licensing Board were added in 1999; the Landscape Contractors Board and Appraiser Certification and Licensure Board in 2001; the Oregon Tourism Commission, Oregon Patient Safety Commission, and Oregon Wine Board in 2003; and the Citizens' Initiative Review Commission in 2011.

Funding

- All twelve agencies subject to this reporting requirement are self-funded.
- The first nine boards are supported by income such as application, examination, license fees, and other program revenue.
- The Oregon Patient Safety Commission is funded by annual fees assessed on Oregon healthcare facilities and by state General Fund that comes to the Commission as pass-through funding from the Oregon Health Authority to administer the Early Discussion and Resolution (EDR) program. In addition, the Commission serves as a contractor to the Oregon Health Authority's Public Health Division to implement a defined scope of work that is a part of federal grant funding that the Oregon Health Authority receives.
- The Oregon Wine Board is funded primarily through an assessment on grapes harvested for wine production and a privilege tax imposed on manufacturers and distributors of wine. Other revenue sources include program fees and grants.

Statutory Differences

The semi-independent agencies subject to this reporting requirement are exempt from statutes regulating state agencies in the following areas:

- ✓ Personnel relations (except for temporary appointments and collective bargaining).
- ✓ Use of state facilities and printing.
- ✓ Public contracting and purchasing (except for surplus property and products of the disabled).
- ✓ Interagency services.
- ✓ Financial Administration.
- ✓ Disbursing and investing of funds.
- ✓ Salaries and expenses of state officers and employees.

Semi-independent agencies subject to this reporting requirement must maintain:

- ✓ Tort liability coverage.
- ✓ Adhere to public records and meeting laws.
- ✓ Use the services of the Department of Justice for advice and counsel.
- ✓ Use the services of the Secretary of State Audits Divisions for financial control through audit or review.
- ✓ Maintain continual participation in the state Public Employees Retirement System (PERS).

Fiscal Accountability

- Must establish financial accounts in FDIC-insured banks and ensure that deposits in excess of FDIC limits are collateralized.
- Must follow generally accepted accounting principles (GAAP) and accurately disclose their financial condition and financial operations through this reporting requirement.
- Subject, biennially, to external independent audits or financial reviews conducted according to governmental audit and review standards. These audits or financial reviews are scrutinized and published by the Secretary of State Audits Division.
- Required to prepare and adopt a biennial operating budget using the public hearing and administrative rule processes. Prior to the adoption or modification of a budget, a notice of public hearing is sent to all interested parties and licensees of the boards to allow opportunity to present testimony concerning the budget.
- After the hearing process, if no substantial changes are required, the budget is adopted, and an administrative rule is filed which defines the agency's budget for the upcoming biennium. If substantial changes are required, the budget must go through the hearing and rule adoption process again.

Administrative Accountability

In addition to meeting the reporting requirements for this review, semi-independent agencies subject to this reporting requirement must:

- Adopt personnel policies, along with contract and purchasing policies. These policies are to be submitted to the Department of Administrative Services for review and approval to make certain the proposed policies comply with applicable state and federal laws and collective bargaining contracts.

Review Process

- This review is focused on the provisions of ORS 182.472 and covers reports submitted by the April 1, 2020 deadline. Reports were reviewed for compliance with statutory requirements. This review should not be considered an audit, as findings and conclusions are limited to the information provided by agencies in response to ORS 182.472.
- Because of social distancing protocols due to the pandemic, Legislative Fiscal Office (LFO) staff worked with agencies via email as well as phone and video calls to collect missing information, provide feedback on report content, and discuss proposed recommendations for future reports.
- In all cases, agencies were responsive to requests for information and appreciative of guidance to improve the quality of future reports.
- In addition, as needed, LFO contacted Powers, CPA, LLC to clarify financial review information and the Secretary of State Audits Division to ensure that agencies were in compliance with financial review and auditing requirements.

Review Findings

- Eleven of the twelve agencies submitted reports that generally complied with the content requirements specified in ORS 182.472.
- The Citizens' Initiative Review Commission has been nonoperational due to a lack of funding since the 2015-17 biennium and, therefore, did not submit a report.

Summary of Financial Audits/Reviews

- The statute requires agencies to submit “the most recent audit or financial review of the board.” Ten agencies submitted a financial review from Powers, CPA, LLC., for the biennium ending June 30, 2019. The Board of Examiners for Engineering and Land Surveying (OSBEELS) submitted the results of a forensic investigation conducted by Ernst & Young LLP which spanned the period of January 1, 2014 to June 30, 2019.
- The reviews conducted by Powers, CPA, LLC. included an examination of: 1) internal controls related to financial, accounting, and licensing processes; 2) cash controls; 3) revenue and expense verification, including budget to actual comparison; and 4) follow-up on prior financial review findings and recommendations. The evaluations of these agreed-upon procedures found that, generally, adequate controls were in place, but also identified opportunities for improvement.
- Most agencies submitted responses to the review findings with plans for strengthening internal controls; the Appraiser Certification and Licensure Board did not submit a plan to strengthen internal controls as they did not have a permanent administrator in place at the time the review was released.
- The findings from the forensic investigation submitted by OSBEELS in lieu of a financial review did include a review of internal and cash controls (item numbers 1 and 2 above), but did not include a revenue and expense verification, nor a follow-up on prior financial review findings (item numbers 3 and 4). OSBEELS did submit a response to the forensic investigation findings. The forensic investigation was commissioned by OSBEELS due to potential financial mismanagement by the previous agency administrator, which had resulted in an investigation by the Department of Justice (DOJ). Neither the DOJ investigation nor the forensic investigation identified any instances of fraud.

Budget and Fund Analysis

- All agencies provided:
 - ✓ a balance sheet for the 2017-19 biennium;
 - ✓ a comparison of budgeted to actual revenues and expenditures for the 2017-19 biennia;
 - ✓ a projected/adopted budget for the 2019-21 biennium;
 - ✓ a forecasted balance sheet for the 2019-21 biennium.
- In general, agencies clearly identified beginning and ending balances and variances between reported and audited numbers were adequately explained.
- Overall, these agencies operated within their budgets for the 2017-19 biennium. Where there were variances, the agencies provided reasonable explanations.
- Appendix B of the report provides a detail summary of budgeted and actual fund balance, revenue, and expenditure numbers for the 2017-19 and 2019-21 biennia, as well as a brief budget analysis for each of the reporting agencies.

APPENDIX A
Semi-Independent Agencies: Operations Summary for 2017-19 Biennium

	2017-2019		Board Members		2017-2019	Approximate # Licensees			Director	2017-2019	2019-2021	2019-2021	
	Pos.	FTE	Industry	Public	Board Meetings	Individuals	Firms/ Business	Board Stipend	Monthly Salary as of 6/30/2019	Actual Expenditures	Budgeted Expenditures	Pos.	FTE
Board of Architect Examiners	5	4.13	5	2	14	3,617	801	\$60/day	\$10,277	\$1,113,401	\$1,459,467	5	4.13
Appraiser Certification and Licensure Board	7	7.00	7	1	8	1,454	114	\$0/day	\$7,837	\$1,963,025	\$2,173,751	7	6.50
Board of Examiners for Engineering and Land Surveying	16	16.00	9	2	20	30,000	-	\$30/day	\$10,087	\$3,502,759	\$3,510,370	16	16.00
Board of Geologist Examiners	2	2.00	4*	1	10	1,171	-	\$100/day	\$8,882	\$628,832	\$717,360	2	2.00
Landscape Architect Board	◆	◆	4	3	8	521 ^o	215	\$50/day	◆	\$356,491	\$468,289	◆	◆
Landscape Contractors Board	5	4.50	5	2	13	1,448	1,250	\$100/day	\$8,223	\$1,458,240	\$1,778,957	5	4.50
Board of Massage Therapists	6	6.00	4	3	12	8,076	266	\$100/month	\$7,243	\$2,090,683	\$2,417,000	6	6.00
Board of Optometry	2	2.00	4	1	8	1,152	-	\$100/day	\$8,223	\$734,898	\$839,561	2	2.00
Physical Therapist Licensing Board	3	2.80	6	2	20	6,978	-	\$150/day	\$9,992	\$1,241,551	\$1,616,173	3	2.80
Oregon Patient Safety Commission	14	14.00	17	0	24	□	□	None Paid	\$9,030	\$3,368,725	\$4,363,661	11	11.00
Oregon Wine Board	9	9.00	9	0	18	□	□	None Paid	\$15,500	\$5,698,264	\$6,072,958	9	9.00
Citizens' Initiative Review Commission *													

+ Plus one ex officio member (State Geologist)
◆ Contracted services from Board of Geologist Examiners
◐ Emeritus Status no longer included in count
□ Not a licensing agency
* Deactivated

APPENDIX B
Semi-Independent Agencies: Budget to Actual Summary

	2017-2019	2017-2019	2017-2019	2017-2019	2017-2019	2017-2019	2017-2019	2019-2021	2019-2021	2019-2021
	Actual Beginning Fund Balance	Approved Budgeted Revenues	Actual Revenues	Approved Budgeted Expenditures	Actual Expenditures	Budgeted Ending Fund Balance	Actual Ending Fund Balance	Adopted Budgeted Revenues	Adopted Budgeted Expenditures	Budgeted Ending Fund Balance
Board of Architect Examiners	\$1,050,943	\$1,087,300	\$1,067,691	\$1,248,270	\$1,113,401	\$889,973	\$1,005,233	\$1,068,065	\$1,459,467	\$613,831
Appraiser Certification and Licensure Board	\$1,174,481	\$1,997,390	\$1,629,726	\$1,997,390	\$1,963,025	\$1,174,481	\$841,182	\$2,178,624	\$2,173,751	\$846,055
Board of Examiners for Engineering and Land Surveying	\$1,639,605	\$3,449,800	\$3,412,339	\$3,230,000	\$3,502,759	\$1,859,405	\$1,549,185	\$3,536,200	\$3,510,370	\$1,575,015
Board of Geologist Examiners	\$266,905	\$683,080	\$659,135	\$690,465	\$628,832	\$259,520	\$297,207	\$666,400	\$717,360	\$246,247
Landscape Architect Board	\$216,434	\$451,250	\$461,929	\$455,523	\$356,491	\$212,161	\$321,872	\$470,950	\$468,289	\$324,533
Landscape Contractors Board	\$428,858	\$1,387,870	\$1,409,484	\$1,448,332	\$1,458,240	\$368,396	\$380,102	\$1,852,540	\$1,778,957	\$453,685
Board of Massage Therapists	\$479,243	\$1,861,452	\$1,959,155	\$2,280,000	\$2,090,683	\$60,695	\$347,715	\$2,417,000	\$2,417,000	\$262,913
Board of Optometry	\$294,967	\$678,181	\$683,383	\$770,655	\$734,898	\$202,493	\$243,452	\$786,000	\$839,561	\$189,891
Physical Therapist Licensing Board	\$998,864	\$1,183,000	\$1,203,759	\$1,258,000	\$1,241,551	\$923,864	\$961,072	\$1,219,710	\$1,616,173	\$564,609
Oregon Patient Safety Commission	\$376,438	\$4,462,320	\$4,469,132	\$4,353,196	\$3,368,725	\$485,562	\$1,476,845	\$4,363,661	\$4,363,661	\$1,476,845
Oregon Wine Board	\$958,718	\$5,287,600	\$5,722,354	\$5,846,095	\$5,698,264	\$400,223	\$982,808	\$5,570,042	\$6,072,958	\$479,892
Citizens' Initiative Review Commission										

Italicized numbers denote where agency-reported ending balance and actual biennial ending balance differ; further information included in the text of the report.

LANDSCAPE ARCHITECT BOARD

	2015-17 Budget	2015-17 Actual	2017-19 Budget	2017-19 Actual	2019-21 Budget
Total Funds	\$428,103	\$343,741	\$455,523	\$356,491	\$468,289
Positions	0	0	0	0	0
FTE	0.00	0.00	0.00	0.00	0.00

Overview

The mission of the Oregon State Landscape Architect Board (OSLAB) is to protect the public through licensing and regulating the practice of landscape architecture in Oregon. The Board approves candidates for examinations, issues and renews licenses, investigates complaints, and monitors the continuing education of its licensees. The seven-member board is composed of four professionals and three public members.

Revenue Sources

The Board is funded primarily by application and annual registration fees for individuals and businesses. Revenue for 2017-19 was 2.4% higher than projected, due to an unanticipated increase in new individual and business registrations. New revenue in 2019-21 is projected to be \$470,950, which is a 2.0% increase over the actual revenue received in 2017-19.

The Board increased some fees as of July 2017, with individual registration and renewal fees both increasing from \$250 to \$325 annually; business registration and renewal fees both increasing from \$112.50 to \$225 annually; and the inactive and inactive emeritus fee increased from \$25 to \$50 a year. Fees were last increased in 2005.

Budget Environment / Licensing and Enforcement Activities

The Board has approximately 520 active individual registrants and 215 business licensees. The Board cites some concerns about a decreasing pipeline of license candidates, due to low examination application numbers and overall aging of licensees.

The number of complaints and investigations conducted remains small, totaling just three complaints in 2017-19. Most cases involve improper advertising of landscape architect services and are quickly resolved through education and proper registration. Very few cases result in formal disciplinary actions. The Board uses a private firm for contract investigation services.

The Board staff include a contract Administrator and contract Registration Specialist who are employed by the Oregon State Board of Geologist Examiners but work part-time (totaling 1.0 FTE) at OSLAB through an interagency agreement that is subject to renegotiation each biennium.

2017-19 Budget to Actual

The Board's 2017-19 actual revenue was \$461,929, a 2.4% increase from budgeted revenue. The Board's expenditures came in at \$356,491, 21.7% under budget, with unrealized costs for legal and investigative services due to the low number of compliance cases over the course of the biennium.

2019-21 Budget

The 2019-21 adopted budget of \$468,289 represents a 2.8% increase from the 2017-19 adopted budget. While Board expenditures for 2017-19 were well under budget, the Board retains certain budget line items in case of contingencies, such as an increase in their compliance caseload. The projected ending cash balance of \$324,532 equals approximately 16.6 months of operating costs.

Other Semi-Independent Agencies

Oregon Travel Information Council and Oregon Film and Video Office

- ORS 377.838 requires the Oregon Travel Information Council (OTIC) to file with the Governor, Legislative Assembly, and Legislative Fiscal Office an annual report of its activities and operations. OTIC submitted financial reviews performed by Moss Adams for the periods ending June 30, 2018 and 2019, along with its budget for 2019-21.
- ORS 284.335 requires the Oregon Film and Video Office to file with the Governor, Legislative Assembly, and Legislative Fiscal Office a biennial report of its activities and operations. The Office submitted its budget and legislative briefings for the 2017-19 and 2019-21 biennia.
- Because the Oregon Travel Information Council and Oregon Film and Video Office are required to present their budgets and agency operations information to a legislative committee, this report does not include a detailed review.

Other Semi-Independent Agencies

Oregon Tourism Commission (Travel Oregon)

ORS 284.126 requires the Oregon Tourism Commission to file copies of its adopted or modified budget and financial statements with the Legislative Fiscal Office not later than five days after these documents are prepared or adopted. In addition, ORS 284.148 requires the Commission to submit a report to LFO by October 1st of each year that identifies:

- ✓ Funds received by the Commission from transient lodging tax.
 - ✓ The awards and commitments approved by the Commission of these funds for the fiscal year.
 - ✓ Other information requested by LFO including information on grants of \$2 million or more made by the Commission.
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- Page 25 of Appendix B provides a brief review of the agency's use of transient lodging tax for the 2017-19 and 2019-21 biennia.