

Agency Mission, Goals and Historical Context

The Employment Relations Board's (ERB) mission is to resolve labor relations disputes and determine union representation matters primarily for public employers, public employees, and labor organizations. ERB provides four main services to help employers, employees, and labor organizations resolve their disputes: labor mediation; contested case hearings; State personnel appeal cases; and union representation certifications. ERB also maintains a panel of arbitrators from which the parties may select an arbitrator in an arbitration proceeding. Under the recently passed HB 2930 (Or Laws 2001), ERB also appoints an arbitrator from the panel in arbitration proceedings regarding alleged misconduct by a law enforcement officer.

The agency is responsible for administering three specific portions of Oregon law: the Public Employee Collective Bargaining Act, which governs collective bargaining in state and local government; the State Personnel Relations Law, which creates appeal rights for non-union state employees regarding certain personnel actions; and the private sector labor-management relations law, which addresses collective bargaining for private sector employers that are not covered by federal law. The Board for ERB acts as the state's "labor appeal court" for labor and management disputes within state and local government for an estimated 275,000 employees in public and private employment in the state.

The bulk of the agency's work is administering the Public Employee Collective Bargaining Act (PECBA), which was enacted in 1973. Public sector caseloads for ERB are cyclical (i.e., vary by fiscal year) and are influenced by the negotiation of multi-year labor contracts. The timely disposition of cases has many influences, including the volume of cases, case complexity, budget reductions (i.e., furloughs), employee turnover or vacancies, and new employee training, among others. The caseload for state government can be more complicated and time consuming than local government cases because they may involve single individuals seeking remedy under the state personnel law. In these cases, individual appellants typically are not represented by an attorney, which often requires more involved case management by the agency.

High-level summary of agency programs, services, and organizational structure, including organizational charts, as well as any proposed organizational changes.

Board/Administration Division

The Administration Division is responsible for managing personnel, payroll, equipment, and information technology for the agency. The division coordinates and supervises the support staff and oversees daily office functions. The division is also responsible for budget preparation, performance measure coordination and reporting, affirmative action, information security, and business continuity planning. The Administration Division contains the three-member Employment Relations Board, which issues final agency orders in declaratory rulings, contested case adjudications of unfair labor practice complaints, representation matters, and appeals from state personnel actions. The Board administers state labor laws covering private sector employees exempt from the National Labor Relations Act. The Board Members are appointed

by the governor, and confirmed by the Senate for four-year terms. The Board Chair is the agency director.

The Administration Division is funded by a combination of General Fund and Other Funds primarily received from the state assessment.

Conciliation Division

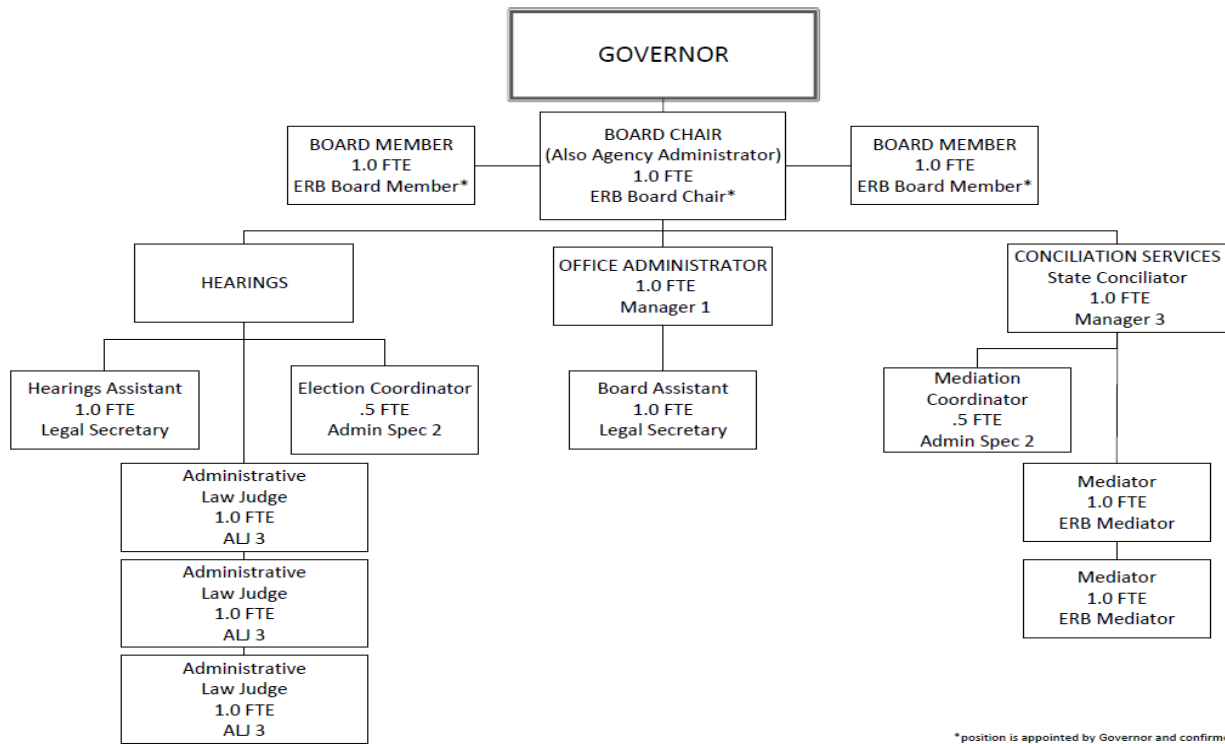
The Mediation Office consists of the agency's Conciliation Services. Staff provide mediation and conciliation services to help parties resolve their collective bargaining disputes, contract grievances, unfair labor practices, and State Personnel Relations Law appeals. Staff also provide training in interest-based bargaining, labor/management problem-solving, and other similar programs designed for the specific needs of the parties. This office also maintains a list of qualified labor arbitrators who are available to assist parties to a labor dispute (and appoints an arbitrator in certain matters). The program's customers include state and local government entities and their employees, labor organizations, and private sector employers and their employees who are exempt from the National Labor Relations Act.

The program is funded by a combination of General Fund and Other Funds, primarily received from the state assessment.

Hearings Division

The administrative law judges (ALJs) conduct contested case hearings on unfair labor practice complaints filed by state and local public employers, public employees, and labor organizations. The ALJs also conduct contested case hearings on state personnel appeals and representation matters referred by the election coordinator. Following contested case hearings, ALJs issue recommended orders, which precede final orders of the Board. When appropriate, ALJs work with the parties to reach a mutually agreeable settlement without a hearing. Some cases are referred to the agency's Conciliation Service Office for mediation. There are also circumstances in which the three-member Board might preside over a hearing in the first instance, typically because one or both parties request the matter be expedited, or the parties seek a declaratory ruling from the Board. For representation matters concerning unrepresented employees in which a hearing is required, an ALJ may conduct the hearing and then forward the matter directly to the three-member Board for issuance of a final order. The election coordinator processes all petitions involving union representation and composition of the bargaining unit, conducts elections when necessary, and certifies election results. ALJs resolve contested petitions, which are forwarded to them by the election coordinator.

**Employment Relations Board
Program Structure 13 FTE**



*position is appointed by Governor and confirmed by Senate

Overview of agency performance and outcome measures, how measures are used by the agency, and progress toward achieving goals.

KPM#	23-25 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 – 2022 data is 47 days] 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. [Target 100 days – 2022 data is 101 days] Green.
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 – 2022 data is 24 days] Green.
4	Mediation effectiveness – Percentage of contract negotiation disputes that are resolved by mediation for strike-permitted employees. [Target 95% - 2022 data is 94%] Green.
5	Appeals – Percentage of Board Orders that are reversed on appeal. [Target is 5% - 2022 data is 0%] Green.
6	Mediation effectiveness – Percentage of contract negotiation disputes that are resolved by mediation for strike-prohibited employees. [Target 85% - 2022 data is 100%] 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. [Target is 95% - 2022 data is 92% and above] Green.

Summary of the Governor's budget by fund source, policy option package, reductions, and other major changes.

The Governor's budget is 5,983,125 (3,334,254 General Fund and 2,648,871 Other Funds, based on a \$2.19 per employee per month assessment). The Governor's budget includes the policy option packages described below.

Policy Issues

In *Janus v. AFSCME Council 51* (2018), the U.S. Supreme Court overturned its precedent and held that it was unconstitutional for a public employee to have any agency fee or any other payment to a union deducted from the employee's wages, unless the employee affirmatively consents to that deduction or payment. For Oregon, this has meant that many public-sector employers and labor organizations had their fair-share provisions invalidated. Additionally, the decision means that numerous provisions of Public Employee Collective Bargaining Act were also invalidated. The Legislature in 2019 updated the Oregon Revised Statutes in numerous ways in light of the Supreme Court's decision. The agency has not identified any meaningful affect resulting from *Janus* on the agency's workload or operations.

In 2021, the Legislature enacted HB 2930, which requires the agency to appoint an arbitrator (rather than just provide a list of arbitrators that the parties select from) in arbitration proceedings concerning alleged misconduct by law enforcement officers. The agency held public meetings with stakeholders and formed a special Rules Advisory Committee of affected stakeholders to promulgate rules to effectuate the statute. Those rules went into effect January 2022. The agency has been able to absorb this added responsibility with current staffing and resources.

Pandemic

The agency successfully transitioned to virtual services after the onset of the pandemic. We were able to do so fluidly in part due to the recent addition of the electronic filing and case management system (discussed below). The pandemic's impact on case filing is difficult to determine due to what may be a close nexus with economic-driven filings. The agency's case filings over the past couple of years are higher than historic levels, but not dramatically so.

Major agency changes, budget drivers, risks, and information technology projects affecting the 2023-25 budget, such as caseloads, fees, revenue changes, cost per case issues, new investments, etc.

ERB has requested two policy option packages. The first package is necessary to properly fund the State Conciliator position at her current salary. Due to The Oregon Management Project (TOMP) reclassification during "PICS freeze," the budget for the position was inadvertently reduced. This package would fund the difference between that inadvertent reduction and the position's current salary.

The second package is to fund a proposed reclassification of the Election/Mediation Coordinator position, which is currently classified as an Administrative Specialist 2 (AS 2). The agency seeks to broaden the work duties of the position to better serve our clients. Adding those duties, however, would result in a classification change to an Operations Policy Analyst 1 (OPA 1). This package funds the difference in the salary of the current AS 2 and the proposed OPA 1 classifications.

The agency self-managed a NICUSA information technology contract to design, develop, maintain and host an electronic case management system (phase-I) and then add a web-based electronic filing and electronic payment capability (phase-II). The project was delivered in the fall of 2020. The vendor continues to maintain and improve system features, including a more robust searchability of Board orders. The vendor charges an annual licensing, maintenance, and hosting fee estimated at \$65,000 per year, which is included in the CSL budget.

Important changes to the agency's budget and/or operations in the past 6 years, broken down by biennia, with an emphasis on programs initiated in 2021-23.

We do not have any major changes in the past 6 years, but there have been some slight changes.

2021-23: Promulgated rules to implement HB 2930 (Or Laws 2021) and relocated to a smaller facility to lower costs and make better use of necessary space.

2019-21: Clean up of funding split for Hearings Assistant position to make it consistent with the rest of the agency.

2017-19: Classification and compensation change for the Board and State Conciliator; Development of Case Management System (CMS) phase 2, and a revenue-neutral change in fees for arbitration panel.

Summary of 15% reduction options and impact of any reductions included in the Governor's budget.

Because the agency's budget is largely personal services (about 80 percent), it is difficult to achieve a 15 percent reduction without reducing FTE, which would severely impact agency services. To achieve a 15 percent reduction, we would need to: (1) eliminate 1 of 3 ALJ positions; (2) reduce the Board Members and Board Chair to .7 FTE; (3) eliminate agency travel; (4) eliminate IT expendable property; (5) reduced dues and subscriptions by 95 percent; (6) eliminate employee training; (7) reduce office expenses by 50 percent ; (8) reduce facilities, rental, and taxes by 9 percent; and (9) reduce other service and supplies by 8 percent.

- 6 Economic Development
- 7 Education & Skill Development
- 8 Emergency Services
- 9 Environmental Protection
- 10 Public Health
- 11 Recreation, Heritage, or Cultural
- 12 Social Support

Within each Program/Division area, prioritize each Budget Program Unit (Activities)
by detail budget level in ORBITS

Document criteria used to prioritize activities:

The programs of the Agency are interconnected and none can stand alone. However, the following criteria was used to prioritize this list:

1. Constitutional and statutory requirements.
2. Programs that promote stability in public sector labor.
3. Programs that serve small populations, sometimes without measureable results, or that could be performed by entities other than state government, *i.e.*, local or federal government, although there would be a deterioration in service to those served.