

SB 5515 A BUDGET REPORT and MEASURE SUMMARY

Carrier: Sen. Meek

Joint Committee On Ways and Means

Action Date: 05/26/23

Action: Do pass with amendments. (Printed A-Eng.)

Senate Vote

Yeas: 7 - Campos, Dembrow, Frederick, Knopp, President Wagner, Sollman, Steiner

Nays: 2 - Anderson, Hansell

Exc: 3 - Findley, Gelser Blouin, Girod

House Vote

Yeas: 7 - Evans, Gomberg, Holvey, McLain, Pham K, Sanchez, Valderrama

Nays: 4 - Breese-Iverson, Lewis, Reschke, Smith G

Exc: 1 - Cate

Prepared By: Tamara Brickman, Department of Administrative Services

Reviewed By: Ben Ruef, Legislative Fiscal Office

Bureau of Labor and Industries

2023-25

Budget Summary*

	2021-23 Legislatively Approved Budget ⁽¹⁾	2023-25 Current Service Level	2023-25 Committee Recommendation	Committee Change from 2021-23 Leg. Approved	
				\$ Change	% Change
General Fund	\$ 43,003,037	\$ 24,034,529	\$ 26,129,990	\$ (16,873,047)	(39.2%)
Lottery Funds	\$ 270,809	\$ -	\$ 297,187	\$ 26,378	9.7%
Other Funds Limited	\$ 16,315,452	\$ 16,214,579	\$ 17,974,523	\$ 1,659,071	10.2%
Other Funds Nonlimited	\$ 938,700	\$ 938,700	\$ 938,700	\$ -	0.0%
Federal Funds Limited	\$ 1,903,363	\$ 2,042,922	\$ 2,042,922	\$ 139,559	7.3%
Total	\$ 62,431,361	\$ 43,230,730	\$ 47,383,322	\$ (15,048,039)	(24.1%)

Position Summary

Authorized Positions	150	138	142	(8)
Full-time Equivalent (FTE) positions	138.92	135.25	137.65	(1.27)

⁽¹⁾ Includes adjustments through January 2023

* Excludes Capital Construction expenditures

Summary of Revenue Changes

The Subcommittee’s recommended budget for the Oregon Bureau of Labor and Industries (BOLI) consists of 40.3 percent General Fund, 0.4 percent Lottery Funds, 55.3 percent Other Funds, and 4.0 percent Federal Funds.

BOLI’s Other Funds revenue is made up of Licenses and Fees, Charges for Services, Fines, Interest and Sales income. Additional sources of Other Funds are received through state agency contracts with the Oregon Employment Department (OED), the Department of Consumer and Business Services (DCBS), and the Oregon Department of Transportation (ODOT). The majority of Other Funds (40 Percent) come from OED, which is derived from a portion of unemployment insurance taxes paid by employers each biennium. These funds are used for the Wage Security Fund (WSF) program. The revenues received for the WFS program are statutorily dedicated to the program and can be used by the Wage & Hour Division to investigate and enforce claims of underpaid and unpaid wages.

BOLI receives approximately two-thirds of its Federal Funds revenues from the U.S. Equal Employment Opportunity Commission and one-third from the U.S. Department of Housing and Urban Development. These funds are received on a reimbursable basis for work associated with employment related civil rights violations and fair housing violations.

BOLI receives Lottery Funds are from the Veteran’s Services Fund to support veterans outreach coordination.

Summary of Transportation and Economic Development Subcommittee Action

The mission of BOLI is to protect employment rights, advance employment opportunities, and ensure access to housing and public accommodations free from discrimination. BOLI works to protect the rights of workers and individuals to equal, non-discriminatory treatment through the enforcement of anti-discrimination laws that apply to workplaces, housing and public accommodations. BOLI encourages and enforces compliance with state laws relating to wages, hours, terms and conditions of employment; and educates and trains employers to understand and comply with both wage and hour and civil rights law. The Agency also promotes the development of a highly skilled, competitive workforce in Oregon through the apprenticeship program and through partnerships with government, labor, business, and educational institutions. BOLI operates through four divisions: Commissioner's Office; Civil Rights; Wage and Hour; and Apprenticeship and Training.

The Subcommittee approved a budget of \$47,383,322 total funds consisting of \$26,129,990 General Fund, \$297,187 Lottery Funds, \$17,974,523 Other Funds expenditure limitation, \$2,042,922 Federal Funds expenditure limitation, \$938,700 Other Funds Nonlimited, and 142 positions (137.65 FTE). This is a total funds decrease of 24.1 percent from the 2021-23 Legislatively Approved Budget (LAB). The Agency position count is decreased by eight positions (1.27 FTE) from the 2021-23 LAB.

Commissioner's Office/Support Services

The Commissioner's Office provides policy direction and overall management of the Bureau's programs. The Commissioner is a legislatively established statewide elected official. The Office is charged with enforcing all laws regulating and protecting the employment of all employees in Oregon, advance employment opportunities through apprenticeships, protecting access to housing, and ensuring public accommodations are free from discrimination. This Office has the following four programs:

- Technical Assistance unit provides Oregon employers with education and training resources. The unit delivers these services through direct telephone response, website inquiries, public seminars, workshops, and customized training sessions.
- Business Services unit supports the Agency's Fiscal Services, Information Technology Services, Public Records and Employee Services (HR).
- External Services unit includes Communications, Legal Policy, Intergovernmental Relations, and the Administrative Law Forum, which consists of two judges who hear cases, review evidence and draft orders.
- Administrative Prosecution unit provides adjudication and alternative dispute resolution of contested wage and hour, and civil rights cases.

The Subcommittee recommended a budget of \$12,379,718 total funds (\$7,858,829 General Fund, \$4,202,081 Other Funds expenditure limitation, and \$318,808 Federal Funds expenditure limitation) and 35 positions (34.64 FTE). The recommended budget includes the following packages:

Package 112: Public Records Support Staffing. This package appropriates General Fund on a one-time basis to add a permanent full-time Administrative Specialist 2 position (0.88 FTE) to assist in the Agency’s growing public records request workload. Moving forward, the position will be funded with a public records fee to be established by BOLI.

Package 801: LFO Analyst Adjustments. This package includes the following actions:

- Balances appropriated fund types to expenditures by transferring Wage Security Funds (Other Funds Nonlimited) to Other Funds Limited expenditure authority.
- Appropriates \$399,580 as carry forward funding from the 2021-23 LAB for BOLI’s move from its Portland headquarters to a new facility. This move was delayed in the 2021-23 biennium.
- Moves a Diversity, Equity, and Inclusion (DEI) position from the Apprenticeship and Training Division to the Commissioner’s Office.
- Adds one permanent full-time Human Resources Manager 1 position to address BOLI’s human resources needs (currently, there is only one Human Resource Analyst for the agency’s total of 138 positions).
- Adds one permanent full-time Administrative Law Officer (General Counsel) to serve as the main clearinghouse for all BOLI’s legal matters including providing BOLI-centric legal advice, addressing agency liabilities, and supporting the employer assistance group.

Package 802: Vacant Position Reductions. This package eliminates a long-term vacant Business Operations Manager 2 position.

Civil Rights

The Civil Rights Division protects Oregonians from unlawful discrimination by investigating allegations of civil rights violations in the workplace, career schools, housing, and public accommodations. In addition to enforcing Oregon laws prohibiting discrimination, the Division has contracts for processing civil rights cases for the U.S. Equal Employment Opportunities Commission and the Oregon Occupational Safety and Health Administration (OR-OSHA). This Division is primarily supported with General Fund, but receives Federal and Other Funds under contract with other government agencies as follows:

- U.S. Equal Employment Opportunities Commission (EEOC): BOLI and EEOC have concurrent jurisdiction over cases filed under the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act and the Age Discrimination in Employment Act. A formal “work sharing” contract pays the Division a maximum amount based on a specific number of cases.
- U.S. Housing and Urban Development (HUD): BOLI receives funds from HUD to investigate fair housing claims.
- OR-OSHA: The Division contracts with OR-OSHA to investigate complaints of discrimination or retaliation against workers for reporting of safety and health hazards in the workplace.

- **Workers' Benefit Fund:** DCBS manages the Workers' Benefit Fund, which provides most of the funding to investigate allegations of discrimination against injured workers.

The Subcommittee recommended a budget of \$13,422,493 total funds (\$9,696,050 General Fund, \$2,002,329 Other Funds expenditure limitation and \$1,724,114 Federal Funds expenditure limitation) and 48 positions (47.38 FTE). The Subcommittee recommended the following packages:

Package 801: LFO Analyst Adjustments. This package adds one permanent full-time Conciliator (Compliance Specialist 3) position to improve efficiency of the civil rights claim system by prioritizing mediation to avoid lengthy legal disputes.

Package 802: Vacant Position Reductions. This package eliminates a long-term vacant Operations & Policy Analyst 3 position and a Civil Rights Investigator 1 position.

The Subcommittee approved the following Budget Note:

Budget Note: Prior to the start of the 2024 legislative session the Bureau of Labor and Industries will provide a report to the Interim Joint Committee on Ways and Means related to the following performance aspects of the Civil Right Division:

1. **Recruitment and Retention Difficulties:** Further details on the specific challenges faced in recruiting qualified applicants for Civil Rights Investigator positions including reasons for multiple failed recruitments and the steps being taken to address this issue. Further details on specific retention issues including pay disparity and updates on the current Department of Administrative Services classification and compensation study.
2. **Impact of Unfilled Positions:** Provide an explanation regarding the impact of the unfilled Civil Rights Investigator positions on the completion of investigations. This should include data on actual investigator labor hours to date over a six-year period and workload (cases). Include information on strategies being employed to mitigate the effects of these vacancies.
3. **Investigation Backlog:** Update on progress of reducing the civil rights case backlog.
4. **Impact of New Staff and Training:** Describe how new investigative staff are integrated into the Civil Rights Division, including the training and guidance provided to new investigators to expedite their transition and enhance their investigative skills.
5. **Expedited Investigation Procedure:** Detail on the recently implemented procedure for expedited investigation of non-meritorious cases and its expected impact on investigation timelines including data or examples showcasing the anticipated improvements resulting from this change.

Wage and Hour

The Wage and Hour Division handles the administration and enforcement of the state's minimum wage and overtime laws; child labor laws; wage collection; farm and forest labor contractors; prevailing wages; mandatory sick time laws (Oregon Family Medical Leave Act); and work

scheduling laws. The population served by the Division is largely made-up of unrepresented, low-income employees who are vulnerable to exploitation, including children, migrant farm workers, and non-English speakers, who lack the ability and resources to defend themselves against their employers. Among the classes of workers who routinely seek the services of the Division are terminated and unpaid workers who assign their wage collection to the state through the Division; teenagers and working minors who are protected under child labor laws; and farm workers, through the regulation of farm/forest labor contractors and camps.

The Subcommittee recommended a budget of \$13,100,176 total funds (\$4,028,640 General Fund, \$8,132,836 Other Funds expenditure limitation, and \$938,700 Other Funds Nonlimited) and 44 positions (42.13 FTE). The Subcommittee recommended the following packages:

Package 90: Analyst Adjustments. This package shifts the funding of a Compliance Specialist 3 position from General Fund to Other Funds (Wage Security Funds).

Package 91: Additional Analyst Adjustments. This package shifts the funding of two Administrative Specialist 2 positions from General Fund to Other Funds (Wage Security Funds).

Package 801: LFO Analyst Adjustments. This package balances appropriated fund types to expenditures by transferring Wage Security Funds (Other Funds Nonlimited) to Other Funds limited expenditure limitation. The package also adds one permanent full-time Conciliator (Compliance Specialist 3) position to improve efficiency of the wage and hour claim system by prioritizing mediation to avoid lengthy legal disputes.

Apprenticeship and Training

The Apprenticeship and Training Division (ATD) promotes the development of a highly skilled, competitive workforce in a variety of occupations and trades. The Division provides technical assistance to employers, labor unions, and government and education partners to increase training and employment opportunities by promoting apprenticeships. Apprenticeship is industry-led, meaning employers and labor – the experts in industry standards – set the expectations for skill attainment. It is an “earn while you learn” model, which combines on-the-job training provided by the employer with job-related instruction in curricula tied to the attainment of national and state skills standards. The Division works with local apprenticeship committees statewide to ensure quality training and equal employment opportunities, particularly for veterans, women and minorities engaged in technical and craft occupations. The Division also regulates the operation of registered apprenticeship programs to make sure they meet quality and industry standards. It tracks and certifies the attainment of skills by apprentices and provides oversight to programs to ensure they meet all statutory obligations. ATD also oversees the requirement for apprentice employers to meet diversity requirements.

The Subcommittee recommended a budget of \$8,480,935 total funds (\$4,546,471 General Fund, \$297,187 Lottery Funds, and \$3,637,277 Other Funds expenditure limitation) and 15 positions (13.50 FTE). The Subcommittee recommended the following packages:

Package 070: Revenue Shortfalls. This package reduces expenditures in the ATD's ODOT Heavy Highway Diversity Project to align expenditures with the amount of revenue received from ODOT. The agreement with ODOT for funding this project at BOLI is currently capped at \$2.1 million. The package abolishes a portion of an Apprenticeship Representative position (0.96 FTE).

Package 150: ATD-Veterans Outreach. This package makes permanent the Veterans Outreach Coordinator position established by House Bill 2202 (2019) with ongoing Lottery Funds from the Veterans' Services Fund.

Package 153: ATD Future Ready Continuation. This package appropriates General Fund as carryover from the 2021-23 biennium to provide for the continuation of three limited duration positions (1.50 FTE), Services and Supplies, and grants for the apprenticeship program established by Senate Bill 1545 (2022), known as Future Ready Oregon. This amount is not expected to be expended in the 2021-23 biennium.

Package 154: ATD ODOT Highway Diversity Project. This package reclassifies an Operations & Policy Analyst 2 to Operations & Policy Analyst 3 and provides BOLI with additional funding from ODOT, per an interagency agreement in which BOLI administers a supportive services program for diverse apprenticeships in the heavy highway trades. The agreement was entered into October 2010. ODOT received additional funding through the Infrastructure Investment and Jobs Act for apprenticeship programs.

Package 801: LFO Analyst Adjustments. This package moves a DEI position (1.00 FTE) from ATD to the Commissioner's Office.

Package 802: Vacant Position Reductions. This package eliminates the Apprentice Representative position and remaining FTE (FTE 0.04) in connection with Package 70. The package also eliminates a long-term vacant Apprenticeship Representative Position (0.50 FTE).

Summary of Performance Measure Action

See attached Legislatively Adopted 2023-25 Key Performance Measures form.

DETAIL OF JOINT COMMITTEE ON WAYS AND MEANS ACTION

Bureau of Labor and Industries
 Tamara Brickman -- (971) 719-3492

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
2021-23 Legislatively Approved Budget at Jan 2023 *	\$ 43,003,037	\$ 270,809	\$ 16,315,452	\$ 938,700	\$ 1,903,363	\$ -	\$ 62,431,361	150	138.92
2023-25 Current Service Level (CSL)*	\$ 24,034,529	\$ -	\$ 16,214,579	\$ 938,700	\$ 2,042,922	\$ -	\$ 43,230,730	138	135.25
SUBCOMMITTEE ADJUSTMENTS (from CSL)									
SCR 83900-010 - Commissioner's Office/Supp Svcs									
Package 112: Public Records Support Staffing									
Personal Services	\$ 140,397	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 140,397	1	0.88
Services and Supplies	\$ 8,600	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 8,600		
Package 801: LFO Analyst Adjustments									
Personal Services	\$ 833,349	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 833,349	3	2.76
Services and Supplies	\$ 411,880	\$ -	\$ 12,585	\$ -	\$ -	\$ -	\$ 424,465		
Package 802: Vacant Position Reductions									
Personal Services	\$ (175,744)	\$ -	\$ (94,631)	\$ -	\$ -	\$ -	\$ (270,375)	(1)	(1.00)
SCR 83900-030 - Civil Rights									
Package 801: LFO Analyst Adjustments									
Personal Services	\$ 195,919	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 195,919	1	0.88
Services and Supplies	\$ 11,600	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,600		
Package 802: Vacant Position Reduction									
Personal Services	\$ (396,995)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (396,995)	(2)	(2.00)
SCR 83900-040 - Wage and Hour									
Package 090: Analyst Adjustments									
Personal Services	\$ (194,807)	\$ -	\$ 194,807	\$ -	\$ -	\$ -	\$ -	0	0.00
Package 091: Additional Analyst Adjustments									
Personal Services	\$ (319,084)	\$ -	\$ 319,084	\$ -	\$ -	\$ -	\$ -	0	0.00
Package 801: LFO Analyst Adjustments									
Personal Services	\$ 195,919	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 195,919	1	0.88
Services and Supplies	\$ 11,600	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,600		
SCR 83900-050 - Apprenticeship and Training									
Package 070: Revenue Shortfalls									
Personal Services	\$ -	\$ -	\$ (171,901)	\$ -	\$ -	\$ -	\$ (171,901)	0	(0.96)
Package 150: ATD-Veterans Outreach									
Personal Services	\$ -	\$ 198,603	\$ -	\$ -	\$ -	\$ -	\$ 198,603	1	1.00
Services and Supplies	\$ -	\$ 98,584	\$ -	\$ -	\$ -	\$ -	\$ 98,584		
Package 153: ATD Future Ready Continuation									
Personal Services	\$ 338,959	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 338,959	3	1.50
Services and Supplies	\$ 37,620	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 37,620		
Special Payments	\$ 1,336,094	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,336,094		

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
Package 154: ATD ODOT Highway Diversity Project									
Personal Services	\$ -	\$ -	\$ 36,037	\$ -	\$ -	\$ -	\$ 36,037	0	0.00
Services and Supplies	\$ -	\$ -	\$ 1,463,963	\$ -	\$ -	\$ -	\$ 1,463,963		
Package 801: LFO Analyst Adjustments									
Personal Services	\$ (231,678)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (231,678)	(1)	(1.00)
Services and Supplies	\$ (12,300)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (12,300)		
Package 802: Vacant Position Reductions									
Personal Services	\$ (95,868)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (95,868)	(2)	(0.54)
TOTAL ADJUSTMENTS	\$ 2,095,461	\$ 297,187	\$ 1,759,944	\$ -	\$ -	\$ -	\$ 4,152,592	4	2.40
SUBCOMMITTEE RECOMMENDATION *	\$ 26,129,990	\$ 297,187	\$ 17,974,523	\$ 938,700	\$ 2,042,922	\$ -	\$ 47,383,322	142	137.65
% Change from 2021-23 Leg Approved Budget	(39.2%)	9.7%	10.2%	0.0%	7.3%	0.0%	(24.1%)	(5.3%)	(0.9%)
% Change from 2023-25 Current Service Level	8.7%	0.0%	10.9%	0.0%	0.0%	0.0%	9.6%	2.9%	1.8%

Legislatively Approved 2023 - 2025 Key Performance Measures

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Agency: Bureau of Labor and Industries

Mission Statement:

The mission of the Bureau of Labor and Industries is to protect employment rights, advance employment opportunities, and protect access to housing and public accommodations free from discrimination.

Legislatively Approved KPMs	Metrics	Agency Request	Last Reported Result	Target 2024	Target 2025
1. 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.	a) Overall	Approved	94	95	95
	b) Accuracy		94	95	95
	c) Availability of Information		92	95	95
	d) Expertise		98	95	95
	e) Helpfulness		94	95	95
	f) Timeliness		100	95	95
3. Timely Processing of Wage and Hour Complaints - Percentage of target met for timely: intake and jurisdiction determination; demand letter, investigation: Composite measure.		Approved	57%	85%	85%
4. Wage and Hour Division - Percentage of Wage Security Fund claims processed within fewer than 30 days.		Approved	98	85	85
5. Wage and Hour Division - Percentage of Prevailing Wage Rate investigations completed within 90 days.		Approved	47	65	65
6. Apprenticeship and Training Division - Number of apprentices receiving journey level certificates.		Approved	1,854	1,800	1,800
7. Apprenticeship and Training Division - Number of newly registered apprentices.		Approved	4,261	4,200	4,200
8. Minority Apprenticeship Participation - Percentage of new apprenticeship participants who are minorities.		Approved	25%	25%	25%
9. Administrative Prosecution Unit (APU) - Percentage of cases scheduled for hearing within 30 days of assignment to APU.		Approved	100	88	88
10. Technical Assistance - Percentage of employer technical assistance calls or emails returned no later than the next business day.		Approved	99%	95%	95%
11. Prevailing Wage Rate Pre-determinations - Response time for requests by public agencies concerning potential coverage of projects under state Prevailing Wage laws.		Approved	89.30	95	95
2. Timely Completion of Civil Rights Investigations - This measure would replace existing KPM 2 to better measure and incentivize timely yet thorough investigations at 180 days, 240 days, and 1 year.	Timely completion of investigations	Approved			
	a) Completion of investigations within 180 days			45%	45%
	b) Completion of investigations within 240 days			65%	65%
	c) Completion of investigations within 1 year			100%	100%
2. Timely Processing of Civil Rights Complaints - Percentage of target met for timely: intake, completion of perfected charge, initial interview and investigation (composite measure).		Legislatively Deleted	63%		SB 5515 A

LFO Recommendation:

The Legislative Fiscal Office recommends Key Performance Measures and targets as presented with changes outlined below

LFO recommends approval of proposed changes to KPM #2, adding metrics to incorporate number of days thresholds at 45, 65, and 100 for completion of civil rights investigations.

KPM #6, number of apprentices receiving journey level certificates has consistently beat the target of 1,200 for over five years. LFO recommends increasing the target to 1,800 which is an approximate four-year average of recent data.

KPM #7, number of newly registered apprentices, has consistently beat its target for almost ten years. LFO recommends increasing the target from 3,200 to 4,200 which is an approximate four-year average of recent data.

SubCommittee Action:

The Transportation and Economic Development Subcommittee approved the key performance measures and targets.