

2025-27 Budget Review

Land Use Board of Appeals

	2021-23 Actual	2023-25 Legislatively Approved *	2025-27 Current Service Level	2025-27 Governor's Budget
General Fund	2,595,218	2,994,485	3,459,019	3,907,929
Other Funds	12,229	38,019	39,616	39,616
Total Funds	2,607,447	3,032,504	3,498,635	3,947,545
Positions	7	7	7	7
FTE	7.00	7.00	7.00	7.00

* Includes legislative and administrative actions through December 2024.

PROGRAM DESCRIPTION

In 1979, the Oregon Legislature created the Land Use Board of Appeals (LUBA) as an agency with exclusive jurisdiction to review appeals of land use decisions made by cities, counties, districts, and state agencies. Prior to LUBA's creation, appeals of land use decisions were heard in 36 different county circuit courts, and sometimes before the Land Conservation and Development Commission. In creating LUBA, the Legislature intended to provide a simpler and faster process for resolving land use disputes as well as to promote a consistent interpretation of state and local land use laws. LUBA's decisions are reviewable by appeal to the Court of Appeals.

The three-member Board, appointed by the Governor to serve four-year terms, must be attorneys who are members of the Oregon State Bar in good standing. Board members are salaried employees who resolve appeals, issue orders, prepare for and conduct oral arguments, provide peer review, contribute to the publication of LUBA's headnote digest, and participate in continuing legal education and land use seminars. The Board is supported by two administrative support staff and two staff attorneys.

Historically, LUBA published and sold hardbound volumes of final orders and other significant orders through LUBA Reporter. Due to the lack of sales, LUBA recently discontinued printed publications and is posting final orders and other significant orders on the agency website. Additionally, LUBA decisions are published on Westlaw and LexisNexis subscription-based electronic legal research databases.

BUDGET ENVIRONMENT

General Fund supports 99% of LUBA's core operations. The remaining 1% of Other Funds is derived from royalties for final decisions and orders. In addition, the filing fees collected from land use appellants and interveners are transferred to the state's General Fund. LUBA estimates the agency will transfer \$110,000 to the General Fund from these fees during the 2025-27 biennium. This is based on an

estimated total of 220 appeals for the biennium and an appeal fee of \$350, and an estimated 165 intervenors for the biennium and an intervenors fee of \$200. Both the appeal fee and intervenor fee are set by statute. LUBA is proposing to increase the appeal fee from \$300 to \$350 and the intervenor filing fee from \$100 to \$200 during the 2025-27 biennium.

CURRENT SERVICE LEVEL

The 2025-27 current service level (CSL) for the Board is \$3.5 million total funds and seven positions (7.00 FTE). The CSL General Fund budget of \$3.5 million is \$464,534, or 15.5% more than the 2023-25 legislatively approved budget of \$3 million. The increase is attributable to statewide personal services growth and standard inflation for services and supplies expenditures.

GOVERNOR'S BUDGET SUMMARY

The 2025-27 Governor's budget totals \$3.9 million and seven positions (7.00 FTE). The General Fund budget of \$3.9 million is \$448,910, or 13% more than the 2025-27 CSL. The Governor's budget includes the following policy option packages:

- **Reclass of EES2 to Executive Assistant** - an increase of \$9,357 General Fund to reclassify an existing Executive Support Specialist 2 (EES2) position to an Executive Assistant.
- **Increase Filing Fees** – increases the filing fee for a petition for judicial review/appeal from \$300 to \$350 and the filing fee to intervene an appeal from \$100 to \$200. The agency anticipates an increase of \$27,500 in fee revenue, which is transferred to the General Fund.
- **IT Expendable Property** - an increase of \$13,000 General Fund for replacement of computers to meet DAS required replacement schedule.
- **Oregon State Bar Dues** - an increase of \$2,175 General Fund for member dues for three board members and two legal staff.
- **HH-IT Modernization and Electronic Filing** - an increase of \$442,546 General Fund to modernize the agency's Access database and incorporate an electronic filing system for appeals and pleadings.

OTHER SIGNIFICANT ISSUES

The number of case filings in any given year is influenced by economic activity, population growth, and changes in land use policy. The Board has a 20-year average of 200 appeals per year. Beyond the number of cases and staff capacity, is the level of case complexity. Land use disputes centering on urban growth boundaries (UGBs) and rural resource use are particularly complex and time intensive. LUBA has jurisdiction over UGB amendments of less than 50 acres with two to four UGB amendment decisions made each year. These decisions are complicated and often appealed to the Oregon Court of Appeals, leading to an increase in appeals of more complex development proposals. Additionally, in recent years LUBA has also heard appeals relating to historic preservation review, destination resort proposals in central Oregon, commercial uses on resource land, solar facilities on resource land, short-term rentals, and housing development proposals throughout the state, which often involve implementation and

application of recently enacted laws and regulations regarding housing adopted in response to housing shortages.

KEY PERFORMANCE MEASURES

A copy of the Land Use Board of Appeals Annual Performance Progress Report can be found on the LFO website:

https://www.oregonlegislature.gov/lfo/APPR/APPRProposed_LUBA_2024-09-20.pdf

Contact Information

Emily Coates, Senior Legislative Analyst

Legislative Fiscal Office

900 Court Street NE, Room H-178, Salem, Oregon 97301

Oregon State Capitol | (503) 986-1827 | www.oregonlegislature.gov/lfo