

Program Structure Number: 020301

Program ID and Title: LBR 161, Hawaii Labor Relations Board

Page Reference in the Executive Budget Supplement, Vol. I: None

I. Introduction

A. Summary of Program Objectives

To ensure the just administration of the laws governing collective bargaining in the public and private sectors, pursuant to Hawaii Revised Statutes (HRS) Chapters 89 and 377.

To promptly and fairly decide contests from the citations and orders of the Director of Labor and Industrial Relations relating to Occupational Safety and Health, pursuant to HRS Chapter 396.

B. Description of Program Objectives

1. Fairly conduct hearings and promptly decide prohibited practice and unfair labor practice complaints.
2. Provide impasse assistance where necessary.
3. Conduct representation proceedings and elections of exclusive representatives (i.e., certification, decertification, and amendment or clarification of appropriate bargaining units).
4. Determine the appropriateness of refunds of union dues to nonmember employees.
5. Fairly conduct hearings and promptly decide contests involving occupational safety and health issues.
6. Issue declaratory rulings on the applicability of statutes, rules, or orders of the Board to specific factual contexts.
7. Appear in court to defend its decisions and orders on appeal.

A Summary of the Objectives and Activities as Discussed in the Multi-Year and Financial Plan.

A primary objective of the Board is to enforce and protect the rights of employees and unions to organize and bargain collectively in balance with the employer's rights to manage operations as provided by HRS Chapters 89 and 377 by resolving disputes brought before it in a fair and timely manner.

The Board also strives to ensure the right of workers to a safe and healthful work environment and encourage employer and employee efforts to reduce injury and disease arising out of employment by fairly resolving contests from citations and decisions of the Director of Labor and Industrial Relations pursuant to HRS Chapter 396, Occupational Safety and Health.

- C. Explain how the Program intends to meet its objectives within the Biennium Budget.

The Board strives to conduct its hearings and other proceedings, such as representation elections and impasse proceedings, objectively and render credible and reliable decisions. The Board also reviews its performance and makes every effort to improve the quality and timeliness of its decisions and orders through the efforts of its members and staff.

In addition, in order to meet the current budget restrictions, the Board has reduced its expenses, e.g., dues and subscriptions for research materials and reduced court reporting and transcription services, unless cases are complex or appealed. The Board has also encouraged the parties to engage in dialog and address the controversies brought before it in order to reach a mutually agreeable resolution.

II. Program Performance Results

- A. Discuss the performance results achieved by each program in FY 2008.

During FY 2008, the Board conducted 70 pre-hearing or status conferences, 30 motions hearings, and eight (8) days of hearings on the merits of the contested cases before it. The Board closed 65 cases; 55 decisions and orders, or 84% of the dispositive orders were rendered within 30 days of the closing of the record. In addition, the Board was party to 21 court appeals or proceedings and was affirmed in 69% of the appeals in the Circuit Court or Supreme Court.

Thus far during FY 2009, the Board closed 31 cases; 25 decisions and orders, or 81% of the dispositive orders were rendered within 30 days of the closing of the record. The Board conducted 48 pre-hearing or status conferences, 28 motions hearings and three (3) days of hearings on the

merits of the contested cases before it. In addition, one (1) case was upheld on appeal.

The percentage of cases resolved within 30 days reflects the Board's and staff's efforts to dispose of pending cases either by decision or settlement. The percentage of cases resolved in a timely manner has increased from previous years. The percentage of cases upheld on appeal also varies depending on which cases are considered and decided by the appellate courts. This percentage has remained fairly constant.

- B. Explain how these results relate to the program's objectives and department's mission.

The Board administers the laws regulating employee relations in the public sector of Hawaii and the private sector which is not within the jurisdiction of the National Labor Relations Board. In addition, the Board decides contests arising from the decisions of the Director of Labor and Industrial Relations involving occupational safety and health. Thus, the efficiency of the Board in rendering credible decisions and orders resolving labor-management disputes and defining the rights of the employees, employers and the unions as well as in ensuring a safe working environment is critical in achieving good labor-management relations, workplace safety, and in promoting the department's objective of improving the quality of worklife for Hawaii's workers.

- C. Explain how the effectiveness of the Program is measured (i.e., outcome, measures of effectiveness, benchmarks, etc.) and discuss the performance results achieved during the past two years.

The effectiveness of the program is measured by the percentage of cases resolved within 30 days, and the percentage of cases which are upheld on appeal. During FY 2007, the percentage of cases resolved within 30 days was 84%, and the percentage of cases upheld on appeal was 95%. In FY 2008, the percentage of cases resolved within 30 days remained constant at 84%, and the percentage of cases affirmed on appeal decreased to 69%.

- D. Discuss actions taken by each Program to improve its performance results.

In order to increase the number of cases resolved and decrease the amount of time required to render decisions, cases are assigned to individual Board members to draft decisions and assist the parties in resolving the cases without proceeding through contested case proceedings. The Board also encourages persons with settlement

authority to attend the pre-hearing and initial conferences to engage in settlement discussions and resolve, if possible, the underlying issues.

- E. Identify all modifications to your program's performance measures and discuss the rationale for these modifications.

None.

III. Problems and Issues

- A. Discuss Problems and Issues Encountered if any.

None.

- B. Program Change Recommendations to Remedy Problems

None.

- C. Identify any program issues or problems that affected or will affect the implementation of the program, and corrective measures or remedies established or planned.

None.

IV. Expenditures for Fiscal Year 2008-2009

| | Acts 213/07,158/08 FY 2008 - 2009 | Collective Bargaining | ± Transfers Restriction | Available Resources | Est. Total Expenditures |
|-------------------|--------------------------------------|-----------------------|----------------------------|---------------------|-------------------------|
| Pos. Count | 1.00 | | | 1.00 | 1.00 |
| Personal Services | \$ 421,583 | \$ 33,312 | | \$ 454,895 | \$ 454,895 |
| Current Expenses | 44,836 | | (10,000) | 34,836 | 34,836 |
| Equipment | | | | | |
| Motor Vehicles | | | | | |
| Total | <u>\$ 466,419</u> | <u>\$ 33,312</u> | <u>\$ (10,000)</u> | <u>\$ 489,731</u> | <u>\$ 489,731</u> |
| Less: | | | | | |
| Pos. Count | | | | | |
| Special Fund | | | | | |
| Pos. Count | | | | | |
| Federal Fund | | | | | |
| Pos. Count | | | | | |
| Other Funds | | | | | |
| Pos. Count | 1.00 | | | 1.00 | 1.00 |
| Gen. Fund | \$ 466,419 | \$ 33,312 | \$ (10,000) | \$ 489,731 | \$ 489,731 |

- A. Explain all transfers within the Program ID and its impact on the Program.

None.

- B. Explain all transfers between Program IDs and its impact on the Program.

None.

- C. Explain all Restrictions and its Impact on the Program.

During FY 2009, restrictions were applied to all departmental budgets and the Board's budget was restricted and reduced by \$10,000. As the Board currently has no vacant positions, the \$10,000 was applied against the Board's operating expenses of \$44,836, leaving only \$34,836 for expenses during the year. In order to meet this challenge and conserve its resources, the Board reduced amounts spent for dues and subscriptions for research materials; reduced amounts spent for court reporting services and transcript costs, except in complex cases and for records on appeal; reduced inter-island travel for hearings; and reduced postage costs. Of these, the measure which most adversely affects the rights of our neighbor island constituents is the inter-island travel for hearings because the parties are required to attend the hearing in Honolulu and pay for the appearance of their witnesses. (HRS Section 89-5(j) provides, in part, that the Board consider conducting its hearings on another island whenever it is more cost-efficient in consideration of the parties and the witnesses. The Board already conducts pre-hearing or status conferences and motions hearings, by a conference call.)

In addition, the Board encourages the parties to work together to resolve the controversies underlying the complaints and petitions filed. The Board's efforts have resulted in the complaints being resolved prior to a full hearing on the merits.

The Board also anticipates revising its public sector and private sector collective bargaining procedural rules and promulgating rules for occupational safety and health contests in the forthcoming fiscal year which will unavoidably entail costs for publishing legal notices. Given the fiscal constraints faced by the entire State government, the Board will continue to be resourceful and efficient in the administration of its programs.

V. Biennium Budget Request for FY 2010 – FY 2011

| | Budget Request FY2009-2010 | Budget Request FY2010-2011 | Biennium Budget FY2010-FY2011 |
|-------------------|-------------------------------|-------------------------------|----------------------------------|
| Pos. Count | 1.00 | 1.00 | 1.00 |
| Personal Services | \$ 454,895 | \$ 454,895 | \$ 909,790 |
| Current Expenses | 34,836 | 34,836 | 69,672 |
| Equipment | | | |
| Motor Vehicles | | | |
| Total | <u>\$ 489,731</u> | <u>\$ 489,731</u> | <u>\$ 979,462</u> |
| Less: | | | |
| Pos. Count | | | |
| Special Fund | | | |
| Pos. Count | | | |
| Federal Fund | | | |
| Pos. Count | | | |
| Other Funds | | | |
| Pos. Count | 1.00 | 1.00 | 1.00 |
| Gen. Fund | \$ 489,731 | \$ 489,731 | \$ 979,462 |

A. Workload or Program Request

1. Description of request, reason for the request, and desired outcomes or objectives to be accomplished.

None.

2. Listing/description of positions requested, and funding requirements by cost category and source of funding.

None.

3. For all lump sum requests, please provide a breakout indicating specific purposes for all planned expenditures.

None.

- B. For all position count reductions, please specify whether the positions were filled, or vacant.

None.

- VI. Identify restrictions carried over from FY 2008-2009 as well as additional reductions due to the Department of Budget and Finance's budget ceilings for FY 2010-FY 2011.

- A. Description of the reduction, the reasons for the reduction and the impacts to the objectives to be accomplished by the program.

The Board's FY 2010-2011 budget also reflects the carryover of the \$10,000 reduction from FY 2009. It is difficult to predict the magnitude of the impacts to the program. The Board's objectives are to fairly and efficiently resolve the controversies brought before it. The Board will endeavor to minimize any negative impacts caused by the budget restrictions upon its constituents.

- B. Listing/description of the positions cut including source of funding; please specify whether the positions were filled or vacant.

None.

VII. Capital Improvement Request for FY2010-FY2011

None.

VIII. Proposed Lapses of Capital Improvement Program Projects

None.