

Program Structure Number: 020302

Program ID and Title: LBR 812, Labor and Industrial Relations Appeals Board

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

I. Introduction

A. Summary of Program Objectives

To assure equitable treatment of individuals through the prompt, just and inexpensive determination of appeals from decisions of the Director of Labor and Industrial Relations relating to Workers' Compensation and Boiler and Elevator Safety.

B. Description of Program Objectives

The Board's primary activity is to conduct contested case hearings pursuant to the Hawaii Administrative Procedures Act, Chapter 91, Hawaii Revised Statutes. All workers' compensation appeals from the Disability Compensation Division are considered de novo. De novo hearings are also conducted on appeals by employers from citations and penalties issued by the Hawaii Occupational Safety and Health Division, and related to boiler and elevator safety, as well as appeals of other matters authorized under various statutory provisions administered by the Department of Labor and Industrial Relations. To accomplish its primary mission, for each case, the Board schedules at least one pre-hearing conference and a settlement conference prior to conducting a trial on the merits. Hearings on pretrial motions are also held. Written decisions and orders are issued after motion hearings and trials. The Board's work is evenly spread throughout the fiscal year.

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

At the start of FY 2007-2008, the Board had a pending case load of 873 workers' compensation cases. There were 597 new appeals filed and the Board was able to dispose of 592 cases. This left 878 cases pending at the end of the fiscal year. In order to best resolve these cases, the Board conducted 568 pre-hearing conferences, 553 settlement conferences, and 238 hearings on motions. Eighty-six (86) cases went to trial. The remainder of the cases was resolved by Board member intervention during the conferences or disposed by other means.

There were no boiler and elevator safety appeals filed for the fiscal year.

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

The Board intends to meet its objectives within this fiscal biennium by continuing to work as best “as it is” able with the resources allocated.

II. Program Performance Results

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

The Board provides one primary service, which is, resolving appeals of cases arising out of the workers’ compensation and the boiler and elevator safety laws. Therefore, program effectiveness is essentially measured by the program’s Measures of Effectiveness previously filed herein. See also paragraph II.C. of this report.

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

The Board seeks to assure the quality of work-life for workers by protecting their physical well-being and enhancing their productivity.

- 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.

Program effectiveness is measured by the average time from filing of appeals to resolution, and the percentage of Board decisions sustained after judicial review (the Intermediate Appellate Court for workers’ compensation cases and the Circuit Court for boiler and elevator safety cases). For FY 2007-2008, the average time for processing a workers’ compensation appeal was 15 months; 80% of the Board’s decisions were sustained on review.

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

In an effort to provide parties with the earliest possible trial date, the Board has been setting multiple cases for hearing per day. Every effort is made by the Board to resolve these cases by settlement in order to provide a workable trial calendar.

In addition, the Board was able to secure adequate funding, from the

2008 Legislature, for a hearings officer position that was previously underfunded. The use of the hearings officer by the Board may help in reducing the time it takes to schedule cases for hearing and, thus, shorten the time required for resolution of cases on appeal. The Board is submitting legislation to expressly list a hearings officer as part of the support staff of the Board.

- E. Please 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.

Due to budget reductions that have been assessed against the Board, the Board will not be able to fill two (2) untimely vacancies. These vacancies are for legal assistant positions. The legal assistant serves as a staff attorney to the Board and provides legal research and opinion drafts for Board decisions and orders. This requires a comprehensive analysis of facts and issues in connection with cases before the Board relative to the law, current case decisions authorities, and other references. Because of the nature of cases on appeal, the legal assistant must similarly be conversant with medical facts and issues. The legal assistant also assists the Board in the preparation for and the conduct of pre-trial hearings and trials, and may provide legal counsel and representation when necessary. The Board's increasing case load and pre-hearing and trial schedule necessitate greater reliance on the legal assistant to cull through voluminous case files and medical records, conduct legal research, and draft Board Orders and Decisions. Given the Board's heavy case load and the number of appeals, any reduction in staff will seriously impair the Board's ability to maintain its present level of service and may undermine the effectiveness of the Board's day-to-day operations.

- B. Program Change Recommendations to Remedy Problems

Due to the volume of appeals filed, most cases are presently scheduled for trial by the Board more than a year after their receipt. After a case is heard, issuance of a decision is rendered as soon thereafter as possible.

The Board continues to strive to decrease the number of cases carried over each year to improve productivity and resolve cases in a timely fashion

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

See above.

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	12.00			12.00	12.00
Personal Services	\$ 768,389	\$ 59,292	(33,103)	\$ 794,578	\$ 794,578
Current Expenses	59,177			59,177	59,177
Equipment					
Motor Vehicles					
Total	\$ 827,566	\$ 59,292	(33,103)	\$ 853,755	\$ 853,755
Less:					
Pos. Count					
Special Fund					
Pos. Count					
Federal Fund					
Pos. Count					
Other Funds					
Pos. Count	12.00			12.00	12.00
Gen. Fund	827,566	59,292	(33,103)	853,755	853,755

* No Transfer In/Out

- 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.

The restriction of \$33,103 in general funds is the remainder of the unpaid salary of the currently vacant legal assistant position. As noted above, the failure to continue to fund and fill this position will have a negative impact on the Board and seriously undermine the effectiveness of the Board's day-to-day operations.

V. Biennium Budget Request for FY2010 & FY2011

	Budget Request FY2009-2010	Budget Request FY2010-2011	Biennium Budget FY2010-FY2011
Pos. Count	10.00	10.00	10.00
Personal Services	\$ 701,071	\$ 701,071	\$ 1,402,142
Current Expenses	59,177	59,177	118,354
Equipment			
Motor Vehicles			
Total	<u>\$ 760,248</u>	<u>\$ 760,248</u>	<u>\$ 1,520,496</u>
Less:			
Pos. Count			
Special Fund			
Pos. Count			
Federal Fund			
Pos. Count			
Other Funds			
Pos. Count	10.00	10.00	10.00
Gen. Fund	760,248	760,248	1,520,496

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.

Positions are vacant.

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 faces reduction of two legal assistant positions and \$126,610 in general funds for those positions. The impact of such reduction is described in Part III. Problems and Issues above.

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

Two legal assistant positions. Source of funding is general funds. The positions are vacant.

VII. Capital Improvement Request for FY 2010 – FY 2011

None.

VIII. Proposed Lapses of Capital Improvement Program Projects

None.