EMPLOYMENT RELATIONS BOARD
Annual Performance Progress Report (APPR)
for Fiscal Year 2005-06

2007-09 Budget Form 107BF04c

Due: September 30, 2006
Submitted: September 7, 2006

To obtain additional copies of this report, contact the Employment Relations Board at 503-378-3807, 528 Cottage Street NE, Suite 400, Salem, OR 97301-3807, or visit http://www.oregon.gov/DAS/OPB/GOVresults.shtml#Annual_Performance_Reports.

Agency Mission

The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations for approximately 3,000 employers and 250,000 employees in the public and private sector under its jurisdiction.

The agency administers three separate statutory schemes. The Public Employee Collective Bargaining Act (ORS 243.650 through 243.766) which covers collective bargaining in state and local government; the State Personnel Relations Law (ORS Chapter 240) which creates appeal rights for non-union state employees who believe they were treated unfairly in the workplace; and the private sector labor-management relations law (ORS 662.405 through 662.455, and 663.005 through 663.295) which addresses collective bargaining for private sector employees who are not covered by federal law. The agency's administrative rules are in OAR Chapter 115.

The agency provides four main services to public employers and labor organizations: mediation services, contested case hearings, labor appeals cases, and representation elections.

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ABOUT THIS REPORT

Purpose of Report

The purpose of this report is to summarize the agency's performance for the reporting period, how performance data are used, and to analyze agency performance for each key performance measure legislatively approved for the 2005-07 biennium. The intended audience includes agency managers, legislators, fiscal and budget analysts, and interested citizens.

1. PART I: EXECUTIVE SUMMARY defines the scope of work addressed by this report and summarizes agency progress, challenges, and resources used.
2. PART II: USING PERFORMANCE DATA identifies who was included in the agency's performance measure development process and how the agency is managing for results, training staff, and communicating performance data.
3. PART III: KEY MEASURE ANALYSIS analyzes agency progress in achieving each performance measure target and any corrective action that will be taken. This section, the bulk of the report, shows performance data in table and chart form.

KPM = Key Performance Measure

The acronym "KPM" is used throughout to indicate **K**ey **P**erformance **M**easures. Key performance measures are those highest-level, most outcome-oriented performance measures that are used to report externally to the legislature and interested citizens. Key performance measures communicate in quantitative terms how well the agency is achieving its mission and goals. Agencies may have additional, more detailed measures for internal management.

Consistency of Measures and Methods

Prior to June 30, 2005, data was based on the calendar year. The report submitted in September 2005 used data for the 18-month period from January 1, 2004, through June 30, 2005, and beginning with this report, all data will be based on a fiscal year to better correspond with the budget cycle and any changes made during a legislative session.

AGENCY NAME: EMPLOYMENT RELATIONS BOARD

TABLE OF MEASURES

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

2005-07 KPM#	2005-07 Key Performance Measures (KPMs)	Page #
1	Union representation -- Average number of days to resolve a petition for union representation: (a) when a contested case hearing is required; (b) when a contested case hearing is not required.	8
2	Administrative Law Judge (ALJ) hearings -- Average number of days from the date of filing of a contested case to: (a) the first date an ALJ is available to hear the case; (b) the actual date of the hearing.	10
3	Settling cases -- Percentage of cases assigned to an ALJ that are settled or withdrawn prior to hearing.	12
4	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.	14
5	Final Board orders -- Average number of days from submission of a case to the Board until issuance of a final order.	16
6	Process complaints in a timely manner -- Average number of days to process a case that involves a hearing, from the date of filing to the date of the final order.	18
7	Caseload -- Number of cases (i) filed/(ii) disposed/(iii) pending before: (a) Administrative Law Judges; (b) The Board.	20
8	Cases pending -- For cases that are pending at the close of the reporting period: (a) average number of days from filing for cases pending before ALJs; (b) average number of days from submission for cases pending before the Board.	21
9	Appeals -- Percentage of Board Orders which are (a) appealed; (b) reversed on appeal.	22
10	Mediation effectiveness -- Percentage of contract negotiations disputes that are resolved by mediation: (a) for strike-permitted employees; (b) for strike-prohibited employees.	24
11	Mediator availability -- Average number of days following a request for mediation assistance in contract negotiations to the date: (a) a mediator is available to work with the parties; (b) the first mediation session occurs.	26
12 & 13	Customer Satisfaction – Percentage of customers rating their overall satisfaction with the agency's customer service as "good" or "excellent": (a) timeliness; (b) accuracy; (c) helpfulness; (d) expertise; (e) information availability.	28

AGENCY NAME: EMPLOYMENT RELATIONS BOARD

I. EXECUTIVE SUMMARY

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

Contact: Donna Sandoval Bennett, Chair	Phone: 503-378-8036
Alternate: Leann G. Wilcox, Office Administrator/Performance Measure Coordinator	Phone: 503-378-8610

1. SCOPE OF REPORT

Agency Programs: The agency has responsibility for Appeals, Conciliation Services, Hearings, and Elections. All programs are addressed by key performance measures.

- Employment Relations Board (Appeals). The Board is the state's "labor appeal court" for labor and management disputes within state and local governments. The three-member Board issues final agency orders in declaratory rulings, contested case adjudications of unfair labor practice complaints, representation matters, appeals from state personnel actions, and related matters. The Board also administers state labor laws that cover private sector employees that are exempt from the National Labor Relations Act. The Board Chair is also the agency administrator. The board secretary assists with clerical needs.
- Conciliation Services. The Conciliation Service Office is comprised of the State Conciliator, two mediators and .5 FTE support staff. They provide mediation and conciliation services to resolve collective bargaining disputes, contract grievances, unfair labor practices, and representation matters; maintain a list of qualified labor arbitrators; and provide training in methods of alternative dispute resolution, labor/management cooperation, problem solving, and other similar programs designed for the specific needs of the parties.
- Hearings. The Hearings Office is comprised of two Administrative Law Judges (ALJ) and one support staff. The ALJs hear all unfair labor practice complaints filed by state and local government labor and management representatives, all state personnel appeals, and representation matters referred by the Elections Coordinator that require a contested case hearing. Following contested case hearings, the ALJs issue recommended decisions which the parties can appeal to the Board.
- Elections. The Elections Coordinator processes all petitions involving union representation and composition of the bargaining unit, conducts elections when necessary, and certifies election results. Elections is staffed by a .5 FTE.

2. THE OREGON CONTEXT

The public policy underlying the work of the Employment Relations Board and its supporting statutes is to promote stability in the workplace and to reduce workplace disputes and the accompanying costs and disruption of services. All Oregonians benefit from the agency's services. Collective bargaining establishes a process for resolving disputes over public employee wages, hours, and other employment conditions. Similarly, the State Personnel Relations Law resolves workplace disputes involving non-union state

employees. The Board also administers state labor laws that cover private sector employees that are exempt from the National Labor Relations Act.

Resolution of workplace disputes insures the public that it will continue to receive public services without impairment or interruption, creates a more stable and productive workforce, and reduces the costs of recruitment and training. Equally important, resolution of workplace disputes is faster, more efficient, and less expensive than settling disagreements through court proceedings. The resultant outcomes support the state's goal of economic growth. Companies that are looking to relocate in Oregon, as well as those deciding whether to stay, inevitably will consider whether there are stable and efficient public services to support their business.

The agency has determined that its Key Performance Measures have no primary links to Oregon Benchmarks.

3. PERFORMANCE SUMMARY

Two of the agency's measures were requested by the 2005 Legislature and are for information only, #7 Caseload and #8 Cases Pending. The Customer Satisfaction measure, #12, is new and targets were not established for this reporting period.

The agency did not meet targets on 4.5 of its remaining nine measures. Several factors contributed to these results.

Over the last several biennia, agency staff has been reduced without a commensurate reduction in workload. In the 1995-1997 biennium, the agency had 21 FTE; in 1999-2001, 18 FTE; and by the 2003-2005 biennium, staff had been reduced to 12 FTE. In comparison, there were 315 cases filed in 1995-1997; 317 in 1999-2001; and 272 in 2003-2005.

Resources did not keep up with the needs of the agency. Computer systems were outdated, the purchase of research materials was discontinued, and staff did not receive the training necessary to do their jobs. This biennium the agency has updated its computers and software, including a new database to track cases; subscribed to on-line research tools; and made sure staff received training necessary to perform their jobs accurately and efficiently.

Additionally, for several years the difficult economic and budget conditions have had a negative impact on labor relations. Cases have become more complex and disputes more difficult to settle because of salary freezes, the rising cost of health insurance, and other factors. In addition, there was significant turnover in Board members and other key personnel. Because of the knowledge and experience required, especially relating to the Public Employees Collective Bargaining Act (PECBA) and the State Personnel Relations Law (SPRL), it takes time and training for new personnel to become fully conversant with the statutes and case law.

I. EXECUTIVE SUMMARY

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM Progress Summary	Key Performance Measures (KPMs) with Page References	# of KPMs
KPMs MAKING PROGRESS at or trending toward target achievement	#1(b), Union Representation, contested case hearing *not* required, page 6 #3, Settling Cases, page 10 #6, Process Complaints in a Timely Manner, Page 16 #9, Appeals; page 20 #11, Mediator Availability, page 24	4.5
KPMs NOT MAKING PROGRESS not at or trending toward target achievement	#1(a), Union Representation, contested case hearing *required*, page 6 #2, Administrative Law Judge Hearings, Page 8 #4, Recommended Orders, page 12 #10, Mediation Effectiveness, page 22	3.5
KPMs - PROGRESS UNCLEAR target not yet set	#5, Final Board Orders, page 14 #7 Caseload (information only), page 18 #8 Caseload (information only), page 19 #12, Customer Service, page 26	4
	Total Number of Key Performance Measures (KPMs)	12

4. CHALLENGES

The agency still has many challenges to overcome. One of our most immediate challenges is to keep up with our workload. Over the last several biennia, staff has been reduced, from 20.0 FTE in 199-5-97 to 12.0 FTE in 2003-2005. At this time, the agency is primarily impacted by the reduction in administrative law judges (ALJ). The number of administrative law judges was reduced from three during the 1995-97 biennium to two for the 2003-05 and 2005-07 biennia. Workload has not decreased proportionately. The full impact of the reduction was mitigated in the 2003-05 biennium because the agency was able to hire a contract judge for about 650 hours with money from the Emergency Board and other agency savings, funding sources which are no longer available.

The agency has exhausted all available resources to assist the ALJs with their workload. To meet constituent expectations and future targets, another ALJ is necessary. The agency is requesting authorization and financing for an additional ALJ.

Another challenge for the agency has been personnel. Since the beginning of 2003, an unusually large number of key personnel left the agency. Two board members resigned and two were not reappointed. An experienced mediator took another job, and the chief administrative law judge, with 23 years of experience, retired. In an agency with 12 employees, this is an extraordinarily high turnover. Although the agency hired capable replacements, the lost experience leaves a gap that requires some time to fill.

There have been other areas of concern over the past bienna, many of which have been addressed. At the request of the Legislative Emergency Board, DAS conducted an audit of agency operations and made suggestions for improvement. In response to the audit, the agency has done the following:

- Obtained access to on-line and other research tools;
- Obtained computer programs to assist in collection of performance data and generation of reports;
- Reorganized staff for more efficient delivery of services;
- Hired an office administrator with experience in the state's budget and allotment processes;
- Purchased modern recording equipment so that hearings need not be postponed due to equipment malfunction;
- Upgraded computer equipment and software and made sure staff received training necessary to perform their jobs accurately and efficiently; and
- Drafted more appropriate performance measures

5. RESOURCES USED AND EFFICIENCY

For Fiscal Year 2006, agency expenditures were $1,405,408 in Personal Services and $242,780 in Services and Supplies, approximately one-half of our biennial budget. 85% of the budget is for payroll expenses.

None of the agency's key performance measures are efficiency measures. However, travel for local government cases was restricted during a portion of the fiscal year. This served two purposes:

(a) reduced agency expenditures, allowing the agency to accomplish many of the actions needed to bring the agency up to date, such as purchase computer equipment and programs; and
(b) provided more time for the Administrative Law Judges to write recommended orders. For each hearing, this can provide an additional two days of writing time for the Administrative Law Judge.

However, instead of the Administrative Law Judge traveling to the site of the dispute, the parties and all the witnesses have to travel to Salem; a burden of time and expense for the parties.

AGENCY NAME: EMPLOYMENT RELATIONS BOARD

II. USING PERFORMANCE DATA

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

Contact: Donna Sandoval Bennett, Chair	Phone: 503-378-8036
Alternate: Leann G. Wilcox, Office Administrator/Performance Measure Coordinator	Phone: 503-378-8610

The following questions indicate how performance measures and data are used for management and accountability purposes.	
1 INCLUSIVITY Describe the involvement of the following groups in the development of the agency's performance measures.	• Staff: Staff and stakeholders provided input on agency workloads and the timely delivery of services for elections, mediations, and contested cases. Measures were derived from this input. • Elected Officials: Elected officials reviewed and added measures for the agency to track. • Stakeholders: Staff and stakeholders provided input on agency workloads and the timely delivery of services for elections, mediations, and contested cases. Measures were derived from this input • Citizens: N/A
2 MANAGING FOR RESULTS How are performance measures used for management of the agency? What changes have been made in the past year?	This data measures the agency's success toward achievement of agency goals and assists in determining what changes may be necessary. It also influences the agency's budget and caseload priorities, including case assignment, case management, performance evaluations, and staffing.
3 STAFF TRAINING What training has staff had in the past year on the practical value and use of performance measures?	Agency management staff received training from the Oregon Progress Board and that information was disseminated to agency staff. This training is on-going.

II. USING PERFORMANCE DATA

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

4 COMMUNICATING RESULTS How does the agency communicate performance results to each of the following audiences and for what purpose?	• Staff: Results are shared with staff on a regular basis. • Elected Officials: Elected Officials received annual reports; additionally, data collected for these measures and for other areas of interest is shared with officials as requested. • Stakeholders: Annual reports are posted on the agency website. In addition, constituents are invited to periodic brown bag lunches to give the agency input on its work and what needs to be done and to share information, such as performance measure results. • Citizens: Annual reports are posted on the agency website.

III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #1	UNION REPRESENTATION Average number of days to resolve a petition for union representation: (a) when a contested case hearing is required; (b) when a contested case hearing is not required.	Measure since: 2006
Goal	# 1 -- To timely process petitions concerning union representation.	
Oregon Context	Mission.	
Data source	Data is reported for the year the process is complete. A petition is resolved when the results of an election are certified or when the Board issues an order clarifying the bargaining unit or dismissing the petition.	
Owner	Hearings Office: Vickie Cowan, Chief Administrative Law Judge, 503-378-8038	

1. **OUR STRATEGY**

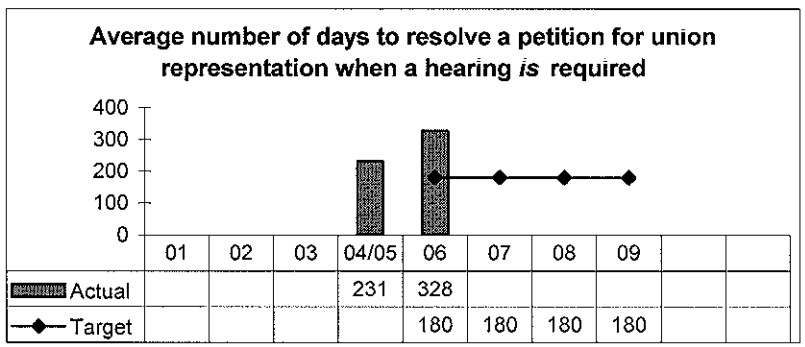
   The administrative law judges (ALJ) will continue to work with the parties to attempt to find a resolution of the conflict so the case can proceed to election or otherwise be resolved without a contested case hearing.

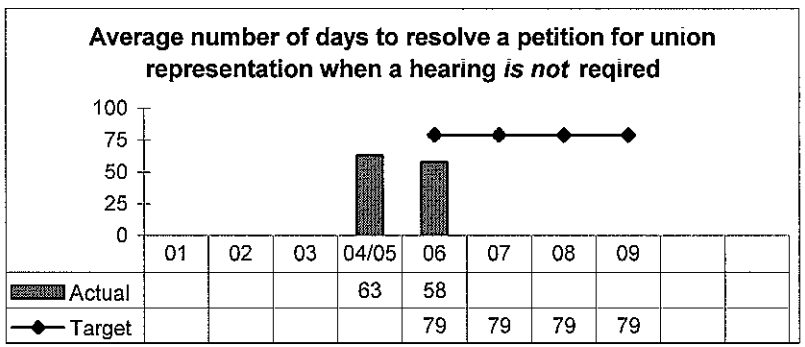
   The agency will continue its outreach to customers, providing education on process, procedures, and the need to submit accurate information and properly completed paperwork.

   Our constituents are state and local governments and state employees covered by the State Personnel Relations Law and Public Employees Collective Bargaining Agreement (PECBA). Private sector employees that are exempt from the National Labor Relations Act can also appeal to the Board.

2. **ABOUT THE TARGETS**

   A prompt decision by an ALJ in a contested election case means the process moves quickly and efficiently and the dispute causes less workplace disruption, saving taxpayers' money and increasing productivity. Contested representation cases should be resolved faster than other cases requiring contested case hearings.





III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

Prompt processing of uncontested representation petitions helps minimize the organizing campaigns that occur in and around the workplace and gives employees timely resolution regarding their workplace rights.

Both categories should come in at or under the target. These targets are based on past experience and the needs of our constituents.

3. **HOW WE ARE DOING**

Representation cases involving a contested case hearing take longer than uncontested cases to process. During this reporting period, it took 148 days (82%) longer than was targeted to resolve these cases, which was 97 days longer than last reporting period. At current staffing levels, a decrease in the time it takes to process contested representation cases is not expected.

Our Elections Coordinator works closely with petitioners to obtain the information and paperwork necessary to process uncontested cases in an efficient and timely manner, markedly faster than the target set for such cases.

4. **HOW WE COMPARE**

There is no comparative data available. The National Labor Relations Board (NLRB) and comparable agencies in other states are structured differently and guided by different requirements and statutory obligations, so no comparison can be made. For instance, although the NLRB completes employee elections 40-45 days after the petition is filed, it conducts on-site elections. Lacking the personnel to do this, ERB conducts elections by mailwhich adds at least two to three weeks to the process.

5. **FACTORS AFFECTING RESULTS**

The number of administrative law judges was reduced from three during the 1995-97 biennium to two for the 2003-05 and 2005-07 biennia. Workload has not decreased proportionately. The full impact of the reduction was mitigated in the 2003-05 biennium because the agency was able to hire a contract judge for about 650 hours with money from the Emergency Board and other agency savings. Those funding sources are no longer available.

6. **WHAT NEEDS TO BE DONE**

The agency has exhausted all available resources to assist the ALJs with their workload. To meet constituent expectations and future targets, another ALJ is necessary. The agency is requesting authorization and financing for an additional ALJ.

7. **ABOUT THE DATA**

Data is now being reported by the Oregon fiscal year. Prior to the report submitted September 30, 2005, data was reported by calendar year. To make this conversion without losing any data, the 2005 report was for 18 months.

A new database was designed to ensure accuracy and consistency of information. To further ensure accuracy, data input during processing of the case is reviewed throughout the process and when the case is closed.

III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #2	ADMINISTRATIVE LAW JUDGE (ALJ) HEARINGS Average number of days from the date of filing of a contested case to: (a) the first date an ALJ is available to hear the case; (b) the actual date of the hearing.	Measure since: 2006
Goal	#2 – To timely process complaints and appeals.	
Oregon Context	Mission.	
Data source	Data is counted in the year ALJ is available and the year the first day of hearing is held.	
Owner	Hearings Office: Vickie Cowan, Chief Administrative Law Judge, 503-378-8038	

1. **OUR STRATEGY**

   The administrative law judges (ALJ) will continue to schedule and hold hearings as quickly as calendars allow.

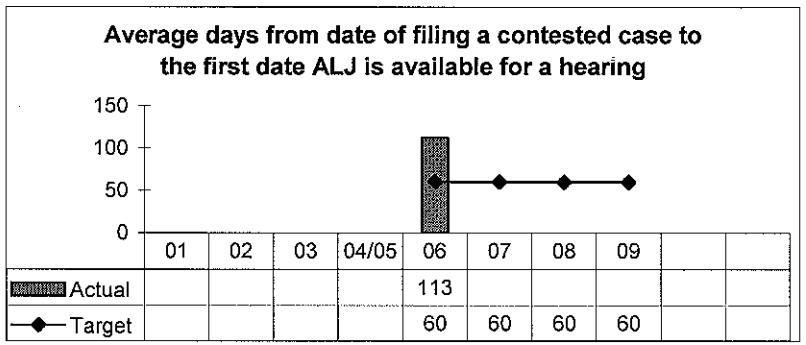
   Our constituents are state and local governments and state employees covered by the State Personnel Relations Law and Public Employees Collective Bargaining Agreement (PECBA). Private sector employees that are exempt from the National Labor Relations Act can also appeal to the Board.

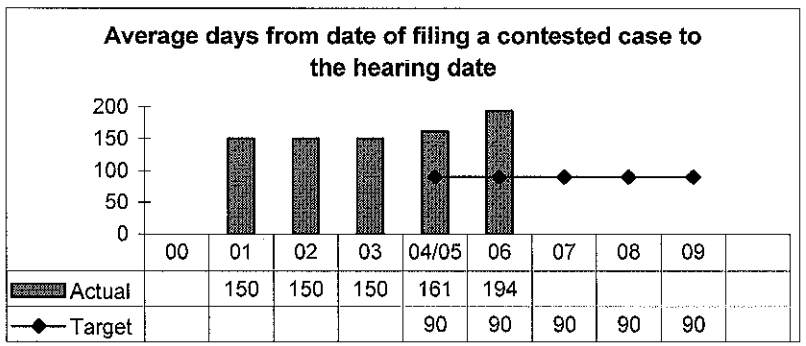
2. **ABOUT THE TARGETS**

   The sooner an ALJ is available and a hearing is held, the faster a case can be resolved. Availability dates and hearing held dates should come in at or below the targets.

   The first date an ALJ is available to hear a case is a more accurate measurement of workload and efficiency. The actual date a hearing is held can be affected by the parties' availability, on-going negotiations between the parties, and other factors beyond the control of the ALJ.

   Data should come in at or below the targets





III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

3. **HOW WE ARE DOING**
   The time between filing a case and the first date an ALJ is available for a hearing is almost twice that of the target. The average days from the date of filing to the first scheduled date has more than doubled during this reporting period. Past data for ALJ availability is not available, but the trend for the length of time to hold a hearing is rising and is expected to continue at or above the current level.

4. **HOW WE COMPARE**
   There is no comparative data available.

5. **FACTORS AFFECTING RESULTS**
   Over time, the number of administrative law judges was reduced from three during the 1995-97 biennium to two for the 2003-05 and 2005-07 biennia. Workload has not decreased proportionately. The full impact of the reduction was mitigated in the 2003-05 biennium because the agency was able to hire a contract judge for about 650 hours with money from the Emergency Board and other agency savings, funding sources which are no longer available.

   In addition, the difficult economic and budget conditions in place for several years had a negative impact on labor relations. Cases have become more complex and disputes more difficult to resolve because of salary freezes, the rising cost of health insurance, and other factors.

6. **WHAT NEEDS TO BE DONE**
   The agency has exhausted all available resources to assist the ALJs with their workload. To meet future targets and constituent expectations, another ALJ is urgently needed. The agency is submitting a request for authorization and financing for an additional ALJ.

7. **ABOUT THE DATA**
   Data is now being reported by the Oregon fiscal year. Prior to the report submitted September 30, 2005, data was reported by calendar year. To make this conversion without losing any data, the 2005 report was for 18 months.

   A new database was designed to ensure accuracy and consistency of information. To further ensure accuracy, data input during processing of the case is reviewed throughout the process and when the case is closed.

III. KEY MEASURE ANALYSIS

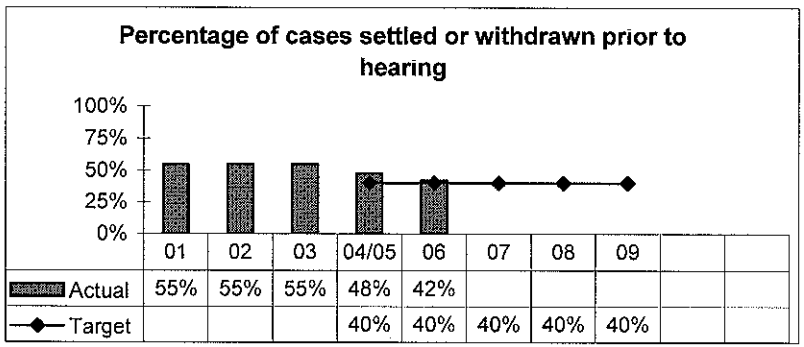
Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #3	SETTLING CASES Percentage of cases assigned to an ALJ that are settled or withdrawn prior to hearing.	Measure since: 2005
Goal	#2 – To timely process complaints and appeals.	
Oregon Context	Mission.	
Data source	Percentage of cases assigned to an ALJ that are settled or withdrawn prior to hearing. Excludes uncontested representation cases.	
Owner	Hearings Office: Vickie Cowan, Chief Administrative Law Judge, 503-378-8038	

1. **OUR STRATEGY**

   As cases are filed, administrative law judges (ALJ) will continue to spend as much time as their schedules allow working with the parties to try to facilitate a settlement.

   Our constituents are state and local governments and state employees covered by the State Personnel Relations Law and Public Employees Collective Bargaining Agreement (PECBA). Private sector employees that are exempt from the National Labor Relations Act can also appeal to the Board.



	01	02	03	04/05	06	07	08	09
Actual	55%	55%	55%	48%	42%			
Target				40%	40%	40%	40%	40%

2. **ABOUT THE TARGETS**

   Settling cases prior to a hearing saves all the parties time and money. The percentage settled or withdrawn should come in at or above the target.

3. **HOW WE ARE DOING**

   The intent is to settle cases prior to a hearing. Over the last five years, the percentage of cases settled prior to hearing has decreased, and it is just slightly better than the target for the current reporting period. The current trend is downward, indicating this target may not be achieved during the next reporting period.

4. **HOW WE COMPARE**

   There is no comparative data available.

III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

5. **FACTORS AFFECTING RESULTS**

The number of administrative law judges was reduced from three during the 1995-97 biennium to two for the 2003-05 and 2005-07 biennia. Workload has not decreased proportionately. The full impact of the reduction was mitigated in the 2003-05 biennium because the agency was able to hire a contract judge for about 650 hours with money from the Emergency Board and other agency savings. Those funding sources are no longer available.

Because of the increased workload, ALJs have less time to spend working with the parties to facilitate a settlement of the case prior to hearing.

6. **WHAT NEEDS TO BE DONE**

The agency has exhausted all available resources to assist the ALJs with their workload. To meet future targets and constituent expectations, another ALJ is urgently needed. The agency is submitting a request for authorization and financing for an additional ALJ.

7. **ABOUT THE DATA**

Data is now being reported by the Oregon fiscal year. Prior to the report submitted September 30, 2005, data was reported by calendar year. To make this conversion without losing any data, the 2005 report was for 18 months.

A new database was designed to ensure accuracy and consistency of information. To further ensure accuracy, data input during processing of the case is reviewed throughout the process and when the case is closed.

III. KEY MEASURE ANALYSIS

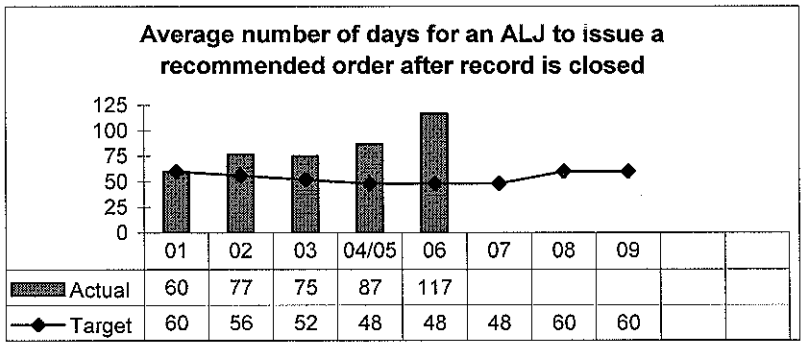
Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #4	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.	Measure since: 2001
Goal	#2 – To timely process complaints and appeals.	
Oregon Context	Mission.	
Data source	Record closes at the end of the hearing or upon receipt of post-hearing briefs. Data is reported in the year in which the recommended order is issued.	
Owner	Hearings Office: Vickie Cowan, Chief Administrative Law Judge, 503-378-8038	

1. **OUR STRATEGY**

   The agency is committed to providing time for the administrative law judges (ALJs) to write their recommended orders.

   Our constituents are state and local governments and state employees covered by the State Personnel Relations Law and Public Employees Collective Bargaining Agreement (PECBA). Private sector employees that are exempt from the National Labor Relations Act can also appeal to the Board.



	01	02	03	04/05	06	07	08	09		
Actual	60	77	75	87	117					
Target	60	56	52	48	48	48	60	60		

2. **ABOUT THE TARGETS**

   A prompt decision by an ALJ helps prevent work stoppages and reduces workplace disruption, saving taxpayers' money and increasing productivity. The data should be at or below the target.

III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

3. **HOW WE ARE DOING**
   During the last fiscal year, it averaged 69 days (144%) longer than the target for ALJs to write a recommended order. The trend indicates that it will continue to take longer to produce recommended orders.

4. **HOW WE COMPARE**
   There is no comparative data available.

5. **FACTORS AFFECTING RESULTS**
   The number of administrative law judges was reduced from three during the 1995-97 biennium to two for the 2003-05 and 2005-07 biennia. Workload has not decreased proportionately. The full impact of the reduction was mitigated in the 2003-05 biennium because the agency was able to hire a contract judge for about 650 hours with money from the Emergency Board and other agency savings, funding sources which are no longer available.

   Delays are primarily caused by the increase in caseload. However, the difficult economic and budget conditions in place for several years have had a negative impact on labor relations. Cases have become more complex and disputes more difficult to resolve because of salary freezes, the rising cost of health insurance, and other factors, adding to the delays.

6. **WHAT NEEDS TO BE DONE**
   The agency has exhausted all available resources to assist the ALJs with their workload. To meet future targets and constituent expectations, another ALJ is necessary. The agency is submitting a request for authorization and financing for an additional ALJ.

7. **ABOUT THE DATA**
   Data is now being reported by the Oregon fiscal year. Prior to the report submitted September 30, 2005, data was reported by calendar year. To make this conversion without losing any data, the 2005 report was for 18 months.

   A new database was designed to ensure accuracy and consistency of information. To further ensure accuracy, data input during processing of the case is reviewed throughout the process and when the case is closed.

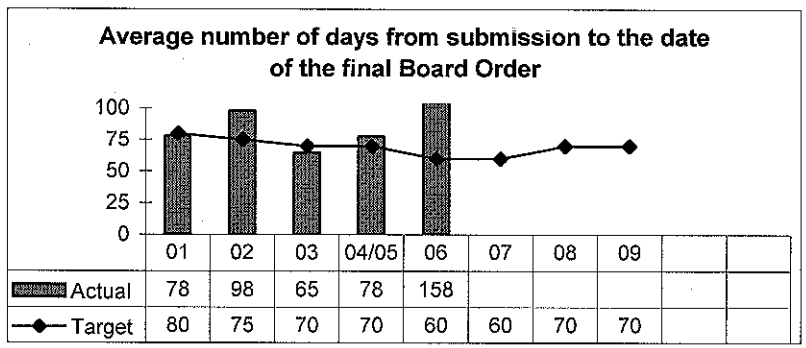
III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #5	FINAL BOARD ORDERS Average number of days from submission of a case to the Board until issuance of a final order.	Measure since: 2001
Goal	#2 – To timely process complaints and appeals.	
Oregon Context	Mission.	
Data source	A case is submitted after oral argument or on the 15th day after the recommended order is issued if there are no objections. Uncontested representation petitions are considered submitted on the date filed.	
Owner	Board: Donna Sandoval Bennett, Board Chair, 503-378-38036	

1. **OUR STRATEGY**
   Board members will continue to work collaboratively to maximize individual expertise and knowledge to expedite completion of final Board Orders.

   Our constituents are state and local governments and state employees covered by the State Personnel Relations Law and Public Employees Collective Bargaining Agreement (PECBA). Private sector employees that are exempt from the National Labor Relations Act can also appeal to the Board.



	01	02	03	04/05	06	07	08	09		
Actual	78	98	65	78	158					
Target	80	75	70	70	60	60	70	70		

2. **ABOUT THE TARGETS**
   Targets are based on past history and the needs of our constituents. Data should come in at or below the target.

3. **HOW WE ARE DOING**
   During the last fiscal year, it averaged 98 days (163%) longer than the target for a final Board Order to be issued. Prior to that spike, the trend fluctuated. It is anticipated that the data will be high again next fiscal year, although lower than this reporting period, but the Board should be able to meet or come close to targets in future years.

4. **HOW WE COMPARE**
   There is no comparative data available.

III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

5. **FACTORS AFFECTING RESULTS**

During the 2003-2005 biennium, one of the three Board positions was vacant for more than five months and a second Board member was relatively new. During Fiscal Year 2006, the Board membership changed again and a new Chair was appointed. At that time, there was a docket of cases dating back to 2002. As of June 30, most of the old cases had been resolved, resulting in the spike in the length of time to produce a final Board Order. There are still two old cases before the Board, but Board Orders should be issued by the end of the summer. This will cause the statistics to be high again next fiscal year, but the Board should be able to meet or come close to targets in following years.

6. **WHAT NEEDS TO BE DONE**

The Board needs to clear its docket of all older cases, which should be completed by the end of the summer, and make sure all current and future cases are processed on a timely basis.

7. **ABOUT THE DATA**

Data is now being reported by the Oregon fiscal year. Prior to the report submitted September 30, 2005, data was reported by calendar year. To make this conversion without losing any data, the 2005 report was for 18 months.

A new database was designed to ensure accuracy and consistency of information. To further ensure accuracy, data input during processing of the case is reviewed throughout the process and when the case is closed.

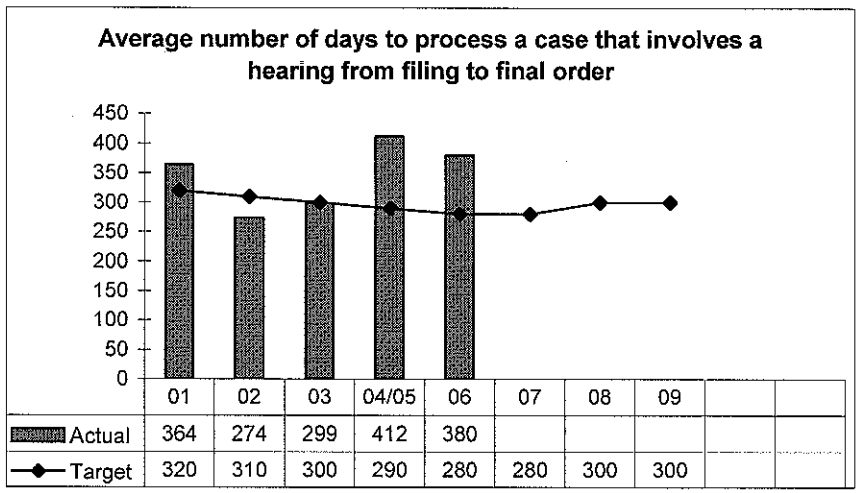
III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #6	PROCESS COMPLAINTS IN A TIMELY MANNER Average number of days to process a case that involves a hearing, from the date of filing to the date of the final order.	Measure since: 2001
Goal	#2 – To timely process complaints and appeals.	
Oregon Context	Mission.	
Data source	This excludes any time a case is under the jurisdiction of the appellate courts.	
Owner	Hearings Office: Vickie Cowan, Chief Administrative Law Judge, 503-378-8038	

1. **OUR STRATEGY**
   This performance measure relates to the agency's goal to help ensure that government services to the public continue without impairment or interruption. This combines the steps measured in KPMs 1 through 5.

   Our constituents are state and local governments and state employees covered by the State Personnel Relations Law and Public Employees Collective Bargaining Agreement (PECBA). Private sector employees that are exempt from the National Labor Relations Act can also appeal to the Board.



	01	02	03	04/05	06	07	08	09		
Actual	364	274	299	412	380					
Target	320	310	300	290	280	280	300	300		

2. **ABOUT THE TARGETS**
   Targets are based on past history and the needs of our constituents. Data should come in at or below the target.

3. **HOW WE ARE DOING**
   It is taking longer for administrative law judges (ALJ) to process cases and for the Board to issue final orders, which in turn increases the length of time from filing to the final order. At current staffing levels, the length of time for an ALJ to process a case is not expected to decrease. The length of time for the Board to issue a final order is expected to decrease when their docket is cleared of old cases, which should occur before the end of summer.

III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

4. **HOW WE COMPARE**
   There is no comparative data available.

5. **FACTORS AFFECTING RESULTS**
   The number of administrative law judges was reduced from three during the 1995-97 biennium to two for the 2003-05 and 2005-07 biennia. Workload has not decreased proportionately. The full impact of the reduction was mitigated in the 2003-05 biennium because the agency was able to hire a contract judge for about 650 hours with money from the Emergency Board and other agency savings, funding sources which are no longer available.

   Because of turnover in Board membership, issuance of final Board Orders fell behind. Board membership has stabilized and they have cleared most of the old cases from the docket. It is anticipated that the Board's workload will catch up with the Administrative Law Judges' work schedule by the end of calendar year 2006 and the Board will be in the inefficient position of waiting on the overtaxed Administrative Law Judges to catch up.

6. **WHAT NEEDS TO BE DONE**
   The agency has exhausted all available resources to assist the ALJs with their workload. To meet future targets and constituent expectations, another ALJ is necessary. The agency is submitting a request for authorization and financing for an additional ALJ.

   Board members need to process all current and future cases on a timely basis.

7. **ABOUT THE DATA**
   Data is now being reported by the Oregon fiscal year. Prior to the report submitted September 30, 2005, data was reported by calendar year. To make this conversion without losing any data, the 2005 report was for 18 months.

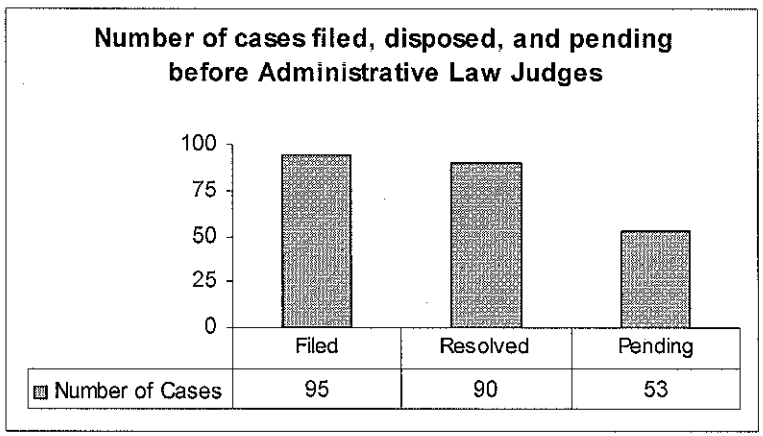
   A new database was designed to ensure accuracy and consistency of information. To further ensure accuracy, data input during processing of the case is reviewed throughout the process and when the case is closed.

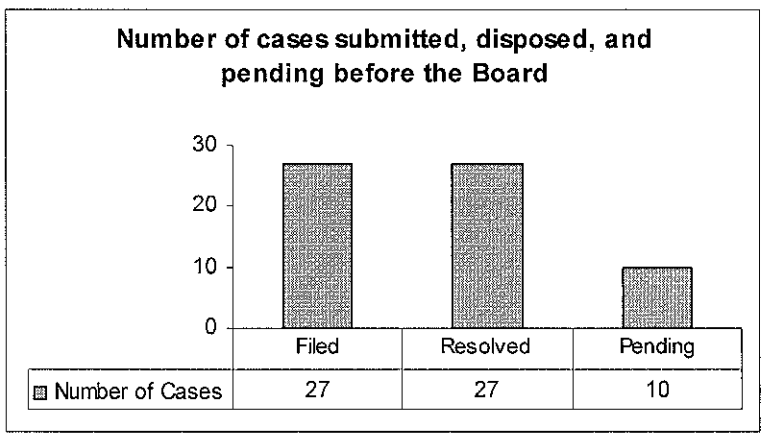
III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #7	CASELOAD Number of cases (i) filed/(ii) disposed/ (iii) pending before: (a) Administrative Law Judges; (b) The Board.	Measure since: 2006
Goal	#2 -- To timely process complaints and appeals.	
Oregon Context	Mission. No primary links to Oregon Benchmarks.	
Data source	All cases except uncontested representation petitions with no Board order issued.	
Owner	Board: Leann G. Wilcox, Office Administrator, 503-378-8610	

This performance measure was requested by the Legislature for information only. Because the number of cases filed is based solely on the number of constituents who come to us, no strategy or targets can be provided. In the future, comparisons from year to year will be displayed.



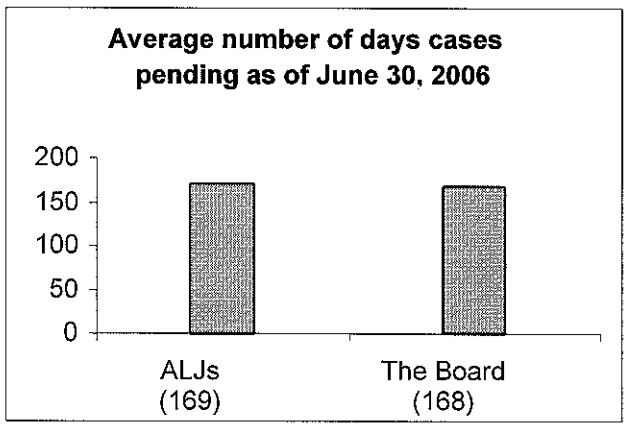


III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #8	CASELOAD For cases pending at the close of the reporting period: (a) average number of days from filing for cases pending before ALJs; (b) average number of days from submission for case pending before the Board.	Measure since: 2006
Goal	#2 -- To timely process complaints and appeals.	
Oregon Context	Mission.	
Data source	All cases closed except uncontested representation petitions with no Board order issued.	
Owner	Board: Leann G. Wilcox, Office Administrator, 503-378-8610	

This performance measure was requested by the Legislature for information only. Because the number of cases filed is based solely on the number of constituents who come to us, no strategy or targets can be provided. In the future, comparisons from year to year will be displayed.



III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPM #9	APPEALS Percentage of Board Orders which are (a) appealed; (b) reversed on appeal.	Measure since: 2004
Goal	#3 – To determine the parties' and Court of Appeals' acceptance of Board's decisions.	
Oregon Context	Mission.	
Data source	Data is reported for year the appeal is filed or judgment received. Percentages based on the number of Board Orders issued that year.	
Owner	Board: Donna Sandoval Bennett, Board Chair, 503-378-38036	

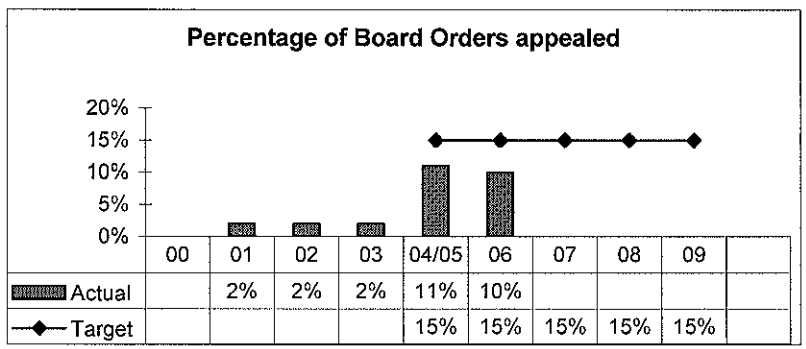
1. **OUR STRATEGY**

   Parties have a right to take their cases to the Court of Appeals if they do not agree with the Board's decision. The Board will continue to emphasize accuracy and compliance to statutes and case law when preparing Board Orders so they can withstand the scrutiny of the appellate court.

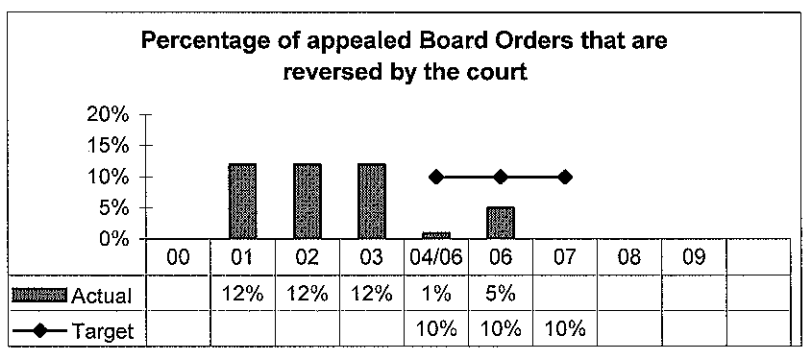
   Our constituents are state and local governments and state employees covered by the State Personnel Relations Law and Public Employees Collective Bargaining Agreement (PECBA). Private sector employees that are exempt from the National Labor Relations Act can also appeal to the Board.

2. **ABOUT THE TARGETS**

   The Board has no control over the number of appealed cases. However, the number of cases affirmed is a measure of the Board's skill and effectiveness. Data should come in at or below target.



	00	01	02	03	04/05	06	07	08	09	
Actual		2%	2%	2%	11%	10%				
Target					15%	15%	15%	15%	15%	



	00	01	02	03	04/06	06	07	08	09	
Actual		12%	12%	12%	1%	5%				
Target					10%	10%	10%			

III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

3. **HOW WE ARE DOING**
   The number of cases appealed is higher than in previous years but still below target. The number of appealed cases reversed by the appellate court is well below target. It is anticipated these numbers will remain at or below target for the next reporting period.

4. **HOW WE COMPARE**
   There is no comparative data available.

5. **FACTORS AFFECTING RESULTS**
   During the 2003-2005 biennium, one of the three Board positions was vacant for more than five months and a second Board member was relatively new. During Fiscal Year 2006, the Board membership changed again and a new Chair was appointed. At that time, there was a docket of cases dating back to 2002. As of June 30, most of the old cases had been resolved, resulting in the spike in the length of time to produce a final Board Order. There are still two old cases before the Board, but Board Orders should be issued by the end of the summer.

6. **WHAT NEEDS TO BE DONE**
   The Board will continue to emphasize accuracy and compliance to statutes and case law when preparing final Board Orders so they can withstand the scrutiny of a higher court. In addition, the Board needs to clear its docket of all older cases, which should be completed by the end of the summer, and make sure all current and future cases are processed on a timely basis.

7. **ABOUT THE DATA**
   Data is now being reported by the Oregon fiscal year. Prior to the report submitted September 30, 2005, data was reported by calendar year. To make this conversion without losing any data, the 2005 report was for 18 months.

   A new database was designed to ensure accuracy and consistency of information. To further ensure accuracy, data input during processing of the case is reviewed throughout the process and when the case is closed.

III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

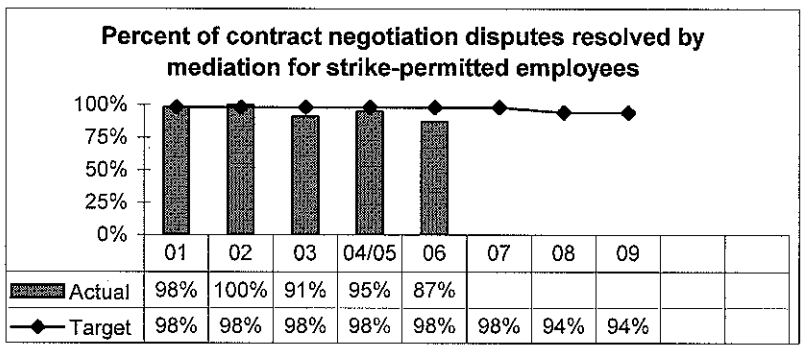
KPM #10	MEDIATION EFFECTIVENESS Percentage of contract negotiations disputes that are resolved by mediation: (a) for strike-permitted employees; (b) for strike-prohibited employees.	Measure since: 2001
Goal	#4 – To resolve collective bargaining negotiation disputes without strikes or interest arbitration.	
Oregon Context	Mission.	
Data source	Data for processing percentages is based on the cases resolved in the calendar year reported. (a) Includes settlements before or after impasse *but* prior to an employee strike or the employer's unilateral implementation of its final offer. (b) Includes settlements before or after an impasse *but* before a binding interest arbitration award is issued.	
Owner	Conciliation: Wendy Greenwald, State Conciliator, 503-378-6472.	

1. **OUR STRATEGY**
   Continue to work with state and local public employers and unions to mediate collective bargaining disputes. As time allows, provide training in collaborative bargaining processes and other forms of alternative dispute resolution.

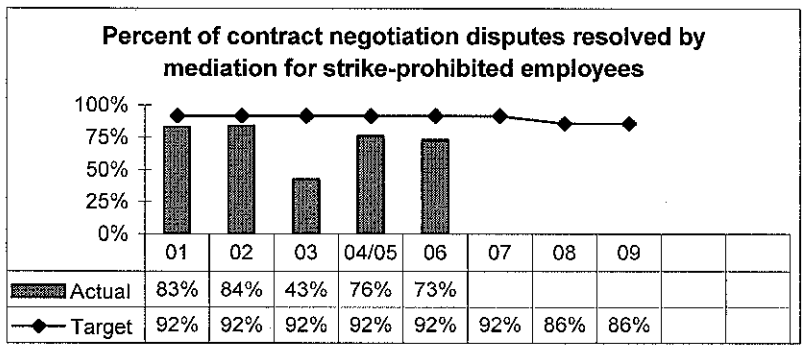
   Our constituents are state and local governments and state employees covered by the State Personnel Relations Law and Public Employees Collective Bargaining Agreement (PECBA).

2. **ABOUT THE TARGETS**
   Targets are based on past history and the needs of our constituents. Data should come in at or above the target.

3. **HOW WE ARE DOING**
   The percentage of contract disputes resolved prior to strike was at or above target in 2001 and 2002. The general trend is worsening, coming in 11% below target this reporting period.



	01	02	03	04/05	06	07	08	09
Actual	98%	100%	91%	95%	87%			
Target	98%	98%	98%	98%	98%	98%	94%	94%



	01	02	03	04/05	06	07	08	09
Actual	83%	84%	43%	76%	73%			
Target	92%	92%	92%	92%	92%	92%	86%	86%

III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

The percentage of contract disputes resolved prior to interest arbitration has fluctuated and has been below target since 2001. For this reporting period, the measure was 19% below target, and it appears it will remain low for the foreseeable future.

4. **HOW WE COMPARE**

There is no comparative data available. Although collective bargaining mediation is provided by the federal government and other states, the laws under which the services are provided are very different. For instance, mediation provided by the agency is a mandatory step in Oregon's statutory bargaining process but is not mandatory for clients under federal jurisdiction and some states. In addition, the number of mediators, the numbers of constituents served, and geographic area covered are different within each jurisdiction.

5. **FACTORS AFFECTING RESULTS**

The agency provides mediation services for the parties under its jurisdiction. Mediators provide assistance to the parties to help them reach a settlement, but it is the parties who are in sole control of whether or not a settlement occurs. In addition, many factors influencing settlement are outside of the mediator's and the parties' control. Such factors include, but are not limited to, the state of the economy, health insurance costs, local and state-wide political trends, and tax revenues. Finally, the agency has only three mediators to provide mediation services. During busy periods of mediation, it is not physically possible to provide clients assistance in a manner (timing and amount) that would be most conducive to resolution.

6. **WHAT NEEDS TO BE DONE**

The agency will continue its efforts to meet constituent needs and expectations. ERB has proposed to lower the performance targets to more realistic levels, 94% for strike-permitted employees and 86% for strike-prohibited employees.

7. **ABOUT THE DATA**

Data is now being reported by the Oregon fiscal year. Prior to the report submitted September 30, 2005, data was reported by calendar year. To make this conversion without losing any data, the 2005 report was for 18 months. This data is retrieved from a mediation database which was designed to ensure accuracy and consistency of information. This data was previously reported based on cases filed within the calendar year. Since some cases are not resolved within the year filed, the data is now reported based on all resolved cases occurring within a fiscal year for greater accuracy.

III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

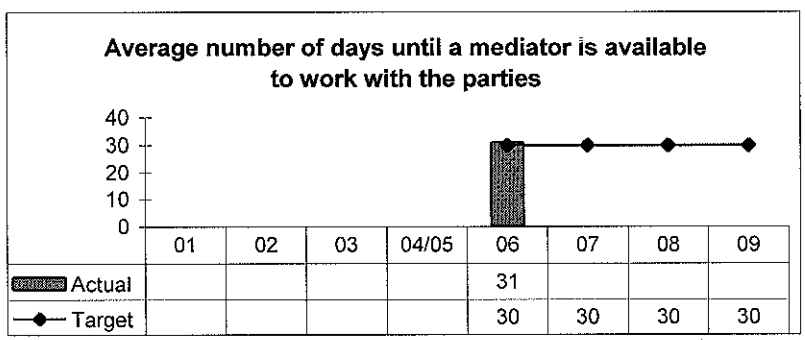
KPM #11	MEDIATOR AVAILABILITY Average number of days following a request for mediation assistance in contract negotiations to the date: (a) a mediator is available to work with the parties; (b) the first mediation session occurs.	Measure since: 2006
Goal	#4 – To resolve collective bargaining negotiation disputes without strikes or interest arbitration.	
Oregon Context	Mission.	
Data source	Data is reported for the year in which the first day of mediation is held.	
Owner	Conciliation: Wendy Greenwald, State Conciliator, 503-378-6472	

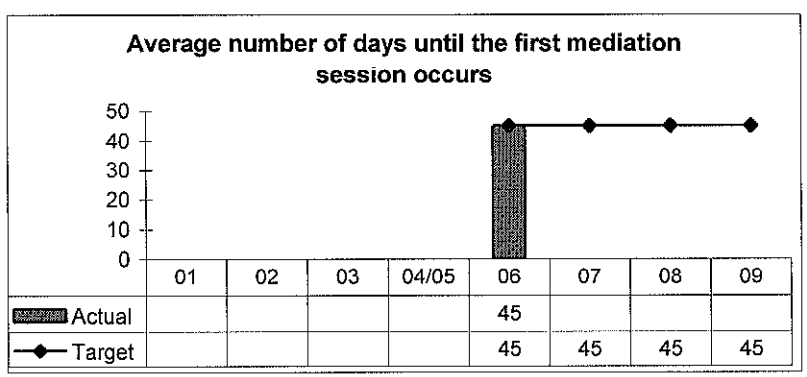
1. **OUR STRATEGY**
   To work with our constituents to schedule mediation sessions as soon as calendars allow.

   Our constituents are state and local governments and state employees covered by the State Personnel Relations Law and Public Employees Collective Bargaining Agreement (PECBA).

2. **ABOUT THE TARGETS**
   Targets are based on the past experience of the agency for scheduling meetings within its capacity. These targets do not necessarily meet the needs of our constituents, who would prefer to have mediation sessions scheduled sooner. Data should come in at or below the target number of days.

3. **HOW WE ARE DOING**
   This is the first year that this performance measure has been in place. The data came in slightly above the number of days in terms of dates offer for mediation, but at the target number of days for scheduling a mediation session.





III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

4. **HOW WE COMPARE**
   There is no comparative data available. Although collective bargaining mediation is provided by the federal government and other states, the laws under which the services are provided are very different. For instance, mediation provided by the agency is a mandatory step in Oregon's statutory bargaining process but is not mandatory for clients under federal jurisdiction and some states. In addition, the number of mediators, the numbers of constituents served, and geographic area covered are different within each jurisdiction.

5. **FACTORS AFFECTING RESULTS**
   A number of factors affect the results. First, due to statutory and bargaining contract timelines, on average about two-thirds of the annual mediation requests are received during a six-month period. Second, there are three mediators available to be scheduled to cover the requested mediation sessions. Third, the parties served are located throughout Oregon, so travel time must be taken into account in scheduling. Fourth, the schedules of the participants in mediation, often including from 10 to 20 people, must also be accommodated.

6. **WHAT NEEDS TO BE DONE**
   The agency will continue its efforts to meet constituent needs and expectations.

7. **ABOUT THE DATA**
   This performance measure was implemented starting with the 2005-2006 fiscal year. Data is reported by the Oregon fiscal year. This data is retrieved from a mediation database which was designed to ensure accuracy and consistency of information. Since some cases are not resolved within the year filed, the data is reported based on all resolved cases occurring within a fiscal year for greater accuracy.

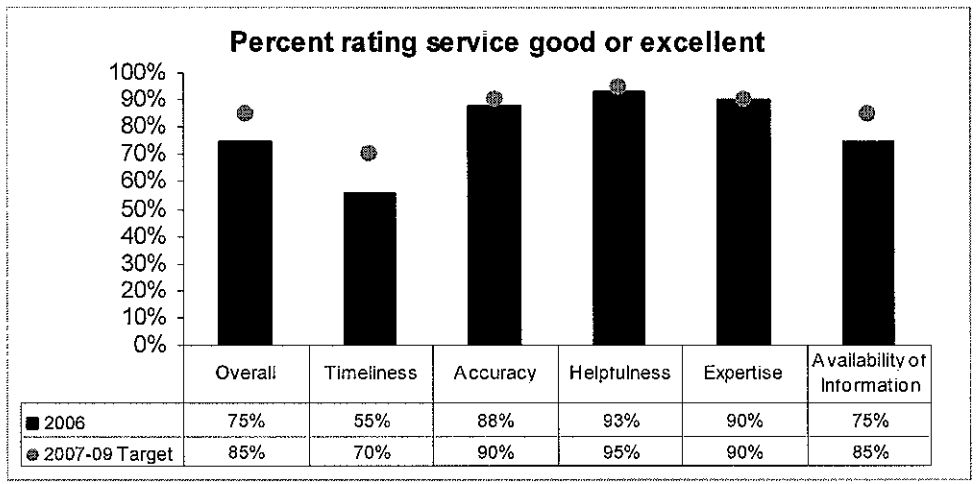
III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

KPMs #12 and #13	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	Measure since: 2006
Goal	#2 -- To timely process complaints and appeals.	
Oregon Context	Mission.	
Data source	An outside vendor was hired to do the survey.	
Owner	Board: Donna Sandoval Bennett, Board Chair, 503-378-38036	

1. **OUR STRATEGY**
   The agency will continue to emphasize to all of our staff that "customer service" is a priority. Training is provided for staff to learn new skills and keep up to date with new developments in their areas of expertise.

   The agency is focused on improving the turn-around time for each step of a contested case. In addition, the website was redesigned for easier navigation and to provide commonly sought information.



2. **ABOUT THE TARGETS**
   This performance measure was established in 2006 and this is the first customer satisfaction survey the agency has performed in a number of years. Data should come in at or above the targets.

3. **HOW WE ARE DOING**
   In 2006 "timeliness" was the lowest rated customer service criteria, with only 55% of respondents rating it good or excellent. "Helpfulness" and "expertise" were the highest rated, at 93% and 90% respectively. Targets for 2007-09 were established based on 2006 data and the goals of the agency.

4. **HOW WE COMPARE**
   There is no comparative data available.

III. KEY MEASURE ANALYSIS

Agency Mission: The mission of the Employment Relations Board is to resolve disputes concerning labor and employment relations.

5. **FACTORS AFFECTING RESULTS**
   The customer satisfaction survey reflects the agency's progress on all Key Performance Measures. The turn over on the Board, the reduction in the number of Administrative Law Judges, and changes in other key positions in the agency have affected our standing with our constituents.

6. **WHAT NEEDS TO BE DONE**
   In order to improve these ratings and to meet constituent expectations, another ALJ is urgently needed. That addition is necessary to improve turn-around time in each step of the contested case process. The agency is submitting a request for authorization and financing for an additional ALJ.

   The action items listed for all Key Performance Measures will be implemented to the best of our ability. The emphasis on customer service will continue to be a priority. Further work will be done to improve the agency website and availability of information.

7. **ABOUT THE DATA**
   A customer satisfaction survey will be taken and reported once each biennium. This survey was conducted by an outside vendor, and the summary and data was provided to the agency. It is anticipated that the next survey will again be conducted by an outside vendor.

8. **ABOUT OUR CUSTOMER SERVICE SURVEY**
   The Customer Satisfaction Survey was conducted by Clearwater Research, Inc. of Boise, Idaho, between April 19 and May 6, 2006. The Oregon Progress Board facilitated hiring this vendor to do surveys for six small state agencies.

   ERB submitted an existing mailing list of constituents. Prior to the next survey, the agency will work to expand this list to provide a broad population from which to work. The final population database contained 194 contacts, so Clearwater attempted a census of the population available. There were 76 completed interviews, a response rate of 45.2%. Because there were no distribution variables for the ERB population, no weighting was performed on the final data.