

R65G
State Higher Education Labor Relations Board

Operating Budget Data

(\$ in Thousands)

	<u>FY 04</u> <u>Actual</u>	<u>FY 05</u> <u>Working</u>	<u>FY 06</u> <u>Allowance</u>	<u>FY 05-06</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
Reimbursable Fund	\$317	\$398	\$327	-\$72	-18.0%
Total Funds	\$317	\$398	\$327	-\$72	-18.0%
Contingent & Back of Bill Reductions			-1	-1	
Adjusted Total	\$317	\$398	\$326	-\$72	-18.2%

- The fiscal 2006 deferred compensation contribution funding (\$875) for the State's match of up to \$600 in 401(k) fund contributions is withdrawn contingent upon budget reconciliation legislation.
- Fiscal 2006 reductions are primarily in the area of personnel and in the fees paid to the Office of Administrative Hearings (OAH).

Personnel Data

	<u>FY 04</u> <u>Actual</u>	<u>FY 05</u> <u>Working</u>	<u>FY 06</u> <u>Allowance</u>	<u>FY 05-06</u> <u>Change</u>
Regular Positions	3.00	2.50	2.50	0.00
Contractual FTEs	0.40	0.40	0.00	-0.40
Total Personnel	3.40	2.90	2.50	-0.40

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	0.08	3.00%
Positions Vacant as of 12/31/04	0.50	20.00%

- The Governor's allowance reflects a reduction of a 0.40 full-time equivalent (FTE) contractual position in fiscal 2006.

Note: Numbers may not sum to total due to rounding.

For further information contact: Lori J. O'Brien

Phone: (410) 946-5530

Analysis in Brief

Major Trends

Election Activity Slowing, but Other Activity Accelerating: There were no election petitions received in fiscal 2004; the agency has, however, received more unfair labor practice petitions than in the past.

Issues

Apportionment of Reimbursable Funds and Use of the Fund Balance: The State Higher Education Labor Relations Board's (SHELRB) reimbursable fund balance has reached \$97,597, or 30% of the operating budget. **The Department of Legislative Services (DLS) recommends reducing the balance by \$70,000.**

SHELRB as Local Government Advisor?: **DLS recommends that State Higher Education Labor Relations Board investigate the market for labor relations services it could provide to local jurisdictions, propose a reasonable rate of compensation for these services, and report its findings to the committees by December 31, 2005.** These findings shall include a recommendation for or against providing these services.

Recommended Actions

1. Add section withdrawing current unrestricted funds from State higher education institutions.
2. Add language reducing fiscal 2006 apportionments by using the reimbursable fund balance.
3. Adopt narrative requesting a report addressing the question of whether the State Higher Education Labor Relations Board should act as a local government advisor.

R65G
State Higher Education Labor Relations Board

Operating Budget Analysis

Program Description

The State Higher Education Labor Relations Board (SHELRB or “board”) administers Title 3, the State Personnel and Pensions Article, §3-101 through §3-602. This legislation permits certain employees of State higher education institutions to determine whether they wish to elect an exclusive representative and enter into collective bargaining with their employers. The legislation also provides protections to both employees and the State through elections, collective bargaining, and the administration of memoranda of understanding. The board:

- conducts representation elections;
- certifies results and elected exclusive representatives;
- adopts regulations for elections and for unfair labor practices;
- receives petitions and hears complaints; and
- on a voluntary basis, may assist parties in pursuing memoranda of understanding through negotiations.

SHELRB is a very small independent agency with 2.5 full-time equivalent regular positions. The regular staff, with assistance from consultants, including the Office of Administrative Hearings (OAH), provides ongoing services as indicated in the program description and provides support to the five-person board.

In accomplishing their responsibilities, the board and staff have developed a number of performance goals. Three of those goals are to:

- respond to petitions by unions for representation elections in a timely and efficient manner;
- receive and process petitions and complaints, and address controversies in a timely and efficient manner; and
- adopt regulations to implement statutory authority, and monitor and add to or amend regulations on an ongoing basis.

Performance Analysis: Managing for Results

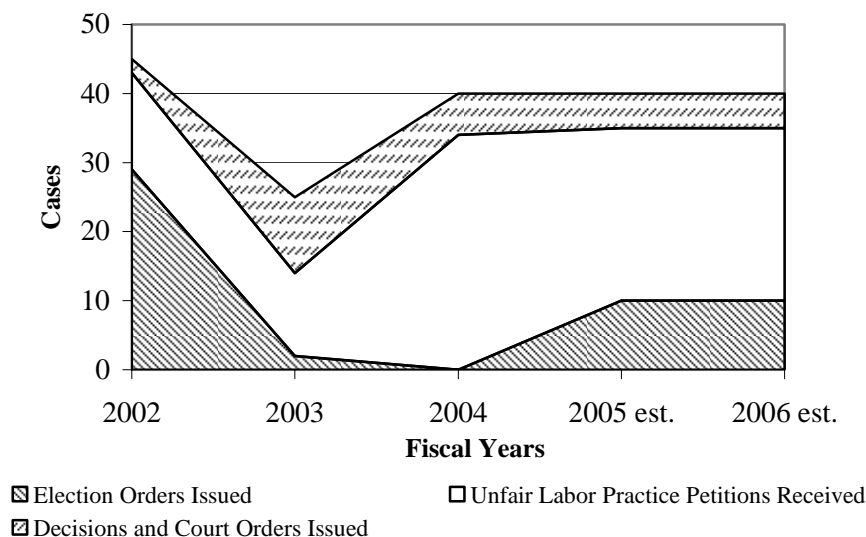
The board’s Managing for Results (MFR) submission focuses primarily on the efficient functioning of its office and the timely completion of the tasks involved in reaching its performance goals. It has submitted ample evidence that it has reached its objectives.

Specific objectives of the board include a number related to the efficient functioning of representation elections: approving petitions and certifying election candidates in a timely manner, meeting with parties to discuss orders and issuing final orders, and holding elections within 90 days of the original petition. Facilitating high election turnout has been one of the results of the efficient accomplishment of these goals: in fiscal 2003, the last year in which elections were held, 64% of employees qualified to participate in elections held to date actually did participate. All elections resulted in union representation.

Within its MFR submission, the board has projected a moderate level of increased election activity for fiscal 2005 and 2006. In fact, in the first month of calendar 2005, there are three elections scheduled, all in sworn police officer units. It is possible that there will be either additional elections in new units, challenges of already-existing units, or decertification petitions. Decertification petitions and election challenges are permissible two years after an initial election.

During fiscal 2004, election activity was non-existent, but the incidence of other types of activity has increased, as demonstrated in **Exhibit 1**.

Exhibit 1
Balance of Board Activity Has Changed



Source: State Higher Education Labor Relations Board

Governor's Proposed Budget

SHELRB, established during the 2001 session in the legislation granting collective bargaining rights to higher education employees, is funded at the \$325,913 level in the Governor's fiscal 2006 allowance, as demonstrated in **Exhibit 2**, with reimbursable funds from higher education institutions (**Appendix 4**).

Exhibit 2
Governor's Proposed Budget
State Higher Education Labor Relations Board
(\$ in Thousands)

How Much It Grows:	Reimbursable <u>Fund</u>	<u>Total</u>
2005 Working Appropriation	\$398	\$398
2006 Governor's Allowance	327	327
Contingent & Back of Bill Reductions	-1	-1
Adjusted Allowance	<u>326</u>	<u>326</u>
Amount Change	-\$72	-\$72
Percent Change	-18.2%	-18.2%
Where It Goes:		
Personnel Expenses		
Deletion of 0.4 FTE contractual position.....		-\$30
Funding for 2005 abolitions removed in fiscal 2006.....		-20
Increments.....		5
Employee and retiree health insurance		1
Employees retirement		1
Turnover adjustments.....		-1
Other Changes		
Reduced estimated charges for the Office of Administrative Hearings, based on fiscal 2004 actual charges		-\$25
Travel.....		-5
Rent, fuel, utilities, equipment, and supplies.....		-3
Other		4
Total		-\$72

Note: Numbers may not sum to total due to rounding.

Issues

1. Apportionment of Reimbursable Funds and Use of the Fund Balance

In fiscal 2005, the reimbursable fund apportionment to higher education institutions reflected the use of \$250,000 in accumulated unspent reimbursable funds to offset institutions' expenditures (Appendix 4). In fiscal 2006, these apportionments reflect the total anticipated expenditures for the fiscal year, even though there is an anticipated reimbursable fund balance of \$97,597. This balance represents 30% of the operating budget. **Therefore, DLS recommends a reduction of \$70,000 to the fund balance, to be used to offset the fiscal 2006 apportionments. The net balance represents 8.5% of the operating budget.**

SHELRB consists of five persons who serve part-time to conduct board business and adjudicate cases. Board members receive small stipends for regular meetings and hearings, but many cases require more consideration than can be accomplished in the monthly members' meeting. When cases are particularly complicated and would require multi-day fact-finding and legal argument hearings, the board relies upon OAH to provide conclusions of law and possible remedies. It is difficult to anticipate whether the new methodology for budgeting OAH expenses is adequate to cover need in the budget year. **To maintain as much stability in the institutions' SHELRB apportionment level as possible, DLS recommends that the remaining reimbursable fund balance be used for any OAH charges above that budgeted in fiscal 2006 before institutions' apportionments are increased for the budget year.**

2. SHELRB as Local Government Advisor?

SHELRB reports that several local agencies and other interested parties have informally discussed ways in which SHELRB could assist them with collective bargaining issues. It appears that, contrary to the Labor and Employment Article (Title 4, Subtitle 2), the Department of Labor, Licensing, and Regulation (DLLR) is no longer providing technical assistance to local jurisdictions involved in representation elections. This information was received by a local labor relations consultant working in Anne Arundel County. The consultant was told by DLLR that they would provide assistance for a representation election but that, "it was the last time." In fact, funding for this function was withdrawn in fiscal 2004.

Based on its successful and effective four-year history, SHELRB appears uniquely qualified to provide this service to local governments and, perhaps, other State agencies. The SHELRB board and staff are qualified, based on their familiarity with Maryland law, to provide education and training in such areas as:

- the basic standards of Unfair Labor Practices, from the employee and employer perspective;
- rights of employees, particularly public sector employees, to participate in union activity under statute, constitutional standards, and established practice; and
- assistance in framing regulations regarding the above mentioned issues.

R65G – State Higher Education Labor Relations Board

Assistance with or the actual conduct of representation elections has also been an area of active inquiry. Among the services SHELRB could provide are:

- evaluation of petitions for election or recognition and certification of those elections;
- the conduct of pre-election meetings to prepare appropriate rules under which elections would occur in which, among other activities, the selection of the method of the election and the rights of the observers could be established; and
- the actual conduct of either on-site or mail balloting, if requested.

The availability of these services from the State would prevent the need for each local agency to have to recreate the expertise in labor relations issues when that expertise is needed on a very limited basis. Charging local entities for the costs of providing such services plus a portion of SHELRB overhead expenses could result in lower charges for higher education institutions. **DLS recommends that SHELRB investigate the market for services it could provide to local jurisdictions, propose a reasonable rate of compensation for these services, and report its findings to the committees by December 31, 2005. These findings shall include a recommendation for or against providing these services.**

Recommended Actions

1. Add the following section:

SECTION X. AND BE IT FURTHER PROVIDED, That the current unrestricted fund appropriation shall be reduced by \$63,727 for the University System of Maryland institutions, \$1,816 for Baltimore City Community College, \$1,282 for St. Mary’s College of Maryland, and \$3,175 for Morgan State University. These reductions reflect the use of the State Higher Education Labor Relations Board reimbursable fund balance toward higher education institutions’ assessment for the board. The allocation of the reduction for the University System of Maryland shall be determined by the University System Board of Regents.

Explanation: This language reduces current unrestricted funds for the State institutions of higher education to reflect use of the State Higher Education Labor Relations Board fund balance.

2. Add the following language:

Provided that the State Higher Education Labor Relations Board return \$63,727 to the University System of Maryland, \$1,816 to Baltimore City Community College, \$1,282 to St. Mary’s College of Maryland, and \$3,175 to Morgan State University from the accumulated reimbursable fund balance.

Explanation: These funds represent \$70,000 of the \$97,597 in projected accumulated reimbursable funds which are to be used to offset fiscal 2006 expenditures.

3. Adopt the following narrative:

State Higher Education Labor Relations Board (SHELRB) as a Prospective Local Government Advisor: Local agencies and other parties have expressed interest in receiving technical collective bargaining assistance from SHELRB, absent the availability of services from the Department of Labor, Licensing, and Regulation. The availability of these services from the State would mitigate the need for each local agency to have to recreate expertise in labor relations issues when that expertise is needed on a very limited basis. Charging local entities for the cost of providing such services plus a portion of SHELRB overhead expenses could result in lower charges for the State’s higher education institutions. The committees request that SHELRB investigate the market for services it could provide to local jurisdictions, estimate the volume of services required, propose a reasonable rate of compensation for these services, and report its findings to the committees by December 31, 2005. These findings should include a recommendation for or against providing these services.

R65G – State Higher Education Labor Relations Board

Information Request	Author	Due Date
Report on the Feasibility of Providing Labor Relations Advisor Services to Local Governments	State Higher Education Labor Relations Board	December 31, 2005

Current and Prior Year Budgets

Current and Prior Year Budgets
State Higher Education Labor Relations Board
(\$ in Thousands)

Fiscal 2004	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Legislative Appropriation	\$0	\$0	\$0	\$399	\$399
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	0	0	0	0
Cost Containment	0	0	0	0	0
Reversions and Cancellations	0	0	0	-82	-82
Actual Expenditures	\$0	\$0	\$0	\$317	\$317
Fiscal 2005					
Legislative Appropriation	\$0	\$0	\$0	\$399	\$399
Budget Amendments	0	0	0	-1	-1
Working Appropriation	\$0	\$0	\$0	\$398	\$398

Note: Numbers may not sum to total due to rounding.

R65G – State Higher Education Labor Relations Board

Fiscal 2005

Reimbursable funds originally budgeted to provide a State match of deferred compensation withholding were withdrawn in fiscal 2005.

Audit Findings

Audit Period for Last Audit:	July 1, 2002 – April 30, 2003
Issue Date:	July 2003
Number of Findings:	0
Number of Repeat Findings:	0
% of Repeat Findings:	0%
Rating: (if applicable)	

**Object/Fund Difference Report
State Higher Education Labor Relations Board**

<u>Object/Fund</u>	<u>FY04 Actual</u>	<u>FY05 Working Appropriation</u>	<u>FY06 Allowance</u>	<u>FY05 - FY06 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	3.00	2.50	2.50	0	0%
02 Contractual	0.40	0.40	0	-0.40	-100.0%
Total Positions	3.40	2.90	2.50	-0.40	-13.8%
Objects					
01 Salaries and Wages	\$ 214,763	\$ 234,748	\$ 222,441	-\$ 12,307	-5.2%
02 Technical & Spec Fees	1,354	29,802	1,425	-28,377	-95.2%
03 Communication	5,252	5,925	5,533	-392	-6.6%
04 Travel	5,975	11,105	6,000	-5,105	-46.0%
06 Fuel & Utilities	871	0	1,000	1,000	N/A
08 Contractual Services	72,564	93,000	71,369	-21,631	-23.3%
09 Supplies & Materials	662	4,000	750	-3,250	-81.3%
10 Equip - Replacement	0	1,000	0	-1,000	-100.0%
11 Equip - Additional	0	1,000	0	-1,000	-100.0%
13 Fixed Charges	15,959	17,745	18,270	525	3.0%
Total Objects	\$ 317,400	\$ 398,325	\$ 326,788	-\$ 71,537	-18.0%
Funds					
09 Reimbursable Fund	\$ 317,400	\$ 398,325	\$ 326,788	-\$ 71,537	-18.0%
Total Funds	\$ 317,400	\$ 398,325	\$ 326,788	-\$ 71,537	-18.0%

Note: The fiscal 2005 appropriation does not include deficiencies, and the fiscal 2006 allowance does not reflect contingent reductions.

Higher Education Labor Relations Board Institutional Apportionment Fiscal 2005 and 2006

<u>Institution</u>	<u>Total Covered Positions</u>	<u>Proportion of Total Covered Positions</u>	<u>Original FY 2005 Estimated Apportionment</u>	<u>Credit Due to Use of Fund Balance</u>	<u>Revised FY 2005 Estimated Apportionment</u>	<u>FY 2006 Estimate</u>
University of Maryland, Baltimore	3,554	17.0%	\$67,518	-\$41,500	\$26,018	\$55,243
University of Maryland, College Park	7,422	35.4%	141,010	-87,750	53,260	115,376
Bowie State University	413	2.0%	7,846	-5,250	2,596	6,420
Towson University	1,593	7.6%	30,255	-9,500	10,755	24,755
University of Maryland Eastern Shore	664	3.2%	12,611	-7,750	4,861	10,318
Frostburg State University	652	3.1%	12,378	-8,000	4,378	10,127
Coppin State College	375	1.8%	7,115	-4,500	2,615	5,821
University of Baltimore	519	2.5%	9,865	-6,500	3,365	8,072
Salisbury State University	808	3.9%	15,341	-10,000	5,341	12,552
University of Maryland University College	710	3.4%	13,485	-8,250	5,235	11,034
University of Maryland, Baltimore County	1,705	8.1%	32,384	-20,500	11,884	26,497
University of Maryland Center for Environmental Science	283	1.4%	5,379	-2,750	2,629	4,401
University of Maryland Biotechnology Institute	301	1.4%	5,712	-3,750	1,962	4,673
University System of Maryland Office	91	0.4%	1,729	-1,250	479	1,415
University System of Maryland	19,087	91.0%	\$362,627	-\$227,250	\$135,377	\$296,704
Baltimore City Community College	544	2.6%	10,335	-6,500	3,835	8,456
St. Mary's College of Maryland	384	1.8%	7,295	-4,750	2,545	5,969
Morgan State University	951	4.5%	18,068	-11,500	6,568	14,783
Total	20,966	100.0%	\$398,325	-\$250,000	\$148,325	\$325,913

Source: Governor's Finance Office; Department of Legislative Services

Analysis of the FY 2006 Maryland Executive Budget, 2005

14

R65G - State Higher Education Labor Relations Board

Appendix 4