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Mediation Services, Bureau of

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mn.gov/bms/

AT A GLANCE

- The Bureau of Mediation Services (BMS) oversees the collective bargaining relationship between all public sector employers, charitable hospitals, some private sector employers and their unionized employees.
- Of the 260,000 MN Public Employees; 72% work under 3,548 union contracts.
- In FY18 the BMS received 1,032 requests for service and during the same period there were zero strikes.
- BMS grant funding helped nonprofit mediation centers to provide conflict resolution services in approximately 2,007 neighbor, family, school, housing and other similar types of cases in 2017.

PURPOSE

The BMS mission is to promote orderly and constructive labor-management relations and to advance the use of alternative dispute resolution and collaborative processes.

Labor-Management Relations

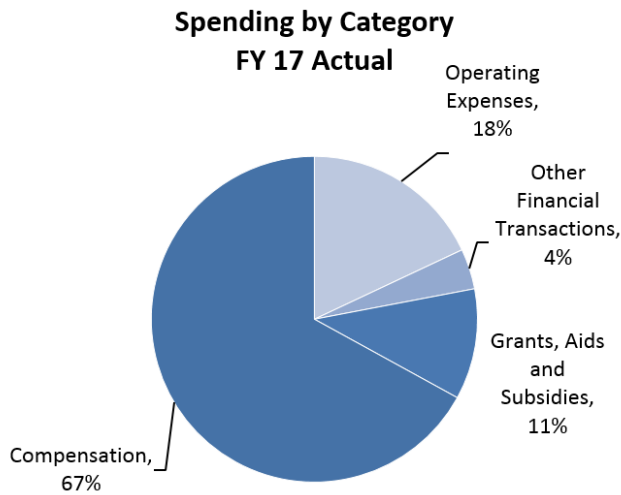
1. The BMS monitors collective bargaining disputes and works to prevent strikes and arbitration by directly mediating labor negotiations and grievances and by providing labor-management training.
2. Representation rights (employee's right to unionize or refrain from such) are regulated through a quasi-judicial administrative process including administrative investigations, hearings and elections.
3. BMS clients are: employers, labor organizations, employees, elected officials, labor attorneys and other labor relations professionals.
4. BMS assists the Public Employment Labor Relations Board while the independent board prepares to resolve unfair labor practice claims beginning July 1, 2020.

Alternative Dispute Resolution and Collaborative Processes

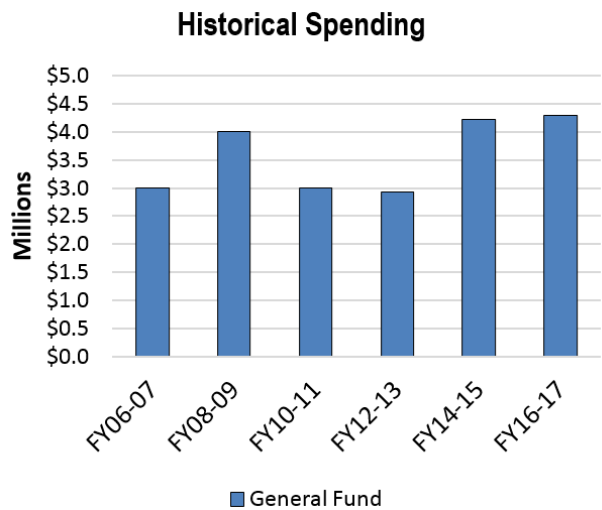
Through the Office of Collaboration and Dispute Resolution (OCDR), BMS provides: 1) public policy collaborative problem solving services; 2) funds and promotes the broad use of community-based dispute resolution across Minnesota; and, 3) assistance to other state and local agencies in effectively implementing collaborative and dispute resolution initiatives. The OCDR works with elected officials, state and local government employees, and citizen stakeholders to develop sustainable solutions to contentious public policy issues.

The BMS contributes to the statewide outcomes of: **A thriving economy that encourages business growth and employment opportunities; strong and stable families and communities; and efficient and accountable government services.**

BUDGET



Source: Budget Planning & Analysis System (BPAS)



Source: Consolidated Fund Statement

STRATEGIES

The BMS contributes to statewide outcomes by:

- Mediating collective bargaining and grievance disputes and promoting voluntary resolution of representation questions.
- Promoting cooperation among labor and management through worksite labor management committees.
- Administering a statewide labor-management grant program.
- Maintaining a roster of qualified neutral arbitrators to hear and decide contract and grievance disputes that cannot be resolved through mediation.
- Training labor and management representatives in the skills of negotiation, mediation, conflict resolution, relationship management and interest focused bargaining.
- Ensuring the sustainable resolution of matters of disputes by providing collaborative problem solving services to state and local government.
- Administering a \$160,000 annual grant program to community dispute resolution centers which provide free and low cost mediation services across the state.
- Building capacity of state and local government officials and staff to meaningfully engage the public.

RESULTS

In FY18 BMS resolved a total of 439 grievance and contract cases improving the efficiency and effectiveness of the public and private sector due to stable labor management relations. This resulted in dollars and work hours saved by the prevention of strikes, arbitration, and litigation, and contributed to improved productivity and higher employee morale. The collaborative resolution of public policy disputes improves the efficiency and effectiveness of government by preventing gridlock, generating higher quality solutions, and speeding up implementation of more sustainable solutions.

Measures of BMS work are successful case settlement rates, timely resolution of representation petitions and the quantity of successful community mediations.

| <i>Type of Measure</i> | <i>Name of Measure</i> | <i>Previous</i> | <i>Current</i> | <i>Dates</i> |
|------------------------|-----------------------------------------------------------------------------------------------------------------|-----------------|----------------|--------------|
| Quality | Percentage of collective bargaining contract and grievance disputes successfully settled through mediation | 90% | 92% | FY17, FY18 |
| Quality | Percentage of representation elections successfully completed within 90 days | 97% | 92% | FY17, FY18 |
| Quality | Percentage of OADR cases successfully settled through collaborative problem solving. | 67% | 100% | FY17, FY18 |
| Quantity | Number of mediations provided by BMS funded nonprofit dispute resolution centers | 1,973 | 2,007 | CY16, CY17 |
| Quality | Percentage of conflict resolution services provided by BMS funded centers which successfully reached resolution | 69% | 72% | CY16, CY17 |

Bureau of Mediation Services Statutory Jurisdiction:

Minnesota Labor Relations Act – M.S. 179, <https://www.revisor.leg.state.mn.us/statutes/?id=179&view=chapter>

Public Employment Labor Relations Act – M.S. 179A, <https://www.revisor.leg.state.mn.us/statutes/?id=179A>

Data Practices Act – M.S. 13.37 – 13.43, <https://www.revisor.leg.state.mn.us/statutes/?id=13>

Mediation Services, Bureau of

Agency Expenditure Overview

(Dollars in Thousands)

| | Actual FY16 | Actual FY17 | Actual FY18 | Estimate FY19 | Forecast Base | | Governor's Recommendation | |
|----------------------------------------|----------------|----------------|----------------|------------------|---------------|--------------|------------------------------|--------------|
| | | | | | FY20 | FY21 | FY20 | FY21 |
| <u>Expenditures by Fund</u> | | | | | | | | |
| 1000 - General | 2,026 | 2,266 | 2,101 | 2,821 | 2,519 | 2,519 | 3,066 | 3,066 |
| 2001 - Other Misc Special Revenue | 20 | | 4 | 40 | 31 | 31 | 31 | 31 |
| Total | 2,046 | 2,266 | 2,105 | 2,861 | 2,550 | 2,550 | 3,097 | 3,097 |
| Biennial Change | | | | 653 | | 134 | | 1,228 |
| Biennial % Change | | | | 15 | | 3 | | 25 |
| Governor's Change from Base | | | | | | | | 1,094 |
| Governor's % Change from Base | | | | | | | | 21 |
| <u>Expenditures by Program</u> | | | | | | | | |
| Mediation Services | 2,046 | 2,266 | 2,105 | 2,861 | 2,550 | 2,550 | 3,097 | 3,097 |
| Total | 2,046 | 2,266 | 2,105 | 2,861 | 2,550 | 2,550 | 3,097 | 3,097 |
| <u>Expenditures by Category</u> | | | | | | | | |
| Compensation | 1,436 | 1,528 | 1,459 | 1,680 | 1,728 | 1,770 | 2,241 | 2,283 |
| Operating Expenses | 391 | 400 | 417 | 951 | 592 | 550 | 626 | 584 |
| Grants, Aids and Subsidies | 217 | 251 | 228 | 228 | 228 | 228 | 228 | 228 |
| Other Financial Transaction | 2 | 87 | 2 | 2 | 2 | 2 | 2 | 2 |
| Total | 2,046 | 2,266 | 2,105 | 2,861 | 2,550 | 2,550 | 3,097 | 3,097 |
| <u>Full-Time Equivalent</u> | | | | | | | | |
| | 12.61 | 12.15 | 12.25 | 13.00 | 13.00 | 13.00 | 18.70 | 18.70 |

Mediation Services, Bureau of

Agency Financing by Fund

(Dollars in Thousands)

| | Actual FY16 | Actual FY17 | Actual FY18 | Estimate FY19 | Forecast Base | | Governor's Recommendation | |
|-----------------------------------|----------------|----------------|----------------|------------------|---------------|--------------|------------------------------|--------------|
| | | | | | FY20 | FY21 | FY20 | FY21 |
| 1000 - General | | | | | | | | |
| Balance Forward In | | 183 | | 306 | | | | |
| Direct Appropriation | 2,208 | 2,622 | 2,417 | 2,525 | 2,529 | 2,529 | 3,076 | 3,076 |
| Transfers Out | 1 | 253 | 10 | 10 | 10 | 10 | 10 | 10 |
| Cancellations | 2 | 286 | | | | | | |
| Balance Forward Out | 178 | | 306 | | | | | |
| Expenditures | 2,026 | 2,266 | 2,101 | 2,821 | 2,519 | 2,519 | 3,066 | 3,066 |
| Biennial Change in Expenditures | | | | 629 | | 116 | | 1,210 |
| Biennial % Change in Expenditures | | | | 15 | | 2 | | 25 |
| Governor's Change from Base | | | | | | | | 1,094 |
| Governor's % Change from Base | | | | | | | | 22 |
| Full-Time Equivalents | 12.61 | 12.15 | 12.25 | 13.00 | 13.00 | 13.00 | 18.70 | 18.70 |

2001 - Other Misc Special Revenue

| | | | | | | | | |
|-----------------------------------|-----------|----|----------|-----------|-----------|-----------|-----------|-----------|
| Balance Forward In | 28 | 34 | 47 | 58 | 32 | 26 | 32 | 26 |
| Receipts | 25 | 13 | 15 | 14 | 25 | 25 | 25 | 25 |
| Balance Forward Out | 34 | 47 | 58 | 32 | 26 | 20 | 26 | 20 |
| Expenditures | 20 | | 4 | 40 | 31 | 31 | 31 | 31 |
| Biennial Change in Expenditures | | | | 24 | | 18 | | 18 |
| Biennial % Change in Expenditures | | | | | | 40 | | 40 |
| Governor's Change from Base | | | | | | | | 0 |
| Governor's % Change from Base | | | | | | | | 0 |

Mediation Services, Bureau of

Agency Change Summary

(Dollars in Thousands)

| | FY19 | FY20 | FY21 | Biennium 2020-21 |
|------------------------------------------------|--------------|--------------|--------------|---------------------|
| Direct | | | | |
| Fund: 1000 - General | | | | |
| FY2019 Appropriations | 2,525 | 2,525 | 2,525 | 5,050 |
| Base Adjustments | | | | |
| Pension Allocation | | 4 | 4 | 8 |
| Forecast Base | 2,525 | 2,529 | 2,529 | 5,058 |
| Change Items | | | | |
| Mediator Training Program | | 112 | 112 | 224 |
| Public Employment Relations Board Operations | | 435 | 435 | 870 |
| Total Governor's Recommendations | 2,525 | 3,076 | 3,076 | 6,152 |
| Dedicated | | | | |
| Fund: 2001 - Other Misc Special Revenue | | | | |
| Planned Spending | 40 | 31 | 31 | 62 |
| Forecast Base | 40 | 31 | 31 | 62 |
| Total Governor's Recommendations | 40 | 31 | 31 | 62 |
| Revenue Change Summary | | | | |
| Dedicated | | | | |
| Fund: 2001 - Other Misc Special Revenue | | | | |
| Forecast Revenues | 14 | 25 | 25 | 50 |
| Total Governor's Recommendations | 14 | 25 | 25 | 50 |

Mediation Services, Bureau of

FY 2020-21 Biennial Budget Change Item

Change Item Title: Mediator Training Program

| Fiscal Impact (\$000s) | FY 2020 | FY 2021 | FY 2022 | FY 2023 |
|--------------------------------------------------|----------|----------|----------|----------|
| General Fund | | | | |
| Expenditures | 112 | 112 | 112 | 112 |
| Revenues | 0 | 0 | 0 | 0 |
| Other Funds | | | | |
| Expenditures | 0 | 0 | 0 | 0 |
| Revenues | 0 | 0 | 0 | 0 |
| Net Fiscal Impact = (Expenditures – Revenues) | 112 | 112 | 112 | 112 |
| FTEs | 1 | 1 | 1 | 1 |

Recommendation:

The Governor recommends \$112,000 in FY20 and \$112,000 in FY21 for the creation of an extensive and comprehensive mediator training program within the Bureau of Mediation Services (BMS). This program is meant to hire, train and educate one individual to the unique profession of mediation. In addition to salary costs, this proposal includes state travel, per diem, educational expenses, and supplies.

Rationale/Background:

For more than 78 years, the BMS has provided mediation services to employer and employee groups within the State of Minnesota. In 1971 these services were extended to public employers with the passage of the Public Employment Labor Relations Act, increasing the agency's caseload to over 1,500 cases per year. The success of the BMS is due in large part to the highly qualified and experienced mediation staff, who have served in the labor relations field for a number of years. The experience needed to become a successful mediator often makes hiring a diverse and well qualified staff challenging. Often applicants are educated in employee relations or human resources and have access to many other career options, or applicants are highly experienced making the hiring process very competitive. Additionally, as the BMS seeks experts in the mediation field, many do not look to public employment due in part to sub industry wages. Because of this the agency is seeking a program to hire and train individuals who are new to field of mediation.

By reinstating the mediator training program, the Bureau can seek individuals coming out of school and train them in the unique aspects of labor management relations. This two year training program covers all the areas mediators are customarily presented; contract negotiations, interest based bargaining, negotiation impasse, arbitration, certifying issues, strikes, employee representation, certification and officer elections, unfair election charges, grievances, arbitration, independent review, determining appropriate units, unit clarifications, determining public employee status, identifying public employers, labor-management committee training, issue facilitation, and unfair labor practices.

Proposal:

The Governor recommends the creation of a mediator training program within the Bureau of Mediation Services. This program will train one new professional mediator, increasing the supply of quality and diverse mediators. This program will fund one mediator salary, travel costs, and education costs, as well as work materials including MN.IT services.

Equity and Inclusion:

The creation of a mediator training program allows the BMS to consider a larger pool of applicants when hiring and creates more opportunities for employment in the field of mediation for those who may not have previously had the qualifications or are underrepresented in the field. Upon completion of this program the trainee will have gained the skills and experience for a profession in mediation.

Results:

The BMS has a case load of over 1,500 cases per year. By increasing mediation staff, it is expected that the wait time for public employees and employers to access mediation services will be decreased.

Statutory Change(s):

N/A

Mediation Services, Bureau of

FY 2020-21 Biennial Budget Change Item

Change Item Title: Public Employment Relations Board Operations

| Fiscal Impact (\$000s) | FY 2020 | FY 2021 | FY 2022 | FY 2023 |
|--------------------------------------------------|------------|------------|------------|------------|
| General Fund | | | | |
| Expenditures | 435 | 435 | 435 | 435 |
| Revenues | 0 | 0 | 0 | 0 |
| Other Funds | | | | |
| Expenditures | 0 | 0 | 0 | 0 |
| Revenues | 0 | 0 | 0 | 0 |
| Net Fiscal Impact = (Expenditures – Revenues) | 435 | 435 | 435 | 435 |
| FTEs | 4.7 | 4.7 | 4.7 | 4.7 |

Recommendation:

The Governor recommends \$435,000 per year for operational funding for the Public Employment Relations Board (PERB). This recommendation increases the PERB’s base of \$125,000 per year to \$560,000 per year in order to ensure the board is fully operational by the statutory effective date of July 1, 2020.

Rationale/Background:

Since the 1971 adoption of the Public Employment Labor Relations Act (PELRA), unfair labor practices (ULPs) have been adjudicated by Minnesota’s District Courts. This process is slow and costly. In Session Laws of Minnesota 2014, Chapter 211, the Minnesota Legislature amended PELRA to create PERB, a citizen board appointed by the Governor to hear and resolve ULPs. Chapter 211 did not allocate funds directly to the PERB but instructed the Bureau of Mediation Services (BMS) to assist the Board and appropriated \$125,000 annually for this purpose. The Bureau is the fiscal agent with respect to PERB funding. Presently, the Board has been appointed but has not hired permanent staff. The appropriation sought here represents an estimate of the resources needed to carry out the operations of the PERB Board when it is fully functional.

According to Minnesota Statutes 179A.041 the Public Employment Relations board shall consist of three members and will have the powers assigned to the board under M.S. 179A.13 as it relates to resolving unfair labor practices. Under this law whenever it is charged that any party has engaged in an ULP, an investigator designated by the board shall conduct an investigation of the charge. The board must then issue a complaint and cause and give notice of a hearing.

The statute sets forth requirements that “Hearing officers must be licensed to practice law in the State of Minnesota and must conduct the hearings and issue recommended decisions and orders” and also sets forth the board shall appoint a general counsel. Therefore, this will require the hiring of additional staff or contracting for services. BMS mediation staff will continue to mediate ULP claims where they are already working with the parties in other disputes, investigate and decide unfair election practices. This recommendation includes a request for the hiring of up to four staff to perform the duties of the PERB. Any additional funding will be used to provide support of the office that cannot be absorbed by the BMS.

Proposal:

Additional funding is necessary for the Public Employee Relations Board to carry out their functions set in statute. Current statute sets the PERB effective date as July,1,2020. In order to conduct investigations and carry out hearings set forth in statute and to carry out the operations of such an office the Governor recommends adding \$435,000 per year to the PERB’s base.

Equity and Inclusion:

This recommendation supports all claims of unfair labor practices filed by individual public employees, exclusive representatives or employers in the state and does not directly impact racial and ethnic groups, lesbian, gay, bisexual and transgender groups, persons with disabilities or veterans.

IT Related Proposals:

None.

Results:

This is a new statutory function and performance measures will need to be adopted by the PERB.

Statutory Change(s):

N/A