

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2012	Approp. Fiscal 2013	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 12-13	Biennium Fiscal 14-15	Biennium Change	Biennium % Change
FTE	130.60	130.60	130.60	130.60	130.60	130.60	0.00	0.00%
Personal Services	7,338,563	7,884,282	8,313,105	8,322,508	15,222,845	16,635,613	1,412,768	9.28%
Operating Expenses	3,918,106	4,816,985	4,438,740	4,443,648	8,735,091	8,882,388	147,297	1.69%
Equipment & Intangible Assets	90,810	0	90,810	90,810	90,810	181,620	90,810	100.00%
Benefits & Claims	91,464	74,840	91,464	91,464	166,304	182,928	16,624	10.00%
Transfers	0	0	0	0	0	0	0	n/a
Total Costs	\$11,438,943	\$12,776,107	\$12,934,119	\$12,948,430	\$24,215,050	\$25,882,549	\$1,667,499	6.89%
General Fund	1,073,320	1,080,436	1,260,684	1,261,687	2,153,756	2,522,371	368,615	17.11%
State Special	9,744,309	10,978,490	10,942,609	10,955,819	20,722,799	21,898,428	1,175,629	5.67%
Federal Special	621,314	717,181	730,826	730,924	1,338,495	1,461,750	123,255	9.21%
Total Funds	\$11,438,943	\$12,776,107	\$12,934,119	\$12,948,430	\$24,215,050	\$25,882,549	\$1,667,499	6.89%

Program Description

The Employment Relations Division (ERD) provides five service areas to the public: 1) Workers' Compensation (WC) Regulation Bureau, which regulates WC insurance coverage requirements, policy compliance, medical regulations, contractor registration, and independent contractor exemptions; 2) WC Claims Assistance Bureau, which assists organizations and individuals to arrive at early, less expensive settlements of their disputes, and provides management information on the workers' compensation system; 3) Labor Standards Bureau (and administratively attached Board of Personnel Appeals), which enforces state and federal labor laws related to the payment of wages and provides collective bargaining mediation; 4) Safety and Health Bureau, which administers federal and state industrial safety laws; and 5) Human Rights Bureau (and administratively attached Human Rights Commission), which enforces the Montana Human Rights Act and Governmental Code of Fair Practices through investigations, conciliation, hearings, and education. ERD also has one bureau, Management Services Bureau, that provides administrative and IT support to the other five bureaus.

Program Highlights

Employment Relations Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ Personal services changes are the result of increases to : <ul style="list-style-type: none"> ● Vacancy rates above the budgeted rate of 4% ● Fund longevity and broadband pay adjustments
Major LFD Issues
<ul style="list-style-type: none"> ◆ Legislature could use excess fund balance in Uninsured Employers' Fund for other uses ◆ Federal fund could offset general fund for the Human Rights Bureau

Program Discussion

Personal services changes are the result of:

- Vacancy savings that were 12.7% for the year in comparison to the budgeted rate of 4%
- Increases for longevity and broadband pay adjustments

**LFD
ISSUE**

Federal Funds Could Offset General Fund for the Human Rights Bureau

The Human Rights Bureau oversees the Montana Human Rights Act and the Governmental Code of Fair Practices. The program is funded through a combination of federal grants and general fund. Figure 7 shows the income statement for the federal funds that support the bureau.

Figure 7

As shown, the fund balance of the federal funds has been increasing since FY 2010. The federal Equal Employment Opportunity Commission (EEOC) contracts with the Human Rights Bureau for investigations. The EEOC reimburses the bureau for the costs of the investigations once they are completed. As a result, the fund balance in the fund is available to offset general fund costs in the 2015 biennium. At the beginning of FY 2013 the agency had \$406,800 in federal funds that could be used to offset some of the program costs that are currently supported by general fund. As the funding is not ongoing, the legislature could consider this a one-time-only appropriation that would reduce general fund support.

Department of Labor and Industry Employment Relations Division Equal Employment Opportunity Commission			
	FY 2010	FY 2011	FY 2012
Beginning Fund Balance	(\$77,201)	\$127,453	\$235,338
Revenues	345,950	210,150	227,950
Expenditures			
Personal Services	120,643	78,367	22,951
Operating Expenses	<u>20,690</u>	<u>23,893</u>	<u>33,509</u>
Total Expenditures	141,333	102,260	56,460
Adjustments	<u>37</u>	(5)	<u>0</u>
Ending Fund Balance	<u>\$127,453</u>	<u>\$235,338</u>	<u>\$406,828</u>

In the 2015 biennium the division would increase the amount of federal funds supporting the bureau, from \$25,000 in FY 2012 to \$106,300 in both FY 2014 and FY 2015. In FY 2012 the bureau conducted 297 investigations and was reimbursed \$228,000. The bureau estimates it will conduct 300 investigations in both years of the 2015 biennium. If federal reimbursements remain static, the bureau would receive \$230,000 in federal funds each year of the biennium. This represents an additional \$123,700 above the federal funding requested each year of the 2015 biennium. This funding could be used to further reduce general fund support for the bureau.

Legislative Options

The legislature could:

- Increase federal appropriations and reduce general fund by \$203,000 one-time-only to reduce the fund balance for the Equal Opportunity Commission
- Increase federal appropriations and reduce general fund by \$123,700 for ongoing federal support of the program

Funding

The following table shows program funding, by source for the 2015 biennium as recommended by the Governor.

Total Department Of Labor & Industry Funding by Source of Authority 2015 Biennium Budget - Employment Relations Division							
Funds	HB 2	Non- Budgeted Proprietary	Statutory Appropriation	Total All Sources	% Total All Funds	MCA Reference	Statutory Category
General Fund	\$2,522,371	\$0	\$0	\$2,522,371	8.7%		
State Special Total	\$21,898,428	\$0	\$1,528,006	\$23,426,434	81.1%		
02258 Employment Security Account	\$3,014,834	\$0	\$0	\$3,014,834	10.4%		
02263 Subsequent Injury Admin	\$89,449	\$0	\$0	\$89,449	0.3%		
02315 Dli Info Exchange/rental	\$12,000	\$0	\$0	\$12,000	0.0%		
02346 Contractor Registration	\$2,725,966	\$0	\$0	\$2,725,966	9.4%		
02455 Workers' Comp Regulation	\$13,300,364	\$0	\$0	\$13,300,364	46.1%		
02941 Uninsured Employer Fund	\$2,755,815	\$0	\$1,528,006	\$4,283,821	14.8%	39-71-503	Direct
Federal Special Total	\$1,461,750	\$0	\$0	\$1,461,750	5.1%		
03122 Eeoc	\$212,713	\$0	\$0	\$212,713	0.7%		
03130 Coal Mine Safety	\$288,163	\$0	\$0	\$288,163	1.0%		
03195 On-site Consultation	\$960,874	\$0	\$0	\$960,874	3.3%		
Proprietary Total	\$0	\$1,470,692	\$0	\$1,470,692	5.1%		
06040 Subsequent Injuiry-trust Fund	\$0	\$1,470,692	\$0	\$1,470,692	5.1%		
Total All Funds	\$25,882,549	\$1,470,692	\$1,528,006	\$28,881,247	100.0%		
Percent - Total All Sources	89.6%	5.1%	5.3%				

HB 2 Funding

General fund supports the personal services and general operating costs of the Human Rights Bureau. State special revenue funds include:

- Employment security funds generated through an assessment charged to employers as a percentage of their payroll
- An annual administrative assessment of 3% of all compensation and medical benefits (excluding costs above \$200,000 per claim) paid during the previous calendar year that funds workers' compensation regulation
- Contractor registration funding supporting the Workers' Compensation Regulation Bureau and a portion of the Management Services Bureau. Registration fees for independent contractor exemptions and construction contractor application fees are deposited into the fund
- Uninsured employer fund assessments statutorily set at the premium uninsured employers would have paid had they been carrying workers' compensation insurance, with a minimum penalty of \$200. The funds are used to provide benefits to employees injured on the job while working for an employer that does not carry workers' compensation insurance as required by law

**LFD
ISSUE**Legislature Could Use Excess Fund Balance in Uninsured Employers' Fund for Other Uses

Statute outlines the uses of the uninsured employer fund, including:

- Indemnity and medical benefits for injured workers' employed by businesses that do not purchase workers' compensation insurance as required by law
- Costs of investigating and prosecuting workers' compensation fraud
- Expenses incurred for administering the uninsured employers fund

Figure 8 shows the fund balance, revenues, and expenditures for the program over the last three biennia and estimated costs for the 2015 biennium.

Figure 8

Department of Labor and Industry Uninsured Employers' Fund								
Revenues, Expenditures, Fund Balance	Actual FY 2008	Actual FY 2009	Actual FY 2010	Actual FY 2011	Actual FY 2012	Budgeted FY 2013	Budgeted FY 2014	Budgeted FY 2015
Beginning Fund Balance	\$8,192,346	\$11,146,482	\$13,270,545	\$10,780,181	\$12,195,255	\$15,292,111	\$18,687,839	\$21,867,677
Revenues								
Taxes	72	148	265	453	0	0	0	0
Charges for Services	505,652	955,596	(57,011)	392,694	630,112	0	0	0
BOI Investment Earnings	135,026	55,134	11,023	10,027	10,281	0	0	0
Fines/Forfeitures	<u>3,719,936</u>	<u>3,183,045</u>	<u>(547,700)</u>	<u>2,799,895</u>	<u>4,379,954</u>	<u>5,320,000</u>	<u>5,320,000</u>	<u>5,320,000</u>
Total Revenues	4,360,686	4,193,923	(593,422)	3,203,070	5,020,347	5,320,000	5,320,000	5,320,000
Expenditures								
Personal Services	431,759	479,553	762,934	849,580	822,869	911,352	673,565	674,383
Operating Expenses	217,489	208,867	252,519	289,839	362,978	128,950	702,594	705,273
Equipment & Intangible Assets	0	0	0	13,000	0	0	0	0
Benefits & Claims	757,302	1,381,544	882,524	653,390	737,645	883,970	764,003	764,003
Debt Service	<u>0</u>							
Total Expenditures	1,406,550	2,069,963	1,897,977	1,805,808	1,923,491	1,924,272	2,140,162	2,143,659
Adjustments	0	104	1,035	17,812	0	0	0	0
Ending Fund Balance	<u>\$11,146,482</u>	<u>\$13,270,545</u>	<u>\$10,780,181</u>	<u>\$12,195,255</u>	<u>\$15,292,111</u>	<u>\$18,687,839</u>	<u>\$21,867,677</u>	<u>\$25,044,018</u>
% Change		19.06%	-18.77%	13.13%	25.39%	22.21%	17.02%	14.53%

As shown, with the exception of FY 2010, the fund balance has grown between 13% and 25% a year over the period, with an estimated ending fund balance of \$25.0 million at the end of FY 2015. During the same period, the costs associated with the fund have not exceeded \$2.2 million. The legislature could consider transferring a portion of the fund balance for other purposes while maintaining a balance for unanticipated costs associated with injured workers. The highest amount paid in benefits and claims was \$1.4 million in FY 2009. The legislature could maintain twice that amount or \$2.8 million as fund balance in the account for unanticipated costs. It should be noted that a portion of the fund balance is due to accounts receivables.

Under current law, the payment assessed uninsured business owners are considered penalties. Other penalties are deposited into the general fund. The legislature could consider transferring the funding above a fund balance of \$2.8 million into the general fund at the end of each biennium, after determining a reasonable amount for bad debt expense. At FYE 2013 this would result in an estimated transfer of \$15.9 million into the general fund. At FYE 2015 an estimated transfer of \$6.3 million could be deposited into the general fund.

Legislative Option

- Request a bill to define excess balance and require that it be transferred to the general fund at the end of each biennium.

Proprietary Funds

The division oversees the subsequent injury fund, a proprietary account that assists disabled persons in becoming employed by offering a financial incentive to the employers who hire them. The fund rate is based on the total amount of paid losses reimbursed by the fund in the preceding calendar year.

Statutory Appropriations

Direct Bearing on Agency Operations

Payments for indemnity and medical benefits for workers injured while working for a business that does not carry workers' compensation insurance are statutorily appropriated to the division. The costs of administering the program are included as part of HB 2 appropriations.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 14-15	Percent of Budget	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 14-15	Percent of Budget
Base Budget	1,073,320	1,073,320	2,146,640	85.10%	11,438,943	11,438,943	22,877,886	88.39%
Statewide PL Adjustments	45,672	46,653	92,325	3.66%	899,741	911,737	1,811,478	7.00%
Other PL Adjustments	811	833	1,644	0.07%	33,632	35,947	69,579	0.27%
New Proposals	140,881	140,881	281,762	11.17%	561,803	561,803	1,123,606	4.34%
Total Budget	\$1,260,684	\$1,261,687	\$2,522,371		\$12,934,119	\$12,948,430	\$25,882,549	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments	-----Fiscal 2014-----				-----Fiscal 2015-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					1,320,609					1,330,411
Vacancy Savings					(346,067)					(346,466)
Inflation/Deflation					(4,835)					(89)
Fixed Costs					(69,966)					(72,119)
Total Statewide Present Law Adjustments		\$45,672	\$757,333	\$96,736	\$899,741		\$46,653	\$768,263	\$96,821	\$911,737
DP 402 - ERD Rent Adjustment	0.00	811	32,329	492	33,632	0.00	833	34,609	505	35,947
Total Other Present Law Adjustments	0.00	\$811	\$32,329	\$492	\$33,632	0.00	\$833	\$34,609	\$505	\$35,947
Grand Total All Present Law Adjustments	0.00	\$46,483	\$789,662	\$97,228	\$933,373	0.00	\$47,486	\$802,872	\$97,326	\$947,684

DP 402 - ERD Rent Adjustment - The Employment Relations Division is requesting funds each year of the biennium for an increase in off campus rent

New Proposals

New Proposals										
Program	-----Fiscal 2014-----					-----Fiscal 2015-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 401 - Legal Funding Switch										
04	0.00	141,266	409,406	12,284	562,956	0.00	141,266	409,406	12,284	562,956
DP 6101 - Professional Development Center Fee Allocation										
04	0.00	(385)	(768)	0	(1,153)	0.00	(385)	(768)	0	(1,153)
Total	0.00	\$140,881	\$408,638	\$12,284	\$561,803	0.00	\$140,881	\$408,638	\$12,284	\$561,803

DP 401 - Legal Funding Switch - The Department of Labor and Industry requests a funding switch to formalize a reorganization of the legal structure. The legal fund switch includes an increase of \$562,956 in both years of the biennium of general fund, state special and federal special revenue. The Legal Unit was operating under two different methodologies and now operates under one, sharing resources and expertise to provide the most efficient and knowledgeable service to the department. This request affects five programs within the department, reducing HB 2 authority in the Centralized Services Division and increasing HB 2 authority in the divisions in order to pay for legal services provided.

LFD COMMENT	For a further discussion, see the Centralized Services Division.
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DP 6101 - Professional Development Center Fee Allocation - The executive requests an increase for training services purchased from the Professional Development Center (PDC) of the Department of Administration. This request reflects the difference between the amount paid in the base for PDC services and a fixed cost allocation based on agency FTE counts. Starting in the 2015 biennium and beyond, the executive recommends funding the PDC as a fixed cost item. For a further discussion, see the narrative for the Department of Administration.

Proprietary Rates

Subsequent Injury Fund (06040)

The Subsequent Injury Fund was established in 1973 to assist disabled persons in becoming employed by offering a financial incentive to the employers who hire them. The incentive has a limit of 104 weeks of benefits paid by their Workers' Compensation carrier in the event of an on-the-job injury to the certified employee, thus minimizing workers' compensation expenses. Beginning July 1, 1999, the fund is maintained by annual assessment of all Montana Workers' Compensation insurers, including self insured employers, private insurers, and the State Fund. The asset balance is maintained at approximately \$700,000 to provide an operating balance for payment of benefits and administrative costs. (39-71-901-920, MCA)

This program is funded with an enterprise type proprietary fund. As such, the legislature does not appropriate funds or approve rates for the program. Instead, the legislature reviews the report for the enterprise fund and identifies any concerns with the financial position of the fund. The report for the enterprise fund is available in the appendix.