

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 07/23)

Fiscal Year 2025-26	Business Unit Number 7300	Department Agricultural Labor Relations Board
Hyperion Budget Request Name 7300-002-BCP-2025-GB		Relevant Program or Subprogram Various

Budget Request Title
 Unanticipated Workload Related to Chapter 7, Statutes of 2023

Budget Request Summary

The Agricultural Labor Relations Board is requesting 7.0 positions and \$1,873,000 in 2025-26 and ongoing from the Labor and Workforce Development Fund to address the increased workload and unanticipated demands that have been generated by Chapter 7, Statutes of 2023 (AB 113).

Requires Legislation (submit required legislation with the BCP) <input type="checkbox"/> Trailer Bill Language <input type="checkbox"/> Budget Bill Language <input checked="" type="checkbox"/> N/A	Code Section(s) to be Added/Amended/Repealed	
	Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO

For IT requests, specify the project number, the most recent project approval document (FSR, SPR, S1BA, S2AA, S3SD, S4PRA), the approval date, and the total project cost.

Project No. _____ **Project Approval Document:** _____
Approval Date: _____ **Total Project Cost:** _____

If proposal affects another department, does other department concur with proposal? Yes No
Attach comments of affected department, signed and dated by the department director or designee.

Prepared By Brian Dougherty	Date 9/3/2024	Reviewed By Dalton Weber	Date 9/3/2024
Department Director Victoria Hassid	Date 9/3/2024	Agency Secretary Jacque Roberts	Date 9/3/2024

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE Dept. of Technology

Principal Program Budget Analyst Danielle Brandon	Date submitted to the Legislature 01/10/2025
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A. Problem Statement

The ALRB requests \$1,873,000 from the Labor and Workforce Development Fund and 7.0 positions (3.0 Attorney III positions; 1.0 Attorney I position; 2.0 Field Examiner II; 1.0 Senior Legal Typist; and to reclassify 2.0 Attorney III positions to Attorney IV, reclassify 1.0 Attorney IV position to a Career Executive Assignment (CEA) Attorney and reclassify 1.0 Attorney I to an Attorney III). These positions and reclassifications are necessary to address the increased workload and unanticipated demands that have been generated by AB 113. These positions would be added to the Board and General Counsel programs. The General Counsel staff are responsible for conducting elections as well as for investigating unfair labor practices and prosecuting violations resulting from election activity and subsequent bargaining. The Board staff are charged with reviewing investigation reports resulting from Majority Support Petitions (MSPs), issuing certifications, and overseeing adjudicatory matters related to elections including representation proceedings related to election objections.

B. Justification

Governor Newsom signed Chapter 673, Statutes of 2022 (AB 2183) and a subsequently agreed upon clean-up measure, AB 113. This new law is intended to remove barriers for agricultural workers to elect union representatives, thereby facilitating union elections and increasing access to this process by allowing farmworkers to sign petitions for majority support, this is in addition to the existing secret ballot election process. AB 113 requires the ALRB to determine the validity of majority support within an extremely expedited timeframe of 5 days. This determination requires decisions such as the geographic scope and size of the bargaining unit. Expedited time frames also exist for adjudicating challenges to MSPs and hearings are to be held in no later than 14 days from the date the MSP is filed. The ALRB is also charged with investigating unfair labor practices and election objections that result from election activity. Past contested elections at the ALRB have created a significant increase in ALRB's workload, given the number of unfair labor practice charges filed that must be investigated, prosecuted and adjudicated.

This increase in workload has also exposed critical structural gaps, resulting in challenges to the Board meeting its statutory obligations and operational needs with respect to representation and compliance matters. This has been exacerbated by the increase in representation matters because of AB 113 and the complexity of the issues presented. The Board is proposing to align staffing to support the current workload of the Board, Adjudication unit and General Counsel program staff, and effectively addressing the new complexities that AB 113 presents.

C. Departmentwide and Statewide Considerations

The ALRB has exclusive jurisdiction over the issues and work covered by AB 113. Other state departments and entities are therefore not implicated by this legislation or this Budget Change Proposal.

D. Outcomes and Accountability

AB 113 added three key provisions to the Agricultural Relations Act. It provides a new alternative selection process to select a collective bargaining representative, the

MSP, and adds new authority to assess civil penalties for unfair labor practice violations and an appellate bond.

The ALRB initially projected an increase in the number of MSPs and a related increase in the number of election objections and unfair labor practice charges filed, based on what had occurred in previous years relating to representation elections. AB 113 also places new requirements on the ALRB to conduct expedited investigations and hearings relating to MSPs, which require experienced staff to conduct complex legal analysis and to make correct determinations within a very short time frame.

The initial workload increase projections were anticipated to primarily impact the General Counsel staff as they investigate petitions, conduct elections and investigate and prosecute unfair labor practice charges. However, in the first year of implementation the Board has also seen a significant increase in interlocutory appeals and civil litigation because of disputes arising from the MSP process.

The other provisions of the bill regarding civil penalties and the settlement bond have yet to come before the Board and those will also generate more administrative adjudicative work, increasing the work of the board, especially the board counsels and administrative law judges. While ALRB anticipated and acquired additional staff resources for the General Counsel program to handle additional workload, the amount of work has exceeded ALRB's initial estimate and shown a need for more resources for the Board as well as the General Counsel program. ALRB therefore needs the additional staff resources listed above to meet the unanticipated increased workload demands because of AB 113 and also realign the legal staffing to support this expansion of the Act.

Board Counsel Staffing Structure and History:

The current Board consists of five appointed members and is subject to the requirements of the Bagley-Keene Open Meeting Act. Each board member is assigned a board counsel to support the board member's work. The Chair will assign one board member and counsel to serve as lead on a case matter. The lead counsel and board member review the case filings, conduct legal research and prepare legal memorandums to guide the Board's deliberations on case matters. The non-lead board members and counsel also conduct individualized review and may prepare memoranda regarding specific issues or questions for discussion by the full Board. The Board may only deliberate and vote on final disposition of pending case matters during a properly noticed closed session of a public meeting. Once the Board has reached a decision the assigned board member and counsel will prepare a draft decision or order and circulate it to the other board members for review. Each counsel and board member review the draft and provide comments and edits as necessary. Depending on the nature of the decision or complexity of the matter the Board may circulate drafts and edits and deliberate further at subsequent meetings.

Between 2010 and 2019 the Board generally only had the minimum of three of its board member positions filled, the amount necessary to establish a quorum (it has an allotment of up to five board member positions). Typically, the Board, and other similar appellate bodies such as the Public Employment Relations Board (PERB), have a one-to-one ratio of board counsels to board members with each counsel supporting one board member. As of 2020, the Board has five Board members but no increase in counsel positions. The Board currently has four board counsel positions, one Attorney IV, two Attorney IIIs and one Attorney I. The Attorney IV position serves as the Chief

Board Counsel and supports the work of the Chair. The Chief Board Counsel also serves as the Board's litigation counsel.

Increased Workload Related to Complexity of Representation Proceedings Under the Majority Support Petition Process:

The new MSP process has increased elections compared to prior years, dramatically impacting the Board's workload. The Board has received five MSPs in the first full fiscal year of its enactment, eighty percent of which were litigated. In the previous three fiscal years combined there was a total of two elections, one of which was litigated.

Increase in Board's Workload:

The MSPs have also resulted in lengthier and more complex adjudication for the Board. Upon a union becoming a certified bargaining representative the employer may file election objections within five days of the results of the investigation into the MSP. The Board then has 14 days to review the objections and issue an Administrative Order determining whether to set any of the objections for an investigative hearing and to commence that hearing within 14 days of the filing of the objections. This has led to increased workload in attorney hours to review objections and draft relevant administrative orders as well as having additional public meetings so the Board can deliberate on the filings in compliance with the Bagley-Keene Open Meeting Act.

The Board had one election matter in 2020-2021 and one in 2022-2023. In the election matter in 2022-2023, Sonoma Cho, the employer filed elections objections. The Board set several objections for hearing, this required 20 hours of attorney time and numerous meetings. For contrast, in 2023-24, the Board has had five MSPs filed. Election objections have been filed in four of the five matters and each objections filing has required 50 hours of lead attorney time and numerous meetings.

Additionally, the MSP representation proceedings have also resulted in more interlocutory appeals further increasing the work of the Board and board counsel. Interlocutory matters have included motions relating to discovery requests, motions to stay proceedings, motions relating to charges stemming from the representation proceedings and motions for intervention from other parties. These matters are in addition to existing workload.

The legislation has resulted in litigation which the ALRB has had to contract with the Attorney General's office for representation as the ALRB did not have adequate staff capacity to represent itself due to the current demands on existing staff. ALRB expended \$61k in unbudgeted expenses for the first two months. At the current rate of workload, it is estimated the ALRB will spend over \$350k for legal services in 2024-25. It is estimated the litigation will be ongoing for a minimum of two years.

Board Staffing Request:

The increased workload from the MSPs, resulting in additional administrative adjudications and board meetings, has led the Board to propose a realignment of its legal staffing. The Board proposes authorizing one new additional Attorney III position and upgrading its other four Attorney positions. This would allow the Board to meet its operational needs and allow it to recruit and retain attorneys with the requisite qualifications to support the work of the Board.

The Board proposes upgrading its Chief Board Counsel position (currently an Attorney IV) to a CEA. The Chief Board Counsel serves as the lead legal advisor to the work of

not only the Chair but also serves as the Board's litigation counsel, and lead on regulations and legislation.

Increase in General Counsel Program Staff's Workload:

Although the ALRB anticipated an increase in the General Counsel staff's workload resulting from AB 113, the actual demands of the work have significantly exceeded ALRB's projections. First, the staffing resources needed for the Regional Director's determination of majority support after the petition is filed are significant, as multiple staff are needed in the field to locate and interview worker witnesses, most of whom do not speak English and are hesitant to cooperate. Consistent with the seasonal nature of the agricultural industry, ALRB had multiple petitions filed within a short window of time, most of which involved multiple claims of unfair labor practices involving fraud and coercion by both the union and the employer requiring extensive investigation. These demands strained existing resources. In most petitions staff faced obstructive parties and witnesses, requiring staff to expend additional resources to obtain the information needed. This included additional time spent communicating with employers and their counsel to obtain the lists of employees and other information that was needed to ascertain the scope of the unit, both geographically as well as to determine which workers were to be included. Staff also had to expend additional time in preparing and filing subpoenas, various motions and preparation for possible court action. Most of the petitions involved a larger workforce with hundreds of workers and required us to divert nearly all General Counsel staff statewide, incurring significant travel and overtime expenses to meet statutory obligations. This all had to occur under an extremely tight timeline. Although the statute gives the Regional Director 5 days to investigate a majority support petition, the investigation cannot commence in earnest until the employer's response is filed with the Board, which only leaves 3 days for the Regional Director to investigate. In addition, the MSPs have resulted in the filing of multiple, related unfair labor practice (ULP) charges which also require investigation on a very expedited basis. Regional office staff also expended resources on the objections hearings that occurred in most of the matters. In addition to attending the hearings, attorneys also had to prepare and file multiple legal documents as issues arose. These demands required nearly every attorney, field examiner and clerical staff member statewide to pause other work and devote their time to working on the petitions and related ULP charges and hearings. This redirection of resources has slowed progress on other cases and ALRB's outreach capacity. The increase in ULP filings will also result in the filing of more complaints when violations are found, which require significant staffing resources for the General Counsel program to prosecute and for the Board to adjudicate.

General Counsel Staffing Request:

By adding 3.0 more attorneys and 2.0 additional field examiner II, the regional office staff will be better positioned to handle MSPs without overly disrupting other important work and existing cases, as there will be more staff on the ground to respond to the time-sensitive demands that the petitions create and to handle the ongoing workload that follows. Additionally, ALRB is requesting 1.0 Senior Legal Typist for additional clerical support to meet these increased workload demands. The Senior Legal Typist will address phone calls and walk-in inquiries from workers, filing paperwork and providing support to attorneys for legal filings on an extremely expedited basis This

position will also help stakeholders more quickly access and receive services from the Salinas office.

E. Implementation Plan

ALRB will recruit for a new Attorney III position and reclass the Attorney IV position to a CEA in the Board Administration Division.

ALRB will recruit and place the following positions in its General Counsel Division within the regional offices: 1.0 Attorney I position, 2.0 Attorney III positions, 2.0 Field Examiner II positions, and 1.0 Senior Legal Typist.

F. Supplemental Plan

The ALRB requests an additional budget augmentation of \$300,000 to the Board Administrative Division to support ongoing and anticipated costs for legal services related to AB 113 litigation from the Attorney General's office.

BCP Fiscal Detail Sheet

BCP Title: Unanticipate Workload Related to Chapter 7, Statutes of 2023

BR Name: 7300-002-BCP-2025-GB

Budget Request Summary

Personal Services

	CY	BY	BY+1	BY+2	BY+3	BY+4
Positions						
6050 Board - Permanent Positions	0.0	1.0	1.0	1.0	1.0	1.0
6055 General Counsel – Permanent Positions	0.0	6.0	6.0	6.0	6.0	6.0
Total Positions	0.0	7.0	7.0	7.0	7.0	7.0
Salaries and Wages						
6050 Board: Permanent Position Earnings						
7500C – C.E.A.	\$0	\$197,000	\$197,000	\$197,000	\$197,000	\$197,000
5780 – Atty IV (Reclass to CEA)	\$0	(\$179,000)	(\$179,000)	(\$179,000)	(\$179,000)	(\$179,000)
5795 – Atty III	\$0	\$152,000	\$152,000	\$152,000	\$152,000	\$152,000
5778 – Atty (Reclass to Atty III)	\$0	(\$107,000)	(\$107,000)	(\$107,000)	(\$107,000)	(\$107,000)
5780 - Atty IV	\$0	\$188,000	\$188,000	\$188,000	\$188,000	\$188,000
5795 – Atty III (Reclass to Atty IV)	\$0	(\$179,000)	(\$179,000)	(\$179,000)	(\$179,000)	(\$179,000)
5780 - Atty IV	\$0	\$188,000	\$188,000	\$188,000	\$188,000	\$188,000
5795 – Attorney III (Reclass to Atty IV)	\$0	(\$179,000)	(\$179,000)	(\$179,000)	(\$179,000)	(\$179,000)
5795 – Atty III	\$0	\$152,000	\$152,000	\$152,000	\$152,000	\$152,000
6050 Board: Total Position Earnings	\$0	\$233,000	\$233,000	\$233,000	\$233,000	\$233,000
6055 General Counsel: Permanent Position Earnings						
3224 – Senior Legal Typist	\$0	\$54,000	\$54,000	\$54,000	\$54,000	\$54,000
5795 – Atty III	\$0	\$152,000	\$152,000	\$152,000	\$152,000	\$152,000
5795 – Atty III	\$0	\$152,000	\$152,000	\$152,000	\$152,000	\$152,000
577 – Atty	\$0	\$122,000	\$122,000	\$122,000	\$122,000	\$122,000
9519 – Field Examiner II	\$0	\$79,000	\$79,000	\$79,000	\$79,000	\$79,000
9519 – Field Examiner II	\$0	\$79,000	\$79,000	\$79,000	\$79,000	\$79,000
6055 General Counsel: Total Position Earnings	\$0	\$638,000	\$638,000	\$638,000	\$638,000	\$638,000

Total Position Earnings	\$0	\$871,000	\$871,000	\$871,000	\$871,000	\$871,000
Staff Benefits						
6050 Board: Staff Benefits - Other	\$0	\$117,000	\$117,000	\$117,000	\$117,000	\$117,000
6055 General Counsel: Staff Benefits - Other	\$0	\$365,000	\$365,000	\$365,000	\$365,000	\$365,000
Total Staff Benefits	\$0	\$482,000	\$482,000	\$482,000	\$482,000	\$482,000
Total Personal Services	\$0	\$1,353,000	\$1,353,000	\$1,353,000	\$1,353,000	\$1,353,000
6050 Board: Operating Expenses and Equipment						
General Expense	\$0	\$380,000	\$380,000	\$380,000	\$380,000	\$380,000
6050 Board: Total Operating Expenses and Equipment	\$0	\$380,000	\$380,000	\$380,000	\$380,000	\$380,000
6055 General Counsel: Operating Expenses and Equipment						
General Expense	\$0	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000
Travel	\$0	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
Rent & Leases	\$0	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000
6055 General Counsel: Total Operating Expenses and Equipment	\$0	\$140,000	\$140,000	\$140,000	\$140,000	\$140,000
Total Operating Expenses and Equipment	\$0	\$520,000	\$520,000	\$520,000	\$520,000	\$520,000
Total Budget Request	\$0	\$1,873,000	\$1,873,000	\$1,873,000	\$1,873,000	\$1,873,000
Fund Source - State Operations						
3078 – Labor and Workforce Development Fund	\$0	\$1,873,000	\$1,873,000	\$1,873,000	\$1,873,000	\$1,873,000
Total State Operations Expenditures	\$0	\$1,873,000	\$1,873,000	\$1,873,000	\$1,873,000	\$1,873,000