



OFFICE OF ADMINISTRATIVE HEARINGS NEWSLETTER

Last Updated
April 2004

Topics of Interest:

- **Articles**
 - **SCRA Training**
 - **Strategic Direction**
 - **Employee Highlights**
 - **Water Resources Litigation**
 - **Customer Survey Summary**
 - **Budget Charts**

Questions or comments? Contact us, we want to hear from you.

Call or email -

Rema Bergin, Editor 503.378.5070

Rema.a.bergin@state.or.us

Website: <http://oah.state.or.us>

SERVICEMEMBERS CIVIL RELIEF ACT TRAINING

As promised, OAH-Employment Division will host a one-hour training on the Servicemembers Civil Relief Act (SCRA) on April 29 from 4 - 5 pm in basement room 3 of the Employment Department. The training will be presented by Donna Brann, ALJ.

The training is recommended for ALJs, management and appropriate Operations staff (leads or schedulers)...basically anyone who may be dealing with requests related to this Act (see the course description below).

We'll have several methods for staff to participate. Please advise your manager/supervisor by 5 pm Monday, April 26 who will be participating and by what method so that we can prepare and provide the appropriate numbers of hard-copy, electronic and other materials/telephone numbers etc.

1. In person in Room 3 (Basement, Employment Department),
2. Call-in conference by telephone (we'll send both the access code for the conference and the power-point presentation to participants in advance so they can flip through the slides while ALJ Brann speaks), or
3. Course materials available after the training (CD) - We plan to put the power-point on a CD and do a voice-over presentation that staff may then play on their computer.

We will apply for CLE credit and below is the training summary and ALJ Brann's bio.

Training Summary

On December 19, 2003 President Bush signed the largest revision to date of the Soldiers and Sailors Civil Relief Act which is now known as the Servicemembers Civil Relief Act (SCRA). The Act was rewritten to clarify prior language and incorporate years of judicial interpretation of the Act. The Act was also updated to reflect new developments in American life and the law. The Act has now been extended for the first time in its history to include administrative law. The law now requires an administrative law judge to grant at least a 90-day stay in certain circumstances if requested by the service member. The purpose of the training on April 29, 2004 is to provide the information necessary to determine what service members the Act applies to, when a stay should be granted, how long the stay should be, and when court appointed counsel must be allowed. The training will also provide information on how a service member can properly waive their SCRA rights and complete the administrative hearing. The new Act will cover administrative hearings including unemployment, child support, implied consent, overpayments, license issues (including suspension of professional licenses), benefit determinations (OHP, TANF) or any other hearing that would affect a right of a service member. The goal of the training is to make application of the Act as painless as possible, while still complying with the law.

Donna Brann, Employment Division

Donna Moursund Brann is an Administrative Law Judge with the Office of Administrative Hearings. Prior to becoming an ALJ in 2004 she spent six years as a prosecutor with the Lane County District Attorney's Office assigned to the Family Law Division. As a prosecutor Donna handled support enforcement issues ranging from establishing paternity to felony criminal non-support. Prior to joining the District Attorney's Office she was with a private Eugene firm handling state and federal criminal defense and family law matters.

SCRA Training (continued)

Donna attended the University of Oregon in Eugene, earning her Bachelor of Science Degree in political science, with a minor in planning, public policy and management in 1989. She earned her Doctor of Jurisprudence Degree from the University of Oregon School of Law in 1993.

In January 1995, Donna received a direct commission into the Oregon Army National Guard as a Judge Advocate General. She currently holds the rank of Major. She is currently assigned as the Executive Officer of the Battalion Rear for a deployed Infantry Battalion. Major Brann is a graduate of the Judge Advocate General Officer Basic Course, Judge Advocate General Officer Advance Course, Law of War, Operational Law and the Command and General Staff Officers Course.

Donna is a regular speaker for the University of Oregon ROTC program, Lane County Bar Association, and the Oregon District Attorney's Association. She was a featured speaker at the 2003 Annual Family Law Conference for the Oregon State Bar on the topic of the Soldiers and Sailors Civil Relief Act.

Donna also is actively involved in volunteer work in her community including serving as a board officer for a halfway house and a child care center.

Strategic Direction...

On February 24, 2004 the management team met for a two day off-site. With the central panel now permanent, and with the Employment Department going through some significant changes, the time seemed right to think about the future. Three topics were discussed: structure of the OAH, statistical reports, and training.

Structure

The current structure of three divisions is a legacy of the past. There was reluctance to change it during the "pilot" phase of the OAH. It is based on subject matter, with control over programs in Salem where the agencies are located. Instead, the structure should be based on geography. Thus, ALJs housed in Portland, Salem, Eugene, Medford, and Bend would handle all cases in those areas. Incidentally, but not unimportantly, this may reduce commuting for some staff.

Currently, about half (a bit less) of OAH staff is in Portland, about 40 percent in Salem, 10 percent in Eugene, and 3 in Medford and Bend. The management team agreed to preserve this general ratio, reforming the OAH into two divisions (yet to be named), each headed by a deputy ALJ: one in Portland and one in Salem. The "Salem" division will include Eugene, Bend, and Medford. Each deputy will have two presiding ALJs. Two presiding ALJs will be based in Portland. Of the two presiding ALJs reporting to the deputy in Salem, one of them will be housed in Eugene. The Eugene office will include Bend and Medford. The goal is for each of those areas to handle a cross-section of OAH's work, depending on the lead ALJs for subject matter expertise. Finally, a third deputy chief ALJ will be principally responsible for operations (budget, personnel, etc.).

Date of implementation is unknown. It will depend largely on when the OAH is able to physically consolidate. It is hopeful that this process will begin in Eugene this summer.

Statistical reports

Solid statistical reporting has become very important in these tight budgetary times. Management team looked hard at the various reports available now, and discussed how to improve them. Also looked at were mock-ups of new reports. The latter more closely and accurately measure productivity trends in particular programs and among staff assigned to them.

Training

Management team decided that all newly hired ALJs will initially be assigned to unemployment insurance cases; as the OAH truly needs to deepen the bench in this area. The management team must look for every possible efficiency in the OAH. Cross-training is an important one. The strong preference is to make cross-training voluntary, but this may not always be possible. For example, there are currently 42,000 people on the Oregon Health Plan. The Plan will soon come to an end. DHS expects that all of these people will apply for Medicaid. This may (or may not) lead to a large increase in the Medicaid-eligibility cases and will need operational staff and ALJs to manage this.

Adopting an "immersion" theory of cross-training, the ALJ or operational staff will be "immersed" for a month or so, depending on the nature of the subject matter, doing nothing else. Thereafter, the trainee will periodically return to that work (perhaps one week out of every month) in order to stay current. One of the major impediments to cross-training has been the different technologies (including templates). Currently this is being worked on to correct these technical barriers. Another item is to further the effort of developing hearing guides in all of the different programs, and writing more legal digests for these programs.

The management team will continue to look at training, for there are other questions to answer: what is the core curriculum; in what order should the training occur; who will do the training; what kind of media should be used (in-person, DVD, videotape, internet, etc.); should there be one person coordinating all OAH training; does the OAH want to develop a core competency matrix for each ALJ and operational staff?

Strategic Direction (continued)

An important part of the training is order-writing. OAH decisions are generally written very well. The problems, when they occur, are usually in organization, conciseness, and tone. Management team has asked two lead ALJs to develop a writing program for the OAH. They will work first with the other lead ALJs. Thereafter, training will be in small groups.

Other Issues

Jon Debban gave a report on the progress of the Technical Team. Currently it is rebuilding the database for Department of Human Services cases. It is reviewing the feasibility of moving the Transportation Hearings Division from the ODOT to the ED network. The team has also been asked to look at the Employment Hearings Division case management system-it needs either to be remodeled or rebuilt.

Employee Highlights

Rick Barber, Social Services Division



Rick Barber is the new lead ALJ in the Social Services Hearing Division. He graduated in 1981 from Willamette University. Rick worked for Judge Hargreaves in the Lane County Circuit Court as a law clerk and bailiff for a year and then for SAIF Corporation from 1982-1988. From 1988 through 1991 Rick was in private practice. In 1991 he was an ALJ for the Workers' Compensation Board, then went back into private practice in 1993 until 2001. Rick came to the Office of Administrative Hearings, Employment Hearings Division in 2001 hearing UI cases and 405s. He moved over to Social Services Hearing Division in August 2003 and began conducting hearings for DHS, 405s, WCD, WRD and still does hearings for UI to help out with the workload.

Rick's ultimate passion and goal in the OAH is to be cross-trained in all areas, including mediation. He feels the OAH will be able to meet the needs of the citizens of Oregon and the agencies much better if its ALJs understand several areas of law. He believes that the more we have people cross-trained the more efficient we will be and he also stated that it makes being an ALJ more interesting as well.

Rick says that all the staff at Cherry Avenue (as well as the staff in the Employment Division) are absolutely wonderful to work with. He has really enjoyed working at both offices.

Rick has been married for 21 years to his wife Cheryl, and has three children, ages 18, 12 and 10. He enjoys spending time at the coast and Starbucks (every day) for tea. He spends a lot of his time at the Courthouse Gym lifting weights and cardio training (trying to find the 18-year old he hopes is still hiding in his 48-year old body). His real two passions in life is his involvement in his church (he actually used to be a pastor!) and attempting to write novels. He also enjoys traveling especially through Europe and Canada. He is a terrible fly fisherman (but says he's better than Jack Youngers) but hasn't found much time to pursue it in recent years.

Congratulations Rick on your lead appointment!

I would like to thank the ALJs, operational staff and management for their many contributions to the OAH Newsletter. It is because of all of you that we are better able to communicate with one another. Please continue to forward to me any articles or ideas you may have to share with the rest of the Office of Administrative Hearings. Again, thank you all.

Rena Bergin, Editor

Water Resources Litigation

Bill Young & Skip Russell, Social Services Division



Since 2001, ALJs Bill Young and Skip Russell have been conducting hearings regarding the Klamath River Basin Water Adjudication. This is a proceeding to determine all the relative rights to the use of water within the Klamath River Basin. Several hundred cases have been opened, with hearings scheduled into 2007.

The hearing on one of the largest and most complex of these cases, involving the rights of the U.S. Bureau of Reclamation, the U.S. Fish and Wildlife Service, and a number of farmers and irrigation districts, began April 6, and will continue through April 23. Skip Russell is the ALJ.

"I have approached this case with a mixture of excitement and dread," Russell commented. "Excitement, because I like challenges, and a case like this is challenging, indeed. It's not every day you get to do a case with a caption that runs to two pages and 17 foot notes. Dread, because with more than 30 attorneys, about a thousand parties, 60 witnesses and more than 10 thousand exhibits, I don't know how much time it's going to take to write the order."

"The case is a lot of fun, though," Russell noted. He explained that with the huge number of parties and interested persons, the OAH did not have a facility large enough to accommodate all those people. The Water Resources Department arranged to have the hearing at Hearing Room D in the State Capitol, with a streaming video feed on the internet. That allowed everyone who was interested to watch proceedings without having to drive up from Klamath Falls. "That room is amazing," Russell said. "I was worried that we were going to have to rent a theater for a month, just to fit all the parties. As it is, they can watch from home if they want to. It turned out well for everyone."

The Klamath Adjudication has made full use of another innovation, as well. All direct and rebuttal testimony was filed well before the in-person proceedings, which are used for cross-examination, only. This has reduced significantly the time spent in hearing, while helping maintain a clear record in a procedurally very complicated case. Since the Adjudication began, this procedure has been used in other complex cases outside the water resource arena, with quite a bit of success in reducing expense and inconvenience to the agencies and the participants.

The URL for the hearing is <http://www.pctv.state.or.us/rooms.html>

Designate "Hearing Room D" to see video; "Audio Only" to listen without video.



OFFICE OF ADMINISTRATIVE HEARINGS
CUSTOMER SATISFACTION SURVEY
SUMMARY¹

OAH AGENCY RESULTS

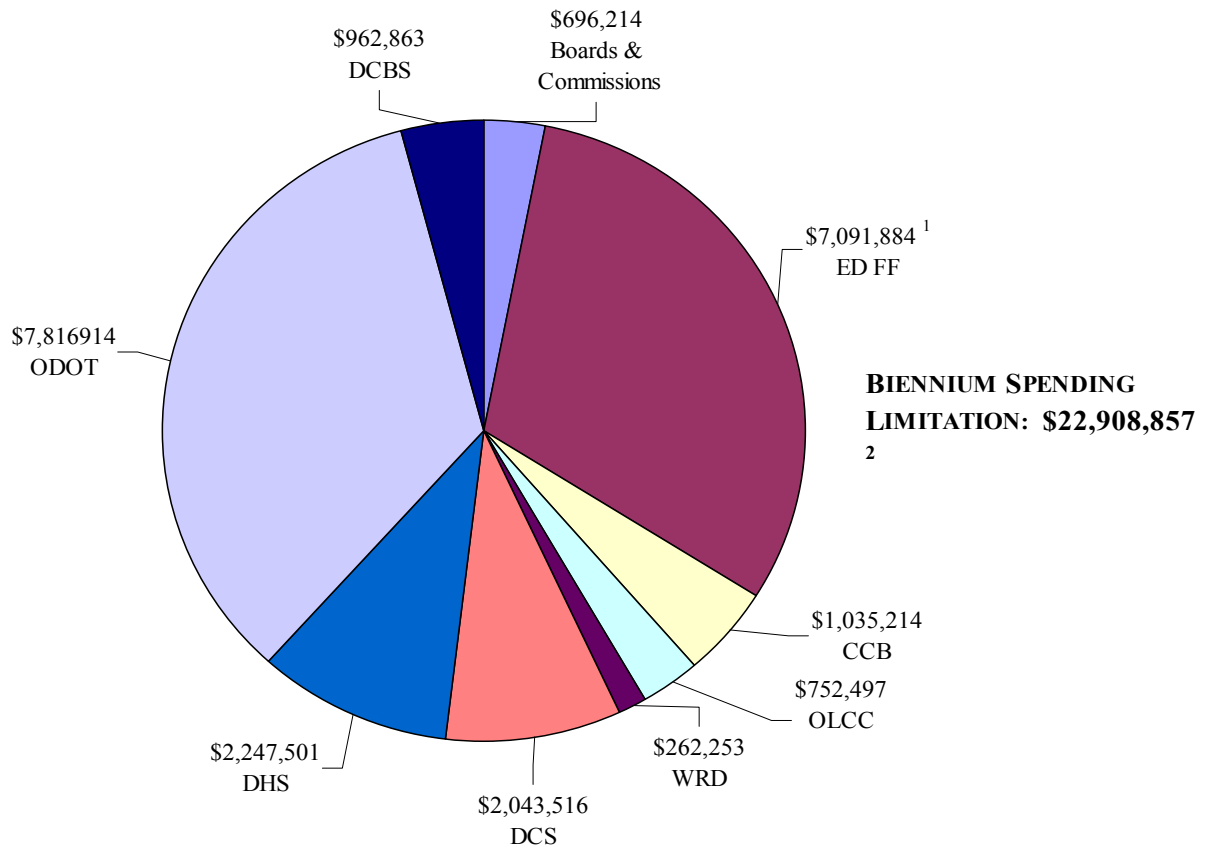
		Not Satisfied	Satisfied	Very Satisfied
1.	Was our clerical support staff professional in handling your request for hearing?	3	108	127
2.	Did the ALJ conduct the hearing in a professional manner?	5	76	161
3.	How would you rate the level of knowledge/expertise of the ALJ?	8	96	136
4.	Did our order clearly explain the decision in light of applicable statute, rule, and precedential court cases?	13	84	142
5.	What was your overall level of satisfaction with our service?	6	95	142

OAH CUSTOMER RESULTS

		Not Satisfied	Satisfied	Very Satisfied
1.	Was our clerical support staff professional in handling your request for hearing?	8	32	74
2.	Were you able to fully present your case at hearing?	13	28	62
3.	Did we complete the hearing and issue the order in a timely manner?	16	35	51
4.	Did you understand our decision and how that decision was reached?	20	26	55
5.	What was your overall level of satisfaction with our service?	21	30	54

¹Summarizes responses to specific questions. Not everyone responded to all questions.

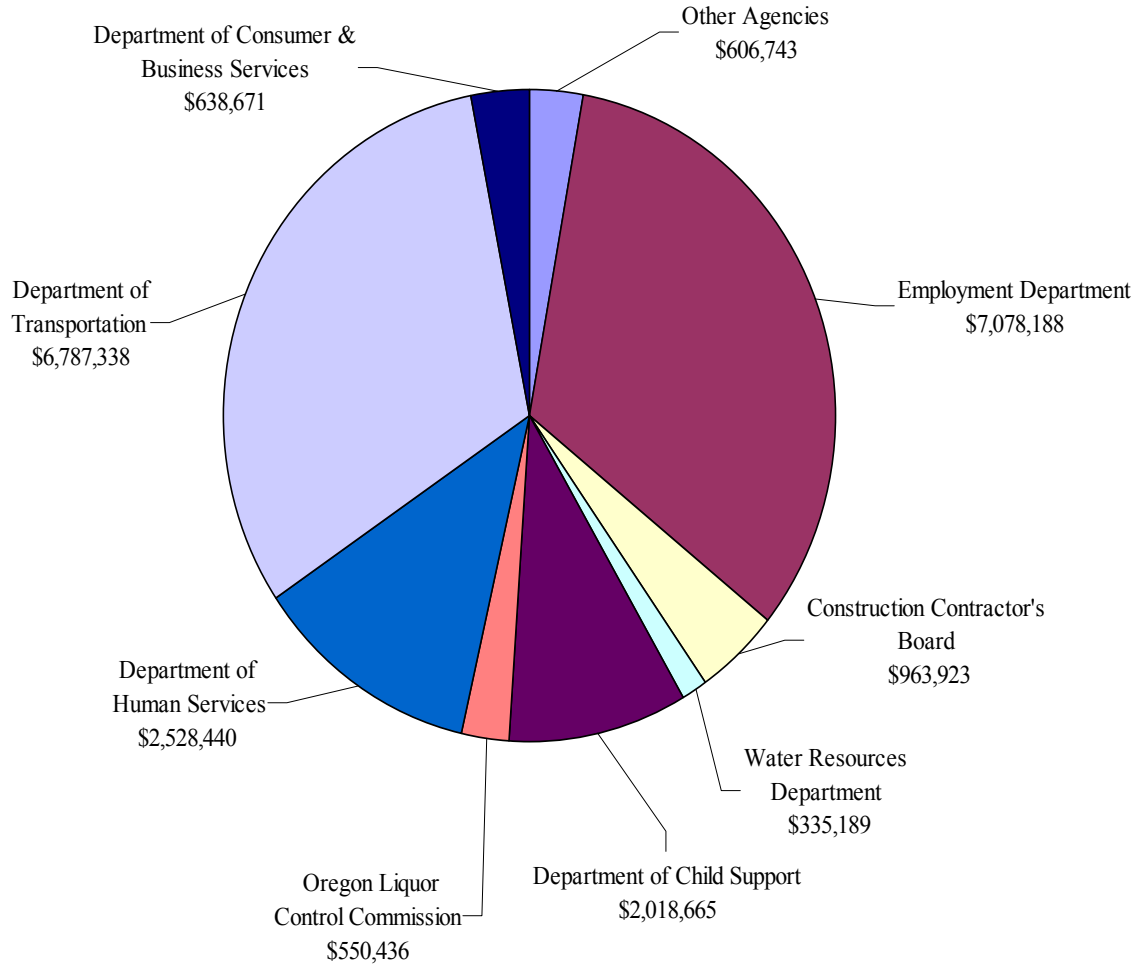
**HEARING OFFICER PANEL 2001-2003
LEGISLATIVELY APPROVED BUDGET**



1. Includes 2002 E-Board request for unemployment insurance hearings: \$578,096

2. 2001-03 Legislatively approved budget \$21,615,805
 2002 E-Board 578,096
 Cost of Living Adjustment (COLA) 715,677
 Total \$22,908,857

**OFFICE OF ADMINISTRATIVE HEARINGS
ACTUAL EXPENSES BY AGENCY 2001-2003**



ACTUAL COSTS: \$21,507,598

**OFFICE OF ADMINISTRATIVE HEARINGS
LEGISLATIVELY APPROVED BUDGET 2003-2005**

