STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

A PERFORMANCE AUDIT
OF

AGRICULTURAL EMPLOYMENT RELATIONS BOARD

OCTOBER 1981

A REPORT TO THE
ARIZONA STATE LEGISLATURE

REPORT 81-10

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OFFICE OF THE
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October 7, 1981

Members of the Arizona Legislature
The Honorable Bruce Babbitt, Governor
Mr. John LaSota, Chairman
Agricultural Employment Relations Board

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Agricultural Employment Relations Board. This report is in response to a January 30, 1980, resolution of the Joint Legislative Oversight Committee. The performance audit was conducted as a part of the Sunset review set forth in A.R.S. §§41-2351 through 41-2379.

The blue pages present a summary of the report; a response from the Agricultural Employment Relations Board is found on the yellow pages preceding the appendices.

My staff and I will be pleased to discuss or clarify items in the report.

Respectfully submitted,

Douglas R. Norton

Douglas R. Norton
Auditor General

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Enclosure

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OFFICE OF THE AUDITOR GENERAL

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SUMMARY

The Office of the Auditor General has evaluated the activity level of the Agricultural Employment Relations Board (AERB) for the period July 1, 1979, through June 30, 1981, in response to a January 30, 1980, resolution of the Joint Legislative Oversight Committee. This evaluation was conducted as a part of the Sunset review set forth in Arizona Revised Statutes (A.R.S.) §§41-2351 through 41-2379.

AERB was established in 1972 to promote agricultural labor peace and minimize the effects of uncontrolled labor strife by providing a forum for settling labor-management disputes. In conjunction with this objective the Board investigates allegations of unfair labor practices and holds and validates elections for union representation.

AERB was reviewed previously in Auditor General Report No. 79-7, A Performance Audit of the Arizona Agricultural Employment Relations Board. That report noted that the activity level of AERB did not justify its staffing level. We have found the activity level of AERB has increased substantially since Report No. 79-7, and these increases appear to justify the current staffing level of AERB. (page 5)

Report No. 79-7 also found that AERB not only had a low activity level, but was overstating the level it did have. In addition, AERB was not properly documenting all of its investigations. We found AERB has revised and expanded its reporting system and that these changes correct both of the previous problems. (page 11)

INTRODUCTION AND BACKGROUND

The Office of the Auditor General has evaluated the activity level of the Agricultural Employment Relations Board (AERB) for the period July 1, 1979, through June 30, 1981, in response to a January 30, 1980, resolution of the Joint Legislative Oversight Committee. This evaluation was conducted as a part of the Sunset review set forth in Arizona Revised Statutes (A.R.S.) §§41-2351 through 41-2379.

AERB was established in 1972, when the Governor signed into law, House Bill 2134, which added §§1381 through 1395 to Title 23 of the Arizona Revised Statutes. The Board is comprised of seven members appointed by the Governor (A.R.S. §21-1386). Two of the members represent agricultural employers, two members represent organized agricultural labor and three represent the general public.

The objective of AERB is to promote agricultural labor peace and keep to a minimum the effects of uncontrolled labor-management strife. The Board is intended to provide a forum for the State's agricultural industry and employees to settle disputes.

The activity level of AERB was reviewed previously...in Auditor General Report No. 79-7, A Performance Audit of the Arizona Agricultural Employment Relations Board. That report noted that the activity level of AERB did not justify its staffing level and, in addition, that AERB had overstated the number of unfair labor practice charges it handled in justifying its budget authorization. At that time it was recommended that the Auditor General re-evaluate the activity at a future date to determine whether the activity level had increased or whether reductions in staffing might be required.

The objectives of the re-evaluation were to:

1. Determine if the activity level of AERB has justified its present staffing level;

2. Determine if the number of unfair labor practice (ULP) charges and election petitions handled by AERB has been materially overstated.

The re-evaluation covered the period from July 1, 1979, through June 30, 1981.

The Auditor General expresses gratitude to the members of the Agricultural Employment Relations Board and the Board's administrative staff for their cooperation, assistance and consideration during the course of this evaluation.

SUNSET FACTORS

The low activity level of AERB and AERB's overstatment of that activity level were the principal reasons that Report No. 79-7 recommended a follow-up.

Inasmuch as the Sunset Factors were addressed in Report No. 79-7, these factors are not readdressed in this report. For further information on AERB's Sunset Factors the reader is referred to Report No. 79-7, pages 5-9.

FINDING I

THE CURRENT ACTIVITY LEVEL OF THE AGRICULTURAL EMPLOYMENT RELATIONS BOARD (AERB) HAS SUBSTANTIALLY INCREASED WHEN COMPARED TO PREVIOUS YEARS' ACTIVITY.

A review of the activity level for AERB revealed that the level has increased substantially with regard both to Unfair Labor Practice (ULP) charges and representation elections. In the two years since our first audit, AERB has handled more than three times as many ULP charges and representation elections as it did in the five years before our first audit. These increases appear to justify the current staffing level of AERB.

Increased Number of ULP Charges Filed

One of the primary functions of the AERB is the investigation of alleged unfair labor practices. The investigation process is as follows:

1. A charge is filed by a complainant.

2. General counsel for the Board investigates the charge to determine its validity.

3. If the charge is valid it achieves complaint status, and the AERB general counsel obtains more data to prepare the complaint form.

4. The complainant is given an opportunity to have the case heard before a trial examiner, who hears both sides of the case and renders a decision.

5. If the trial examiner's decision is appealed, AERB will review the decision and render an opinion.

6. If the case is appealed further, a Superior Court will review the case and render a decision.

Table 1 summarizes the ULP activity of AERB for fiscal years 1974-75 through 1980-81.

TABLE 1

SUMMARY OF ULP ACTIVITY OF AERB FOR
FISCAL YEARS 1974-75 THROUGH 1980-81

Activity Level at Each Stage of the AERB ULP Process	Fiscal Year								
	1974-75	1975-76	1976-77	1977-78	1978-79	Total 1974-79	1979-80	1980-81	Total 1979-81
1. Number of charges brought to the AERB general counsel	17	10	2	15	*	44	91	44	135
2. Number of complaints** issued after merge into a consolidated complaint	3	-	-	1	*	4	6	10	16
3. Number of consolidated complaints resulting in a formal hearing	3	-	-	1	*	4	-	1	1

* No activity due to a Federal District Court's injunction (March 1978) prohibiting AERB from enforcing the Agricultural Employment Relations Act, A.R.S. §23-1395 inclusive.

** AERB general counsel may, upon receiving a ULP charge, consolidate the charge, dismiss the charge, have the charge withdrawn by the charging party or issue a formal complaint against the charged party.

As shown in Table 1, the ULP activity of AERB has increased significantly in the number of charges and the number of complaints issued. Only the number of formal hearings has not increased.

Increase in Number of
Election Petitions Filed

The second major function of the Board is to hold and validate elections for union representation.

According to A.R.S. §23-1389, subsections C and D:

> "C. The board shall investigate any petition, and if it has reasonable cause to believe that a question of representation exists shall provide for an appropriate hearing upon due notice....
>
> "D. If the board finds upon the record of such hearing that a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof."

From fiscal year 1974-75 through 1978-79, only nine election petitions were filed and only three elections were held. In the two fiscal years since our first audit, 1979-80 and 1980-81, there were 40 election petitions filed and 19 elections held.

Table 2 provides a comparison of AERB election activity for fiscal years 1974-75 through 1978-79 and 1979-80 and 1980-81.

Table 2

SUMMARY OF AERB ELECTION ACTIVITY FOR
FISCAL YEARS 1974-75 THROUGH 1978-79 AND 1979-80 AND 1980-81

	1974-75 through 1978-79	1979-80 and 1980-81
Election petitions filed	9	40
Elections held	3	19

Based on the information in Tables 1 and 2, the activity level of AERB has increased greatly in the period under evaluation, when compared to the low level of activity of the period covered by Auditor General Report No. 79-7.

Staffing Levels Appear Justified

At the time of our previous review the Board employed three persons: a general counsel, an investigator and an administrative secretary. AERB had authorization for an executive secretary but the position was vacant at the time of our first review. Although AERB employed only three persons, its activity level did not justify its staffing level.

AERB now employs five persons: a general counsel and executive secretary, one full-time and one part-time investigator and an administrative secretary. Although this is an increase in staffing from the time of our previous report, we found the increased activity level of AERB during the past two fiscal years does justify this level of staffing.

CONCLUSION

The activity level of AERB has significantly increased during the past two fiscal years and now appears to justify its staffing level.

FINDING II

THE NUMBER OF UNFAIR LABOR PRACTICE CHARGES AND THE NUMBER OF ELECTION PETITIONS HANDLED BY AERB ARE RECORDED PROPERLY AND OTHER ACTIVITIES ARE DOCUMENTED PROPERLY.

Auditor General Report No. 79-7 found not only that the activity level of AERB was too low to justify its level of staffing, but that the Board was overstating the activity level it did have. In addition, AERB was not maintaining adequate documentation of: 1) informal investigations of unfair labor practices, 2) some formal investigations of unfair labor practices, and 3) unfair labor practice charges that were dismissed by the general counsel. Since the issuance of the previous report, AERB has taken action which has resolved both problems.

Previously Overstated Activity Levels

Report 79-7 found that AERB was counting unfair labor practice charges as separate and independent charges if:

1. The name of the charged party on a previously filed charge was changed due to legal circumstances;

2. The same complaint was filed by family members with different surnames; and

3. Additional violations were added to a previously filed charge.

We found this led in fiscal year 1977-78 to 30 unfair labor practice charges reported by AERB when the Board had, in fact, received only 15 actual charges. We recommended at that time that AERB change its reporting so that only the actual number of charges be recorded and not amendments or additions to them.

Our current evaluation revealed that AERB continues to count individual charges as it has in the past. However, the Board now also consolidates these amended charges to show the actual number of charges involved. In addition, AERB also is reporting greater detail on other aspects of its processing of unfair labor practice charges.

Table 3 illustrates the change in reporting format of the AERB service measurements chart. The table shows the service measurements chart referred to in the Auditor General Report No. 79-7, and the chart currently used by AERB.

TABLE 3

COMPARISON OF AERB SERVICE MEASUREMENTS CHARTS
AS OF JULY 1979 AND JULY 1981

Service Measurements as of July 1979	Service Measurements as of July 1981
1. Unfair labor practices (ULP) filed	1. ULP charges filed a. Consolidated b. Dismissed/withdrawn c. Pending
2. Hearing held on ULP	
3. Elections	2. Complaints issued a. Withdrawn b. Settled c. Dismissed d. Pending
4. Charges investigated but not filed	3. Trials on ULP charges
	4. Petitions for elections filed a. Consolidated b. Dismissed/withdrawn c. Elections held d. Pending
	5. Hearings on elections a. Pre-election b. Post-election c. Board hearings

Documenting Other Activities

Report No. 79-7 stated that:

> "...the AERB is not adequately documenting unfair labor practice charges...."

Our evaluation revealed that AERB now adequately documents ULP charges, and every dismissed ULP charge is recorded on the service measurements chart (see Table 3, line 1).

Currently, each ULP charge is assigned a case number by the AERB general counsel, who reviews the charge and then makes a determination of whether to consolidate the charge, dismiss the charge, and/or issue a formal complaint against the charged party. All of these actions or functions of the general counsel are clearly defined on the service measurements chart.

CONCLUSION

More detailed reporting developed by AERB since the issuance of Report No. 79-7 corrects the previous problems of overstating activity levels and not documenting all activity.

BRUCE BABBITT
GOVERNOR

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October 1, 1981

Mr. Douglas R. Norton
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Dear Mr. Norton:

Mr. LaSota, the Chairman of our Board, Mr. Gibney, and I have reviewed the draft of the performance audit, and wish to inform you that we are in complete agreement with your findings.

I wish to take this opportunity to commend Mr. Murphy of your office for his professional and courteous manner during the course of this audit.

Sincerely yours,

Maxine Olds

Maxine Olds,
Executive Secretary

MO/lj