

# **State of Alaska FY2002 Governor's Operating Budget**

Department of Law  
Oil, Gas and Mining  
Component

## Component: Oil, Gas and Mining

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## Component Mission

Mission statement appears at the department summary and BRU levels.

## Component Services Provided

The Oil, Gas, and Mining section is responsible for in-house Department of Law services in oil, gas, and mining-related disputes:

- advice to the governor on legal issues and litigation over antitrust matters involving oil and gas companies;
- legal representation to state agencies for the investigation, defense, and prosecution of claims concerning the state's oil and gas royalty and taxation programs, including paralegal services, data collection and processing to support the litigation effort;
- monitoring and protesting tariffs charged for transportation of oil and gas production through pipelines; and
- legal advice to state agencies concerning the development of state oil, gas, and mineral resources

Department attorneys must frequently rely on economists, engineers, and other experts to assist in the development of these highly technical oil and gas cases. Moreover, due to the complexity, length, and magnitude of major tax, royalty, tariff, and antitrust cases, outside counsel is sometimes used to help litigate these disputes. Contracts for these outside services are funded directly from the Oil and Gas Litigation and Legal Services BRU, and managed by department staff funded within the Oil, Gas, and Mining component.

The Oil, Gas, and Mining component is funded by intra-agency receipts from the Oil and Gas Litigation and Legal Services BRU, and is shown as a separate component to clearly identify Department of Law's contribution to the state's oil and gas litigation activities.

As discussed in more detail in the Oil and Gas Litigation and Legal Services BRU Issues section, the state has been improving its in-house auditing and litigation capabilities. This has resulted in a shift of more and more cases being handled primarily, if not completely, in-house rather than by more expensive outside counsel.

### ANTITRUST CASES

Department attorneys investigate possible antitrust violations resulting from recent mergers by oil and gas companies and either will litigate or, if an agreement is reached, will monitor and enforce compliance by the company. In addition, the state has filed demands for information from a number of gasoline refiners and marketers as part of an antitrust investigation and may pursue action if warranted.

### TAX-RELATED SERVICES

The state has resolved many of the outstanding tax cases from earlier years. Taxes are annual obligations, however, and more recent audit cycles have been completed. Tens of millions of dollars in taxes and interest are still owed by the oil and gas producers to the state.

Most of the cases with smaller assessments are handled in-house by section attorneys. Where the assessments are very large, however, or when the issues are particularly complex, the state hires experts and may employ outside counsel to ensure maximum preparation and ultimate recovery for the state.

Until recently, oil and gas property tax cases rarely proceeded beyond the administrative stage. That changed in FY1997. The department anticipates that more and more property cases will be vigorously contested as the major North Slope production facilities and the pipeline continue to age and decrease in value, leaving municipalities along the pipeline corridor with a dwindling property tax base. These cases, like other oil and gas tax cases, are extremely costly to litigate and require the advice and testimony of expert witnesses and considerable attorney time.

Department staff also assist the Department of Revenue on a number of other tax-related issues, such as regulations projects and day-to-day agency advice.

#### ROYALTY

The department represents the Department of Natural Resources on a number of royalty disputes between the oil and gas producers and the state. Since the settlement of the massive Alaska North Slope (ANS) royalty case, most royalty matters have been handled primarily in-house. Some parties to the ANS settlements have asserted their rights to reopen the settlements. In those cases, the department relies heavily on contract counsels' past experience with the ANS royalty litigation to renegotiate the settlements.

#### PIPELINE TARIFFS

Department attorneys are responsible for monitoring compliance with the 1985 Trans-Alaska Pipeline System (TAPS) settlement and, if necessary, challenging TAPS tariff filings. These cases can be worth millions of dollars to the state annually. A shipper's challenge to the intrastate TAPS tariffs is in the discovery stage, and proceeding toward a hearing before the Regulatory Commission of Alaska. This case challenges the TAPS settlement methodologies, and requires the assistance of outside counsel and experts. The section also provides general legal advice and assistance to the Department of Natural Resources' State Pipeline Coordinator's Office (SPCO) on pipeline-related matters, including renegotiation of the TAPS right-of-way agreement.

#### RESOURCE DEVELOPMENT

As part of resource development, the Department of Natural Resources administers the oil and gas leasing program. Although the revenue generated by the bonus bids is not large, the program lays the foundation for exploration and development of the state's hydrocarbon resources. Only with a successful leasing program can the revenue base from tax and royalties be sustained. The lease sale program has been challenged in the past and considerable Department of Law attorney time and effort has been and will continue to be expended to defend the program.

Department staff also handle problems with North Slope leases where the state's record as a lessor is at issue. Future resource development activities, including the development of ANWR, depend in large part on the state's record as a land manager. Department attorneys assist in improving this record.

Oil, Gas, and Mining funds legal and expert assistance to the departments of Revenue and Natural Resources in their efforts to encourage development of Alaska North Slope natural gas. Department of Law attorneys provide legal advice on a wide-range of gas-related topics, from right-of-way lease requirements to the constitutionality of proposed changes to the state's fiscal regime. Considerable time will continue to be devoted to this project in FY2002 due to its complexity and importance to the state.

#### MINING

The section also undertakes representation of the Department of Natural Resources, Division of Mining, in all legal matters. However, the mining work is not funded by the intra-agency receipts from the Oil and Gas Litigation and Legal Services BRU; it is funded with general funds as part of our natural resources efforts. The matters include ongoing litigation regarding mineral royalties, mining rights, and rights regarding surface occupancy of mining claims. Department attorneys also assist the division in complying with federal statutes regulating surface mining, including legal review for the use of reclamation funds, and drafting agreement with operators to insure compliance with state and federal reclamation requirements. The department also advises and assists the Division of Mining in drafting bonding agreements, permits, leases, best interest findings, proposed legislation, and regulations.

## ETHICS

Administration of the Executive Branch Ethics Act is also provided by the section. As with mining legal matters, ethics-related work is not funded by the Oil and Gas Litigation and Legal Services BRU. When possible, such services are billed to the client agency involved, or funded with the Department of Law's general funds. The ethics attorney in the section provides advice and training to executive branch agencies and boards and commissions on the Act; advises former employees on their responsibilities under the act; investigates ethics complaints; works with designated supervisors to resolve complaints; if necessary, prosecutes ethics violations before the Personnel Board; and handles any appeals of board decisions.

### **Component Goals and Strategies**

To maximize the state's revenues by enforcing antitrust laws against oil and gas companies.

To maximize the state's revenues by enforcing the state's oil and gas royalty and taxation statutes and regulations.

To maximize the state's revenues through monitoring expenses that reduce oil and gas valuation.

To protect valuable state lands and resources against title and lease challenges.

To advise and educate executive branch agencies and employees on the Executive Branch Ethics Act.

To investigate alleged violations of the Executive Branch Ethics Act and initiate enforcement action in appropriate cases.

### **Key Component Issues for FY2001 – 2002**

See component services provided.

### **Major Component Accomplishments for FY2000**

- Protected the state's revenue, resource development, environmental, and societal interests in antitrust matters involving oil and gas companies in Alaska.
- Defended state's tariff settlement agreements during the period of the agreements to ensure that the state receives the benefits of those agreements.
- Pursued legal remedies that will determine the cost of processing the state's royalty share of natural gas liquids.
- Pursued oil and gas tax assessments made by state tax auditors in both the oil and gas audit and income and excise tax divisions.
- Pursued the state's interests in net profit share oil leases.
- Promoted further oil and gas development by assisting resource agencies in drafting regulations, defending lease sales, and accomplishing other tasks in aid of development.
- Investigated and resolved numerous ethics complaints.
- Successfully defended before the Alaska Supreme Court the Personnel Board's findings of ethics violations.

### **Statutory and Regulatory Authority**

AS 44.23.020

**Oil, Gas and Mining**  
**Component Financial Summary**

All dollars in thousands

	FY2000 Actuals	FY2001 Authorized	FY2002 Governor
<b>Non-Formula Program:</b>			
<b>Component Expenditures:</b>			
71000 Personal Services	2,196.8	2,308.6	2,291.8
72000 Travel	52.4	90.5	90.5
73000 Contractual	319.3	431.0	431.4
74000 Supplies	64.5	54.2	54.2
75000 Equipment	27.0	0.0	0.0
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
<b>Expenditure Totals</b>	<b>2,660.0</b>	<b>2,884.3</b>	<b>2,867.9</b>
<b>Funding Sources:</b>			
1007 Inter-Agency Receipts	2,660.0	2,884.3	2,867.9
<b>Funding Totals</b>	<b>2,660.0</b>	<b>2,884.3</b>	<b>2,867.9</b>

**Estimated Revenue Collections**

Description	Master Revenue Account	FY2000 Actuals	FY2001 Authorized	FY2001 Cash Estimate	FY2002 Governor	FY2003 Forecast
<b>Unrestricted Revenues</b>						
None.		0.0	0.0	0.0	0.0	0.0
<b>Unrestricted Total</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>Restricted Revenues</b>						
Interagency Receipts	51015	2,660.0	2,884.3	2,833.7	2,867.9	2,867.9
<b>Restricted Total</b>		<b>2,660.0</b>	<b>2,884.3</b>	<b>2,833.7</b>	<b>2,867.9</b>	<b>2,867.9</b>
<b>Total Estimated Revenues</b>		<b>2,660.0</b>	<b>2,884.3</b>	<b>2,833.7</b>	<b>2,867.9</b>	<b>2,867.9</b>

**Oil, Gas and Mining****Proposed Changes in Levels of Service for FY2002**

None.

**Summary of Component Budget Changes  
From FY2001 Authorized to FY2002 Governor**

*All dollars in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2001 Authorized</b>	<b>0.0</b>	<b>0.0</b>	<b>2,884.3</b>	<b>2,884.3</b>
<b>Adjustments which will continue current level of service:</b>				
-Year 2 Labor Costs - Net Change from FY 2001	0.0	0.0	-16.4	-16.4
<b>FY2002 Governor</b>	<b>0.0</b>	<b>0.0</b>	<b>2,867.9</b>	<b>2,867.9</b>

## Oil, Gas and Mining

## Personal Services Information

Authorized Positions			Personal Services Costs	
	FY2001 Authorized	FY2002 Governor		
Full-time	32	32	Annual Salaries	1,827,464
Part-time	0	0	COLA	35,966
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	542,426
			<i>Less 4.74% Vacancy Factor</i>	(114,056)
			Lump Sum Premium Pay	0
<b>Totals</b>	<b>32</b>	<b>32</b>	<b>Total Personal Services</b>	<b>2,291,800</b>

## Position Classification Summary

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Accounting Clerk II	0	0	1	0	1
Analyst/Programmer IV	1	0	0	0	1
Assoc Attorney II	2	0	0	0	2
Attorney III	0	0	1	0	1
Attorney IV	7	0	1	0	8
Attorney V	2	0	2	0	4
Data Processing Mgr I	0	0	1	0	1
Data Processing Tech I	1	0	0	0	1
Legal Secretary I	2	0	1	0	3
Legal Secretary II	1	0	1	0	2
Paralegal Asst I	1	0	0	0	1
Paralegal Asst II	2	0	2	0	4
Procurement Spec II	0	0	1	0	1
Secretary	0	0	1	0	1
Spec Asst To The Comm II	0	0	1	0	1
<b>Totals</b>	<b>19</b>	<b>0</b>	<b>13</b>	<b>0</b>	<b>32</b>