

State of Alaska FY2006 Governor's Operating Budget

Department of Law Opinions, Appeals and Ethics Component Budget Summary

Component: Opinions, Appeals and Ethics

Contribution to Department's Mission

The Opinions, Appeals and Ethics section provides specialized legal services and representation to state government on all legal opinions, civil appeals in state and federal court, all executive branch ethics, public finance matters, and Indian law.

Core Services

The Opinions, Appeals and Ethics section provides legal services and expertise to departments and agencies in a variety of areas requiring special expertise. Those areas include attorney general opinions on all subjects and appeals of civil cases in both state and federal court. The section serves all state departments, boards, and commissions on all Executive Branch Ethics Act matters. The section also provides advice and representation on specialized areas of the law including public finance and budget, Indian law, and the public records act.

The section was established in June 2003. Its primary functions are to improve the state's civil appellate work, improve the quality of attorney general opinions, provide more timely and comprehensive services on executive branch ethics for all of state government, and to provide specialized legal expertise in certain areas including public finance and Indian law. The attorneys in the section evaluate and make recommendations to the attorney general and deputy attorney general on all civil appeals and petitions for review. The section also provides assistance with appellate briefing and case preparation, and handles appeals where the case presents significant constitutional issues or where matters of statewide implication are involved. Beginning October 1, 2004, the section started handling all of the state's new appellate cases concerning child abuse and neglect.

The section is responsible for attorney general opinions, and in carrying out that function it both prepares opinions on significant legal issues, and reviews and approves opinions generated by others in the department. As with the appellate function, the section's opinion function has improved the substance, quality, and consistency of the written legal advice issued by the department.

The section is assigned the Executive Branch Ethics function for state government. This focus has improved the timeliness and quality of ethics advice being rendered to all state agencies. The section chief serves as the designated ethics supervisor for the Department of Law, and handles professional ethics issues involving both department staff and outside counsel. The section also provides legal advice and assistance on the state's public funds, public finance issues, public records issues, and legal advice to the Governor's Office. It also is responsible for coordinating and assisting on Alaska Native and federal Indian law issues, both civil and criminal. The section is also responsible for reviewing briefs and making recommendations to the attorney general on participation in United States Supreme Court cases as an *amicus* or "friend of the court."

FY2006 Resources Allocated to Achieve Results

FY2006 Component Budget: \$1,214,900	Personnel:	
	Full time	8
	Part time	0
	Total	8

Key Component Challenges

The Opinions, Appeals and Ethics section is currently overseeing the work of the civil division on over 100 active appeals pending in state and federal court. At any given time, we have between 90 and 110 civil appeals pending in the courts, about 25 of those being in the area of child abuse and neglect (CINA). The section is currently handling 12 of the CINA appeals and as of October 1, 2004, is taking on all new CINA appeals statewide. We are handling the appeals in other cases that concern constitutional and legal issues of particular import, including an appeal involving Indian country issues and one concerning the 17th Amendment to the U.S. Constitution. A key challenge for the section is to be involved in the briefing and preparation of all civil appeals. The section has prepared significant opinions on constitutional issues concerning the initiatives, the permanent fund, Indian law issues, and ethics matters. A key challenge in this area is to develop protocols to ensure the section is involved early in the opinion process to ensure that timely and high quality advice is rendered to state agencies, which in turn improves agency decision making.

Ethics is another key challenge for the section. The section handles scores of ethics issues, investigations, opinions, and oral and written advice. These issues come up literally every day from all over state government. It is important that ethics advice be rendered promptly and in a consistent manner. Opinions and advice often require significant factual and legal research. As discussed below, the section plans to provide more ethics training for state agencies now that an additional attorney has been added for ethics. Better and more frequent training should reduce the number of ethics problems that arise and improve agency action and decision making on these issues.

Indian law issues continue to impact virtually every area of state government's responsibilities. The section is working to provide advice on a wide variety of issues including civil and criminal jurisdiction and authority, Indian gaming, waivers of sovereign immunity, Indian country, tribal status, the Indian Child Welfare Act, Public Law 280, and many more. We anticipate this area of law and legal services to be a continuing challenge for the section.

In the FY 2005 budget, the governor requested and the legislature authorized \$247,800 for the addition of 2 attorney positions. Recognizing that new positions cannot be filled on July 1 of the fiscal year in which they are authorized, the request reflects some positions funded for 10 or 11 months rather than 12. To complete the funding and allow the positions to be filled year round, an additional increment of \$75,000 is needed.

Significant Changes in Results to be Delivered in FY2006

Starting in October 2004, two attorneys were added to the section as a result of legislative approval of budget increments for FY2005. This additional staff will result in significant improvements in the areas of civil appeals in CINA cases, Indian law, and ethics advice and training for state government.

As of October 1, 2004, the section has two attorneys devoted to CINA appeals. We are now taking on all new appeals in child abuse and neglect cases. This consolidation and expertise will bring the state better results and it will allow our over-loaded CINA trial attorneys to focus on trial work.

Until mid-October 2004, we had one attorney assigned to both Indian law and Executive Branch Ethics. Because of this lack of adequate staff, both of these important functions were short-changed. The new attorney for ethics will enable us to focus on timely advice, investigations, and training for designated ethics supervisors and other state officials and employees. This additional staff also will enable an attorney in the section with expertise in Indian law to devote more time to those important issues in FY2006.

Major Component Accomplishments in 2004

- The section evaluated and made recommendations to the attorney general on whether to appeal in 22 cases. The evaluations include careful review of the cases, consultation with the attorney and agency involved, preparation of memoranda analyzing the case and making a recommendation, and discussion with the attorney general and the deputy attorney general.
- The section worked on appellate briefs in many cases, set up moot courts for 32 cases and participated in oral argument preparation in many of those, and provided consultation on appellate issues for the civil division.
- The section prepared and issued several attorney general opinions and assisted with the preparation of many other opinions.

- The section handled approximately half of the court appeals in CINA cases and beginning October 1, 2004, the section started handling all new appeals in CINA cases.
- The section provided legal advice on over 100 ethics issues, rendered several ethics opinions and memoranda of advise on topics such as outside employment, post-state employment, gifts, contracts, etc., investigated and resolved several ethics complaints, and is continuing work on several pending investigations and issues.
- The section advised the Office of Management and Budget on issues concerning public finance and budget and prepared draft legislation on budget and finance issues.
- The section worked on a wide variety of Indian law issues including the Indian Child Welfare Act, Indian gaming, sovereign immunity, and tribal jurisdiction in civil and criminal arenas.

Statutory and Regulatory Authority

No statutes and regulations.

Contact Information
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**Opinions, Appeals and Ethics
Component Financial Summary**

All dollars shown in thousands

	FY2004 Actuals	FY2005 Management Plan	FY2006 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	0.0	908.1	948.5
72000 Travel	0.0	31.8	33.1
73000 Services	0.0	159.5	191.6
74000 Commodities	0.0	20.3	28.7
75000 Capital Outlay	0.0	13.0	13.0
77000 Grants, Benefits	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
Expenditure Totals	0.0	1,132.7	1,214.9
Funding Sources:			
1004 General Fund Receipts	0.0	761.4	841.3
1007 Inter-Agency Receipts	0.0	371.3	373.6
Funding Totals	0.0	1,132.7	1,214.9

Estimated Revenue Collections

Description	Master Revenue Account	FY2004 Actuals	FY2005 Managem ent Plan	FY2006 Governor
Unrestricted Revenues				
None.		0.0	0.0	0.0
Unrestricted Total		0.0	0.0	0.0
Restricted Revenues				
Interagency Receipts	51015	0.0	371.3	373.6
Restricted Total		0.0	371.3	373.6
Total Estimated Revenues		0.0	371.3	373.6

**Summary of Component Budget Changes
From FY2005 Management Plan to FY2006 Governor**

All dollars shown in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2005 Management Plan	761.4	0.0	371.3	1,132.7
Adjustments which will continue current level of service:				
-FY06 Cost Increases for Bargaining Units and Non-Covered Employees	4.9	0.0	2.3	7.2
Proposed budget increases:				
-Complete Funding for Underfunded Attorney Positions	75.0	0.0	0.0	75.0
FY2006 Governor	841.3	0.0	373.6	1,214.9

Opinions, Appeals and Ethics Personal Services Information					
Authorized Positions			Personal Services Costs		
	<u>FY2005</u> <u>Management</u> <u>Plan</u>	<u>FY2006</u> <u>Governor</u>			
			Annual Salaries		709,175
Full-time	8	8	Premium Pay		0
Part-time	0	0	Annual Benefits		280,700
Nonpermanent	0	0	<i>Less 1.12% Vacancy Factor</i>		(11,075)
			Lump Sum Premium Pay		0
Totals	8	8	Total Personal Services		978,800

Position Classification Summary					
Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Attorney IV	2	0	1	0	3
Attorney V	1	2	1	0	4
Attorney VI	0	0	1	0	1
Totals	3	2	3	0	8