

State of Alaska
FY2020 Governor's Operating Budget

Department of Law
Civil Division
Results Delivery Unit Budget Summary

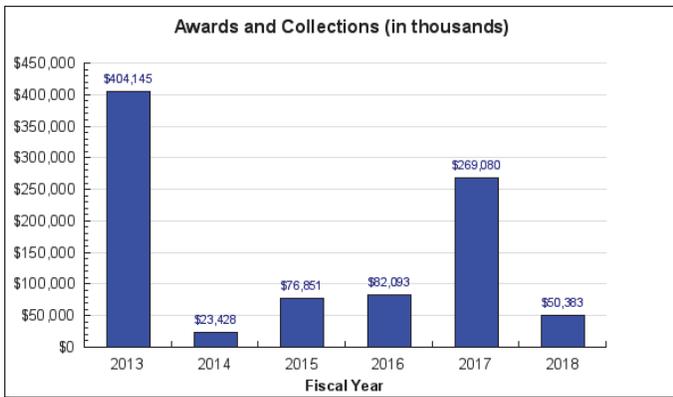
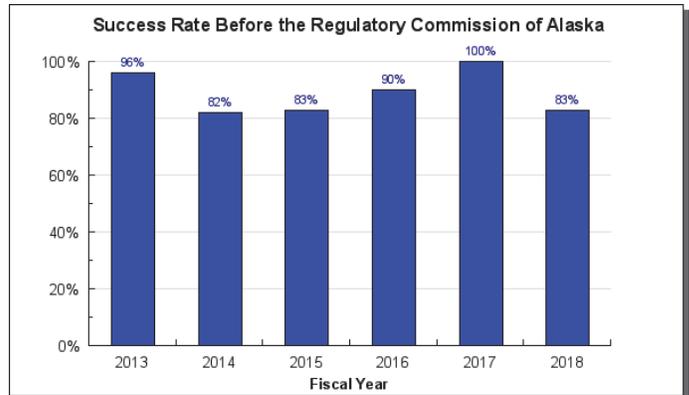
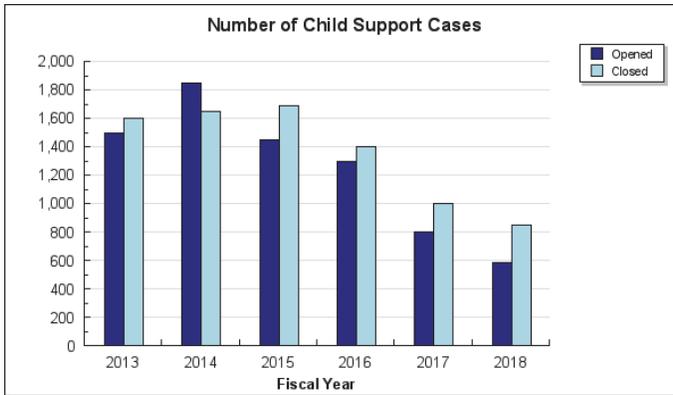
Civil Division Results Delivery Unit

Contribution to Department's Mission

The mission of the Civil Division is to protect the human, financial and natural resources of the state.

Results

(Additional performance information is available on the web at <https://omb.alaska.gov/results>.)



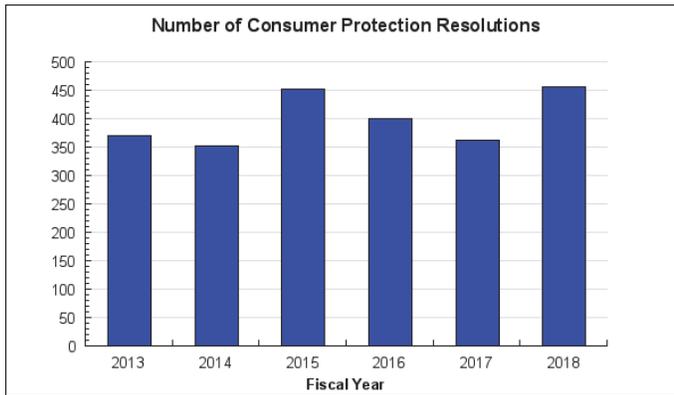
Core Services

- Protecting the Safety and Physical and Financial Well-being of Alaskans
- Maximize Tax and Royalty Claims
- Promoting Good Governance

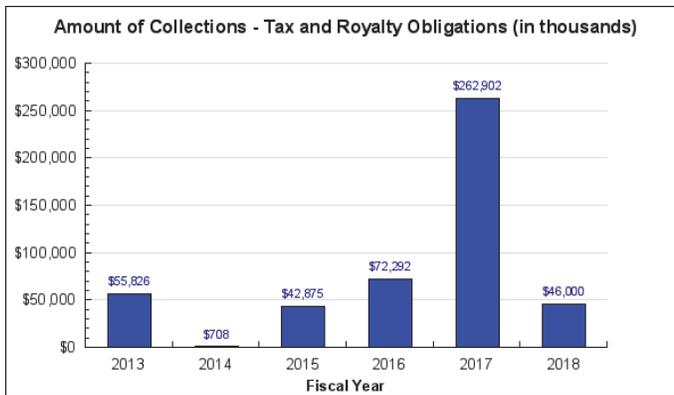
Measures by Core Service

(Additional performance information is available on the web at <https://omb.alaska.gov/results>.)

1. Protecting the Safety and Physical and Financial Well-being of Alaskans



2. Maximize Tax and Royalty Claims



3. Promoting Good Governance



Major RDU Accomplishments in 2018

Protecting the Safety and Physical and Financial Well-being of Alaskans

- **Child Protection.** In FY2018, the Alaska Supreme Court affirmed decisions made by the Office of Children's Services (in the Department of Health and Social Services) in 18 appeals, reversed one decision and four others were dismissed or voluntarily remanded.

- Human Services. Continued to advise DHSS on the implementation of CH 25 SLA 2016 (SB 74, Medicaid Reform), which is estimated to save the state millions of general fund dollars in the coming fiscal years. The section also handled hundreds of contested evidentiary hearings statewide related to guardianships, conservatorships and mental commitments.
- Human Services. Advised state agencies in numerous investigations related to licensed assisted living homes, residential child care facilities, psychiatric centers, foster homes, and child day care facilities, many of which resulted in suspensions and/or revocations of the facilities' license, requiring administrative review.
- Commercial and Fair Business Practices. Successfully prosecuted or negotiated settlements in 34 professional discipline, license denial, license reinstatement, and unlicensed activity matters. These cases resulted in various actions including revocation, surrender, fines, reprimand, suspension, license conditions, or denial of a license.
- Regulatory Affairs and Public Advocacy. The section's advocacy yielded approximately \$16 million in quantifiable consumer benefits in FY2018. This quantification is based on refunds issued or the difference between the amounts requested by utilities in their respective revenue requirement proposals and the amounts ultimately awarded to them by the Regulatory Commission of Alaska.

Fostering the Conditions for Economic Opportunity and Responsible Development and Use of Alaska's Natural Resources

- Labor and State Affairs. Assisted the Alaska Industrial Development Export Authority (AIDEA) in concluding a long-term financing agreement with the Interior Gas Utility to facilitate expanded use of natural gas in Interior Alaska.
- Labor and State Affairs. Assisted AIDEA in negotiating and documenting a complex restructuring of its investment in the development of an oil processing facility for the Mustang oil field on the North Slope, which is intended to allow additional private investment into the field to sustain and expand oil production.
- Natural Resources. Litigated against federal agencies to challenge regulations adopted by the National Park Service and the U.S. Fish and Wildlife Service that prohibit the state from exercising its full authority to manage fish and game within federal parks and refuges.
- Natural Resources. Section attorneys prosecuted and defended multiple actions involving the Tongass National Forest, including the Roadless Rule and the Tongass Land Management Plan. Supported the federal government, King Cove Corporation, and others in litigation to defend a land exchange.
- Natural Resources. Successfully prosecuted claims against the United States to quiet title to the beds of navigable rivers in Alaska and advised DNR regarding other title issues involving beds of navigable waters.
- Environmental Law. In FY2018, section attorneys recovered \$1,996,494 for state costs and penalties related to violations of state environmental laws. Costs associated with operating the section totaled less than \$1,140,000 for all fund sources, providing the state with significant value for the work performed.
- Transportation. Section attorneys are providing legal support for the Department of Transportation and Public Facilities land acquisition for highway and airport projects throughout Alaska, and in right-of-way acquisitions for major projects on the Parks, Glenn and Richardson Highways.

Protecting the Fiscal Integrity of the State

- Torts and Workers' Compensation. Defended the state (as an employer) in numerous workers' compensation matters before the Alaska Workers' Compensation Board and the Alaska Workers' Compensation Appeals Commission, and defended the state, its agencies, and its employees in numerous state and federal court tort cases.
- Natural Resources. In FY2018, the section's work resulted in the collection of over \$46 million in additional tax payments, fire cost recoveries and attorney's fees.

- Labor and State Affairs. Provided extensive legal advice and representation to the Department of Administration, Division of Retirement and Benefits, in numerous health and benefits appeals and coverage issues under the state's health care plans, and on proposed state health and pension plan changes.
- Labor and State Affairs. Provided legal advice to Shared Services of Alaska and the Division of Retirement and Benefits in procuring and defending a protest for pharmacy benefits management contract that will result in \$79 million in savings to the state over the next three years.
- Transportation. Section attorneys defended multiple contractor claims filed against the Department of Transportation and Public Facilities. Included among the larger cases were claims arising from road construction and airport projects in the Central and Southeast regions, and a claim pertaining to the M/V Columbia.

Promoting and Defending Good Governance

- Labor and State Affairs. Advised the Division of Elections (DOE) during the 2018 Republican Primary for state house representative in House District 15 in Anchorage, after DOE discovered irregularities in absentee balloting and voting, and successfully assisted DOE in reviewing ballots, addressing potential legal concerns, and referring the matter to the Criminal Division for prosecution.
- Opinions, Appeals and Ethics. Promoted and enforced compliance with the Alaska Executive Branch Ethics Act by advising individuals and agencies on ethics questions, presenting ethics trainings, drafting ethics opinions and memoranda of advice, and investigating and resolving ethics complaints against former or current state employees.
- Opinions, Appeals and Ethics. Represented the Lieutenant Governor's office in the Alaska Supreme Court in a lawsuit challenging the decision not to certify 17FSH2, "An Act providing for protection of wild salmon and fish and wildlife habitat," on the grounds that it made an unlawful appropriation of and usurped the legislature's authority. The Alaska Supreme Court agreed with the state, in part, and severed the portions of the bill that it determined made an unconstitutional appropriation, allowing the rest of the initiative to appear on the 2018 general election ballot.
- Legislation and Regulations. The section conducted legal review of nearly 1,350 pages of regulations during FY2018. Coordinated and drafted legislative bills on behalf of the administration for the 30th legislative session. Significant bills that passed include bills to improve the state's background check system for employment of police officers and persons who provide care to vulnerable citizens, to allow for emergency scheduling of dangerous drugs by regulation, and relating to the permanent fund and the funding structure for state government.
- Special Litigation. The section is representing the state in litigation challenging the Tax Credit Bond Act, which is new legislation enacted in 2018 (CH 33 SLA 2018, HB 331) to authorize the issuance of bonds to finance the repurchase of oil and gas tax credits.

Key RDU Challenges

- Child Protection. Shrinking division resources and increasing caseloads on a statewide basis are presenting significant challenges for the section. Section attorneys now carry an average of 78 family cases each. The American Bar Association Standards for lawyers representing child welfare agencies recommend no more than 60 family cases per attorney. These high attorney caseloads and shrinking resources increase costs to the state and lead to longer stays in foster care for children who could otherwise find permanency in their "forever home".
- Consumer Protection. Alaska is a target state for many types of consumer fraud. Under the authority of the Consumer Protection Act (AS 45.50.471 et seq.), the state investigates and brings enforcement action against businesses that engage in unfair or deceptive trade practices. Because of vacancies and current budget constraints, the department's consumer protection enforcement capacity has been significantly limited in the last few years. In FY2019 litigation of consumer protection complaints, antitrust enforcement and enforcement of multi-state actions will be transferred from the Commercial and Fair Business section to the Special Litigation section, and a new attorney position will be filled so that the section can increase its enforcement function.

- Environmental Law. Position reductions have resulted in a drop in cost recovery for Department of Environmental Conservation oversight and cleanup costs of spill response and contaminated sites. Reductions have also resulted in an inability to pursue cleanup of "lingering contaminated sites" where there is no responsible party undertaking a cleanup.
- Human Services. Attorney caseloads continue to increase each year, without any increased resources to address them. Alaska has one of the fastest-growing aging populations in the nation. Some public assistance programs (e.g., Alaska Heating Assistance Program, Senior Benefits, general assistance) are facing reduced funding and may see increased hearings and/or legal challenges as individuals lose access to the programs.
- Natural Resources. Protecting Alaska's sovereign right to manage fish and game and to exert its sovereignty over statehood entitlement lands and navigable waters against federal government encroachment will continue to be a key challenge for the section.

Significant Changes in Results to be Delivered in FY2020

The department is continuously assessing how it can better provide legal services to state agencies and litigate matters in the public interest. The department makes every effort to prioritize and direct limited available resources in order to ensure efficiency while preserving effectiveness.

Contact Information
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**Civil Division
RDU Financial Summary by Component**

All dollars shown in thousands

	FY2018 Actuals				FY2019 Management Plan				FY2020 Governor			
	UGF+DGF Funds	Other Funds	Federal Funds	Total Funds	UGF+DGF Funds	Other Funds	Federal Funds	Total Funds	UGF+DGF Funds	Other Funds	Federal Funds	Total Funds
Formula Expenditures None.												
Non-Formula Expenditures												
Dep. Attny General's Office	2,918.3	0.0	0.0	2,918.3	278.7	10.0	0.0	288.7	288.7	10.0	0.0	298.7
Child Protection	6,042.6	2,939.9	0.0	8,982.5	5,264.4	2,475.9	0.0	7,740.3	6,120.6	2,301.8	0.0	8,422.4
Commercial and Fair Business	544.6	3,884.8	0.0	4,429.4	948.4	4,953.6	0.0	5,902.0	950.0	4,954.8	0.0	5,904.8
Environmental Law	95.7	1,043.2	0.0	1,138.9	529.0	1,160.2	0.0	1,689.2	571.3	1,172.9	0.0	1,744.2
Human Services	1,759.3	1,554.1	0.0	3,313.4	1,472.5	1,578.9	0.0	3,051.4	1,628.5	1,589.8	0.0	3,218.3
Labor and State Affairs	1,981.5	2,943.3	0.0	4,924.8	2,139.6	2,883.3	0.0	5,022.9	2,042.9	2,885.7	0.0	4,928.6
Legislation/Regulations	792.3	227.0	0.0	1,019.3	899.5	415.1	0.0	1,314.6	1,060.6	476.9	0.0	1,537.5
Natural Resources	3,569.8	5,056.5	0.0	8,626.3	6,246.4	3,446.7	0.0	9,693.1	5,080.1	3,456.3	0.0	8,536.4
Opinions, Appeals and Ethics	703.3	0.0	0.0	703.3	1,510.2	1,202.6	0.0	2,712.8	1,451.7	1,147.4	0.0	2,599.1
Reg Affairs Public Advocacy	2,134.6	0.0	0.0	2,134.6	2,818.5	0.0	0.0	2,818.5	2,846.9	0.0	0.0	2,846.9
Special Litigation	553.2	60.7	0.0	613.9	953.1	236.4	0.0	1,189.5	965.8	246.4	0.0	1,212.2
Information and Project Support	99.0	1,117.6	0.0	1,216.6	428.3	1,555.9	0.0	1,984.2	431.9	1,581.3	0.0	2,013.2
Torts and Workers' Compensation	62.4	3,869.0	0.0	3,931.4	0.0	4,157.9	0.0	4,157.9	0.0	4,193.7	0.0	4,193.7
Transportation Section	0.0	2,197.8	0.0	2,197.8	0.0	2,446.6	0.0	2,446.6	0.0	2,636.4	0.0	2,636.4
Totals	21,256.6	24,893.9	0.0	46,150.5	23,488.6	26,523.1	0.0	50,011.7	23,439.0	26,653.4	0.0	50,092.4

Civil Division
Summary of RDU Budget Changes by Component
From FY2019 Management Plan to FY2020 Governor

All dollars shown in thousands

	<u>Unrestricted Gen (UGF)</u>	<u>Designated Gen (DGF)</u>	<u>Other Funds</u>	<u>Federal Funds</u>	<u>Total Funds</u>
FY2019 Management Plan	20,636.4	2,852.2	26,523.1	0.0	50,011.7
One-time items:					
-Natural Resources	-1,169.3	0.0	0.0	0.0	-1,169.3
Adjustments which continue current level of service:					
-Dep. Attny General's Office	10.0	0.0	0.0	0.0	10.0
-Child Protection	-72.3	0.0	-174.1	0.0	-246.4
-Commercial and Fair Business	-54.4	2.3	1.2	0.0	-50.9
-Environmental Law	42.3	0.0	12.7	0.0	55.0
-Human Services	156.0	0.0	10.9	0.0	166.9
-Labor and State Affairs	-96.7	0.0	2.4	0.0	-94.3
-Legislation/Regulations	161.1	0.0	61.8	0.0	222.9
-Natural Resources	3.0	0.0	9.6	0.0	12.6
-Opinions, Appeals and Ethics	-58.5	0.0	-55.2	0.0	-113.7
-Reg Affairs Public Advocacy	0.7	27.7	0.0	0.0	28.4
-Special Litigation	12.7	0.0	10.0	0.0	22.7
-Information and Project Support	3.6	0.0	25.4	0.0	29.0
-Torts and Workers' Compensation	0.0	0.0	35.8	0.0	35.8
-Transportation Section	0.0	0.0	189.8	0.0	189.8
Proposed budget increases:					
-Child Protection	928.5	0.0	0.0	0.0	928.5
-Commercial and Fair Business	53.7	0.0	0.0	0.0	53.7
FY2020 Governor	20,556.8	2,882.2	26,653.4	0.0	50,092.4