

State of Alaska
FY2020 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 represents the State of Alaska and its agencies in civil appeals, provides critical analysis on complex legal questions, and advises the state and its agencies on ethics matters and Native Law issues.

Core Services

- Represent the state and its agencies before the Alaska Supreme Court, Ninth Circuit, and U.S. Supreme Court, providing the highest level of appellate representation in matters that significantly affect state interests. In addition, section attorneys represent the Department of Health and Social Services in all child protection and civil commitment appeals before the Alaska Supreme Court.
- Assist all attorneys in the Civil Division with appeals and critical motions to ensure consistent legal positions and quality representation.
- Advise the executive branch and its agencies on critical legal questions that demand the most complex and comprehensive research and analysis.
- Review all Attorney General Opinions prior to publication to ensure clarity and completeness in addressing questions of public importance. Section attorneys both draft Attorney General Opinions and review opinions drafted by other attorneys in the Civil Division.
- Ensure compliance with the Executive Branch Ethics Act by training and advising agencies and individual employees on the Act's requirements and by investigating and resolving ethics complaints. An assistant attorney general in the section serves as the designated ethics supervisor for the Department of Law and handles professional ethics issues involving both department staff and outside counsel.
- Provide advice and representation to the state and its agencies on specialized legal issues like attorneys' fees and Native Law issues. Section attorneys help to negotiate and draft tribal-state agreements, review proposed laws, and participate in litigation that raises Native Law issues in state and federal courts.
- Recommend to the Attorney General whether to participate as amicus curiae in appeals before the federal courts, including the United States Supreme Court, in cases that may affect state interests.

Major Component Accomplishments in 2018

- Obtained U.S. Supreme Court review of two Ninth Circuit decisions adverse to state interests: *Sturgeon v. Frost*, addressing the extent of federal authority over navigate waters in Alaska, and *Nieves et. al. v. Bartlett*, defending Alaska State Troopers from damages claims arising out of reasonable arrest.
- Represented the Department of Health and Social Services in every child protection and civil commitment appeal before the Alaska Supreme Court.
- Reviewed briefs and staffed moot courts in every Civil Division appeal before the Alaska Supreme Court and Ninth Circuit to ensure the highest quality appellate representation for the state.
- Provided critical motion support and strategic counsel to the Civil Division's Special Litigation section in high-profile and complex trial court cases.
- 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.
- Advised state agencies and officials on a wide variety of Native Law issues.

Key Component Challenges

- A key challenge for the section is to lend its expertise in appellate briefing and argument to all Civil Division sections, given the volume of appeals to which the state is a party. At any given time, the Civil Division has between 100 and 150 civil appeals pending, 25-30 of which are child protection cases involving child abuse and neglect. The section directly handles all of the child protection appeals statewide, as well as all appeals of civil commitments statewide. The section also directly handles appeals in cases that concern constitutional and legal issues of particular import. For the rest of the Civil Division's appeals, attorneys in the Opinions, Appeals and Ethics section review and revise appellate briefs drafted by other attorneys and help prepare them for oral argument.
- Because section attorneys' expertise in writing and analysis, they are frequently called on to offer legal advice on some of the thorniest and most sensitive legal issues facing state government. Providing this high-quality advice, while maintaining the output required by the Civil Division's appellate caseload, is a challenge.
- The section prepares or reviews Attorney General Opinions. A key challenge in this area has been to develop protocols to ensure the section is involved early in the opinion process so the department can render timely and high quality advice to state agencies, to improve agency decision making. Section members developed a department policy on opinions that will help the department issue higher quality opinions in a timely manner.
- The Executive Branch Ethics Act is another key challenge for the section. The section handles issues, investigations, hearings, opinions, and oral and written advice, and also provides ethics training for state agencies. These issues arise daily from all over state government. There is continuing work on several pending ethics investigations and issues. The section strives to give ethics advice that is prompt and consistent. Some advice requires significant factual and legal research.
- Native Law issues continue to impact virtually every area of state government's responsibilities. The section provides advice on a wide variety of Native Law issues including civil and criminal jurisdiction, trust lands, waivers of sovereign immunity, tribal status, the Indian Child Welfare Act, Public Law 280, and many more. The Civil Division anticipates this area of law and legal services will be a continuing challenge for the section.

Significant Changes in Results to be Delivered in FY2020

No changes are anticipated in the coming fiscal year.

Statutory and Regulatory Authority

AS 44.23.020

Contact Information
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Opinions, Appeals and Ethics Personal Services Information				
Authorized Positions			Personal Services Costs	
	<u>FY2019</u> <u>Management</u> <u>Plan</u>	<u>FY2020</u> <u>Governor</u>		
Full-time	16	16	Annual Salaries	1,584,960
Part-time	0	0	COLA	3,946
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	838,590
			<i>Less 3.55% Vacancy Factor</i>	(86,096)
			Lump Sum Premium Pay	0
Totals	16	16	Total Personal Services	2,341,400

Position Classification Summary					
Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Attorney II	1	0	0	0	1
Attorney III	0	0	1	0	1
Attorney IV	5	0	0	0	5
Attorney V	4	1	0	0	5
Attorney VI	1	0	0	0	1
Law Office Assistant I	1	0	0	0	1
Law Office Assistant II	0	1	0	0	1
Paralegal II	1	0	0	0	1
Totals	13	2	1	0	16

Component Detail All Funds
Department of Law

Component: Opinions, Appeals and Ethics (2716)
RDU: Civil Division (35)

Non-Formula Component

	FY2018 Actuals	FY2019 Conference Committee	FY2019 Authorized	FY2019 Management Plan	FY2020 Governor	FY2019 Management Plan vs FY2020 Governor	
71000 Personal Services	591.9	2,565.1	2,565.1	2,455.1	2,341.4	-113.7	-4.6%
72000 Travel	1.8	3.1	3.1	3.1	3.1	0.0	0.0%
73000 Services	100.3	144.6	144.6	254.6	254.6	0.0	0.0%
74000 Commodities	8.6	0.0	0.0	0.0	0.0	0.0	0.0%
75000 Capital Outlay	0.7	0.0	0.0	0.0	0.0	0.0	0.0%
77000 Grants, Benefits	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
78000 Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
Totals	703.3	2,712.8	2,712.8	2,712.8	2,599.1	-113.7	-4.2%
Fund Sources:							
1004 Gen Fund (UGF)	703.3	1,510.2	1,510.2	1,510.2	1,451.7	-58.5	-3.9%
1007 I/A Rcpts (Other)	0.0	1,202.6	1,202.6	1,202.6	1,147.4	-55.2	-4.6%
Unrestricted General (UGF)	703.3	1,510.2	1,510.2	1,510.2	1,451.7	-58.5	-3.9%
Designated General (DGF)	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
Other Funds	0.0	1,202.6	1,202.6	1,202.6	1,147.4	-55.2	-4.6%
Federal Funds	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
Positions:							
Permanent Full Time	13	16	16	16	16	0	0.0%
Permanent Part Time	0	0	0	0	0	0	0.0%
Non Permanent	0	0	0	0	0	0	0.0%

Change Record Detail - Multiple Scenarios with Descriptions
Department of Law

Component: Opinions, Appeals and Ethics (2716)
RDU: Civil Division (35)

Scenario/Change Record Title	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants, Benefits	Miscellaneous	Positions		NP
										PFT	PPT	
***** Changes From FY2019 Conference Committee To FY2019 Authorized *****												
FY2019 Conference Committee												
	ConfCom	2,712.8	2,565.1	3.1	144.6	0.0	0.0	0.0	0.0	16	0	0
1004 Gen Fund		1,510.2										
1007 I/A Rcpts		1,202.6										
Subtotal		2,712.8	2,565.1	3.1	144.6	0.0	0.0	0.0	0.0	16	0	0
***** Changes From FY2019 Authorized To FY2019 Management Plan *****												
Transfer Paralegal II (03-0343) from Commercial and Fair Business to Address Workload Demands												
	Trin	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1	0	0
Transfer Paralegal II (03-0343) from Commercial and Fair Business to accommodate the workload and office demands.												
Transfer Associate Attorney I (03-0231) to Special Litigation to Address Workload Demands												
	Trout	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-1	0	0
Transfer Associate Attorney I (03-0231) to Special Litigation to accommodate the workload and office demands.												
Align Authority to Comply with Vacancy Factor Guidelines												
	LIT	0.0	-110.0	0.0	110.0	0.0	0.0	0.0	0.0	0	0	0
The purpose of this line item transfer is to align authority within the Opinions, Appeals and Ethics component in order to comply with vacancy factor guidelines.												
Subtotal		2,712.8	2,455.1	3.1	254.6	0.0	0.0	0.0	0.0	16	0	0
***** Changes From FY2019 Management Plan To FY2020 Governor *****												
Transfer to Legislation/Regulations to Comply with Vacancy Factor Guidelines												
	Trout	-120.0	-120.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
1004 Gen Fund		-60.0										
1007 I/A Rcpts		-60.0										
Transfer budget authority to the Legislation/Regulations component to align authority with anticipated expenditure levels for personal services. There are no impacts on services associated with this transfer.												
Transfer Paralegal II (03-0343) to Commercial and Fair Business to Address Workload Demands												
	Trout	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-1	0	0
Transfer Paralegal II (03-0343) to Commercial and Fair Business to accommodate the workload and office demands.												
Transfer Attorney III (03-0162) from Labor and State Affairs for Required Legal Expertise												

Change Record Detail - Multiple Scenarios with Descriptions
Department of Law

Component: Opinions, Appeals and Ethics (2716)
RDU: Civil Division (35)

Scenario/Change Record Title	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants, Benefits	Miscellaneous	Positions		
										PFT	PPT	NP
	Trin	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1	0	0
Transfer Attorney III (03-0162) from Labor and State Affairs component to keep pace with the required level of legal expertise needed within the section.												
Department of Law attorney positions are partially exempt and flexibly-ranged positions. Attorneys I-VI are transferred in accordance with attorney salary placement, allowing positions to be sub-filled at lower levels. Budget authority is evaluated and aligned between components as needed.												
Transfer Attorney IV (03-0378) to Labor and State Affairs for Required Legal Expertise												
	Trout	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-1	0	0
Transfer Attorney IV (03-0378) to the Labor and State Affairs component to keep pace with the required level of legal expertise needed within the section.												
Department of Law attorney positions are partially exempt and flexibly-ranged positions. Attorneys I-VI are transferred in accordance with attorney salary placement, allowing positions to be sub-filled at lower levels. Budget authority is evaluated and aligned between components as needed.												
Transfer Law Office Assistant II (03-0057) from Commercial and Fair Business to Address Workload Demands												
	Trin	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1	0	0
Transfer Law Office Assistant II (03-0057) from Commercial and Fair Business to accommodate the workload and office demands. The workload requirements of the office exceed the level of a Law Office Assistant, and so this position has been reclassified to a flexed Paralegal I/II position.												
Reverse Supervisory Unit Furlough Contract Terms												
1007 I/A Rcpts	SalAdj	0.1	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
The Alaska Public Employees Association (representing the supervisory unit) contractually required 15 hours of furlough for each permanent full-time employee in each year from July 1, 2016, to June 30, 2019. The furlough requirement was removed from the contract in FY2020.												
FY2020 Salary Adjustments - GGU, CEA, TEAME												
1004 Gen Fund	SalAdj	1.5	6.2	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
1007 I/A Rcpts		4.7										
FY2020 Salary Adjustments - GGU, CEA, TEAME: \$6.2												
FY2020 GGU HI from \$1432 to \$1530: \$2.3												
FY2020 GGU 3% COLA: \$3.9												
Totals		2,599.1	2,341.4	3.1	254.6	0.0	0.0	0.0	0.0	16	0	0

Personal Services Expenditure Detail
Department of Law

Scenario: FY2020 Governor (15610)
Component: Opinions, Appeals and Ethics (2716)
RDU: Civil Division (35)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range / Step	Comp Months	Split / Count	Annual Salaries	COLA	Premium Pay	Annual Benefits	Total Costs	UGF Amount
03-0007	Attorney V	FT	A	XE	Anchorage	N00	20D / E	12.0		77,916	0	0	45,302	123,218	0
03-0048	Attorney V	FT	A	XE	Fairbanks	99	25P / Q	12.0		157,047	0	0	70,853	227,900	170,925
03-0052	Law Office Assistant II	FT	A	SS	Fairbanks	603	13B / C	12.0		48,547	0	0	35,414	83,961	0
03-0057	Paralegal II	FT	A	GP	Anchorage	200	16A / B	12.0		50,629	2,038	0	35,785	88,452	88,452
03-0134	Attorney IV	FT	A	XE	Anchorage	N00	24C / D	12.0		98,160	0	0	52,218	150,378	150,378
03-0162	Attorney III	FT	A	XE	Juneau	N05	22C / D	12.0		90,208	0	0	49,501	139,709	27,942
03-0203	Attorney II	FT	A	XE	Anchorage	N00	20C / D	12.0		74,172	0	0	44,023	118,195	59,098
03-0208	Law Office Assistant I	FT	A	GP	Anchorage	200	11K / L	12.0		47,415	1,908	0	34,687	84,010	42,005
03-0295	Attorney V	FT	A	XE	Anchorage	N00	25J	12.0		118,140	0	0	59,043	177,183	132,887
03-0316	Attorney IV	FT	A	XE	Anchorage	N00	24J	12.0		109,908	0	0	56,231	166,139	83,070
03-0338	Attorney VI	FT	A	XE	Anchorage	N00	26K / L	12.0		127,032	0	0	62,080	189,112	141,834
03-0342	Attorney V	FT	A	XE	Anchorage	N00	25K / L	12.0		123,300	0	0	60,806	184,106	92,053
03-0379	Attorney IV	FT	A	XE	Anchorage	N00	24F	12.0		106,452	0	0	55,050	161,502	80,751
03-0380	Attorney IV	FT	A	XE	Anchorage	N00	24F / J	12.0		109,188	0	0	55,985	165,173	0
03-0408	Attorney V	FT	A	XE	Anchorage	N00	25N	12.0		134,256	0	0	64,465	198,721	149,041
03-0410	Attorney IV	FT	A	XE	Anchorage	N00	24J / K	12.0		112,590	0	0	57,147	169,737	127,303

	Total Positions	New	Deleted
Full Time Positions:	16	0	0
Part Time Positions:	0	0	0
Non Permanent Positions:	0	0	0
Positions in Component:	16	0	0

Total Component Months: 192.0

Total Salary Costs:	1,584,960
Total COLA:	3,946
Total Premium Pay:	0
Total Benefits:	838,590
Total Pre-Vacancy:	2,427,496
Minus Vacancy Adjustment of 3.55%:	(86,096)
Total Post-Vacancy:	2,341,400
Plus Lump Sum Premium Pay:	0
Personal Services Line 100:	2,341,400

PCN Funding Sources:	Pre-Vacancy	Post-Vacancy	Percent
1004 General Fund Receipts	1,345,738	1,298,008	55.44%
1007 Interagency Receipts	1,081,758	1,043,392	44.56%
Total PCN Funding:	2,427,496	2,341,400	100.00%

Note: If a position is split, an asterisk (*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (**) will appear in this column. [No valid job title] appearing in the Job Class Title indicates that the PCN has an invalid class code or invalid range for the class code effective date of this scenario.

Line Item Detail (1676)
Department of Law
Travel

Component: Opinions, Appeals and Ethics (2716)

Line Number	Line Name		FY2018 Actuals	FY2019 Management Plan
2000	Travel		1.8	3.1
Object Class	Servicing Agency	Explanation	FY2018 Actuals	FY2019 Management Plan
2000 Travel Detail Totals			1.8	3.1
2000	In-State Employee Travel	Travel for attorneys to interview witnesses and attend court proceedings, as well as for necessary training for both attorneys and paraprofessionals. Includes travel for management purposes.	0.4	1.2
2006	Other Travel Costs	Travel cost transfers.	1.4	1.9

Line Item Detail (1676)
Department of Law
Services

Component: Opinions, Appeals and Ethics (2716)

Line Number	Line Name		FY2018 Actuals	FY2019 Management Plan
3000	Services		100.3	254.6
Object Class	Servicing Agency	Explanation	FY2018 Actuals	FY2019 Management Plan
3000 Services Detail Totals			100.3	254.6
3002	Legal and Judicial Services	Depositions, research costs, expert witness and consultant fees.	0.5	1.8
3011	Other Services	Cost transfers and miscellaneous items within the services line (commissions, etc.).	99.8	252.8

Line Item Detail (1676)
Department of Law
Commodities

Component: Opinions, Appeals and Ethics (2716)

Line Number	Line Name		FY2018 Actuals	FY2019 Management Plan
4000	Commodities		8.6	0.0
Object Class	Servicing Agency	Explanation	FY2018 Actuals	FY2019 Management Plan
4000 Commodities Detail Totals			8.6	0.0
4022	Commodity Transfer	Commodity cost transfers.	8.6	0.0

Line Item Detail (1676)
Department of Law
Capital Outlay

Component: Opinions, Appeals and Ethics (2716)

Line Number	Line Name		FY2018 Actuals	FY2019 Management Plan
5000	Capital Outlay		0.7	0.0
Object Class	Servicing Agency	Explanation	FY2018 Actuals	FY2019 Management Plan
5000 Capital Outlay Detail Totals			0.7	0.0
5009	Capital Outlay Transfer	Capital cost transfers.	0.7	0.0

Revenue Detail (1681)
Department of Law

Component: Opinions, Appeals and Ethics (2716)

Revenue Type (OMB Fund Code)			FY2018 Actuals	FY2019 Management Plan
Revenue Source	Component	Comment		
5007 I/A Rcpts (1007 I/A Rcpts)			0.0	1,202.6
5301 Inter-Agency Receipts		Interagency receipts - the Opinions, Appeals and Ethics component provides senior-level analysis and 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 Native Alaskan/Indian Law matters. Billable time is charged directly to the case/matter of reimbursable service agreements throughout the Civil Division.	0.0	1,202.6