

State of Alaska FY2023 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 Court of Appeals, 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 legal questions that demand the most complex and comprehensive research and analysis.
- Review all Attorney General Opinions prior to publication to ensure clarity, consistency, and completeness in addressing questions of public importance. Section attorneys both draft some 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 legal advisor to ethics supervisors in other agencies, 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 such as attorneys' fees and Native Law issues.
- 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 2021

- 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 all federal circuit courts 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.
- Represented state agencies and officials — including the Department of Natural Resources, the Department of Revenue, the Department of Fish and Game, and the Governor's office — in federal and state court appeals.
- 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 and current state employees.
- Advised state agencies and officials on a wide variety of Native Law issues, including filing an amicus brief in the U.S. Supreme Court in support of Alaska Native Corporations' ability to receive CARES Act funds.

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 generally 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 have expertise in legal writing and analysis, they are frequently consulted 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 heavy appellate caseload, is a challenge.
- The section prepares or reviews Attorney General Opinions.
- 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. Some matters require significant factual and legal research, and advice must be prompt and consistent. The section's designated ethics attorney frequently works extra hours to ensure that individual and agency clients receive the guidance they need.
- 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 is looking to transfer this knowledge and boost cross-section expertise in this area among other section assistant attorneys general, though it anticipates the ongoing need and unique subject matter of this area of law and provision of legal services will be a continuing challenge for the section.

Significant Changes in Results to be Delivered in FY2023

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>FY2022</u> <u>Management</u> <u>Plan</u>	<u>FY2023</u> <u>Governor</u>		
Full-time	13	13	Annual Salaries	1,420,200
Part-time	0	0	Premium Pay	0
Nonpermanent	0	0	Annual Benefits	788,701
			<i>Less 4.00% Vacancy Factor</i>	(88,301)
			Lump Sum Premium Pay	0
Totals	13	13	Total Personal Services	2,120,600

Position Classification Summary					
Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Attorney 2	1	0	0	0	1
Attorney 3	1	0	1	0	2
Attorney 5	5	1	1	0	7
Attorney 6	0	0	1	0	1
Law Office Assistant 1	1	0	0	0	1
Paralegal 1	1	0	0	0	1
Totals	9	1	3	0	13

Component Detail All Funds
Department of Law

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

Non-Formula Component

	FY2021 Actuals	FY2022 Conference Committee	FY2022 Authorized	FY2022 Management Plan	FY2023 Governor	FY2022 Management Plan vs FY2023 Governor	
71000 Personal Services	428.6	2,118.8	2,118.8	2,168.8	2,120.6	-48.2	-2.2%
72000 Travel	1.0	21.0	21.0	21.0	21.0	0.0	0.0%
73000 Services	76.7	244.6	244.6	244.6	244.6	0.0	0.0%
74000 Commodities	5.0	0.0	0.0	0.0	0.0	0.0	0.0%
75000 Capital Outlay	1.7	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	513.0	2,384.4	2,384.4	2,434.4	2,386.2	-48.2	-2.0%
Fund Sources:							
1004 Gen Fund (UGF)	513.0	1,406.0	1,406.0	1,406.0	1,347.1	-58.9	-4.2%
1007 I/A Rcpts (Other)	0.0	978.4	978.4	1,028.4	1,039.1	10.7	1.0%
Unrestricted General (UGF)	513.0	1,406.0	1,406.0	1,406.0	1,347.1	-58.9	-4.2%
Designated General (DGF)	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
Other Funds	0.0	978.4	978.4	1,028.4	1,039.1	10.7	1.0%
Federal Funds	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
Positions:							
Permanent Full Time	13	13	13	13	13	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 (Excludes Janus) (35)

Scenario/Change Record Title	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants, Benefits	Miscellaneous	Positions		
										PFT	PPT	NP
***** Changes From FY2022 Conference Committee To FY2022 Authorized *****												
FY2022 Conference Committee												
	ConfCom	2,384.4	2,118.8	21.0	244.6	0.0	0.0	0.0	0.0	13	0	0
1004 Gen Fund		1,406.0										
1007 I/A Rcpts		978.4										
Subtotal		2,384.4	2,118.8	21.0	244.6	0.0	0.0	0.0	0.0	13	0	0
***** Changes From FY2022 Authorized To FY2022 Management Plan *****												
Transfer Law Office Assistant 2 (03-0208) 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 a full-time Law Office Assistant 2 (03-0208), range 13, located in Anchorage, to the Special Litigation component from the Opinions, Appeals and Ethics component to accommodate workload demands. The remaining staff in the Opinions, Appeals and Ethics are sufficient to cover the anticipated workload.												
Transfer Attorney 2 (03-0379) to Environmental Law 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 one full-time Attorney 2 position (03-0379), range 20, located in Anchorage, to the Environmental Law component from the Opinions, Appeals and Ethics component from the to keep pace with the required level of legal expertise needed within the office. The remaining staff in Opinions, Appeals and Ethics are sufficient to accommodate anticipated workload.												
Transfer Attorney 5 (03-0413) from Child Protection for Required Legal Expertise												
	Trin	50.0	50.0	0.0	0.0	0.0	0.0	0.0	0.0	1	0	0
1007 I/A Rcpts		50.0										
Transfer one full-time Attorney 5 position (03-0413), range 25, located in Anchorage, to the Opinions, Appeals and Ethics component from the Child Protection component to keep pace with the required level of legal expertise needed within the office. The remaining staff in Child Protection are sufficient to accommodate anticipated workload.												
Transfer Law Office Assistant 1 (03-0270) from Special Litigation 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 a full-time Law Office Assistant 1 (03-0270), range 11, located in Anchorage, from the Special Litigation component to the Opinions, Appeals and Ethics component to accommodate workload demands. The remaining staff in the Special Litigation are sufficient to cover the anticipated workload.												
Subtotal		2,434.4	2,168.8	21.0	244.6	0.0	0.0	0.0	0.0	13	0	0
***** Changes From FY2022 Management Plan To FY2023 Governor *****												
FY2023 Executive Health Insurance, SBS, and Risk Management Rate Changes												
	SalAdj	21.5	21.5	0.0	0.0	0.0	0.0	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 (Excludes Janus) (35)

Scenario/Change Record Title	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants, Benefits	Miscellaneous	Positions		NP
										PFT	PPT	
1004 Gen Fund		10.8										
1007 I/A Rcpts		10.7										
FY2023 Change Partially Exempt & Exempt Executive (EE) - Health Insurance from \$1,555 to \$1,685; SBS and Risk Management Rates: \$21.5												
FY2023 General Government Unit SBS and Risk Management Rate Changes												
	SalAdj	0.3	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
1004 Gen Fund		0.3										
FY2023 Change General Government Unit (GG, GP, GY, GZ) - SBS, and Risk Management Rates: \$0.3												
FY2023 PERS Actuarial Rate Adjustment to 24.79% Ch9 SLA2021 (SB55)												
	SalAdj	-70.0	-70.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
1004 Gen Fund		-37.4										
1007 I/A Rcpts		-32.6										
Includes: FY2023 Adjustment for PERS ARM Board Approved Rate of 24.79% (from 30.11%): \$-70.0												
Realign PERS Rate Adjustment by Fund Source Ch9 SLA2021 (SB55)												
	FndChg	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
1004 Gen Fund		-32.6										
1007 I/A Rcpts		32.6										
Remove one-time UGF subsidy for rate agency assigned in SB55 fiscal note (Ch 9 SLA 2021).												
Totals		2,386.2	2,120.6	21.0	244.6	0.0	0.0	0.0	0.0	13	0	0

Line Item Detail (1676)
Department of Law
Travel

Component: Opinions, Appeals and Ethics (2716)

Line Number	Line Name		FY2021 Actuals	FY2022 Management Plan	FY2023 Governor
2000	Travel		1.0	21.0	21.0
Object Class	Servicing Agency	Explanation	FY2021 Actuals	FY2022 Management Plan	FY2023 Governor
2000 Travel Detail Totals			1.0	21.0	21.0
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.	0.0	11.0	11.0
2006	Other Travel Costs	Travel cost transfers.	1.0	10.0	10.0

Line Item Detail (1676)
Department of Law
Services

Component: Opinions, Appeals and Ethics (2716)

Line Number	Line Name		FY2021 Actuals	FY2022 Management Plan	FY2023 Governor
3000	Services		76.7	244.6	244.6
Object Class	Servicing Agency	Explanation	FY2021 Actuals	FY2022 Management Plan	FY2023 Governor
3000 Services Detail Totals			76.7	244.6	244.6
3000	Education Services	Conferences, training and memberships.	7.3	10.0	10.0
3002	Legal and Judicial Services	Depositions, research costs, expert witness and consultant fees.	0.0	1.0	1.0
3006	Delivery Services	Freight, courier, postage, and transportation of trial exhibit materials.	0.1	0.1	0.1
3007	Advertising and Promotions	Publication of legal notices.	0.0	0.5	0.5
3011	Other Services	Cost transfers and miscellaneous items within the services line (commissions, etc.).	69.3	233.0	233.0

Line Item Detail (1676)
Department of Law
Commodities

Component: Opinions, Appeals and Ethics (2716)

Line Number	Line Name		FY2021 Actuals	FY2022 Management Plan	FY2023 Governor
4000	Commodities		5.0	0.0	0.0
Object Class	Servicing Agency	Explanation	FY2021 Actuals	FY2022 Management Plan	FY2023 Governor
4000 Commodities Detail Totals			5.0	0.0	0.0
4022	Commodity Transfer	Commodity cost transfers.	5.0	0.0	0.0

Line Item Detail (1676)
Department of Law
Capital Outlay

Component: Opinions, Appeals and Ethics (2716)

Line Number	Line Name		FY2021 Actuals	FY2022 Management Plan	FY2023 Governor
5000	Capital Outlay		1.7	0.0	0.0
Object Class	Servicing Agency	Explanation	FY2021 Actuals	FY2022 Management Plan	FY2023 Governor
5000 Capital Outlay Detail Totals			1.7	0.0	0.0
5009	Capital Outlay Transfer	Capital cost transfers.	1.7	0.0	0.0

Revenue Detail (1681)
Department of Law

Component: Opinions, Appeals and Ethics (2716)

Revenue Type (OMB Fund Code) Revenue Source	Component	Comment	FY2021 Actuals	FY2022 Management Plan	FY2023 Governor
5007 I/A Rcpts (1007 I/A Rcpts)			0.0	1,028.4	1,039.1
5301 Inter-Agency Receipts	Law - Opinions, Appeals and Ethics (2716)	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	1,028.4	1,039.1

Personal Services Expenditure Detail
Department of Law

Scenario: FY2023 Governor (18673)
Component: Opinions, Appeals and Ethics (2716)
RDU: Civil Division (Excludes Janus) (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 5	FT	A	XE	Anchorage	N00	25J	12.0		118,131	0	0	64,217	182,348	0
03-0048	Attorney 5	FT	A	XE	Fairbanks	99	25R	12.0		162,560	0	0	79,786	242,346	181,760
03-0057	Paralegal 1	FT	A	GP	Anchorage	200	14G / J	12.0		57,066	0	0	40,027	97,093	97,093
03-0203	Attorney 3	FT	A	XE	Anchorage	N00	22E / F	12.0		90,007	0	0	53,747	143,754	107,816
03-0204	Law Office Assistant 1	FT	A	GP	Fairbanks	203	11B	6.0	*	20,144	0	0	16,890	37,034	7,407
03-0270	Law Office Assistant 1	FT	A	GP	Anchorage	200	11B / C	12.0		39,497	0	0	33,486	72,983	72,983
03-0295	Attorney 5	FT	A	XE	Juneau	N05	25F	12.0		120,140	0	0	64,965	185,105	138,829
03-0316	Attorney 2	FT	N	XE	Anchorage	N00	20C / D	12.0		75,626	0	0	29,645	105,271	52,636
03-0325	Attorney 3	FT	A	XE	Juneau	N05	22F	12.0		97,617	0	0	56,580	154,197	100,228
03-0338	Attorney 6	FT	A	XE	Juneau	N05	26C / D	12.0		115,154	0	0	63,109	178,263	133,697
03-0342	Attorney 5	FT	A	XE	Anchorage	N00	25M	12.0		130,026	0	0	68,646	198,672	99,336
03-0380	Attorney 5	FT	A	XE	Anchorage	N00	25K	12.0		121,973	0	0	65,648	187,621	0
03-0392	Associate Attorney 2	FT	A	XE	Anchorage	N00	19M	6.0	*	43,407	0	0	26,279	69,686	45,296
03-0408	Attorney 5	FT	A	XE	Anchorage	N00	25F	12.0		114,426	0	0	62,838	177,264	132,948
03-0413	Attorney 5	FT	A	XE	Anchorage	N00	25F	12.0		114,426	0	0	62,838	177,264	0

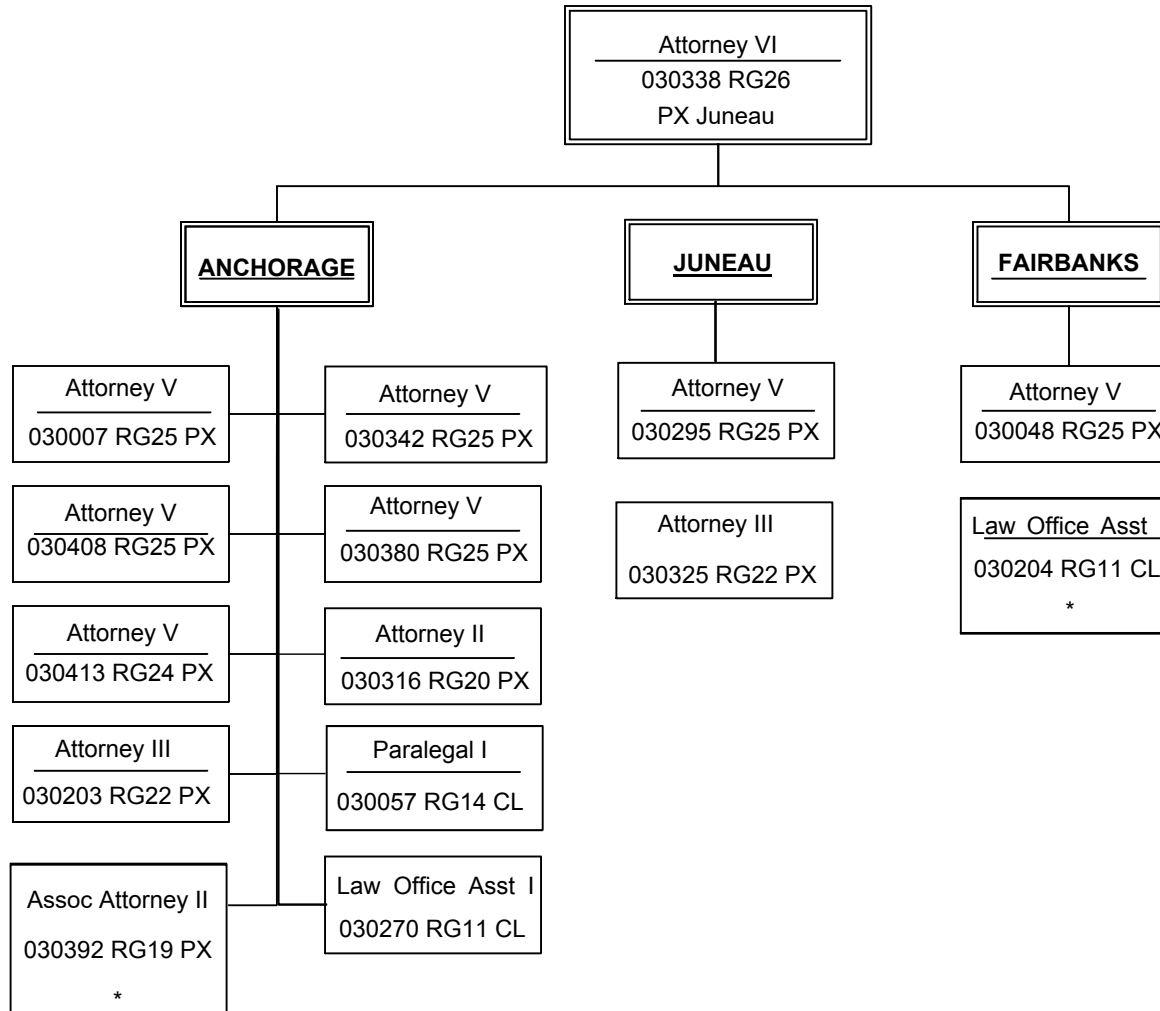
	Total Positions	New	Deleted		Total Salary Costs:	1,420,200
					Total COLA:	0
Full Time Positions:	13	0	0		Total Premium Pay:	0
Part Time Positions:	0	0	0		Total Benefits:	788,701
Non Permanent Positions:	0	0	0			
Positions in Component:	13	0	0		Total Pre-Vacancy:	2,208,901
					Minus Vacancy Adjustment of 4.00%:	(88,301)
					Total Post-Vacancy:	2,120,600
Total Component Months:	168.0				Plus Lump Sum Premium Pay:	0
					Personal Services Line 100:	2,120,600

PCN Funding Sources:	Pre-Vacancy	Post-Vacancy	Percent
1004 General Fund Receipts	1,170,027	1,123,255	52.97%
1007 Interagency Receipts	1,038,874	997,345	47.03%
Total PCN Funding:	2,208,901	2,120,600	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.

CIVIL DIVISION

Opinions, Appeals and Ethics



Note: Positions marked with a single asterisk (*) are split. If the split position is counted in the component, two asterisks (**) appear.

Position Count: 13