

State of Alaska
FY2024 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 provide high-quality legal services that protect the human, financial and natural resources of the state.

Core Services

- Protecting the safety and physical and financial well-being of Alaskans.
- Asserting the state's resource management rights for maximum sustained use consistent with the public interest and revenue protection.
- Promoting good governance.
- Provide high-quality legal defense representation when the state is sued with the goal of mitigating the state's legal and financial risks.

Major RDU Accomplishments in 2022

Protecting the safety and physical and financial well-being of Alaskans

- The Child Protection Section created a more streamlined and efficient process for assigning cases within the offices, which has led to higher morale within the office. With high vacancy rates, the attorneys and staff handled enormous caseloads (over 100 cases per attorney when the national recommendation is down below 60). The Division also saw a lot of success in its child protection appeals—winning the vast majority, which ensured children were kept in safer, more stable homes.
- The Human Services Section collected (as it has in the past few years) over two million dollars through the Medicaid subrogation, estate and trust recovery claims, and the Medicaid audit process, ensuring more money is available for vulnerable populations.
- The Division successfully assisted the initial split of the Department of Health and Social Services into two departments under the executive order.
- Through the efforts of the Consumer Protection Unit, consumers obtained refunds amounting to nearly \$50,000 through informal resolution.
- Approximately \$1.3 million in quantifiable consumer benefits can be tracked to work by the Regulatory Affairs and Public Advocacy Section, which appears before the Regulatory Commission of Alaska to represent the public interest.

Asserting the State's resource management rights for maximum sustained use consistent with the public interest and revenue protection

- In furtherance of the Unlocking Alaska Initiative to assert the State's rights to submerged lands under the Equal Footing Doctrine and the Submerged Lands Act, the Division has filed at least three additional quiet title complaints on three interconnected river systems and has submitted Notices of Intent to Sue on two more. Through one of these lawsuits, the State successfully persuaded the federal government to disclaim its interest in 80 percent of the rivers claimed in the Fortymile lawsuit—everything except the northern portion. The federal government has also agreed to take a closer look at the rivers before proceeding through costly discovery to avoid unnecessary expenses in newer cases.
- The Division is involved in numerous lawsuits concerning the State's right to manage fish and game within the State. Through these lawsuits, the State hopes to build on the precedent created in *Sturgeon* and the recognition that Congress has not ceded Alaska's management authority to the federal government—quite the opposite. Ultimately, some of these issues will only be resolved if the U.S. Supreme Court takes them up, so this is a long-game litigation strategy.
- The multi-year appropriation that was increased last year, for a total of \$6 million plus \$500,000 for Tongass issues, has expanded the Division's ability to cover the myriad of federal litigation that has occurred—whether

filed by the State, where the State is intervening, or in a defense posture. This money allows us to more readily utilize outside counsel and experts to ensure we have sufficient coverage on all the issues.

Provide high quality legal defense representation when the state is sued with the goal of mitigating the State's legal and financial risks

- The Division represented the state and/or its employees in 133 tort cases and 167 workers' compensation cases.
- The section also pursues aggressive motion practice, trial or negotiation to contain costs associated with civil and administrative litigation filed by inmates against the Department of Corrections (DOC) and its employees. The section represented DOC and/or its employees in 294 civil and administrative matters.

Promoting and defending good governance

- The Division established a Native Law Working Group made up of attorneys from various sections to deepen the amount of knowledge and experience in this area of law that touches every agency in state government.
- 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.
- The Division conducted a comprehensive review of the entire regulations process and identified improvements to provide for more efficient and streamlined promulgation of regulations. Those process improvements are now being incorporated into the Drafting Manual for Administrative Regulations.

Key RDU Challenges

Protecting children, vulnerable adults, and consumers is at the core of the Civil Division's mission to protect both the physical and financial well-being of Alaskans.

- The split of the Department of Health and Social Services will continue to increase workloads in areas such as regulations and advice as the departments continue to find their ways in their new roles. One of the purposes for splitting into two departments was to increase the focus and efforts in the various programs. Increased focus and effort generally results in increased legal assistance as improvements are implemented.
- Child protection continues to be an area of concern. The caseloads are high and the opportunity for burn out among employees dealing with difficult material remains an issue.
- Addressing mental health needs also remains an issue, which creates a strain on legal services. There are too few resources, which results in delays in getting people the help they need when they need it. This is true on both the forensic side as well as the civil commitment side. Legislation passed last session is helpful, but there is more work needed to stabilize the mental health system.

Asserting the State's resource management rights for maximum sustained use consistent with the public interest and revenue protection

- Between aggressive regulatory policy changes from the federal government and lawsuits by third party groups impacting Alaska's interests, it is difficult to keep up with every action that adversely effects the State. One way the Division is addressing this is to partner more frequently with other aligned states on issues of national interest, letting the other states take the lead, and focus the State's limited legal resources on issues that are unique to Alaska.
- Due to the increase in federal issues, this has also strained legal resources for the day to day operational work in assisting the resources agencies.

Provide high quality legal defense representation when the state is sued with the goal of mitigating the State's legal and financial risks

- The sections handling this work faced crippling vacancies in FY2022 that resulted in a need to contract with outside counsel to handle some of the workload that would normally be handled within the Division. These vacancies have fortunately been addressed, and the section supervisor has established good mentoring relationships to get the new attorneys up to speed as quickly as possible.

Promoting and Defending Good Governance

- Recruitment struggles have made it difficult to fill vacancies, especially in unique areas such as ethics. Finding attorneys with any experience has been particularly difficult, which means a lot of resources are going into training and onboarding. This is likely a multi-year rebuilding process.
- There continues to be a backlog with regulations due to the high volume of regulations projects agencies are undertaking. Some of these are large projects necessitated by legislation, such as a re-write of the alcohol regulations and the health and social services regulations. Others are simply policy driven improvements. With a very small staff to conduct this work and the need for the Chief Regulations Attorney to conduct a final review for approval or disapproval, it creates challenges in getting through them in a timely manner. Adding para-professional help will hopefully ease these challenges over the next couple of years.

Significant Changes in Results to be Delivered in FY2024

In light of the rebuilding phase the Division is in, there will be increased focus on how to effectively onboard and train attorneys to ensure they can perform at their optimal level. With the passage of House Bill 226, the Division has already seen positive impacts in retention, which means the Division appears to be stabilizing more in its vacancy rate. Child Protection continues to be a challenge as does Oil, Gas and Mining. Using more targeted recruiting efforts and utilizing a legal recruiter agency, the Division hopes that by FY2024 there will be less vacancies, higher retention rates, and more depth in experience across the sections.

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

All dollars shown in thousands

	FY2022 Actuals				FY2023 Management Plan				FY2024 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												
Government Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	6,747.2	4,608.1	0.0	11,355.3
Legal Support Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1,136.1	2,593.0	0.0	3,729.1
Protective Legal Svcs & Support	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	13,319.3	7,507.5	0.0	20,826.8
Torts & Other Civil Def. Lit.	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	674.1	4,791.7	0.0	5,465.8
Statehood Defense & Resource Dev	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5,401.3	8,560.7	0.0	13,962.0
Dep. Attny General's Office	5,746.7	742.0	0.0	6,488.7	5,927.2	107.6	0.0	6,034.8	0.0	0.0	0.0	0.0
Child Protection	6,008.3	3,305.4	0.0	9,313.7	6,293.9	2,268.1	0.0	8,562.0	0.0	0.0	0.0	0.0
Commercial and Fair Business	603.0	3,668.9	0.0	4,271.9	1,252.5	4,095.0	0.0	5,347.5	0.0	0.0	0.0	0.0
Environmental Law	57.4	848.2	0.0	905.6	909.5	1,313.7	0.0	2,223.2	0.0	0.0	0.0	0.0
Human Services	1,566.1	1,269.6	0.0	2,835.7	2,113.5	1,670.5	0.0	3,784.0	0.0	0.0	0.0	0.0
Information and Project Support	31.4	1,635.2	0.0	1,666.6	578.3	1,727.4	0.0	2,305.7	0.0	0.0	0.0	0.0
Labor and State Affairs	2,472.0	2,840.1	0.0	5,312.1	2,113.5	3,123.5	0.0	5,237.0	0.0	0.0	0.0	0.0
Legislation/Regulations	2,317.9	297.7	0.0	2,615.6	1,542.7	551.9	0.0	2,094.6	0.0	0.0	0.0	0.0
Natural Resources	1,514.9	3,845.3	0.0	5,360.2	4,561.6	4,195.8	0.0	8,757.4	0.0	0.0	0.0	0.0
Opinions, Appeals and Ethics	386.4	0.0	0.0	386.4	1,716.0	1,039.9	0.0	2,755.9	0.0	0.0	0.0	0.0
Reg Affairs Public Advocacy	2,423.7	0.0	0.0	2,423.7	3,026.3	0.0	0.0	3,026.3	0.0	0.0	0.0	0.0
Special Litigation	8.6	0.0	0.0	8.6	1,452.5	679.1	0.0	2,131.6	0.0	0.0	0.0	0.0
Torts and Workers' Compensation	0.0	3,296.0	0.0	3,296.0	670.4	4,238.6	0.0	4,909.0	0.0	0.0	0.0	0.0
Transportation Section	92.9	2,099.5	0.0	2,192.4	401.7	2,790.0	0.0	3,191.7	0.0	0.0	0.0	0.0

**Civil Division
RDU Financial Summary by Component**

All dollars shown in thousands

	FY2022 Actuals				FY2023 Management Plan				FY2024 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
Totals	23,229.3	23,847.9	0.0	47,077.2	32,559.6	27,801.1	0.0	60,360.7	27,278.0	28,061.0	0.0	55,339.0

Civil Division
Summary of RDU Budget Changes by Component
From FY2023 Management Plan to FY2024 Governor

All dollars shown in thousands

	<u>Unrestricted</u> <u>Gen (UGF)</u>	<u>Designated</u> <u>Gen (DGF)</u>	<u>Other Funds</u>	<u>Federal</u> <u>Funds</u>	<u>Total Funds</u>
FY2023 Management Plan	29,736.7	2,822.9	27,801.1	0.0	60,360.7
One-time items:					
-Dep. Attny General's Office	-5,510.1	0.0	0.0	0.0	-5,510.1
Adjustments which continue current level of service:					
-Government Services	6,747.2	0.0	4,608.1	0.0	11,355.3
-Legal Support Services	1,126.1	10.0	2,593.0	0.0	3,729.1
-Protective Legal Svcs & Support	10,479.1	2,840.2	7,507.5	0.0	20,826.8
-Torts & Other Civil Def. Lit.	674.1	0.0	4,791.7	0.0	5,465.8
-Statehood Defense & Resource Dev	5,401.3	0.0	8,560.7	0.0	13,962.0
-Dep. Attny General's Office	-407.1	-10.0	-107.6	0.0	-524.7
-Child Protection	-6,293.9	0.0	-2,268.1	0.0	-8,562.0
-Commercial and Fair Business	-1,002.4	-250.1	-4,095.0	0.0	-5,347.5
-Environmental Law	-909.5	0.0	-1,313.7	0.0	-2,223.2
-Human Services	-2,113.5	0.0	-1,670.5	0.0	-3,784.0
-Information and Project Support	-578.3	0.0	-1,727.4	0.0	-2,305.7
-Labor and State Affairs	-2,113.5	0.0	-3,123.5	0.0	-5,237.0
-Legislation/Regulations	-1,542.7	0.0	-551.9	0.0	-2,094.6
-Natural Resources	-4,561.6	0.0	-4,195.8	0.0	-8,757.4
-Opinions, Appeals and Ethics	-1,716.0	0.0	-1,039.9	0.0	-2,755.9
-Reg Affairs Public Advocacy	-463.5	-2,562.8	0.0	0.0	-3,026.3
-Special Litigation	-1,452.5	0.0	-679.1	0.0	-2,131.6
-Torts and Workers' Compensation	-670.4	0.0	-4,238.6	0.0	-4,909.0
-Transportation Section	-401.7	0.0	-2,790.0	0.0	-3,191.7
FY2024 Governor	24,427.8	2,850.2	28,061.0	0.0	55,339.0