

State of Alaska
FY2024 Governor's Operating Budget

Department of Law
Torts & Workers' Compensation
Component Budget Summary

Component: Torts & Workers' Compensation

Contribution to Department's Mission

The Torts and Workers' Compensation Section provides legal services through three distinct work groups. The Torts work group provides defense and advice in a wide range of tort lawsuits filed against state agencies and state employees, including personal injury or death, professional malpractice, and property damage as well as appeals of these lawsuits. The Workers' Compensation Work Group represents the state as an employer in workers' compensation matters involving state employees as the claimant before the Alaska Workers' Compensation Board (AWCB) and the Alaska Workers' Compensation Appeals Commission. The Corrections group provides advice, general legal services and legal defense in inmate litigation cases filed against Department of Corrections and its employees, including petitions for post-conviction relief, criminal assets, and civil rights lawsuits.

Core Services

- Attorneys in the section defend tort and civil rights claims filed against all state agencies and employees in state and federal trial and appellate courts.
- Attorneys in the section represent state agencies in workers' compensation claims filed by state employees where the State of Alaska is the employer. They advocate on behalf of the state at hearings before the Alaska Worker's Compensation Board (AWCB) and represent the state as the employer in appeals from board decisions taken to the Alaska Workers' Compensation Appeals Commission and to the Alaska Supreme Court.
- Attorneys in the section advise the Department of Corrections on legal matters and represent it in inmate post-conviction relief petitions and administrative disciplinary appeals in state court, criminal assists in state court prosecutions, cases involving the Cleary Final Settlement Agreement and inmate civil rights claims filed in state and federal trial and appellate courts.
- Attorneys in the section provide advice and training to state agencies on risk management, workers' compensation, and liability issues and provide advice to state adjusters on workers' compensation issues.

Major Component Accomplishments in 2022

On behalf of the self-insured Division of Risk Management in the Department of Administration, the section pursues aggressive motion practice, trial, or negotiation to contain the ultimate costs of tort cases filed against the State of Alaska and its employees and in workers' compensation matters involving state employees. The section 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 and its employees. The section represented DOC and/or its employees in 294 civil and administrative matters.

- Defended the state as an employer in numerous hearings before the AWCB and in appeals before the Alaska Workers' Compensation Appeals Commission and the Alaska Supreme Court.
- Won summary judgment and dismissal of a wrongful death lawsuit against the state based upon several statutory immunities.
- Won summary judgment and dismissal of several medical malpractice cases.
- Prevailed on a complex statute of limitations motion after a seven-day evidentiary hearing on the Anchorage Superior Court.
- Prevailed on dispositive motions to dismiss or for summary judgment in a number of other cases, and obtained attorney fee awards as prevailing party. In addition, motions filed by the section assisted in settlement negotiations and in resolving cases on favorable terms. The section also succeeded in obtaining voluntary dismissal of numerous tort and DOC civil lawsuits, where the state paid nothing and each side assumed its own expenses.

- Provided training on civil law and liability to multiple training academies for correctional and probation officers. The section also provided training for the state's independent workers' compensation adjusters.

Key Component Challenges

One key component challenge stems from the Alaska standard for summary judgment. Summary judgment is a useful tool for concluding civil litigation short of trial. However, Alaska law precludes the grant of summary judgment if there are any material issues in dispute. The court may not evaluate the overwhelming weight of the evidence in support of the motion, nor may it make credibility judgments even when the plaintiff's assertions as to material facts are unsubstantiated. The result is that where the court denies summary judgment, the section must consider the substantial cost of taking the case to trial in determining whether a settlement might be a more economical use of state resources.

Another continuing key challenge involves defending lawsuits brought by unrepresented plaintiffs. Because these cases take more time, a disproportionate amount of the section's resources is channeled to defending these lawsuits.

The section continues to deal with a high volume of matters referred for legal assistance from the Third-Party Administrator for the workers' compensation program of the Division of Risk Management. Keeping up with the workers' compensation caseload will likely remain a challenge.

Significant Changes in Results to be Delivered in FY2024

No significant changes are anticipated in the next fiscal year.

Statutory and Regulatory Authority

AS 44.23.020

Contact Information
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Torts & Workers' Compensation Personal Services Information				
Authorized Positions			Personal Services Costs	
	<u>FY2023</u> <u>Management</u> <u>Plan</u>	<u>FY2024</u> <u>Governor</u>		
Full-time	32	0	Annual Salaries	0
Part-time	0	0	Premium Pay	0
Nonpermanent	0	0	Annual Benefits	0
			<i>Less 0.00% Vacancy Factor</i>	(0)
			Lump Sum Premium Pay	0
Totals	32	0	Total Personal Services	0

Position Classification Summary					
Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
No personal services.					
Totals	0	0	0	0	0

Component Detail All Funds
Department of Law

Component: Torts & Workers' Compensation (2719)
RDU: Civil Division (35)

Non-Formula Component

	FY2022 Actuals	FY2023 Conference Committee	FY2023 Authorized	FY2023 Management Plan	FY2024 Governor	FY2023 Management Plan vs FY2024 Governor	
71000 Personal Services	3,039.3	4,294.5	4,889.5	4,614.5	0.0	-4,614.5	-100.0%
72000 Travel	3.6	17.2	17.2	31.5	0.0	-31.5	-100.0%
73000 Services	247.6	93.7	93.7	229.4	0.0	-229.4	-100.0%
74000 Commodities	5.5	33.6	33.6	33.6	0.0	-33.6	-100.0%
75000 Capital Outlay	0.0	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	3,296.0	4,439.0	5,034.0	4,909.0	0.0	-4,909.0	-100.0%
Fund Sources:							
1004 Gen Fund (UGF)	0.0	75.4	670.4	670.4	0.0	-670.4	-100.0%
1007 I/A Rcpts (Other)	3,296.0	4,363.6	4,363.6	4,238.6	0.0	-4,238.6	-100.0%
Unrestricted General (UGF)	0.0	75.4	670.4	670.4	0.0	-670.4	-100.0%
Designated General (DGF)	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
Other Funds	3,296.0	4,363.6	4,363.6	4,238.6	0.0	-4,238.6	-100.0%
Federal Funds	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
Positions:							
Permanent Full Time	33	32	32	32	0	-32	-100.0%
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: Torts & Workers' Compensation (2719)
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 FY2023 Conference Committee To FY2023 Authorized *****												
FY2023 Conference Committee												
	ConfCom	4,439.0	4,294.5	17.2	93.7	33.6	0.0	0.0	0.0	32	0	0
1004 Gen Fund		75.4										
1007 I/A Rcpts		4,363.6										
FY2023 Exempt 5% COLA												
	SalAdj	143.9	143.9	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
1004 Gen Fund		143.9										
FY2023 Exempt 5% COLA: \$143.9												
FY2023 15% Attorney and Administrative Law Judge COLA												
	SalAdj	451.1	451.1	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
1004 Gen Fund		451.1										
FY2023 15% Attorney and Administrative Law Judge COLA: \$451.1												
Subtotal		5,034.0	4,889.5	17.2	93.7	33.6	0.0	0.0	0.0	32	0	0
***** Changes From FY2023 Authorized To FY2023 Management Plan *****												
Transfer Authority to Legislation/Regulations to Align with Anticipated Expenditures												
	Trout	-125.0	-125.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
1007 I/A Rcpts		-125.0										
Transfer authority to Legislation/Regulations from the Torts and Workers' Compensation to align with anticipated expenditures required for an adequate level of legal expertise and operations needed within the office. The remaining authority in the Torts and Workers' Compensation component is sufficient to cover anticipated expenditures.												
Transfer Authority from Personal Services for Anticipated Travel and Services Expenditures												
	LIT	0.0	-150.0	14.3	135.7	0.0	0.0	0.0	0.0	0	0	0
Transfer authority from the personal services line to the travel and services lines for anticipated costs. The remaining personal services authority is anticipated to be sufficient to cover operating expenditures.												
Subtotal		4,909.0	4,614.5	31.5	229.4	33.6	0.0	0.0	0.0	32	0	0
***** Changes From FY2023 Management Plan To FY2024 Governor *****												
Transfer 32 Personnel and Associated Costs to Torts and Other Civil Def Litigation for Restructuring Purposes												
	Trout	-4,965.8	-4,671.3	-31.5	-229.4	-33.6	0.0	0.0	0.0	-32	0	0
1004 Gen Fund		-674.1										

Change Record Detail - Multiple Scenarios with Descriptions
Department of Law

Component: Torts & Workers' Compensation (2719)
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		
1007 I/A Rcpts		-4,291.7											
<p>Transfer 17 attorney positions and 15 support staff positions to Torts and Other Civil Defense Litigation from Torts and Workers' Compensation in order to leverage legal expertise and support in related areas of legal work under a streamlined organizational structure in the Civil Division.</p> <p>As part of a broader restructuring of the Civil Division within the Department of Law that will allow the department to operate with greater efficiency and efficacy, the 32 positions and associated activities are transferred to the new Torts and Other Civil Defense Litigation component from the current Torts and Workers' Compensation component.</p>													
FY2024 AlaskaCare Health Insurance Increase - Exempt and Partially Exempt													
	SalAdj	25.6	25.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
1004 Gen Fund		2.8											
1007 I/A Rcpts		22.8											
FY2024 AlaskaCare health insurance increase for exempt and partially exempt employees from \$1,685 to \$1,793 per member per month.: \$25.6													
FY2024 PERS Rate Adjustment													
	SalAdj	9.2	9.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
1004 Gen Fund		0.9											
1007 I/A Rcpts		8.3											
FY2024 PERS rate adjustment to 25.10%: \$9.2													
FY2024 Salary and Health Insurance Increases													
	SalAdj	22.0	22.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
1007 I/A Rcpts		22.0											
FY2024 Salary and Health Insurance Increases: \$22.0FY2024 GGU cost of living increase 2.5%: \$15.5													
FY2024 SU cost of living increase 1%: \$2.1													
FY2024 AlaskaCare insurance from \$1,685 to \$1,793 per member per month.: \$3.8													
FY2024 GGU health insurance increase from \$1,567.50 to \$1,573.50 per member per month.: \$0.6													
Totals		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0

Line Item Detail (1676)
Department of Law
Travel

Component: Torts & Workers' Compensation (2719)

Line Number	Line Name		FY2022 Actuals	FY2023 Management Plan	FY2024 Governor
2000	Travel		3.6	31.5	0.0
Object Class	Servicing Agency	Explanation	FY2022 Actuals	FY2023 Management Plan	FY2024 Governor
2000 Travel Detail Totals			3.6	31.5	0.0
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.	1.9	12.6	0.0
2001	In-State Non-Employee Travel	Travel costs for witnesses to testify in court.	1.0	3.0	0.0
2002	Out of State Employee Travel	Travel costs and expenses for out-of-state travel for conferences, training, etc.	0.0	10.0	0.0
2006	Other Travel Costs	Travel cost transfers.	0.7	5.9	0.0

Line Item Detail (1676)
Department of Law
Services

Component: Torts & Workers' Compensation (2719)

Line Number	Line Name		FY2022 Actuals	FY2023 Management Plan	FY2024 Governor
3000	Services		247.6	229.4	0.0
Object Class	Servicing Agency	Explanation	FY2022 Actuals	FY2023 Management Plan	FY2024 Governor
3000 Services Detail Totals			247.6	229.4	0.0
3000	Education Services	Conferences, training and memberships.	0.0	0.1	0.0
3002	Legal and Judicial Services	Depositions, research costs, expert witness and consultant fees.	167.4	167.3	0.0
3006	Delivery Services	Freight, courier, postage, and transportation of trial exhibit materials.	0.6	0.6	0.0
3011	Other Services	Cost transfers and miscellaneous items within the services line (commissions, etc.).	79.6	61.4	0.0

Line Item Detail (1676)

**Department of Law
Commodities**

Component: Torts & Workers' Compensation (2719)

Line Number	Line Name		FY2022 Actuals	FY2023 Management Plan	FY2024 Governor
4000	Commodities		5.5	33.6	0.0
Object Class	Servicing Agency	Explanation	FY2022 Actuals	FY2023 Management Plan	FY2024 Governor
4000 Commodities Detail Totals			5.5	33.6	0.0
4000	Business	Reference materials and subscriptions, including statutes, software applications, non-capital desktop refresh, and miscellaneous office supplies.	0.0	3.6	0.0
4022	Commodity Transfer	Commodity cost transfers.	5.5	30.0	0.0

Revenue Detail (1681)
Department of Law

Component: Torts & Workers' Compensation (2719)

Revenue Type (OMB Fund Code) Revenue Source	Component	Comment	FY2022 Actuals	FY2023 Management Plan	FY2024 Governor
5007 I/A Rcpts (1007 I/A Rcpts)			3,296.0	4,238.6	0.0
5301 Inter-Agency Receipts	Admin - Department-wide	RSA Administration, Risk Management - legal services regarding personal injury litigation. Program code: CV03214539.	2,854.2	3,425.1	0.0
5301 Inter-Agency Receipts	Correct - Department-wide		441.8	813.5	0.0

Personal Services Expenditure Detail
Department of Law

Scenario: FY2024 Governor (19867)
Component: Torts & Workers' Compensation (2719)
RDU: Civil Division (35)

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.