

State of Alaska FY2002 Governor's Operating Budget

Department of Law
Civil Division
Budget Request Unit

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BRU Mission

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

BRU Services Provided

The Civil Division BRU supports the Civil Division of the Department of Law. The Civil Division serves the interests of Alaska's citizens by providing legal counsel to the executive branch in all civil actions. The division defends and prosecutes civil litigation to which the state is a party; handles legal matters for and provides legal advice to the governor, executive branch agencies, and -- upon request -- the legislative and judicial branches; reviews regulations prepared by executive agencies; drafts legislation for introduction by the governor; and reviews all legislation before it is acted upon by the governor.

Activities of the Civil Division help protect the financial and natural resources of the state, defend Alaskans' access to the state's land and natural resources, and ensure that the laws and regulations that govern businesses, individuals, and government agencies are constitutional. The division takes action to protect children from abuse and neglect, enforce child support obligations, guarantee that state programs are administered fairly and that money owed to the state is collected, defend the state's interests relative to the federal government, and defend the state from unreasonable demands for payment of costs of lawsuits, personnel actions, and personal injuries. It protects the state's financial resources by advising agencies on decisions that might lead to financial claims, defending against unreasonable claims, and facilitating reasonable settlements or other appropriate resolution of issues.

The Civil Division BRU includes components supporting the following sections: (1) the Deputy Attorney General's Office; (2) Collections and Support; (3) Commercial; (4) Environmental Law; (5) Fair Business Practices; (6) Governmental Affairs; (7) Human Services; (8) Legislation and Regulations; (9) Natural Resources; (10) Oil, Gas and Mining; (11) Special Litigation; (12) Transportation; and (13) Timekeeping and Support.

(1) The Deputy Attorney General's Office supports the Deputy Attorney General as she assists the Attorney General and the department in carrying out its statutorily prescribed functions. The Deputy Attorney General for the Civil Division serves as the chief operating officer for the division and is responsible for leading, managing, and coordinating the activities of the attorneys and paraprofessionals in each of the substantive sections of the four locations of the Civil Division.

(2) The Collections and Support section consists of two units: the collections unit and the child support unit. The section protects the state's financial resources by collecting outstanding civil and criminal debts and protects Alaska's children by establishing paternity and ensuring compliance with child support orders. The collections unit collects unsecured debts owed to the state. The majority of these debts are criminal judgments, but the unit also collects various civil judgments and civil penalties. The child support enforcement unit represents the Child Support Enforcement Division (CSED) in court, provides legal support in matters relating to administrative child support enforcement actions, drafts legislation and regulations, and provides general legal advice to CSED.

(3) The Commercial section provides legal services on revenue and commercial matters; protects the integrity of the state's public finances through fair interpretation, implementation, enforcement, defense, or adoption of statutes and regulations governing state revenue, the permanent fund dividend, the employment security program, and lending programs; and protects public health and safety through fair interpretation, implementation, enforcement, defense, or adoption of statutes and regulations governing occupational licensing, alcoholic beverage control, banking, securities, and corporations. The section serves the Income and Excise Audit Division, Permanent Fund Dividend Division, Alaska Housing Finance Corporation, Alcoholic Beverage Control Board, Occupational Licensing Division, Investments Division, Banking, Securities and Corporations Division, Office of the Commissioner of Commerce, Employment Security Division, Alaska Commission on Postsecondary Education, Alaska Student Loan Corporation,

and the Agricultural Revolving Loan Fund. The section also protects the student loan program by providing legal services and advice to the agencies that direct the program.

(4) The Environmental Law section provides legal representation to state agencies for the investigation, defense, and prosecution of claims regarding contaminated sites around the state as well as legal advice on environmental matters. It also provides legal representation to state agencies for the defense and prosecution of claims regarding the EXXON VALDEZ oil spill, the reimbursement of oil spill-related costs, and the expenditure of restoration funds. It provides legal services to help recover the state's contribution to the Trans-Alaska Pipeline Liability Fund. The work of the Environmental Law section helps to protect the environment of the state, to ensure that the costs of contaminated site cleanup are borne by the responsible parties, to minimize the state's exposure to claims for damages relating to environmental problems, and to ensure that the costs of the EXXON VALDEZ are reimbursed to the fullest extent possible and that the available restoration funds are expended in accordance with the law and for the maximum benefit of the Alaska environment. It serves Alaskans by helping to protect the environment and restore already-damaged sites and by making sure that those who are responsible for environmental damage are required to pay the costs of remediation.

(5) The Fair Business Practices section, which includes the consumer protection/antitrust unit, protects the public by enforcing consumer protection and antitrust laws and by providing legal services and advice to the agencies that monitor insurance companies and personnel, public utilities, and certified teachers. The section also protects the public by handling enforcement actions in occupational licensing cases. Agencies served by the section include the following: Division of Occupational Licensing, Division of Insurance, Regulatory Commission of Alaska, the Professional Teaching Practices Commission, and Postsecondary Education.

(6) The Governmental Affairs section provides legal assistance needed for governmental management, including budget, public finance, employment, labor relations, civil rights, procurement, retirement programs, Medicaid rate disputes, and investment of treasury and Permanent Fund Corporation funds. It provides legal assistance on problems associated with institutional relationships within state government, the interaction between state and local governments, and the conduct of elections. The section provides legal assistance to the departments of Administration, Community and Economic Development, the Offices of the Governor and Lieutenant Governor, the Office of Management and Budget, the Permanent Fund Corporation, AIDEA, the Alaska Public Offices Commission, the Human Rights Commission, the Division of Elections, the Department of Labor, and the Alaska Court System.

(7) The Human Services section provides legal advice and representation to the Departments of Education and Early Development, Labor and Workforce Development, and Health and Social Services. It helps protect the public by providing legal services and advice to these agencies regarding the public school system and education issues, child protection, juvenile delinquency, foster and child care licensing, public health, workers' compensation, and occupational safety and health.

(8) The Legislation and Regulations section provides legal advice and review for constitutional and statutory requirements in the preparation of state legislation and regulations.

(9) The Natural Resources section provides legal advice and representation to state departments, boards, and commissions that regulate Alaska's lands, waters, and renewable natural resources. It protects Alaskans' interests by ensuring that the state's natural resources are managed and allocated by state agencies in a manner that is consistent with the law, defending against legal challenges to actions taken by the state's natural resource agencies, and pursuing legal actions against persons who are illegally using, damaging, or destroying Alaska's lands, waters, or renewable natural resources. The Mental Health Lands unit (in the Natural Resources section) defends the state against challenges to regulations governing land managed by the Alaska Mental Health Trust Authority, advises the authority and the Department of Natural Resources as they implement the settlement of the Mental Health Lands Trust dispute and develop new budgetary and administrative structures to manage the land, and deals with the concerns of land purchasers or mining claimants who claim to have been harmed by the settlement. The Natural Resources section supervisor oversees the activities of the Statehood Defense BRU.

(10) The Oil, Gas, and Mining section is responsible for litigating oil, gas, and mining resource disputes involving the state. It protects Alaskans' interests by making sure that the state receives the royalty and tax revenues to which it is entitled for current and past production, defending against challenges to state oil and gas lease sale programs, and protecting the state's title to resource-rich lands. The Oil, Gas, and Mining section supervisors oversee the activities budgeted for in the Oil & Gas Litigation and Legal Services BRU.

(11) The Special Litigation section provides legal defense in tort litigation cases filed against the state, state agencies, and state employees, including personal injury, property damage, and civil rights suits brought under 42 U.S.C. §1983. The section also provides defense in contested workers' compensation claims against the state, and provides advice and training to reduce the state's liability exposure. The section provides legal services to the Division of Risk Management and, through it, to all state agencies.

(12) The Transportation section provides legal advice to and representation of the Department of Transportation and Public Facilities. The section enhances the department's ability to efficiently provide the public infrastructure necessary for the safety and well-being of Alaskans by providing advice and representation on all aspects of the construction and operation of the state's public facilities, including building, highways, ferries, airports, harbors, communications facilities, and other public works.

(13) The Timekeeping and Support section, which is comprised of those cost elements of the Civil Division support pool that are division-wide, rather than section-specific, includes the costs of law office management (for the Juneau, Anchorage, and Fairbanks offices), case management, and division timekeeping and billing. The section provides day-to-day support to the legal staff by ensuring that resources necessary to perform their jobs are available. The section is responsible for maintaining work management and timekeeping records, providing accurate and timely billing to client agencies, and ensuring that office operations flow efficiently and unencumbered while state and department policies are followed and consistently applied.

BRU Goals and Strategies

- Provide effective legal advice to and representation of the state.
- Protect Alaska's children and youth by handling child abuse, neglect, and delinquency cases expeditiously.
- Ensure the state receives its correct share of oil and gas taxes and royalties; clarify and improve the rules governing taxpayers to reduce disputes and litigation.
- Resolve questions of state versus federal control and management of natural resources, lands, and waters.
- Increase collections of money owed the state by businesses and individuals for child support, fines, loans, and other unpaid obligations.
- Ensure that the department's legal review of regulations projects continues to be efficient, timely, and responsive to the needs of agencies and the public.

Key BRU Issues for FY2001 – 2002

CHILD PROTECTION

Child protection workloads continue to be of concern to the department. The rate of increase in the number of new cases appears to be slowing; however, existing caseloads remain high, particularly in Anchorage and Bethel. In addition, statutory changes at the state and federal level have necessitated important changes in how long children can remain in the child protection legal system, and when certain actions must occur, and they define parental responsibility more concretely. These changes move cases to conclusion faster to ensure that when reunification with the family is not in the child's best interest, the child can be made legally eligible for placement in a permanent home more quickly. The new accelerated schedules severely impact attorney workloads. Maintenance of our existing resources is necessary in order to manage this critical responsibility.

JUVENILE DELINQUENCY

Another key issue is the juvenile delinquency workload in the Anchorage Human Services section. While the number of cases has remained relatively constant over the past three years, workload has increased 53 percent since FY 1998. The Anchorage section handles the delinquency cases from the Kenai Peninsula, Dillingham, Naknek, and King Salmon, in addition to Anchorage. Cases are more complex, often involve multiple defendants and multiple defense attorneys, and are more often going to jury trial. Most of this increase has fallen on the one position in the Anchorage section devoted to juvenile delinquency. The Anchorage juvenile delinquency caseload has been of concern for some time. In FY99, the department requested, but did not receive, funding for a second juvenile delinquency position. The situation has only worsened since then.

CONSUMER PROTECTION AND ANTITRUST ENFORCEMENT

Alaska is a target state for many types of consumer fraud, among them telemarketing, prizes and sweepstakes, deceptive home business opportunity sales, automobile sales and service, and a variety of retail sales and services. Under the terms of the Alaska Consumer Protection Act, the Attorney General's office is authorized to investigate and bring enforcement action against businesses that engage in unfair or deceptive trade practices. Given the current resources and the large areas of enforcement the office is responsible for, we are still forced to turn away many legitimate cases of consumer fraud. Enforcement activities are directed to situations affecting a large number of consumers or involving large dollar amounts, and often there are not enough resources for those cases. However, we have been able to increase enforcement activity because of additional statutory designated program receipt resources appropriated to the civil division in FY01. Using existing resources, the division also has furthered current consumer protection activities by updating and refining the consumer complaint packet and the consumer complaint database and by establishing a consumer protection web page. The department will continue to take appropriate steps to ensure receipt of SDPR on a regular basis in FY02 to help fund the consumer protection program.

Major BRU Accomplishments for FY2000

Child Protection: The Civil Division participated in interagency effort on the Balloon Project to reduce backlog of children in foster care longer than new state and federal laws permit. As of October 15, 2000, 81 percent of these children were in a permanent placement, and in another 13 percent of the cases, the legal work to free these children for adoption is complete.

Cruise Ship Environmental Compliance: Achieved settlement with Royal Caribbean Cruise Lines relating to illegal discharges of oil and hazardous substances. Under the settlement, the state oil and hazardous substance response fund received \$725,000. In addition, \$2.1 million in spill response materials were made available to the state, a \$250,000, five-year cruise ship opacity monitoring program was initiated, and a \$250,000 geographical response strategy will be developed. The opacity monitoring program resulted in over 20 notices of violation being issued by ADEC for the 2000 cruise ship season.

Alaska Native Law Developments: Continued efforts to develop the law as it relates to Alaska Natives and the relationship between Alaska Natives and the state. We worked to resolve the law on tribal recognition and tribal authority post-Venetie through our briefing and presentation to the Alaska Supreme Court in the landmark John v. Baker case. The court issued its decision in September 1999.

Oil and Gas: Continued our work on litigation involving oil and gas, bringing into the state treasury nearly \$450 million in tax and royalty settlements.

Consumer Protection and Antitrust Enforcement: Developed a comprehensive new consumer protection and antitrust web page which serves as a resource for Alaskans on a wide variety of consumer protection and antitrust issues, from dealing with mail order companies to buying used cars to protecting against telephone fraud to filing consumer complaints. We also updated and refined the consumer complaint packet and our consumer complaint database. The complaint packet and database assist in our work to resolve complaints, identify repeat problem areas, take enforcement action when warranted, and educate Alaska consumers.

Submerged Lands: Filed an original action in the United States Supreme Court to quiet title to all lands underlying marine waters in Southeast Alaska, including those within Glacier Bay National Park and the Tongass National Forest, and were successful in getting the Court to accept the case.

Civil Division
BRU Financial Summary by Component

All dollars in thousands

	FY2000 Actuals				FY2001 Authorized				FY2002 Governor			
	General Funds	Federal Funds	Other Funds	Total Funds	General Funds	Federal Funds	Other Funds	Total Funds	General Funds	Federal Funds	Other Funds	Total Funds
Formula Expenditures												
None.												
Non-Formula Expenditures												
Dep. Attny General's Office	1,707.8	0.0	15.9	1,723.7	206.2	0.0	0.4	206.6	206.3	0.0	0.0	206.3
Collections and Support	286.8	0.0	1,258.7	1,545.5	345.6	0.0	1,348.2	1,693.8	596.0	0.0	1,342.3	1,938.3
Commercial Section	244.4	0.0	1,241.6	1,486.0	276.2	0.0	1,589.0	1,865.2	275.2	0.0	1,575.5	1,850.7
Environmental Law	592.5	0.0	792.3	1,384.8	644.7	0.0	632.0	1,276.7	641.3	0.0	627.6	1,268.9
Fair Business Practices	437.7	0.0	909.9	1,347.6	486.7	0.0	874.6	1,361.3	483.8	0.0	1,071.9	1,555.7
Governmental Affairs	1,081.4	0.0	1,787.7	2,869.1	1,183.3	0.0	1,992.8	3,176.1	1,039.5	0.0	1,656.1	2,695.6
Human Services	2,756.6	0.0	1,245.4	4,002.0	2,807.7	0.0	637.6	3,445.3	2,937.3	0.0	959.7	3,897.0
Legislation/Regulations	392.9	0.0	92.6	485.5	375.7	0.0	128.9	504.6	375.2	0.0	127.2	502.4
Mental Health Lands	24.8	0.0	21.1	45.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Natural Resources	888.5	0.0	218.9	1,107.4	963.1	0.0	311.0	1,274.1	960.4	0.0	307.6	1,268.0
Oil, Gas and Mining	0.0	0.0	2,660.0	2,660.0	0.0	0.0	2,884.3	2,884.3	0.0	0.0	2,867.9	2,867.9
Special Litigation	23.1	0.0	2,027.6	2,050.7	79.7	0.0	2,227.5	2,307.2	0.0	0.0	2,354.3	2,354.3
Transportation Section	0.0	0.0	1,887.4	1,887.4	0.0	0.0	2,001.1	2,001.1	0.0	0.0	2,065.8	2,065.8
Timekeeping and Support	0.0	0.0	605.0	605.0	16.1	0.0	720.5	736.6	15.9	0.0	719.2	735.1
Totals	8,436.5	0.0	14,764.1	23,200.6	7,385.0	0.0	15,347.9	22,732.9	7,530.9	0.0	15,675.1	23,206.0

Civil Division

Proposed Changes in Levels of Service for FY2002

\$137,000 in general funds for one new attorney to handle the growing juvenile delinquency caseload is requested in the Human Services component; \$250,000 is requested in the Collections and Support component for the Victim's Restitution project. Funding to increase the staffing in the Fair Business Practices, Transportation and Special Litigation sections through increases to interagency receipts is also sought. See detailed discussion at the department and component levels.

Civil Division

Summary of BRU Budget Changes by Component

From FY2001 Authorized to FY2002 Governor

All dollars in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2001 Authorized	7,385.0	0.0	15,347.9	22,732.9
Adjustments which will continue current level of service:				
-Dep. Attny General's Office	0.1	0.0	-0.4	-0.3
-Collections and Support	0.4	0.0	-5.9	-5.5
-Commercial Section	-1.0	0.0	-13.5	-14.5
-Environmental Law	-3.4	0.0	-4.4	-7.8
-Fair Business Practices	-2.9	0.0	-32.7	-35.6
-Governmental Affairs	-233.8	0.0	-336.7	-570.5
-Human Services	-7.4	0.0	24.3	16.9
-Legislation/Regulations	-0.5	0.0	-1.7	-2.2
-Natural Resources	-2.7	0.0	-3.4	-6.1
-Oil, Gas and Mining	0.0	0.0	-16.4	-16.4
-Special Litigation	-79.7	0.0	-10.2	-89.9
-Transportation Section	0.0	0.0	-10.9	-10.9
-Timekeeping and Support	-0.2	0.0	-1.3	-1.5
Proposed budget increases:				
-Collections and Support	250.0	0.0	0.0	250.0
-Fair Business Practices	0.0	0.0	230.0	230.0
-Governmental Affairs	90.0	0.0	0.0	90.0
-Human Services	137.0	0.0	297.8	434.8
-Special Litigation	0.0	0.0	137.0	137.0
-Transportation Section	0.0	0.0	75.6	75.6
FY2002 Governor	7,530.9	0.0	15,675.1	23,206.0