

# **State of Alaska FY2002 Governor's Operating Budget**

Department of Law  
Criminal Appeals/Special Litigation Component  
Component

## **Component: Criminal Appeals/Special Litigation Component**

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### **Component Mission**

Mission statement appears at the department summary and BRU levels.

### **Component Services Provided**

(A) The Office of Special Prosecutions and Appeals (OSPA) represents the state in all felony appellate proceedings challenging convictions obtained in the trial courts, and handles most state and federal post-conviction and habeas corpus proceedings. These post-trial procedures are constitutionally required; when such actions are filed by convicted criminals the state must respond. Without these functions, the efforts of criminal justice agencies to detect and punish crime through investigation, trial, and conviction would be nullified.

(B) OSPA prosecutes economic and other complex crimes. In addition to filing criminal charges and conducting criminal trials, this office also gives day-to-day advice to special "white collar" investigation units. These prosecution services protect private investors, small businesses, and government agencies that are the victims of fraud or other wrongdoing. OSPA also handles civil litigation challenging statutes related to criminal justice, such as sex offender registration, victims' rights, and physician-assisted suicide.

(C) OSPA prosecutes environmental crimes through a reimbursable services agreement with the Department of Environmental Conservation. These prosecution services protect the state's air and water quality by providing advice and assistance to state environmental investigators and by prosecuting appropriate criminal cases.

(D) OSPA prosecutes welfare cheaters through a reimbursable services agreement with the Department of Health and Social Services. These prosecution services protect the state's welfare system.

(E) OSPA prosecutes medical providers who cheat the Medicaid system, through a federal grant and matching state general funds. The unit can institute criminal prosecution for fraud or civil actions for overpayments. In addition, the unit is responsible for investigating and prosecuting abuse of patients in Medicaid-funded facilities.

(F) OSPA prosecutes selected fish and game cases, depending on the importance of the case or the legal issues involved. Funding is provided by the Fish and Game Fund.

(G) OSPA prosecutes criminal child support enforcement matters through a reimbursable services agreement from the Department of Revenue.

(H) OSPA provides services to the entire state with eight appellate attorney positions, two "white collar crime" prosecutors and one environmental crimes prosecutor, one welfare fraud prosecutor, one Medicaid provider fraud prosecutor, one fish and game prosecutor, and a half-time child support enforcement prosecutor.

### **Component Goals and Strategies**

The primary goal of the Office of Special Prosecutions and Appeals (OSPA) is to uphold criminal convictions on appeal and on collateral attack. Additional goals of OSPA are to assure safe and healthy communities by prosecuting and convicting offenders in the many special units now under the supervision of OSPA: (1) complex criminal cases, with special emphasis on "white collar" crime, (2) environmental crimes, (3) child support enforcement, (4) welfare fraud, (5) Medicaid provider fraud, and (6) selected fish and game prosecutions.

## Key Component Issues for FY2001 – 2002

Key Issues are included at the BRU level.

### Major Component Accomplishments for FY2000

Objective 1: Support the efforts of prosecution offices and law enforcement agencies by having criminal cases affirmed on appeal or in post-conviction litigation.

Approximately 70 percent of the workload of the Criminal Appeals/Special Litigation office is in writing appellate briefs in serious criminal cases. This workload is not within the control of the office, because these appellate cases are rarely initiated by the state. As more and more of the less serious cases are resolved in a way that avoids an appeal (i.e., by plea, rather than trial), it is only the more serious and complicated cases being appealed. Because the amount of work is largely beyond our control, and because the cases are becoming more complex, it is impossible to find a meaningful measure of accomplishment or comparison from year-to-year. However, the state prevails in the vast majority of the appeals it handles, and the office enjoys an excellent reputation in the appellate courts for thorough, thoughtful work.

Objective 2: Protect legitimate Alaska businesses and private citizens by assisting in the investigation and prosecution of white collar criminal cases.

Number of white collar cases reviewed or investigations assisted: 25

Objective 3: Protect Alaska's environment by assisting in the investigation and prosecution of environmental criminal cases.

Number of environmental crime cases reviewed or investigations assisted: 45

Objective 4: Protect Alaska's fish and game resources by assisting in the investigation and prosecution of fish and game criminal cases.

Number of selected commercial fishing cases prosecuted: 125  
Number of selected commercial guiding cases prosecuted: 15  
Number of other fish and game cases, with important legal or policy issues: 15  
Amount of criminal fines assessed in fish and game cases: \$250,000

Objective 5: Protect the state's welfare system through the investigation and prosecution of welfare fraud cases.

Number of selected welfare fraud cases reviewed: 30  
Amount of restitution ordered for welfare overpayments: \$112,000

Objective 6: Protect the state's Medicaid provider system through the investigation and prosecution of selected Medicaid fraud and patient abuse cases.

Number of fraud referrals or complaints reviewed: 130  
Number of complaints of patient abuse investigated: 2  
Amount of criminal fines or civil penalties obtained: \$400,000  
Restitution orders and settlements obtained: \$600,000  
Overpayments identified for administrative recoupment: \$60,000

Objective 7: Protect the state's child support system by through the investigation and prosecution of the most egregious cases of criminal nonsupport. When child support prosecutions are publicized many more people who owe child support voluntarily make arrangements to pay their arrearages, thus reducing the overall backlog of cases.

Number of referrals or complaints reviewed: 31  
Number of selected cases prosecuted: 16

**Statutory and Regulatory Authority**

AS 44.23.020

**Criminal Appeals/Special Litigation Component****Component Financial Summary***All dollars in thousands*

|  | <b>FY2000 Actuals</b> | <b>FY2001 Authorized</b> | <b>FY2002 Governor</b> |
|--|-----------------------|--------------------------|------------------------|
| <b>Non-Formula Program:</b>                |                       |                          |                        |
| <b>Component Expenditures:</b>             |                       |                          |                        |
| 71000 Personal Services                    | 1,937.7               | 2,193.0                  | 2,129.6                |
| 72000 Travel                               | 45.1                  | 49.3                     | 49.3                   |
| 73000 Contractual                          | 181.2                 | 272.0                    | 259.4                  |
| 74000 Supplies                             | 51.8                  | 42.7                     | 42.7                   |
| 75000 Equipment                            | 6.0                   | 5.0                      | 5.0                    |
| 76000 Land/Buildings                       | 0.0                   | 0.0                      | 0.0                    |
| 77000 Grants, Claims                       | 0.0                   | 0.0                      | 0.0                    |
| 78000 Miscellaneous                        | 0.0                   | 0.0                      | 0.0                    |
| <b>Expenditure Totals</b>                  | <b>2,221.8</b>        | <b>2,562.0</b>           | <b>2,486.0</b>         |
| <b>Funding Sources:</b>                    |                       |                          |                        |
| 1002 Federal Receipts                      | 345.8                 | 483.6                    | 480.4                  |
| 1003 General Fund Match                    | 115.6                 | 158.0                    | 158.6                  |
| 1004 General Fund Receipts                 | 1,282.1               | 1,367.5                  | 1,307.9                |
| 1007 Inter-Agency Receipts                 | 353.0                 | 413.9                    | 412.1                  |
| 1024 Fish and Game Fund                    | 0.0                   | 1.6                      | 0.0                    |
| 1053 Investment Loss Trust Fund            | 0.0                   | 9.0                      | 0.0                    |
| 1108 Statutory Designated Program Receipts | 0.0                   | 2.6                      | 0.0                    |
| 1134 Fish & Game Duplicated Expenditures   | 125.3                 | 125.8                    | 127.0                  |
| <b>Funding Totals</b>                      | <b>2,221.8</b>        | <b>2,562.0</b>           | <b>2,486.0</b>         |

**Estimated Revenue Collections**

| <b>Description</b>                    | <b>Master Revenue Account</b> | <b>FY2000 Actuals</b> | <b>FY2001 Authorized</b> | <b>FY2001 Cash Estimate</b> | <b>FY2002 Governor</b> | <b>FY2003 Forecast</b> |
|---------------------------------------|-------------------------------|-----------------------|--------------------------|-----------------------------|------------------------|------------------------|
| <b>Unrestricted Revenues</b>          |                               |                       |                          |                             |                        |                        |
| None.                                 |                               | 0.0                   | 0.0                      | 0.0                         | 0.0                    | 0.0                    |
| <b>Unrestricted Total</b>             |                               | <b>0.0</b>            | <b>0.0</b>               | <b>0.0</b>                  | <b>0.0</b>             | <b>0.0</b>             |
| <b>Restricted Revenues</b>            |                               |                       |                          |                             |                        |                        |
| Federal Receipts                      | 51010                         | 345.8                 | 483.6                    | 476.1                       | 480.4                  | 480.4                  |
| Interagency Receipts                  | 51015                         | 353.0                 | 413.9                    | 376.3                       | 412.1                  | 412.1                  |
| Fish and Game Fund                    | 51045                         | 125.3                 | 127.4                    | 125.8                       | 127.0                  | 127.0                  |
| Statutory Designated Program Receipts | 51063                         | 0.0                   | 2.6                      | 0.0                         | 0.0                    | 0.0                    |
| Investment Loss Trust Fund            | 51393                         | 0.0                   | 9.0                      | 0.0                         | 0.0                    | 0.0                    |
| <b>Restricted Total</b>               |                               | <b>824.1</b>          | <b>1,036.5</b>           | <b>978.2</b>                | <b>1,019.5</b>         | <b>1,019.5</b>         |
| <b>Total Estimated Revenues</b>       |                               | <b>824.1</b>          | <b>1,036.5</b>           | <b>978.2</b>                | <b>1,019.5</b>         | <b>1,019.5</b>         |

**Criminal Appeals/Special Litigation Component**  
**Proposed Changes in Levels of Service for FY2002**

No changes were made in FY2001, and none are requested for FY2002.

**Summary of Component Budget Changes**  
**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> |
|--|----------------------|----------------------|--------------------|--------------------|
| <b>FY2001 Authorized</b>   | <b>1,534.5</b>       | <b>483.6</b>         | <b>543.9</b>       | <b>2,562.0</b>     |
| <b>Adjustments which will continue current level of service:</b> |                      |                      |                    |                    |
| -Adjust vacancy by fund source between line items and components | -63.0                | 0.0                  | 0.0                | -63.0              |
| -Convert Special FY2001 Labor Cost Fund Sources to GF            | 2.6                  | 0.0                  | -2.6               | 0.0                |
| -Year 2 Labor Costs - Net Change from FY 2001                    | -7.6                 | -3.2                 | -2.2               | -13.0              |
| <b>FY2002 Governor</b>   | <b>1,466.5</b>       | <b>480.4</b>         | <b>539.1</b>       | <b>2,486.0</b>     |

**Criminal Appeals/Special Litigation Component**

**Personal Services Information**

| Authorized Positions |                      |                    | Personal Services Costs          |                  |
|----------------------|----------------------|--------------------|----------------------------------|------------------|
|                      | FY2001<br>Authorized | FY2002<br>Governor |                                  |                  |
| Full-time            | 28                   | 28                 | Annual Salaries                  | 1,705,995        |
| Part-time            | 3                    | 3                  | COLA                             | 33,414           |
| Nonpermanent         | 0                    | 0                  | Premium Pay                      | 0                |
|                      |                      |                    | Annual Benefits                  | 502,240          |
|                      |                      |                    | <i>Less 5.00% Vacancy Factor</i> | (112,082)        |
|                      |                      |                    | Lump Sum Premium Pay             | 0                |
| <b>Totals</b>        | <b>31</b>            | <b>31</b>          | <b>Total Personal Services</b>   | <b>2,129,567</b> |

**Position Classification Summary**

| Job Class Title         | Anchorage | Fairbanks | Juneau   | Others   | Total     |
|-------------------------|-----------|-----------|----------|----------|-----------|
| Administrative Clerk II | 2         | 0         | 0        | 0        | 2         |
| Assoc Attorney I        | 1         | 0         | 0        | 0        | 1         |
| Attorney III            | 5         | 0         | 0        | 0        | 5         |
| Attorney IV             | 4         | 0         | 0        | 0        | 4         |
| Attorney V              | 7         | 0         | 0        | 0        | 7         |
| Attorney VI             | 1         | 0         | 0        | 0        | 1         |
| Internal Auditor IV     | 1         | 0         | 0        | 0        | 1         |
| Investigator II         | 1         | 0         | 0        | 0        | 1         |
| Investigator III        | 3         | 0         | 0        | 0        | 3         |
| Legal Secretary I       | 4         | 0         | 0        | 0        | 4         |
| Legal Secretary II      | 1         | 0         | 0        | 0        | 1         |
| Paralegal Asst I        | 1         | 0         | 0        | 0        | 1         |
| <b>Totals</b>           | <b>31</b> | <b>0</b>  | <b>0</b> | <b>0</b> | <b>31</b> |