

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

Department of Law  
Transportation Section  
Component

## **Component: Transportation Section**

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### **Component Mission**

Mission statement appears at the department summary and BRU levels.

### **Component Services Provided**

The Transportation section provides legal representation and advice to DOT/PF on all aspects of the construction and operation of the state's public facilities, including buildings, highways, ferries, airports, harbors, communications facilities, and other public works. By providing advice and representation to the department on these issues, the Transportation section enhances the department's ability to efficiently provide the public infrastructure necessary for the safety and well being of all Alaskans.

### **Component Goals and Strategies**

Provide legal advice to and representation for the Department of Transportation and Public Facilities (DOT/PF) on the myriad issues that it faces.

Provide representation and legal advice to DOT/PF, including the boards and commissions.

Assist DOT/PF in negotiating procurement contracts for equipment, services, construction, real estate, and other necessities on behalf of the department.

Defend DOT/PF procurement decisions and practices.

Assist with and defend the procurement decisions and practices of agencies that have received delegations of procurement authority from the commissioner of DOTPF.

Advise DOTPF on employment matters.

Prepare legislation, regulations, and legal actions necessary to fulfill the goals of DOTPF.

Initiate and prosecute actions necessary to protect public access to state and private lands and to navigable waters throughout Alaska.

Initiate and prosecute actions necessary to protect public transportation facilities and corridors both within and beyond state borders.

Prosecute unlawful users of state lands and facilities.

### **Key Component Issues for FY2001 – 2002**

See proposed changes in level of service provided.

### **Major Component Accomplishments for FY2000**

Defend contracting officer decisions in administrative hearings before the Commissioner of Transportation:

- Three-week hearing on \$1.2 million claim concerning renovation of a hatchery on Fort Richardson. Commissioner awards \$315,000. Case settles on appeal for \$460,000.
- Four-week hearing on \$2 million claim concerning roadwork in Unalaska. Commissioner awards \$538,297.
- Two-week hearing on \$1.1 million claim concerning roadwork in Wasilla. Commissioner awards \$738,081.

Defend contract claim decisions of Commissioner of Transportation in Superior Court:

- Defend and counterclaim on decision to award \$2.2 million (approximately 50 percent of amount claimed by contractor) for termination of contract to renovate Chena Hot Springs Road.
- Defend determination as a matter of law that prejudgment interest may not be awarded to construction contract claimants.

Assist with evaluation before Disputes Review Board of \$46 million claim relating to construction of M/V Kennicott.

Conduct two-week jury trial of Department of Military and Veterans Affairs claim against the Interior Regional Housing Authority for \$600,000 reimbursement of construction cost incurred during relocation of homes following flood in Allakaket, and Housing Authority's counterclaim for \$1.3 million to stabilize homes affected by permafrost changes. Jury awards \$600,000 to state and \$600,000 to Housing Authority, with net result of zero.

Assist Alaska Energy Authority with resolution of contractor's claim for additional compensation related to construction of bulk fuel facility in Chefornak.

Resolve Allakaket Power and Telephone's claim that DOTPF disrupted intertie to neighboring Alatna.

Pursue condemnation cases to acquire right-of-way for road improvements.

Defend inverse condemnation claims that DOTPF's actions took interests in private property, including successful defense of claim that a taking occurred when property values decreased allegedly as a result of the state's planning activities.

Protect state's right and title to rights-of-way, including court action to quiet title to right of way adjacent to Tony Roma's Restaurant in Anchorage (superior court ruled in favor of state; appeal pending in supreme court), action to establish boundaries of Stevens Village Airport, and court actions to eject encroachments on state's rights-of-way.

Court action to establish state's right to use gravel within right-of-way for construction (state prevailed before supreme court).

Pursue federal court actions concerning native allotments in rights-of-way.

Advise DOTPF and other agencies, and defend agency decisions, concerning bid solicitations and bid protests.

Successfully defend in Alaska Supreme Court the decision of the Anchorage International Airport to offer land lease on a competitive basis.

Present training seminars to DOTPF personnel.

Assist Anchorage International Airport with issuance of approximately \$25 million of bonds to help pay for airport redevelopment.

Assist with environmental permitting issues related to placement of fill at Anchorage International Airport.

Assist with issues arising from environmental contamination:

- Recover \$2.1 million from the Department of Defense for cleanup of contamination in Fairbanks.

- Recover costs of environmental cleanup arising from Alaska Court System's construction of Fairbanks Courthouse construction.
- Assist Fairbanks International Airport with cleanup and cost recovery for contamination at former post office building.
- Assist DOT/PF with demolition of asbestos contaminated former seafood processing plant along Ocean Dock Road in Anchorage.
- Resolve U.S. Environmental Protection Agency enforcement action arising out of highway contractor's disposal of excess dirt on bluff in Homer.
- Assist with resolution of liability and contract issues arising from naturally occurring asbestos in gravel pit.

Assist with drafting of new Division of Measurement and Standards regulations.

Assist with drafting of regulations for the operation of the Whittier tunnel and with the negotiation of a joint tunnel operating agreement with the Alaska Railroad.

### **Statutory and Regulatory Authority**

AS 44.23.020

**Transportation Section**  
**Component Financial Summary**

All dollars in thousands

	FY2000 Actuals	FY2001 Authorized	FY2002 Governor
<b>Non-Formula Program:</b>			
<b>Component Expenditures:</b>			
71000 Personal Services	1,255.0	1,575.9	1,583.5
72000 Travel	33.1	20.2	20.4
73000 Contractual	562.6	373.6	428.7
74000 Supplies	20.0	31.4	33.2
75000 Equipment	16.7	0.0	0.0
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>1,887.4</b>	<b>2,001.1</b>	<b>2,065.8</b>
<b>Funding Sources:</b>			
1007 Inter-Agency Receipts	1,887.4	2,001.1	2,065.8
<b>Funding Totals</b>	<b>1,887.4</b>	<b>2,001.1</b>	<b>2,065.8</b>

**Estimated Revenue Collections**

Description	Master Revenue Account	FY2000 Actuals	FY2001 Authorized	FY2001 Cash Estimate	FY2002 Governor	FY2003 Forecast
<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>						
Interagency Receipts	51015	1,887.4	2,001.1	2,244.9	2,065.8	2,065.8
<b>Restricted Total</b>		<b>1,887.4</b>	<b>2,001.1</b>	<b>2,244.9</b>	<b>2,065.8</b>	<b>2,065.8</b>
<b>Total Estimated Revenues</b>		<b>1,887.4</b>	<b>2,001.1</b>	<b>2,244.9</b>	<b>2,065.8</b>	<b>2,065.8</b>

## Transportation Section

### Proposed Changes in Levels of Service for FY2002

The Ted Stevens Anchorage International Airport is undergoing a \$200 million expansion and renovation. This construction and renovation project will continue until 2006. This project has already caused an increase in Department of Law billings. Major issues will continue to arise involving construction contracts and claims, the leasing of new spaces to airlines, the doubling of the retail/food service space and the leasing of that space to existing and new concessionaires, the doubling of the parking concession contract, the construction and integration of a new rail facility, and environmental contamination discovered during construction.

The Ted Stevens Anchorage International Airport continues to grow as a major hub for the international transportation of cargo. Over the past five years, international wide-body cargo landings have increased by 50 percent. In addition to a growing number of cargo flights, new cargo handling facilities such as the Williams Lynx project have been developed. The increased flights and new facilities have significantly raised the number and complexity of issues requiring legal assistance, including issues related to leasing, facility financing, and landing fees. The airport's marketing efforts also have grown more complex as airports in other northern countries compete for the same cargo traffic. An example of the legal work accompanying these efforts is the ongoing attempt to obtain greater federal regulatory flexibility to accommodate foreign air carrier traffic.

Private sector investment at the Ted Stevens Anchorage International Airport under airport lease contracts has exceeded \$120 million over the past 5 years. Further private and public sector growth is projected, including a doubling of the capital improvement program (aside from the ongoing terminal redevelopment project) in the next fiscal year, along with the attendant need for legal services. Proposed projects in their early phases include a privately developed parking garage/rental car facility, a steam heat/electricity co-generation facility, and the creation of new space for airport support services. The parking garage/rental car facility will present legal complexities as it is proposed to be jointly funded by the private and public sectors. The creation of space for airport support services requires the issuance of a federal permit to fill wetlands. Environmental groups recently initiated the first phase of litigation attempting to stop this project.

The need for legal services is projected to increase to assist with the transition to an entirely new set of regulations governing activities at the Anchorage and Fairbanks International Airports and a new five-year operating agreement between the airports and the airlines, both to take effect in 2001.

This increment, in the amount of \$75,600 in interagency receipts from the International Airports Fund, will fund an additional half-time attorney to undertake the expanding workload described above.

### 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>0.0</b>	<b>0.0</b>	<b>2,001.1</b>	<b>2,001.1</b>
<b>Adjustments which will continue current level of service:</b>				
-Year 2 Labor Costs - Net Change from FY 2001	0.0	0.0	-10.9	-10.9
<b>Proposed budget increases:</b>				
- International Airports Half-Time Attorney	0.0	0.0	75.6	75.6

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2002 Governor</b>	<b>0.0</b>	<b>0.0</b>	<b>2,065.8</b>	<b>2,065.8</b>

**Transportation Section**  
**Personal Services Information**

Authorized Positions			Personal Services Costs	
	FY2001 Authorized	FY2002 Governor		
Full-time	19	18	Annual Salaries	1,255,903
Part-time	0	1	COLA	25,516
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	341,597
			<i>Less 2.43% Vacancy Factor</i>	(39,516)
			Lump Sum Premium Pay	0
<b>Totals</b>	<b>19</b>	<b>19</b>	<b>Total Personal Services</b>	<b>1,583,500</b>

**Position Classification Summary**

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Attorney III	0	0	1	0	1
Attorney IV	4	2	1	0	7
Attorney V	2	2	1	0	5
Legal Secretary I	2	2	0	0	4
Legal Secretary II	1	0	0	0	1
Paralegal Asst I	1	0	0	0	1
<b>Totals</b>	<b>10</b>	<b>6</b>	<b>3</b>	<b>0</b>	<b>19</b>