

**State of Alaska
FY2004 Governor's Operating Budget**

**Department of Law
Transportation Section
Component Budget Summary**

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 (primarily related to construction) from the commissioner of DOTPF.

Assist with the acquisition of real estate and prosecute condemnation actions associated with infrastructure projects.

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

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

Prosecute civil actions against unlawful users of state lands and facilities.

Key Component Issues for FY2003 – 2004

Key issues will include evaluation of potential claim by DOT&PF against designers of Ted Stevens Anchorage International Airport Concourse C for costs of construction delay and litigation of (a) challenges to long-term wetland fill permit issued to Ted Stevens Anchorage International Airport, (b) claim by ADF&G against designer of inoperable improvements to Fort Richardson Hatchery, (c) challenge to DOT&PF transportation planning and funding process arising from planned construction of road from Iliamna to Nondalton, and (d) conflicts between Native allotment claims and highway rights-of-way.

Major Component Accomplishments in 2002

Contract Issues:

- Helped Alaska Marine Highway System defend and settle a claim brought by shipbuilder for \$53 million of additional compensation for construction of the M/V Kennicott. The claim settled for \$750,000 from a bonding company and \$500,000 from the state.
- Helped the Alaska Marine Highway System defend, mediate, and settle a claim brought by ship repairer for \$6 million in additional compensation and business disruption damages for refurbishment of the M/V Columbia following a fire. The claim settled for \$1.5 million.
- Helped DOT&PF decide numerous bid protests, and defended DOT&PF bid protest decisions in three proceedings before hearing officers.
- Argued cross-appeals to Alaska Supreme Court concerning additional compensation awarded by hearing officer to contractor for termination of Chena Hot Springs Road contract.
- Filed \$4 million claim on behalf of ADF&G against designers of Fort Richardson Hatchery improvements.
- Assisted DOT&PF with possible multi-million dollar claim against designers of the new Concourse C at Ted Stevens Anchorage International Airport.
- Assisted DOT&PF with issues relating to project labor agreements.

Eminent Domain Actions:

- Helped DOT&PF obtain rights of way by agreement with landowners.
- Prosecuted condemnation actions to acquire rights of way for highway development.
- Defended and resolved inverse condemnation claims that DOT&PF's actions took private property.
- Obtained decision from Alaska Supreme Court that a taking does not occur when property values decrease allegedly as a result of the State's planning activities.
- Defeated \$1.5 million claim for additional compensation in condemnation before a Ketchikan jury.
- Defeated challenge to authority and necessity to acquire property for Parks Highway improvements near Wasilla.
- Successfully defended DOT&PF decision concerning relocation benefits due to landowner displaced by eminent domain action.

Defense of State Rights of Way:

- Obtained decision from Alaska Supreme Court that a local platting agency has no authority to vacate state right-of-way.
- Obtained judgment affirming Boy Scout Camp Road easement in Juneau.
- Issued opinions concerning width of McCarthy Road right of way and uses allowed in Klutina Lake Road right of way.
- Obtained decision from federal district court that a Native allotment claim was invalid where it conflicted with the Parks Highway.
- Obtained decision from Alaska Supreme Court that state courts had no jurisdiction to consider trespass/ejectment claims against the State where a Native allotment is involved.

Environmental:

- Represented Ted Stevens Anchorage International Airport in challenges in state and federal court to permit issued by U.S. Corps of Engineers to fill more than 200 acres of wetlands.

Miscellaneous:

- Successfully prosecuted action to recover for damages to Parks Highway caused by collapse of Yellow Eagle mine near Fairbanks. State received \$2.6 million for past and future damages.
- Represented DOT&PF in challenge to state highway planning standards and procedures arising from proposed construction of road from Iliamna to Nondalton.
- Assisted Alaska Court System with purchase of Kenai courthouse.
- Drafted regulations governing rural airport operations.
- Represented Ted Stevens Anchorage International Airport in appeals concerning tie-downs at Lake Hood.
- Successfully defended challenge to statutes regulating outdoor advertising.

Statutory and Regulatory Authority

AS 44.23.020

Transportation Section
Component Financial Summary

All dollars in thousands

	FY2002 Actuals	FY2003 Authorized	FY2004 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	1,182.4	1,661.5	1,569.0
72000 Travel	31.5	20.4	20.4
73000 Contractual	502.2	428.7	428.7
74000 Supplies	15.9	33.2	33.2
75000 Equipment	17.4	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
Expenditure Totals	1,749.4	2,143.8	2,051.3
Funding Sources:			
1004 General Fund Receipts	0.0	1.6	0.0
1007 Inter-Agency Receipts	1,749.4	2,142.2	2,051.3
Funding Totals	1,749.4	2,143.8	2,051.3

Transportation Section
Proposed Changes in Levels of Service for FY2004

No service changes.

Summary of Component Budget Changes
From FY2003 Authorized to FY2004 Governor

All dollars in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2003 Authorized	1.6	0.0	2,142.2	2,143.8
Adjustments which will continue current level of service:				
-To Commercial Section to adjust vacancy by fund source ADN# 0330131	0.0	0.0	-41.1	-41.1
-Consolidate funding sources within Civil Division BRU ADN# 0330086	-1.6	0.0	0.0	-1.6
-Annualize FY2003 COLA Increase for GG/GP/SS Bargaining Units	0.0	0.0	4.1	4.1
-\$75 per Month Health Insurance Increase for Non-covered Staff	0.0	0.0	9.8	9.8
-To Human Services Section to adjust vacancy by fund source	0.0	0.0	-63.7	-63.7
FY2004 Governor	0.0	0.0	2,051.3	2,051.3

Transportation Section
Personal Services Information

	Authorized Positions		Personal Services Costs	
	<u>FY2003</u> <u>Authorized</u>	<u>FY2004</u> <u>Governor</u>		
Full-time	19	18	Annual Salaries	1,268,684
Part-time	1	1	Premium Pay	0
Nonpermanent	0	0	Annual Benefits	365,711
			<i>Less 4.00% Vacancy Factor</i>	(65,376)
			Lump Sum Premium Pay	0
Totals	20	19	Total Personal Services	1,569,019

Position Classification Summary

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Attorney IV	4	2	0	0	6
Attorney V	2	2	2	0	6
Law Office Assistant I	2	2	0	0	4
Law Office Assistant II	1	0	1	0	2
Paralegal II	1	0	0	0	1
Totals	10	6	3	0	19