

**State of Alaska  
FY2009 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 defense and advice in personal injury lawsuits filed against state agencies and state employees. It also provides advice and training to state agencies and represents the State as employer before the Workers Compensation Board.

### Core Services

Attorneys in the Torts and Workers' Compensation section defend tort claims, maritime personal injury claims, and civil rights claims for damages under 42 USC §1983 filed in both state and federal court, and in both the trial courts and appellate courts. Examples of the types of lawsuits defended by the section include: wrongful death claims, claims of injury occurring on state or state maintained facilities, medical malpractice claims brought by inmates, maritime personal injury claims against the Alaska Marine Highway System, claims of negligence in the handling of children's abuse or neglect cases, cases against the state for actions of third parties in state custody (e.g. probationers, foster children, inmates), and other claims of injury alleged against state officials (e.g. Alaska State Troopers, drivers of state vehicles, etc.). Attorneys in the section represent state agencies in Workers Compensation claims filed by state employees where the state is the employer. They advocate on behalf of the state at hearings before the Workers' Compensation Board, and represent the state in appeals from the Board taken to the Workers Compensation Appeals Commission and to the Alaska Supreme Court.

Attorneys in the Torts and Workers' Compensation section provide oral advice and training to state agencies on risk management, workers' compensation, and liability issues and provide oral advice to state adjusters on workers' compensation issues.

### FY2009 Resources Allocated to Achieve Results

<b>FY2009 Component Budget: \$3,076,800</b>	<b>Personnel:</b>	
	Full time	28
	Part time	1
	<b>Total</b>	<b>29</b>

### Key Component Challenges

The section is faced with challenges caused by retirement of senior attorneys in the section and frequent turnover of staff providing support to the attorneys in the section. The frequent turnover in staff decreases the section's efficiency in meeting ever present pretrial deadlines. Additional challenges to the section are caused by the disproportionate amount of the section's resources that must be channeled to defending lawsuits filed by unrepresented plaintiffs. Over the last several years, changes in Alaska case law have resulted in lengthier and more complex motion and trial practice to defend these lawsuits.

### Significant Changes in Results to be Delivered in FY2009

No anticipated changes in results delivered.

### Major Component Accomplishments in 2007

Appellate Work of the Section of Particular Note:

The section took an interlocutory appeal to the Ninth circuit from the U.S. District Court's denial of qualified immunity in a section 1983 case brought against several Alaska State Troopers and oral argument was held in Alaska during the Ninth Circuit's annual visit.

The section filed the state's brief in a challenge to the constitutionality of AS 09.50.250(5)(sovereign immunity reimposed for state employed seamen) and argued the matter before the Alaska Supreme Court.

Trials and Hearings Defended by the Section of Particular Note:

The section had three cases that went to trial during this period – two cases were tried in Anchorage and one case tried in Kenai. All three were jury trials; and in all three cases the verdict was in favor of the state. Two of the cases were claims filed against the Department of Corrections. The other case (tried in Kenai) involved allegations of excessive force brought against the Alaska State Troopers.

The section argued on behalf of the state as employer before the newly created Workers' Compensation Appeals commission on issues of statutory interpretation and estoppel on a mental injury claim based on mental stress.

Dispositive Motions of Particular Note Won by the Section in the Trial Court:

Summary judgment was granted in favor of the state (OCS) in a claim brought by grandparents of a child who for a time was a child in need of aid due to the death of both parents. The remaining claim after remand from the Supreme Court, for negligent infliction of emotion distress, was dismissed when the superior court held that plaintiffs could not meet their threshold burden of proving either outrageous conduct or severe emotional distress as required for such a claim.

In a Palmer case brought against the Alaska State Troopers the court granted summary judgment dismissing the claims brought by a husband and wife arising out of a non-specific threat. The Court found that under the circumstances in the case the troopers had no actionable duty.

In a Kenai case brought by a former inmate alleging a work injury, the court granted summary judgment based upon the former inmate's failure to exhaust administrative remedies while he was incarcerated.

## Statutory and Regulatory Authority

No statutes and regulations.

Contact Information
<p><b>Contact:</b> Gail Voigtlander, Chief Assistant Attorney General <b>Phone:</b> (907) 269-5100 <b>Fax:</b> (907) 258-0760 <b>E-mail:</b> gail.voigtlander@alaska.gov</p>

### Torts & Workers' Compensation Component Financial Summary

*All dollars shown in thousands*

	FY2007 Actuals	FY2008 Management Plan	FY2009 Governor
<b>Non-Formula Program:</b>			
<b>Component Expenditures:</b>			
71000 Personal Services	2,558.8	2,661.0	2,709.7
72000 Travel	70.1	28.5	28.5
73000 Services	263.1	299.7	299.7
74000 Commodities	46.1	38.9	38.9
75000 Capital Outlay	15.0	0.0	0.0
77000 Grants, Benefits	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
<b>Expenditure Totals</b>	<b>2,953.1</b>	<b>3,028.1</b>	<b>3,076.8</b>
<b>Funding Sources:</b>			
1004 General Fund Receipts	0.0	47.1	47.1
1007 Inter-Agency Receipts	2,953.1	2,981.0	3,029.7
<b>Funding Totals</b>	<b>2,953.1</b>	<b>3,028.1</b>	<b>3,076.8</b>

### Estimated Revenue Collections

Description	Master Revenue Account	FY2007 Actuals	FY2008 Management Plan	FY2009 Governor
<b>Unrestricted Revenues</b>				
None.		0.0	0.0	0.0
<b>Unrestricted Total</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>Restricted Revenues</b>				
Interagency Receipts	51015	2,953.1	2,981.0	3,029.7
<b>Restricted Total</b>		<b>2,953.1</b>	<b>2,981.0</b>	<b>3,029.7</b>
<b>Total Estimated Revenues</b>		<b>2,953.1</b>	<b>2,981.0</b>	<b>3,029.7</b>

**Summary of Component Budget Changes  
From FY2008 Management Plan to FY2009 Governor**

*All dollars shown in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2008 Management Plan</b>	<b>47.1</b>	<b>0.0</b>	<b>2,981.0</b>	<b>3,028.1</b>
<b>Adjustments which will continue current level of service:</b>				
-FY 09 Health Insurance Increases for Exempt Employees	0.0	0.0	2.9	2.9
-FY 09 Bargaining Unit Contract Terms: General Government Unit	0.0	0.0	45.8	45.8
<b>FY2009 Governor</b>	<b>47.1</b>	<b>0.0</b>	<b>3,029.7</b>	<b>3,076.8</b>

**Torts & Workers' Compensation  
Personal Services Information**

Authorized Positions		Personal Services Costs		
	<u>FY2008</u> <u>Management</u> <u>Plan</u>	<u>FY2009</u> <u>Governor</u>		
Full-time	29	28	Annual Salaries	1,848,509
Part-time	1	1	COLA	43,434
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	893,937
			<i>Less 2.73% Vacancy Factor</i>	(76,180)
			Lump Sum Premium Pay	0
<b>Totals</b>	<b>30</b>	<b>29</b>	<b>Total Personal Services</b>	<b>2,709,700</b>

**Position Classification Summary**

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Assoc Attorney II	1	0	0	0	1
Attorney III	0	0	1	0	1
Attorney IV	9	0	0	0	9
Attorney V	1	1	1	0	3
Attorney VI	1	0	0	0	1
Law Office Assistant I	4	1	0	0	5
Law Office Assistant II	1	1	1	0	3
Paralegal I	1	0	0	0	1
Paralegal II	3	1	1	0	5
<b>Totals</b>	<b>21</b>	<b>4</b>	<b>4</b>	<b>0</b>	<b>29</b>