

State of Alaska
FY2010 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 and the Alaska Workers Compensation Appeals Commission.

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.
- 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.

FY2010 Resources Allocated to Achieve Results		
FY2010 Component Budget: \$3,373,000	Personnel:	
	Full time	29
	Part time	1
	Total	30

Key Component Challenges

The complexity of many of the cases defended by the section is increasing defense costs and the amount of time and number of attorneys working on individual lawsuits. Recent cases filed on behalf of children and parents who were involved parties in child in need of aid ("CINA") cases can involve litigation over events that may span ten or more years and involve thousands of pages of documents - the statute of limitations applicable to minors is tolled until they reach their eighteenth birthday so that minors have until their twentieth birthday to file these lawsuits. Substantial section resources are devoted to defending these cases, leaving fewer resources available to defend the rest of the section's cases.

Another key challenge involves defending lawsuits brought by unrepresented plaintiffs. A disproportionate amount of the section's resources are channeled to defending these lawsuits because recent changes in Alaska case law have resulted in lengthier and more complex motion and trial practice to defend these lawsuits. In the past, the majority of these cases were dismissed by the courts much earlier in the litigation process with significantly less time and resources required by section staff.

Significant Changes in Results to be Delivered in FY2010

No anticipated changes in results delivered.

Major Component Accomplishments in 2008

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 a brief on behalf of the state 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 (Office of Children's Services) 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 Alaska 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>Contact: Gail Voigtlander, Chief Assistant Attorney General Phone: (907) 269-5100 Fax: (907) 258-0760 E-mail: gail.voigtlander@alaska.gov</p>

**Torts & Workers' Compensation
Component Financial Summary**

All dollars shown in thousands

	FY2008 Actuals	FY2009 Management Plan	FY2010 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	2,605.0	2,863.8	3,005.9
72000 Travel	49.9	28.5	28.5
73000 Services	293.2	299.7	299.7
74000 Commodities	51.8	38.9	38.9
75000 Capital Outlay	32.1	0.0	0.0
77000 Grants, Benefits	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
Expenditure Totals	3,032.0	3,230.9	3,373.0
Funding Sources:			
1004 General Fund Receipts	0.0	47.1	47.1
1007 Inter-Agency Receipts	3,032.0	3,183.8	3,325.9
Funding Totals	3,032.0	3,230.9	3,373.0

Estimated Revenue Collections

Description	Master Revenue Account	FY2008 Actuals	FY2009 Management Plan	FY2010 Governor
Unrestricted Revenues				
None.		0.0	0.0	0.0
Unrestricted Total		0.0	0.0	0.0
Restricted Revenues				
Interagency Receipts	51015	3,032.0	3,183.8	3,325.9
Restricted Total		3,032.0	3,183.8	3,325.9
Total Estimated Revenues		3,032.0	3,183.8	3,325.9

**Summary of Component Budget Changes
From FY2009 Management Plan to FY2010 Governor**

All dollars shown in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2009 Management Plan	47.1	0.0	3,183.8	3,230.9
Adjustments which will continue current level of service:				
-FY2010 Wage and Health Insurance Increases for Bargaining Units with Existing Agreements	0.0	0.0	111.9	111.9
-Transfer Funds from Labor and State Affairs for Personal Services Vacancy Factor Adjustments	0.0	0.0	30.2	30.2
FY2010 Governor	47.1	0.0	3,325.9	3,373.0

Torts & Workers' Compensation Personal Services Information				
Authorized Positions			Personal Services Costs	
	FY2009 Management Plan	FY2010 Governor		
Full-time	29	29	Annual Salaries	2,070,521
Part-time	1	1	COLA	81,895
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	1,011,619
			<i>Less 5.00% Vacancy Factor</i>	(158,135)
			Lump Sum Premium Pay	0
Totals	30	30	Total Personal Services	3,005,900

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	1	0	0	10
Attorney V	1	0	1	0	2
Attorney VI	1	0	0	0	1
Law Office Assistant I	4	1	0	0	5
Law Office Assistant II	2	1	1	0	4
Paralegal I	1	0	0	0	1
Paralegal II	3	1	1	0	5
Totals	22	4	4	0	30