

OFFICE OF THE
ATTORNEY GENERAL





Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON
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October 5, 2015

David Schumacher, Director
Office of Financial Management
P.O. Box 43113
Olympia, WA 98504-3113

Dear Mr. ~~Schumacher~~: *David*

Enclosed please find the 2016 Supplemental Budget Request from the Attorney General's Office (AGO) addressing critical agency and complex litigation needs. We are mindful of the continuing limitations on state resources, and we will continue to provide the best possible legal services for our clients and the residents of the state of Washington working within these constraints.

As in recent years, our number one priority continues to be additional funding to address recruitment and retention issues for our attorneys serving our state agency clients and the public. The agency continues to experience significant turnover due to low salaries that are not competitive with our public sector peers. Retention remains a critical problem and is challenging our ability to provide efficient and effective legal services.

Although the turnover rate for our Assistant Attorneys General stabilized in FY15 following the implementation of a salary-related funding award, our salaries are still not comparable with other public sector law offices in the State. As a result, the turnover rate has begun climbing again. We respectfully request consideration of this critical funding need to ensure we can continue to provide the highest quality legal services to the State.

In addition to our retention related request, we have limited our supplemental budget request to those needs that arise directly from significant litigation, legislative mandate, or increased workload. The funding requested for these items will allow us to mitigate risk, protect tax dollars, and serve the legal needs of the State and its residents. These include:

- Litigation support for *US Department of Labor v. Department of Social and Health Services*
- Funding to support the increased workload of the Public Counsel Unit
- Sustained funding to support our child welfare caseload

ATTORNEY GENERAL OF WASHINGTON

David Schumacher

October 5, 2015

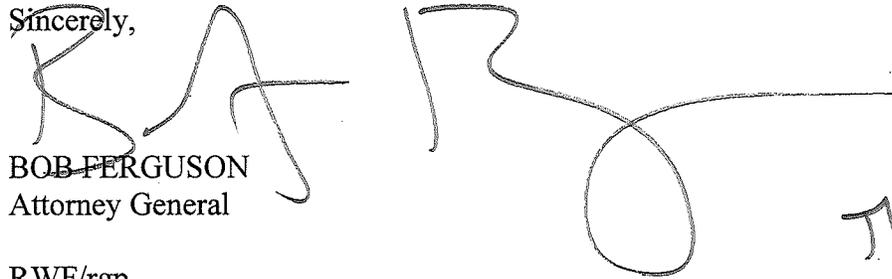
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- Anti-Trust litigation funding
- Funding to support clients with increased legal services needs including the Public Disclosure Commission, the Liquor and Cannabis Board and the Medical Quality Assurance Commission

Our request also includes a technical correction to appropriately fund a job classification study for our employees providing legal support services, as approved by the Legislature in 2015.

I look forward to working with you and your office in the coming months, and stand ready to provide information to assist you as you prepare the Governor's budget proposal. If you have any questions about this budget request, please contact Mark Melroy, Chief Financial Officer at (360) 534-4981. Thank you for your continued assistance.

Sincerely,



BOB FERGUSON
Attorney General

RWF/rgp

Enclosures

Thanks!
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OFFICE OF THE ATTORNEY GENERAL
2016 Supplemental Budget Request
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TAB A

RECOMMENDATION
SUMMARY



State of Washington
Recommendation Summary
 (By Agency Priority)

Agency: **100 Office of Attorney General**

10:04:34AM

10/5/2015

Dollars in Thousands

	Annual Average FTEs	General Fund State	Other Funds	Total Funds
2015-17 Current Biennium Total	1,119.7	23,148	242,807	265,955
Total Carry Forward Level	1,119.7	23,148	242,807	265,955
Percent Change from Current Biennium				
M1 AB Child Permanency	1.3		702	702
M1 AD US DOL v. DSHS Litigation	1.2		680	680
M1 AQ Legal Secretary Class Study		125	1,659	1,784
M1 AL Legal Services to LCB			877	877
M1 AO Legal Services to MQAC	1.1		313	313
M1 AP PDC Campaign Finance Laws	0.8		208	208
M1 AR Antitrust Enforcement Enhancement	8.0		3,456	3,456
M1 AS Public Counsel Funding	1.7		1,092	1,092
Carry Forward plus Workload Changes	1,133.7	23,273	251,794	275,067
Percent Change from Current Biennium	1.2%	.5%	3.7%	3.4%
Total Maintenance Level	1,133.7	23,273	251,794	275,067
Percent Change from Current Biennium	1.2%	.5%	3.7%	3.4%
PL N0 AAG Recruitment and Retention		422	5,451	5,873
Subtotal - Performance Level Changes		422	5,451	5,873
2015-17 Total Proposed Budget	1,133.7	23,695	257,245	280,940
Percent Change from Current Biennium	1.2%	2.4%	5.9%	5.6%

M1 AB Child Permanency

The AGO requests funding to meet the increase in child welfare cases. The legislature granted \$1.99M in the 2015-2017 biennial budget to support the AGO's effort to meet increased caseload demands for the first 18 months of the biennium and ensure safe, permanent homes for abused and neglected children. Data show that the caseload increase will continue for the foreseeable future. An additional \$702,000 is necessary to meet the ongoing caseload demand through the end of the biennium. The AGO also requests that the total funding for this effort (\$2.8M per biennium) be permanent to effectively address this issue.

M1 AD US DOL v. DSHS Litigation

The Office of the Attorney General (AGO) requests continued funding for 0.2 Assistant Attorneys General (AAG), 2.0 Paralegal (PL) and 0.1 Legal Assistant (LA) and related direct litigation costs for Fiscal Year (FY) 2017. The additional resources will provide ongoing legal services for the AGO Labor and Personnel (LPD) division relating to United States Department of Labor (USDOL) v. Washington State Department of Social and Health Services (DSHS) litigation. The potential liability to the state of Washington in an adverse judgment could exceed \$100 million.

M1 AL Legal Services to LCB

The Office of the Attorney General (AGO) requests funds to restore a significant allocation reduction caused by a central service model technical adjustment. As a result of the adjustment, funding for legal services was reduced to levels well below historical expenditures. The reduction will impact the provision of ongoing, essential Liquor and Cannabis Board (LCB) legal services in the amount of \$433,000 in Fiscal Year (FY) 2016 and \$444,000 in FY2017.

M1 AO Legal Services to MQAC

The Office of the Attorney General (AGO) requests funding to address a significant growth in the resource intensity of cases involving the suspension or revocation of physician licenses for unprofessional or dangerous conduct. These cases are critical to the Department of Health's mission to protect the safety of Washington patients and additional resources are needed to ensure they are handled timely. In recent years, the complexity of these licensing cases has increased, requiring more depositions, more expert witness testimony, more days in trial; in short, more legal resources to ensure that physicians are meeting Washington State's standard of care.

M1 AP PDC Campaign Finance Laws

The Office of the Attorney General (AGO) requests 0.5 Assistant Attorneys General (AAG) and 0.25 Legal Assistant (LA) at a cost of \$103,000 in Fiscal Year (FY) 2016 and \$105,000 in FY2017. This request is to provide client advice and representation for enforcement of campaign finance law for the Public Disclosure Commission (PDC). The increased volume of complaints processed by PDC and the recent elimination of their internal counsel position is necessitating this modest request. This request is to enable to AGO to process the increased workload and provide necessary legal services in the absence of internal counsel.

M1 AQ Legal Secretary Class Study

The Attorney General's Office (AGO) is requesting \$1,784-million to cover the costs of a recent classification adjustment for 343 positions in our office. This adjustment was supported in the 2015-17 budget process with \$1.889-million of funding, which, as a result of a technical oversight, fell short of the \$3.673-million implementation costs.

Support for this request will help preserve existing levels of Legal Services to State Agency clients by alleviating reductions that would otherwise be necessary in order to implement these important employee compensation adjustments and related agreements.

M1 AR Antitrust Enforcement Enhancement

The Office of the Attorney General (AGO) requests \$1,486,000 and 5.0 Assistant Attorneys General (AAG), 2.0 Paralegal (PL) and 1.0 Legal Assistant (LA) in Fiscal Year (FY) 2016 and \$1,970,000 in FY 2017. Direct litigation costs are included totaling \$264,400 in FY 2016 and \$772,600 in FY 2017.

The additional allotment authority from the Antitrust revolving account will enable the AGO to enforce fair competition laws in Washington by investigating and bringing enforcement actions against antitrust violators. These cases are highly complex and require significant time and resource investments to successfully litigate and recover funds for the state and Washington consumers.

M1 AS Public Counsel Funding

The Office of the Attorney General (AGO) requests \$244,500 in FY2016 and 2.0 Assistant Attorneys General (AAG), 0.25 Legal Assistant (LA) and 1.0 Regulatory Analyst 3 (RA3) at a cost of \$847,000 in Fiscal Year (FY) 2017. Assumptions include expert witness costs of \$244,500 in FY 2016 and \$394,500 in FY 2017. Public Counsel represents residential and small business utility customers before the Utilities and Transportation Commission (UTC) and other forums. At current resource levels, Public Counsel will be unable to adequately address the growth in energy rate increase requests, the expansion of complex environmental issues in the utility field, and the changing industry and regulatory framework.

PL N0 AAG Recruitment and Retention

The Office of the Attorney General (AGO) requests \$5.873 million in FY 2017 to address significant attorney recruitment and retention challenges due to low, uncompetitive salaries. These recruitment and retention challenges threaten the provision of legal services to the state of Washington and generate unnecessary costs for the taxpayers.

TAB B

DECISION
PACKAGES



Agency: 100 Office of Attorney General
Decision Package Code/Title: AB Child Permanency
Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

The AGO requests funding to meet the increase in child welfare cases. The legislature granted \$1.99M in the 2015-2017 biennial budget to support the AGO's effort to meet increased caseload demands for the first 18 months of the biennium and ensure safe, permanent homes for abused and neglected children. Data show that the caseload increase will continue for the foreseeable future. An additional \$702,000 is necessary to meet the ongoing caseload demand through the end of the biennium. The AGO also requests that the total funding for this effort (\$2.8M per biennium) be permanent to effectively address this issue.

Fiscal Detail

Operating Expenditures		<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405-1 Legal Services Revolving Account-State			702,000	702,000
Total Cost			702,000	702,000
Staffing		<u>FY 2016</u>	<u>FY 2017</u>	<u>Annual Average</u>
FTEs		.0	2.5	1.3
Revenue				
<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405 Legal Serv Rev Acct	0420 Charges for Services		702,000	702,000
Total Revenue			702,000	702,000

Package Description:

The AGO requests \$702,000 to fund the second half of FY 2017. The request includes \$30,000 for direct litigation costs and supports a total of 10 positions (5.0 Assistant Attorney General, 3.0 Paralegal and 2.0 Legal Assistant) for the last six months of the 2015-2017 biennium.

The AGO further requests that this funding, along with the permanency initiative funding that was appropriated for FY 2016 and the first half of FY 2017 be made part of the base, ongoing funding levels to provide continuing legal services to the Department of Social and Health Services (DSHS) in parental termination and dependency matters. These are court actions where DSHS is required to intervene, and in some cases terminate parental rights, in order to protect children from abuse and neglect.

The funds will enable the AGO to continue to meet the caseload demands related to achieving stable, safe, and permanent homes for children. Specifically, ongoing funding support will be used to sustain the necessary legal and support positions, to file parental termination cases in a timely manner, and to timely and effectively process an increasing number of dependency matters.

As dependency matters and termination petition referrals have increased, DSHS' funding for legal services has been reduced over time, even accounting for the recent temporary funds the AGO received for permanency work.

There have been sustained increases in termination petition referrals and dependency matters :

In the 2013 -15 biennium and for the first 18 months of this biennium, the AGO received funding to address what was then an expected short term spike in parental termination referrals from DSHS. However, there has been a sustained increase in termination petition referrals and dependency matters with no foreseeable decline in workload.

In the 2011-13 biennium, the AGO received approximately 1,600 termination petition referrals per year (FY 2012: 1,599; FY 2013: 1,602). In FY 2014, referrals increased to 1,957 and remained at a high level in FY 2015 with 1,877 referrals. DSHS has informed the AGO that during the first half of FY 2016 it will have 1,065 termination petitions eligible for referral. This reinforces that the yearly termination referrals to the AGO will continue at elevated levels, or about 1,900 per year.

The volume of dependency matters has also risen, steadily increasing from 3,820 in FY 2012 to 4,630 in FY 2015 (FY 2013: 3,940; FY 2014: 4,220). An increase in dependencies is an indicator of a future increase in termination petition referrals. It has been reported to the AGO from DSHS that it generally expects 20% of all dependencies to result in a termination. When dependency petitions increase, the expectation is that termination petition referrals will also rise in the following 12 to 18 month period. This is because the federal Adoption and Safe Families Act generally requires termination petitions to be filed within 15 months after out of home placement.

Dependency work typically begins in a crisis situation where the state needs to intervene quickly to protect a child. The dependency work includes mandatory reviews and at times, extensive motions practice relating to services and visitation. When dependency caseloads increase, it bleeds available resources away from filing termination petitions, thereby delaying the achievement of stable, safe, and permanent homes for those children. Delays in filing termination petitions also places the state at risk for being out of compliance with the federal Adoption and Safe Families Act and potentially losing federal funding.

Recent funding awards, supported by both the Governor and the State Legislature, have helped the state achieve more timely outcomes for children in need of permanent homes. These outcomes will be reversed if funding is terminated.

Due to the state's budget crisis, between 2008 and 2013, funding for DSHS legal services was cut by \$17.2 million and 20 FTEs were eliminated. This reduction in resources coupled with increased caseloads in more recent years led to increased case processing time for termination of parental rights cases. The additional permanency funding has allowed the AGO to increase staff to meet the caseload demand. With this funding, we have nearly eliminated the backlog of termination petition referrals and improved the timeliness of filing. In FY2013, just 79% of termination petitions were filed within 45 days. The added permanency positions enabled the AGO in FY2015 to file 91% of the termination petitions in 45 days, a 12 point improvement.

There are further examples of the beneficial impacts of having additional staff and the negative consequences if those positions are eliminated:

Using the permanency funding, the Everett office of the Regional Services Division (RSD) added a team (AAG, paralegal, legal assistant) in 2014 dedicated to bringing permanency cases termination of parental rights and establishment of guardianships. The results have been significant. In FY 2015, Everett moved to 99% compliance with the 45 day filing measure, a 16% leap from the prior year, and an all time high. After adding these three positions, Everett completed the termination cases of 336 children in a year more than 150% of the 214 cases opened in the period. Maintaining these resources will allow the office to keep up with the steady flow of new cases, and to move incoming cases to conclusion in faster time frames.

Additional attorney and support staff have been assigned to five of the seven AGO offices in the RSD. As a result, RSD's compliance with timely filing termination petitions has risen 18% since FY2013 (FY2013: 81%; FY2014: 87%; FY2015: 99%).

The Social and Health Services Seattle Division (SHS) had the most challenging backlog. SHS improved its filing under the 45 day performance measure by 29%, and in FY 2015 had a clearance rate (cases closed vs. cases open) of 175%. SHS could not have cut its backlog to this great extent without the two additional attorneys added by this funding. Additionally, SHS will not be able to handle the increased litigation resulting from filing these cases without sustained staffing levels.

Stable, ongoing funding aligned with caseload demand will enable the AGO to sustain the improvements in achieving permanency for children. A reduction in current staffing levels will reverse the gains made thus far and result in significant backlogs once again.

Finally, converting the funds from one time to ongoing will better allow the AGO to retain trained staff who are currently looking for permanent positions elsewhere.

The AGO contact for this request is Brendan VanderVelde, Budget Director, (360) 586 2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

Under the Federal Adoption and Safe Families Act, states must ensure timely permanent homes for foster children by filing a termination petition within 15 months from when the child was removed from the home. Limited, case by case, exceptions are available if there is a compelling reason not to do so. States that do not comply with this requirement may be financially penalized.

DSHS has committed to improve its performance of achieving timely permanency for foster children as there are societal and fiscal benefits to expeditiously doing so. First, when children are placed in stable, safe, and permanent homes they are likely to be more successful in school and life. Second, when children are placed in permanent homes, costs to the state, such as the continued expense of foster care and related children's needs, as well as the expense of providing reunification services to families, family visitation, and staff resources, are reduced. In addition, the AGO continued costs of hearings at least twice a year as well as various contested motion hearings are also eliminated.

The AGO expects its performance of the timely filing of termination petitions to be positively impacted by this request. DSHS performance outcomes that may be impacted are those related to timely permanent placement for foster children. If DSHS' backlog of termination cases is resolved and termination petitions can be filed timely, this is likely to allow more foster children to achieve permanent homes through adoption. This in turn could decrease DSHS case worker caseload levels and further enable these workers to accomplish other work in a timely manner.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
Outcome Measures			
002539	By providing high quality legal assistance and representation to Washington's state agencies, boards, and commissions, the AGO improves government services, increases government efficiency, and prevents costly lawsuits. The legal services provided by the AGO saves taxpayer dollars, promotes the public interest, and ensures agencies are able to fulfill their essential missions. The AGO provides excellent, option-based legal advice to help the state promote the public good. In the litigation context, the AGO initiates, defends, and resolves cases effectively and efficiently for the benefit of the state, its agencies, and its citizens.	0.00	0.00

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports the following AGO Strategic Plan Goal:

Goal 2 2 4: Serve the People Protect abused and neglected children, which includes timely filing termination petition referrals within the AGO's performance measure of 45 days.

Additionally, the courts and the AGO have a performance measure of requiring that dependencies be established within 75 days.

This decision package ensures stable, ongoing funding to retain current staffing levels and expertise to meet increasing caseload demand and performance measures that directly relate to achieving safety and permanency for children.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

This request supports the following Results Washington Goals:

Goal 4: Healthy & Safe Communities Protection & Prevention: Fostering the health of Washingtonians from a healthy start to safe and supported future

2.1 Decrease the rate of children with founded allegations of child abuse and/or neglect from 4.52 to 4.10 by 06/30/2015.

2.1b Decrease percentage of children in Division of Children and Family Services out of home placement 5 years or more from 5.7% to 5.5% by 06/30/2015.

Goal 5: Effective, Efficient and Accountable Government Customer Satisfaction and Confidence: Fostering a Lean culture that drives accountability and results for the people of Washington

1.1 Increase customer service satisfaction.

1.3 Increase/maintain timely delivery for state services.

This request aligns the actual costs of permanency legal services with the funding needed to sustain the required workload. It clarifies how state resources are spent, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

This request will provide AGO Legal Services Revolving Account (LSRA) billing authority and DSHS funding to the projected level of legal services needed. This funding will eliminate the need for DSHS to continue reprioritizing current programs and efforts to fund their legal services needs.

What are the other important connections or impacts related to this proposal?

DSHS supports this request. The important goal of the DSHS Children's Administration of achieving permanency for children will not be realized if the AGO cannot sustain sufficient staff resources to file and process termination petitions in a timely manner. Delays in these cases will include impacts to defense counsel caseloads, as indigent parents are entitled to court-appointed counsel in termination proceedings. Additionally, when permanency is not achieved and dependency cases continue, the court and defense counsel resources are impacted by their involvement in review hearings twice a year as well as other motion hearings.

What alternatives were explored by the agency, and why was this alternative chosen?

DSHS has previously examined whether it could use Children's Administration Program funds to pay for an interagency agreement to cover the costs of having adequate legal services funding, but they are unable to identify funds which could be committed to this purpose. In addition, using an interagency agreement to fund ongoing legal work is not desirable or sustainable for budget planning, or for the development and retention of expertise to handle the work.

What are the consequences of adopting or not adopting this package?

Not funding this request will result in a lack of the funds necessary to provide the sufficient legal services in response to the sustained increase in referrals from DSHS. Such a funding gap would lead once again to the development of a severe case backlog and significant filing delays. Fewer children will move from higher-cost foster care to permanency in a timely fashion. It will also increase the risk of loss of federal funding due to non-compliance with federal law.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

We assume approved funding of legal services identified in this request will be provided by the following AGO divisions : 1) Regional Services Division; 2) Social and Health-Olympia; 3) Social and Health-Seattle; 4) Spokane; 5) Tacoma

DSHS will be billed for legal services provided by AGO staff across the state.

\$30,000 in FY2017 direct litigation costs are needed for expert witnesses, travel and court costs.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These costs are ongoing and will carry forward into future biennia.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages		375,288	375,288
B Employee Benefits		124,314	124,314
C Professional Svc Contracts		30,000	30,000
E Goods\Other Services		160,148	160,148
G Travel		4,750	4,750
J Capital Outlays		7,500	7,500
Total Objects		702,000	702,000

Agency: 100 Office of Attorney General
Decision Package Code/Title: AD US DOL v. DSHS Litigation
Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests continued funding for 0.2 Assistant Attorneys General (AAG), 2.0 Paralegal (PL) and 0.1 Legal Assistant (LA) and related direct litigation costs for Fiscal Year (FY) 2017. The additional resources will provide ongoing legal services for the AGO Labor and Personnel (LPD) division relating to United States Department of Labor (USDOL) v. Washington State Department of Social and Health Services (DSHS) litigation. The potential liability to the state of Washington in an adverse judgment could exceed \$100 million.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405-1 Legal Services Revolving Account-State		680,000	680,000
Total Cost		680,000	680,000
Staffing	<u>FY 2016</u>	<u>FY 2017</u>	<u>Annual Average</u>
FTEs	.0	2.3	1.2

Package Description:

The AGO requests continued funding of \$235,050 for 0.2 AAG, 2.0 PL and 0.1 LA and \$444,950 for direct litigation costs in FY 2017 for USDOL v. DSHS litigation. Direct litigation costs are expenditures, other than AGO salaries and benefits, which provide support for a specific case and are detailed in a later section. The potential liability to the state of Washington in an adverse judgment could exceed \$100 million (includes uncompensated overtime and double damages) because the USDOL maintains that damages continue to accrue as the case proceeds.

The USDOL filed this enforcement action against DSHS in 2008 for alleged violations of the overtime and recordkeeping requirements of the Fair Labor Standards Act (FLSA). In April 2010, Judge Benjamin Settle of US District Court for the Western District of Washington granted summary judgment to DSHS, ruling that the social workers are exempt from the overtime requirements of the FLSA. However, in August 2011, the Ninth Circuit reversed the District Court's granting of summary judgment and remanded for trial. DSHS' petition for rehearing was denied in 2012 and the case returned to the District Court, but the USDOL filed a Petition for Writ of Mandamus in the Ninth Circuit regarding a discovery issue. The Ninth Circuit granted the Writ of Mandamus in April 2014 and denied DSHS' petition for rehearing in July 2014.

On August 26, 2015, Judge Settle held a status conference with the parties and ordered a thirty-day bench trial to take place from October 4, 2016 through November 23, 2016. USDOL indicated during the status conference that they believe there are continuing violations of FLSA and that they intend to amend their complaint, which may necessitate further discovery in FY 2016 and FY 2017.

During the status conference, Judge Settle ordered the parties to file dispositive motions by October 2, 2015. Judge Settle also indicated that he may hold a hearing in FY 2016 in advance of the trial on a very discrete aspect of the case, which would require testimony from expert witnesses and the USDOL investigators.

The Legislature provided funding for AGO staff and litigation costs for this case of \$751,000 for FY 2016. This funding is likely sufficient to file the dispositive motions, discovery, and any pre trial hearings in FY 2016. This additional request is for funding to support motions in advance of trial, trial preparations, expert consultants, trial costs, and post trial motions and appeals in FY 2017. This is a specialized area of the law, and defending this case will require legal work by an AAG with expertise in wage & hour law and a Special Assistant Attorney General (SAAG) with expertise in defending enforcement actions by the USDOL.

The AGO contact for this request is Brendan VanderVelde, Budget Director, (360) 586-2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

This request funds the continued defense in this major dispute which will determine if social workers are owed additional wages for uncompensated overtime work performed in violation of the FLSA. The outcome of this case will have major fiscal implications for the state and could create a long-lasting precedent.

The AGO will perform essential legal services to prevail in this litigation, including discovery, filing dispositive motions, taking and defending depositions, interviewing and preparing potential witnesses for trial and conducting the trial. The AGO is working to protect DSHS and the citizens of the state from exposure to liability that could exceed \$100-million.

Activity: A010 Legal Services to State Agencies
 Performance Measure (2539): Cases Open at End of Fiscal Year

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
Outcome Measures			
002539	By providing high quality legal assistance and representation to Washington’s state agencies, boards, and commissions, the AGO improves government services, increases government efficiency, and prevents costly lawsuits. The legal services provided by the AGO saves taxpayer dollars, promotes the public interest, and ensures agencies are able to fulfill their essential missions. The AGO provides excellent, option-based legal advice to help the state promote the public good. In the litigation context, the AGO initiates, defends, and resolves cases effectively and efficiently for the benefit of the state, its agencies, and its citizens.	0.00	0.00

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports the following AGO Strategic Plan Goals:

Goal 1: Serve the state - Provide excellent legal advice and representation to our client, the State of Washington.

The decision package supports the AGO strategic plan by providing funding to continue to litigate this case on behalf of DSHS.

Does this DP provide essential support to one or more of the Governor’s Results Washington priorities?

If DSHS loses, the potential loss of over \$100,000,000 in funding would negatively affect and may have future implications for the

following Results Washington Goals:

Goal 4: Healthy & Safe Communities: Fostering the health of Washingtonians from a healthy start to safe and supported future

1.1 Decrease the infant mortality rate for children under 1 year old from 5.1 per 1,000 births in 2012 to 4.4 per 1,000 births by 2016.

1.2.Y.a. Increase the percent of children (19 to 35 months) receiving all recommend vaccinations from 65.2% in 2012 to 72.6% by 2016.

2.1 Decrease rate of children with founded allegations of child abuse and/or neglect from 4.52 to 4.10 by 06/30/2017.

Goal 5: Effective, Efficient and Accountable Government: Fostering a Lean culture that drives accountability and results for the people of Washington

Customer Satisfaction and Confidence.

1.1 Increase/maintain customer service satisfaction.

1.3 Increase/maintain timely delivery for state services.

This request aligns the actual USDOL v. DSHS litigation costs with the funding needed to provide the required level of legal services. It clarifies how state resources are spent, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

This request will provide AGO Legal Services Revolving Account (LSRA) billing authority and DSHS funding which is aligned with the current level of legal services needs. This funding will eliminate the need for DSHS to reprioritize current programs and efforts to fund their legal services needs.

What are the other important connections or impacts related to this proposal?

The AGO has no option but to defend this lawsuit. Settlement is always a possibility, but settlement talks have not been successful. USDOL's last settlement demand was made on April 20, 2010, for the sum of \$15,000,000, which the state was not in a financial position to accept. After the settlement conference, the state prevailed on summary judgment. The judgment was reversed on appeal and USDOL indicated that any settlement amount will now exceed \$15,000,000. OFM's position has continued to be that the state cannot afford these proposed settlement levels.

This case is limited to DSHS Children's Administration social workers.

It is important to note that this request is for a continuation of litigation that has been going on since 2008.

What alternatives were explored by the agency, and why was this alternative chosen?

Although settlement is always being explored as a possibility, the AGO has no choice but to defend this lawsuit. Given the potential impact on DSHS of adverse rulings in this case, there is no reasonable alternative than to defend the state.

There are no statutory, regulatory, or other changes or negotiation possibilities that would reduce the costs of this legal defense. There is no alternative source of funding.

What are the consequences of adopting or not adopting this package?

Not funding this request will limit resources necessary to defend the state from an adverse judgment with potential exposure as high as \$100 million. A lack of funding will result in an inability to support motions to narrow and limit issues, and to fund a robust defense in trial.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

Direct litigation costs totaling \$444,950 include SAAG fees and expenses, exhibit preparation and their duplication for the plaintiffs and the court, and for the daily transcripts prepared by the court reporter .

We assume SAAG costs based upon 1,000 hours of services at an average of \$404.95 an hour, plus costs.

We assume \$30,000 in expert witness fees.

We assume \$5,000 for the preparation and duplication of trial exhibits.

We assume \$5,000 for daily transcripts.

We assume approved funding of legal services identified in this request will be provided by the AGO Labor and Personnel Division .

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These costs are one-time and will not carry forward.

At present, this case has been scheduled for trial on October 4, 2016. Costs in this request are for the purpose of trying this lawsuit. Regardless of the outcome of the trial, there will likely be another appeal to the Ninth Circuit and additional funds will be needed for future appeals.

DSHS supports this budget request and has a mirror request in their budget submittal .

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages		149,468	149,468
B Employee Benefits		52,817	52,817
C Professional Svc Contracts		444,950	444,950
E Goods\Other Services		25,165	25,165
G Travel		3,200	3,200
J Capital Outlays		4,400	4,400
Total Objects		680,000	680,000

Agency: 100 Office of Attorney General
Decision Package Code/Title: AQ Legal Secretary Class Study
Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

The Attorney General's Office (AGO) is requesting \$1,784-million to cover the costs of a recent classification adjustment for 343 positions in our office. This adjustment was supported in the 2015-17 budget process with \$1.889-million of funding, which, as a result of a technical oversight, fell short of the \$3.673-million implementation costs.

Support for this request will help preserve existing levels of Legal Services to State Agency clients by alleviating reductions that would otherwise be necessary in order to implement these important employee compensation adjustments and related agreements .

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
001-1 General Fund - Basic Account-State	62,651	62,651	125,302
001-2 General Fund - Basic Account-Federal	21,107	21,107	42,214
111-1 Public Service Revolving Account-State	14,819	14,819	29,638
12F-6 Man/Mobile Home Dispute Resolution-Non-Appr	4,931	4,931	9,862
154-1 New Motor Vehicle Arbitration Acct-State	4,660	4,661	9,321
17L-6 Foreclosure Fairness Account-Non-Appropriate	1,800	1,801	3,601
19A-1 Medicaid Fraud Penalty Account-State	7,036	7,036	14,072
405-1 Legal Services Revolving Account-State	774,994	774,996	1,549,990
Total Cost	891,998	892,002	1,784,000

Revenue

<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
001 General Fund	0393 Health & Human Svc	21,107	21,107	42,214
405 Legal Serv Rev Acct	0420 Charges for Services	774,994	774,996	1,549,990
Total Revenue		796,101	796,103	1,592,204

Package Description:

In 2007, the AGO submitted a classification review package that covered several hundred state employees, primarily those holding Legal Assistant positions. At the time of submittal, the costs associated with this classification study were estimated to be \$4,480,232 per biennium (Attachment A). The 2007 request identified the need to adjust the classifications of the Legal Secretary series to respond to significant market competition and to update the responsibilities and duties of these positions to reflect the modern law office. The proposed adjustments intended to help recruit and retain members of this highly qualified and experienced workforce that provide legal support services. In late 2014, the AGO received direction from State Human Resources to provide an updated version

of the technical requirements for each level in the new Legal Assistant series. At that time, we were advised that an updated fiscal impact statement did not need to be submitted.

The AGO is very appreciative of the subsequent review, analysis and consideration of this request, which culminated in a class adjustment that was put forward by the Governor's Office and adopted by the Legislature in the 2015-17 biennial budget. During the final stages of analysis, the sponsoring agency was not consulted to verify the final implementation expense calculations resulting in a technical error in the package. Estimated expenses that were advanced fell \$1.784-million short of the resources necessary to implement. Calculation details for the current cost to implement the adjustment are included as Attachment B to this decision package request.

The AGO is a rate-based agency that bills clients based on our cost experience. As a result, the resource shortfall would necessitate reductions to the provision of legal services to our client agencies. These reductions would either require near-term direct service reductions or the expense will have to be absorbed within existing resources, which leaves us with fewer resources to serve our State agency clients.

The AGO contact for this request is Brendan VanderVelde, Budget Director, (360) 586 2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

This recently enacted classification adjustment helps ensure the recruitment and retention of over 300 employees in several job classifications. These important employees help carry out the AGO mission of providing excellent, independent, and ethical legal services to the State of Washington and protecting the rights of its people. However, if the classification adjustment remains inadequately funded, the AGO must absorb the cost differential, leaving fewer resources available to support the delivery of legal support services to our valued clients. Conversely, fully funding the classification package will send a strong message of support to these employees and will help the AGO provide the amount of legal services State Boards, Commissions and Agencies are expecting. Specific expected business impacts and outputs are described below.

The classification adjustment applies to over 300 AGO employees working throughout the agency in nearly every division. This request to appropriately fund the classification and general salary adjustment supports nearly all functions of, and services provided by, the AGO. From closing Criminal Investigation and Prosecution cases (PM 2536) to Investigating and Defending the State from Torts Lawsuits (PM 2537), to Representing Ratepayers and helping consumers realize utility rate savings (PM 2531); AGO staff providing legal support services help realize improved performance in all of these areas. Adequate financial support for the legal assistant class adjustment will allow the Agency to avoid reductions that would otherwise be necessary to these important functions.

Performance Measure Detail

Activity: A002 Civil Commitment of Sexually Violent Predators

Incremental Changes
FY 2016 FY 2017

Outcome Measures

002535	As a result of the efforts to detain, evaluate and treat sex offenders who are most likely to reoffend, fewer people are victimized and the public is protected from those individuals.	0.00	0.00
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Activity: A003 Criminal Investigation and Prosecution

Incremental Changes
FY 2016 FY 2017

Output Measures

002536

0.00

0.00

When a county prosecutor has a conflict of interest or needs assistance for other reasons, there are competent, highly-skilled AGO prosecutors available to represent the county resulting in greater public protection. The AGO's Criminal Litigation Unit (CLU) reviews important appeals and provides additional legal assistance upon request. The CLU also reviews and approves (or defends against) claims filed by persons claiming to have been wrongfully convicted and imprisoned. Crimes of fraud involving state agencies are properly investigated and prosecuted so that state agencies and other victims can recover their losses, and similar criminal activity against state agencies can be curtailed and deterred.

Activity: A004 Enforcement of Anti-Trust Laws

Incremental Changes

FY 2016 **FY 2017**

Output Measures

000011 The AGO's Antitrust Division (ANT) enforces antitrust laws, protects consumers from illegal and harmful practices, and ensures a fair, efficient, and competitive marketplace for businesses. ANT enforcement actions prevent monopolies, price-fixing, and illegal mergers, and recover money for injured consumers and state agencies. Through outreach efforts, ANT educates businesses in order to prevent antitrust violations and protects Washington consumers.

\$0.00

\$0.00

Activity: A005 Enforcement of Consumer Protection Laws

Incremental Changes

FY 2016 **FY 2017**

Output Measures

002534 The division's activities are expected to foster a fair, competitive and non-deceptive market place, prevent consumer harm, promote voluntary compliance with economic regulation by business, and resolve disputes between buyers and sellers in the marketplace. The division is also expected to recover a portion of the costs of its operation through its litigation activity. Finally, the Division is expected to promote timely and effective new motor vehicle warranty service through mandatory arbitration and foster compliance with the Manufactured Housing Landlord Tenant Act.

\$0.00

\$0.00

Activity: A006 Executive Ethics Board

Incremental Changes

FY 2016 **FY 2017**

Outcome Measures

000018 The Executive Ethics Board investigates complaints filed by public employees and citizens regarding ethical violations established in the Public Service Act, and prosecutes cases to completion. By completing investigations and resolving cases in a timely manner, state agencies, state employees, and the public are better served, and public trust and confidence in state government increases.

0.00

0.00

Activity: A007 Homicide Investigation Tracking System

Incremental Changes

FY 2016 **FY 2017**

Outcome Measures

000021	Homicide Investigation Tracking System (HITS) investigators and its data warehouse provide resources to local, state, and federal law enforcement agencies by giving them access to violent crime data and analyses across jurisdictions. The HITS unit provides law enforcement analysis of crime data related to murder, rape, and other serious offenses. The usefulness of the HITS system is directly affected by the quality and quantity of crime data entered into the system. HITS investigators work closely with law enforcement to ensure all information is correctly captured. HITS provides direct investigative assistance that includes case reviews and search results to law enforcement agencies upon their request. As a result, violent offenders are identified and apprehended improving public safety and preventing crime.	0.00	0.00
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Activity: A008 Investigation and Defense of Tort Lawsuits

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
Output Measures			
002537	The AGO's Torts Division protects taxpayers by vigorously defending tort claims and lawsuits against the state, state agencies, boards, commissions, and officers and employees acting within the scope of their employment. The AGO Torts Division consists of experienced litigators and trained legal professionals who provide high quality and efficient legal services to the state. The provided legal services promotes government efficiency by employing concerted efforts to resolve claims and lawsuits at the earliest possible stages through the early resolution program, motions practice, direct negotiation and mediated settlement. The AGO Torts Division maintains a high rate of litigation success (including case appeal litigation) with many lawsuits dismissed with zero payout	0.00%	0.00%

Activity: A009 Investigation and Prosecution of Medicaid Fraud and Resident Abuse

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
Outcome Measures			
002538	The state share of Medicaid recoveries is utilized to combat fraud, provide Medicaid services, and monitor prescription drug abuse. The 2012 legislature created the False Claims Act (FCA) and the Medicaid Penalty Account (MPA). These acts create the state funding source for the AGO's Medicaid Fraud Control Unit (MFCU), and for the Medicaid program integrity responsibilities managed by the Washington State Health Care Authority. Through MFCU's civil efforts, recovered money that was illegally obtained in violation of either the federal or state FCA is returned to the State and placed into the MPA. The recovered money includes restitution, interest and penalties. The 2013 legislature authorized the Prescription Drug Monitoring Program that is also funded from the MPA. Through MFCU's criminal and non-false claims act civil efforts under this program, additional money is returned to the State.	\$0.00	\$0.00

Activity: A010 Legal Services to State Agencies

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
Outcome Measures			

002539	By providing high quality legal assistance and representation to Washington's state agencies, boards, and commissions, the AGO improves government services, increases government efficiency, and prevents costly lawsuits. The legal services provided by the AGO saves taxpayer dollars, promotes the public interest, and ensures agencies are able to fulfill their essential missions. The AGO provides excellent, option-based legal advice to help the state promote the public good. In the litigation context, the AGO initiates, defends, and resolves cases effectively and efficiently for the benefit of the state, its agencies, and its citizens.	0.00	0.00
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Activity: A011 Representing Ratepayers

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
Outcome Measures			
002531	The AGO's Public Counsel Unit (PCU) protects consumers and businesses by advocating fair, just, reasonable, and sufficient utility rates, and by ensuring that customers pay only for reasonable and cost-effective programs. PCU's efforts have helped save consumers nearly \$150 million over the past four years and will continue to save Washingtonians money on utility rates.	\$0.00	\$0.00

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

As described in the AGO Performance Measures Section, fully funding the employee compensation adjustment packages will alleviate necessary reductions to nearly all services provided by the AGO. As a result, improved service delivery can be expected across a wide range of AGO strategic plan objectives. A few highlighted goals that will be better supported if this request is funded include:

Goal 1-1: Provide an office structure, culture and practices that ensure attorneys and professional staff are equipped to deliver high quality legal services in a timely and efficient manner.

Goal 1-2: Improve support to attorneys and staff performing litigation, to ensure robust trial skills and practices are in place.

Goal 2-3: Pursue Criminal Justice. Hold Criminals Accountable and Protect the Safety of Washington's Youth and Vulnerable Adults.

More specifically, appropriate funding support for classification and salary adjustments strongly reinforces the State's commitment to its workforce, which is captured broadly under Goal 3 of the AGO Strategic Plan:

"Serve our employees - create a positive work environment that recognizes employees as its most valuable resource and fosters integrity, professionalism, civility, and transparency".

AGO strategic plan Goal 3-1 discusses recruiting and retaining a high quality, highly skilled, and highly effective workforce to meet the legal needs of the people and the state of Washington.

Subsection 3-1-1 identifies "address[ing] compensation gap". Appropriately funding employee classification and compensation actions will help match the State's intentions with actions, sending a clear message that employees are valued and appropriately resourced.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

This request supports Results Washington Goal 1: World Class Education - All Washingtonians have access to education that prepares them to transition to elementary, middle, high school, postsecondary, career and lifelong learning opportunities. These positions provide support to legal counsel representing Washington education entities ranging from the Department of Early Learning and the Office of the Superintendent of Public Instruction to Washington's higher education institutions. These services allow these agencies to help achieve outcomes in early learning, K-12 and postsecondary disciplines.

This request supports Results Washington Goal 2: Prosperous Economy - Fostering an economy where businesses, workers and communities thrive in every corner of our state. These positions provide support to legal counsel representing Washington economic and infrastructure agencies ranging from the Department of Commerce to the Department of Transportation. These services allow

these agencies to help achieve outcomes from growing a competitive and diversified economy to delivery sustainable, efficient Infrastructure.

This request supports Results Washington Goal 3: Sustainable energy and a clean environment - Building a legacy of resource stewardship for the next generation of Washingtonians. Additional LSRA billing authority for the AGO and funding for client agencies will result in clients being able to sustain current AAG representation and state-wide environmental programs at the intended level.

This request supports Results Washington Goal 4: Healthy and safe communities - Fostering the health of Washingtonians from a healthy start to safe and supported future. This request sustains AGO Medicaid Fraud AAGs and promotes integrity in the Medicaid program, both in civil and criminal enforcement.

This request supports Results Washington Goal 5: Effective, Efficient and Accountable Government - Fostering a Lean culture that drives accountability and results for the people of Washington. This request aligns the actual costs of increased legal services with the funding available client agencies for sustaining current AAG representation. This request clarifies how state resources are spent, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

What are the other important connections or impacts related to this proposal?

This class adjustment followed a lengthy and formal review process. The package was approved and advanced by the Office of Financial Management, was included in the Governor's 2015-2017 budget proposal and was adopted by the Legislature in their 2015-2017 budget legislation. The several hundred affected employees have expressed their appreciation for these actions and we expect a general positive impact on moral and a better ability to retain these important employees. The AGO would like to receive appropriate implementation funding for this adjustment so that these very positive effects are not offset by service impacts that could be otherwise required in order to implement the adjustment.

What alternatives were explored by the agency, and why was this alternative chosen?

Legal resources provided to Client agencies supporting the work of the AGO are fixed and the AGO must manage expenses within the amounts provided by the Legislature. As such, this added and unanticipated expense would need to be offset by other cost reductions. Following several years of efficiency analysis and implementation along with generalized budget reductions as a result of financial constraints experienced by the State, the AGO is unable to absorb this expense without recognizing and incurring service impacts to our Client agencies. This request would not be put forward if these impacts were avoidable.

What are the consequences of adopting or not adopting this package?

The AGO is unable to absorb this expense without recognizing and incurring service impacts to our Client agencies .

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

Calculation details for the current cost to implement the adjustment are included as Attachment B to this decision package request .

Medicaid Fraud costs are split 25% MFPA and 75% General Fund-Federal in accordance with program funding.

Tort division costs are included in LSRA cost assumptions in the expenditure and revenue tables above . However, the Torts division cost detail is available in Attachment B.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

The costs to support this classification adjustment (\$3.673-million total with \$1.784-million unfunded) are ongoing and will carry forward into future biennia. Without adequate and ongoing financial support, the impacts of these expenses will carry forward into all future biennia.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages	759,771	759,775	1,519,546
B Employee Benefits	132,227	132,227	264,454
Total Objects	891,998	892,002	1,784,000

RECEIVED
OFM-Budget Division

Jun-07

AUG 10 2007

PERSONNEL FISCAL IMPACT STATEMENT

ATTORNEY GENERAL
Employees are Represented

Not Represented

If both represented and non-represented employees are included, please submit separate forms for each group.

JOB CLASSES AFFECTED: Office Assistant 1,2,3 Legal Secretary 1,2,3 Secretary Senior Secretary Lead Administrative Assistant 3,4,5	RESPONDING AGENCY	CODE
	Office of the Attorney General	100
	APPROVED BY	DATE
	Mike Bigelow, Chief of Staff	7/27/2007
	PREPARED BY	PHONE NUMBER
Michelle Underwood, Dir Financial Services	360.586.0782	
	PROPOSED EFFECTIVE DATE FOR CHANGES	
	1-Jul-09	

The fiscal impact of the above proposed personnel action is estimated to be:

 None

The cost impact displayed must be for the personnel action only.

 As Shown Below

EXPENDITURES FROM:

FUND	CODE	2007-2009	2009-2011	2011-2013
GENERAL FUND-STATE	001-1		93,976	93,976
GENERAL FUND-FEDERAL	001-2		39,154	39,154
OTHER FUNDS				
ANTI TRUST	424-6		19,598	19,598
LEGAL SERVICES	405-1		3,760,916	3,760,916
TORTS - IAA SELF INSURANCE			566,588	566,588
TOTALS			4,480,232	4,480,232

EXPENDITURES BY OBJECT:

NUMBER OF POSITIONS AFFECTED		331	331
NUMBER OF FTEs AFFECTED		326.5	326.5
SALARIES AND WAGES		3,895,888	3,895,888
EMPLOYEE BENEFITS		584,344	584,344
TOTALS		4,480,232	4,480,232

AGENCY CERTIFICATION

Agency can absorb the biennialized cost of the personnel action within the agency's current appropriation for the current and subsequent fiscal biennia without program reductions.

Costs of the personnel action can not be absorbed.

for M. Bigelow
AGENCY DIRECTOR

7/31/07
DATE

PERSONNEL FISCAL IMPACT STATEMENT

JOB CLASSES	PREPARING AGENCY	DATE
Office Assistant 1,2,3 Legal Secretary 1,2,3; Secretary Senior, Sec Lead Administrative Assistant 3,4,5	Office of the Attorney General	7/20/2007

1) *Briefly describe the reclassification action requested.*

The AGO is requesting reclassification of the legal secretary series to better reflect the market competition and responsibilities and duties of these positions. We are proposing a six level LEGAL ASSISTANT series.

The document (A1) shows the crosswalk of the existing positions. These include the office assistant series, the legal secretary series, secretary, secretary senior, secretary lead as well as the administrative assistant 3, 4 and 5 classifications.

The document (A2) provides the minimum qualifications and distinguishing characteristics of the six Legal Assistant classifications (Legal Office Assistant, Legal Assistant 1,2,3,4, and the Legal Administrative Manager level).

Describe how this action will be funded within existing resources. Explain the assumptions used in calculating the estimated fiscal impact shown on the first page of this form. Specific information must be provided to show how savings will be generated within the agency to offset the cost of the proposal. Please attach additional pages if necessary. If proposal is for a series of classes or related classes (i.e.: Corrections Officers 1, 2, and 3) provide costs for each classification and fund.

The AGO does not have capacity to fund this request within existing resources.

Budget documents include a summary of positions by new the classification level (B1), by AGO division (B2), and with a summary funding source (B3). In addition document (B4) outlines the impact of legal services to the respective clients.

OFFICE OF FINANCIAL MANAGEMENT REVIEW			
<input type="checkbox"/>	<i>Proposed change is approved for submittal. (Agency is to absorb cost.)</i>		
<input checked="" type="checkbox"/>	<i>Proposed change may proceed to DOP. (Funding is subject to the budget process.)</i>		
ANALYST, BUDGET DIVISION	DATE	ASSISTANT DIRECTOR, BUDGET DIVISION	DATE
<i>John Esposito</i>	<i>8/8/07</i>	<i>Pam Donohue for Candace Esposito</i>	<i>8/8/07</i>

**Office of the Attorney General
 Proposed Job Class Changes - Legal Assistant Series
 (Excludes non-AGO Payroll employees)**

Assumes July 1, 2009 start date. Includes both COLA's in 2007 2009		Salary	Annual	Benefit	Biennial
	Salary		1,947,944		3,895,888
	Benefit		292,172		584,344
	Total		2,240,116		4,480,232
		Salary	Benefit	Total	
Anti Trust	424-6	8,521	1,278	9,799	
CP -GFS	0011	35,184	5,278	40,462	
CJD MCFU General Fd State	0011	5,675	851	6,526	
Sub Total Gen Fund STATE		40,859	6,129	46,988	
CJD MCFU General Fd Fed	020	17,023	2,554	19,577	
Torts - Self Insurance Fund	IAA	246,344	36,950	283,294	
Legal Services Revolving	405-1	1,635,197	245,261	1,880,458	
TOTAL		1,947,944	292,172	2,240,116	
Biennial Total		3,895,888	584,344	4,480,232	

Revised from 7/26
 Eliminated 6 double filled positions
 Moved three to "vacant" positions

Attachment B

JOB CLASSIFICATION VIEW

Row Labels	Number of Positions	FY1 Increased Salaries	FY1 Increased Benefits	FY1 Increased Salary & Benefits	FY2 Increased salary	FY2 Increased Benefits	FY2 Increased Salary & Benefits
ADMINISTRATIVE ASSISTANT 4	10	94,920	17,870	112,790	94,920	17,870	112,790
ADMINISTRATIVE ASSISTANT 5	9	39,564	7,446	47,010	39,564	7,446	47,010
COMMUNICATIONS CONSULTANT 4	2	5,160	971	6,131	5,160	971	6,131
COMMUNICATIONS CONSULTANT 5	1	3,960	746	4,706	3,960	746	4,706
FINANCIAL EXAMINER 3	2	12,360	2,328	14,688	12,360	2,328	14,688
FORMS & RECORDS ANALYST 3	1	2,712	511	3,223	2,712	511	3,223
GRAPHIC DESIGNER SENIOR	1	2,856	538	3,394	2,856	538	3,394
LEGAL SECRETARY 1	43	137,340	25,860	163,200	137,340	25,860	163,200
LEGAL SECRETARY 2	148	686,700	129,294	815,994	686,700	129,294	815,994
LEGAL SECRETARY 3	41	255,300	48,078	303,378	255,300	48,078	303,378
OFFICE ASSISTANT 3	62	226,848	42,726	269,574	226,848	42,726	269,574
OFFICE ASSISTANT LEAD	2	3,864	728	4,592	3,864	728	4,592
PROGRAM SPECIALIST 2	2	4,716	888	5,604	4,716	888	5,604
PROGRAM SPECIALIST 3	10	33,996	6,398	40,394	33,996	6,398	40,394
PROGRAM SPECIALIST 4	1	3,180	599	3,779	3,180	599	3,779
PROGRAM SPECIALIST 5	4	14,448	2,722	17,170	14,448	2,722	17,170
REGULATORY ANALYST 2	2	16,452	3,098	19,550	16,452	3,098	19,550
SECRETARY LEAD	1	(2,460)	(463)	(2,923)	(2,460)	(463)	(2,923)
SECRETARY SENIOR	1	3,780	712	4,492	3,780	712	4,492
Grand Total	343	1,545,696	291,050	1,836,746	1,545,696	291,050	1,836,746

OFM SPREADSHEET (for comparison)

Row Labels	Number of Postions
COMMUNICATIONS CONSULTANT 4	1
COMMUNICATIONS CONSULTANT 5	1
FORMS & RECORDS ANALYST 3	1
GRAPHIC DESIGNER SENIOR	1
LEGAL SECRETARY 1	39
LEGAL SECRETARY 2	140
LEGAL SECRETARY 3	46
PROGRAM SPECIALIST 2	1
PROGRAM SPECIALIST 3	10
PROGRAM SPECIALIST 5	1
RECORDS MANAGEMENT SUPERVISOR	1
REGULATORY ANALYST 1	1
REGULATORY ANALYST 2	1
Grand Total	244

FUND VIEW

Row Labels	Number of Positions	Increased Salary	Increased Benefits	Increased Salary & Benefits
General Fund	25	217,128	40,886	258,014
LSRA	257	2,292,024	431,588	2,723,612
Fairness Foreclosure	1	6,240	1,175	7,415
Lemon	2	16,152	3,041	19,193
MFCU	11	97,536	18,365	115,901
Mobile Homes	3	17,088	3,218	20,306
PSRA	4	51,360	9,670	61,030
TORTS	40	393,864	74,164	468,028
Grand Total	343	3,091,392	582,107	3,673,499

Agency: 100 Office of Attorney General
Decision Package Code/Title: AL Legal Services to LCB
Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests funds to restore a significant allocation reduction caused by a central service model technical adjustment. As a result of the adjustment, funding for legal services was reduced to levels well below historical expenditures. The reduction will impact the provision of ongoing, essential Liquor and Cannabis Board (LCB) legal services in the amount of \$433,000 in Fiscal Year (FY) 2016 and \$444,000 in FY2017.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405-1 Legal Services Revolving Account-State	433,000	444,000	877,000
Total Cost	433,000	444,000	877,000

Revenue

<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405 Legal Serv Rev Acct	0420 Charges for Services	433,000	444,000	877,000
Total Revenue		433,000	444,000	877,000

Package Description:

The AGO requests funds to restore a significant allocation reduction of approximately 27% caused by a central service model technical adjustment. As a result of the technical adjustment, funding for legal service was reduced to levels well below historical expenditures. The technical adjustment was to "rebase" or align funds to recent legal billing history, but in this instance, the adjustment caused a reduction not supported by the billing data. The resultant reduction will impact the provision of ongoing, essential LCB legal services in the amount of \$433,000 in FY 2016 and \$444,000 in FY2017. These funds are necessary to meet the current and ongoing legal advice and litigation demands related to the administration of the liquor, tobacco, and marijuana licensing and compliance laws.

The LCB has experienced an increased need for legal services following the 2011 passage of Initiative 1183 (privatize and modernize wholesale distribution and retail sales of liquor) and the passage of Initiative 502 in 2012 (the legalization of recreational marijuana). Both of these initiatives generate significant legal service needs, including the implementation and maintenance of the laws and defense against constitutional and other legal challenges.

The 2015-17 fund reduction seriously jeopardizes the LCB's public safety mission. The current funding level will not enable the AGO to continue to provide the Board and its staff essential legal support. If not restored by a supplemental appropriation, the AGO will need to dramatically reduce many key legal services. Examples are: the provision of legal advice during the rulemaking process, representation in hearings challenging licensing decisions or discipline of licensees, and defense against lawsuits. Further, as marijuana legalization and regulation is a new area of law, reducing the level of legal services provided in the rule development stage

is likely to result in additional future litigation challenging the rules. Similarly, if the agency is not able to seek legal advice about the licensing process and applies rules in an inconsistent way, additional legal challenges will likely ensue. Finally, if the AGO is not available to provide timely legal advice on general questions, including public records and open meetings issues, legal challenges to the Board's compliance with those laws are likely to increase.

The AGO contact for this request is Brendan VanderVelde, Budget Director, (360) 586 2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

The \$877,000 funds reduction equates to a reduction of 2.0 AAG FTEs and 1.0 Legal Assistant FTE. This represents a reduction of approximately 27% to the legal services previously provided to the LCB. Funding this restoration request will allow the AGO to maintain the established essential legal services to LCB for legal advice and litigation support. Reducing the legal services provided increases the risk of future litigation, client exposure, and the need for even more legal advice in the future to address outcomes that timely legal services could have avoided. Additionally, the public safety interests of LCB could be significantly affected if they cannot aggressively regulate licensees under these important laws. This is especially true in the newly regulated recreational marijuana industry, where the public and other governmental entities have focused much attention.

Activity No. 0010 - Legal Services to State Agencies
PM 2539 Cases Open at End of Fiscal Year

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
Outcome Measures			
002539	By providing high quality legal assistance and representation to Washington's state agencies, boards, and commissions, the AGO improves government services, increases government efficiency, and prevents costly lawsuits. The legal services provided by the AGO saves taxpayer dollars, promotes the public interest, and ensures agencies are able to fulfill their essential missions. The AGO provides excellent, option-based legal advice to help the state promote the public good. In the litigation context, the AGO initiates, defends, and resolves cases effectively and efficiently for the benefit of the state, its agencies, and its citizens.	0.00	0.00

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports the following AGO Strategic Plan Goals:

Goal 1: SERVE THE STATE - PROVIDE EXCELLENT, INDEPENDENT, AND ETHICAL LEGAL ADVICE AND REPRESENTATION OF OUR CLIENT THE STATE OF WASHINGTON.

1-4 Proactively engage in risk management efforts to reduce client and agency risk.

Goal 2: SERVE THE PEOPLE - PROTECT THE LEGAL RIGHTS OF THE PEOPLE OF THE STATE OF WASHINGTON."

2-2-5 Reduce youth access to harmful substances, including tobacco, nicotine, and marijuana.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

Results Washington Goal 5:

EFFECTIVE, EFFICIENT AND ACCOUNTABLE GOVERNMENT: Fostering a Lean culture that drives accountability and results for the people of Washington
 Sub-Topic: Customer Satisfaction and Confidence
 Outcome Measures:

1.1 Increase customer service satisfaction. 1.3 Increase timely delivery for state services.

This request aligns the actual costs of LCB legal services with the funding needed to sustain the required workload . It clarifies how state resources are spent, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

What are the other important connections or impacts related to this proposal?

LCB supports this proposal and recognizes the need to restore the base for legal services support as outlined in this proposal . The increased need for legal services has arisen out of changed laws and new responsibilities assigned to LCB to carry out, the need to defend new laws and policies in court, to review and analyze new approaches in light of court decisions, and to properly license and enforce the laws for licensees.

What alternatives were explored by the agency, and why was this alternative chosen?

Since this appears to be an error attributed to a technical adjustment in the Central Service Model, LCB did not anticipate such a dramatic decrease in legal services funding. No alternatives have been explored nor do any appear to exist to address this reduction . The need for this request arose because of the continued demand for legal services to address the initiatives, regulatory and statutory changes which affect the regulation of liquor, marijuana and tobacco in Washington. While the laws affecting this type of regulation will continue to be the source of legislative proposals, none are expected to reduce legal services needs . The diversion of funds from other LCB programs to fund legal services is not appropriate given the public safety demands of those programs .

What are the consequences of adopting or not adopting this package?

Failure to fund this request will result in a significant decrease in legal advice and representation to the LCB and expose the agency to increased risks, including the risk of additional future litigation.

What is the relationship, if any, to the state's capital budget?

None

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None

Expenditure and revenue calculations and assumptions

We assume approved funding will be disbursed between the three AGO division providing legal services identified in this request to LCB. These divisions include 1) Licensing and Administrative Law; 2) Government Compliance and Enforcement; and 3) Criminal Justice.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These costs are ongoing and will carry forward into future biennia. The need for advice and legal review of rules and processes will reduce as potential businesses adapt to the new rules. However, this reduction will be off-set by the increase in licensing and enforcement work and as such, funding should continue into future biennia .

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages	192,956	196,434	389,390

B	Employee Benefits	57,506	59,522	117,028
E	Goods\Other Services	174,138	183,844	357,982
G	Travel	2,100	2,100	4,200
J	Capital Outlays	6,300	2,100	8,400
Total Objects		433,000	444,000	877,000

Agency: 100 Office of Attorney General
Decision Package Code/Title: AO Legal Services to MQAC
Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests funding to address a significant growth in the resource intensity of cases involving the suspension or revocation of physician licenses for unprofessional or dangerous conduct. These cases are critical to the Department of Health's mission to protect the safety of Washington patients and additional resources are needed to ensure they are handled timely. In recent years, the complexity of these licensing cases has increased, requiring more depositions, more expert witness testimony, more days in trial; in short, more legal resources to ensure that physicians are meeting Washington State's standard of care.

Fiscal Detail

Operating Expenditures		<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405-1 Legal Services Revolving Account-State		155,000	158,000	313,000
Total Cost		155,000	158,000	313,000
Staffing		<u>FY 2016</u>	<u>FY 2017</u>	<u>Annual Average</u>
FTEs		1.1	1.1	1.1
Revenue				
<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405 Legal Serv Rev Acct	0420 Charges for Services	155,000	158,000	313,000
Total Revenue		155,000	158,000	313,000

Package Description:

The Medical Quality Assurance Commission licenses and regulates the practice of medicine in Washington. It is responsible for protecting patient safety by disciplining doctors who do not meet the Commission's standard of care or, commit acts of unprofessional or egregious conduct. Commission staff investigate complaints and when evidence of substandard care or misconduct is found, attorneys in the AGO handle the professional licensing case against a doctor. Where the doctor's inappropriate actions are egregious, the Commission can suspend a doctor's license to practice medicine while the case is pending. In those situations, the Commission issues a "summary suspension" when a case starts.

The number of cases involving doctors charged with misconduct has grown over the past several biennia and the number of attorneys to process the work has not kept pace. Assistant Attorney Generals (AAG) handling licensing cases average 35 to 40 pending matters comprised of MQAC and other Department of Health board and commission work. Additionally, the complexity and resource intensiveness of each individual case has grown in recent years as opposing counsel has employed more litigious tactics. As a result, the cases require more motions, more depositions, more experts, and more days in trial which greatly increases the amount of time and resources needed for each case.

The growing number of cases and their increasing complexity has significantly reduced the timely filing of these cases. Based on a previous study conducted by the Department of Health, the goal to return case initiating documents to MQAC is within 60 days of the

request for review. This timeline is designed to protect patients and ensure the timely resolution of complaints. In FY 14, the return time was 76 days on average. That number jumped to 111 days for FY 2015, an increase of 48%. Without additional resources, these numbers will not improve.

In the first months of this biennium, the number of summary suspensions (where a doctor is deemed to be placing patients at risk of harm) has doubled from last fiscal year. Based on the workload increase, two or more summary suspensions requests are expected each month. Because of the potential threat to public safety, state law requires these cases to be ready to defend within 14 days of a doctor's request for such a hearing. By necessity, the rest of an AAG's workload is put on hold while the summary suspension case is prepared and presented to the Commission. As a result, all regularly assigned work must be set aside to complete this hearing. The focus on suspension hearings without sufficient staff causes a reduction in preparation time for other health licensing cases and hearings. It delays the review and initiation of non-emergent, and yet still important cases.

In addition, the MQAC workload has seen an increase in "spin-off" cases. These are cases in which a doctor asks other courts to stop MQAC's temporary suspension of a license or discipline action. For example, in one recent case, a doctor was accused of doing numerous medical procedures on patients after they delivered babies. His procedures have caused permanent injury and uterine scarring. MQAC temporarily suspended his license until it could hold a full hearing. He is represented by four law firms all pursuing different court proceedings. He filed a case in federal court asking that court to stop the disciplinary and suspension action, which the court rejected. He then filed in state court to get a restraining order against MQAC. All of these cases were spun off from the original licensing case and had to be handled by the AAG at the same time that the licensing case was being prepared for hearing, which itself generated production of thousands of pages of records in discovery.

The AGO requests 0.75 AAG, and 0.35 LA at a cost of \$155,000 in FY 2016 and \$158,000 in FY 2017. The additional FTEs will help decrease the time to get cases started, will deal with the growing number of summary cases, and will allow other cases to proceed without delay.

The AGO contact for this request is Brendan VanderVelde, Budget Director, (360) 586 2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

Funding this request will reduce the time it takes to initiate doctor licensing suspension and revocation cases and provide quicker response times for summary suspensions, without causing delays in all other Commission cases. This will result in more immediate efficiency and greater public protection as any delay in disciplining an unprofessional or dangerous doctor can put the public at risk.

If this request is not funded, we will need to coordinate with the Commission staff to determine what legal services will be further delayed. Delaying legal services significantly increases the public risk by allowing doctors to practice below the standards of care or in an unprofessional way. This could lead to more litigation and need for legal advice to address the results or consequences that a timely legal review and case processing could have avoided.

Delaying legal services will result in increases in future legal costs, decreased efficiency, and a substantial risk to the public.

Performance Measure Detail:

Activity: A0010 Legal Services to State Agencies
PM: 2539 Cases open at end of fiscal year

This increase is designed to reduce the time to process case initiation documents and reduce the time to obtain final adjudication of cases before MQAC.

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

Incremental Changes

Outcome Measures

002539	By providing high quality legal assistance and representation to Washington’s state agencies, boards, and commissions, the AGO improves government services, increases government efficiency, and prevents costly lawsuits. The legal services provided by the AGO saves taxpayer dollars, promotes the public interest, and ensures agencies are able to fulfill their essential missions. The AGO provides excellent, option-based legal advice to help the state promote the public good. In the litigation context, the AGO initiates, defends, and resolves cases effectively and efficiently for the benefit of the state, its agencies, and its citizens.	0.00	0.00
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Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request implements the following AGO Strategic Plan Goal:

Goal 1: SERVE THE STATE PROVIDE EXCELLENT, INDEPENDENT, AND ETHICAL LEGAL ADVICE AND REPRESENTATION TO OUR CLIENT THE STATE OF WASHINGTON.

1 2 3 Work with external stakeholders to improve litigation processes.

1 2 4 Identify new ways to devote resources to the most complex cases.

1 4 5 Play a state wide leadership role in risk management.

Goal 2: SERVE THE PEOPLE PROTECT THE LEGAL RIGHTS OF THE PEOPLE OF THE STATE OF WASHINGTON.

2 2 7 Protect the environment and improve public health.

2 3 1 Protect vulnerable adults and combat elder abuse.

This request supports the AGO strategic plan by providing faster response time to requests to review and issue charging documents, assisting with quicker response times for summary suspension actions, and alleviating the need to move staff from other important cases. It will also allow for earlier consultation on cases to ensure prompt and thoughtful decision making and adjudicatory decisions.

Does this DP provide essential support to one or more of the Governor’s Results Washington priorities?

Results Washington Goal 5:

EFFECTIVE, EFFICIENT AND ACCOUNTABLE GOVERNMENT: Fostering a Lean culture that drives accountability and results for the people of Washington Sub Topic: Customer Satisfaction and Confidence

Outcome Measures:

1.1 Increase customer service satisfaction.

1.3 Increase timely delivery for state services.

This request aligns the actual costs of providing required Commission legal services with the funding needed to sustain the required workload. It clarifies how state resources are spent, shows accountability and responsibility in spending and responding to public safety needs, and offers transparency resulting in customer satisfaction and confidence in legal services provided.

What are the other important connections or impacts related to this proposal?

Commission management supports this proposal and will be submitting a matching request.

What alternatives were explored by the agency, and why was this alternative chosen?

There is no alternative to protecting the public from dangerous practitioners. Legal services must be provided to ensure prompt case

commencement and completion of those cases. Redeployment of services between other health boards and commissions is not an option because the same public safety exists with each profession (e.g., nurses, dentists, chiropractors).

What are the consequences of adopting or not adopting this package?

Funding this request provides resources to protect the public in their most vulnerable state when dealing with health issues and health care providers. Failure to adequately fund this request will result in slower processing of complaints, increasing the risk to patient safety if dangerous practitioners continue to operate while cases and charges are pending legal review and processing.

What is the relationship, if any, to the state's capital budget?

None

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None

Expenditure and revenue calculations and assumptions

We assume approved funding of legal services identified in this request will be provided by the AGO Government Compliance and Enforcement Division.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These costs are ongoing and will carry forward into future biennia.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages	85,954	87,502	173,456
B Employee Benefits	27,478	28,495	55,973
E Goods\Other Services	36,718	39,763	76,481
G Travel	750	750	1,500
J Capital Outlays	4,100	1,490	5,590
Total Objects	155,000	158,000	313,000

Agency: 100 Office of Attorney General
Decision Package Code/Title: AP PDC Campaign Finance Laws

Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests 0.5 Assistant Attorneys General (AAG) and 0.25 Legal Assistant (LA) at a cost of \$103,000 in Fiscal Year (FY) 2016 and \$105,000 in FY2017. This request is to provide client advice and representation for enforcement of campaign finance law for the Public Disclosure Commission (PDC). The increased volume of complaints processed by PDC and the recent elimination of their internal counsel position is necessitating this modest request. This request is to enable to AGO to process the increased workload and provide necessary legal services in the absence of internal counsel.

Fiscal Detail

Operating Expenditures		<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405-1 Legal Services Revolving Account-State		103,000	105,000	208,000
Total Cost		103,000	105,000	208,000
Staffing		<u>FY 2016</u>	<u>FY 2017</u>	<u>Annual Average</u>
FTEs		.8	.8	.8
Revenue				
<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
405 Legal Serv Rev Acct	0420 Charges for Services	103,000	105,000	208,000
Total Revenue		103,000	105,000	208,000

Package Description:

The AGO requests 0.5 AAG and 0.25 LA at a cost of \$103,000 in FY 2016 and \$105,000 in FY2017. This request is to provide client advice and representation for enforcement of campaign finance laws services for the PDC. The increased volume of complaints processed by PDC and the recent elimination of their internal counsel position is necessitating this modest request. This request is to enable to AGO to process the increased workload and provide necessary legal services in the absence of internal counsel.

The PDC received a reduction in its base legal services for 2015-17. This reduction does not align with recent billing data. Rather, PDC legal services needs have increased over the last several biennia due to a rising complaints workload. Most recently, the PDC overspent their legal allocation by about \$25,000. The expenditure trend, in conjunction with the 2015-17 allocation reduction, results in a significant funding shortfall.

Until January 2014, the PDC obtained advice on contracts, public records requests, rule making and legislation from its in house General Counsel. That position was established in 2009 when its long time AAG moved in house. At that time, PDC's legal services allocation was reduced as a result of the reduction in demand for AGO provided legal services. In January 2014, the individual left the in house General Counsel position, and the position has remained unfilled because of budget constraints. In the 2015 legislative session, the position and its funding were eliminated from the PDC's budget. However, during this time period, the PDC's reliance on

Agency: 100 Office of Attorney General
Decision Package Code/Title: AP PDC Campaign Finance Laws

the AGO has increased as they have continued to require legal advice on a variety of matters including contracts, public records requests, rule making and legislation. About half of this request, or 0.25 AAG FTE, is to sustain the necessary client advice in the absence of internal legal counsel.

This request also adds 0.25 AAG in support of the increasing need for representation of PDC's compliance group, on an ongoing basis. The PDC has renewed its emphasis on clearing an existing backlog of pending complaint investigations and to providing a shorter turnaround time for complaints. The PDC recently conducted a LEAN process review to help existing staff increase the promptness of reviews, investigations, and enforcement decisions. PDC hired a temporary employee to review over 90 pending complaints to determine if a formal investigation was warranted for the cases. They currently have 35 pending investigations which are being processed through the updated LEAN system. PDC's efforts has led to increased demand for case review, administrative case presentation, and the potential for more referrals to the AGO for Superior Court litigation for the future. The increased funding is to pay for ongoing enforcement of the state's campaign finance laws.

This request is supported by the PDC and the Commission will file a matching Decision Package.

The AGO contact for this request is Brendan VanderVelde, Budget Director, (360) 586 2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

The AGO and PDC expect the additional resources to improve the timeliness of complaint resolutions. This in turn will improve public faith in the effectiveness of the agency's enforcement of the state's campaign finance disclosure laws. Cases that are handled more quickly provide timely and valuable direction to candidates, political committees, and lobbyists. It increases public confidence that elections in Washington are conducted in accordance with the laws and that transparency in financial disclosures is being protected.

The addition of funding for client advice will also ensure that resources are not diverted from the compliance work to pay for necessary legal services, thus reducing the effectiveness of that program. It will also help protect the State from the risk of inadvertent violations of laws such as those related to public records, open public meetings, and contracting.

Performance Measure Detail:

Activity No. 0010 - Legal Services to State Agencies
PM 2539 Cases Open at End of Fiscal Year

Performance Measure Detail

Activity: A010 Legal Services to State Agencies

Outcome Measures

Incremental Changes
FY 2016 FY 2017

Agency: 100 Office of Attorney General

Decision Package Code/Title: AP PDC Campaign Finance Laws

002539	By providing high quality legal assistance and representation to Washington’s state agencies, boards, and commissions, the AGO improves government services, increases government efficiency, and prevents costly lawsuits. The legal services provided by the AGO saves taxpayer dollars, promotes the public interest, and ensures agencies are able to fulfill their essential missions. The AGO provides excellent, option-based legal advice to help the state promote the public good. In the litigation context, the AGO initiates, defends, and resolves cases effectively and efficiently for the benefit of the state, its agencies, and its citizens.	0.00	0.00
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Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request implements the following AGO Strategic Plan Goal:

Goal 1: SERVE THE STATE - PROVIDE EXCELLENT, INDEPENDENT, AND ETHICAL LEGAL ADVICE AND REPRESENTATION TO OUR CLIENT THE STATE OF WASHINGTON.

1-1-2 Enhance client services to reduce the use of in-house agency attorneys and outside counsel .

Does this DP provide essential support to one or more of the Governor’s Results Washington priorities?

Goal 5. Efficient, Effective and Accountable Government: Fostering a Lean culture that drives accountability and results for the people of Washington.

Sub-Topic: Customer Satisfaction and Confidence

Outcome Measures:

- 1.1 Increase customer service satisfaction.
- 1.3 Increase/maintain timely delivery for state services.

This request aligns the actual costs of legal services with the funding needed to sustain the required workload . It clarifies that state resources are spent in alignment with client needs and risks, shows accountability and responsibility in spending, and offers transparency resulting in customer satisfaction and confidence in legal services provided .

What are the other important connections or impacts related to this proposal?

Following reductions of PDC funding since 2009, PDC's effectiveness in meeting its statutory responsibility has been diminished . In the 2015-17 budget, the Legislature provided funds for technological improvements to enhance the PDC's mission and restore public access to much demanded information. This request for legal services funds will also improve PDC's ability to provide quicker responses in its compliance and enforcement roles. Funding this request and the underlying legal work will also enhance the public confidence in how these laws are enforced. We anticipate bi-partisan support as all stakeholders in the law demand quicker resolution of issues.

PDC supports this request and will be filing a matching request.

What alternatives were explored by the agency, and why was this alternative chosen?

The PDC's previous use of in house counsel is no longer available. This position was unfilled for the majority of the 2013-15 biennium and was eliminated in the 2015-17 budget. An alternative potentially available is for PDC to hire contract counsel to meet

Agency: 100 Office of Attorney General
Decision Package Code/Title: AP PDC Campaign Finance Laws

legal needs (available for some aspects of its work under RCW 42.17A). However, hiring such resources is expected to be significantly more costly and less efficient due to a higher cost of services.

What are the consequences of adopting or not adopting this package?

If this package is not funded, it will require diversion of existing PDC funds to cover legal needs, or, to eliminate the provision of legal advice. If legal advice is not provided, the risk of uninformed and potentially costly decisions is increased, and the number of challenges to PDC actions may also increase.

Diversion of legal resources from representation in support of PDC's enforcement role is also not advisable. Reduced legal representation will result in delays in responding to enforcement advice, and delays in the scheduling of administrative proceedings before the PDC. This may cause cases to become unenforceable if they are not charged within the five year statute of limitations under the law.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

We assume legal services associated with this request will be provided by the AGO Government Compliance and Enforcement Division.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

The funding would be ongoing and carry forward into future biennia.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages	57,456	58,491	115,947
B Employee Benefits	18,381	19,062	37,443
E Goods\Other Services	23,913	25,947	49,860
G Travel	500	500	1,000
J Capital Outlays	2,750	1,000	3,750
Total Objects	103,000	105,000	208,000

Agency: 100 Office of Attorney General
Decision Package Code/Title: AR Antitrust Enforcement Enhancement
Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$1,486,000 and 5.0 Assistant Attorneys General (AAG), 2.0 Paralegal (PL) and 1.0 Legal Assistant (LA) in Fiscal Year (FY) 2016 and \$1,970,000 in FY 2017. Direct litigation costs are included totaling \$264,400 in FY 2016 and \$772,600 in FY 2017.

The additional allotment authority from the Antitrust revolving account will enable the AGO to enforce fair competition laws in Washington by investigating and bringing enforcement actions against antitrust violators. These cases are highly complex and require significant time and resource investments to successfully litigate and recover funds for the state and Washington consumers.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>	
424-6 Anti-Trust Revolving Account-Non-Appropriate	1,486,000	1,970,000	3,456,000	
Total Cost	1,486,000	1,970,000	3,456,000	
Staffing	<u>FY 2016</u>	<u>FY 2017</u>	<u>Annual Average</u>	
FTEs	8.0	8.0	8.0	
Revenue				
<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
424 Anti-Trust Revolving	0420 Charges for Services	1,486,000	1,970,000	3,456,000
Total Revenue		1,486,000	1,970,000	3,456,000

Package Description:

The AGO requests \$1,486,000 and 5.0 AAG, 2.0 PL and 1.0 LA in FY 2016 and \$1,970,000 in FY 2017. This request includes \$264,400 in FY2016 and \$772,600 in FY2017 (biennial total of \$1,037,000) for direct litigation costs, including expenses related to expert witness analysis, documentation and possible testimony preparations. The additional allotment authority will enable the AGO to enforce fair competition laws in Washington by investigating and bringing enforcement actions against anti-trust violators. These cases are highly complex and require significant time and resource investments to successfully litigate and recover funds for the state and Washington consumers.

The AGO enforces state and federal antitrust laws that prohibit price fixing, illegal mergers, monopolization, and other anticompetitive conduct. These antitrust violations significantly harm Washington consumers, businesses, and the state by inflating prices, reducing supply and unfairly blocking competition in the market place. This request for additional staffing resources will enable the AGO's Antitrust Division to enhance its enforcement footprint, deter illegal activity, and recover damages and restitution on behalf of Washington consumers and the State. The Division investigates alleged antitrust violations and brings enforcement actions on behalf of the State and its consumers to stop illegal activity, penalize unfair conduct, and recover damages and restitution for the monetary harm borne by the State and its consumers. Examples of significant cases filed by the Division include the recent Liquid Crystal Displays

(LCDs) price fixing case, in which the Division brought suit against foreign technology companies for fixing the price of LCD panels found in computer monitors, laptops, and televisions; the Tobacco case, where we alleged that Tobacco companies conspired to prevent safe products from reaching the market and; several cases against pharmaceutical companies, involving agreements to prevent competition by generic drugs. In addition to its investigative and enforcement activity, the Division responds to consumer complaints, advises state agencies, and provides consumer education and outreach. Through these efforts, the Division ensures that the state, its consumers, and businesses benefit from a competitive marketplace and that they are compensated for the harm caused by antitrust violations.

The Antitrust division has brought in significant recoveries for the people and the state of Washington, providing a high return on investment for the state. The landmark Tobacco case resulted in payments to the state of Washington of \$2.3 billion to date and expected future payments of tens to hundreds of millions of dollars per year in perpetuity. In addition to the Tobacco case, between 2000 September 2015, the Division recovered \$176 million from other cases. This figure includes millions of dollars returned to the state and its consumers, as well as court applied civil penalties. As an example, the Division obtained a \$63 million recovery in a long running price fixing case involving LCD panels that was filed in 2010, the vast majority of which will be returned to state agencies and consumers who were harmed by the conspiracy.

Notably, these recoveries have come without any expense to taxpayers. Since the 2001-03 biennium, the Division has been entirely self funded through cost and fees obtained from its cases. Therefore, any requests for increased allotments have no impact on the General Fund or other agencies and serve only to require that the Division recover higher amounts of costs and fees in order to replenish the revolving fund.

Given the harm caused by antitrust violations, it is vitally important that the state and its consumers have representation in these matters. Antitrust cases often take years to litigate and are among the most complex and resource intensive cases to bring. The requested positions will be a crucial component of the State's ability to effectively investigate and litigate these cases, and to discharge its role as chief enforcer of the Consumer Protection Act. More specifically:

*Expanded staff provides the Division additional capacity to investigate and enforce anti-trust violations. These cases are expected to include matters involving significant monetary harm to the state or where there is a strong policy implications requiring the State's involvement.

*Additional staffing broadly enhances the Division's ability to aggressively prepare and litigate cases, ensuring that the State is ably represented in matters where it has been harmed.

*Additional staffing gives the Division additional capacity to conduct outreach and education for the public, as well as providing advice to state agencies, minimizing the risk of potential lawsuits against the state.

The AGO contact for this request is Brendan VanderVelde, Budget Director, (360) 586 2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

Antitrust laws promote fair competition on the merits and protect consumers (both individuals and businesses) from anticompetitive practices. Vigorous enforcement of Antitrust laws ensures free and open markets that are the foundation of a healthy economy. This request is for funding to enable the Antitrust Division to increase its enforcement resources and enable it to handle a higher volume of antitrust cases and investigations for the benefit of the state and its citizens. The Division is working to prioritize enforcement resources in matters that involve forms of particularly harmful conduct and that have significant impact on Washington and its markets.

As the Chief antitrust law enforcement official in the state, the Division also discharges other non-litigation responsibilities as well. The Division handles antitrust consumer complaints which are frequently complicated and require hours of investigation. The Division gives informal advice to state agencies concerning such issues as preemption, regulation and immunities, thereby preventing state agencies from incurring expensive lawsuits. It engages in outreach and education so that businesses and consumers are advised of their rights and responsibilities under the law. Additional staffing will enhance the Division's ability to discharge these duties as well.

Performance Measure Detail:

Performance Measure Detail

Activity: A004 Enforcement of Anti-Trust Laws

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
Output Measures			
000011	The AGO's Antitrust Division (ANT) enforces antitrust laws, protects consumers from illegal and harmful practices, and ensures a fair, efficient, and competitive marketplace for businesses. ANT enforcement actions prevent monopolies, price-fixing, and illegal mergers, and recover money for injured consumers and state agencies. Through outreach efforts, ANT educates businesses in order to prevent antitrust violations and protects Washington consumers.	\$0.00	\$0.00

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports the following AGO Strategic Plan Goals:

2-1-3: Combat unlawful anticompetitive activity that harms Washingtonians.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

This request supports the following Results Washington Goals:

Goal 2:

PROSPEROUS ECONOMY: Fostering an innovative economy where businesses, workers and communities thrive in every corner of our state.

Competitive and Diversified Economy

Enforcement of antitrust laws protects economic vitality of state agencies, businesses and consumers by ensuring that fair competition laws and laws against price-fixing are enforced.

Goal 5: Effective, Efficient, and Accountable Government: Fostering a Lean culture that drives accountability and results for the people of Washington

Cost-Effective Government

Customer Satisfaction and Confidence

The Antitrust Division has historically recovered significantly more money for the state and its agencies and consumers than it has expended. The Division is an entirely self funded unit that has produced an exceptional return on investment by generating recoveries of approximately \$66 million in the last 5 years at no cost to taxpayers. The Division's work directly benefits Washington State residents either in the form of monetary recovery or by ensuring a competitive marketplace.

What are the other important connections or impacts related to this proposal?

Vigorous antitrust enforcement leads to free and open markets and encourages competition on the merits, which benefits consumers and businesses. In addition, the state, like businesses or consumers, is just as susceptible to antitrust violations when it acts in its proprietary capacity. In cases where the Division brings an enforcement action on behalf of these entities, recoveries will provide a direct monetary benefit.

What alternatives were explored by the agency, and why was this alternative chosen?

The Division's allotments come solely from the Antitrust Revolving Fund. Recent settlements have enabled the Division to replenish

the revolving fund avoiding the need to find alternative sources of funds. The only other funding option is to ask for funding from the State General Fund, which does not seem necessary given the Division's success and current ability to replenish the revolving fund as intended.

What are the consequences of adopting or not adopting this package?

If not funded, the Division will not have sufficient resources to fully pursue possible antitrust violations that have harmed the state and its consumers, potentially forfeiting significant recoveries.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

Expenditure and revenue calculations and assumptions

We anticipate the added staff will enhance our ability to initiate new investigations and to bring more enforcement cases. As a result, and in anticipation of increased direct litigation costs, we estimate expert services and direct litigation costs totaling \$1,037,000.

We assume expert services totaling approximately \$750,000 arising from litigation and open investigations that may result in litigation.

We assume \$287,000 for discovery costs including the cost of travel, depositions transcripts, court reporter fees, and responding to defensive discovery.

These figures also assume that certain matters currently under investigation progress into litigation.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

The FTE costs are ongoing and will carry forward into future biennia. We also anticipate the direct litigation costs will be ongoing because they relate to matters that are currently in litigation or under investigation, and may not resolve in the current biennium. Further, new cases will continue to arise and necessitate the requested expenditure authority levels in future periods.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages	638,004	649,500	1,287,504
B Employee Benefits	200,796	208,128	408,924
C Professional Svc Contracts	264,400	722,600	987,000
E Goods\Other Services	344,800	370,772	715,572
G Travel	8,000	8,000	16,000
J Capital Outlays	30,000	11,000	41,000
Total Objects	1,486,000	1,970,000	3,456,000

Agency: 100 Office of Attorney General
Decision Package Code/Title: AS Public Counsel Funding
Budget Period: 2015-17
Budget Level: M1 - Mandatory Caseload and Enrollment Changes

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$244,500 in FY2016 and 2.0 Assistant Attorneys General (AAG), 0.25 Legal Assistant (LA) and 1.0 Regulatory Analyst 3 (RA3) at a cost of \$847,000 in Fiscal Year (FY) 2017. Assumptions include expert witness costs of \$244,500 in FY 2016 and \$394,500 in FY 2017. Public Counsel represents residential and small business utility customers before the Utilities and Transportation Commission (UTC) and other forums. At current resource levels, Public Counsel will be unable to adequately address the growth in energy rate increase requests, the expansion of complex environmental issues in the utility field, and the changing industry and regulatory framework.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
111-1 Public Service Revolving Account-State	244,500	847,000	1,091,500
Total Cost	244,500	847,000	1,091,500
Staffing	<u>FY 2016</u>	<u>FY 2017</u>	<u>Annual Average</u>
FTEs	.0	3.3	1.7

Package Description:

The AGO requests \$244,500 in FY2016 and 2.0 AAG, 0.25 LA and 1.0 RA3 at a cost of \$847,000 in FY2017. Assumptions include expert witness costs \$244,500 in FY 2016 and \$394,500 in FY 2017.

Problem:

Around three-fourths of Washington's citizens are customers of a regulated for-profit utility. As customers, they are represented by the Attorney General's Public Counsel unit, especially in utility regulatory proceedings before the Utilities and Transportation Commission. These regulatory proceedings have been growing in number and complexity, but funding for the Public Counsel unit has not kept pace. The Attorney General's Office is requesting that Public Counsel's budget be increased to ensure that Washington's utility customers remain adequately represented.

RCW 80.01.100 provides that the Attorney General's Office represents Washington citizens in utility regulatory matters, including energy regulation and related environmental issues. To carry out this function, the Public Counsel unit was established in 1983 and staffed with two AAGs. The attorney staff has not increased since 1983, however, the range, complexity, and importance of issues which Public Counsel must address on consumers' behalf has substantially expanded (see "Drivers" section below). Similarly, the unit's budget for expert witnesses to address these issues has remained essentially flat for over a decade. With workload increases, the need for expert witnesses to support the state's case on behalf of ratepayers has also increased. If additional funds are not

appropriated, Public Counsel's ability to present adequate expert testimony will be impaired.

Compared to peer states with similar populations, Washington State's Public Counsel is small. For example, Washington spends 13 cents annually per capita on the ratepayer advocate function, compared with 32 cents for Colorado, 67 cents for Maryland, and 20 cents for Arizona. With a much smaller population, Montana spends \$1.32 per capita. Washington's current funding level is not optimal for the effective representation of Washington ratepayers.

Package Description:

2.0 Assistant Attorney General

1.0 Regulatory Analyst 3

0.25 Legal Assistant

\$639,000 expert witness funding

Drivers of the proposal/consumer priorities:

This proposal will help Public Counsel effectively represent the consumer interest in the following areas of increased demand :

* Expansion in baseline regulatory work: The number and frequency of Utilities and Transportation Commission (UTC) general rate cases has expanded significantly, as has the volume and complexity of other regulatory work.

* Electric and natural gas rate cases: A rate case is a significant undertaking and one of the mainstays of Public Counsel's work. One case typically lasts about ten months. The 2011 Puget Sound Energy General Rate Case, to take one example, involved 42 witnesses, 682 exhibits, and 1,100 pages of transcript.

* The frequency of major rate increase cases (General Rate Cases) filed by utilities at the UTC has increased dramatically, tripling between 2000 and 2008. PacifiCorp and Puget Sound Energy (PSE) have each filed six major rate requests in the past seven years, and Avista has filed five requests during that period. After 2008, rate requests have been virtually continuous, filed every 12 to 18 months by PSE, Avista, and PacifiCorp, with a new rate request typically filed 60 to 90 days after the prior increase takes effect. Prior to this period, rate case filings typically occurred on a more intermittent basis. For example, PacifiCorp did not file a rate request for a 14-year period between 1986 and 1999. This trend is ongoing and predicted by the industry and regulators to continue, although some companies are now requesting multi-year rate plans with automatic annual increases.

* Public Counsel also works on reviews of major transactions by utilities, such as the sale of PSE's territory to the newly formed Jefferson County PUD, and PSE's efforts to establish a Liquefied Natural Gas facility in Tacoma.

* Public Counsel represents this state's most vulnerable utility customers, helping shape low income customer assistance programs, utility disconnection policies and practices, and utility bill payment methods.

* Public Counsel participates in enforcement actions when regulated utilities fail to serve customers. For example, Public Counsel has intervened to represent telephone customers in UTC penalty enforcement cases against CenturyLink for service outages, including 911 services, both statewide and in the San Juan Islands.

* Initiative 937, the Energy Independence Act, set statutory targets for renewable energy and energy efficiency. Public Counsel participates in ongoing I-937 compliance dockets reviewing utilities' compliance with these targets and also works on related issues including regulations for solar power in Washington.

* Public Counsel participates in climate change and carbon emission reduction initiatives that affect regulated utilities and customers (including the Environmental Protection Agency's Clean Power Plan).

The AGO contact for this request is Brendan VanderVelde, Budget Director, (360) 586 2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

Impact on clients and services: Public Counsel's work has a direct impact on millions of Washington citizens and their essential services. Around 75% of households and small businesses in the state are consumers of at least one or more regulated electric, natural gas, and/or telecommunications utility service and are thereby represented by the AGO Public Counsel Unit.

In dollar terms, Public Counsel helps save Washington residential and business customers millions of dollars a year at a cost of pennies per year per customer. Public Counsel's work has resulted in \$150 million in customer savings and financial benefits in the past four years with a budget of less than \$4 million. This represents a return of over \$36 for every dollar in the unit budget. For example, when PacifiCorp sought a rate increase in 2014, Public Counsel's arguments helped reduce PacifiCorp's requested rates by \$20 million. Also, when Avista sought a rate increase in 2014, Public Counsel's arguments helped reduce Avista's requested rates by \$14.6 million. Broader consumer representation by Public Counsel will result in closer scrutiny of company proposals which in turn results in more savings for customers, as well as policy outcomes that take the consumer interest into account. Public Counsel is funded from the Public Service Revolving Fund which is supported by an assessment on utility revenues, ultimately paid by customers in rates. Public Counsel does not use General Fund support.

Outcomes/results - Expert witness funding \$639,000:

The requested increased expert witness funding will provide an additional \$639,000 in expert witness funding for projected cases before the UTC.

Current ongoing and anticipated major cases in 2015-17 with projected expert costs are identified in the expenditure assumption section below. The additional \$639,000 included in this request for expert witness funding will allow Public Counsel to present an additional eight to nine expert witnesses in projected UTC adjudications in 2015-17. The additional expert support is necessary to continue to effectively represent rate paying customers before the UTC.

Undesired results - expert witnesses:

Unless the 2015-17 funding gap is addressed, approximately 25 percent of Public Counsel's expert witness funding relative to 2013-15 levels (\$100,000) will have to be reallocated to cover other essential aspects of Public Counsel's operations. Funding in 2013-15 was insufficient to cover all important issues, and continued lack of funding will severely impair the effective representation of customers before the UTC. Without an increase over the 2013-15 level of funding, Public Counsel will not be able to effectively represent customers on the key issues identified in all the major anticipated matters.

Attachment A is an illustrative example of issues on which Public Counsel did not have funds to present expert testimony on behalf of residential and small business customers in the last two biennia. The list is not exhaustive.

Outcomes/results - Additional Staff:

Attorney (2.0 FTE). The new AAG positions will meet the following needs for consumer representation anticipated in the 2015-17 biennium which are currently not met: assist with high volume of rate cases; enforcement cases involving utility and telecom companies; agency rulemaking on rate case alternatives; major transaction or investment reviews dockets, and appellate work (e.g. federal appeal of EPA Clean Power Plan); review legislative proposals, interact with external stakeholders (utilities, industrial customers, environmental organizations) and agency staff, coordinate with other AGO divisions (Ecology, UTC), provide added policy support for the AGO Core Leadership Team.

Regulatory Analyst (1.0 FTE): Public Counsel was unable to participate in the following matters in 2013-15 due to staffing shortages. Funding an additional regulatory analyst would allow Public Counsel to do so.

(1) UTC review of utility renewable resources (e.g. solar/wind) acquisition dockets under I 937 and other renewable energy proposals. Current participation is limited to energy efficiency dockets.

(2) Integrated Resource Planning (IRP) dockets for Avista and PacifiCorp IRP dockets. PCU currently only participates in the PSE IRP (2-5 new cases).

(3) UTC Annual Review of Reliability Reports (Avista and PacifiCorp)

(4) UTC Utility Pole Attachment Rulemaking

(5) Environmental Protection Agency Clean Power Plan and related state programs (limited participation in 2013-15).

Legal Assistant 2 (0.25 FTE): This request will bring the existing Public Counsel LA to a full time position. The additional workload

and paper flow resulting from addition of an AAG and RA3 to the unit will require additional litigation support resources, including production of written expert testimony, additional file management and organizational requirements due to the document intensive nature of utility cases.

Performance Measure Detail:

Activity (0011) Representing Ratepayers
 Performance Measure (2531): Consumer Utility Rate Savings
 Program 040

Current 2015 2017 Target: \$40,000,000 of consumer utility rate savings per biennium, reported annually

Expected incremental change in annual performance target: \$5,000,000. We estimate the requested resources will generate an approximate 25 % increase in customer utility rate savings (\$5 mil annually), starting in FY 2017, by providing added staff and expert witnesses in UTC cases. The added resources will enable PCU to identify and address additional issues that have a financial impact on consumers. Examples of issues and their related financial impacts have been identified in Attachment A.

Performance Measure Detail

Activity: A011 Representing Ratepayers

		Incremental Changes	
		<u>FY 2016</u>	<u>FY 2017</u>
Outcome Measures			
002531	The AGO’s Public Counsel Unit (PCU) protects consumers and businesses by advocating fair, just, reasonable, and sufficient utility rates, and by ensuring that customers pay only for reasonable and cost-effective programs. PCU’s efforts have helped save consumers nearly \$150 million over the past four years and will continue to save Washingtonians money on utility rates.	\$0.00	\$5,000,000.00

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

The budget request helps implement Goal 2 of the AGO Strategic Plan:

Goal 2: SERVE THE PEOPLE PROTECT THE LEGAL RIGHTS OF THE PEOPLE OF THE STATE OF WASHINGTON.

2 1 Pursue Economic Justice. Fight Fraud and Protect Washingtonians' Pocketbooks.

2 2 7 Protect the Environment and improve public health

Does this DP provide essential support to one or more of the Governor’s Results Washington priorities?

Goal 2 Prosperous Economy: Fostering an innovative economy where businesses, workers and communities thrive in every corner of our state. Helping keep utility rates paid by business and residential consumers reasonable and affordable is a positive economic factor for business and family budgets.

Goal 3 Sustainable Energy and a Clean Environment: Reduce our greenhouse gas emissions. Public Counsel will have enhanced ability to participate in UTC review of coal fired generation issues, to advocate for energy efficiency as a clean, low cost resource, and for appropriate distributed energy policies that benefit customers (e.g. solar).

Goal 5 Customer Satisfaction and Confidence: By increasing resources for customer representation, this budget request will contribute to the responsiveness and effectiveness of the state regulatory process in protecting customers, ensuring fair, just, and reasonable rates, adequate service and pursuing clean energy goals.

What are the other important connections or impacts related to this proposal?

In the years to come, Washington's energy, utility, and environmental issues will continue to grow in importance and complexity. This

will affect the quality of life for individuals and businesses throughout the state. Utility ratepayers and telecommunications customers will need the Public Counsel Unit to be appropriately staffed and funded so that their interests can be properly represented in future regulatory proceedings.

What alternatives were explored by the agency, and why was this alternative chosen?

Public Counsel has a statutory obligation to appear for the public in utility regulatory matters. Due to the specialized and technical nature of the subject matter, and the ongoing volume of the work, temporary or rotational staff from other AGO divisions would not meet the need. Expert witnesses are needed due to the specialized subject matter (accounting, economics, finance, engineering, power costs, rate spread/rate design).

What are the consequences of adopting or not adopting this package?

Not funding the request will continue the funding limitations that have impaired Public Counsel's ability to represent customers on significant issues. Funding this request will enable Public Counsel to represent customers more effectively at the UTC and other forums by covering more issues, developing broader expertise, and participating in more cases and matters. This will lead directly to additional financial benefits (e.g. rate savings) and better policy outcomes for customers.

What is the relationship, if any, to the state's capital budget?

None

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

No changes required.

Expenditure and revenue calculations and assumptions

Background Assumptions:

The AGO requests a total increase of \$639,000 for expert witnesses. The additional funds would allow Public Counsel to present an additional eight to nine expert witnesses in UTC dockets during the biennium. We project at least six major cases during the 2015-17 biennium. Current active and anticipated major cases in 2015-17 with projected expert costs:

- \$100,000 PSE Liquefied Natural Gas Facility;
- \$275,000 PSE 2016 General Rate Case;
- \$150,000 Avista General Rate Case;
- \$150,000 PacifiCorp General Rate Case;
- \$175,000 UTC Colstrip Decommissioning and Remediation Docket(s);
- \$100,000 Cascade Natural Gas General Rate Case.
- \$950,000 TOTAL

Note: The amount requested for expert witness costs excludes the existing funding available of about \$311,000.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

These costs are ongoing and will carry forward into future biennia.

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages		207,739	207,739
B Employee Benefits		64,130	64,130
C Professional Svc Contracts	244,500	394,500	639,000
E Goods\Other Services		176,131	176,131
G Travel		2,000	2,000

J	Capital Outlays		2,500	2,500
	Total Objects	244,500	847,000	1,091,500

Attachment 1 is an illustrative examples of issues on which Public Counsel did not have funds to present expert testimony on behalf of residential and small business customers in the last two biennia. The list is not exhaustive.

Case	Issue(s) not addressed by PCU Expert Witness	Financial Impact of Issue (dollars at stake)
Avista 2015 General Rate Case	Customer info/management IT system	\$109 million capital expenditure
PSE 2014 Power Cost Only Rate Case	Colstrip maintenance; Centralia Power Purchase Agreement; Snoqualmie Hydroelectric Project; Electron Hydro Project power purchase; Renewal of BPA transmission rights	Approximately \$15 million (issue was size of rate reduction)
Avista 2014 General Rate Case	Power costs (modelling and forecasting issues)	\$7 million
PacifiCorp 2013 General Rate Case	Rate of return (investor profit)	\$8-10 million
Natural Gas Utility Pipeline Replacement Plans (2013)	Replacement of high-risk natural gas pipe	PSE (up to \$8 m per year) Avista (\$740,000 per yr) Cascade (\$1.1 million per yr) NW Natural (\$1.5 m per yr) (rate recovery in later proceedings)
Avista 2012 General Rate Case	Rate of return	\$15 million
PSE 2011 General Rate Case	Rate of return Power costs Federal taxes	\$32 million \$24 million \$8.1 million

Agency: 100 Office of Attorney General
Decision Package Code/Title: N0 AAG Recruitment and Retention
Budget Period: 2015-17
Budget Level: PL - Performance Level

Recommendation Summary Text:

The Office of the Attorney General (AGO) requests \$5.873 million in FY 2017 to address significant attorney recruitment and retention challenges due to low, uncompetitive salaries. These recruitment and retention challenges threaten the provision of legal services to the state of Washington and generate unnecessary costs for the taxpayers.

Fiscal Detail

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
001-1 General Fund - Basic Account-State		422,000	422,000
001-2 General Fund - Basic Account-Federal		53,000	53,000
111-1 Public Service Revolving Account-State		14,000	14,000
19A-1 Medicaid Fraud Penalty Account-State		18,000	18,000
405-1 Legal Services Revolving Account-State		5,339,000	5,339,000
424-6 Anti-Trust Revolving Account-Non-Appropriate		27,000	27,000
Total Cost		5,873,000	5,873,000

Revenue

<u>Fund</u>	<u>Source</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
001 General Fund	0393 Health & Human Svc		53,000	53,000
405 Legal Serv Rev Acct	0420 Charges for Services		4,784,000	4,784,000
Total Revenue			4,837,000	4,837,000

Package Description:

The AGO seeks to address a retention and recruitment challenge among our Assistant Attorneys General (AAG) that continues to threaten the state's ability to defend itself in court, to protect abused and neglected children, to reduce liability, to assist state agencies in following the law, to protect the public from sexually violent predators, and to assert our state's rights.

As shown in Attachment 1, AAG salaries remain significantly lower than our public sector peer law offices, including prosecuting attorney offices and city attorney offices around the state. The uncompetitive nature of our salaries continues to result in high turnover, loss of talent and experience, and challenges recruiting to fill key positions. In this package, we seek \$5.873 million to bring AAG salaries up to the average of our public sector law firm peers in Washington to reduce our competitive disadvantage and slow the rate of attrition.

Attachment A - AAG Salary Data versus WA Public Sector Market

Recruiting and retaining talented, experienced attorneys with subject-matter expertise is essential to the AGO's ability to provide high quality legal services to the state and people of Washington. Low, uncompetitive salaries result in higher attrition. High attrition increases risk, drives up training costs, increases the otherwise-avoidable need for state agencies to hire expensive outside counsel, burdens managers, and reduces efficiency, when experienced attorneys that can handle greater caseloads leave - all costing the state significant resources. Uncompetitive salaries also make it difficult for the AGO to fill positions requiring a certain experience level, challenging the agency's ability to litigate complex cases, in which significant state resources are often at risk.

AAGs are legal professionals exempt from civil service and do not receive step increases. In recent years, we have analysed every opportunity to save money while maintaining our client service levels. In 2013, these efforts to increase our efficiencies allowed us to reprioritize some resources in order to close a small portion of the salary gap with our public sector peers. Then in 2014, the Governor proposed, and Legislature granted, \$3.4 million of a \$7.2M AGO request to close another portion of the gap in recognition of this critical need. This action did help to temporarily stabilize our turnover rate, lowering it from 12.4% in FY14 to 8.5% FY15. Since 2014, however, local governments have also chosen to invest in attorney salaries in comparable public law offices. Even with the recent cost of living adjustment for all state employees, AAG salaries now lag behind the average salaries of attorneys in comparable law offices by nearly as much as they did in 2013. As a result, our turnover rate has jumped up again in FY16 to 12.9%.

The AGO contact for this request is Brendan VanderVelde, Budget Director, (360) 586 2104.

Narrative Justification and Impact Statement

What specific performance outcomes does the agency expect?

Our objective is to ensure the state and the taxpayers are provided high quality legal services. To do so, we must recruit and retain talented, experienced attorneys with subject-matter expertise through competitive salaries.

The information depicted in Attachment A was obtained from Clark, King, Kitsap, Pierce, Spokane, Snohomish and Thurston Counties along with the Cities of Everett, Olympia and Tacoma via requests for salary data and information about the placement and progression of the attorneys who work for those entities. A comparison was then made to average AAG salaries at various experience levels. As can be seen on the graph, AGO salaries continue to be significantly lower than these public employees at nearly all experience levels.

Overall, AGO salaries average \$9,500 per year behind the average of our peer public sector attorneys in Washington. For attorneys with six to 20 years of experience, the gap is more acute - over \$12,000 on average. In the 2014 appropriation funding our request for recruitment and retention, the legislature included a proviso that targeted the salaries of attorneys with one to five years of experience. As a result, our starting salaries are more competitive with our peers. However, in all other levels of experience, the state's salaries lag significantly behind.

The AGO's low salaries result in two main challenges that threaten our ability to maintain a stable, well trained, and highly skilled set of attorneys representing the state of Washington.

- * Retention: We are losing talented and experienced attorneys to other public sector jobs in Washington.
- * Recruitment: We struggle to recruit attorneys, particularly for positions requiring specialized knowledge and expertise.

To address retention and recruitment and the associated costs and challenges described below, we request funding sufficient to bring AAG salaries to the average of public sector law offices in the state.

Retention:

The AGO is continuing to experience troubling attrition rates among attorneys driven by uncompetitive salaries. Since the start of FY 2016, 12 attorneys have separated in just over two months. Since the beginning of the last biennium, we've lost 123 attorneys, which represents 22% of our total AAG workforce at all levels of experience and in every location.

The cumulative turnover for AAGs during the past two fiscal years is 20.9%, which is considerably higher than average of 17.5% for other state agencies. With an average turnover of over 50 attorneys per fiscal year, or approximately one attorney per week, the

turnover costs are substantial. Policy guidance from the Office of Financial Management website offers that "the cost of turnover estimates range from one-half of a departing employee's salary to two times a departing employee's salary." Using the lowest estimate, attorney turnover costs the state around \$2.3 million per year.

Typically, attorneys leaving our office stay in public service, taking jobs at cities and counties for substantial pay increases. Some recent examples are illustrative:

- * In January of 2015 we lost an attorney to Grays Harbor County; she received a salary increase in excess of \$10,000.
- * In October of 2014 we lost an attorney to the City of Kent. The AAG was hired into the position of Assistant City Attorney for a salary increase of \$16,000.
- * In September of 2014 the University of Washington hired one of our experienced attorneys and doubled his salary to serve as legal advisor to the president.
- * In July of 2014 an experienced attorney accepted a position as Labor Relations Manager at the City of Redmond for a \$20,000 increase.
- * In June of 2014 an attorney accepted a position as Senior Litigation Attorney with the Puget Sound Educational District for a \$9,000 increase.
- * In May of 2014, King County hired one of our attorneys as a Senior HR Policy Advisor at a salary increase of \$60,000.
- * In March, April and May of 2014, Pierce County hired three of our attorneys into prosecutorial positions, offering each salary increases.

In addition to losing talent to other jurisdictions, we are also losing attorneys to other state agencies. In FY 2014, 19 AAGs were hired by other state agencies, with an average salary increase of 13.1%. AAGs transfer to other state jobs ("movement") at double the rate of employees at other state agencies. In FY 2014, the average movement rate for state agencies was 1.9%. The AGO movement rate for the same time period was more than double, at 3.9%. When these transfers occur, the state ends up paying highly trained attorneys more money to stop practicing law.

To put a face on these losses, the following is an excerpt from a resignation letter of an experienced torts Attorney in our Seattle Office who resigned in August of 2015 to accept a position with the Veteran's Administration as a Staff Attorney for Office of General Counsel, Department of Veterans Affairs, in large part because of salary concerns. He writes,

"This is bittersweet. I have had the privilege of working with good people doing good things. I have been fortunate to work for someone as talented and passionate as Paul, my team leader. I have had the privilege to work in Torts under the leadership of Mike, our Section Chief. Regrettably, while I have excelled and accomplished some great things at the Office, I have not been able to make ends meet for my family based on my AAG salary. Thus, I have accepted a position that will allow me to better provide for my family."

Recruitment:

Salary has inhibited recruitment of qualified attorneys in a couple of key ways. First, we are aware that some candidates, including many of our own law clerks, do not apply because our salaries will not support their law school debt load, and many candidates withdraw from consideration once salary is discussed.

Second, we have challenging recruitment issues when attempting to hire attorneys for positions requiring substantial experience or expertise. While our advertisements often seek candidates with higher levels of experience, many of those who apply have little to no experience.

This dearth of experienced applicants is an especially difficult issue in our Torts Division, which requires talented, experienced AAGs with particular subject matter expertise to litigate critical, high dollar, high stakes legal matters and to help our clients manage risk. During the last biennium it took three recruitment processes in order to find an experienced attorney to serve on our Torts team that represents the Washington State Patrol and WSDOT. We are now advertising Torts positions at a level of 3-5 years of experience, much lower than the optimum experience level, in order to generate an applicant pool.

The repercussions of our recruitment and retention issues are far reaching as the AGO provides legal services and advice to all state agencies, boards, and commissions and represents the State of Washington and its people in all legal matters before the courts. From a cost benefit perspective, investing in our office makes good financial sense. For example, if this request is funded, the state can expect the following financial benefits:

1) Protecting taxpayer dollars:

The AGO is responsible for handling legal matters that have significant impact on the state treasury. For example, our office defended two major pension lawsuits related to the Legislature's repeal of gainsharing in 2007 and its discontinuation of UCOLA in 2011. In November of 2014, the state prevailed before the Washington Supreme Court. The state actuary estimates that these two decisions saved Washington \$766 million in a single biennium.

In *US v Washington*, (the Culverts case), our attorneys are working with five affected agencies (DOT, DNR, Parks, DFW, ECY) on the State's defense of claims that tribal treaties compel the replacement of thousands of state roadway culverts at a cost that will likely exceed two billion dollars. Moreover, the legal ramifications of an adverse decision in the Culvert Case may extend well beyond culverts to other development activities of the state, at costs that could grow exponentially.

Attorneys in the AGO routinely defend the state against dozens of employment related claims each year. Three such claims, currently pending, seek compensation for: overtime hours, alleged failure to provide employment preferences and, alleged failure to provide health care benefits. These three cases alone represent a potential exposure to the state in excess of \$400 million.

The State and Washington taxpayers are in a more advantageous position to handle high-risk, high-dollar value cases like these when we are able to hire and retain excellent attorneys with the requisite subject matter experience to stay through the course of long, complex litigation that can last for years.

2) Reducing State Liability:

Reducing liability starts with sound legal advice. Talented, experienced AAGs with subject matter expertise are essential to helping our state agency clients manage risk. By providing sound legal advice to the 200 state agencies, boards, and commissions, our office has the potential to reduce, mitigate, or prevent state exposure. High turnover and our inability to retain experience challenges our ability to consistently deliver high quality, timely legal advice.

When tort claims arise against the state, having an experienced lawyer to defend the state's interests is imperative. Over the last 20 years, the Torts Division has managed an average active caseload of 546 cases, ranging in value from tens of thousands of dollars to tens of millions of dollars per case. The AGO's torts division is currently providing top notch defense to the state with payouts below the recent historical average. However, high attrition threatens these performance measures.

The AGO's torts division is losing attorneys with subject matter expertise and litigation experience due to low salaries. Since July 1, 2014, our Torts division has lost 7 attorneys. One of those attorneys stated in his exit interview that he would have stayed longer if the pay was better. With his departure, the AGO lost the lead counsel on the Oso landslide cases, and expertise in complex land use torts, such as floods, wildfires, landslides, and recreational immunity.

The AGO is also finding it difficult to recruit attorneys with any degree of litigation experience for our Torts Division. Our priority torts cases do not lend themselves to being staffed with inexperienced attorneys, and as described above, we are hard pressed to find experienced attorneys to staff them. At the same time, we are trying to put two attorneys on larger cases to ensure that we are ready to respond to plaintiff's counsel that typically staff cases with a large trial team consisting of multiple attorneys.

3) Less reliance on expensive SAAGs

AAG turnover creates specific issues for clients when we are unable to retain expertise in-house to address their unique legal needs. More frustrating, when we develop in-house expertise, we often lose the attorney to public sector employers who pay more. When this happens, we must contract with private attorneys to serve as Special Assistant Attorneys General (SAAGs) to address clients' needs. As result, the state pays more. Depending on their expertise, SAAGs are considerably more expensive than AAGs. While an AAG costs approximately \$140/hour, private sector rates can be three to five times as much. As an example, in recent years an attorney with expertise in immigration law left the office to work for another state agency. With her departure, the use of a SAAG with immigration expertise was necessary and legal services costs increased by \$20,000 a month, four times the cost of the AAG.

The Office of the Attorney General provides legal counsel and guidance to all state agencies and defends executive and legislative actions aimed at improving life for Washingtonians. By adjusting our attorney salaries and stabilizing our workforce, we can help improve outcomes for the people of Washington in a wide range of matters including: juvenile dependency and civil commitment matters; civil prosecution of sexually violent predators; and assisting regulatory agencies prevent fraud and recover penalties.

Performance Measure Detail

Activity: A002 Civil Commitment of Sexually Violent Predators

Incremental Changes
FY 2016 **FY 2017**

Outcome Measures

002535	As a result of the efforts to detain, evaluate and treat sex offenders who are most likely to reoffend, fewer people are victimized and the public is protected from those individuals.	0.00	0.00
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Activity: A003 Criminal Investigation and Prosecution

Incremental Changes
FY 2016 **FY 2017**

Output Measures

002536	When a county prosecutor has a conflict of interest or needs assistance for other reasons, there are competent, highly-skilled AGO prosecutors available to represent the county resulting in greater public protection. The AGO’s Criminal Litigation Unit (CLU) reviews important appeals and provides additional legal assistance upon request. The CLU also reviews and approves (or defends against) claims filed by persons claiming to have been wrongfully convicted and imprisoned. Crimes of fraud involving state agencies are properly investigated and prosecuted so that state agencies and other victims can recover their losses, and similar criminal activity against state agencies can be curtailed and deterred.	0.00	0.00
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Activity: A004 Enforcement of Anti-Trust Laws

Incremental Changes
FY 2016 **FY 2017**

Output Measures

000011	The AGO’s Antitrust Division (ANT) enforces antitrust laws, protects consumers from illegal and harmful practices, and ensures a fair, efficient, and competitive marketplace for businesses. ANT enforcement actions prevent monopolies, price-fixing, and illegal mergers, and recover money for injured consumers and state agencies. Through outreach efforts, ANT educates businesses in order to prevent antitrust violations and protects Washington consumers.	\$0.00	\$0.00
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Activity: A005 Enforcement of Consumer Protection Laws

Incremental Changes
FY 2016 **FY 2017**

Output Measures

002534	The division’s activities are expected to foster a fair, competitive and non-deceptive market place, prevent consumer harm, promote voluntary compliance with economic regulation by business, and resolve disputes between buyers and sellers in the marketplace. The division is also expected to recover a portion of the costs of its operation through its litigation activity. Finally, the Division is expected to promote timely and effective new motor vehicle warranty service through mandatory arbitration and foster compliance with the Manufactured Housing Landlord Tenant Act.	\$0.00	\$0.00
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Activity: A008 Investigation and Defense of Tort Lawsuits

Incremental Changes
FY 2016 **FY 2017**

Output Measures

002537 The AGO's Torts Division protects taxpayers by vigorously defending tort claims and lawsuits against the state, state agencies, boards, commissions, and officers and employees acting within the scope of their employment. The AGO Torts Division consists of experienced litigators and trained legal professionals who provide high quality and efficient legal services to the state. The provided legal services promotes government efficiency by employing concerted efforts to resolve claims and lawsuits at the earliest possible stages through the early resolution program, motions practice, direct negotiation and mediated settlement. The AGO Torts Division maintains a high rate of litigation success (including case appeal litigation) with many lawsuits dismissed with zero payout

0.00%

0.00%

Activity: A009 Investigation and Prosecution of Medicaid Fraud and Resident Abuse

Incremental Changes

FY 2016 FY 2017

Outcome Measures

002538

\$0.00

\$0.00

The state share of Medicaid recoveries is utilized to combat fraud, provide Medicaid services, and monitor prescription drug abuse. The 2012 legislature created the False Claims Act (FCA) and the Medicaid Penalty Account (MPA). These acts create the state funding source for the AGO's Medicaid Fraud Control Unit (MFCU), and for the Medicaid program integrity responsibilities managed by the Washington State Health Care Authority. Through MFCU's civil efforts, recovered money that was illegally obtained in violation of either the federal or state FCA is returned to the State and placed into the MPA. The recovered money includes restitution, interest and penalties. The 2013 legislature authorized the Prescription Drug Monitoring Program that is also funded from the MPA. Through MFCU's criminal and non-false claims act civil efforts under this program, additional money is returned to the State.

Activity: A010 Legal Services to State Agencies

Incremental Changes

FY 2016 FY 2017

Outcome Measures

002539

0.00

0.00

By providing high quality legal assistance and representation to Washington's state agencies, boards, and commissions, the AGO improves government services, increases government efficiency, and prevents costly lawsuits. The legal services provided by the AGO saves taxpayer dollars, promotes the public interest, and ensures agencies are able to fulfill their essential missions. The AGO provides excellent, option-based legal advice to help the state promote the public good. In the litigation context, the AGO initiates, defends, and resolves cases effectively and efficiently for the benefit of the state, its agencies, and its citizens.

Is this decision package essential to implement a strategy identified in the agency's strategic plan?

This budget request supports the following Strategic Plan Goals:

Goal 1: SERVE THE STATE - PROVIDE EXCELLENT, INDEPENDENT, AND ETHICAL LEGAL ADVICE AND REPRESENTATION TO OUR CLIENT THE STATE OF WASHINGTON.

- 1-1 Provide an office structure, culture and practices that ensure attorneys and professional staff are equipped to deliver high quality legal services in a timely and efficient manner.
- 1-2 Improve support to attorneys and staff performing litigation, to ensure robust trial skills and practices are in place.
- 1-4 Proactively engage in risk management efforts to reduce client and agency risk.

Goal 2: SERVE THE PEOPLE - PROTECT THE LEGAL RIGHTS OF THE PEOPLE OF THE STATE OF WASHINGTON.

Goal 3: SERVE OUR EMPLOYEES - CREATE A POSITIVE WORK ENVIRONMENT THAT RECOGNIZES EMPLOYEES AS ITS MOST VALUABLE RESOURCE AND FOSTERS INTEGRITY, PROFESSIONALISM, CIVILITY, AND TRANSPARENCY.

3-1 Recruit and retain a high quality, highly skilled, and highly effective workforce to meet the legal needs of the people and state of Washington.

Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

This request supports Results Washington Goal 1: World Class Education - All Washingtonians have access to education that prepares them to transition to elementary, middle, high school, postsecondary, career and lifelong learning opportunities. AAGs provide advice and representation to all state educational entities, including the Department of Early Learning, the Office of the Superintendent of Public Instruction, our community and technical colleges and our four year universities. AAGs have represented the state's interests in challenging cases related to the funding of basic education. We often lose attorneys to these clients, and this package will support retention of attorneys with expertise.

This request supports Results Washington Goal 2: Prosperous Economy - Fostering an economy where businesses, workers and communities thrive in every corner of our state. AAGs represent the Department of Commerce, the Department of Revenue, and the Department of Labor and Industries, and AAGs in Labor & Personnel and our Education divisions advise and represent all state agencies and institutions of higher education with matters related to employees and labor issues.

This request supports Results Washington Goal 3: Sustainable energy and a clean environment - Building a legacy of resource stewardship for the next generation of Washingtonians. Our office is involved in providing advice and representation to all key state agencies engaged in this work, including the Departments of Ecology, Fish and Wildlife, Parks, Natural Resources, Agriculture as well as the Utilities and Transportation Commission.

This request supports Results Washington Goal 4: Healthy and safe communities - Fostering the health of Washingtonians from a healthy start to safe and supported future. The AGO supports health and safety in the State. Our Medicaid Fraud AAGs promote integrity in the Medicaid program, both in civil and criminal enforcement. Our criminal division attorneys prosecute crimes on behalf of county prosecutors and the Governor. Our sexually violent predator unit protects public safety by civilly prosecuting dangerous sexual offenders. AAGs represent the Washington State Patrol, the Department of Health, Health Care Authority, and the Department of Social and Health Services.

This request supports Results Washington Goal 5: Effective, Efficient and Accountable Government - Fostering a Lean culture that drives accountability and results for the people of Washington. By reducing turnover, this request will result in the more efficient and effective provision of legal services by reducing dependence on outside counsel, reducing training costs, reducing recruitment costs, and retaining knowledge and expertise for our state agency clients.

What are the other important connections or impacts related to this proposal?

Positive and adverse impacts associated with adopting or not adopting this package are described in the Narrative section of this request document.

What alternatives were explored by the agency, and why was this alternative chosen?

In the last few years, we have made significant sacrifices in staffing and expenses and reprioritized spending while ensuring consistent service delivery levels to our client agencies. We are unable to fully address the problem with internal reprioritization, and we are requesting additional resources in order to effectively close the salary gap between our AAGs and their public sector counterparts in Washington State.

What are the consequences of adopting or not adopting this package?

Positive and adverse impacts associated with adopting or not adopting this package are described in the Narrative section of this request document.

What is the relationship, if any, to the state's capital budget?

None.

What changes would be required to existing statutes, rules, or contracts, in order to implement the change?

None.

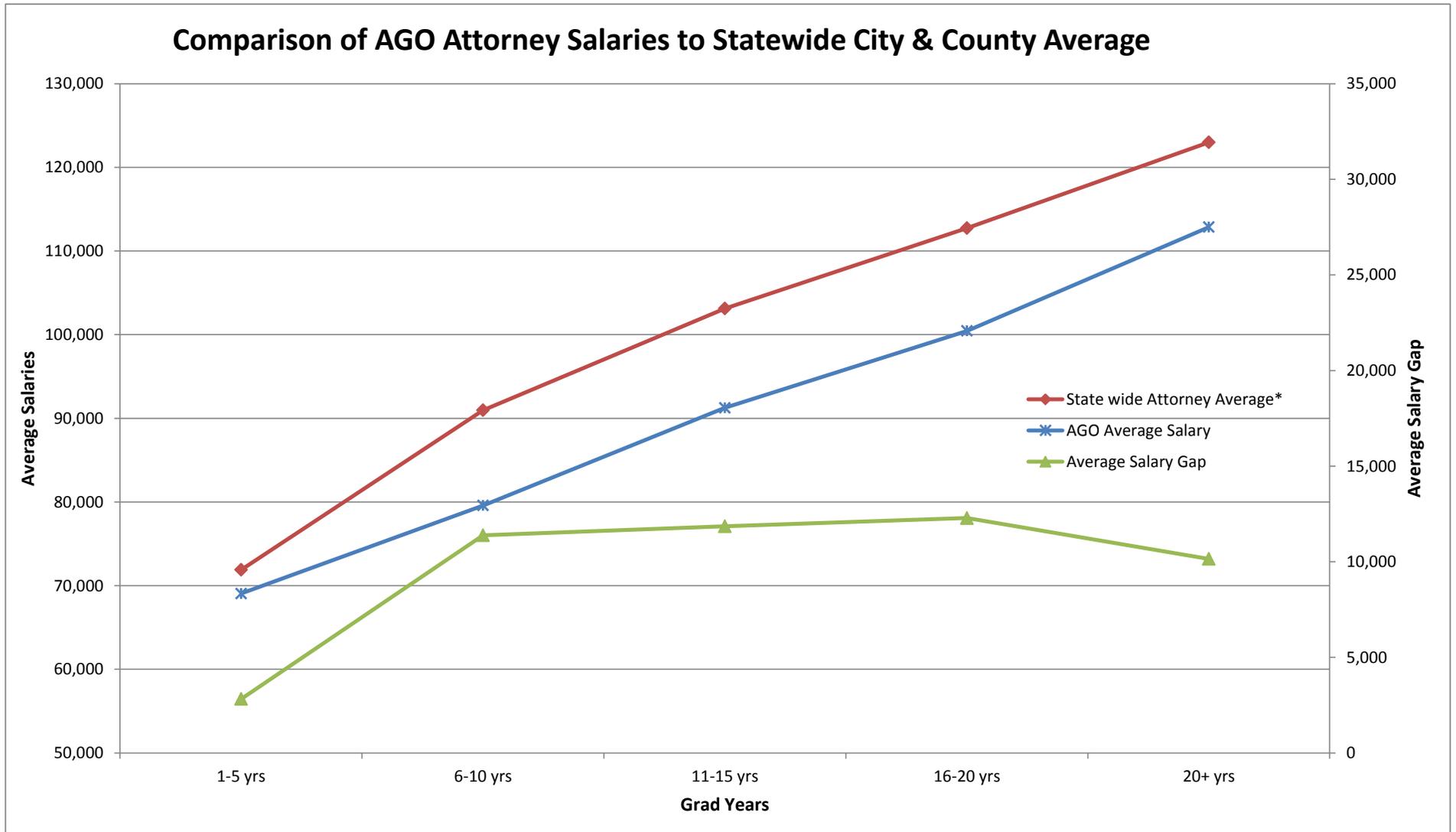
Expenditure and revenue calculations and assumptions

Cost details and calculations are shown in Attachment B.

Which costs and functions are one-time? Which are ongoing? What are the budget impacts in future biennia?

The costs associated with this request are ongoing in nature and will carry forward into future biennia .

<u>Object Detail</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>Total</u>
A Salaries And Wages		4,943,000	4,943,000
B Employee Benefits		930,000	930,000
Total Objects		5,873,000	5,873,000



*Includes Clark, King, Kitsap, Pierce, Spokane, Snohomish and Thurston Counties, and City of Everett, Olympia and Tacoma

ATTACHMENT B AAG SALARY GAP

YEARS	Number of AAG's	Grad Years	AGO Average Salary	State wide Attorney Average*	Average Salary Gap	Annual Salary Cost	Annual Benefits Cost	Total Cost
1-5 yrs	91	2010-2015	69,059	71,884	2,825	257,000	48,000	305,000
6-10 yrs	97	2005-2009	79,582	90,970	11,388	1,105,000	208,000	1,313,000
11-15 yrs	67	2000-2004	91,263	103,114	11,851	794,000	150,000	944,000
16-20 yrs	55	1995-1999	100,445	112,730	12,285	676,000	127,000	803,000
20+ yrs	208	1973-1994	112,852	122,998	10,146	2,110,000	397,000	2,507,000
TOTAL						4,942,000	930,000	5,872,000

*Clark, King, Kitsap, Pierce, Spokane, Snohomish, Thurston, Olympia, Everett, Tacoma

TAB C

REVENUES



Summarized Revenue Report

- Not Applicable -

TAB D

ADDITIONAL
INFORMATION



ELECTRONIC SUBMITTAL CONFIRMATION FORM

Agency Number: 100

Agency Name: Office of the Attorney General

Agencies are required to provide electronic access to each decision package in their budget request as part of the submittal process. Confirm Option 1 or 2 below:

Option 1(Preferred):

- This agency posts all decision packages for our 2015 supplemental budget request to our public facing website at the following URL:

URL: <http://www.atg.wa.gov/budget.aspx>

Option 2:

- This agency does not post decision packages and has forwarded copies via e-mail to OFM.Budget@ofm.wa.gov.

These decision packages conform to ADA accessibility compliance policy.

Agency Contact: Brendan VanderVelde

Contact Phone: (360) 586-2104

Contact E-mail: brendanv@atg.wa.gov

Date: October 5, 2015