

Fiscal Highlights

RS2477 Roads Litigation - Zackery N. King

What is the state's budget for public lands litigation, and more specifically, for RS2477 Roads cases? A large array of stakeholders and funding mechanisms currently in place create a difficult environment for tracking appropriations to, and expenditures for, RS2477 Roads litigation. Appropriations are made through two subcommittees, three agencies, and through five different line items. Three restricted accounts are used to appropriate and expend funds as well. A major portion of these appropriations trickle down to the Public Lands Policy Coordination Office (PLPCO) and pay the salaries and benefits of attorneys working on RS2477 Roads cases, and cases involving other issues. The table below lists each of these entities.

Appropriations Subcommittee	Agency	Line Item [Line Item Name (Agency or Program)]	Restricted Fund
1) Natural Resources, Agriculture, and Environmental Quality	1) PLPCO	1) Constitutional Defense Council (Governor's Office)	1) CDRA
2) Executive Offices and Criminal Justice	2) Governor's Office	2) Governor's Office (Federal Law Evaluation and Response Program)	2) Sovereign Lands Management Account
	3) Attorney General's Office	3) Public Lands Litigation (Governor's Office)	3) Land Exchange Distribution Account
		4) Attorney General (Attorney General's Office)	
		5) Public Lands Policy Coordination Office (Public Lands Office)	

Coupled with the table above, the appropriations tables below highlight the complexity of the funding mechanisms currently in place for the RS2477 Roads litigation. The tables below show the FY 2013 and FY 2014 budgets for the five state entities involved in the roads litigation. However, not all the funding in the tables is for the RS2477 litigation.

FY 2013 Revised Appropriation						
	Attorney General	Const. Defense Council	Governor's Office	Public Lands Litigation	PLPCO	Grand Total
General Fund					328,500	328,500
General Fund, One-time					500,000	500,000
GFR - Constitutional Defense	359,200	1,758,600	250,000	1,000,000	1,383,100	4,750,900
GFR - Sovereign Lands Mgt					1,000,000	1,000,000
Beginning Nonlapsing			123,600	1,045,300	322,000	1,490,900
Closing Nonlapsing					(322,000)	(322,000)
Lapsing Balance						
Grand Total	359,200	1,758,600	373,600	2,045,300	3,211,600	7,748,300

FY 2014 Appropriated						
	Attorney General	Const. Defense Council	Governor's Office	Public Lands Litigation	PLPCO	Grand Total
General Fund					835,600	835,600
General Fund, One-time					25,000	25,000
GFR - Constitutional Defense	359,200		250,000	1,012,600	1,412,500	3,034,300
GFR - Sovereign Lands Mgt						
Beginning Nonlapsing					322,000	322,000
Closing Nonlapsing						
Lapsing Balance						
Grand Total	359,200		250,000	1,012,600	2,595,100	4,216,900

It is currently difficult to determine the actual costs of RS2477 Roads litigation. One of the reasons is that the attorney time spent on these cases is not being tracked. Consequently, a general number can be derived from the overall costs of employing the attorneys and other staff working at PLPCO, but a specific number for RS2477 Roads litigation is currently unavailable.

The Constitutional Defense Council (CDC), created in [UCA 63C-4a-202](#), is another entity that has an impact on RS2477 Roads litigation. The CDC has authority to direct money from the Constitutional

Defense Restricted Account (CDRA), and it has multiple oversight functions outlined in statute (UCA 63C-4a-203) that impact the usage of funds.

Counties also impact state expenditures on public lands litigation issues and are an important factor in determining their costs. A decision was made by the CDC to reimburse counties - from state funds - for some of their RS2477 Roads litigation costs.

Statutorily, counties are provided six seats on the CDC - four with voting rights - and county representatives are appointed by the Utah Association of Counties (UAC). An RS2477 Plan is required in UCA 63C-4a-102 and its development is to be a partnership between the state and the UAC. A May 20, 2013 article in the Salt Lake Tribune, titled [State to Shoulder Utah Counties' RS2477 Court Costs](#), highlighted the fiscal impact to counties and to the state in this arena.