

Budget Brief – Office of the Attorney General

EOCJ-AG

SUMMARY

The Attorney General is the constitutional legal officer of the state, serves as counsel in all cases in which the state or its officers are a party, and provides legal services for the state. The Attorney General’s mission is to protect people from crime, protect children from abuse and neglect, protect the state as an entity, and protect the state’s natural resources.

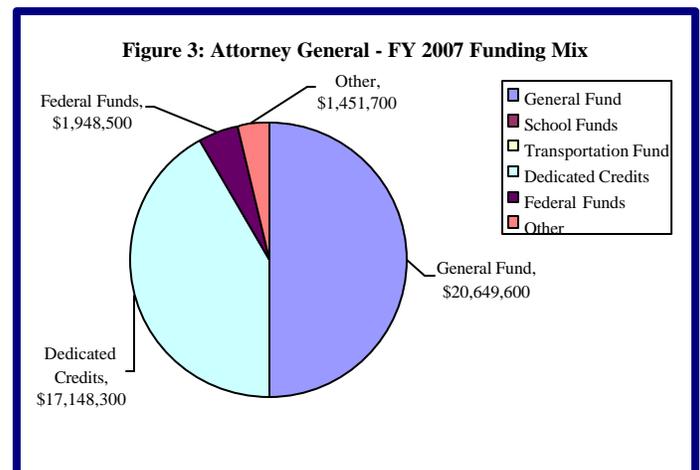
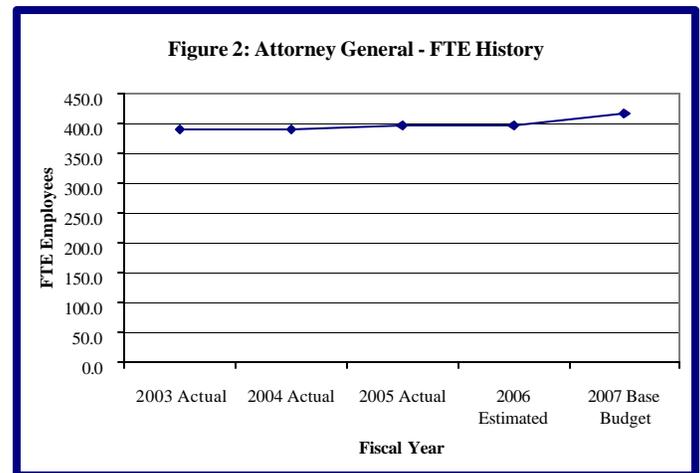
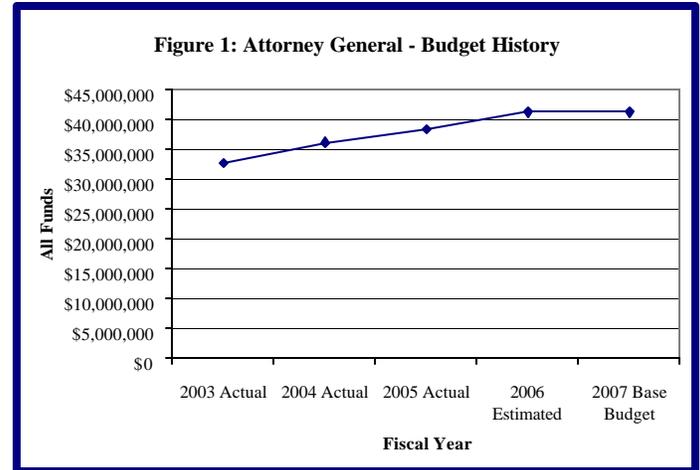
ISSUES AND RECOMMENDATIONS

Base Budget: The Analyst recommends that the Legislature appropriate the Attorney General’s Base Budget in FY 2007.

Outside Counsel Costs for Workers Compensation Fund (WCF) Declaratory Judgment Suit: This was a state court declaratory judgment suit brought by (WCF) against the state to determine the state’s interest in WCF’s assets. The Utah Constitution Art. VII, Sec. 16 and UCA 67-5-1(2) mandate that the Attorney General provides legal counsel in matters filed against the state, UCA 78-33-11 requires the Attorney General to be a party to declaratory judgments. UCA 67-5-5 provides authority for the Attorney General to hire outside counsel. The local firm of Suitter & Axland was hired by the Governor and Legislature to analyze the issues in this suit during the 2004 legislative session. The cost for these services was paid from the Attorney General’s operations budget, and the AG’s Office now seeks reimbursement.

The Analyst recommends a one time General Fund supplemental appropriation of \$169,600 for FY 2006 to pay for this outside counsel cost.

David C. et al. versus Michael Leavitt et al. Plaintiff’s Attorney Fees: Pursuant to the Federal District Court’s Order of July 2, 2002, the state is obligated to pay plaintiff’s attorneys fees. The case is an on-going class action litigation concerning the state’s child welfare system. The defendants are the Governor, DHS director, and the DCFS director, sued in their official capacities. Plaintiffs are all children subject to the state’s child welfare system. The plaintiffs’ attorneys are the National Center for Youth Law (NCYL), and the law firm of Morrison and Foerster. Federal Law, 42 USC 1985, authorizes plaintiffs’ attorneys to collect fees from the defendant states and local governments if the plaintiffs qualify as prevailing parties. The Federal District Court for Utah and the



Tenth Circuit Court of Appeals have both held that the plaintiffs are the prevailing party in this litigation. The US Supreme Court has declined Certiorari. This submission generally covers the time period of 1 September 2004 through 31 August 2005 in the amount of \$135,800.

The Analyst recommends a one time General Fund supplemental appropriation of \$135,800 for FY 2006 to pay for this cost.

Highland High School Settlement: The Utah State Board of Examiners (comprised of the Governor, Attorney General and the State Auditor) formally reviewed the claim for compensation due to the Highland High Debate Team crash, and recommended payment in the amount of \$955,000.

The Analyst recommends a one time General Fund supplemental appropriation of \$955,000 for FY 2006 to pay for this cost.

Spyware Control Act Litigation: The Spyware Control Act passed by the Legislature was challenged in April, 2004. The local law firm of Miller Magleby & Guymon PC was hired to defend the state. Most of the defense cost was underwritten by a third party (about \$50,000). Outside counsel fees of \$7,700 were paid from the Attorney General's operating budget in September, 2004, with the expectation of being reimbursed.

The Analyst recommends a one time General Fund supplemental appropriation of \$7,700 for FY 2006 to pay for this cost.

ACCOUNTABILITY DETAIL

The Attorney General tracks a wide variety of its activities and actions in fulfilling its constitutional and statutorily defined duties and responsibilities. A complete listing of this performance detail is provided for the Subcommittee's evaluation in the Issue Brief. The Analyst recommends that the Subcommittee review the performance measures and select those it considers most informative for regular legislative review.

BUDGET DETAIL

Most of the funding in this budget pays for staff support for the office. Approximately 82.2 percent of the budget is for personnel services.

Budget Recommendation

The Analyst recommends a total FY 2007 appropriation of \$41,198,100 to the Attorney General. Although not included in the base funding, the Analyst also recommends a one-time, supplemental General Fund appropriation of \$1,268,100 for FY 2006 to pay for state litigation costs as delineated above.

Intent Language

The Analyst recommends the Legislature continue using the following intent language which was approved in House Bill 1 (FY 2006 Appropriations Act), 2005 General Session:

The Legislature intends that funds provided for the Attorney General shall not lapse.

The Legislature intends that funds provided for Contract Attorneys shall not lapse.

The Legislature intends that funds provided for the Children's Justice Centers shall not lapse.

The Legislature intends that funds provided for Prosecution Council shall not lapse.

The Legislature intends that funds provided for Domestic Violence shall not lapse.

LEGISLATIVE ACTION

This section is a summary of what actions might be taken if the Legislature wishes to adopt the recommendations of this brief. The Analyst recommends the Legislature consider adopting:

1. A base FY 2007 appropriation of \$41,198,100 to the Office of the Attorney General.

2. A one-time General Fund supplemental appropriation of \$169,600 for FY 2006 to pay for outside counsel costs for the Workers Compensation Fund (WCF) Declaratory Judgment Suit.
3. A one-time General Fund supplemental appropriation of \$135,800 for FY 2006 to pay for the latest installment of plaintiff's attorneys' fees in the ongoing settlement of the David C. et al. versus Michael Leavitt et al. lawsuit.
4. A one-time General Fund supplemental appropriation of \$955,000 for FY 2006 to pay for the compensation due to the Highland High Debate Team crash.
5. A one-time General Fund supplemental appropriation of \$7,700 for FY 2006 to pay for outside counsel costs for the Spyware Control Act Litigation.
6. Intent language making each of the line items appropriations funding within the Office of the Attorney General nonlapsing as shown above.

BUDGET DETAIL TABLE

Attorney General						
Sources of Finance	FY 2005 Actual	FY 2006 Appropriated	Changes	FY 2006 Revised	Changes	FY 2007* Base Budget
General Fund	18,383,200	20,649,600	0	20,649,600	0	20,649,600
General Fund, One-time	697,800	30,000	0	30,000	(30,000)	0
Federal Funds	1,618,600	1,304,500	657,000	1,961,500	(13,000)	1,948,500
Dedicated Credits Revenue	15,115,100	14,407,300	2,123,300	16,530,600	617,700	17,148,300
GFR - Constitutional Defense	108,100	0	0	0	0	0
GFR - Domestic Violence	78,600	78,600	0	78,600	(300)	78,300
GFR - Public Safety Support	511,000	525,100	0	525,100	0	525,100
GFR - Tobacco Settlement	107,600	100,000	0	100,000	(1,700)	98,300
Attorney General Litigation Fund	256,100	262,400	0	262,400	(400)	262,000
Transfers - Commission on Criminal and Juvenile J	176,900	170,000	26,900	196,900	0	196,900
Transfers - Other Agencies	54,000	57,000	234,100	291,100	0	291,100
Beginning Nonlapsing	1,835,700	600,000	(51,300)	548,700	(548,700)	0
Closing Nonlapsing	(548,700)	0	0	0	0	0
Total	\$38,394,000	\$38,184,500	\$2,990,000	\$41,174,500	\$23,600	\$41,198,100
Line Items						
Attorney General	34,216,800	34,711,300	2,574,300	37,285,600	352,300	37,637,900
Contract Attorneys	1,318,900	300,000	138,000	438,000	(138,000)	300,000
Children's Justice Centers	2,238,900	2,569,500	204,600	2,774,100	(117,300)	2,656,800
Prosecution Council	530,700	525,100	72,100	597,200	(72,100)	525,100
Domestic Violence	88,700	78,600	1,000	79,600	(1,300)	78,300
Total	\$38,394,000	\$38,184,500	\$2,990,000	\$41,174,500	\$23,600	\$41,198,100
Categories of Expenditure						
Personal Services	31,185,200	31,527,100	2,316,900	33,844,000	5,800	33,849,800
In-State Travel	151,500	134,700	1,900	136,600	25,700	162,300
Out of State Travel	203,200	185,300	32,700	218,000	25,700	243,700
Current Expense	4,149,600	5,465,400	(1,645,100)	3,820,300	113,100	3,933,400
DP Current Expense	526,000	697,400	(170,300)	527,100	(82,800)	444,300
DP Capital Outlay	96,700	150,000	(50,600)	99,400	(61,300)	38,100
Capital Outlay	9,500	0	0	0	0	0
Other Charges/Pass Thru	2,072,300	24,600	2,504,500	2,529,100	(2,600)	2,526,500
Total	\$38,394,000	\$38,184,500	\$2,990,000	\$41,174,500	\$23,600	\$41,198,100
Other Data						
Budgeted FTE	397.5	397.5	0.0	397.5	20.0	417.5
Vehicles	34	34	0	34	0	34

*Does not include amounts in excess of subcommittee's state fund allocation that may be recommended by the Fiscal Analyst.