



Fund 2005: Attorney General Litigation Fund

Report to the EOCJ Appropriations Sub-committee (Sept. 2015)

History and Purpose of the Fund

The Attorney General Litigation Fund is a special revenue fund, which was created many years ago to account for funds received and used to pay litigation costs necessarily incurred in furtherance of actions brought or defended under state or federal antitrust, criminal laws, or civil proceedings under Title 13, Chapter 44, Protection of Personal Information Act. These funds are in addition to other funds that are appropriated by the Legislature to the Attorney General. The fund was created in statute, and has been modified a few times. UCA 76-10-3114 describes the fund, its parameters and purpose, and the appropriate uses of fund balances.

Money received by the Attorney General for "judgments, settlements, or compromises as the result of any action commenced, investigated, or prosecuted by the Attorney General, after payment of any fines, restitution, payments, costs, or fees allocated by the court," are to be deposited in the Attorney General Litigation Fund. At the close of any fiscal year, any balance in the fund in excess of \$2 million is transferred to the state General Fund.

Request for Reporting & Oversight

The Legislative Fiscal Analyst requested that the Attorney General's Office provide a report concerning this fund to the Legislature, as part of the annual review of "off-budget" funds. This report is the first such report provided on this fund.

Uses of Litigation Fund Balances

The Litigation Fund may be used by the Attorney General only to pay for the costs incurred in relation to a variety of antitrust and criminal cases, and limited civil proceedings. Funds are used in primarily three ways:

- 1) Annually, the Legislature appropriates money from the Litigation Fund to the Attorney General's main operating line item, to cover some of the costs to employ two antitrust attorneys. Currently, this annual appropriation is \$378,000.
- 2) As the Attorney General incurs miscellaneous out-of-pocket costs associated with cases identified by the fund, the OAG charges those costs to the Litigation Fund directly. Cost may include, among other related items, subject-matter related travel, supplies, equipment, expert witnesses, etc.

- 3) As attorneys or staff of the Attorney General’s office work on cases, the costs of their time may be charged via accounting cost transfers to the Litigation Fund as deemed appropriate.

The chart at the end of this report shows a history of the annual expenditures out of the Litigation Fund.

Revenues to the Litigation Fund

Over the years, revenues to the Litigation Fund have varied greatly. For several years a number of large cases against drug companies yielded substantial judgements. Most of these were returned to the Medicaid program, or deposited in the state General Fund, but some included attorney fees, fines, and penalties, which went to the Litigation Fund. The report below shows the annual amounts received into the Litigation Fund.

