

Budget Brief – Post Conviction Indigent Defense Fund

NUMBER CFAS-06-11

SUMMARY

The Post-Conviction Indigent Defense Fund pays attorney fees for the automatic appeals for individuals convicted of capital crimes. The program was managed by the Attorney General’s office for a period of time but was moved into a separate line item to avoid the appearance of a conflict resulting from the AG prosecuting individuals while directly funding their defense. Funds are housed in the Division of Finance for administrative purposes only.

The Division of Finance manages two accounts that are similar to the Post Conviction Fund. These accounts are funded by participating counties with statutory language for legislative consideration of any shortfall:

- The *Indigent Inmate Defense Fund* is for inmates convicted of crimes while in prison. Sanpete County uses the program for inmates accused of crimes committed at the state prison in Gunnison. No other counties participate at this time.
- The *Indigent Capital Defense Fund* provides money to defend indigents charged with capital crimes in participating counties. The Division of Finance assesses the twenty-four participating counties annually and should be able to manage the fund in FY 2006 without state assistance.

ISSUES AND RECOMMENDATIONS

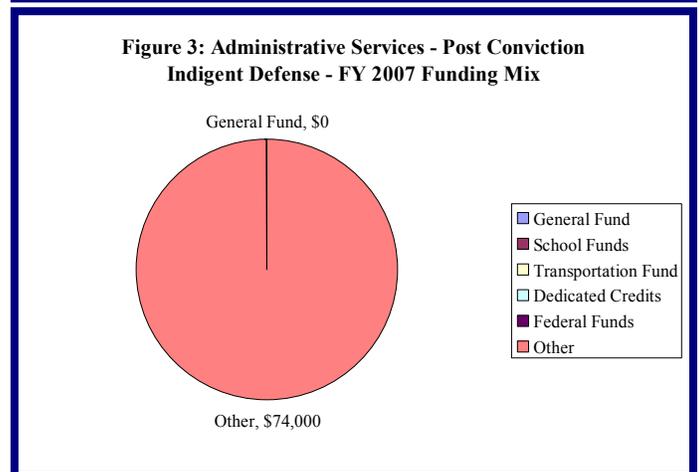
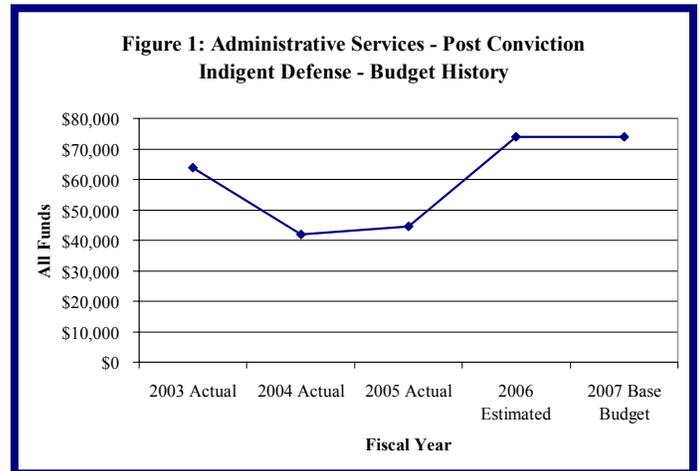
Use Carry-Forward Balances

The program should be able to continue with carry-forward balances in FY 2006. After expending \$44,600 in FY 2005, the fund has \$320,000 remaining in nonlapsing balances. Even if expenditures rise to the program’s current year appropriation of \$74,000, the nonlapsing balance in the program should be sufficient to meet FY 2006 and FY 2007 expenditures. However, at some point in the future the program’s nonlapsing balance will run out, requiring additional funding for the program.

ACCOUNTABILITY DETAIL

Carry-Forward Balances Should Last Until FY 2010

Since FY 2002 annual expenditures in this program have averaged \$44,500. If expenditures from FY 2006 forward average \$60,000 per year, nonlapsing balances will suffice until FY 2010.



BUDGET DETAIL

A General Fund appropriation was last made in FY 2002. Since then, this program has expended nonlapsing carry-forward balances only.

Budget Recommendation

The Analyst recommends a total FY 2007 appropriation of \$74,000, entirely from nonlapsing balances.

Intent Language

The Analyst recommends the Legislature continue using the following intent language which was approved in House Bill 1, 2005 General Session:

It is the intent of the Legislature that funds for the Post Conviction Indigent Defense Fund 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 total appropriation of \$74,000 for the Post Conviction Indigent Defense Fund.
2. Intent language making this appropriation nonlapsing, as shown above.

BUDGET DETAIL TABLE

Administrative Services - Post Conviction Indigent Defense						
Sources of Finance	FY 2005 Actual	FY 2006 Appropriated	Changes	FY 2006 Revised	Changes	FY 2007* Base Budget
Beginning Nonlapsing	364,600	290,600	29,400	320,000	(74,000)	246,000
Closing Nonlapsing	(320,000)	(216,600)	(29,400)	(246,000)	74,000	(172,000)
Total	\$44,600	\$74,000	\$0	\$74,000	\$0	\$74,000
Programs						
Post Conviction Indigent Defense Fund	44,600	74,000	0	74,000	0	74,000
Total	\$44,600	\$74,000	\$0	\$74,000	\$0	\$74,000
Categories of Expenditure						
Current Expense	44,600	74,000	0	74,000	0	74,000
Total	\$44,600	\$74,000	\$0	\$74,000	\$0	\$74,000

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