



Jan. 12th Brief: Post Conviction Indigent Defense Fund

CAPITAL FACILITIES AND GOVERNMENT OPERATIONS

SUMMARY

UCA 78-35a-202 allows persons convicted of a capital crime and sentenced to death to challenge the conviction and have counsel appointed. If a defendant requests counsel and is determined by the court to be indigent, costs of counsel and other reasonable litigation expenses incurred in providing the representation must be paid from state funds by the Division of Finance.

The program was managed by the Attorney General’s (AG) 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, though the division does have administrative rule authority to set reimbursement rates.

ISSUES AND RECOMMENDATIONS

Prior Budget Increases

During the 2008 General Session the Legislature appropriated \$50,000 ongoing General Fund to the Fund as required by S.B. 277 *Post-conviction Remedies Act Revisions* which increased the reimbursement rate to criminal defense attorneys from the Fund.

FY 2009 Budget Reductions

During the 2008 Special Session the Legislature reduced Post Conviction budget by \$7,000 ongoing General Fund and increased the FY 2009 budget by \$5,500 onetime. The reduction reduced the \$50,000 ongoing appropriation given in the 2008 General Session to \$43,000.

FY 2009 Additional 7.5% Budget Reductions

The Analyst recommends a one-time reduction of \$3,600 General Fund in current expenses.

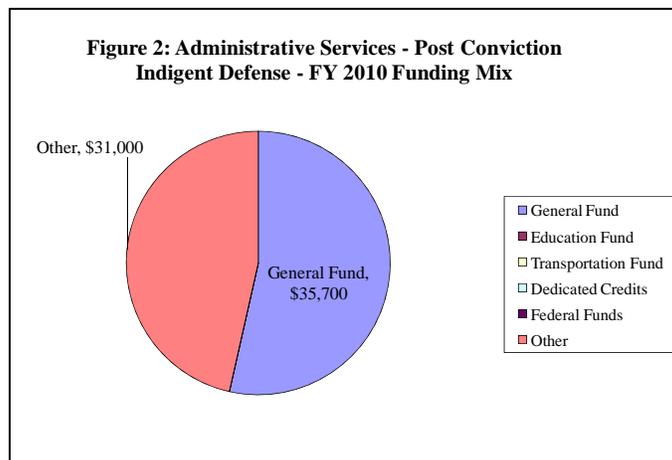
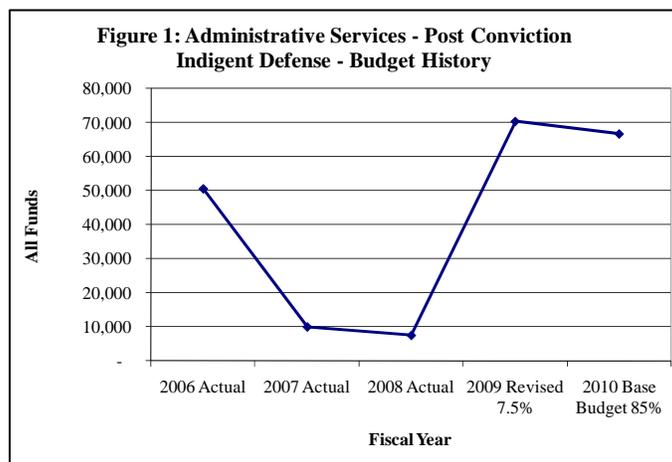
FY 2010 Base Budget Reduction of 15%

The Analyst recommends an ongoing budget reduction of \$7,300 General Fund from current expenses.

LEGISLATIVE ACTION

The Analyst recommends the Legislature consider adopting:

1. A FY 2009 one-time 7.5% reduction of \$3,600 from the General Fund
2. A FY 2010 ongoing 15% base budget reduction of \$7,300 from the General Fund



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BUDGET DETAIL TABLE

Administrative Services - Post Conviction Indigent Defense								
Sources of Finance	FY 2007 Actual	FY 2008 Actual	FY 2009 Approp	7.5% Reduction	FY 2009 Revised	FY 2010 Base	15% Reduction	FY 2010 Revised
General Fund	0	0	43,000	0	43,000	43,000	(7,300)	35,700
General Fund, One-time	0	0	5,500	(3,600)	1,900	0	0	0
Beginning Nonlapsing	269,400	250,000	242,500	0	242,500	217,000	0	217,000
Closing Nonlapsing	(250,000)	(242,500)	(217,000)	0	(217,000)	(186,000)	0	(186,000)
Lapsing Balance	(9,400)	0	0	0	0	0	0	0
Total	10,000	7,500	74,000	(3,600)	70,400	74,000	(7,300)	66,700
Programs								
Post Conviction Indigent Def.	10,000	7,500	74,000	(3,600)	70,400	74,000	(7,300)	66,700
	10,000	7,500	74,000	(3,600)	70,400	74,000	(7,300)	66,700
Categories of Expenditure								
Current Expense	10,000	7,500	74,000	(3,600)	70,400	74,000	(7,300)	66,700
	10,000	7,500	74,000	(3,600)	70,400	74,000	(7,300)	66,700