

**74th OREGON LEGISLATIVE ASSEMBLY – 2007 Regular Session
BUDGET REPORT AND MEASURE SUMMARY**

MEASURE: SB 5535-A

JOINT COMMITTEE ON WAYS AND MEANS

**Carrier – House: Rep. Shields
Carrier – Senate: Sen. Winters**

Action: Do Pass as Amended and Be Printed A-Engrossed

Vote: 17 – 3 – 1

House – Yeas: D. Edwards, Galizio, Jenson, Nathanson, Nolan, Shields

– Nays: Garrard, Hanna

– Exc: Morgan

Senate – Yeas: Bates, Carter, Devlin, Gordly, Johnson, Morse, Nelson, Schrader, Verger, Westlund, Winters

– Nays: Whitsett

– Exc:

Prepared By: Erica Kleiner, Department of Administrative Services

Reviewed By: Robin LaMonte, Legislative Fiscal Office

Meeting Date: 5/18/07

Agency

Public Defense Services Commission

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Biennium

2007-09

Senators: Bates, Carter, Devlin, Gordly, Johnson, Morse, Nelson,
Schrader, Verger, Westlund, Whitsett, Winters

Senator Kurt Schrader, Co-Chair

Representatives: D. Edwards, Galizio, Garrard, Hanna, Jenson,
Morgan, Nathanson, Nolan, Shields

Representative Mary Nolan, Co-Chair

Representative Chip Shields, Public Safety Subcommittee Chair

Budget Summary*

	2005-07		2007-09		Percentage Committee
	Legislatively Approved	Governor's Budget	Committee	Difference from	Change from
	Budget (1)		Recommendation	Governor's Budget	Governor's Budget
General Fund	\$ 182,477,879	\$ 212,098,215	\$ 212,954,517	\$ +856,302	+0.4%
Other Funds	991,474	605,708	605,708	0	0.0%
Total	\$ 183,469,353	\$ 212,703,923	\$ 213,560,225	\$ +856,302	+0.4%

Position Summary

Authorized Positions	57	64	64	0
Full-time Equivalent (FTE) Positions	55.45	63.25	63.25	0.00

(1) Includes adjustments through the December 2006 meeting of the Emergency Board

* Excludes Capital Construction expenditures

Summary of Revenue Changes

The agency is funded mostly with General Fund. The Public Defense Services Commission's (PDSC) Legal Services Division and Public Defense Services are supported by General Fund. The Contract and Business Services Division of the PDSC is supported by General Fund and anticipates approximately \$688,870 in net Other Funds in the 2007-09 biennium from an application fee (\$20) and a contribution amount that is paid by persons seeking representation at state expense. The total anticipated fees of \$3.3 million Other Funds are used to offset the General Fund cost of public defense eligibility verification staff in the Judicial Department (\$2.6 million Other Funds) and for operating expenses for public defense administration.

Summary of Subcommittee Action

The Subcommittee approved a budget of \$212,945,517 General Fund, \$605,708 Other Funds, and sixty-four positions (63.35 full-time equivalent positions). This is a 5.8 percent total funds increase from the agency's essential budget level. The Subcommittee approved a budget for the PDSC that deletes most of the funding for policy packages (as is highlighted in detail below), but adds a mandated caseload adjustment in the essential budget level (EBL).

Package 090/LFO Package 807 – Analyst Adjustment/Amend Governor's Adjustment: The Subcommittee adjusted the package by eliminating the unspecified reduction of \$19,722,401 and adding back the total General Fund amount of \$19,722,401.

Package 100 – Juvenile Dependency Representation: The Subcommittee eliminated the entire package of \$526,546 General Fund and four positions (4.00 FTE) to improve the quality of representation and timeliness of juvenile dependency appeals.

Package 101 – Employee Commensurate Compensation: The Subcommittee eliminated the entire package of \$350,659 General Fund to adjust appellate attorney compensation to provide parity with Department of Justice appellate attorneys.

Package 102 – Post Conviction Relief: The Subcommittee eliminated the entire package of \$303,453 General Fund and four positions (4.00 FTE) to provide for the establishment of a post-conviction relief unit.

Package 103 – Public Defense Provider Compensation: The Subcommittee eliminated the entire package of \$29,358,320 General Fund to increase the hourly rate to \$95 per hour for death penalty attorneys and \$70 per hour for all other case types, increased investigator hourly rates, and to reduce the disparity between the prosecutors and public defense contractors. Note: The adjustment in the essential budget level, plus the recommended funding level of \$2,690,933 in policy package 808, will enable the agency to increase the hourly rate to \$60 and \$45 and close the prosecutor/contractor salary gap by approximately one-sixth.

Package 806 – EBL Package 040 Mandated Caseload Adjustment: The Subcommittee approved \$8,981,946 General Fund and specified approval of two components:

- Add an appellate mandated caseload adjustment that adds \$1,917,852 General Fund and eight positions (8.00 FTE). The Department of Justice has an essential budget level adjustment for appellate caseload growth. This adjustment aligns PDSC with its counterparts in the Department of Justice for its caseload growth projections.
- Add a personal services adjustment that adds \$7,064,094 General Fund to the mandated caseload adjustment in the Public Defense Services Account. The mandated caseload is calculated using the caseload increase plus the standard 3.1% adjustment for services and supplies inflation, and an increase of 9.08 percent to the personal services portion of expenditures that reflects the average statewide adjustment for personal services.

The Subcommittee noted that, with the addition of the mandated caseload adjustments for appellate services, it will be important to have data which is readily comparable to the data compiled by other agencies regarding mandated caseload. Therefore, the Subcommittee recommended that the Public Services Commission include in future budget requests a clear delineation between expenses for trial-level representation and expenses for appellate-level representation. The Subcommittee also recommended that the PDSC adopt a name for its Legal Services Division that reflects the services provided by the division.

Package 808 – Co-Chair Provider Compensation Adjustment: The Subcommittee approves \$2,690,933 General Fund which will partly enable the PDSC to increase the hourly rate to \$60 and \$45 and reduce the prosecutor/contractor salary gap by one-sixth as is mentioned above. The Subcommittee discussed the testimony from providers on the effect of the current compensation rates on public defender retention and hiring rates, the difficulty in finding qualified attorneys in some parts of the state, and the need for adequate funding. The Subcommittee also discussed the need for qualified attorney representation on juvenile appellate matters, which would have been funded in Policy Package 100.

Summary of Performance Measure Action

The Subcommittee approved the key performance measures, as detailed on the attached Legislatively Adopted 2007-09 Key Performance Measures form, with a recommendation that PDSC review its measures during the interim, and add realistic but aggressive targets. The Subcommittee recommended that the review focus on identifying areas where outcomes can be identified and tracked, as several of the measures relate to process rather than outcomes. This should include measures that track the effect of best practices on the cost of providing services. The Subcommittee also recommended that the PDSC add a customer service measure, which is a standard requirement for all agencies, including Judicial Branch agencies.