

**75th OREGON LEGISLATIVE ASSEMBLY – 2009 Regular Session
BUDGET REPORT AND MEASURE SUMMARY**

MEASURE: HB 5040-A

JOINT COMMITTEE ON WAYS AND MEANS

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

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

Vote: 20 – 0 – 2

House – Yeas:

House – Yeas: Buckley, D. Edwards, Galizio, Garrard, Gilman, Jenson, Kotek, Nathanson, Richardson, Shields, G. Smith

– Nays:

– Exc: Komp

Senate – Yeas: Bates, Carter, Girod, Johnson, Monroe, Nelson, Verger, Walker, Winters

– Nays:

– Exc: Whitsett

Prepared By: Michael Kaplan, Department of Administrative Services

Reviewed By: John Borden, Legislative Fiscal Office

Meeting Date: June 11, 2009

Agency

Public Defense Services Commission

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Biennium

2009-11
2007-09

Budget Summary*

	2007-09 Legislatively Approved Budget (1)	2009-11 Essential Budget Level	2009-11 Committee Recommendation	Committee Change from 2007-09 Leg. Approved	
				\$\$ Change	% Change
General Fund	\$ 215,263,430	\$ 235,774,872	\$ 212,197,385	\$ -3,066,045	-1.4%
Other Funds	\$ 631,568	\$ 676,845	\$ 512,049	\$ -119,519	-18.9%
Total	\$ 215,894,998	\$ 236,451,717	\$ 212,709,434	\$ -3,185,564	-1.5%

Position Summary

Authorized Positions	68	78	69	1
Full-time Equivalent (FTE) positions	65.85	77.07	69.00	3.15

2007-09 Disappropriation

General Fund	\$	\$	\$	-51,400
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(1) Includes adjustments through the December 2008 meeting of the Emergency Board

* Excludes Capital Construction expenditures

Summary of Revenue Changes

The Public Defense Services Commission is funded primarily by General Fund. The Commission does generate some Other Funds revenue by charging an application fee and a contribution amount that is paid by persons seeking representation at state expense. The Public Defense Services Commission's Appellate Division and Public Defense Services Account are supported by General Fund. The Contract and Business Services Division of the PDSC is supported by General Fund and Other Funds.

Summary of Public Safety Subcommittee Action

The Commission's function is to "establish and maintain a public defense system that ensures the provision of public defense services in the most cost-efficient manner consistent with the Oregon Constitution, the United States Constitution, and Oregon and national standards of justice." Eligible persons are entitled to adequate legal representation in court, at state expense, under provisions of the Oregon and federal constitutions and Oregon statutes. Public defense representation is not limited to criminal cases. Other statutory and constitutional provisions include: the right to appointed counsel in court proceedings involving life, liberty, and property, including habeas corpus; post-conviction relief; contempt; juvenile dependency, delinquency, and termination of parental rights; civil commitments for the mentally ill or developmentally disabled; and parole and probation violation proceedings. The U.S. Supreme Court has also held that the right to appointed counsel includes related costs such as expert witnesses and investigation expense.

The Commission is comprised of three main divisions. The Contract and Business Services Division is responsible for administering the public defense contracts that provide legal representation for those who are financially eligible. In addition, the Appellate division provides constitutionally mandated representation in the appellate courts to those who also present financial eligibility. Finally, over 93 percent of the Commission's budget derives from the Public Defense Service Account, the fund dedicated to pay for legal representation and associated costs.

Public defense at the trial court level is accomplished primarily by contracts between the Commission and nonprofit public defenders, law firms, consortia of attorneys, or individual attorneys. Legal representation on criminal matters for eligible persons at the appellate court level is primarily handled by attorneys who are employees of the Commission.

The Subcommittee approved a budget of \$212,709,434 total funds, \$212,197,385 General Fund, including 69.00 FTE. The approved total funds budget represents a 1.5 percent decrease from the 2007-09 Legislatively Approved Budget but a 10 percent decrease from the 2009-11 Essential Budget Level.

The Subcommittee approved two packages, 810 Reduce Mandated Caseload Adjustment and 811 Additional Program Reductions, that spanned the Commission's divisions. The approved reductions are described below.

Appellate Division

The Subcommittee approved Package 810 which reduced General Fund Personal Services costs by \$910,297 and 5.52 FTE. This package eliminated the mandated caseload adjustment for the Appellate Division, which included the addition of five new attorney positions and one legal secretary. These positions were meant to reduce the filing of an opening brief to a maximum of 180 days, which was recently set administratively by the Court of Appeals. The current standard of 250 days will remain in effect for the 2009-11 biennium.

The Subcommittee further reduced Personal Services and Services and Supplies costs by approving Package 811. These reductions, all General Fund, were \$170,668 Personal Services including 1.00 FTE, and \$102,414 Services and Supplies. The reduction eliminates one long-term vacant attorney position in the Juvenile Unit and reduces services and supplies for travel, training, and equipment replacement for the Division.

The Committee instructed the Commission to maintain the level of staffing for the Juvenile Unit commensurate with the staffing level approved by the 2007-09 Legislature (four positions and 4.00 FTE). The Commission was also directed to track discretely the budgetary activities of its Juvenile Unit in the Oregon Budget Information Tracking System.

The Subcommittee also recommended a 2007-09 General Fund disappropriation of \$26,500. This amount represents savings identified by the Commission.

Public Defense Services Account

The Subcommittee approved Package 810, which reduced Special Payments by \$9,179,835. The Public Defense Services Commission has estimated that current forecasted caseload will decline from what was originally projected in its mandated caseload adjustment. This adjustment will not result in a decline in trial service representation.

Additionally, the Subcommittee approved Package 811, which reduced Special Payments by \$13,149,226. This package reduces trial level representation by a projected six weeks.

Contract and Business Services

The Subcommittee approved Package 804, which reduced Other Funds Personal Services costs by \$164,796, including 1.55 FTE. This package rolls up the Commission's 2007-09 reductions, eliminating two long-term vacant internal auditor positions.

The Subcommittee also approved a General Fund reduction of \$65,047 in Services and Supplies for travel and training expenditures by approving Package 811.

The Subcommittee also recommended a 2007-09 General Fund disappropriation of \$24,900, representing savings identified by the Commission.

Finally, the Subcommittee approved the following budget note:

Budget Note

The Commission is instructed to report to the 2010 Special Session of the Legislature on current caseload trends and any resentencing costs required by legislation enacted during the 2009 Session.

Summary of Performance Measure Action

See attached Legislatively Adopted 2009-11 Key Performance Measures form. The Subcommittee approval of the Commission's proposed Key Performance Measure changes and related targets with the exception of KPM #11 – Capacity for Providing Quality Representation. The Subcommittee did not recommend approval of this KPM. The Subcommittee directed that the Commission work with the Legislative Fiscal Office to evaluate the need for additional Key Performance Measure changes during the 2009-11 interim.