

**76<sup>th</sup> OREGON LEGISLATIVE ASSEMBLY – 2011 Regular Session  
BUDGET REPORT AND MEASURE SUMMARY**

**MEASURE: SB 5540-A**

**JOINT COMMITTEE ON WAYS AND MEANS**

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

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

**Vote:** 25 – 0 – 0

House – Yeas: Beyer, Buckley, Cowan, Freeman, Garrard, Komp, Kotek, McLane, Nathanson, Nolan, Richardson, G. Smith, Thatcher, Whisnant  
– Nays:  
– Exc:

Senate – Yeas: Bates, Devlin, Edwards, Girod, Johnson, Monroe, Nelson, Thomsen, Verger, Whitsett, Winters  
– Nays:  
– Exc:

**Prepared By:** Linda Gilbert, Department of Administrative Services

**Reviewed By:** John Borden, Legislative Fiscal Office

**Meeting Date:** June 27, 2011

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**Agency**  
Public Defense Services Commission

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**Biennium**  
2011-13

## Budget Summary\*

	2009-11	2011-13	2011-13	2011-13	Committee Change from 2009-11 Leg Approved	
	Legislatively Approved Budget (1)	Current Service Level	Governor's Budget	Committee Recommendation	\$ Change	% Change
General Fund	\$ 210,589,161	\$ 241,961,766	\$ 209,794,161	\$ 222,540,623	\$ 11,951,462	+5.7%
Other Funds	12,861,974	468,312	468,312	1,192,555	(11,669,419)	-90.7%
Total	\$ 223,451,135	\$ 242,430,078	\$ 210,262,473	\$ 223,733,178	\$ 282,043	+0.1%

## Position Summary

Authorized Positions	69	83	83	76	+7
Full-time Equivalent (FTE) Positions	69.00	81.84	81.84	75.40	6.40

(1) Includes adjustments through March 2011.

\* Excludes Capital Construction expenditures

## Summary of Revenue Changes

In 2009-11, House Bill 2287 generated Other Funds revenue from temporary surcharges, fees, and fines revenues. This revenue was primarily used to backfill General Fund reduction in the Judicial Department and the Public Defense Services Commission. The temporary surcharges and fees in House Bill 2287 sunset at the end of the 2009-11 biennium. The Department's 2011-13 budget shifts House Bill 2287 expenditures back to General Fund.

Part of the 2011-13 budget's General Fund depends on the passage of House Bills 2710 and 2712.

Additional Other Funds come from the Application/Contribution Program. Judicial Department Verification Specialists help determine whether a person must pay a fee to apply for public defense and a contribution amount toward anticipated defense costs of the case. These fees and contributions fund the Application/Contribution Program. In 2011-13, the Commission expects this account to generate about \$3.5 million. This funding is primarily used to support Verification Specialist positions around the state, both in the courts and in the Commission's office.

## Summary of Capital Construction Subcommittee Action

The Public Defense Services Commission is an independent body that governs the Office of Public Defense Services. The Chief Justice of the Oregon Supreme Court appoints the seven Commission members. The agency has two main divisions. The Public Defense Services Account,

over 90 percent of the Commission's budget, provides legal representation for those who cannot pay for it. The Appellate division provides constitutionally mandated representation in the appellate courts to those who also are eligible for the services. The Contract and Business Services division administers all of the public defense services contracts and provides administrative support to the staff in the Appellate division.

The Subcommittee approved a budget of \$222.5 million General Fund, \$223.7 million total funds, and 75.40 full-time equivalent positions. The approved total funds budget is 0.1 percent higher than the 2009-11 Legislatively Approved Budget and 7.7 percent lower than the 2011-13 Current Service Level budget, in part due to downward caseload adjustment.

The Subcommittee approved the following standard budget adjustments across all divisions:

- Packages 086 and 087, which eliminate standard inflation and reduce Personal Services by 5.5 percent.
- Package 801: Targeted Statewide Adjustments. This package is a 6.5 percent reduction from total General Fund Services and Supplies expenditures in the Commission's requested budget.
- Package 819: Supplemental Statewide Ending Balance. This reduction is intended to be applied against spending levels in the second year of the biennium and not to affect program delivery in the first year. To reinforce that intent, the agency's budget bill includes specific language allowing the agency to expend up to 54 percent of its total biennial General Fund appropriation in the first year of the biennium.

The amount of the reduction for the supplemental ending balance may be restored to the agency during the February 2012 session for the second year of the biennium, depending on economic conditions. Therefore, the Co-Chairs of the Joint Committee on Ways and Means expect the agency director to closely monitor the quarterly revenue forecast and other economic indicators to gauge adequacy of funding in the second year and manage the budget accordingly.

#### Appellate Division

This division is the defense counterpart to the Appellate Division of the Oregon Department of Justice. It provides statutorily and constitutionally mandated appellate representation to financially eligible individuals in misdemeanor and felony appeals, inmates requesting judicial review of decisions by the Board of Parole and Post-Prison Supervision, and parents in juvenile dependency and termination of parental rights appeals. The majority of this division's representation occurs in the Oregon Court of Appeals and the Oregon Supreme Court.

The Subcommittee took action on the following packages in addition to the standard budget adjustments described above.

- Approved Package 811: AD 040 Adjustment. This package reduces General Fund by \$1.3 million and eliminates seven positions, 6.44 full-time equivalents. It reflects an updated Appellate Division mandated caseload estimate.
- Approved Package 813: Agency Reduction Plan. This package produces savings needed to balance to the Co-Chairs' approved budget. The reduction is \$1.4 million General Fund, five positions, and 5.00 full-time equivalents. The reduction is based on the Commission's 2011-13 reduction plan.

- Approved Package 814: Co-Chairs' Supplemental General Fund. This package restores the reduction in package 813. It is based on additional resources becoming available above the May 2011 revenue forecast. The additional resources arise from the updated fee and fine structure in House Bill 2710 and House Bill 2712.

#### Public Defense Services Account

This division pays the cost of legal representation in criminal cases for financially eligible persons. It also covers the cost for financially eligible persons who are facing involuntary civil commitment proceedings; contempt; probation violation; juvenile court matters involving allegations of delinquency and child abuse or neglect; and other limited civil proceedings. This representation is required by the United States Constitution, the Oregon Constitution, and Oregon statutes.

The Subcommittee took action on the following packages, in addition to the standard budget adjustments previously described:

- Approved Package 812: ACP for Public Defense. This package provides \$750,000 Other Funds expenditures limitation to be used for public defense. The revenue source is the Commission's Application Contribution Program (ACP) account ending balance, which currently exceeds its reserve requirements.
- Approved Package 814: Co-Chairs' Supplemental General Fund. This package restores the \$12.6 million General Fund reduction taken in policy package 801, which reduced Services and Supplies by 6.5 percent, and adds \$0.2 million. It is based on additional resources becoming available above the May 2011 revenue forecast. The additional resources arise from the updated fee and fine structure in House Bill 2710 and House Bill 2712.

#### Contract and Business Services

This division administers the public defense contracts that provide legal representation for financially eligible persons, and processes requests and payments for non-contract fees and expenses. In addition, the division provides administrative support for the agency as a whole.

The Subcommittee made only standard package adjustments.

### **Summary of Performance Measure Action**

See attached Legislatively Adopted 2011-13 Key Performance Measures form.

**DETAIL OF JOINT COMMITTEE ON WAYS AND MEANS ACTION**

**SB 5540-A**

**Public Defense Services Commission  
Linda Gilbert -- (503) 378-4588**

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
2009-11 Legislatively Approved Budget at March 2011 *	\$ 210,589,161	\$ 0	\$ 12,861,974	\$ 0	\$ 0	\$ 0	\$ 223,451,135	69	69.00
2011-13 ORBITS printed Current Service Level (CSL)*	\$ 241,961,766	\$ 0	\$ 468,312	\$ 0	\$ 0	\$ 0	\$ 242,430,078	83	81.84
2011-13 Governor's Recommended Budget*	\$ 209,794,161	\$ 0	\$ 468,312	\$ 0	\$ 0	\$ 0	\$ 210,262,473	83	81.84

SUBCOMMITTEE ADJUSTMENTS (from GRB)

SCR 001 Appellate Division

Package 086 Eliminate Inflation										
Services and Supplies	\$ (35,358)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ (35,358)	0	0.00	
Package 087 Personal Service Adjustment										
Personal Services	\$ (753,479)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ (753,479)	0	0.00	
Package 101 Employee Commensurate Compensation										
Personal Services	\$ (1,040,235)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ (1,040,235)	0	0.00	
Package 801 Targeted Statewide Adjustments										
Services and Supplies	\$ (92,307)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ (92,307)	0	0.00	
Package 811 AD 040 Adjustment										
Personal Services	\$ (1,148,628)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ (1,148,628)	(7)	(6.44)	
Services and Supplies	\$ (149,321)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ (149,321)	0	0.00	
Package 813 Agency Reduction Plan										
Personal Services	\$ (1,429,339)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ (1,429,339)	(5)	(5.00)	
Package 814 Co-Chair's Supplemental General Fund										
Personal Services	\$ 1,429,339	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 1,429,339	5	5.00	
Package 819 Supplemental Statewide Ending Balance										
Personal Services	\$ (440,925)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ (440,925)	0	0.00	
Services and Supplies	\$ (53,429)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ (53,429)	0	0.00	

SCR 002 Public Defense Services Account

Package 086 Eliminate Inflation									
Services and Supplies	\$ (5,731,373)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ (5,731,373)	0	0.00

\*Excludes Capital Construction Expenditures

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE	
			LIMITED	NONLIMITED	LIMITED	NONLIMITED				
Package 087 Personal Service Adjustment Services and Supplies	\$ (3,459,526)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	(3,459,526)	0	0.00	
Package 100 Juvenile Dependency Caseload Reduction Services and Supplies	\$ (11,033,520)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	(11,033,520)	0	0.00	
Package 102 Public Defense Provider Compensation Services and Supplies	\$ (18,223,558)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	(18,223,558)	0	0.00	
Package 801 Targeted Statewide Adjustments Services and Supplies	\$ (12,640,902)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	(12,640,902)	0	0.00	
Package 812 ACP for Public Defense Services and Supplies	\$ 0	\$ 0	750,000	\$ 0	\$ 0	\$ 0	750,000	0	0.00	
Package 814 Co-Chair's Supplemental General Fund Services and Supplies	\$ 12,848,136	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	12,848,136	0	0.00	
Package 819 Supplemental Statewide Ending Balance Services and Supplies	\$ (7,457,270)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	(7,457,270)	0	0.00	
<u>SCR 003 Governor's Adjustment</u>										
Package 090 Analyst Adjustments										
Personal Services	\$ 3,503,531	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	3,503,531	0	0.00	
Services and Supplies	\$ 58,961,387	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	58,961,387	0	0.00	
<u>SCR 004 Contract &amp; Business Services Division</u>										
Package 086 Eliminate Inflation Services and Supplies	\$ (11,389)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	(11,389)	0	0.00	
Package 087 Personal Service Adjustment Personal Services	\$ (149,192)	\$ 0	(25,757)	\$ 0	\$ 0	\$ 0	(174,949)	0	0.00	
Package 801 Targeted Statewide Adjustments Services and Supplies	\$ (26,383)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	(26,383)	0	0.00	
Package 819 Supplemental Statewide Ending Balance										
Personal Services	\$ (105,904)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	(105,904)	0	0.00	
Services and Supplies	\$ (13,893)	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	(13,893)	0	0.00	
TOTAL ADJUSTMENTS	\$ 12,746,462	\$ 0	\$ 724,243	\$ 0	\$ 0	\$ 0	13,470,705	(7)	(6.44)	
SUBCOMMITTEE RECOMMENDATION *	\$ 222,540,623	\$ 0	\$ 1,192,555	\$ 0	\$ 0	\$ 0	223,733,178	76	75.40	

\*Excludes Capital Construction Expenditures

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
% Change from 2009-11 Leg Approved Budget	5.7%	0.0%	-90.7%	0.0%	0.0%	0.0%	0.1%	10.1%	9.3%
% Change from 2011-13 Current Service Level	-8.0%	0.0%	154.6%	0.0%	0.0%	0.0%	-7.7%	-8.4%	-7.9%
% Change from 2011-13 Gov's Recommended Budget	6.1%	0.0%	154.6%	0.0%	0.0%	0.0%	6.4%	-8.4%	-7.9%

\*Excludes Capital Construction Expenditures

## Legislatively Approved 2011-2013 Key Performance Measures

**Agency: PUBLIC DEFENSE SERVICES COMMISSION**

Mission: Ensure the delivery of quality public defense services in Oregon in the most cost-efficient manner possible.

Legislatively Proposed KPMs	Customer Service Category	Agency Request	Most Current Result	Target 2012	Target 2013
1 - APPELLATE CASE PROCESSING - Median number of days to file opening brief.		Approved KPM	226.00	210.00	210.00
2 - CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.	Accuracy	Approved KPM	99.40	95.00	95.00
2 - CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.	Availability of Information	Approved KPM	92.70	95.00	95.00
2 - CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.	Expertise	Approved KPM	98.40	95.00	95.00
2 - CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.	Helpfulness	Approved KPM	97.90	95.00	95.00
2 - CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.	Overall	Approved KPM	99.10	95.00	95.00
2 - CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.	Timeliness	Approved KPM	99.10	95.00	95.00
3 - BEST PRACTICES FOR BOARDS AND COMMISSIONS - Percentage of total best practices met by Commission.		Approved KPM	100.00	100.00	100.00



**LFO Recommendation:**

The Legislative Fiscal Office recommends approval of the Commission's Key Performance Measures and target.

**Sub-Committee Action:**

The Capital Construction Subcommittee adopted the Legislative Fiscal Office recommendations.