

BUDGET REPORT AND MEASURE SUMMARY

CARRIER: Rep. Williamson

Joint Committee On Ways and Means

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**Action:** Do Pass.

**Action Date:** 06/12/15

**Vote:**

**House**

**Yeas:** 10 - Buckley, Gomberg, Huffman, Komp, McLane, Rayfield, Read, Smith, Whisnant, Williamson

**Nays:** 1 - Whitsett

**Exc:** 1 - Nathanson

**Senate**

**Yeas:** 10 - Burdick, Devlin, Johnson, Monroe, Roblan, Shields, Steiner Hayward, Thomsen, Whitsett, Winters

**Nays:** 1 - Hansell

**Exc:** 1 - Girod

**Prepared By:** Michelle Lisper, Department of Administrative Services

**Reviewed By:** Steve Bender, Legislative Fiscal Office

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**Agency:** Public Defense Services Commission

**Biennium:** 2015-17

## **Budget Summary\***

	<b>2013-15 Legislatively Approved Budget<sup>(1)</sup></b>	<b>2015-17 Current Service Level</b>	<b>2015-17 Committee Recommendation</b>	<b>Committee Change from 2013-15 Leg. Approved</b>	
				<b>\$ Change</b>	<b>% Change</b>
General Fund	\$ 249,684,307	\$ 265,595,131	\$ 272,378,854	\$ 22,694,547	9.1%
Other Funds Limited	\$ 4,474,644	\$ 5,033,764	\$ 3,833,764	\$ (640,880)	-14.3%
Total	\$ 254,158,951	\$ 270,628,895	\$ 276,212,618	\$ 22,053,667	8.7%

## **Position Summary**

Authorized Positions	76	76	77	1
Full-time Equivalent (FTE) positions	75.79	75.11	76.11	0.32

<sup>(1)</sup> Includes adjustments through December 2014

\* Excludes Capital Construction expenditures

## **Revenue Summary**

The Public Defense Services Commission is primarily supported by General Fund. Other Funds come from the Application/Contribution Program. Judges have the authority to order individuals who apply for court-appointed counsel to pay the administrative costs of determining their eligibility and a “contribution amount” toward the anticipated public defense cost of the case. Judicial Branch Verification Specialists assist the courts in determining whether a person must pay these costs. These fees and contributions are deposited in the Public Defense Services Account and are used to fund the operating expenses of the Application/Contribution Program. In 2015-17, the Commission expects this account to generate about \$3.7 million. This funding is primarily used to support Verification Specialist positions around the state (24.41 FTE) both in the courts and in the Commission’s office.

## **Summary of Public Safety Subcommittee Action**

The Public Defense Services Commission is the Judicial Branch agency responsible for establishing and maintaining a public defense system in Oregon. It 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 three program areas. 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 public defense services contracts and provides administrative support to the staff in the Appellate Division. The Professional Services Account, 92.8 percent of the Commission’s budget, provides legal representation, primarily for cases in trial courts or juvenile courts, for those who cannot pay for it.

The Public Safety Subcommittee approved a budget of \$276,212,618 total funds, including \$272,378,854 General Fund, \$3,833,764 Other Funds, and 77 positions (76.11 FTE). The approved total funds budget is 8.7 percent higher than the 2013-15 Legislatively Approved Budget as of December 2014, and 2.1 percent higher than the 2015-17 current service level budget.

#### Appellate Division - 001

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, contempt cases, DNA-related appeals, appeals by crime victims, mandamus actions, inmates requesting judicial review of decisions by the Board of Parole and Post-Prison Supervision, and to 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 approved a budget of \$15,183,755 General Fund and 58 permanent full-time positions (57.11 FTE).

#### Professional Services Account - 002

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 Commission contracts with public defense service providers, who then provide services directly to clients. Expenditures in the Professional Services Account program area include the payments to these public defense services providers. The expenditures do not otherwise support the operating costs of the agency or of its employees.

The Subcommittee approved a budget of \$256,443,724 total funds, including \$253,151,744 General Fund and \$3,291,980 Other Funds.

The Subcommittee approved the following adjustments to the Public Defense Services Commission current service level budget:

- **Package 070: Revenue Shortfall.** This package reduces the Other Funds expenditure limitation by \$1,200,000 in response to an Other Funds revenue shortfall. The Professional Services Account, which supports payments to contractors providing public defense services, is financed by a combination of General Fund and Other Funds revenue. Other Funds revenues from the Applications/Contributions program are forecast to be below the level needed to fund 2015-17 biennium current service level expenditures.

Package 070 reduces Other Funds expenditure by \$1.2 million to allow the agency to retain a \$414,000 ending balance (which equates to approximately 2.6 months of operating expenses).

- **Package 100: Consistent Rates & Mileage for Public Defense Contract Providers.** This package increases the total budget by \$5,361,700 General Fund. The package includes \$5,200,000 to increase case rates paid to private and consortia attorneys to the levels paid to public

defender offices; and \$161,700 to pay mileage reimbursement to providers in the Eastern, North Coast, Central, Southern Oregon and Willamette Valley regions.

Funding for the mileage reimbursement becomes effective in contracts beginning January 1, 2016. Case rate increases are to be implemented in a two-step phase-in process. Beginning January 1, 2016, PDSC will increase case rates by approximately 55 percent of the amount initially requested, to move case rates for private and consortia attorneys closer to the levels paid to public defender offices. Beginning January 1, 2017, PDSC will increase case rates to the full levels provided for in the initial package request.

- **Package 107: ACP Revenue Shortfall.** This package increases the budget by \$1,200,000 General Fund. The current service level includes Other Funds expenditures of Application/Contribution Program revenues to support PDSC programs. 2015-17 biennium revenues, however, are projected to be \$1,200,000 below the level needed to finance these expenditures and maintain an adequate ending fund balance. Package 107 provides \$1,200,000 of General Fund to offset the shortfall and fund programs at the current service level.

#### Contract and Business Services - 004

This division is responsible for administering 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 administers the Parent Child Representation Program and provides administrative support for the agency as a whole.

The Subcommittee approved a budget of \$4,585,139 total funds, including \$4,043,355 General Fund, \$541,784 Other Funds, and 19 permanent full-time positions (19.00 FTE).

The Subcommittee approved the following adjustments to the Public Defense Services Commission current service level budget:

- **Package 104: Juvenile Dependency Improvement.** This package increases the total budget by \$222,023 General Fund, and establishes one permanent full-time Deputy General Counsel position (1.00 FTE) to administer the Parent Child Representation Program.

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

See attached Legislatively Adopted 2015-17 Key Performance Measures form.

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

**SB 5533-A**

**Public Defense Services Commission**  
**Michelle Lisper -- 503-378-3195**

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
2013-15 Legislatively Approved Budget at Dec 2014 *	\$ 249,684,307	\$ -	\$ 4,474,644	\$ -	\$ -	\$ -	\$ 254,158,951	76	75.79
2015-17 Current Service Level (CSL)*	\$ 265,595,131	\$ -	\$ 5,033,764	\$ -	\$ -	\$ -	\$ 270,628,895	76	75.11
<b>SUBCOMMITTEE ADJUSTMENTS (from CSL)</b>									
<b>SCR 002 - Professional Services Account</b>									
Package 070: Revenue Shortfalls									
Services and Supplies	\$ -	\$ -	\$ (1,200,000)	\$ -	\$ -	\$ -	\$ (1,200,000)		
Package 100 : Consistebt Rates & Mileage for PD Kors									
Services and Supplies	\$ 5,361,700	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,361,700		
Package 107 : ACP Revenue Shortfall									
Services and Supplies	\$ 1,200,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,200,000		
<b>SCR 004 - Contract &amp; Business Services Division</b>									
Package 104: Juvenile Dependency Improvement									
Personal Services	\$ 222,023	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 222,023	1	1.00
<b>TOTAL ADJUSTMENTS</b>	\$ 6,783,723	\$ -	\$ (1,200,000)	\$ -	\$ -	\$ -	\$ 5,583,723	1	1.00
<b>SUBCOMMITTEE RECOMMENDATION *</b>	<b>\$ 272,378,854</b>	<b>\$ -</b>	<b>\$ 3,833,764</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 276,212,618</b>	<b>77</b>	<b>76.11</b>
% Change from 2013-15 Leg Approved Budget	9.1%	0.0%	-14.3%	0.0%	0.0%	0.0%	8.7%		
% Change from 2015-17 Current Service Level	2.6%	0.0%	-23.8%	0.0%	0.0%	0.0%	2.1%		

\*Excludes Capital Construction Expenditures

## Legislatively Approved 2015-2017 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 2016	Target 2017
1 - APPELLATE CASE PROCESSING - Median number of days to file opening brief.		Approved KPM	227.00	180.00	180.00
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	94.10	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.	Availability of Information	Approved KPM	85.40	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.	Expertise	Approved KPM	93.80	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	95.10	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.	Overall	Approved KPM	90.60	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	89.00	95.00	95.00
3 - BEST PRACTICES FOR BOARDS AND COMMISSIONS - Percentage of total best practices met by Commission.		Approved KPM	100.00		

**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 2016	Target 2017
4 - Trial Level Representation: During the term of the OPDS contract, percent of attorneys who obtain at least 12 hours per year of continuing legal education credit in the area(s) of law in which they provide public defense representation. <sup>[1]</sup>		Approved KPM		80.00	90.00
<sup>[1]</sup> Case types listed in the 2014-2015 Public Defense Legal Services Contract General Terms are: criminal cases, probation violations, contempt cases, civil commitment cases, juvenile cases, and other civil cases. ( <a href="http://www.oregon.gov/OPDS/docs/CBS/ModelContractTerms/documents/ModKJan2014.pdf">http://www.oregon.gov/OPDS/docs/CBS/ModelContractTerms/documents/ModKJan2014.pdf</a> )					
5 - Parent Child Representation Program (PCRP): Percent of PCRP attorneys who report spending 1/3 of their time meeting with court appointed clients in cases which the attorney represents a parent or child with decision-making capacity. <sup>[1]</sup>		Approved KPM		80.00	95.00
<sup>[1]</sup> For a discussion on determining decision-making capacity, see The Obligations of the Lawyer for Children in Child Protection Proceedings with Action Items and Commentary, Oregon State Bar, Report of the Task Force on Standards of Representation in Juvenile Dependency Cases (2014).					

**LFO Recommendation:**

Approve Key Performance Measures, including Proposed New Key Performance Measures, and Key Performance Measure targets identified in the above table.

**Sub-Committee Action:**

The Subcommittee approved the Legislative Fiscal Office recommendation.