

HB 5033 A BUDGET REPORT and MEASURE SUMMARY

Carrier: Sen. Winters

Joint Committee On Ways and Means

Action Date: 06/28/17

Action: Do pass the A-Eng bill.

Senate Vote

Yeas: 12 - DeBoer, Devlin, Frederick, Girod, Hansell, Johnson, Manning Jr, Monroe, Roblan, Steiner Hayward, Thomsen, Winters

House Vote

Yeas: 11 - Gomberg, Holvey, Huffman, McLane, Nathanson, Rayfield, Smith G, Smith Warner, Stark, Whisnant, Williamson

Prepared By: Michelle Lisper, Department of Administrative Services

Reviewed By: Steve Bender, Legislative Fiscal Office

**Public Defense Services Commission
2017-19**

Budget Summary*

| | 2015-17 Legislatively Approved Budget ⁽¹⁾ | 2017-19 Current Service Level | 2017-19 Committee Recommendation | Committee Change from 2015-17 Leg. Approved | |
|---------------------|--|----------------------------------|--|--|----------|
| | | | | \$ Change | % Change |
| General Fund | \$ 279,528,938 | \$ 301,366,459 | \$ 298,923,219 | \$ 19,394,281 | 6.9% |
| Other Funds Limited | \$ 3,846,904 | \$ 4,109,950 | \$ 4,954,313 | \$ 1,107,409 | 28.8% |
| Total | \$ 283,375,842 | \$ 305,476,409 | \$ 303,877,532 | \$ 20,501,690 | 7.2% |

Position Summary

| | | | | |
|--------------------------------------|-------|-------|-------|------|
| Authorized Positions | 77 | 77 | 77 | 0 |
| Full-time Equivalent (FTE) positions | 76.11 | 76.23 | 76.23 | 0.12 |

⁽¹⁾ Includes adjustments through December 2016

* Excludes Capital Construction expenditures

Summary of Revenue Changes

The Public Defense Services Commission (PDSC) 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 2017-19, the Commission anticipates this account to generate about \$3.9 million. The funding is primarily used to support Verification Specialist positions around the state, in the courts and in the commission’s office.

Summary of Public Safety Subcommittee Action

PDSC is the Judicial Branch agency responsible for establishing and maintaining a public defense system in Oregon and is an independent body governing 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, which is 92.2 percent of the commission’s budget, provides legal representation, primarily for cases in trial courts or juvenile courts, for those who cannot afford to pay for it.

The Public Safety Subcommittee approved a budget of \$303,877,532 total funds (\$298,923,219 General Fund and \$4,954,313 Other Funds expenditure limitation) and 77 positions (76.23 FTE). The approved total funds budget is 7.2 percent higher than the 2015-17 Legislatively Approved Budget as of December 2016, and 0.5 percent below the 2017-19 current service level.

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, 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 \$18,194,890 General Fund and 58 permanent positions (57.23 FTE).

The Subcommittee approved the following adjustments to PDSC's current service level budget:

Package 801, LFO Analyst Adjustments. This package reduces the agency's General Fund by \$350,000. This package is part of a statewide reduction to balance the statewide General Fund budget within the level of available resources. This reduction is part of a total \$484,600 reduction in resources the agency has held to address agency space needs. Although PDSC's current office space is limited, the agency will manage within this space through the 2017-19 biennium and funding to expand office space has been removed.

Professional 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 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 the clients. Expenditures in the Professional Services Account program area include the payments to the public defense services providers. The expenditures do not otherwise support the operating costs of the agency or its employees. The Subcommittee approved a budget of \$280,549,366 total funds, including \$276,304,521 General Fund and \$4,244,845 Other Funds limitation. The agency is directed, with this budget, to maintain operation of the Parent Child Representation Program in the three counties the program currently operates.

The Subcommittee approved the following adjustments to PDSC's current service level budget:

Package 105, PSA Budget Shortfall. This package increases the budget by \$4,700,000 General Fund to address an ongoing shortfall in the funding included in the current service level calculation for costs of contracted public defense services. In recent biennia, the Legislature has needed to supplement the agency's Professional Services Account with additional General Fund appropriations, in the second year of the biennium. These later appropriations are not included in the current service level calculation. The additional funding in this package is intended to fully fund projected 2017-19 biennium costs and eliminate the need for a supplemental appropriation later in the biennium.

Package 801, LFO Analyst Adjustments. This package assists in balancing the statewide General Fund budget within the level of available resources; and reduces total expenditures for the Professional Services Account by \$5,814,277; reduces General Fund by \$6,514,277; and includes an offsetting increase of \$700,000 Other Funds limitation.

These reductions eliminate the amount included in the current service level for inflation in the costs of Services and Supplies and the supplemental amount included to increase support for contractors' personal services costs above the standard rate increase for state contractors. Other Funds expenditures supported from the Application Contribution Program (ACP) revenues are increased by \$700,000 to offset the impact of the General Fund reduction. These funds were not budgeted for another use. The agency anticipates having a \$200,000 balance of ACP revenues at the end of the 2017-19 biennium. Sufficient ACP revenue is not expected, to allow continuation of this level of Other Funds limitation in the 2019-21 biennium. The availability of Other Funds limitation will need to be reevaluated at that time.

Contract and Business Services

This division is responsible for administering the public defense contracts providing legal representation for financially eligible persons and processing 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 \$5,133,276 total funds, including \$4,423,808 General Fund, \$709,468 Other Funds limitation and 19 permanent full-time positions (19.00 FTE).

The Subcommittee approved the following adjustments to PDSC's current service level budget:

Package 801, LFO Analyst Adjustments. This package reduces General Fund by \$278,963; increases Other Funds limitation by \$144,363; and replaces \$144,363 of General Fund support for a Contract Manager position with Other Funds limitation. The position is currently funded by both General Fund and Other Funds revenue (ACP). This position is eligible to be funded by ACP revenue and the agency has sufficient ACP revenue to support the position.

This package also reduces General Fund by \$134,600, as a part of the total \$484,600 reduction in resources the agency has held to address agency space needs. Although PDSC's current office space is limited, the agency will manage within this space through the 2017-19 biennium.

Summary of Performance Measure Action

See attached Legislatively Adopted 2017-19 Key Performance Measures form.

DETAIL OF JOINT COMMITTEE ON WAYS AND MEANS ACTION

Public Defense Services Commission
Michelle Lisper -- 971-283-6360

| DESCRIPTION | GENERAL FUND | LOTTERY FUNDS | OTHER FUNDS | | FEDERAL FUNDS | | TOTAL ALL FUNDS | POS | FTE |
|--|-----------------------|---------------|---------------------|-------------|---------------|-------------|--------------------|-----------|--------------|
| | | | LIMITED | NONLIMITED | LIMITED | NONLIMITED | | | |
| 2015-17 Legislatively Approved Budget at Dec 2016 * | \$ 279,528,938 | \$ - | \$ 3,846,904 | \$ - | \$ - | \$ - | 283,375,842 | 77 | 76.11 |
| 2017-19 Current Service Level (CSL)* | \$ 301,366,459 | \$ - | \$ 4,109,950 | \$ - | \$ - | \$ - | 305,476,409 | 77 | 76.23 |
| SUBCOMMITTEE ADJUSTMENTS (from CSL) | | | | | | | | | |
| SCR 001 - Appellate Division | | | | | | | | | |
| Package 801: LFO Analyst Adjustments | | | | | | | | | |
| Services and Supplies | \$ (350,000) | \$ - | \$ - | \$ - | \$ - | \$ - | (350,000) | | |
| SCR 002 - Professional Service Account | | | | | | | | | |
| Package 105: PSA Budget Shortfall | | | | | | | | | |
| Services and Supplies | \$ 4,700,000 | \$ - | \$ - | \$ - | \$ - | \$ - | 4,700,000 | | |
| Package 801: LFO Analyst Adjustments | | | | | | | | | |
| Services and Supplies | \$ (6,514,277) | \$ - | \$ 700,000 | \$ - | \$ - | \$ - | (5,814,277) | | |
| SCR 004 - Contract & Business Services Division | | | | | | | | | |
| Package 801: LFO Analyst Adjustments | | | | | | | | | |
| Personal Services | \$ (144,363) | \$ - | \$ 144,363 | \$ - | \$ - | \$ - | - | 0 | 0.00 |
| Services and Supplies | \$ (134,600) | \$ - | \$ - | \$ - | \$ - | \$ - | (134,600) | | |
| TOTAL ADJUSTMENTS | \$ (2,443,240) | \$ - | \$ 844,363 | \$ - | \$ - | \$ - | (1,598,877) | 0 | 0.00 |
| SUBCOMMITTEE RECOMMENDATION * | \$ 298,923,219 | \$ - | \$ 4,954,313 | \$ - | \$ - | \$ - | 303,877,532 | 77 | 76.23 |
| | | | | | | | | | |
| % Change from 2015-17 Leg Approved Budget | 6.9% | 0.0% | 28.8% | 0.0% | 0.0% | 0.0% | 7.2% | 0.0% | 0.2% |
| % Change from 2017-19 Current Service Level | (0.8%) | 0.0% | 20.5% | 0.0% | 0.0% | 0.0% | (0.5%) | 0.0% | 0.0% |

*Excludes Capital Construction Expenditures

Legislatively Approved 2017 - 2019 Key Performance Measures

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Agency: Public Defense Services Commission

Mission Statement:

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

| Legislatively Approved KPMs | Metrics | Agency Request | Last Reported Result | Target 2018 | Target 2019 |
|--|-----------------------------|----------------|----------------------|-------------|-------------|
| 1. APPELLATE CASE PROCESSING - Median number of days to file opening brief. | | Approved | 209 | 180 | 180 |
| 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 | 90.84% | 95% | 95% |
| | Accuracy | | 94.50% | 95% | 95% |
| | Availability of Information | | 87.17% | 95% | 95% |
| | Overall | | 90.57% | 95% | 95% |
| | Helpfulness | | 94.24% | 95% | 95% |
| | Expertise | | 92.67% | 95% | 95% |
| 3. BEST PRACTICES FOR BOARDS AND COMMISSIONS - Percentage of total best practices met by Commission. | | Approved | 100% | 100% | 100% |
| 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.[1] [1] 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. (http://www.oregon.gov/OPDS/docs/CBS/ModelContractTerms/documents/ModKJan2014.pdf) | | Approved | 74% | 90% | 90% |
| 5. PARENT CHILD REPRESENTATION PROGRAM (PCRP) - Percent of PCRP attorneys who report spending approximately 1/3 of their time meeting with court appointed clients in cases which the attorney represents a parent or child with decision-making capacity.[1] [1] 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). | | Approved | 54% | 95% | 95% |

LFO Recommendation:

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

SubCommittee Action:

The Subcommittee approved the LFO recommendation.