

SB 5532 A BUDGET REPORT and MEASURE SUMMARY

Carrier: Rep. Stark

Joint Committee On Ways and Means

Action Date: 05/10/19

Action: Do Pass the A-Eng bill.

House Vote

Yeas: 8 - Gomberg, Holvey, McLain, Nosse, Piluso, Rayfield, Smith G, Stark

Exc: 1 - McLane

Senate Vote

Yeas: 7 - Beyer, Frederick, Johnson, Manning Jr, Roblan, Steiner Hayward, Wagner

Exc: 2 - Hansell, Winters

Abs: 3 - Girod, Heard, Thomsen

Prepared By: April McDonald, Department of Administrative Services

Reviewed By: Gregory Jolivet, Legislative Fiscal Office

Public Defense Services Commission

2019-21

Emergency Board

2019-21

Budget Summary*

	2017-19 Legislatively Approved Budget ⁽¹⁾	2019-21 Current Service Level	2019-21 Committee Recommendation	Committee Change from 2017-19 Leg. Approved	
				\$ Change	% Change
<u>Public Defence Services Commission</u>					
General Fund	\$ 305,491,556	\$ 344,173,541	\$ 338,924,266	\$ 33,432,710	10.9%
Other Funds Limited	\$ 4,967,943	\$ 4,170,527	\$ 3,736,398	\$ (1,231,545)	(24.8%)
Total	\$ 310,459,499	\$ 348,344,068	\$ 342,660,664	\$ 32,201,165	10.4%

Position Summary

Authorized Positions	77	76	79	2	
Full-time Equivalent (FTE) positions	76.23	75.80	78.80	2.57	

	2017-19 Legislatively Approved Budget ⁽¹⁾	2019-21 Current Service Level	2019-21 Committee Recommendation	Committee Change from 2017-19 Leg. Approved	
				\$ Change	% Change
<u>Emergency Board</u>					
General Fund	\$ -	\$ -	\$ 2,000,000	\$ 2,000,000	100.0%
Total	\$ -	\$ -	\$ 2,000,000	\$ 2,000,000	100.0%

⁽¹⁾ Includes adjustments through December 2018

* 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 (ACP). Under ORS 151.487, judges have the authority to order those who apply for court-appointed counsel to pay the administrative costs of determining their eligibility and a “contribution amount” toward the anticipated cost of the public defense. The Judicial Branch Verification Specialists assist the courts in determining whether a person must pay these costs. This revenue is deposited in the Public Defense Services Account and used to fund the operating expenses of the ACP. Anticipated revenues for the 2019-21 biennium is approximately \$3.9 million. This funding is primarily used to support the verification specialist positions 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 governing the Office of Public Defense Services. The Chief Justice of the Oregon Supreme Court appoints the seven-member Commission. The PDSC has two main divisions: the Appellate Division provides constitutionally and statutorily mandated representation in the appellate courts to those eligible for these services; and 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. Also within the Commission is the Professional Services Account, which makes up 91.2 percent of the Commission's total budget, and funds legal representation, primarily for cases in trial courts or juvenile courts, for those eligible for public defense services.

The Subcommittee approved a budget of \$342,660,664 total funds, comprised of \$338,924,266 General Fund, \$3,736,398 Other Funds expenditure limitation and 79 positions (78.80 FTE). The approved total funds budget is 10.4 percent higher than the 2017-19 Legislatively Approved Budget as of December 2018, and is 1.5 percent lower than the 2019-21 adjusted current service level budget. Additionally, \$2,000,000 General Fund Special Purpose Appropriation to the Emergency Board is included in the bill for acquisition of a new financial management system.

Appellate Division

The Appellate 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 a wide variety of case types, including: misdemeanor and felony appeals, inmates requesting judicial review of the Board of Parole and Post-Prison Supervision decisions, and parents in juvenile dependency and termination of parental rights appeals. The Appellate Division attorneys appear regularly in the Oregon Court of Appeals and the Oregon Supreme Court.

The Subcommittee approved a budget of \$22,637,870 General Fund and includes 57 positions (56.80 FTE) and also approved the following policy package:

Package 196, Employee Compensation. This package provides \$603,237 General Fund for employee compensation adjustments in the Appellate Division. The aim of this package is to move toward parity, specifically as it relates to attorney compensation between the Public Defense Services Commission and the Department of Justice.

Professional Services Account

This Division pays the cost of legal representation in misdemeanor and felony 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, or by Oregon statutes.

The Commission contracts with public defense service providers, who then provide services directly to clients. The expenditures included 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 PDSC or its employees.

The Subcommittee approved a budget of \$309,304,337 General Fund and \$3,200,000 Other Funds expenditure limitation, and includes the following policy package:

Package 801, LFO Analyst Adjustments. This package reduces the General Fund appropriation to the Professional Services Account by \$7,000,000 as a one-time reduction to meet spending targets established in the Co-Chair's budget.

Contract and Business Services

The Contract and Business Services Division negotiates and administers the public defense contracts to 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 PDSC, as a whole.

The Subcommittee approved a budget of \$6,982,059 General Fund, \$536,398 Other Funds expenditure limitation and includes 22 positions (22.00 FTE). The approved budget includes the following policy packages:

Package 192, Quality Assurance. This package provides \$261,678 General Fund and two permanent, full-time Operations and Policy Analyst 2 positions (2.00 FTE) to begin addressing quality assurance issues raised in the recent review completed by the Sixth Amendment Center. Specifically, the two analyst positions will focus on improving quality assurance for the Indigent Defense Services program.

Budget Note:

The Commission is directed to work collaboratively with the Oregon Judicial Department and other stakeholders to identify and begin implementing system changes to improve quality assurance and oversight of the Commission's public defense services contracts, specifically on indigent defense. The Commission is directed to report to the Joint Committee on Ways and Means during the 2020 legislative session on changes identified and/or implemented to address quality assurance issues raised in the 2019 report by the Sixth Amendment Center.

Package 195, OPDS Office Space Reconfiguration. This package provides \$322,000 General Fund to cover estimated lease expenses for approximately 6,500 usable square feet of office space. This will allow the Commission to assume a lease from the Board of Parole and Post-prison Supervision and provide the minimum standard of space per employee.

Package 197, OPDS Operational Needs. This package provides \$563,810 General Fund and two limited duration Accounting Technician 2 positions (2.00 FTE) to improve the timeliness of payment processing. As part of the total package, \$300,000 General Fund has been provided for IT contract services to replace the existing financial management system. In connection with this package, the Legislative Fiscal Office recommends approval of a \$2,000,000 Special Purpose Appropriation for acquisition of a new financial management system.

Budget Note:

The Public Defense Services Commission is directed to work closely with the LFO and regularly report on the status of the Financial Management System Replacement Project throughout the lifecycle of the project and follow the Stage Gate review process as administered by the LFO. The Commission is further directed to (1) retain the services of qualified project manager(s) with experience in planning and managing projects of this type, scope and magnitude; (2) retain the services of business systems analyst(s) with demonstrated experience working on modernization programs of this type, scope and magnitude; (3) develop and update the business case and foundational project management documents as required; (4) work with LFO to acquire independent quality management services as necessary to conduct an initial risk assessment, perform quality control (QC) reviews on the business case, procurement documents and foundational project management documents as appropriate, and perform ongoing, independent quality management services as directed by the LFO; (5) submit the updated business case, project management documents, initial risk assessment, and QC reviews to LFO for Stage Gate Review; and, (6) report back to the Legislature on project status during the 2020 Legislative Session and/or interim legislative committees.

Summary of Performance Measure Action

See attached “Legislatively Approved 2019-2021 Key Performance Measures.”

DETAIL OF JOINT COMMITTEE ON WAYS AND MEANS ACTION

Public Defense Services Commission
April McDonald -- 503-877-8125

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
2017-19 Legislatively Approved Budget at Dec 2018 *	\$ 305,491,556	\$ -	\$ 4,967,943	\$ -	\$ -	\$ -	\$ 310,459,499	77	76.23
2019-21 Current Service Level (CSL)*	\$ 344,173,541	\$ -	\$ 4,170,527	\$ -	\$ -	\$ -	\$ 348,344,068	76	75.80
SUBCOMMITTEE ADJUSTMENTS (from CSL)									
SCR 001 - Appellate Division									
Package 196: Employee Compensation									
Personal Services	\$ 603,237	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 603,237	0	0.00
SCR 002 - Professional Services Account									
Package 070: Revenue Shortfalls									
Services and Supplies	\$ -	\$ -	\$ (128,276)	\$ -	\$ -	\$ -	\$ (128,276)		
SCR 002 - Professional Services Account									
Package 801: LFO Analyst Adjustments									
Services and Supplies	\$ (7,000,000)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (7,000,000)		
SCR 004 - Contract and Business Services									
Package 070: Revenue Shortfalls									
Personal Services	\$ -	\$ -	\$ (305,853)	\$ -	\$ -	\$ -	\$ (305,853)	(1)	(1.00)
SCR 004 - Contract and Business Services									
Package 192: Quality Assurance									
Personal Services	\$ 261,678	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 261,678	2	2.00
SCR 004 - Contract and Business Services									
Package 195: OPDS Office Space Reconfiguration									
Services and Supplies	\$ 322,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 322,000		
SCR 004 - Contract and Business Services									
Package 197: OPDS Operational Needs									
Personal Services	\$ 263,810	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 263,810	2	2.00
Services and Supplies (IT Professional Services)	\$ 300,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 300,000		
TOTAL ADJUSTMENTS	\$ (5,249,275)	\$ -	\$ (434,129)	\$ -	\$ -	\$ -	\$ (5,683,404)	3	3.00
SUBCOMMITTEE RECOMMENDATION *	\$ 338,924,266	\$ -	\$ 3,736,398	\$ -	\$ -	\$ -	\$ 342,660,664	79	78.80
% Change from 2017-19 Leg Approved Budget	10.9%	0.0%	-24.8%	0.0%	0.0%	0.0%	10.4%	2.6%	3.4%
% Change from 2019-21 Current Service Level	-1.5%	0.0%	-10.4%	0.0%	0.0%	0.0%	-1.6%	3.9%	4.0%

*Excludes Capital Construction Expenditures

EMERGENCY BOARD

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
Special Purpose Appropriation for the acquisition of a new financial management system	\$ 2,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,000,000		

Legislatively Approved 2019 - 2021 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 2020	Target 2021
1. APPELLATE CASE PROCESSING - Median number of days to file opening brief.		Approved	227	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	82%	95%	95%
	Accuracy		88%	95%	95%
	Availability of Information		74%	95%	95%
	Overall		82%	95%	95%
	Helpfulness		87%	95%	95%
	Expertise		81%	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	78%	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	67%	95%	95%

LFO Recommendation:

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

SubCommittee Action:

Approved LFO recommendation on Key Performance Measures.