

ANALYSIS

Item 2: Judicial Department Mandated Court Payments

Analyst: John Borden

Request: Allocate \$1,836,007 General Fund from the special purpose appropriation made to the Emergency Board for mandated payments or third-party collections and allocate \$6,163,993 General Fund from the Emergency Fund to the Judicial Department for mandated court payments for interpreter services.

Analysis: The Oregon Judicial Department (OJD) is requesting \$8 million for mandated court payments for interpreter services, which would be funded by an allocation of \$1.8 million from the special purpose appropriation made to the Emergency Board for mandated payments and third-party collections and a \$6.2 million allocation from the Emergency Fund general purpose appropriation.

The Mandated Payments program provides statutory payments for trial and grand jury jurors service and interpreter services for non-English speakers, including crime victims exercising their constitutional rights of participation, statutory arbitration expenses, Americans with Disabilities Act (ADA) compliance, and civil appellate transcript costs for indigent persons. The program provides master jury lists for summoning and qualifying jurors, juror orientation materials, per diem, mileage reimbursement, juror meals, lodging and commercial transports when needed, state-paid sign language interpreters, assistive devices, and foreign language interpreters.

Interpreter services are delivered by OJD staff or contracted court interpreters and are managed by the Court Language Access Services Division under the Office of the State Court Administrator. The 1999 Legislature approved a requirement that certified interpreters be provided for all judicial and administrative proceedings. OJD was given responsibility for the certification process. Demand for mandated services is a function of the volume and duration of cases heard by the courts.

The Mandated Payments program has a 2023-25 legislatively approved budget of \$19.9 million General Fund and \$761,368 Other Funds and includes 25 positions (23.86 FTE). Other Funds revenue is generated from juror fees and mileage donated back to the Department for jury improvement projects and from fees associated with interpreter certification. The 2024 Legislature authorized two permanent full-time Interpreter 1 positions (1.25 FTE) at a cost of \$376,889 General Fund to help address the need for Spanish interpreters and which are included in the approved budget. Approximately 63% of the budget supports interpreter services, 36% supports jury payments, and less than 1% supports ADA compliance and arbitration expenses.

In addition, the Emergency Board has available a \$1,836,007 special purpose appropriation for potential cost increases in mandated payments and/or third-party debt collection costs during the biennium (SB 5512, 2023 and SB 5701, 2024). At this time, OJD has not requested additional funding for third-party debt collection costs. The Department reports that the program is projected to be able to complete the biennium within the 2023-25 legislatively approved budget. OJD is projecting that the Mandated Payments program will exhaust the program's legislatively approved budget General Fund budget by December 2024.

The projected deficit, according to OJD, is being driven by two primary factors: (a) increasing cases requiring interpreter services, which represents the beginning of a return to pre-pandemic case levels; and (b) rising costs of acquiring and providing Oregon-certified contract court interpreters, and more specifically certified Spanish language contract interpreters. The need for certified Spanish language interpreters has been a long-term trend for the courts beginning in 2014.

To-date this biennium, OJD reports that the Department has been able to fulfill virtually all court interpreter requests (99.6%) by utilizing out-of-state contract interpreters when unable to employ Oregon-domiciled contract interpreters. This has materially increased by the cost of providing interpreter services, as it often necessitates the additional cost of travel-related expenses.

The Legislative Fiscal Office recommends an incremental funding approach due to the limited available resources in the Emergency Fund, outstanding costs related to the 2024 fire season, and the need to maintain a balance for other emergent issues. The recommendation is to only approve allocation of the special purpose appropriation for the Mandated Payments Program (\$1.8 million) and defer consideration of the remaining request (\$6.2 million) to the 2025 legislative session.

Recommendation: The Legislative Fiscal Office recommends that the Emergency Board allocate \$1,836,007 General Fund from the special purpose appropriation made to the Emergency Board for mandated payments or third-party collections to the Judicial Department for mandated court payments for interpreter services.

Request: Allocate \$1.8 million from the Special Purpose Appropriation made to the Emergency Board for Mandated Payments and allocate \$6.2 million from the State Emergency Fund to cover a deficit identified in the Mandated Payments account to fund interpreter services.

Recommendation: The Oregon Judicial Department is not under Executive Branch budgetary authority.

Discussion: The Oregon Judicial Department (OJD) has identified a growth in demand for legally required services for individuals encountering the justice system, specifically interpreter services in court matters. From 2020 to 2023, the number of interpreter requests for cases seen before a judge increased by 73 percent. OJD reports from 2018 to 2023, mandated payments to contract interpreters increased by 89 percent, rising from \$3.2 million to \$6.0 million.

OJD has previously brought this issue before the Legislature. In 2023, the Legislature was aware of the rising costs and potential need for additional funding for interpreter services and established a \$3.0 million Special Purpose Appropriation (SPA) to address this need. The Mandated Payments program funds the federally and state-mandated ancillary services of providing trial and grand jurors, court interpreters, civil arbitration costs for indigent persons, appellate civil transcript costs, and Americans with Disabilities Act accommodation for litigants and the public.

A portion of that SPA was appropriated in the 2024 Legislative Session. Now, OJD is requesting the release of the remaining \$1.8 million SPA funds and an allocation of \$6.2 million from the Emergency Board to cover the projected shortfall.

Legal Reference: Allocation of \$1,836,007 from the Special Purpose Appropriation made to the Emergency Board by chapter 380, section 12(1), Oregon Laws 2023, to supplement the appropriation made by chapter 380, section 1(3), Oregon Laws 2023, for the Oregon Judicial Department, Mandated payments for the 2023-25 biennium.

Allocation of \$6,200,000 from the State Emergency Fund to supplement the appropriation made by chapter 380, section 1(3), Oregon Laws 2023, for the Oregon Judicial Department, Mandated payments for the 2023-25 biennium.



OREGON JUDICIAL DEPARTMENT
Office of the State Court Administrator

August 26, 2024
(SENT BY EMAIL)

The Honorable Rob Wagner, President of the Senate
The Honorable Julie Fahey, Speaker of the House
Joint Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Re: Funding Request to Address Shortfall in Mandated Payments Appropriation

Dear President Wagner and Speaker Fahey:

Nature of Request

The Oregon Judicial Department (OJD) requests the release of the remaining \$1.8 million in special purpose appropriation that the 2023 Legislature established for funding interpreter services in court proceedings. OJD also requests an additional \$6.2 million for interpreter services costs to address a projected shortfall in the current biennium.

Background

The State of Oregon is responsible for a variety of legally required services funded by OJD through a specific appropriation for mandated payments. The majority of the expenditures are for (1) interpreter services in court matters, and (2) juror mileage and per diem expenses. As court operations rebound following pandemic restrictions, jury and interpreter requests have significantly increased. Mandated payment expenditures are now exceeding budgeted rates and are projected to surpass the legislatively approved appropriation of \$19,903,162 for the 2023-25 biennium.

While all costs have risen, interpreter expenses have increased substantially over the past few years due to a 52 percent rise in requests for court interpreting services since 2014 and a severe shortage of Spanish-language Oregon Certified Court Interpreters. OJD has seven staff interpreter positions who provide consistent daily interpretation, but contract interpreters provide the majority of interpretation services. The number of

President Wagner
Speaker Fahey
Page 2
August 26, 2024

contract Spanish-language interpreters in Oregon has decreased by approximately 25 percent since 2011 and, in addition, there is stiff competition with other (nonstate) governmental entities in Oregon and Washington that offer contract rates that are higher than OJD rates. In order to comply with legal obligations to provide interpreter services and to avoid canceling or rescheduling trials and court appearances due to the shortage, OJD has increased the use of higher-cost out-of-state interpreters. While costly, this strategy has been successful. From January through August 2024, fulfilled 99.6 percent of the Spanish-language interpretation requests, avoiding significant costs and delays associated with case continuances due to a lack of interpreter services.

From 2018 to 2023, mandated payments to contract interpreters increased by 89 percent, rising from \$3.17 million to \$6.0 million. From 2020 to 2023 the number of interpreter requests for cases seen before a judge increased by 73 percent from 22,973 in 2020 to 39,815 in 2023.

The cost of additional interpreter requests and contracting for out-of-state interpreters has resulted in a projected shortfall of approximately \$8.0 million in the mandated payments appropriation for the 2023-25 biennium. The 2023 Legislature was aware of this potential need and established a \$3.0 million special purpose appropriation (SPA). A portion of that SPA (\$1.2 million) was appropriated in the 2024 session, leaving a balance of \$1.8 million. OJD is now requesting the release of the remaining SPA funds to assist in paying for interpreter expenses, as well as \$6.2 million to cover the remaining projected shortfall.

In addition, OJD expects these trends to continue into the future and will submit a \$7.5 million Policy Option Package request to increase funding in this account for the 2025-27 biennium.

OJD is working on a variety of short-, medium-, and long-term solutions to alleviate the increased costs and increase the pool of available Oregon Certified Court Interpreters. These solutions include:

- Expanding the use of remote interpreting services, which has been instrumental in managing costs and meeting demand.
- Growing the pool of Oregon Certified Court interpreters by offering training and exam preparation support, increasing orientation seminar attendance by 130 percent in 2023, and implementing the Spanish Interpreter Practicum and Staff Interpreter Internship Program to provide mentoring and real-world experience to candidates.
- Partnering with educational institutions and community organizations to develop interest in interpretation careers and provide pathways to certification, and with

President Wagner
Speaker Fahey
Page 3
August 26, 2024

other courts across the country to explore new approaches to recruiting, certifying, and providing interpreter services. For example, after some initial efforts in this area, the number of candidates beginning the court certification testing process increased by 65 percent in 2023.

Action Requested

OJD requests the release of \$1.8 million in the Emergency Fund to cover a projected deficit in the 2023-25 biennium.

OJD also requests an additional \$6.2 million appropriation to the mandated payments account to cover interpreter costs in the 2023-25 biennium.

Legislation Affected

Increase of \$8.0 million to OJD mandated payments funding established by Senate Bill (SB) 5512 (Oregon Laws 2023, chapter 380, section 1(3)).

Decrease of \$1,836,007 million to the Emergency Board special purpose appropriation for OJD mandated payments established by SB 5512 (Oregon Laws 2023, chapter 380, section 12(1)).

Sincerely,



Nancy J. Cozine
State Court Administrator

NC:jm/24eNC033jm

ec: Chief Justice Meagan A. Flynn
Amanda Beitel, Legislative Fiscal Officer, LFO
Kate Nass, Chief Financial Officer
John Borden, Principal Legislative Fiscal Officer, LFO
Zachary Gehringer, Policy and Budget, DAS-CFO
David Moon, Director, BFSD, OJD