



DEPARTMENT OF JUSTICE

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February 2, 2023

Senator Aaron Woods, Co-Chair
Representative David Gomberg, Co-Chair
Joint Committee on Ways and Means
Subcommittee on Transportation & Economic Development
900 Court Street NE
H-178 State Capitol
Salem, OR 97301

The Department of Justice made a presentation to the Subcommittee on Transportation and Economic Development about the Department of Justice Legal Services and Rates on January 31, 2023. During that presentation, there were a few questions and topics for which our department wishes to provide responses.

- 1) Co-Chair Gomberg requested clarification on work that DOJ performs for agencies vs. for the Legislature and for examples of similarities and differences.

The Department of Justice (DOJ) performs all of the day-to-day legal work for the Executive Branch Agencies. The Legislative Counsel (LC) does the same for the Legislature, along with their responsibility for drafting legislation. In some cases, the Legislature needs specialized, targeted legal services beyond the services provided by LC. For example, DOJ attorneys represent the Legislature and individual members of the Legislature when they have been sued in state or federal court. In addition, DOJ attorneys assist the Legislature with certain personnel and employment matters, including cases before the Employment Relations Board and the Bureau of Labor and Industries, as well as assist with real estate transactions relating to construction and leasing.

- 2) Representative Mannix requested information on alternatives that might help smaller agencies manage their legal costs.

DOJ data shows that small agencies generally have a relatively small number of billable hours and in certain years may have no hours of legal services. A concern was expressed that small agencies may occasionally need to utilize legal services beyond their budgets, such as when they are involved in affirmative or defensive litigation. DOJ is willing to facilitate a process or financial practice to help ensure that small agencies are ensured

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access to legal services when needed. One suggestion would be to establish a central fund at the Department of Administrative Services (DAS) for the payment of legal services for designated small agencies. Under this model, DOJ would continue to first send invoices to those specified agencies for their review and approval; however, the invoices would then be sent to DAS for payment. DOJ is willing to participate in further discussions to work toward an alternative process.

- 3) Representative Gamba requested information on legal sufficiency standards that are applied to state agencies.

Our DOJ Legislative Director is reaching out to Representative Gamba to coordinate a meeting to address his questions.

We hope our responses fully address the questions. Please contact us if other questions arise.

Sincerely,

A handwritten signature in blue ink that reads "Fredrick M. B..." followed by the word "for". The signature is written in a cursive style.

LISA M. UDLAND
Deputy Attorney General

cc: William O'Donnell, DOJ Chief Financial Officer
Jennifer Friesen, DOJ Senior Budget Analyst