

1/26/11

BUDGET

OVERVIEW:

DEPARTMENT

OF LAW

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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January 26, 2011

The Honorable Bill Stoltze
Co-Chair, House Finance Committee
State Capitol, Room 515
Juneau, Alaska 99801-1182

The Honorable Bill Thomas
Co-Chair, House Finance Committee
State Capitol, Room Room 505
Juneau, Alaska 99801-1182

Re: Department of Law Overview – FY 2012 Budget Request

Dear Representatives Stoltze and Thomas:

It is a pleasure and a privilege to present to the House Finance Committee an overview of the Department of Law and its related FY 2012 budget request. I am looking forward to working with all of you as we proceed through the budget process.

The mission of the Department of Law remains as it has been for the past several years – protecting Alaskans, promoting good governance, safeguarding the state's fiscal integrity and facilitating economic development. These are the concerns of every Alaskan, and these are the objectives the men and women of the Department of Law are committed to pursuing with integrity and vigilance.

The successes of the department during this past year have been many and run the gamut from incarcerating dangerous criminals to interfacing with attorneys and other law agencies to provide free legal services to victims of domestic violence and sexual assault. The department daily confronts key constitutional and statutory questions, this year obtaining rulings from the Ninth Circuit upholding Alaska's merit selection system for appointing judges and from the Alaska Supreme Court allowing a parental notice ballot initiative to be placed before the voters.

The department defended the Division of Elections' decisions during the state's contentious senatorial election. It successfully negotiated a half billion dollar settlement with the state's former actuary in connection with the unfunded liabilities to the state's public pension funds and also secured credit protection for current and former state employees who potentially were exposed to identity theft.

Much attention has been focused on the department's efforts to resist, aggressively, federal regulatory overreach that threatens the state's ability to responsibly develop the state's natural resources. Although those efforts have often entailed litigation against federal agencies, litigation is the choice of last resort. Unfortunately, when dialogue and educational efforts prove unsuccessful and federal agencies continue to violate the state's substantive and procedural due process rights without regard to the devastating socio-economic consequences that such regulations will impose, then it is incumbent upon the state through the Department of Law to oppose such encroachment.

One need only read the Alaska Statehood Act to recognize that the right of the state to responsibly develop its natural resources is the key to the state's economic foundation, and therefore the good jobs that allow families to prosper. The future of this great state and its citizens is inextricably tied to the state's ability to preserve and protect this right. To that end, the Department of Law, in conjunction with other state agencies and with the assistance of the administration and the legislature, must and will remain vigilant in protecting against the federal regulatory overreach that threatens our socio-economic well-being.

Through the dedication, intelligence and passion of the men and women who comprise the Department of Law, we remain committed to making a positive and lasting difference in the future of Alaska and to improving the quality of life for Alaskans. I am very proud and honored to be part of this continuing and noble effort.

Sincerely

A handwritten signature in black ink, appearing to read "John J. Burns". The signature is stylized with a large, looping initial "J" and a long, horizontal flourish extending to the right.

John J. Burns
Attorney General



Department of Law

Photo by Sheena Scott, © Law Webmaster



FY 12 Budget Overview for the House Finance Committee of the 27th Alaska Legislature Attorney General Designee John J. Burns



MISSION

The mission of the Alaska Department of Law is to prosecute crime and provide legal services to state government for the protection and benefit of Alaska's citizens.

Key Statistics

Attorneys	FY12	FY11	Change
Civil	163	162	1*
Criminal	122	121	1**
Administrative Services	1	1	0
Total	286	284	2

Support Staff	FY12	FY11	Change
Civil	140	139	1
Criminal	118	118	0
Administrative Services	21	21	0
Total	279	278	1

Department offices: *Anchorage, Barrow, Bethel, Dillingham, Fairbanks, Juneau, Kenai, Ketchikan, Kodiak, **Kotzebue, Nome, Palmer, and Sitka

Operating Budget

(Millions)

Division	FY12	FY11	Change
Civil	49.5	49.9	-0.4
Criminal	32.0	30.9	1.1
Administrative Services	4.2	3.5	0.7
BP Corrosion		4.0	-4.0
Total	85.7	88.3	-2.6*

*In FY11, funding for Oil, Gas and Mining outside Counsel (\$3.0) and BP Corrosion Litigation (\$4.0) were included in the operating budget. The current year requests were transferred to the capital budget for FY12.

Capital Budget

(Millions)

Division	FY12	FY11	Change
Oil, Gas and Mining Outside Counsel (In FY11, \$3.0 million was funded in the operating budget)	5.0*	-0-	5.0
BP Corrosion Litigation (In FY11, \$4.0 million was funded in the operating budget)	9.0*	-0-	9.0
Administrative Services	1.3	.2	1.1
Total	15.3	.2	15.1

*In FY11, funding for Oil, Gas and Mining outside Counsel (\$3.0) and BP Corrosion Litigation (\$4.0) were included in the operating budget. The current year requests were transferred to the capital budget for FY12.

Core Services

- I. Protecting the Safety and Financial Well Being of Alaskans
- II. Fostering Conditions for Responsible Development of Our Natural Resources
- III. Protecting the Fiscal Integrity of the State
- IV. Promoting Good Governance

FY 12 Budget by Core Service

(In Millions)

Priority Programs	UGF Funds	DGF Funds	Other Funds	Federal Funds	Total Funds	Percentage of Total Funds
Protecting Alaskans	39.1	2.0	10.6	1.5	53.2	62.0%
Economic Opportunity and Resource Development	4.2	-0-	3.2	.1	7.5	8.7%
C. State Fiscal Protection	8.1	.7	7.6	-0-	16.4	19.2%
D. Governance	4.4	-0-	4.2	-0-	8.6	10.1%
Department Totals	55.8	2.7	25.6	1.6	85.7	100%

FY 10 Return on Investment

(Millions)

	Awards & Collections	Costs (FY 10 Authorized)	Benefit to Cost Ratio
Return on Total Department Budget	\$576.0	\$85.4	6.75
Return on the Civil Division Budget	\$576.0	\$48.9	11.77

WHERE WE'VE BEEN



FY 2010 INITIATIVES AND ACCOMPLISHMENTS

I. Protecting Public Safety

- Aggressive but fair prosecutions
 - Screened 7,727 felony cases
 - **Prosecuted 5,072 felony cases**

 - Screened 23,229 misdemeanor cases
 - **Prosecuted 19,622 misdemeanor cases**

I. Protecting Public Safety

- Assisted in drafting new laws
 - reformed the bail statute
 - enhanced penalties for sex assault and domestic violence
 - procedures for evidence retention
 - procedures for post-conviction DNA testing

I. Protecting Public Safety

- Played a key role in developing the 10-year Sexual Assault/Domestic Violence Initiative
- Collaborated with agencies and non profits to support the SA/DV Initiative
- Coordinated PSA's for the "Choose Respect" campaign

I. Protecting Citizen Financial Well Being

- Collected \$5.5 million in civil penalties, attorneys fees and costs, and restitution in **consumer protection** actions
- Collected \$3.9 million in **environmental penalties**

I. Protecting Citizen Financial Well Being

- Negotiated an **Identity Theft** settlement protecting Alaskan retirees and public employees from potential financial harm after PriceWaterhouseCoopers, a state contractor, lost employees' personal information

I. Protecting Alaska Children

- Prevailed in **all ten Alaska Supreme Court appeals** where children had to be removed from unsafe homes
- Participated in 2,376 child welfare cases where children were at risk
- Department of Law's child protection attorney case load is 113 per attorney—exceeding the recommended national average of 100 cases

II. Fostering Economic Development

- Defended **offshore oil and gas (OCS) exploration** in court challenges
 - Court agreed a pending OCS lawsuit on Lease Sale 193 does not prevent seismic exploration
 - Defended Shell's Beaufort and Chukchi Sea OCS exploration plans in lawsuits in federal courts
 - Filed an amicus brief challenging the OCS 5-year plan

II. Fostering Economic Development

- Developed with ADF & G and the Administration a comprehensive **Endangered Species Act strategy**
 - Fought unwarranted listings
 - Cook Inlet Beluga whales as “endangered”
 - Ribbon seal
 - Fought unwarranted critical habitat designations
 - Polar bear critical habitat

II. Fostering Economic Development

- Sued the Environmental Protection Agency on its finding that **greenhouse gas emissions** endanger human health and welfare
- Opposed last-ditch efforts by extremist environmental groups to **block** a federally authorized Southeast (Logjam) **timber sale**

II. Fostering Economic Development

- Prevailed in the United States Supreme Court, allowing **Kensington Mine** to open
- Assisted DEC in promulgating new pollution discharge regulations for **Red Dog Mine**
- Worked with Legislature and Governor to settle the **cruise ship industry challenge** to the head tax
- **These actions created and preserved hundreds of jobs**

III. Protecting Fiscal Integrity

- Recovered **\$500 million** from Mercer, actuary for the state pension plan
- Recovered **\$54.7 million** in oil and gas tax and royalties
- Defended the State Assessment Review Board's 2006 TAPS property tax valuation
- Defended over 200 tort claims with no adverse judgments against the state
- Collected **over \$7.3 million** in PFD and other garnishments

IV. Promoting Good Governance

- Sued the federal government over the **constitutionality** of the federal **Affordable Care Act**
- Joined other states in litigating **Second Amendment issues**

IV. Promoting Good Governance

- Issued Executive Branch Ethics Act regulations
- Led the **Rural Action Subcabinet** on outreach trips to rural Alaska

WHERE WE ARE NOW

IMPLEMENTING FY 11
CORE SERVICES



FY 2011 Increment

- Added **two new assistant district attorneys** in Kenai (\$300.0)
- Added a **child protection assistant attorney general** in Kenai (\$200.0)
- Funded a natural resources assistant attorney general (\$200.0) and \$800.0 for outside counsel in **ESA cases**
- \$200.0 for **fast ferry** lawsuit
- \$2.5 million for issues related to **gasline** activity

I. Protecting Public Safety

- Continue to aggressively but fairly prosecute criminals
- On January 26, 2011, statewide DA's offices are in trial on 12 felony cases, including five felony sexual or DV assaults and two homicides, including
 - *State v. Waterman* (Ketchikan woman accused of murdering her mother)
 - *State v. Rollins* (APD officer accused of sexual assault of young women he met on duty)

I. Protecting Public Safety

- Continue to support major aspects of the SA/DV initiative
 - Hosting pro bono legal summits to increase legal representation of SA/DV victims
 - Partnering with the Domestic Violence Sexual Assault Coordinator to assist victims
 - Advising agencies of available federal funds, e.g., to train rural law enforcement officers

II. Fostering Economic Development

- Continue to pursue resolution of the **Point Thomson litigation** with ExxonMobil
- Oppose roadblocks to petroleum exploration in the **National Petroleum Reserve-Alaska (NPR-A)**

II. Fostering Economic Development

- Implementing a **comprehensive ESA strategy**
 - Petitioning the federal government to de-list the Eastern population of Stellar sea lions
 - Successful defense on de-list of ribbon seal
 - Litigating numerous cases involving polar bears
 - Collaborating with Alaska Legislature and congressional delegation

II. Fostering Economic Development

- Fighting lawsuits by extremist groups to shut down OCS oil and gas exploration
- Defending DNR's land and water use permits

III. Protecting Fiscal Integrity

- Pursuing civil penalties, costs and restitution in **consumer protection** actions
- Pursuing penalties related to violations of **state environmental laws**

III. Protecting Fiscal Integrity

- Challenging TAPS Owners' attempt to include imprudent Strategic Reconfiguration expenses in the TAPS tariff rate base
- Defending SARB's 2007-2009 property tax assessments for TAPS
- Recovering fines and cleanup costs and economic damages from BP for negligent maintenance of the pipeline

III. Protecting Fiscal Integrity

- Sued the boat builder and the manufacturer of the state's two fast ferries for engine defects
 - *Fairweather* still out of service
 - *Chenega* in inspection
- These engine defects have cost the state hundreds of thousands of dollars in repairs

IV. Promoting Good Governance

- Defended the Division of Elections in challenges to Alaska's election laws in last year's general election
- Challenging the federal health care "individual mandate" requiring that all Alaskans purchase health insurance
- Challenging National Park Service regulations that infringe state sovereignty on navigable waters

CHALLENGES AND OPPORTUNITIES



WHAT'S AHEAD FY 12 AND BEYOND

Challenges and Opportunities

- **Criminal Division and Child Protection**
 - Expedite felony cases from intake to trial
 - Steady focus on the SA/DV Initiative
 - More crime may be reported
 - Greater demand for prosecution and child protection interventions

Challenges and Opportunities

- Civil Division

- Continue to **aggressively defend state sovereignty against federal regulatory overreach**

- Federal health care legislation
 - EPA attempts to regulate greenhouse gas emissions
 - National Park Service incursions
 - BLM “Wild Lands” designation

Challenges and Opportunities

- Support--as legally appropriate--the state's long-term commitment to **responsible resource development**
- Develop a comprehensive long term strategy
 - Endangered Species Act challenges
 - Unwarranted listings
 - Unwarranted designations of critical habitat
 - Mitigation when justified
 - Outer Continental Shelf exploration challenges

Challenges and Opportunities

- Develop a 5-year **interdepartmental** plan
- Coordinate and cooperate
 - Legislative and executive branches of state government
 - All executive agencies
 - Department of Natural Resources
 - Department of Environmental Conservation
 - Department of Commerce Community and Economic Development
 - Department of Law
 - Department of Fish and Game

Challenges and Opportunities

- Cooperate and coordinate with stakeholders **outside *and* inside** state government
 - Municipalities
 - Boroughs
 - Native corporations and tribes
 - Other states
 - Washington and Oregon joined to de-list the Stellar sea lions
 - Allies like National Association of Attorneys General and Association of Fish and Wildlife Agencies

I look forward to working
with all of you.

Attorney General
Designee
John J. Burns

