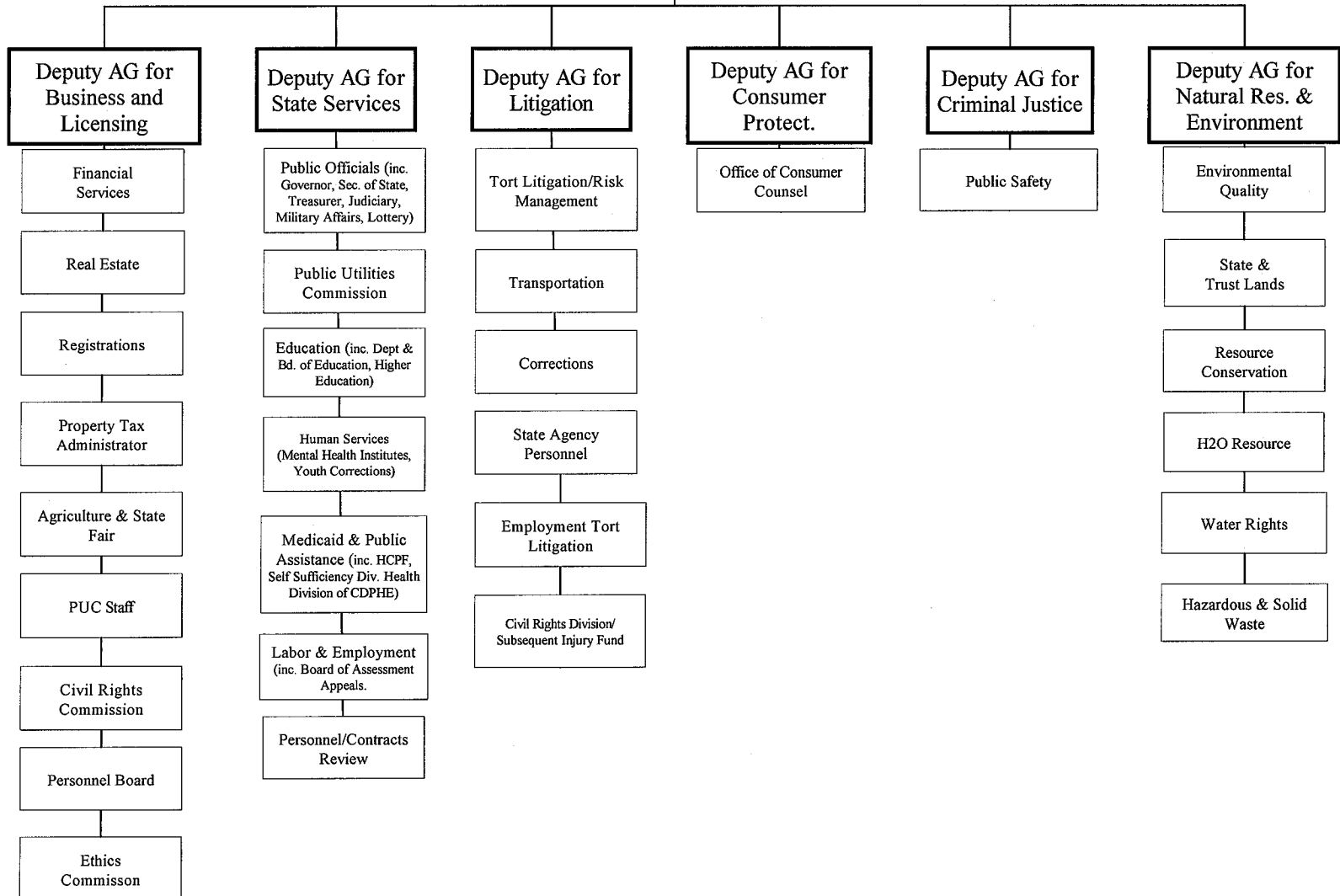
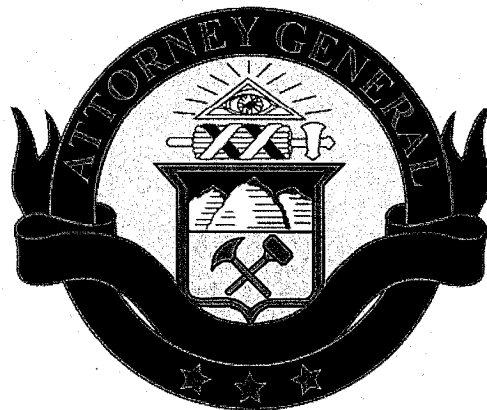


LSSA

Legal Services To State Agencies



LSSA Business & Licensing



PROGRAM SUMMARY - 2009

BUSINESS AND LICENSING SECTION PROGRAM SUMMARY

The Business & Licensing Section (B&L) has approximately 50 attorneys, 10 legal assistants and 6 support staff. These dedicated individuals protect the interests of the people of Colorado by prosecuting cases against licensed professionals, ranging from physicians, dentists, nurses, pharmacists and optometrists to engineers, architects, accountants, real estate brokers and appraisers, securities and insurance brokers, mental health counselors, electricians and barbers and cosmetologists who violate the standards of their professions. Last year, the B&L section prosecuted over 500 cases against professionals whose conduct fell below the standards of care for their professions. The section also represents the Department of Revenue in taxation, bankruptcy and regulatory matters involving the racing, lottery, liquor and motor vehicle dealer boards and commissions. Additionally, this section represents the staff of the Colorado Public Utilities Commission in rate cases, company mergers, licensee matters and performance standards for the telecommunications, electric, gas and transportation companies. In all, the section performs a critical function by ensuring that licensed professionals and entities perform their jobs and functions adequately. There are five units in B&L:

Registrations Unit:

The registrations unit represents the boards and programs responsible for licensing, disciplining and regulating a variety of professionals. These boards and programs are staffed by the Division of Registrations, Department of Regulatory Agencies. The professions regulated include accountants, acupuncturists, barbers, cosmetologists, chiropractors, dentists, electricians, engineers, architects, land surveyors, hearing aid dealers, physicians, psychologists, social workers, addictions counselors, marriage and family therapists, unlicensed psychotherapists, midwives, nurses, nurse aides, nursing home administrators, optometrists, outfitters, physical therapists, plumbers, pharmacists, podiatrists, respiratory therapists and veterinarians. The attorneys in the registrations unit represent the boards in disciplinary and license denial cases, and in injunctive actions against individuals who engage in unlicensed practice of the professions. In addition to prosecuting individual cases, the unit's attorneys provide general counsel advice to the boards regarding rulemaking, legislative, and policy matters. Attorneys serving in a general counsel role also provide advice for boards in their disciplinary and licensing capacity by reviewing whether legally sufficient grounds exist to take certain actions, and analyzing appropriate steps to allow boards to achieve their goals.

Real Estate Unit:

This unit represents numerous boards and commissions responsible for licensing, disciplining and regulating various professionals regulated by the Division of Real Estate, Department of Regulatory Agencies. These professionals include real estate brokers, appraisers, and mortgage brokers. This unit prosecutes cases against

professionals for violations of the standards of their professions. This unit also advises these boards on licensing, rulemaking and policy issues. The rulemaking and policy development responsibilities of the unit's attorneys have increased in recent months due to the Division's substantial expansion following the 2007 legislative session.

Financial Unit:

This Unit represents several commissions within the Department of Regulatory Agencies, the Department of Agriculture, and serves as permanent conflicts counsel for several other state agencies. Unit attorneys represent the Division of Insurance and the Insurance Commissioner who regulate insurance business in the state, and regulate authorized insurance companies and licensed insurance producers in the state. In connection with this representation, Unit attorneys bring enforcement actions in the state District Court, bring licensing actions against licensed producers who violate the requirements of licensure, assist in rulemaking by the Division, and provide general counsel to the Commissioner and the Division. Unit attorneys also represent the Division of Securities and the Securities Commissioner who are responsible for enforcing the Colorado Securities Act. In connection with this representation, Unit attorneys bring enforcement actions in the state District Courts against fraudulent securities schemes to enforce compliance with the law and recover restitution on behalf of injured Colorado investors, and bring licensing actions against licensed broker-dealers and securities sales representatives who violate the requirements of licensure. The Unit represents the Division of Banking and the Banking Commission, and the Division of Financial Services and the Financial Services Commission. In connection with this representation, Unit attorneys represent these Commissions in enforcement actions, assist in rulemaking, and provide general counsel to the Commissioners and Divisions. The Unit represents the Department of Agriculture and all its divisions, commissions and boards in various cases and projects. Unit attorneys provides general counsel to the Department on a wide range of issues such as chronic wasting disease, animal control and pesticide application, and represents the Department in state District Court actions as well as administrative enforcement cases. Unit attorneys also serve as counsel to the Colorado State Fair. In addition, the Unit serves as permanent conflicts counsel for the Mined Land Reclamation Board which holds hearings on disputed reclamation permit applications for hardrock minerals and construction materials (primarily sand and gravel) operations, adopts rules and regulations concerning those activities, and hears disciplinary matters concerning the failure of mine operators to abide by those rules and regulations. The Unit also serves as permanent conflicts counsel for the Department of Personnel and the Colorado Civil Rights Commission.

Revenue:

The Revenue Unit represents all of the boards, sections and divisions of the Department of Revenue. Revenue has three lines of business, Taxation, Motor Vehicles and Enforcement. These divisions are responsible for enforcing the tax code, regulating gaming, racing, liquor, emissions, drivers, automobile dealers and sales people, conducting fair hearings and operating Colorado's ports of entry. The Revenue team also represents the Boxing Commission, a DORA board, and the Property Tax Administrator, a division of the Department of Local Affairs. The unit provides a wide variety of traditional legal services, from prosecuting cases before boards and district

courts around the State and the U.S. District and Bankruptcy courts, to giving advice on rule making, contracts, legislation and personnel matters and to handling appeals in the appellate courts.

Public Utilities Commission:

The Public Utilities Commission Unit's primary responsibility is to represent Litigation Staff of the Colorado Public Utilities Commission in cases before the Colorado Public Utilities Commission (PUC) itself. This includes representing Litigation Staff in rate cases in which public utilities seek to increase the rates charged to the public, including residential, commercial, and industrial customers. Attorneys in the Unit advise PUC Litigation Staff on a daily basis. The Unit also represents the PUC and PUC Commissioners in judicial review actions; in civil actions commenced by or against the PUC in state and federal courts (except civil actions for damages against the PUC and/or PUC Commissioners, which are litigated by attorneys in the Tort Litigation Unit); and in federal administrative proceedings before the Federal Communications Commission, Federal Energy Regulatory Commission, and the Surface Transportation Board.

PROGRAM NARRATIVES

Program Title: Business & Licening – Financial Unit

Long Bill Line Item: Legal Services to State Agencies

Change Requests: No

Federal and State Statutory Authority:

Section 24-31-101 to 105, C.R.S. (2006). The Colorado Securities Act is found in Title 11, Article 51, C.R.S. (2006). The Insurance laws are set forth in Title 10, C.R.S. (2006). The Department of Agriculture and its responsibilities are found generally in Title 35, C.R.S. (2006). The Mined Land Reclamation Acts are set forth in Title 34, Articles 32, 32.5 and 33, C.R.S. (2006). The State Fair Act is found in Title 35, Article 65, C.R.S. (2006). The Civil Rights Commission Act is set forth in Title 24, Article 34, C.R.S. (2006). The Financial Services laws are found in Title 11, Articles 30 and 40-46. The Banking laws are set forth at Title 11, Article 102.

a) Targeted Base Review: No

Program Description:

The Financial Unit provides legal services to a number of Boards and Commissioners, each of which involves a specialized and distinct practice area. The Unit provides legal advice to these client agencies as general counsel on various administrative and regulatory matters and also acts as litigation counsel to the following clients:

Securities Commissioner and Division of Securities:

The Unit represents the Securities Commissioner and the Division of Securities in civil enforcement matters and administrative licensing cases. The civil enforcement matters are brought in state district court and are predominantly securities fraud cases seeking injunctive relief and monetary damages. These securities fraud actions involve complex factual and legal issues with multiple parties, and are seldom resolved within a year of their commencement. The licensing hearings involve the denial or suspension of licenses of broker-dealers, sales representatives and investment advisers. The licensing actions brought in the Division of Administrative Hearings are typically resolved within a year of their commencement.

Insurance Commissioner and Division of Insurance:

The Unit represents the Insurance Commissioner and the Division of Insurance in a wide variety of matters. The Unit provides significant legislative review to the Division.

In the 2006 legislative session, the Unit reviewed and provided advice on a variety of legislation. The Division conducts extensive rule making and the Unit provides advice in the drafting of rules and regulations as well as formal Attorney General Opinions. The Division regulates life insurance, health insurance, property and casualty (homeowners and auto) insurance, HMOs, preneed funeral contracts, bail bonding agents, some warranties, surplus lines insurance, title insurance, credit insurance, medicare supplemental insurance, and long term care insurance. It also licenses insurance agents and insurance companies of all sorts. The Unit provides advice and informal Attorney General Opinions regarding this wide range of issues, and if necessary, brings or defends the Division and/or the Commissioner in civil actions. These cases typically involve multiple parties and complex statutory issues. Other litigation includes enforcement actions brought on behalf of the Division against agents and insurers at the Office of Administrative Courts. The Unit also represents the Division in unauthorized entity cases in District Court, and in cases involving the conversion of medical providers from non-for-profit into for profit entities.

Banking Commissioner and Division of Banking:

The Division of Banking regulates state chartered banks, industrial banks and trust companies. The Unit is general counsel to the Board and the Commissioner and provides a great amount of regulatory review and advice including attending Board meetings, reviewing proposed regulations, and consulting on legal issues related to the supervision of covered banks. In addition, the Unit provides litigation representation as necessary such as the liquidation of a trust company.

Financial Services Commissioner and Division:

The Division of Financial Services regulates state chartered credit unions and money transfer companies. Representation involves a great amount of regulatory review and advice. The Unit also provides written informal attorney general opinions.

Department of Agriculture:

The Unit acts as general litigation counsel for the Department of Agriculture, which is responsible for implementing and enforcing over 65 statutory articles covering various aspects of the agricultural sector. This exceptionally wide ranging legal work includes advice in interpretation and application of state and federal statutes and rules, drafting and adoption of rules, prosecution of enforcement actions against persons who violate the statutes in both administrative and court proceedings, defending the Department and its employees in state and federal courts against lawsuits brought by persons and groups opposed to Department policies or actions.

The State Fair:

The Unit provides advice to the staff on contract and personnel issues, and a wide variety of issues associated with the management of a business. The Unit also attends the Fair Board's meetings.

Mined Land Reclamation Board:

The Unit represents the Board on regulatory matters, including hard rock mining permits and reclamation issues, as well as general counsel matters. In addition, the Unit represents the Board in collection matters arising from defaulted reclamation bonds.

Civil Rights Commission:

The Unit represents the Civil Rights Commission in matters brought to hearing before the Commission as counsel to the Commission, and in general legal advice.

Prioritized Objectives & Performance Measures

Financial Unit		Actual FY 06	Actual FY 07	Actual FY 08	Est. FY 09	Projected FY 10
Objective 1.1:	Aggressively and timely prosecute and resolve regulatory and licensing actions.					
Measure 1.1.1: Settle or file cases on 90% of all active cases referred to the OAG within one year of the date of referral.	Target			90%	90%	
	Actual			90%		
Objective 2.1:	Effectively and Efficiently serve the interest of our clients.					
Measure 2.1.1: Prevail on all litigation matters referred from client agencies.	Target			100%	100%	
	Actual			90%		
Measure 2.1.2: Achieve feedback from client agencies through surveys concerning their satisfaction with efficiency, effectiveness and quality of legal service.	Target			100%	100%	
	Actual			100%		

Workload Measures:

		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Measure 1.1.1. Open 100 new cases.	Target		100%	100%		
	Actual		100%			
Measure 1.1.2. Close 100 new cases.	Target		100%	100%		
	Actual		100%			

Trends and Other Baseline Information:

The Department of Regulatory Agencies has taken a more proactive approach to public protection. Consequently, the Attorney General's office has seen an increase in its case load, and it is anticipated that this trend will continue. Moreover, the complexity and litigious nature of the cases handled by the Units is regularly increasing.

Similar or Cooperating Programs: N/A

Efficiency and Effectiveness Analysis: N/A

Assumptions and Calculations:

See Budget Assumptions and Calculation summary for all Legal Services to State Agency's line items.

PROGRAM NARRATIVE

Program Title: Business & Licensing – Registrations Unit (Medical and Professional Boards)

Long Bill Line Item: Legal Services to State Agencies

Change Requests: No

Federal and State Statutory Authority:

Section 24-31-101 to 105, C.R.S. (Attorney General); Title 12, C.R.S. (creating health care and professional licensing boards); Article 4, Title 24, C.R.S. (State Administrative Procedure Act).

The Medical and Professional Boards Units provide legal services to the following professional boards or licensing programs within the Department of Regulatory Agencies ("DORA"): Accounting, Acupuncture, Committee on Anti-Competitive Conduct, Barbers and Cosmetologists, Chiropractors, Dental, Electrical, Engineering/Architecture/Land Surveying, Hearing Aid Dealers, Medical, Mental Health (Addiction Counseling, Marriage and Family Therapy, Professional Counseling, Psychology, Social Work, and Unlicensed Psychotherapy), Midwives, Mortgage Brokers, Nursing, Nurse Aide Advisory Committee, Nursing Home Administrators, Optometry, Outfitters, Passenger Tramway, Physical Therapy, Plumbing, Pharmacy, Podiatry, Real Estate Commission, Real Estate Appraisers, Respiratory Therapy, and Veterinary Medicine. Until recently, the Professional Boards Unit also represented the State Personnel Board. The majority of the DORA boards and programs are created and regulated by organic statutes within Title 12 of the Colorado Revised Statutes.

In addition to the above-listed organic acts governing individual programs, the functions of the boards, including procedures for disciplinary and licensure actions and for rulemaking hearings, are governed by the Colorado Administrative Procedure Act, Article 4 of Title 24.

Program Description:

The Medical and Professional Boards Units of the Business and Licensing Section within the Department of Law ("the Units") represent the members and staff of the boards and programs described above (the "Boards"). The Governor appoints licensees and public members to the Boards, which are part of the Division of Registrations and the Real Estate Division within DORA. The Boards are charged with regulating the professions and protecting the public by licensing only qualified individuals, disciplining licensees who violate provisions of the applicable practice acts, and seeking injunctive and other authorized action against those who engage in unlicensed practice of the professions. The Boards also engage in rulemaking,

establish formal policies, and coordinate with other agencies where consistent with the Boards' mission of public protection. The Boards sometimes utilize their own staff members to assist with investigations. Those Boards within the Division of Registrations also utilize the services of the Office of Investigations, a separate entity within the Division. By representing the Boards in all of their functions, the attorneys in the Units enable the Boards to realize their goals and represent the people of Colorado.

The most common legal service provided by the Units' attorneys is the prosecution of disciplinary actions against licensees following Board referral of the licensee's case to the Office of the Attorney General. Disciplinary action ranges from public letters of admonition to revocation of a license, and may also include suspension, fines, or probationary conditions.¹ The Boards have individual statutes that provide for specific forms of discipline.

Following referral of a disciplinary case, the Units' attorneys interview witnesses; gather, analyze and organize relevant and often voluminous documents; negotiate with licensees and their attorneys, either informally or through formal mediation; retain and consult with expert witnesses; prepare pleadings and engage in motions practice; initiate and respond to discovery requests; take and defend lay and expert witness depositions; and try cases in hearings before administrative law judges at the Office of Administrative Courts. Where necessary, attorneys represent Boards in subpoena enforcement actions in District Court. The Units' attorneys also represent the Boards in all stages of the appellate process, from exceptions filed with the agency to appeals with the Colorado Court of Appeals and the Colorado Supreme Court.

The Units' attorneys perform similar functions for the Boards where the Boards determine that applicants for licensure should be denied (or granted with conditions), either due to lack of minimum qualifications or due to substandard practice, disability, substance abuse, lack of good moral character or other unprofessional conduct. Again, legal services are often required at the discovery, motions and litigation stages and at all stages of appeal.

When individuals have engaged in the unauthorized and unlicensed practice of the professions regulated by the agency, the Units' attorneys represent the Boards in injunctive actions in state District Court. Attorneys also represent the Boards in contempt proceedings against individuals who violate such injunctions. Again, the attorneys represent the Boards in all stages of the litigation and appellate process.

In addition to the above-described litigation responsibilities in disciplinary, licensure denial or injunctive proceedings, several of the Boards' attorneys also serve as general counsel to the Boards. As general counsel, the Assistant Attorneys General provide a variety of services to the Boards. They advise the Boards in policy-making and

¹ Boards may also dismiss complaints as without merit, or may dismiss complaints with a letter of concern. Letters of concern are confidential and do not constitute disciplinary action.

legislative matters and in formal rulemaking proceedings; represent the Boards in their formal and informal relationships with other private and public entities; and provide advice regarding general policy matters. Attorneys assist in the training of the Boards' members, staff and investigators regarding the legal requirements and legal implications of their actions. Attorneys serving as general counsel to the Boards provide advice in disciplinary and licensing functions by reviewing whether legally sufficient grounds exist to take certain actions, and analyzing appropriate steps to allow the Boards to achieve their goals.

The responsibilities of the Units' attorneys are demanding and require considerable legal and analytical skill. Many of the professionals prosecuted by the Boards hire skilled and litigious attorneys who enjoy significantly greater resources than those available to the State. Often settlement is reached only on the eve of trial after the Boards' attorneys have demonstrated their ability to establish a strong case at hearing. Further, the cases require interpretation and analysis of complicated technical concepts, and often involve battles between experts. It is critical to public protection and the mission of the Boards to hire and retain effective, talented and fair-minded attorneys and support staff to meet the Boards' legal needs and protect the integrity of the Boards' decisional processes.

Prioritized Objectives & Performance Measures

Business & Licensing Medical and Professional Boards Units	Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Objectives 1.1	Timely resolve cases referred by the Boards for disciplinary, licensure denial and injunctive action.				
Measure 1.1.1. Settle or file charges on 90% of all active cases referred to the OAG within one year of the date of referral.	Target			90%	90%
	Actual			85%	
Objectives 2.1	Provide excellent legal services.				
Measure 2.1.1. Prevail on all disciplinary hearings in the Office of Administrative Courts.	Target			100%	100%
	Actual			98%	
Measure 2.1.2. Refine legal practices to develop increased consistency of legal opinions and processes between Boards in specified target areas.	Target			80%	90%
	Actual			80%	

Measure 2.1.3. Offer training to all Board staff and Board members regarding legal and ethical rights and responsibilities.	Target			75%	90%	
	Actual			75% ²		

Prioritized Workload Measures

Business and Licensing Professional Boards Units		Actual FY 06	Actual FY 07	Est. FY 08	Req. FY 09	Projected FY 10
Measure 1.1.1. Open a minimum of 400 new cases.	Target		100%	100%		
	Actual		100%			
Measure 1.1.2. Close a minimum of 400 cases.	Target		100%	100%		
	Actual		100%			

Trends and Other Baseline Information:

The Department of Regulatory Agencies is improving its efficiency in several stages of case preparation, from intake and complaint processing to investigation to board review. Additionally, the Department has taken a more proactive approach to public protection. Consequently, the Attorney General's office has seen an increase in its case load, and it is anticipated that this trend will continue. Moreover, the complexity and litigious nature of the cases handled by the Units is regularly increasing.

Within the Division of Real Estate, the General Assembly enacted four separate bills in 2007 establishing a new mortgage broker licensure program. This new program will require legal services as it engages in rulemaking and policy decisions, and as it likely faces novel litigation. The shift from registration to licensure will by its very nature increase the amount of regulation and, consequently, litigation, in this field. Additionally, the Division of Real Estate is playing an increasingly important role in public protection as the foreclosure rate increases and policy-makers implement reform. The legal assistance of the Units is of paramount importance to the successful implementation of these change issues.

The General Assembly has also created new professional licensure programs within the Division of Registrations. Further, the Division of Registrations has been continuing its internal restructuring, and is requesting that Division attorneys examine their practices to develop optimal and consistent legal strategy, legal analysis and legal advice. Achieving these goals is a resource-intensive endeavor, but is one that is likely to result in improved services to the public.

² The training during FY 07 was provided to most Board members and some Board staff. The goal in FY 08 is to include all Board members and Board staff, other than those who are not available at the time of the training.

Similar or Cooperating Programs:

As noted above, the General Assembly enacted four separate bills in 2007 related to the mortgage broker licensure program. Some of the legal services budget appropriated within that legislation was directed to the Consumer Protection Section of the Colorado Attorney General's Office. The Real Estate Team within Business and Licensing has been coordinating efforts with the Consumer Protection Section to ensure a consistent and thorough approach to public protection in this area.

Assumptions and Calculations:

See Budget Assumptions and Calculation summary for all Legal Services to State Agency's line items.

PROGRAM NARRATIVE

Program Title: Business & Licensing - Revenue

Long Bill Line Item: Legal Services to State Agencies

Change Requests: None

Federal and State Statutory Authority:

Revenue and Property Tax statutes are found in titles 39, 42 and 12. The Boxing Commission statutes are found in Title 12.

Program Description:

The Revenue Unit represents all of the boards, sections and divisions of the Department of Revenue. Revenue has three lines of business, Taxation, Motor Vehicles and Enforcement. These divisions are responsible for enforcing the tax code, regulating gaming, racing, liquor, emissions, drivers, automobile dealers and sales people, conducting fair hearings and operating Colorado's ports of entry. Revenue accomplishes its work by employing staff and through quasi judicial boards appointed by the Governor. The statutory authority for representing Revenue in performance of its functions is found at § 24-31-101-107, [the Attorney General]; Title 42 [Vehicles and traffic]; and Title 39, Articles 21 to 35 [taxation]; Title 12, Article 6 [Dealers], 46, 47 and 48 [Liquor], 47.1 and 47.2 [Gaming] and 60 and 60.1 [Racing] C.R.S. (2007). The Revenue team also represents the Boxing Commission Title 12, Article 10, a DORA Commission, and the Property Tax Administrator, a division of the Department of Local Affairs [Title 39, Article 1 to 14].

Three assistant attorneys general represent Tax Audit and Compliance, Taxpayer Services, Tax Conferee, Tax Collections and Fair Share in the tax line of business. Five lawyers represent the enforcement and motor vehicle lines of business that include Gaming, Hearings, Dealer Board, Emissions, Motor Carrier Services, Liquor and Racing. One team member handles the legal work of the Property Tax Administrator. One attorney represents the Boxing Commission, a DORA board. One attorney handles Revenue's bankruptcy collections cases. A new .6 attorney position is vacant. Each attorney represents more than one client.

The Revenue attorneys perform a wide variety of traditional legal services. They prosecute all cases before the boards to enforce licensure and disciplinary actions as well as give advice to boards on rule making, their authority, contracts and personnel matters and handle appeals of board decisions. They prosecute tax collection matters such as garnishments, seizures and sales, tax assessments in administrative hearings before the executive director, State district courts and in U.S. Bankruptcy Courts. They

defend constitutional challenges to the Revenue statutes for all of the client groups. They help draft rules, draft opinions and give technical advice about legislation and agency publications in light of prior case law.

All of these attorneys answer questions and give brief advice to help agency personnel deliver day to day services to the public and to answer inquiries from the public and bar concerning minor legal questions about statutory authority. Most of these assistant attorney generals handle the appeals that arise from the district attorneys' prosecution of driver appeals in district courts around the State. These appeals are handled in the Colorado Court of Appeals and Supreme Court. Tax appeals from the executive director are tried de novo in district courts around the state. These lawyers also handle appeals of tax cases in the Court of Appeals and Supreme Court.

Prioritized Objectives & Performance Measures

Revenue		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Objectives 1.1	Assist Litigation Staff with early identification and development of issues to be presented at hearings within 10 business days of a request for representation on a specific case.					
Measure 1.1.1. In cases where Revenue statutes have not been interpreted by the Courts, Revenue attorneys assist with research and rule making, review the evidence used by Revenue to make its initial decisions and participate in negotiations to settle disputes before litigation.	Target	95% ¹	95%	95%	95%	
	Actual	100%	95%	95%		
Objectives 2.1	Assist Litigation Staff with management of discovery requests and responses. Represent Revenue decision-makers, meeting the Court's/Board's timelines.					

¹ The Revenue clients mostly praised the work that the attorneys performed. The Revenue clients expressed appreciation for our representation of gaming, motor vehicle and tax clients. Revenue also expressed a concern about disputes between its Dealer Board staff and the line AAGS. The team changed the Dealer Board attorney recently to improve the relationship.

Overall, the responses received for the Revenue Unit from our clients merit a 95% approval rating.

Measure 2.1.1. In cases where Revenue is sued (a taxpayer, driver or licensee appeals a Revenue decision) upon service of the AG and Revenue cases are opened and answers are filed and trials or appeals are pursued.	Target	95%	95%	95%	100%	
	Actual	100%	100%	100%		
Objectives 3.1	Training new Revenue managers regarding litigation timelines and recognizing legal issues that have wide implications, especially in taxation and Gaming.					
Measure 3.1.1. Development of tax and Gaming policies.	Target	95%	95%	95%	95%	
	Actual	100%	100%	100%		
Objectives 4.1	Improve representation of Litigation Staff by increasing subject matter expertise.					
Measure 4.1.1. Develop an internal library of authorities on gaming, taxation, dealers and driver appeals law and bankruptcy.	Target	0%	95%	95%	95%	
	Actual	50%	60%	65%		

Workload Measures

		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Number of cases completed (hearing/trials and settlements)	Target				300	
	Actual			259		
Number of pending cases	Target				400	
	Actual			541		

Trends and Other Baseline Information:

The frequency of bankruptcy, motor vehicle appeals and tax protester appeals filings continue to rise. The bankruptcy unit at Revenue is still handling the gut of cases filed ahead of the change in the Bankruptcy Code tightening the relief granted and adding filing prerequisites and due to the sub-prime mortgage lending crisis and high foreclosure rate in Colorado.

Similar or Cooperating Programs: N/A

Assumptions and Calculations: See Budget Assumptions and Calculation summary for all Legal Services to State Agency's line items.

PROGRAM NARRATIVE

Program Title: Business & licensing - PUC Unit

Long Bill Line Item: Legal Services to State Agencies

Change Requests: No

Federal and State Statutory Authority:

Section 24-31-101 to 105, C.R.S. (Attorney General). Public Utilities Law is set forth in title 40, C.R.S.

Program Description:

The Public Utilities Commission ("PUC" or "Commission") regulates the rates, charges, services, and facilities of public utilities within the State of Colorado. The Public Utilities Unit of the Attorney General's Office ("PUC Unit") represents Litigation Staff of the PUC. Staff of the Commission ("Staff") consists of experts in fields including, but not limited to, finance, engineering and economics. When Staff enters an appearance and becomes a party to a proceeding before the Commission, Staff is divided into Advisory Staff and Litigation Staff.

The PUC Unit's duties and responsibilities consist of: 1) representing Litigation Staff of the PUC in cases before the PUC itself; 2) representing the PUC and PUC Commissioners in a) judicial review actions commenced in state district courts or the United States District Court for the District of Colorado, b) in civil actions commenced by or against the PUC in state and federal courts (except civil actions for damages against the PUC and/or PUC Commissioners, which are litigated by attorneys in the Tort Litigation Unit); 3) in federal administrative proceedings before the Federal Communications Commission, Federal Energy Regulatory Commission and Surface Transportation Board; and d) in appeals to the Colorado Court of Appeals, Colorado Supreme Court, federal circuit courts and the United States Supreme Court; 3) advising and assisting PUC Commissioners in rule making proceedings (when required); and 4) advising PUC Litigation Staff on a daily basis.

Proceedings before the PUC are technical and complex. PUC Unit attorneys are required to have an in-depth knowledge of the electric, natural gas and telecommunications industries as well as the public utilities laws applicable to those industries. PUC Unit attorneys must understand the fundamental principles of engineering, accounting and economics as they apply to electric, natural gas and telecommunications companies. In-depth understanding of the interplay between the technical aspects of each type of industry and the complex federal and state statutes and rules applicable to them is also required.

Some of the most legally, technically and procedurally complex cases in which the PUC Unit attorneys represent Litigation Staff are rate making proceedings before the PUC. In these cases, the amount of revenue a utility must earn to cover its expenses and earn a reasonable rate of return is determined (a "Phase I" rate case). In addition, PUC Unit attorneys represent Litigation Staff in rate cases which determine how rates are spread throughout various rate classes (e.g., residential, commercial, industrial) (a "Phase II" rate case). These proceedings ultimately determine how much the public pays for its electric, natural gas and telecommunications services.

Cases before the PUC frequently involve the presentation of ten, and often more, expert witnesses. These expert witnesses present both written and oral testimony on subjects as diverse as the appropriate allocation of costs between regulated and non-regulated entities and the methodology used in the development of a rate rider. The utilities are represented by skilled, mostly in-house counsel, who have the support of substantial legal departments. To adequately represent Litigation Staff and effectively assist the PUC in satisfying its statutory directive to determine what is in public interest, it is vital to hire and retain talented, experienced and balanced attorneys (and support staff) knowledgeable in public utilities law.

Applications and advice letters constitute the majority of cases filed with the PUC. Pursuant to provisions contained in §§ 40-6-109.5 and 111, C.R.S., absent a waiver of the statutory decision-making deadline, these cases must be decided within 210 days. Because of the tight statutory time frames, upon receipt of requests for counsel, PUC Unit attorneys are immediately involved in cases and these cases proceed from filing to completion usually within six to nine months. PUC Unit attorneys are required to meet tight deadlines and remain on top of cases. Currently, there is no backlog of cases within the Unit.

In most instances, PUC Unit attorney involvement begins after a receipt of a request for counsel. However, Unit attorneys are often involved in advising Litigation Staff before it formally intervenes in a case. Once a request for counsel is received, an attorney is assigned to the case and it is incumbent upon that attorney to quickly familiarize him or herself with the case and assist Litigation Staff in strategic planning, identification of issues, reviewing pre-filed written testimony, and preparation of witnesses for hearing.

Prioritized Objectives & Performance Measures

Business and Licensing Public Utilities Commission		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Objectives 1.1	Assist Litigation Staff with early identification and development of issues to be presented at hearings.					
Measure 1.1.1. In cases where	Target	100%	100%	100%	100%	90%

advice letters and applications have been filed with the PUC, upon receipt of direct testimony, set up and maintain regular meeting schedules with the client.	Actual	100%	100%	100%	100%	
Objectives 2.1	Assure early attorney involvement in all cases.					
Measure 2.1.1. Attorney assignment to cases within 48 hours of receipt of requests for counsel	Target	100%	100%	100%	100%	100%
	Actual	100%	100%	100%	100%	
Objectives 3.1	Training Litigation Staff regarding: 1) the necessary documents which must be received by the PUC Unit to properly and efficiently process requests for counsel and generate intervention documents, and 2) how to properly prepare confidential testimony and exhibits to meet the requirements of Commission rules.					
Measure 3.1.1. Provide semi-annual in-house training to Litigation Staff.	Target	100%	100%	100%	100%	100%
	Actual	100%	100%	100%	100%	
Objectives 4.1	Open 80 or more new cases.					
Measure 4.1.1. Close 80 or more cases.	Target	100%	100%	100%	100%	100%
	Actual	100%	100%	100%	100%	

Trends and Other Baseline Information:

The frequency of complex rate case filings continues to increase. For example, prior to 2006, Public Service Company of Colorado ("PSCo") filed rate cases approximately every three to four years. Since 2004, PSCo has filed at least one rate case (either gas or electric) annually. The increase in filings is due, in large part, to the steady increase in the cost of natural gas. PSCo has advised Staff that it will file an electric rate case in October 2007 which uses a forecasted test year to determine the company's revenue requirement. Use of a forecasted test year is unprecedented in this jurisdiction; until this filing, PSCo has always used an historic test to develop its revenue requirement.

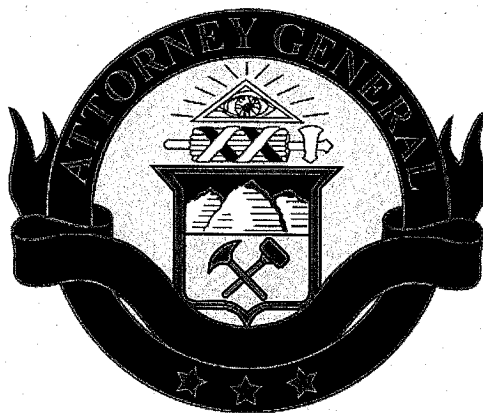
In addition, there is an increased focus and interest in renewable energy. New statutes passed in the 2007 legislative session significantly increased the percentage of renewable energy public utilities are required to generate or purchase, and also imposed requirements that both gas and electric utilities offer programs encouraging energy conservation by retail customers. The new legislation and resulting Commission rules may increase the number of cases in which the PUC Unit attorneys are involved.

Similar or Cooperating Programs: N/A

Assumptions and Calculations: N/A

See Budget Assumptions and Calculation summary for all Legal Services to State Agency's line items.

LSSA State Services



Program Summary –2009

STATE SERVICES SECTION PROGRAM SUMMARY

The State Services Section consists of 36 attorneys, 8 legal assistants, four administrative assistants and one office manager. The legal work of the Section is diverse, ranging from providing advice on transactions and general operations to defending the constitutionality of state laws in federal or state court. In general, we protect children and people at risk. We also conserve the state's fiscal system by reviewing hundreds of state contracts and defending the State against claims typically involving the inadequacy of funding of various programs. The Section also gives legal advice to the statewide elected officials.

The Section is composed of the following units:

Human Services:

This Unit represents the Department of Human Services. Most of our work seeks to maintain the confirmation of a report of child abuse as determined by a County. The State handles administrative appeals of these County reports. On behalf of the Division of Child Care, we also bring licensure actions to revoke or discipline child care providers who harm children or do not follow requirements. We have one attorney stationed in Pueblo representing the Colorado Institute for Mental Health at Pueblo. The Department's many other programs also require legal representation.

Medicaid and Public Assistance:

The Unit represents the health programs of the Department of Public Health and Environment, including the division that licenses nursing home facilities. The Unit's main client is the Department of Health Care Policy and Financing that administers Medicaid and the Children's Basic Health Plan. Our representation includes eligibility issues, rate reimbursement appeals, collection of overpayments and amounts owed by third-party providers. The Unit also represents the self-sufficiency programs of the Department of Human Services. An attorney in this Unit also represents the Board of Assessment Appeals in property tax matters.

Labor/Personnel and Administration:

This unit represents the Department of Labor and Employment, which involves mainly workers compensation, unemployment and petroleum storage tank monitoring and cleanup. In addition, the Unit does the legal work for the Department of Personnel and Administration, which including the Personnel Director, employee benefit programs, state buildings and purchasing. We also advise the State Controller and review hundreds of contracts annually for legal sufficiency.

Education:

This Unit advises the State Board of Education and the Department of Education on a wide variety of issues, including charter school appeals, general policy questions, and teacher licensure cases. The Unit also provides general legal advice to the Department of Higher Education, the Commission on Higher Education and the state's public colleges and universities. The Unit regularly defends state education laws and the system of public school finance against constitutional challenges.

Public Officials/PUC.:

This Unit advises the three Public Utilities Commissioners and generally drafts the orders adopted by the PUC. The PUC Unit also represents the Commissioners and their Advisory Staff in hearings before the Commission and in cases appealed to state and federal courts. The other attorneys in the Unit provide legal advice to the Governor, Secretary of State (election law), the Dept. Local Affairs, the Department of Military Affairs, the State Auditor and the Colorado Lottery, and the Treasurer. The Unit handles constitutional challenges to some state laws and initiated measures adopted by the voters. They also represent the Judicial Department. Even judges get sued.

HIPAA:

The Section also includes an attorney who is coordinating the legal issues involved with the State's compliance with the federal Health Insurance Portability and Accountability Act (HIPAA), which requires certain health care providers to standardize their transactions and to observe strict privacy policies.

PROGRAM NARRATIVE

Program Title: State Services – Medicaid and Public Assistance Unit

Long Bill Line Item: Legal Services to State Agencies

Change Requests: No

Federal and State Statutory Authority:

The Colorado Medical Assistance Act as specified in article 4 of title 25.5, C.R.S.; the Reform Act for the provision of Health Care for the Medically Indigent as specified in part 1, article 3 of title 25.5, C.R.S.; Adult foster care, as specified in § 26-2-122.3, C.R.S.; Home care allowance, as specified in § 26-2-122.3, C.R.S.; Treatment program for high-risk pregnant women created pursuant to § 25-1-212, C.R.S. and as specified in § 25.5-5-310, C.R.S.; Children’s Basic Health Plan as specified in article 8 of title 25.5.

The Colorado Public Assistance Act as specified in article 2 of title 26, C.R.S.; the Colorado Child Support Enforcement Act as specified in article 13 of title 26, C.R.S.; the Colorado Administrative Procedure Act for the Establishment and Enforcement of Child Support as specified in article 13.5 of title 26, C.R.S.

Article 1 of title 25, C.R.S.; the Vital Statistics Act of 1984 as specified in article 2 of title 25; article 3 of title 25, C.R.S.; the Colorado Emergency Medical and Trauma Services Act as specified in article 3.5 of title 25; article 4 of title 25 with the exceptions of parts 1, 16 and 18; article 14 of title 25; the Colorado Dental Care Act of 1977 as specified in article 21 of title 25; the Colorado Dental Program Act of 1997 as specified in article 21.5 of title 25; article 27 of title 25.

Prioritized Objectives & Performance Measures

State Services Medicaid and Public Assistance Unit		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Objectives 1.1	Assist in providing access to health care insurance for Colorado children					
Measure 1.1.1. Assist	Target	X	X	X	X	

the Department of Health Care Policy and Financing (HCPF) and Children's Basic Health Plan (CHP+) Policy Board by providing legal services for the benefit of the program.	Actual	Yes	Yes	Yes		
Objectives 2.1	Defend HCPF in litigation challenging the implementation of the Colorado Benefits Management System					
Measure 2.1.1. Defend HCPF in litigation under State District Court preliminary injunction, finalize conditional settlement agreement, and reach a resolution through trial, settlement or further order of Court.	Target	X	X	X	X	
	Actual	Yes	Yes	Yes		
Measure 2.1.2. Pursue administrative remedies regarding overpayments or other amounts owed by Medicaid providers to HCPF.	Target	X	X	X	X	
	Actual	Yes	Yes	Yes		
Objectives 3.1	Continue to pursue repayment of public funds expended to provide medical benefits from estates, trust and responsible third parties.					
Measure 3.1.1. Pursue recovery of Medicaid payments from personal injury settlements and from other liable third parties and recover \$1 million in Medicaid funds to the extent permitted under the recent Ahlborn decision limiting the impact of the Medicaid lien.	Target	\$1,000,000	\$1,000,000	\$1,000,000	\$700,000	
	Actual	\$1,153,055	\$1,571,590	\$736,927		

Measure 3.1.2. Continue to vigorously defend state statutes regarding the continuing of trusts for purposes of Medicaid eligibility to prevent unauthorized provider payments.	Target	X	X	X	X	
	Actual	Yes	Yes	Yes		
Measure 4.1.1. Defend challenges to administrative rules of the Medical Services Board that reduce benefits or reimbursement rates and respond to such challenges within 30 days of filing 80% of the time.	Target	X	X	X	X	
	Actual	Yes	Yes	Yes		
Objectives 5.1	Continue to defend appeals brought by providers of Medicaid services seeking higher reimbursement or payment of improperly submitted claims.					
Measure 5.1.1. Defend the Department of Health Care Policy and Financing from nursing facilities challenge of their appraisals in order to get higher Medicaid reimbursement and respond to such challenges within 30 days of filing 80% of the time.	Target	X	X	X	X	
	Actual	Yes	Yes	Yes		
Measure 5.1.2. Continue to defend appeals brought by providers of Medicaid services seeking higher reimbursement or payment of improperly submitted claims and respond to such appeals within 30 days of filing 80% of the time.	Target	X	X	X	X	
	Actual	Yes	Yes	Yes		

Objectives 6.1	Defend HCPF and CDPHE in actions to deny or terminate Medicaid certification and state licensure.					
Measure 6.1.1. Defend CDPHE in regularly occurring licensure revocation cases. Respond to appeals of Dept. action within 30 days of filing 90% of the time.	Target	X	X	X	X	
	Actual	Yes	Yes	Yes		
Objectives 7.1	Establish false claims actions, both reviewing and filing for HCPF.					
Measure 7.1.1. Continuous review of cases with HCPF and coordination with federal and state agencies to identify those subject to false claim recoveries and prosecute civil false claim cases in state court, and in federal courts jointly in cooperation with the Justice Department .	Target	X	X	X	X	
	Actual	Yes	Yes	Yes (3 yr. litigation effort resulted in recovery of \$850,000 in FY '07)		
Objectives 8.1	Prosecute actions regarding revocation / suspension of EMT licenses for CDPHE					
Measure 8.1.1. Assist CDPHE in preparing Notices of charges and defending administrative action to revoke or suspend a license. Respond to appeals of Department administrative action within 30 days of filing 90% of the time	Target	X	X	X	X	
	Actual	Yes	Yes	Yes		
Objectives 9.1	Represent CDPHE and HCPF in matters where licensees or providers file for bankruptcy.					
Measure 9.1.1. File and monitor claims in bankruptcy court for HCPF within time period established by the Court.	Target	X	X	X	X	
	Actual	Yes	Yes	Yes		

Measure 9.1.2. Monitor bankruptcy filings for possible transfer of ownership issues.	Target	X	X	X	X	
	Actual	Yes	Yes	Yes		
Objectives 10.1	Advise and defend CDPHE and HCPF in matters relating to state and federal statutes implementing citizenship and identification requirements for receipt of public benefits.					
Measure 10.1.1. Review and advise on rules implementing new document requirements.	Target			X	X	
	Actual			Yes		
Measure 10.1.2. Defend and advise the Departments in litigation and potential litigation issues relating to rule implementation within 30 days of request 80% of the time.	Target			X	X	
	Actual			Yes		X
Objectives 11.1	Advise and defend the Department of Human Services in class action seeking recovery of attorneys fees for certain AND recipients.					
Measure 11.1.1. Defend DHS in Martinez litigation at district court and appellate level, if necessary including drafting of legislative alternatives to eliminate liability.	Target			X	X	
	Actual			Yes		

Trends and Other Baseline Information:

The legal services provided by the unit are highly diverse and range from complex transactional matters to complex litigation pending in State and Federal lower courts and courts of appeal. For the Department of Health Care Policy and Financing (HCPF), the unit continues to represent HCPF in nursing home rate, appraisal, and moratorium cases. In a somewhat different arena, HCPF is becoming more aggressive in denying or terminating Medicaid provider agreements to providers, and this may continue to cause additional work in terms of litigation for the unit.

HCPF continues to pursue recovery of overpayments through their program integrity unit, and the unit gets involved any time the demand for repayment of the overpayment is appealed. The unit is also more active in investigating instances of wrongful billing that might lead to a false claims action. The unit continues its partnership role with the

United States in evaluating and prosecuting Medicaid recovery actions against providers and individuals who submit false claims. This cooperation includes participation in an informal Health Care Fraud Task Force made up of various fraud enforcement entities in both the state and federal realms. The task force acts as a resource to the unit for developing data on false claims civil prosecutions. The unit has seen an increase in the transactional nature of the work as HCPF is more frequently referring contracts to the unit for substantive review prior to issuing the contracts. Moreover, the unit is defending either the Department or the Medical Services Board more frequently regarding reductions in benefits or reimbursements due to the State's budget situation.

Major rules changes have been mandated as a result of the passage of the Deficit Reduction Act of 2005 (DeFRA) which directs the state to impose specific document requirements on Medicaid recipients. A state counterpart to these requirements was passed in HB-1023. Both of these laws apply to different aspects of HCPF programs. This is likely to increase the unit's litigation load as recipients appeal claims denials based on DeFRA. The unit continues to defend HCPF in highly publicized litigation pending in the Denver District Court seeking equitable remedies and damages for alleged failures in the operation of the State's computerized welfare benefits system to pay benefits to eligible recipients. A prospective settlement this year would require the unit to play a role in the continuing monitoring of HCPF reporting of the timeliness of HCPF program applications.

The Department of Public Health and Environment (CDPHE) continues to revoke licenses of both personal care boarding homes and emergency medical technicians when circumstances warrant it, and the unit represents CDPHE in these matters. With the increase in deficient practice cited against nursing and other health facilities, it is anticipated that licensure actions will continue to increase. In addition, the significant influx of funding under Amendment 35 has and will continue to result in increased unit validation of new Board of Health rules to meet the health issues surrounding tobacco use. The unit continues to research issues and provide guidance relating to the Governor's Expert Epidemiological Emergency Response Commission authority which is a part of CDPHE.

The unit's transactional work for the Department of Human Services consists primarily of the review of rules to go before the board of human services. The unit is vigorously defending several cases remanded from the appellate level, which have been certified as a major class action seeking a recovery of attorneys fees expended by recipients of state benefits to recover federal benefits that result in a refund to the state. This litigation is currently not yet scheduled for trial.

Similar or Cooperating Programs:

A large number of the programs this unit represents have federal counterparts at the federal Department of Health and Human Services. The unit acts as an advisor to HCPF on conflicts with the Centers for Medicare and Medicaid Services and represents

the Department in appeals before the Division Appeals Board on matters relating to the implementation of Medicaid policy in the state.

Assumptions and Calculations:

This unit is part of the State Services Section program and is part of the Legal Services to State Agencies Line Item. All program expenditures and appropriations are included in that line item. See Budget Assumptions and Calculation summary for all Legal Services to State Agencies programs.

PROGRAM NARRATIVE

Program Title: State Services – Labor/DPA Unit

Long Bill Line Item: Legal Services to State Agencies

Change Requests: No

Federal and State Statutory Authority:

General Authority: Colorado Constitution, article IV, § 1; Title 24, Article 31, C.R.S.;

Department of Personnel and Administration: Colorado Constitution, Article V, Section 33, Article XII, Sections 13 - 15; Title 24, Articles 30, 50-52, 80, 82 and 101-112, C.R.S.

Public Employees' Retirement Association: Title 24, Article 51, C.R.S.

Department of Labor and Employment: Titles 8–9, C.R.S.

Program Description:

The Labor/DPA (Dep't of Personnel and Administration) Unit represents the Department of Labor and Employment, and the Department of Personnel and Administration.

The Department of Labor and Employment provides a wide variety of services to employers and employees including workers' compensation, unemployment benefits, and job placement. The Department administers and enforces state laws concerning public health and safety matters such as the use of explosives and petroleum storage tanks. State labor laws, some of which first appeared over one hundred years ago, are also enforced through the Department. The Department's need for legal services includes providing advice regarding statutory construction and rulemaking, instituting enforcement actions, and representing the Department's interests in litigation before state trial and appellate courts.

The Department of Personnel and Administration includes the Executive Director, who oversees the state civil service system, state purchasing, state buildings, accounts and control, employee benefits, deferred compensation (§ 457) plan, central services, administrative hearings, telecommunications, general government computer center, archives and public records, and real estate services (formerly capitol complex facilities). The State Personnel Board and Risk Management functions are not represented by this Unit. The Unit also advises the Public Employees' Retirement Association ("PERA"), primarily in collection matters and rulemaking. The Unit provides the full range of legal services, including general counsel, defense of general civil litigation against the Department of Personnel (except personnel and tort defense), rule opinions, formal and informal attorney general opinions, fiscal, procurement and contract advice.

A substantial portion of the Unit's work involves the contract review process for the State Controller pursuant to a specific statutory duty of the Attorney General on that subject. The contract review function includes statewide consultation on particular procurements, contract formation and contract dispute resolution, as well as assistance to the State Controller and State Purchasing Director in procurement and contract systems improvements.

Prioritized Objectives & Performance Measures

State Services – Labor		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Objectives 1.1		Keep client agencies apprised of status of projects.				
Measure 1.1.1. Issue 12 monthly status reports to client agencies by the 15 th of each month.	Target	100%	100%	100%	100%	
	Actual	100%	100%	100%		
Measure 1.1.2. Revise monthly status report to reflect priority of workload.	Target	100%	100%	100%	100%	
	Actual	100%	100%	100%		
Objectives 2.1		Promote timely compensation for petroleum leak remediation.				
Measure 2.1.1. Contact petroleum storage tank fund applicants within 10 days of request by agency.	Target	100%	100%	100%	100%	
	Actual	90%	90%	100%		
Measure 2.1.2. Process fund payment settlements within 7 business days of receiving documentation from parties.	Target	100%	100%	100%	100%	
	Actual	100%	100%	100%		
Objectives 3.1		Reduce the number of employer's uninsured for workers compensation.				
Measure 3.1.1. Contact uninsured employer within 10 days of matter being referred by agency.	Target	100%	100%	100%	100%	
	Actual	100%	100%	100%		
Measure 3.1.2. Apply for hearing within 20 days from contact with such employers if insurance not obtained.	Target	100%	100%	100%	100%	
	Actual	100%	100%	100%		
Measure 3.1.3. Pursue	Target	100%	100%	100%	100%	

penalties at request of the Division of Worker's Compensation.	Actual	100%	100%	100%		
Objectives 4.1	Protect confidential information from inappropriate disclosure.					
Measure 4.1.1. Upon timely referral from client agency, informally resolve or file appropriate document before response date or subpoena.	Target	100%	100%	100%	100%	
	Actual	100%	100%	100%		
Objectives 5.1	Contribute to the effective adjudication of worker's compensation proceedings and unemployment appeals.					
Measure 5.1.1. Provide representation to the Industrial Claim Appeals Office in the State Appellate Courts.	Target	100%	100%	100%	100%	
	Actual	100%	100%	100%		
Measure 5.1.2. File appellate briefs on behalf of the Industrial Claim Appeals Office in a timely manner.	Target	100%	100%	100%	100%	
	Actual	100%	100%	100%		
State Services DPA Unit	Actual	Actual	Est.	Req	Projected	
	FY 06	FY 07	FY 08	FY 09	FY 10	
Objectives 1.1	Provide legal sufficiency review of state contracts within 5 business days or less average.					
Measure 1.1.1. COFRS Contract Logging & Inquiry ("CLIN") system tracks contract review volume and time. See Trends.	Target	5	5	5	5	
	Actual	698 contracts reviewed in 5.36 business days	631 contracts reviewed 6.9 business days	716 Contracts reviewed 9 business days	750 Contracts reviewed	
Objectives 2.1	Issue all written legal opinions within 60 days.					
Measure 2.1.1. Compare date of client's request with date of final written opinion and calculate average turnaround time on an annual basis.	Target	60	60	60	60	
	Actual	10 – 120+ days	10-120 days	10-90 days		
Objectives 3.1	Keep Personnel & Contract Review personnel informed regarding major case and project status.					
Measure 3.1.1. Annually	Target	12	12	12	12	

issue 12 monthly case status reports to Personnel and Contract Review personnel.	Actual	12	12	12		
--	---------------	----	----	----	--	--

Workload Measures

		Actual FY 05	Actual FY 06	Est. FY 07	Req FY 08	Projected FY 09
Contract volume through the AG's Office	Target	698	631	650	750	
	Actual			716		
Contract review time by the AG's Office in average calendar.	Target	5 Business days	5 Business days	5 Business days	5 Business days	
	Actual	5.36 business days	6.9 Business days	9 Business days		

Trends and Other Baseline Information:

The unit routinely provides advice and representation regarding requests or demands (by subpoena) for confidential information, the prosecution of penalty actions for employers operating without workers' compensation insurance, workers' compensation and unemployment insurance appeals, and petroleum storage tank fund reimbursement protests.

Contract volume through the AG's Office decreased in the past FY due to modifications in the review process. As a result, more of the office's time may be spent on complicated contracts and contract issues. The AG continues to assist the State Controller's Office in developing and implementing new policies and fiscal rules. The AG also continues to provide contract and purchasing training to state agencies, and organized and facilitated the Controller's Advisory Group. The AG, the State Purchasing Director and the State Controller are continually seeking to improve the contract process. Data for contract volume and AG review time are set forth above.

Similar or Cooperating Programs: N/A

Assumptions and Calculations:

This unit is part of the State Services Section that is part of the Legal Services to State Agencies Line Item. All program expenditures and appropriations are included in that line item. See Budget Assumptions and Calculation summary for all Legal Services to State Agencies programs.

PROGRAM NARRATIVE

Program Title: State Services – Human Services

Long Bill Line Item: Legal Services to State Agencies

Change Requests: No

Federal and State Statutory Authority:

§ 19-3-313.5 (Reports of Child Abuse or Neglect), 26-6-101 to 26-6-114 (Child Care Licensing Act), 25-1-201 to 25-1-215 (Alcohol and Drug Abuse), 19-2-101 to 19-2-1105 (Division of Youth Corrections), 26-8-101 to 26-8-106 (Vocational Rehabilitation), 26-8.5-101 to 106 (Vending Facilities in State Buildings), 26-12-1-101 to 26-12-207 (State Veterans Nursing Homes), 27-10-101 to 27-10-129 (Care and Treatment of the Mentally Ill) and 27-10.5 -101 to 27-10.5-601 (Care and Treatment of the Developmentally Disabled), C.R.S. (1998).

Program Description:

This Unit provides legal services to all divisions and programs within the Department of Human Services except for Public Assistance and Child Support Enforcement. A major portion of the unit's time is devoted to fair hearings where individuals challenge whether or not their names should be included in the state-wide automated data system know as TRAILS. Another major portion of the unit's time is devoted to enforcing the child care licensing act, by summarily suspending and revoking child care licenses, seeking injunctions against unlicensed care, and defending the Department's decisions not to waive certain child care rules. The unit also has one full time lawyer devoted exclusively to providing legal services to the Colorado Mental Health Institute in Pueblo. The unit also provides other legal services, such as defending legal challenges to CBMS, prosecuting licensing actions regarding alcohol and drug abuse providers and developmental disability services providers, protecting confidential child abuse, delinquency, adoption, mental health and alcohol records, and handling procurement protests, mental health consumer complaints, rates established for child care providers, and advice concerning the operation of the blind vendor program and state veterans nursing homes. The unit also reviews rules adopted by the Board of Human Services.

Prioritized Objectives & Performance Measures

State Services Human Services	Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Objectives 1.1	Resolve all child licensing enforcement cases in a timely and efficient manner.				
Measure 1.1.1. Draft and serve orders of summary suspension within 72 hours of receiving the request from the Department.	Target	100%	100%	100%	100%
	Actual	90%	95%	100%	
Measure 1.1.2. Draft and serve notices of charges in summary suspension cases within one week after the order of summary suspension has been served.	Target	100%	100%	100%	100%
	Actual	100%	100%	100%	
Measure 1.1.3. Prepare notice of charges in non-emergency cases within 30 days after receipt of request from the department.	Target	100%	100%	100%	100%
	Actual	100%	100%	97%	
Objectives 2.1	Resolve all incoming requests for fair hearing regarding the State Automated Data System in timely and efficient manner.				
Measure 2.1.1. Resolve at least 75% of incoming requests without going to a hearing on the merits, either by settling the case, utilizing ADR, filing dispositive motions based on criminal or dependency and neglect adjudications or dropping cases where a listing is not appropriate.	Target	100%	100%	100%	100%
	Actual	100%	100%	100%	
Objectives 3.1	Defend the State is major litigation.				
Measure 3.1.1. Continue to defend the CBMS lawsuit and seek an appropriate resolution	Target	100%	100%	100%	100%
	Actual	100%	100%	100%	

Objectives 4.1		Review rules in a timely and efficient manner.				
Measure 4.1.1. Prepare written informal rule opinion within one week after receipt or before the board meeting, which ever is earlier.	Target	100%	100%	100%	100%	100%
	Actual	100%	100%	100%		
Measure 4.1.2. Prepare formal attorney general opinions on adopted rules within 20 days of their submission to the unit.	Target	100%	100%	100%	100%	100%
	Actual	100%	100%	100%		

Trends and Other Baseline Information:

Lawyers in the unit carry a caseload of about 30-40 active child abuse report cases at any one time. Pursuant to the rules of the Department of Human Services, these matters are set for hearing within 120 days (now 180 days) of being docketed. Although some cases are continued beyond this initial deadline, the vast majority of the cases are disposed of within 120 days. With the use of alternative dispute resolution more than 90% of these cases were resolved without resort to a contested hearing.

The unit continues to receive numerous and unpredictable requests for assistance from other divisions within the Department of Human Services, including the Division of Vocational Rehabilitation, the Alcohol and Drug Division, Developmental Disability Services, Mental Health Services. Colorado Mental Health Institute – Fort Logan and others. The litigation regarding CBMS is an example of such a request.

The unit continues to file a significant number of cases on behalf of the Division of Child Care, due largely to the enforcement of the Human Services’ regulation that providers pay annual fees to keep their licenses in effect.

We also have a number of complex cases pending. For example, the unit will also defend a claim from the federal government seeking reimbursement of an alleged \$11 million food stamp overpayment. The unit successfully defended the Colorado Mental Health Institute – Pueblo’s ability to pay procedures, and an appeal from that decision is pending in the Colorado Court of Appeals

Similar or Cooperating Programs: N/A

Assumptions and Calculations:

Human Services Unit of the State Services Section is part of the Legal Services to State Agencies Line Item. All program expenditures and appropriations are included in that line item. See Budget Assumptions and Calculation summary for all Legal Services to State Agencies programs.

PROGRAM NARRATIVE

Program Title: State Services – Education Unit

Long Bill Line Item: Legal Services to State Agencies

Change Requests: No

Federal and State Statutory Authority:

General statutory provisions regarding the Department of Law as legal counsel for state agencies, as set forth in Title 24, Article 31, C.R.S. The Attorney General is designated legal counsel for the University of Colorado Board of Regents in § 23-20-110, C.R.S., and for the State Board of Education and the Commissioner of Education in §22-30-114, C.R.S.

Program Description:

The Education Unit provides legal services to the following Colorado agencies and institutions: the Colorado Department of Education, Colorado State Board of Education, Colorado Department of Higher Education, the Colorado Commission on Higher Education, Regents of the University of Colorado (University of Colorado, University of Colorado at Denver and Health Sciences Center, and University of Colorado – Colorado Springs), the Colorado State Charter School Institute Board, the Board of Governors of the Colorado State University System (Colorado State University and Colorado State University - Pueblo), the Board of Trustees of Fort Lewis College, the Board of Trustees of Metropolitan State College of Denver, the Trustees of Mesa State College, the Trustees of Adams State College, the Trustees of Western State College, the State Board of Community Colleges and Occupational Education (eleven community colleges), the Trustees of the Colorado School of Mines, the Trustees of the University of Northern Colorado, the Auraria Higher Education Center, the Colorado Student Loan Program, CollegeInvest, the Division of Private Occupational Schools, the Colorado Historical Society, the Colorado Council on the Arts, and Colorado's representatives on the Cumbres and Toltec Scenic Railroad Commission.

Prioritized Objectives & Performance Measures

Education Unit	Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Objectives 1.1	Provide quality, efficient, cost-effective legal representation to clients, both in litigation matters not covered by Risk Management or the Employment/ Personnel Section and in non-litigation matters such as requests for opinions (formal and informal) and compliance with changes in state and federal laws.				
Measure 1.1.1. Issue regular status updates to each major client every month or more often if appropriate.					
Measure 1.1.2. Monitor billings and expenses on a monthly basis and address any anomalies promptly with clients.					
Measure 1.1.3. Vigorously defend <u>Colorado Christian University v. Weaver, et al.</u> ; <u>Lobato, et al, v. State of Colorado, et. al.</u> ; and <u>Boulder Valley School District, et al. v. State Board of Education, et al.</u> , three pending constitutional challenges.					
Measure 1.1.4. Respond to client requests for informal opinions within 30 days at least 80% of the time and to requests for formal opinions in accordance with the policies of the Office of the Attorney General.	Target	80%	80%	80%	80%
	Actual	80%	80%	80%	
Measure 1.1.4. Secure protective order or quash subpoenae improperly seeking information protected by student privacy laws.	Target			80%	
	Actual				
Measure 1.1.5. Assist clients to draft, revise and maintain their policy manuals to comport with applicable laws.					
Objectives 1.2	Provide legal representation regarding capitol construction projects for clients.				
Measure 2.1.1. Negotiate or use dispute resolution methods with contractors and other professionals to resolve construction issues satisfactorily.					
Measure 2.1.2. Timely commence or defend law suits when alternative dispute resolution is unsuccessful.					
Objectives 2.1	Help to improve the quality of educational and vocational instruction in Colorado.				

Measure 2.1.1. Assist the Colorado Department of Education in policing teacher certification and improve discipline and oversight of Colorado teachers by making recommendations regarding cases sent to us for review within 5 days of referral of investigations to this office.

Measure 2.1.2. Assist the Colorado State Board of Education in connection with legal challenges to charter schools, including those designed to assist at-risk children.

Measure 2.1.3. Work with the Division of Private and Occupational Schools to monitor schools offering vocational training in Colorado, including denying certification to or closing substandard schools.

Measure 2.1.4. Work with the Charter School Institute to review, approve, and oversee Institute Charter Schools, and assist the Charter School Institute Board with regulations, policies and other legal advice.

Measure 2.1.5. Assist the State Board of Education and CDE to draft policies and regulations implementing the statutes on educational reform.

Measure 2.1.6. Revise the School Violence Prevention Manual and Student Discipline Manual as needed to reflect any changes in applicable laws.

Trends and Other Baseline Information:

We continue to see the following trends: at least two major litigation matters in the Education unit per year, applications for charter schools and associated litigation and advice, continuation of inquiries from the Office of Civil Rights, United States Department of Education, contract drafting and compliance issues, and routine requests for opinions from education clients. In particular, we have three major constitutional cases currently pending in the Education Unit: CCU v. Weaver (challenge to the prohibition of state-funded financial aid to pervasively sectarian institutions of higher education), Boulder Valley School District v. State Board of Education (challenge to the Charter School Institute and its enabling legislation) and Lobato v. State of Colorado (a challenge to the entire K-12 school financing scheme). We have prevailed at the trial court level and all three cases are presently on appeal. If the Lobato case is remanded for a trial on the merits, it could require expenditures of \$750,000 or more in attorney time, expert costs, and general expenses. The new Charter School Institute Board requires a great deal of assistance as it creates policies and procedures, evaluates applications for Institute Charter Schools, and, as the approved schools open, overseeing the schools' operations. The School Violence Prevention and Student Discipline Manual continues to generate inquiries from educators seeking advice on the manual's use and is regularly updated as appropriate. The Private Occupational School Board continues to be more active. The significant construction being undertaken by the University of Colorado Health Sciences Center will continue to create a need for legal services. The governing boards of Fort Lewis College, Adams State College, and Western State College continue to make significant use of the Unit. We continue to experience a significant increase in the amount of transactional work and contract review performed by the unit.

Similar or Cooperating Programs: N/A

Assumptions and Calculations:

The Education Unit in the State Services program is part of the Legal Services to State Agencies Line Item. All program expenditures and appropriations are included in that line item. See Budget Assumptions and Calculation summary for all Legal Services to State Agencies programs.

PROGRAM NARRATIVES

Program Title: State Services – Public Officials Unit

Long Bill Line Item: Legal Services to State Agencies

Change Requests: No

Federal and State Statutory Authority:

Colo. const. art. XXVIII, (Colorado Campaign and Political Finance); Title 1, arts. 1-13 (elections); art. 40 (initiatives); art. 45 (Fair Campaign Practices Act); Title 7 (Corporations); Title 12, art. 9 (Bingo-affle); art. 55 (notaries); Title 13, art. 3 (Judicial Department); Title 24, art. 32 (Department of Local Affairs); art. 35 (State Lottery Division); art. 36 (Department of the Treasury); Title 28 (Department of Military Affairs).

Program Description:

The Public Officials Unit represents and advises the following state officials and agencies: the Office of the Governor, the Department of State, the Department of Treasury, the Judicial Department, the Department of Local Affairs, the Department of Military Affairs and the State Lottery Division.

The Public Officials Unit handles a wide variety of legal matters in federal and state courts. Within the last year, attorneys within the unit have represented client agencies in court challenges to the new ethics amendment, the transfer of cash funds to the general fund, the use of electronic voting machines, challenges to reporting requirements for issue committees and political committees under the state's campaign finance laws and reviews of county court decisions. The Unit also provides legal advice regarding contract, rule-making and open records.

The Public Utilities Commission Unit advises the PUC Commissioners on various and complex public utility matters including telecommunications, gas, electric, water and transportation issues. This includes reviewing pleadings, testimony and evidence from evidentiary hearings and conducting legal research to offer recommendations to Commissioners and advisory staff in specific adjudicatory and rulemaking proceedings. The Unit represents the Commissioners in evidentiary hearings and open meetings of the Commission, as well as represents the Commission in appeals of its orders to state and federal district court and state and federal appellate courts. The Unit prepares written orders based on Commissioner's oral orders from open meetings and hearings. The Unit additionally conducts research and advises Commissioners, advisory staff and general Commission staff on other matters arising from the PUC's regulation of public utilities.

Prioritized Objectives & Performance Measures

State Services Public Official Unit	Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Objectives 1.1	Respond to election questions, prosecute cases and defend against constitutional challenges.				
Measure 1.1.1. Represent Secretary of State in election cases. Successfully defend challenges to Secretary's decisions in federal and state courts	Target			100%	
	Actual				
Measure 1.1.2. Defend challenges to Campaign and Political Finance in federal and state courts.	Target			100%	
	Actual				
Objectives 2.1	Prosecute bingo-affle cases on behalf to Secretary of State.				
Measure 2.1.1. Review charges for possible action within 30 days after a matter is referred to this office.	Target			100%	
	Actual				
Objectives 3.1	Defend challenges to title setting board decisions				
Measure 3.1.1. Enter appearance and defend Title Board in cases challenging title board decisions.	Target			100%	
	Actual				
Objectives 4.1	Barber v. Owens				
Measure 4.1.1. Defend appeal of transfer of cash funds to general fund	Target			100%	
	Actual				
Objectives 5.1	Defend challenges to the approval of ballot initiatives.				
Measure 5.1.1. Prepare for potential challenges to various initiatives that may appear on the ballot, including right to work, human life and affirmative action	Target			100%	
	Actual				
Objectives 6.1	Requests for opinions				
Measure 6.1.1. Provide	Target			100%	

advice with 30 days of request.	Actual					
Objectives 7.1	Defend Judicial Department.					
Measure 7.1.1. Defend Judicial Department in bankruptcies, Rule 106 cases, and other matters	Target			100%		
	Actual					
Objectives 8.1	Prevail on all judicial appeals of PUC decisions in state and federal court. This includes: representation of the PUC in the consolidated arbitration appeals to the 10 th Circuit Court of Appeals (<i>Qwest v PUC</i> - 06-1132); and representation of the PUC in other pending appeals at the 10 th Circuit including <i>PUC v. Western Wireless</i> (06-1156) and in the Boulder District Court (<i>City of Boulder v. Public Service Co. of Colo</i> and <i>PUC – 2006CV535</i>). Representation of the PUC in pending appeals of the PSCo rate case decision and appeal of PUC towing rules in Boulder County Dist. Court.					
Measure 8.1.1. Successful outcome in appellate matters involving PUC decisions.	Target			100%	100%	
	Actual			100% Received favorable outcomes in <i>Qwest v. PUC</i> matter and <i>Western Wireless v. PUC</i> matter	Oral arguments are pending in Boulder County Dist. Court matters	
Objectives 8.2	Provide on-going, comprehensive, timely and accurate legal assistance to the PUC regarding the requirements and follow-on dockets regarding the review and setting of Qwest's wholesale rates it charges competitive local exchange carriers.					
Measure 8.2.1. Meet all schedules and deadlines in this matter according to PUC procedural schedule.	Yes		X – We have met all deadlines in this matter.	X – We have met all deadlines in this matter.	X	
	No					
Objectives 8.3.	Provide comprehensive and timely legal assistance to the PUC regarding PSCo Phase I electric rate case to be filed 10/07, including legal research regarding use of a future test year to set rates, cross examination of witnesses on behalf of the Commissioners, recommendations to Commissioners on legal issues regarding rate case and preparation of PUC Orders on rates.					

Measure 8.3.1. Meet all schedules and deadlines in this matter according to PUC procedural schedule.	Yes			X – This matter is scheduled to begin in late October, 2007	X	
	No					
Objectives 9.1	Provide comprehensive and timely legal assistance to the PUC regarding PSCo resource planning application to be filed 10/31, including legal research regarding use of future test year to set rates, cross-examination of witnesses on behalf of the Commissioners, recommendations to Commissioners on legal issues regarding the resource planning application and preparation of PUC Orders on the application.					
Measure 9.1.1. Meet all schedules and deadlines in this matter according to PUC procedural schedule.	Yes			X – This large and complex docket is scheduled to begin in early November	X	
	No					
Objectives 10.1	Provide comprehensive and timely legal assistance to the PUC regarding the promulgation of rules regarding resource planning and demand side management as a result of numerous legislative changes from the 2007 legislative session.					
Measure 10.1.1. Draft new rules and NOPR orders that comply with legislative changes, that are constitutional and within the PUC's jurisdiction, and are within the statutory deadlines set by the legislature.	Yes			X – Have drafted rules and issued Notices of proposed rulemaking within all legislative deadlines	X	
	No					

Workload Measures

		Actual FY 06	Actual FY 07	Actual FY 08	Est FY 09	Projected FY 10
Workload Measure #1: Number of new appellate cases assigned to PUC unit	Actual		5	4	4-5	
Workload Measure #2: Number of new PUC cases handled by Commissioners	Actual		10	14	12	

Trends and Other Baseline Information:

We expect to see continuing challenges to the Campaign and Political Finance Amendment, particularly with regard to reporting requirements in initiative campaigns. Two lawsuits challenging the constitutionality of the definition of "issue committee" have been filed within the last year. In addition, candidates and political parties use the courts more frequently to resolve disputes. Finally, voter groups are challenging the use of electronic voting machines throughout the country. One such action was filed recently in Colorado. If the trends in other states occur here, we can expect to see additional lawsuits filed here in Colorado.

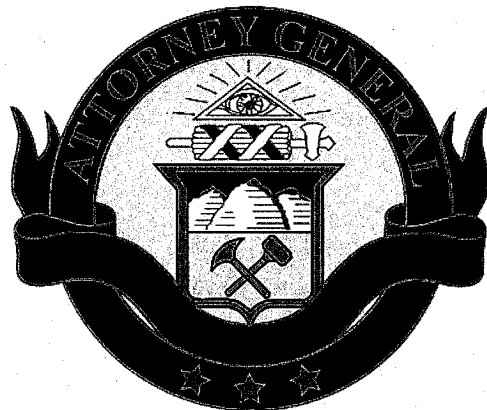
The caseload at the PUC has increased significantly over the last three years. The legislature has enacted significant renewable energy legislation that requires rulemaking to promulgate new rules and to amend existing rules. As a result of these changes, utilities are now file new applications to meet the new renewable energy standards, which in turn involve many new intervenors, including environmental and resource organizations. We also expect to see an increase in litigation as the PUC sets new policy directions and utilities appeal these decisions in state and federal court.

Similar or Cooperating Programs: N/A

Assumptions and Calculations:

This unit is part of the State Services section and is included within the Legal Services to State Agencies Line Item. All program expenditures and appropriations are included in that line item. See Budget Assumptions and Calculation summary for all Legal Services to State Agencies programs.

LSSA Criminal Justice



PROGRAM NARRATIVE

Program Title: Criminal Justice – Criminal Justice Section – Legal Services to the Department of Public Safety and the Peace Officer Standards and Training Board

Long Bill Line Item: Special Purpose

Change Requests: N/A

Federal and State Statutory Authority: § 24-31-101 to 24-31-105; Sections 24-31-301 to 24-31-309; 24-33.5-101 et seq., C.R.S.

Targeted Base Review: N/A

Program Description:

The Colorado Department of Public Safety (CDPS) includes the Colorado Bureau of Investigation (CBI), the Colorado State Patrol (CSP), Office of Preparedness, Security, and Fire Safety (OPSFS), and Division of Criminal Justice (DCJ). The Department has approximately 1300 employees. The Peace Officers Standards and Training ("P.O.S.T.") Board is responsible for overseeing the education, initial training, and certification of Colorado's peace officers. It includes 17 of the top law enforcement officials in the state including the Attorney General, the Executive Director of the CDPS, the FBI Agent in Charge, and other Chiefs, Sheriffs, and other officials.

There is one attorney assigned to provide legal services and counsel to the Department of Public Safety and the P.O.S.T. Board. The legal issues cover a broad spectrum including statutory interpretation, employment and personnel, police powers, and contracts. The attorney also reviews proposed agency actions and rules to ensure their legality and reduce the likelihood of future litigation. Finally, this attorney also provides legal representation in state and federal administrative, judicial, and appellate proceedings.

Significant Cases & Projects:

1. Advise and review client implementation of immigration reform legislation.
2. Advise and train clients regarding retention of Electronically Stored Information.
3. Research liability issues regarding the safety and security of client computer networks.
4. Advise clients on personnel issues and litigate cases, as needed.

5. Advise and clarify the statutory authority of DCJ Boards and litigate, as needed.
6. Update client training on CJRA in light of *Harris v. Denver Post*.

Management Training Project: The CDPS is committed to continuous training for its management level employees. Legal counsel attends and presents training on personnel and other legal issues several times a year. This proactive approach ensures quality management and seeks to avoid costly lawsuits.

Prioritized Objectives & Performance Measures:

Take proactive steps with the agencies to reduce unnecessary litigation.

Target 1: Develop respectful, professional relationships with clients through frequent and regular communications.

Target 2: Increase knowledge and understanding of the clients' major areas of responsibility by attending client conferences and visiting areas of operations.

Target 3: Review and update agency practices and procedures to ensure compliance with current legal standards. Conduct training sessions and legal updates as needed.

Target 4: Issue memoranda to client agencies concerning new state and federal statutes and case opinions that may affect the client agencies.

Target 5: Keep C.D.P.S. and P.O.S.T. clients informed of informal Attorney General opinions relating to their agencies.

Provide the P.O.S.T. Board with legal advice as it addresses issues of peace office training and certification.

Target 1: Attend all P.O.S.T. Board meetings – including those outside the Denver Metropolitan Area.

Target 2: Provide independent legal advice to the P.O.S.T. Board concerning their authority and rule/statute interpretation.

Target 3: Conduct periodic meeting with the P.O.S.T. Director and staff concerning legal issues that are, or may be soon, pending before the staff.

Target 4: Represent P.O.S.T. in litigation pending in state or federal court.

Trends and Other Baseline Information:

Immigration reform is impacting numerous areas of client operations. Legal advice on implementing newly enacted laws on immigration reform is currently and will continue to be critical.

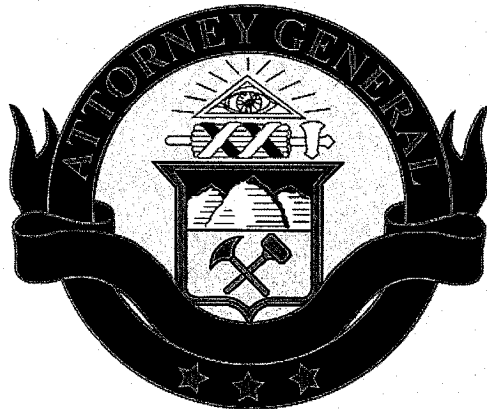
Similar or Cooperating Programs:

Efficiency and Effectiveness Analysis: N/A

Assumptions and Calculations:

See Budget Assumptions and Calculation summary for all Legal Services to State Agency's line items.

LSSA Tort & Employment Law



Program Summary –2009

CIVIL LITIGATION AND EMPLOYMENT LAW

The Civil Litigation and Employment Law Section of the Colorado Attorney General's Office employs 33 attorneys, 10 legal assistants, 6 administrative assistants and 1 office manager. The employees of the section defend state agencies, officials, and employees in litigation in courts throughout the state and in federal court and in administrative hearings. The section also acts as general counsel to the Division of Risk Management, the Colorado Dept. of Corrections, the Parole Board, the Division of Civil Rights, and the Colorado Dept. of Transportation, providing quick and thorough legal advice regarding the many issues that arise on a daily basis. The Employment Personnel Section advises all state agencies regarding personnel matters.

The Section is divided into five units: Corrections, Tort Litigation, Transportation, Employment Tort, and Employment Personnel and Civil Rights. A brief description of each unit follows:

Corrections:

The members of this unit are responsible for the representation of the Department of Corrections, the Colorado State Board of Parole and all employees of those agencies in state and federal lawsuits including tort claims, claims of various constitutional violations, construction claims, requests for documents and appearances in court, challenges to sentences and internal discipline, environmental matters, and prison conditions. The unit represents other agencies who are sued by inmates. The unit acts as a general service law firm to DOC except in the areas of personnel and contracts. The unit members give advice on a daily basis to representatives of DOC and the Parole Board on the many complicated issues that arise in a prison context.

Tort Litigation:

The members of this unit defend the State of Colorado, its agencies, employees, entities, and officials in lawsuits seeking damages for personal injury and property damage and those brought pursuant to federal law, often claiming civil rights violations. The unit also provides day to day advice to the State Risk Management Division. Members of this unit aggressively defend the state and seek to minimize the monetary liability of the state in a variety of law suits.

Transportation:

The Transportation Unit acts as a general service law firm to CDOT and the Colorado Transportation Commission with the exception of personnel and tort matters. The members of the unit advise CDOT regarding a myriad of legal issues that arise. The unit prosecutes all condemnation actions and defends inverse condemnation

actions and administrative actions. The unit advises CDOT in construction matters and represents CDOT in construction arbitration and litigation. The unit also provides advice regarding environmental and real estate issues and defends and negotiates settlements in these areas. Members of the unit review revise and approve all CDOT contracts.

Employment Tort:

The Employment Tort unit defends state agencies and employees in state and federal court employment litigation. The cases involve claims arising under a myriad of federal and state statutes, including Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Fair Labor Standards Act, the Equal Pay Act, the Age Discrimination in Employment Act, the state whistleblower act and other employment laws. The Unit attorneys also provide advice and training to state agencies regarding employment law.

Employment Personnel and Civil Rights:

The Employment Personnel and Civil Rights Unit defends state agencies and employees in administrative hearings and before the appellate courts in matters involving employment grievances and hearings. The cases involve claims arising from the Colorado Constitution, the State Personnel System Act, the state Whistleblower Act, the Colorado Anti-Discrimination Act, related federal and state statutes and common law. Unit attorneys also provide advice and training to state agencies on issues such as hiring, managing and disciplining of employees and avoiding discrimination and retaliation charges.

This unit also provides legal advice to the Colorado Civil Rights Division within the Dept. of Regulatory Agencies in connection with CCRD's investigation of charges of employment, housing and public accommodations discrimination and cases brought based on those investigations. The unit prosecutes civil rights cases through all stages of appeal and defends challenges to the authority of the Commission. The unit reviews investigative files on charges in which the Director has determined probable cause. The unit also defends cases brought under the Subsequent Injury Fund and the Major Medical Insurance Fund by employees injured in the course and scope of employment with the state. These funds cover very limited claims.

PROGRAM NARRATIVE

Program Title: General Tort Legal Services to the Risk Management Division

Long Bill Line Item: General Tort Legal Services to Risk Management

Change Requests: No

Federal and State Statutory Authority:

C.R.S. § § 24-30-1501 et. seq., 24-10-101 et. seq., and 24-31-101

Program Description:

The Tort Litigation Unit consists of six and one-half (6 ½) attorneys, two legal assistants, one administrative assistant, and an office manager. This unit defends the State of Colorado, its agencies, entities, employees, and officials in lawsuits seeking monetary damages in tort claims and those brought pursuant to federal law. One attorney FTE and .5 Legal Assistant FTE are also allocated to Risk Management although they work in the Corrections Unit because of the large volume of Risk Management cases handled in Corrections. The Tort Litigation Unit also provides day to day legal advice to the State Risk Management Office and the Colorado Claims Board concerning suits, settlements, and various policies such as defense and indemnification issues under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et. seq. and the Risk Management Act, C.R.S. § 24-30-1501 et. seq. The lawyers and staff prepare pleadings, motions, briefs, and appear in court on all matters related to cases. The attorneys also appeal adverse rulings and defend appeals in all appellate courts. At any given time, the unit generally has about 100 open cases, not including inmate litigation cases. Inmate risk management cases are handled by attorneys from the Corrections Unit as well as the Tort Unit and some cases are sent to outside counsel because of the volume of cases. The cases handled by the Corrections Unit are included in the crosswalk submitted by the Corrections Unit.

Tort attorneys and staff seek to defend the state aggressively and successfully in these suits and to minimize monetary liability of the state.

Prioritized Objectives & Performance Measures

Legal Services to Risk Management	Actual FY 06	Actual FY 07	Actual FY 08	Est FY 09	Projected FY 10
Objectives 1.1	Aggressively and efficiently defend the state in tort and federal court cases and successfully represent clients in trials.				

Measure 1.1.1. Number of cases going to trial and number of defendant verdicts.	Target	4/3 75%	4/3 75%	3/2 67%	3/2 67%	
	Actual	5/3 60%	Lost 1 trial 0%	0 trials		
Objectives 2.1	Obtain favorable ruling on motions to dismiss and for summary judgment.					
Measure 2.1.1. Number of motions won (includes Motion to Dismiss and for Summary Judgment).	Target	45	45	40	90%	
	Actual	49	39 won; lost 2 md and 1 sj; defeated 3 motions for rehearing defeated 1 motion for prel. inj.	92% 35 won out of 38; lost 2 md and 1 sj		
Measure 2.1.2. Amount of money saved by successful motions, appeals, court dismissals or voluntary dismissals by plaintiffs as a result of our actions	Target			\$1,000,000	\$2,000,000	
	Actual		\$5,935,327 (large number because of one \$5,000,000 demand)	\$2,785,867		
Objectives 3.1	Obtain favorable rulings on appeals.					
Measure 3.1.1. Number of favorable rulings on appeal (or favorable rulings on Petitions for Certiorari)	Target	80%	80%	80%	80%	
	Actual	19/15 80% - Appeals 3/2 - 67% Cert.Pets	Won 11/12 91% Appeals won 3/3 100% pets. for cert.	80% Won 20; lost 5		
Objectives 4.1	Settle cases that should be settled for reasonable amounts.					
Measure 4.1.1. Total of settlement amounts and number of cases settled.			Total Demand	Average Paid	# of Cases	Savings
	Target FY 05	\$1,500,000		\$55,000	25	
	Actual FY 05	\$1,735,529	\$5.2 mil	\$69,421	25	\$3,559,759
	Target FY 06	\$1,500,000		\$65,000	25	
	Actual FY06	\$632,954	\$2.8 mil	\$30,141	21	\$2,157,485
	Target FY 07	\$700,000			25	

	Actual FY 07	\$1,169,872	\$2.6mil	\$38,996	30	\$1,476,131
	Target FY 08	\$800,000		\$40,000	25	
Objectives 5.1		Obtain voluntary dismissals from plaintiffs and from courts				
Measure 5.1.1 Number of voluntary dismissals and court dismissals	Target			10 voluntary	15 cases	
	Actual		11 voluntary dismissal 7 court dismissal	14 voluntary dismissal 7 court dismissal		
Objectives 6.1		Pursue and obtain attorneys fees in appropriate cases; resist requests for attorneys fees in tort cases and monitoring cases				
Measure 6.1.1. Attorney's fees ordered for the State in Risk Mgmt. cases.	Target	\$100,000	\$100,000	\$30,000	\$15,000	
	Actual	\$53,514	\$10,305	\$2500		
Measure 6.1.2 Attorneys fees ordered to be paid by state in tort cases and cases tort was monitoring for attys fees	Actual			5 Monitoring cases resolved with no payment of fees; lost one request: \$17,000	Pay as little as possible in attorneys fees	
Objective 7.1 Seek petition for certiorari when appropriate and resist petitions by opposing parties						
Measure 7.1.1 Petitions for certiorari defeated successfully and petitions granted when the state requests it.	Actual			2 petitions for cert were defeated successfully 1 petition granted successfully	Depends on the types of cases handled in the fiscal year	

Workload Measures

		Actual FY 06	Actual FY 07	Actual FY 08	Est. FY 09	Projected FY 10
Measure 1: Billable Hours	Actual	16,331	15,312.3	14,393.9	\$15,000	
Measure 2: Savings to state from total cases (including the settled cases referenced above and motions to dismiss and for summary judgment)	Actual	\$17.2 mil	\$8.6 mil ¹	\$4,2 mil ²		
Measure 2. Number of Tort cases opened (does not include corrections risk cases or employment / tort cases).	Target	90	90	100	95	
	Actual	102	101 plus 3 monitor cases	87 plus 11 monitor cases Plus one case filed by the state as plaintiff		

Trends and Other Baseline Information:

The Tort Litigation Unit continues to win most of the cases on motions to dismiss or summary judgment motions. While the number of Risk Management cases filed declined somewhat this year, many of the cases are more complex and time consuming. In addition, in general tort cases, the use of expert witnesses has increased because the attorneys are aggressively defending the cases and the plaintiffs often hire experts. Thus, the cases are becoming more time-consuming and expensive to defend. The cost of litigating cases continues to rise as expert costs, travel costs, and deposition costs continue to rise.

Similar or Cooperating Programs: N/A

Assumptions and Calculations:

The Risk Management Section is part of the Legal Services to the State Agencies (LSSA) line item and all program costs are included in those appropriations. Please see Budget Assumptions and Calculations summary for all LSSA programs.

¹ (total demand or value was \$9,258,696)

² (total demand or value was \$5,381,870; total recovered was \$1,169,872)

PROGRAM NARRATIVE

Program Title: Department of Transportation

Long Bill Line Item: Legal Services to State Agencies

Change Requests: No

Federal and State Statutory Authority:

C.R.S. 43-1-112 states that the Attorney General shall provide legal services to the Colorado Department of Transportation (CDOT) and the Colorado Transportation Commission in all functions. Specific references include: Title 23, United States Code (Federal Transportation Statutes); C.R.S. 38-1-101 to 38-5-108 (Condemnation and Utilities); C.R.S. 42-4-101 to 114 (Traffic Regulation); C.R.S. 42-4-501 to 512 (Excess size and weight vehicles); C.R.S. 42-4-601 to 615 (Signals, Signs, Markings); C.R.S. 42-4-701 to 712 (Rights of Way); C.R.S. 43-1-101 to 43-1-1504 (General/Administrative Transportation Statutes); C.R.S. 43-2-101 to 43-2-304 (Highways/ Highway Systems); C.R.S. 43-3-101 to 43-3-416 (Special Highway Construction); C.R.S. 43-4-101 to 812 (Transportation Financing); C.R.S. 43-5-101 to 43-5-505 (Highway Safety); and C.R.S. 43-10-101 to 43-10-116 (Aviation/ Accessibility).

Program Description:

The Transportation Unit within the Civil Litigation and Employment Law Section of the Attorney General's office acts as a general service law firm to CDOT and the Colorado Transportation Commission with the exception of personnel/employment and tort actions which are handled by other units within the office. The Unit prosecutes all condemnation actions and defends inverse condemnation actions on behalf of CDOT. The Unit handles and defends all administrative actions involving CDOT including: (1) access control actions; (2) highway beautification (billboard and junkyard removal); (3) relocation benefit appeals; and (4) protests under the Procurement Code. The attorneys advise regarding highway construction contract issues and defend construction contract claims and other contractual claims against CDOT. The Unit also provides advice regarding environmental compliance and defends and negotiates settlements of environmental actions.

The Unit reviews and approves all CDOT contracts (except construction contracts), intergovernmental agreements, Construction Contract Specifications, Procedural Directives and Policy Directives. Attorneys in the unit assist in drafting rules, review and approve all regulations and coordinate rulemaking proceedings. The attorneys advise CDOT (formally and informally) and the Transportation Commission on all transportation matters including air quality, aviation, affirmative action, highway safety, real estate, and open records issues. The unit advises the Transportation Commission and Executive

Director, negotiates major transactions, and represents the Transportation Commission in all legal matters. During the legislative session, the Unit attorneys draft proposed legislation and amendments, review bills affecting CDOT and advise as to any statutory or constitutional conflicts.

Prioritized Objectives & Performance Measures

Department of Transportation		Actual FY 06	Actual FY 07	Actual FY 08	Est. FY 09	Proj FY 10
Objectives 1.1	Prosecute all condemnation actions meeting all statutory deadlines and obtain possession of real property needed for transportation projects prior to the possession date set by the agency. Bring these to as speedy a resolution as possible to save the state interest costs.					
Measure 1.1.1. Keep caseload current by bringing to conclusion 75% of cases within 2 years of filing action.	Target	75%	75%	75%	80%	80%
	Actual	77%	87%	91%		
Measure 1.1.2. Assist CDOT in condemnation actions by saving the State money in acquiring real property at less than landowner demands.	Target	Save \$500,000	Save \$500,000	Save \$500,000	Save \$1,000,000	Save \$1 mil
	Actual	\$503,000	Resolved 13 condemnation cases Saved \$1.2 mil.	Resolved 12 condemnation cases Saved over \$6 million		
Objectives 2.1	Respond to all requests for legal advice from CDOT and the Transportation Commission in a concise, comprehensive and timely manner.					
Measure 2.1.1. All non-emergency requests are to be referred to an attorney within 5 days of receipt with a response date as established by the client.	Target	90% w/in 5 days	90%	90%	90%	90%
	Actual	90%	95%	90%		
Measure 2.1.2. Emergency requests are to be handled immediately and a response given within the time frame established by the client.	Target	100%	100%	100%	100%	100%
	Actual	95%	100%	99%		
Objectives 3.1	Review, revise and approve all contracts for execution to meet CDOT requirements.					

Measure 3.1.1. Review between 400-500 contracts and revise or approve.	Target	500 contracts	500 contracts	450 contracts	450 contracts	450 contracts
	Actual	445	405	412		
Measure 3.1.2. Review, revise and approve CDOT contracts in less than four days on average (statewide average is four days).	Target	4 days	4 days	4 days		
	Actual	2.27 days	3.5 days	3 days		
Objectives 4.1	Review proposed and pending legislation for CDOT.					
Measure 4.1.1. Review legislation within 5 days of receipt of request and provide input based on client need.	Target	5 days	5days	5 days	5 days	5 days
	Actual	100%	100%	100%		
Objectives 5.1	Attend all Transportation Commission and Tolling Enterprise Board meetings					
Measure 5.1.1. Attend all meetings of the Commission and Enterprise and provide advice as requested.	Target	100%	100%	100%	100%	100%
	Actual	100%	95%	100%		

Workload Measures

		Actual FY 06	Actual FY 07	Actual FY 08	Est FY 09	Projected FY 10
Number of new cases	Actual	48	51	65	45	
Number of pending cases as of June 30	Actual	80*	80*	70*	70	
Number of contested hearings	Actual	11	22	9	10	
Number of trials	Actual	3	7	4	5	

* Includes administrative appeals and other litigation.

Trends and Other Baseline Information:

CDOT and the Transportation Unit completed nearly all tasks involved in expansion of the I-25 corridor/TREX project which fully opened in October 2006. The Colorado Supreme Court issued its decision in one condemnation case arising out of the TREX project, *CDOT and RTD v. Marilyn Hickey Ministries*, in late May 2007 with a ruling favoring the government's right to construct improvements that restrict traffic visibility into adjoining properties without payment of damages. A few real property issues

remain for resolution on the TREX project but the vast majority of the legal work has been completed.

During FY2007, the Transportation Unit resolved 12 condemnation cases, either by settlement or trial, resulting in a savings to the State of over **\$6,005,000**. This figure is based on the amount sought by landowners in condemnation cases less the settlement amount/trial result.

CDOT attorneys have also been representing the Commission in hearings concerning fines for improper use of the new fast lanes and HOV lanes.

Construction claims have dramatically increased in the last two years, although there was a decrease in the number of cases from last year to this year. At FY2007 year end, there were 13 separate claims filed on 8 separate construction projects seeking over \$7.7 million in additional compensation. Because these matters proceed through CDOT's administrative resolution process, they are not typically reported as "cases" unless a lawsuit is ultimately filed. Nevertheless, Transportation Unit attorneys spent significant amounts of time advising CDOT regarding these claims in FY2007. During FY2007, a total of 27 separate claims on 15 separate projects were resolved by CDOT with the assistance of the Transportation Unit attorneys resulting in savings of over \$16 million. CDOT and the Transportation Unit continue to focus on more effective resolution processes for construction contract claims and developed a new administrative claims process during FY2007. It is anticipated that the new construction claim resolution process will achieve improved working relationships, fewer disputes and result in cost savings to the public.

Similar or Cooperating Programs:

The federal government operates the national highway system and provides a significant source of the funds for Colorado highway improvement. CDOT works closely with the Federal Highway Administration and the U.S. Department of Transportation. Many of CDOT's programs (such as the Disadvantaged Business Enterprise program) are a condition of the receipt of federal transportation funds and are closely monitored by the U.S. Department of Transportation and Federal Highway Administration.

Assumptions and Calculations:

The Transportation Unit is part of the Legal Services to State Agencies (LSSA) line item and all program costs are included in those appropriations. Please see Budget Assumptions and Calculations summary for all LSSA programs.

PROGRAM NARRATIVE

Program Title: Employment Legal Services to the Division of Risk Management

Long Bill Line Item: Legal Services to State Agencies

Change Requests: No

Federal and State Statutory Authority:

C.R.S. Sec. §§ 24-30-1501 et. seq., 24-10-101 et. seq. and 24-31-101

Program Description:

The Employment Tort Unit consists of five and one-half attorneys, two legal assistants, and an administrative assistant. The unit defends state agencies and employees on behalf of the Division of Risk Management in state and federal court employment litigation. The cases involve claims arising under a myriad of federal and state statutes, including Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Fair Labor Standards Act, the Equal Pay Act, the Age Discrimination in Employment Act, 42 U.S.C. §§ 1981, 1983, 1984, 1985, and 1988, the state Whistleblower Act, the Colorado Anti-Discrimination Act, as well as state common law. Employment cases tend to involve multiple claims and multiple defendants, as plaintiffs typically sue managers in their official and individual capacities, as well as the state agency, under multiple theories. The cases tend to be both legally and factually complex, involving years of contentious employment history. As a result, discovery in these cases is very time-consuming and dispositive motions are voluminous. The Employment Tort attorneys work closely with the Employment Personnel attorneys to coordinate the defense of many of these claims.

The Employment Tort attorneys provide training and advice to many state agencies. They participated in numerous presentations this past year, including several sessions on the Fair Labor Standards Act and several sessions on preservation of electronic information.

Prioritized Objectives & Performance Measures

Employment Law	Actual FY 06	Actual FY 07	Actual FY 08	Est. FY 09	Projected FY 10
Objectives 1.1	Represent various state agencies and employees in Federal and State employment claims in various aspects of litigation. File appropriate motions to dismiss and for summary judgment in order to win cases short of trial.				
Measure 1.1.1. Number of motions to dismiss filed and won and number of claims dismissed by MTD	Target		8/6	10/8	6 filed/ 4 win
	Actual	7 filed won 4 in full and 1 in part; lost 2 314 claims dismissed	12 filed. 12 decided – 2 grtd in part, 10 grtd in full, 54 claims dismissed	5 filed. 5 decided: 4 granted in full; 1 granted in part. 19 claims dismissed	
Measure 1.1.2 Number of Motions for Summary Judgment filed and won; number of claims dismissed	Target	10 filed Won 7 in full; Lost 3 41 claims dismissed	3 4 decided 2 gr'd in full, 2 denied in full, 13 claims dismissed	6 filed/win5 9 filed. 5 decided: 1 granted in full, 1 granted in part, 3 denied in full. 8 claims dismissed	6 filed/ 5 win
Objectives 2.1	Obtain favorable rulings on appeals				
Measure 2.1.1. Number of favorable rulings on appeal	Target		5/4	6/4	6/4
	Actual	5 appeals Won 4 Lost 1	12 handled. 2 decided – 2 won in full; 3 claims won.	6 handled. 3 decided – all won in full. 4 claims won	

Objectives 3.1		Aggressively defend the state and its employees in trials				
Measure 3.1.1.	Target			2/2	2/2	
	Actual	0 trials	2 trials – won 1 in full; won 1 in part. Won 6 claims; lost 1 claim.	0 trials		
Objectives 4.1		Settle cases favorably for the state				
Measure 4.1.1. Total number of cases settled and settlement amounts versus demands	Target		15 cases Save the state as much as possible	15 cases settle; save the state as much as possible	10 cases settle; save the state as much as possible	
		13 cases settled ¹	15 cases settled – ²	9 cases settled – ³		
Objectives 5.1		Develop and present training to state agencies on employment law issues				
Measure 5.1.1.	Target			12 training sessions	12 training sessions	
	Actual		16 training sessions	14 training session, incl 2 in-house CLEs and 1 mock trial at Risk Conf.		

¹ involving 127 claims \$969,000 paid out; \$5000000 requested Savings: \$403,100

² 41 claims settled. Paid \$881,000; requested amt was \$5,840,000. Saved \$5,000,000.

³ 47 claims settled. Paid \$841,460; Requested amount was \$2,600,000. Saved \$1,758,540

Workload Measures

		Actual FY 06	Actual FY 07	Actual FY 08	Est FY 09	Projected FY 10
Measure 1 billable hours	Target		13,000	13,000	12,000	
	Actual	11,733	13,443.2	11,280.6		
Measure 2 savings to state based on all the cases - amount demanded versus amount recovered	Target		\$2,000,000	5,000,000	\$5,000,000	
	Actual	\$5876000	Amt demanded ⁴	Amount Demanded ⁵		
Measure 3 Number of cases opened/number of claims	Target		50 cases in-house 10 cases outside counsel	50 cases handled in-house; 10 outside counsel	40 cases handled in-house; 8 outside counsel	
	Actual	15 cases opened/ 46 cases handled in-house 14 cases outside counsel 1066 claims by in house 50 claims by outside counsel	21 cases opened 128 claims in the new cases 45 cases handled in-house; 12 cases outside. 611 claims in-house; 50 claims outside.	17 cases opened. 85 claims in new cases. 38 cases with 560 claims handled in house; 8 cases with 28 claims handled outside		

Trends and Other Baseline Information:

⁴ \$7,537,000. Amt pd: \$881,000. Savings: \$6,656,000

⁵ in 21 cases closed: \$7,599,955 Amount paid: \$841,460 Savings: \$6,758,495

The Employment Tort Unit continues to be very successful in winning motions to dismiss and motions for summary judgment. The number of cases fluctuates; there were 4 fewer new cases filed in FY 07 than in FY 06. There continue to be requests for help with FLSA issues and new requests are coming in regarding FMLA advice. The attorneys presented training to state agencies in 14 separate sessions including several training sessions on the new electronic discovery requirements and one mock trial presentation. The attorneys presented two in-house CLE's to attorneys and legal assistants regarding electronic discovery preservation. This year the attorneys have been assisting state agencies in drafting employment policies such as those regarding FLSA overtime, drug testing and sexual harassment.

Similar or Cooperating Programs: N/A

Assumptions and Calculations:

The Employment Law Unit is part of the Legal Services to State Agencies (LSSA) line item and all program costs are included in those appropriations. Please see Budget Assumptions and Calculations summary for all LSSA programs.

PROGRAM NARRATIVE

Program Title: Department of Corrections

Long Bill Line Item: Legal Services to State Agencies

Change Requests: No

Federal and State Statutory Authority:

Sec. 24-31-101(1)(a) C.R.S. (1998)

Program Description:

The unit is responsible for the representation of the Department of Corrections, the Colorado State Board of Parole, and all employees of those agencies. The Corrections Unit acts as a general service law firm to the Department of Corrections except in the areas of personnel and contract review, which are handled by other units in the office.

The majority of the work concerns litigation from inception through appeal. The unit defends these agencies and employees in all lawsuits and appeals of prison discipline filed by inmates and parolees as well as in environmental matters, municipal licenses, bankruptcy matters, and contract actions. The inmate suits include civil rights complaints concerning conditions of confinement, improper actions of correctional officers, religious practices and diets, legal access, medical claims, missing property, disputes over the computation of the length of sentence and sentence reduction credits, parole disputes, prison disciplinary appeals and associated issues. The unit also represents the CDOC as plaintiff to recover damages and injunctive relief in matters involving defective construction and recovery of costs of confinement.

The unit drafts Colo. App. R. 21 petitions when necessary to overturn improper or illegal orders given to the DOC in matters involving the DOC's discretionary decisions concerning management of the prisons. The unit also files motions to protect the DOC from intrusive subpoenas that seek privileged or confidential records.

The unit advises and reviews the work of outside attorneys who handle overflow cases in Colorado, as well as cases filed by Colorado inmates housed in other states.

The unit gives advice to the CDOC and the Parole Board on all matters which may affect their operations. In addition, the unit advises any state agency that requests advice on matters which have the potential to lead to inmate litigation. The unit also reviews and assists in drafting legislation related to corrections or parole matters. The First Assistant testifies on occasion in legislative committee hearings regarding proposed legislation and serves on various committees considering legislative or rule changes.

Prioritized Objectives & Performance Measures

Department of Corrections		Actual FY 06	Actual FY 07	Actual FY 08	Est FY 09	Projected FY 10
Objectives 1.1	Prevail on all construction suits brought by or against the CDOC in litigation involving defective construction at several new Colorado prisons built in Colorado.					
Measure 1.1. Successful Outcome At Trial in Construction Litigation	Target		100%	N/A		
	Actual	100% success	N/A	N/A		
Objectives 1.2	Limit the number of inmate suits which actually proceed to trial by preparing dispositive motions (dismissal and/or summary judgment) at the inception of the case, along with supportive briefs and affidavits.					
Measure 1.2. Successful dispositive motion before discovery and trial.	Target	80%	80%	80%	80%	
	Actual	63% 172 of 272	63% 149 of 236	87% 148 of 171		
Objectives 1.3	Prevail at hearing or trial on all suits brought against the DOC, the Parole Board, or their employees. Prevail at hearing or trial on all suits brought by inmates against any state agency or state employee. [This objective excludes personnel and employment matters, which are handled by another unit]. [Settlements are also excluded].					
Measure 1.3. Successful trial and hearing outcome.	Target	80%	80%	80%	80%	
	Actual	92% (12-1)	82% (14-3)	92% (22-2)		
Objectives 1.4	Prevail on all appeals of cases from the trial court. This number includes appeals to district court. It also includes appellate rulings from the courts of appeals and supreme courts in the state and federal systems. [It does <u>not</u> include CRCP 106 judicial reviews that were not dismissed but were ruled upon after review of briefs and certified records. See objective 1.5].					
Measure 1.4. Successful appellate outcome.	Target	85%	85%	85%	85%	
	Actual	91% (31-3)	95% (38-2)	92% (76-7)		
Objectives 1.5	Prevail on all appeals of prison disciplinary cases and other agency hearings from the agency to the district court.					
Measure 1.5. Successful appellate outcome in prison disciplinary and administrative cases	Target	85%	85%	85%	85%	
	Actual	95% (83-4)	93% (56-6)	79% (60-16)		

Objectives 1.6	Settle cases for a reasonable amount as appropriate. Save the CDOC money in settlements.					
Measure 1.6 Successful settle-ments in appropriate cases	Target			6 Savings of \$300,000	4 cases Savings of \$100,000	
	Actual		5 settled ¹	4 cases settled ²		
Objectives 1.7	Seek cost of care and attorneys' fees from opposing party when appropriate and reduce amount of attorneys fees ordered to be paid by DOC when ordered.					
Measure 1.7. Amount of fees and costs recovered	Target			\$30,000 cost of care; attys' fees depends on cases	\$30,000 cost of care; attys' fees depend on the cases	
	Actual		\$60,547 cost of care ordered; ³	0 cost of care ordered; ⁴		
Objectives 2.1	Provide answers to requests for advice within 10 days of the request. Provide written responses, including informal Attorney General Opinions, when requested. [The target measure will be less than 100% because informal AGOs cannot and should not be given within 10 days]. Attend weekly meetings at CDOC and other meetings at CDOC or Parole Board upon request.					
Measure 2.1. Advice given within 10 days of request.	Target	90%	90%	90%	90%	
	Actual	100% (191-01)	100% (234-0)	99% (335-2)		
Objectives 3.1	File motions for protective orders or motions to quash in every case in which a party seeks privileged or confidential records or files. Represent the agency in any hearings on such motions. Either succeed in having the subpoenas quashed in full after <i>in camera</i> review or at a minimum obtain protective orders so that no inmate or other third party may view the confidential material.					
Measure 3.1. Motion for Protective Order filed and granted in whole or substantially in part.	Target	90%	90%	90%	90%	
	Actual	100%	100%	100%		

¹ Savings: \$283,350 demand: \$541,000 settlement amount: \$257,650.

² Savings: **\$51,091** Demand: \$57,316 Settlement Amount: \$6225.

³ \$20,000 in attys' fees; paid \$151,557 in attys' fees (*Caruso* case) from demand of \$234,388 savings of \$82,831.

⁴ Attys' fees paid were part of the \$6225 [cannot determine how much went to fees and how much to inmate in one settlement]

Objectives 4.1	Review proposed and pending legislation to determine effect on the CDOC and on the Parole Board.					
Measure 4.1. Review proposed legislation within five days of receipt of request and provide input based on constitutionality, consistency with other statutes and laws, and client need.	Target	100%	100%	100%		
	Actual	100%	100%	100%		
Objectives 5.1	Advise and represent the CDOC on all matters related to the execution of inmates on death row. This includes attendance at execution protocol meetings, preparation of inmate biographies for the Executive Director, legal research, defense of suits concerning the execution, such as access to officers, execution procedures, media access and demonstrator access.					
Measure 5.1. Execution Occurred as scheduled.	Target					
	Actual	None	None	None		

Workload Measures

		Actual FY 06	Actual FY 07	Actual FY 08	Est FY 09	Projected FY 10
Workload Measure #1: Number of New Cases.	Actual	1751 (1227 Montez cases, 478 inmate cases & 46 other or advice)	637 (528 inmate cases, 46 advice or other, 63 Montez)	500 (401 inmate cases, 76 advice, 23 Montez)		
Workload Measure #2: Number of New Cases assigned to Outside counsel.	Actual	42	6	6		

Trends and Other Baseline Information:

The need for additional prison space continues and CDOC continues to place prisoners out of state and in private prisons. As more people are incarcerated, the number of cases will continue to climb. The Montez claims are being resolved; all but about 200 of over 1350 claims have been resolved. The CDOC was supposed to be in compliance

with Montez by July 27, 2007, but disagreements about substantial compliance remain. There will be a compliance hearing in the next several months in US District Court. The individual inmate claims will be resolved by the end of the 2007-08 Fiscal Year. The CDOC continues to successfully defend most cases but cases in the area of medical treatment and employment continue to be troublesome.

Similar or Cooperating Programs:

The United States Attorney represents federal prisons and employees in similar types of cases

Assumptions and Calculations:

The Dept. of Corrections is included in the Legal Services to State Agencies (LSSA) Line item and all program costs are included in those appropriations. Please see the Budget Assumptions and Calculations summary for all LSSA programs.

PROGRAM NARRATIVE

Program Title: Employment Personnel (Including Subsequent Injury Fund and Legal Services to the Division of Civil Rights)

Long Bill Line Item: Legal Services to State Agencies

Change Requests: No

Federal and State Statutory Authority:

Employment cases: C.R.S. § § 24-31-101(1), § § 24-34-301 to 605, § § 8-46-101 to 109, and § § 8-46-201 to 212 (2007); Civil Rights cases: C.R.S. § § 24-34-301 to 605 in conjunction with § 24-31-101 (2007); SSI and MMIF cases: C.R.S. § § 8-46-101 to 109 and § § 8-46-201 to 212, in conjunction with § 24-31-101 (2007)

Program Description:

The Employment Personnel/Civil Rights/Subsequent Injury Fund Unit consists of seven attorneys, two legal assistants, and two administrative assistants who defend state agencies and employees in administrative hearings and before the appellate courts in employment matters. They also represent the Civil Rights Division and handle cases involving the Subsequent Injury and the Major Medical Insurance Funds.

Employment Personnel

The attorneys and legal assistants handle cases that involve claims arising from the Colorado Constitution, the State Personnel System Act, the State Employee Protection (Whistleblower) Act, the Colorado Anti-Discrimination Act, related federal and state statutes and the state common law. The cases involve challenges by employees to employment actions, such as discipline, transfers, layoffs, etc. and are handled in the administrative law courts. The attorneys present the cases to Administrative Law Judges and the cases are heard under expedited time frames that limit the parties' ability to conduct discovery and dispose of cases on motion. These cases are appealed to the State Personnel Board and then to the Court of Appeals. The unit attorneys handle the cases from the beginning through any appellate process.

The unit attorneys are also called upon frequently to provide advice, consultation, and training to state managers on a myriad of employment issues such as harassment, alcohol and drug testing, breach of contract, whistle-blowing, discrimination and retaliation under Title VII, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Fair Labor Standards Act, and the Family Medical Leave Act. Unit

attorneys also participate in training and education for state agencies regarding general as well as specific personnel matters and procedures.

In FY 2006-2007, unit attorneys represented state agencies in **372** cases. Of these, **172** were opened last year and the others were already pending.

Colorado Civil Rights Division (CCRD)

The unit provides general legal advice to the CCRD within the Dept. of Regulatory Agencies in connection with CCRD's investigation of charges of employment, housing, and public accommodations discrimination and prosecutes those cases which have been noticed for hearing by the Colorado Civil Rights Commission. The civil rights function includes four distinct activities: 1) provide advice, both verbal and through informal written opinions, to CCRD in connection with CCRD's investigation of charges of discrimination; (2) review complete investigative files on all charges in which the Director of the CCRD has determined that there is probable cause to assess hearing worthiness; (3) prosecute all civil rights cases from trial (with all requisite discovery procedures) through all stages of appeal; and (4) defend challenges to the investigatory and adjudicatory authority of the Commission.

The CCRD is authorized by the Equal Employment Opportunity Commission (EEOC) as a FEPA (Fair Employment Practices Agency). There is a work-sharing agreement between the EEOC and the CCRD which means that the EEOC defers investigations of the Colorado charges filed with it until the CCRD has investigated them. There is a similar arrangement with HUD for the housing discrimination charges. Colorado's anti-discrimination statute has been certified "substantially equivalent" to the federal anti-discrimination statutes of EEOC and HUD. Although CCRD receives federal money for this work, the attorneys do not work with the U.S. Department of Justice when prosecuting the cases.

Subsequent Injury Fund (SIF) and Major Medical Insurance Fund (MMIF)

The unit defends both of these Funds, which are part of the Special Funds Unit of the Division of Workers' Compensation within the Department of Labor and Employment, against claims by employees injured in the course and scope of their employment. The SIF is liable for that portion of a permanent total disability benefit award attributable to a claimant's prior contributing injuries as well as for amounts over \$10,000 attributable to certain listed occupational diseases. Although the SIF has been closed to all cases in which the injury responsible for permanent total disability occurred after July 1, 1993, there are still approximately 10 new cases per year. The MMIF is liable for all medical benefits for workers' compensation claimants injured prior to 1981 and admitted into the Fund.

Although the Subsequent Injury Fund has been closed to all cases where the injury responsible for permanent total disability occurred after July 1, 1993, there are still

approximately 1-2 new cases per year. There are also about 1-2 new MMIF cases a year.

Prioritized Objectives & Performance Measures

Employment Law		Actual FY 06	Actual FY 07	Actual FY 08	Est FY 09	Projected FY 10
Objective 1.1	Aggressively defend the state and its employees in State Personnel Board (SPB) hearings in disciplinary actions in which state employees suffered a loss in current base pay, status, or tenure.					
Measure 1.1.1. Number of EP cases that went to mandatory hearing in front of State Personnel Board and results obtained	Target		Win 70% of cases that go to hearing	Win 70% of cases that go to hearing	Win 70% of cases that go to hearing	
	Actual	163 cases opened by SPB 31 hearings Won 22/71% Modified 2 Lost 7	112 mandatory hrg. cases opened by SPB. 25 hearings Won 14/56% Modified 5 Lost 6	90 Mandatory hearing cases opened by SPB 25 hearings completed Won 19 – 76% Modified 2 Lost 4		
Objective 2.1	Provide training to state agency supervisors and managers to assist them in avoiding liability and providing more effective performance management.					
Measure 2.1.1. Present 15 training sessions to state agencies, managers, and supervisors	Target			15 sessions	15 sessions	
	Actual	12 sessions to 8 agencies	15 sessions to 12 agencies	17 sessions to 14 agencies		
Objective 3.1	Oppose petitions for discretionary hearings in cases where the employee does not have a right to a hearing, such as final agency grievance decisions					
Measure 3.1.1. Number of petitions that were briefed and number of cases won (hearing denied) in Employment	Target		Win 85% of requests for discretionary hearings	Win 85% of requests for discretionary hearings	Win 85% of requests for discretionary hearings	

Personnel (EP) cases.	Actual	119 petitions received by SPB 26 cases briefed Won 23/88% Lost 3 petitions Of those 3 hearings, won 2/67%	86 petitions received by SPB 46 cases briefed Won 39/85% Lost 7 petitions; of those, 3 settled and 4 are pending	82 petitions received by SPB 70 cases briefed Won 65 – 93% (hearings were denied) Of the 5 hearings granted, won 3 and 2 are pending		
Objective 4.1	Represent state agencies successfully in appeals to the State Personnel Board from decisions of Administrative Law Judges					
Measure 4.1.1. Number of SPB Employment Personnel (EP) appeals; number of successful rulings	Target		Win 75% of appeals to SPB	Win 75% of appeals to SPB	Win 67% of appeals to SPB	
	Actual	13 appeals; won 10/77% Board modified or reversed 3	9 appeals; won 6/67% Board modified or reversed 3	9 appeals; won 6 – 67% Board reversed 3		
Objectives 5.1	Represent state agencies in appeals from decisions of State Personnel Board to the Colorado Court of Appeals					
Measure 5.1.1. Number of EP Appeals to Ct. of Appeals; number of successful appeals	Target		Win 75% of appeals to Ct of Appeals	Win 75% of appeals to Ct. of Appeals	Win 50% of appeals to Ct. of Appeals	
	Actual	4 appeals Won 3/75% Lost 1	6 appeals Won 3/50% Lost 3	6 appeals Won 3 – 50% Lost 3		
Objective 6.1	Dispose of EP cases short of hearing through motions or settling cases that should be settled for a reasonable amount					

Measure 6.1.1. Number of EP cases settled	Target		Settle 25%	Settle 50% of cases set for hearing	Settle 50% of cases set for hearing	
	Actual	78 cases settled - 20% of those set for hearing	112 cases set for hearing; 59-53% settled	95 cases set for hearing; 54 – 57% settled		

Measure 6.1.2 Number of EP cases dismissed on motion	Target		Win motions in 30% of cases	Win motions in 20% of cases set for hearing	Win motions in 25% of cases set for hearing	
	Actual	109 cases dismissed on motion 27% of those set for hearing	112 cases set for mandatory hearing; 20/18% dismissed on motion	95 cases set for hearing; 24 – 25% dismissed on motion		

Objective 7.1 Safeguard state money in the Subsequent Injury Fund (SIF) and Major Medical Insurance Fund (MMIF) and ensure the statutory and legal propriety of lost wage and medical benefits paid to injured workers from those Funds

Measure 7.1.1. Aggressively pursue motions to dismiss or for summary judgment in appropriate cases and defend motions successfully	Target		Win 80% of motions	Win 80% of motions	Win 80% of motions	
	Actual		2 motions. for summary judgment filed - Won both - 100% Lost none	0 motions filed		
Measure 7.1.2 Aggressively represent the state in SIF and MMIF hearings and trials	Target		Win 75% of hearings or trials	Win 75% of hearings or trials	Win 75% of hearings or trials	

	Actual		One case went to hearing and we won - 100%	1 case went to hearing; case settled after hearing		
Measure 7.1.3 Represent SIF and MMIF in appeals	Target		Win 80% of appeals	Win 80% of appeals	Win 80% of appeals	
	Actual	3 SIF appeals; won 2 - 67% No decision in 1	5 appeals Won 4 - 80% Lost 1	0 appeals		
Measure 7.1.4 Settle SIF and MMIF cases as appropriate	Target		Save the state \$150,000	Settle cases to avoid payment	Settle cases to save the state money	
	Actual		Settled 5 cases with no money from SIF	Settled 3 cases, 1 with no money from MMIF; 1 with MMIF receiving \$5000 for subrogation of claim; 1 settled for \$105K from SIF, wanted \$150K, saved \$45K		
Objectives 8.1	Provide timely, current and complete legal advice to the Colorado Civil Rights Division of the Dept. of Regulatory Affairs					
Measure 8.1.1. Research, prepare and submit legal memoranda on transactional questions and "cutting edge" legal issues to the CCRD within 30 days of each request.	Target	100%	100%	100%	100%	
	Actual	100%	100%	100%		

Objectives 9.1	Continue to provide timely, current and complete legal analysis and opinions on the hearing worthiness of cases referred by the CCRD.					
Measure 9.1.1. Analyze each investigative file; research the legal questions raised therein; prepare and submit memorandum to the CCRD and the Colorado Civil Rights Commission within 30 days of receipt of such request.	Target	100%	100%	100%	100%	
	Actual	100%	100% 12 prepared	100% 39 files referred for hearing worthiness due in 2007		
Objectives 10.1	Vigorously prosecute all cases of employment, housing and public accommodation discrimination in administrative and court proceedings in which the Colorado Civil Rights Commission issued a formal complaint.					
Measure 10.1.1. Aggressively pursue and conclude all phases of litigation from discovery through hearings and trials to appellate briefs and oral arguments; incorporate precepts of ADR in effort to conserve and maximize beneficial effect of litigation funds	Target		100%	100%	100%	
	Actual		Two hearings; won both 100%	4 complaints set for hearing; 3 settled; 1 case removed to federal court		
Measure 10.1.2 Successfully represent the agency in appeals	Target		Win 75% of appeals	Win 75% of appeals	Win 75% of appeals	
	Actual	2 appeals Won 1 1 still pending	2 appeals to Comm. are still pending	0 appeals		
Measure 11.1.3 Settle cases favorably for the charging party when appropriate	Target		8 cases	5 cases	5 cases	

	Actual	8 cases settled	4 cases settled	3 employment cases settled: \$8K + training; \$7K; and \$29K		
--	---------------	-----------------	-----------------	--	--	--

Workload Measures

		Actual FY 06	Actual FY 07	Actual FY 08	Est FY 09	Projected FY 10
Measure 1. Number of Employment personnel cases opened FY 06-07 and number of cases handled	Actual	282 cases opened 397 cases handled	198 cases opened 346 cases handled	172 cases opened 372 cases handled		
Measure 2. Number of SIF and MMIF cases opened and number handled during the year	Actual	14 cases opened 67 handled	9 cases opened 16 handled	2 cases opened; 3 handled		
Measure 3. Number of Civil Rights matters opened (including hearing worthiness analysis and probable cause sufficiency analysis)	Actual	22 cases opened 81 handled	20 cases opened 30 handled	52 cases opened 75 handled		

Trends and Other Baseline Information:

The unit continues to be successful in most of its employment personnel cases in either winning the cases at hearing or on appeal or successfully opposing requests for hearings. The attorneys also settle cases as appropriate. There were a few less cases set for hearings this year than last year. The unit is presenting training to more agencies that it has in the past and is getting more requests for advice which is a good development.

There were more than double the number of Civil Rights matters opened this past year. This may be related to the change in administration and the effort to clean up some backlog. Although the Subsequent Injury Fund has been closed to all cases where the injury responsible for permanent total disability occurred after July 1, 1993, there are still approximately 1-2 new cases a year. There are fewer new MMIF cases filed each year,

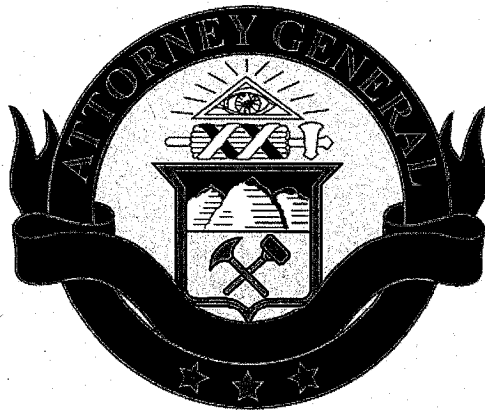
but they still average 1-2 cases. Eventually, there will not be any further MMIF nor SIF cases.

Similar or Cooperating Programs: N/A

Assumptions and Calculations:

The Employment Personnel, SIF, MMIF, and the Civil Rights Units are part of the Legal Services to State Agencies (LSSA) line item and all program costs are included in those appropriations. Please see Budget Assumptions and Calculations summary for all LSSA programs. The Employment Personnel work is handled for all state agencies that are also part of the Legal Services to State Agencies line item.

LSSA Natural Resources



Program Summary–2009

NATURAL RESOURCES AND ENVIRONMENT SECTION **PROGRAM SUMMARY**

Introduction to the Natural Resources and Environment Section

The Natural Resources and Environment (NRE) Section currently has **37** lawyers (37.5 FTE), 9 legal assistants (8.5 FTE), and four support staff. These dedicated employees protect and defend the interests of the State and its citizens in all areas of natural resources law and environmental law. We represent and advise state agencies and boards that regulate and oversee the use and conservation of Colorado's natural resources and the quality of Colorado's environment.

Environmental Quality Unit:

This unit assists certain environmental agencies and boards of the Department of Public Health and Environment in protecting the health, safety and welfare of the State's citizens in the areas of water quality, air quality, and radiation, as well as health-related consumer protection such as restaurant inspection. They ensure that the State's businesses and citizens comply with all applicable environmental requirements, and they bring enforcement actions against those who do not comply. See Legal Services to State Agencies for Program Summary.

Water Conservation Unit:

The Water Conservation Unit provides legal counsel and representation in water rights and administration matters to the Department of Natural Resources, including the Executive Director's Office, the Colorado Water Conservation Board ("CWCB"), the Division of Wildlife ("Wildlife"), the Division of Parks and Outdoor Recreation ("Parks") and the State Land Board ("SLB"). The Unit also provides legal counsel and representation in water matters to the Department of Transportation ("DOT"), the Department of Corrections ("DOC") and any other state agency or official that requests water rights advice or representation. Water matters are appealed directly from Water Court to the Supreme Court, and the Unit has several matters pending before the Supreme Court at any given time. The Unit represents and counsels various boards and commissions, and their staff under each agency. The Unit handles transactional work for each agency, including negotiating and drafting documents for acquisitions and protection of water rights for the CWCB, the Division of Wildlife and for the Department of Parks.

In addition to general legal advice, the Unit assists the CWCB with various hearings before the Board, trials and appeals, promulgation of rules and regulations, drafting and reviewing CWCB loan and grant contracts, and negotiating and drafting documents for acquisitions and protection of water rights for the CWCB. The Unit helps the CWCB Water Supply Planning and Finance Program to: (1) arrange low-interest loans to enable the construction of water resource projects or the purchase of water rights; (2) finance other specialized water studies and projects; 3) to aid in

the construction of new reservoirs and rehabilitation of existing structures including dams, diversions, pipelines, pump stations and irrigation channels; and (4) fund feasibility studies for possible new construction projects, and processes. Specifically, the unit aids the client in drafting the contracts associated with such loans, grants and studies, and loan repayments.

Water Resources Unit

The H2O Resources Unit provides legal counsel and representation in water rights and administration matters to the Division of Water Resources of the Department of Natural Resources. The Unit represents the State and Division Engineers, the Groundwater Commission and the Board of Examiners for Water Well Contractors and their staffs. The Unit has an active caseload of approximately 600 water-related administrative proceedings, water court litigations, and appellate matters. These proceedings include administrative and water court objections to well permit issuances and denials; enforcement actions against illegal water uses; water court proceedings regarding applications for new water rights, changes to existing water rights, and for new plans for augmentation; declaratory judgment actions regarding water rights administration decisions by the State Engineer, and other water rights related matters. Water matters are appealed directly from Water Court to the Supreme Court; as a result, in addition to administrative and trial court proceedings, the Unit has several matters pending before the Supreme Court at any given time. The Unit also continues to work on negotiating (and litigating where necessary) the few remaining protests to the inclusion of water rights on the 2000 decennial abandonment list.

Resource Conservation Unit:

The attorneys and legal assistants in the Resource Conservation Unit provide legal assistance and representation to state officials and to certain divisions within the Department of Natural Resources ("DNR") as well as to a board and a commission. These clients within DNR implement and enforce numerous statutorily created programs including regulation of reclamation of land that has been mined and regulation of oil and gas operations. The client agencies include: The Oil and Gas Conservation Commission (nine members); the Mined Land Reclamation Board (seven members), the Colorado Coal Mine Board of Examiners (four members + one *ex officio* member) and the Division of Reclamation, Mining and Safety.

The activities performed by attorneys in the Resource Conservation Unit include general legal advice to and representation of the Executive Director's Office and above-listed divisions, boards and commissions of DNR in administrative and judicial hearings, trials, and appeals; promulgation of rules and regulations; defense of litigation filed against the agencies (other than tort and personnel actions, in which case the Resource Conservation Unit attorneys may serve as "second chair" to attorneys in the Litigation Section or Employment Section, respectively); prosecution of enforcement actions; general advice and counsel in permitting; and advice on legislative proposals.

State and Trust Lands

The attorneys and legal assistants in the State and Trust Lands Unit provide legal assistance and representation to state officials and agencies within the Department of Natural Resources ("DNR"), including the Wildlife Commission (11 members) and the Division of Wildlife, the Parks Board (5 members) and the Division of Parks and Outdoor Recreation, the Colorado Geological Survey, and the State Board of Land Commissioners (5 members) and its administrative staff. The Colorado Geological Survey is a relatively minor client agency, but Wildlife, Parks and the State Land Board are agencies of significant size and scope.

Unlike most agencies, Wildlife, Parks and the State Land Board are essentially cash funded agencies that generate their own revenues to support their statutorily mandated responsibilities and mandated activities. Representation of these agencies is similar in many respects to representation of corporate business entities and, as such, raises issues frequently not presented by other state agencies.

Wildlife is a TABOR enterprise funded entirely by the sale of hunting and fishing license fee revenues, federal fish and wildlife funds, and funds made available to it by the GOCO Trust Fund. Parks receives a minor amount of general funds (15%) and is otherwise funded by the sale of parks passes and permits, federal park and recreation funds and funds made available to it by the GOCO Trust Fund. The State Land Board serves as the trustee for the lands granted the state in public trust to support K-12 education and its trust management activities are supported by revenues generated by the trust assets.

PROGRAM NARRATIVE

Program Title: Natural Resources - Resource Conservation Unit

Long Bill Line Item: Legal Services to State Agencies

Change Requests: No.

Federal and State Statutory Authority:

Sections 24-31-101, *et seq.* (Dept. of Law); § 24-4-103(8)(b), (d), and 11(d) (Rulemaking – AG Rule Opinion); Sections 34-20-101, *et seq.*, 34-21-101, *et seq.*, 34-22-101, *et seq.*, 34-32-118(4) and (5), 34-32.5-118(4) and (5), § 34-33-123(8)(h) & (12) (Reclamation, Mining and Safety; Mined Land Reclamation Board); Sections 34-60-105(1) and (3), 109 and 121(1) and (5)(c) (Oil and Gas); and Section 36-4-112 (Reclamation of State Lands – AG to enforce).

Program Description:

The attorneys and legal assistants in the Resource Conservation Unit provide legal assistance and representation to state officials and to certain divisions within the Department of Natural Resources (“DNR”) as well as to a board and a commission. These clients within DNR implement and enforce numerous statutorily created programs including regulation of reclamation of land that has been mined and regulation of oil and gas operations. The client agencies include: The Oil and Gas Conservation Commission (nine members); the Mined Land Reclamation Board (seven members), the Colorado Coal Mine Board of Examiners (four members + one *ex officio* member) and the Division of Reclamation, Mining and Safety.

The activities performed by attorneys in the Resource Conservation Unit include general legal advice to and representation of the Executive Director’s Office and above-listed divisions, boards and commissions of DNR in administrative and judicial hearings, trials, and appeals; promulgation of rules and regulations; defense of litigation filed against the agencies (other than tort and personnel actions, in which case the Resource Conservation Unit attorneys may serve as “second chair” to attorneys in the Litigation Section or Employment Section, respectively); prosecution of enforcement actions; general advice and counsel in permitting; and advice on legislative proposals.

Prioritized Objectives & Performance Measures

Resources Conservation Unit	Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Objectives 1.1	To provide legal counsel and representation to the Division of Reclamation, Mining and Safety and to the Oil and Gas				

	Conservation Commission, as well as to the Executive Director's office and DNR's administrative branch, to assist them in accomplishment of their statutory and regulatory duties in implementing and enforcing their programs.					
Measure 1.1.1: Upon request, attorneys in the Resource Conservation Unit will attend and represent the Division of Reclamation, Mining and Safety, and the Oil and Gas Conservation Commission in administrative hearings held monthly or bi-monthly. Upon request, attorneys will advise and assist the Division and agency staff in preparing for regular meetings but may not attend.	Target	100%	100%	100%		
	Actual	100%	100%			
Measure 1.1.2: Attorneys will meet all court and discovery deadlines in litigation matters.	Target	100%	100%	100%		
	Actual	100%	100%			
Measure 1.1.3: Attorneys will work with the client agencies to set priorities for legal services based on workload, need, and budget constraints.	Target	100%	100%	100%		
	Actual	100%	100%			

Workload Measures:

		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Represent the Division of	Target	N/A	100%	100%		

<p>Reclamation, Mining and Safety in monthly administrative hearings before the Mined Land Reclamation Board, and provide day-to-day verbal and written advice and representation to the Division on a variety of legal issues and matters. Cases may range from simple legal questions to complex, multi million dollar litigations. The average yearly number of matters for which legal services are provided by this Unit runs in the hundreds.</p>	<p>Actual</p>	<p>N/A</p>	<p>100%</p>			
<p>Represent and advise the Oil and Gas Conservation Commission in almost monthly administrative hearings and provide day-to-day verbal and written advice and representation to the Commission and its staff on a variety of legal issues and matters. Cases may range from simple legal issues to complex rule-makings. The average yearly number of matters for which legal services are provided by this Unit runs in the hundreds.</p>	<p>Target</p>	<p>N/A</p>	<p>100%</p>	<p>100%</p>		
	<p>Actual</p>	<p>N/A</p>	<p>100%</p>			

Trends and Other Baseline Information:

The Division of Reclamation, Mining and Safety (formerly the Division of Minerals and Geology) has seen a substantial increase in its need for legal advice especially concerning proposed oil shale development and uranium development. Such development will ultimately result in reclamation permit applications being filed with the Division and hearings being held on such applications before the Mined Land Reclamation Board.

The prospect of oil shale development has required advice and counsel on a number of legal issues, and attendance at numerous federal and state agency coordination meetings. Uranium development has so far been focused on the upcoming hearings concerning the reactivation of four Cotter mines and on a possible in situ uranium

operation in Weld County. A number of regulatory issues have arisen, and will likely continue to arise, in regard to uranium development. These regulatory issues have required and will continue to require legal advice and counsel.

Given the increase in demand for molybdenum, the Division will likely see increased activity in mining of this mineral in addition to oil shale and uranium. Accordingly, there will be a parallel increased need for legal services.

Moreover, the Division continues to be involved with the bankruptcy case of ASARCO, Inc., a mining company that holds a permit from the Division regarding the unreclaimed Black Cloud Mine located near Leadville, Colorado. ASARCO has 94 sites located in over 20 states for which ASARCO may have environmental liability. The Resource Conservation Unit will continue to represent the Division in the bankruptcy proceedings.

As to the Oil and Gas Conservation Commission, the trend of issuing record breaking numbers of applications for permits to drill will most likely continue this year. In addition, the General Assembly passed five bills affecting the constituency and charge of the OGCC. The Legislature increased the number of commissioners from seven to nine and changed the required backgrounds for members serving on the commission. The Governor has appointed all new commissioners except one existing member who will remain on the Commission. Given these changes, the Commission will likely require additional legal services.

In addition, the General Assembly changed the mission of the Commission. The Oil and Gas Conservation Act now specifically requires the Commission to consider the environment and wildlife in its decisions. The new laws require the Commission to hold three rulemakings with three different deadlines (January 08, April 08, and July 08). Based on these new laws, required rule-makings and the record breaking business of the OGCC, there is likely to be a considerable increase in the Commission's need for legal services.

Similar or Cooperating Programs: N/A

Assumptions and Calculations:

See Budget Assumptions and Calculation summary for all Legal Services to State Agency's line items.

PROGRAM NARRATIVE

Program Title: Natural Resource – Environmental Quality Unit

Long Bill Line Item: Legal Services to State Agencies

Change Requests:

The Environmental Quality Unit is requesting one additional FTE, for an Assistant Attorney General I position. The need and basis for this request is discussed below in the "trends" section.

Federal and State Statutory Authority:

All Programs: § 24-31-101(1)(a), C.R.S., § 24-4-103(8)(b), (d), and 11(d), C.R.S., § 25-1-112, C.R.S.; Air Quality: § 25-7-121, C.R.S., § 25-7-122, C.R.S., § 25-7-122.1, C.R.S., § 25-7-511, C.R.S., § 42-4-307(8)(b), C.R.S., § 42-4-313(4)(a), C.R.S.; Consumer Protection: § 25-1-109, C.R.S., § 25-4-101, C.R.S., § 25-4-1604, C.R.S.; Drinking Water: § 25-1-114.1(3) and (6), C.R.S., § 25-1.5-207, C.R.S., § 25-8-202, C.R.S.; Radiation Control: § 25-11-106, C.R.S.; § 25-11-107, C.R.S.; Water Quality: § 25-8-202, C.R.S., § 25-8-607, C.R.S., § 25-8-608, C.R.S., § 25-8-609, C.R.S.

Program Description:

The Environmental Quality Unit represents the various divisions and commissions within the Colorado Department of Public Health and Environment (CDPHE) that are responsible for improving and protecting our state's air and water resources. The Unit also represents the divisions of CDPHE that are charged with radiation control and consumer protection. Specifically, the Unit provides legal counsel to the Executive Director's Office, the Air Quality Control Commission, the Air Pollution Control Division, the Board of Health, the Consumer Protection Division, the Laboratory and Radiation Services Division, the Water Quality Control Commission, the Water Quality Control Division, the Water and Wastewater Facility Operators Certification Board, the Office of Administration, the Office of Policy and Public/Private Initiatives and Uranium Special Projects. The Unit also provides representation to the Governor's Office of Energy Conservation.

The attorneys in the Environmental Quality Unit provide general legal advice to and representation of CDPHE's boards, commissions and divisions in administrative and judicial proceedings, rule-making hearings, enforcement actions, and legislative proposals.

Prioritized Objectives & Performance Measures

Natural Resources Environmental Quality Unit		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Objectives 1.1	Assist clients to obtain and maintain delegation from EPA to administer the federal environmental programs.					
Measure 1.1.1. Communicate with the EPA to ensure a productive working relationship.	Target	Yes	Yes	Yes		
	Actual	Yes	Yes			
Measure 1.1.2. Review bills and proposed rules to ensure that programs meet minimum federal requirements.	Target	Yes	Yes	Yes		
	Actual	Yes	Yes			
Objectives 2.1	Provide clients with consistent quality legal services and counsel.					
Measure 2.1.1. Represent clients in meetings, rule-making hearings, adjudicatory hearings, and appeals of the Air Quality Control Commission, the Water Quality Control Commission, the Water and Wastewater Facility Operators Certification Board and the Board of Health.	Target	Yes	Yes	Yes		
	Actual	Yes	Yes			
Measure 2.1.2. Prepare rule opinions, legal memorandum and court documents in a timely manner.	Target	Yes	Yes	Yes		
	Actual	Yes	Yes			
Measure 2.1.3. Confer with clients on a regular basis to identify priorities for legal services and discuss status of pending matters.	Target	Yes	Yes	Yes		
	Actual	Yes	Yes			
Objectives 3.1	Ensure that the adoption, implementation and enforcement of environmental programs are consistent with state and federal requirements and defend any challenges to such programs.					
Measure 3.1.1. Achieve	Target	Yes	Yes	Yes		

objective.	Actual	Yes	Yes			
Objectives 4.1	Draft and negotiate clear, effective and efficient regulations and legislation on behalf of clients.					
Measure 4.1.1. Achieve objective.	Target	Yes	Yes	Yes		
	Actual	Yes	Yes			
Objectives 5.1	Ensure compliance with environmental programs through creative non-punitive means, as well as through traditional enforcement methods.					
Measure 5.1.1. Achieve objective.	Target	Yes	Yes	Yes		
	Actual	Yes	Yes			

Workload Measures:

		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Resolve administrative enforcement actions	Target	N/A	N/A	20		
	Actual	N/A	N/A			
Resolve civil enforcement actions	Target	N/A	N/A	5		
	Actual	N/A	N/A			
Obtain cash penalties and/or supplemental environmental projects for environmental violations	Target	N/A	N/A	25		
	Actual	N/A	N/A			
Assist client agencies with promulgating new and amending existing regulations	Target	N/A	N/A	25		
	Actual	N/A	N/A			
Defend civil and administrative appeals	Target	N/A	N/A	5		
	Actual	N/A	N/A			
Draft informal Attorney General opinions	Target	N/A	N/A	30		
	Actual	N/A	N/A			
Attend Air and Water Commission hearings	Target	N/A	N/A	24		
	Actual	N/A	N/A			
Conduct legislative bill reviews	Target	N/A	N/A	10		
	Actual	N/A	N/A			

Trends and Other Baseline Information:

The Colorado Department of Public Health and Environment has recently experienced an increase in workload relating to many of its environmental programs, including air quality, water quality, and radiation control. Such workload increases have included large-scale rulemakings, such as oil and gas, regional haze and mercury regulations in the air arena, and new temperature and ammonia standards and permitting regulations

in the water arena. They have also included litigation (both in court and administrative) concerning challenges to CDPHE permitting decisions, such as with respect to air construction permits, radioactive materials licenses, and water treatment plant site approvals. This trend requires DOL to spend additional time assisting the client to develop and defend its decision-making record. A recent increase in major federal environmental legislation, particularly in the air quality arena, will require additional legal resources as CDPHE makes changes to its corresponding state program. In addition, the relatively recent appointments of new Executive Director of CDPHE, Director of Environmental Programs, Director of the Air Pollution Control Division, and new air and water commissioners, all have lead to new priorities and the Division seeking additional legal support from our office.

The Environmental Quality Unit currently has six attorneys and one paralegal. The Unit has been extremely busy the past year or two. This is because CDPHE's increasing workload has required an increase in legal services. This trend is expected to continue, if not increase. As one example, CDPHE recently obtained funding to hire 10 new FTE in its Water Quality program. The Air Pollution Control Division has also seen an increase in its workload, including the number of enforcement actions, and several long term and labor intensive projects, such as ozone attainment, regional haze, and nitrogen and mercury deposition.

During the last fiscal year, CDPHE had to transfer an additional \$30,000 to the Air Division's legal services budget. At the end of the 2006-07 fiscal year, billings for the Water Quality and Radiation Services divisions exceeded their budgets. For the first two months of the current fiscal year, that trend is continuing for the air and water quality programs.

Similar or Cooperating Programs: N/A

Assumptions and Calculations:

See Budget Assumptions and Calculation summary for all Legal Services to State Agency's line items.

PROGRAM NARRATIVE

Program Title: Natural Resources – Hazardous and Solid Waste Unit

Long Bill Line Item: Legal Services to State Agencies

Change Requests:

The Hazardous and Solid Waste is requesting an additional 1 FTE for an attorney position and an additional ½ FTE for a paralegal position. The need and basis for this request is discussed below in the “trends” section.

Federal and State Statutory Authority:

All Programs: § 24-31-101(1)(a), C.R.S.; § 24-4-103(8)(b), (d), and 11(d), C.R.S.; § 25-1-107(1)(bb); § 25-1-112, C.R.S.. Hazardous Waste: § 25-15-308(2)(a), C.R.S.; Solid Waste: § 30-20-101, C.R.S. Petroleum Storage Tanks: § 8-20.5-101, C.R.S.

Program Description:

The function of attorneys and legal assistants in the Hazardous and Solid Waste Unit is to represent (1) the Hazardous Materials and Waste Management Division within the Colorado Department of Public Health and Environment and (2) the Petroleum Storage Tank Committee within the Department of Labor and Employment, and to assist each of those agencies in implementing their statutory responsibilities to protect human health and the environment from risks posed by (a) the improper management of hazardous or solid waste, (b) leaking petroleum storage tanks, and (c) the past disposal of hazardous substances, pollutants or contaminants. This assistance takes the form of providing legal counsel to the client agencies regarding proposed and existing legislation; rulemaking; permitting; and administrative or judicial enforcement actions.

Prioritized Objectives & Performance Measures

Natural Resources Hazardous and Solid Waste	Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Objectives 1.1	The objective of the H&SW Unit is to protect Colorado’s citizens and lands from the dangers of hazardous and solid waste.				
Measure 1.1.1. Review	Target	Yes	Yes	Yes	

all draft compliance orders within 15 working days of receipt. Review includes ensuring that compliance orders are legally defensible; that they do not require actions that are beyond the authority of the HMWMD to impose; and that any requirements are clear and enforceable.	Actual	Yes	Yes			
Measure 1.1.2. Provide legal counsel to the HMWMD and the Hazardous Waste Commission at all Commission meetings. This legal counsel includes ensuring that regulations proposed for adoption are within the Commission's statutory authority; that the regulations are clear and enforceable; and that the Commission complies with applicable statutory and regulatory procedural requirements.	Target	Yes	Yes	Yes		
	Actual	Yes	Yes			
Measure 1.1.3. Provide legal counsel to the Petroleum Storage Tank Committee at all Committee meetings.	Target	Yes	Yes	Yes		
	Actual	Yes	Yes			
Measure 1.1.4. Meet all Administrative Procedure Act requirements for review of promulgated rules.	Target	Yes	Yes	Yes		
	Actual	Yes	Yes			
Measure 1.1.5. Comply	Target	Yes	Yes	Yes		

with all Colorado Rules of Civil Procedure in defending or prosecuting hazardous or solid waste cases and petroleum storage tank cases in court.	Actual	Yes	Yes			
--	---------------	-----	-----	--	--	--

Workload Measures:

		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
New matters assigned to AAGs (includes civil and administrative enforcement, regulatory advice, and informal opinions)	Target	N/A	N/A	N/a		
	Actual	66	56	65		
Pending cases in litigation	Target	N/A	N/A	10		
	Actual	2	14			
Rulemakings initiated	Target	1	1	3		
	Actual	1	1			
Rulemakings completed	Target	1	1	2		
	Actual	1	1			

Trends and Other Baseline Information:

There has been a dramatic increase in litigation over HMWMD actions, including both hazardous and solid waste matters. The hazardous waste program began an initiative this year to enforce unpaid administrative orders and requested this unit to collect penalties rather than entrust debt collection to Central Collections. This effort alone led to filing four district court actions. The Solid Waste program is implementing legal authorities granted in the past couple of years, and has increased enforcement activities significantly. The regulated community is unaccustomed to this increased level of enforcement and is resisting these efforts in court. The Solid Waste program continues to update and overhaul its regulations, a process that requires significant legal resources. The HMWMD estimates that the Solid Waste Regulatory overhaul will require up to 6 years. Overall, it is likely that the workload in the areas of hazardous and solid waste, especially solid waste enforcement, will increase slowly and steadily for some time.

There is also an increased demand for legal services related to Department of Defense facilities. The Department of Defense and the U.S. Army store hundreds of thousands of rounds of waste chemical weapons at the Pueblo Chemical Depot, including leaking weapons, and treatment of those wastes has been delayed for decades. HMWMD has

increased enforcement pressure regarding the long-term storage of the munitions, requiring significant legal resources. A suit against the U.S. Department of Defense to force expeditious treatment of the stored waste weapons is possible and would require additional legal resources. In an unrelated matter, the Air Force appealed the promulgation of solid waste regulations pertaining to asbestos contaminated soil, a matter that is consuming considerable legal resources. In addition, the DoD has resisted making payments pursuant to the Defense-State Memorandum of Agreement ("DSMOA") under which many DoD facilities are being cleaned up. The recent DSMOA dispute has been resolved but will probably resurface. Similarly, some DOD facilities, such as the Lowry Air Force Base and Fitzsimons have closed and require cleanup. There are many legal issues related to the closure and cleanup of these sites and the U.S. frequently disputes state authority in this area, leading to increased demand for legal services.

Similar or Cooperating Programs: N/A

Assumptions and Calculations:

See Budget Assumptions and Calculation summary for all Legal Services to State Agency's line items.

PROGRAM NARRATIVE

Program Title: Natural Resources – Water Conservation Unit

Long Bill Line Item: Legal Services to State Agencies

Change Requests: *No.*

Federal and State Statutory Authority:

Title 37, C.R.S.

Program Description:

The Water Conservation Unit provides legal counsel and representation in water rights and administration matters to the Department of Natural Resources, including the Executive Director's Office, the Colorado Water Conservation Board ("CWCB"), the Division of Wildlife ("Wildlife"), the Division of Parks and Outdoor Recreation ("Parks") and the State Land Board ("SLB"). The Unit also provides legal counsel and representation in water matters to the Department of Transportation ("DOT"), the Department of Corrections ("DOC") and any other state agency or official that requests water rights advice or representation. Water matters are appealed directly from Water Court to the Supreme Court, and the Unit has several matters pending before the Supreme Court at any given time. The Unit represents and counsels various boards and commissions, and their staff under each agency. The Unit handles transactional work for each agency, including negotiating and drafting documents for acquisitions and protection of water rights for the CWCB, the Division of Wildlife and for the Department of Parks.

In addition to general legal advice, the Unit assists the CWCB with various hearings before the Board, trials and appeals, promulgation of rules and regulations, drafting and reviewing CWCB loan and grant contracts, and negotiating and drafting documents for acquisitions and protection of water rights for the CWCB. The Unit helps the CWCB Water Supply Planning and Finance Program to: (1) arrange low-interest loans to enable the construction of water resource projects or the purchase of water rights; (2) finance other specialized water studies and projects; 3) to aid in the construction of new reservoirs and rehabilitation of existing structures including dams, diversions, pipelines, pump stations and irrigation channels; and (4) fund feasibility studies for possible new construction projects, and processes. Specifically, the unit aids the client in drafting the contracts associated with such loans, grants and studies, and loan repayments.

Prioritized Objectives & Performance Measures

Natural Resources Water Rights Unit	Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Objectives 1.1	Assist the CWCB, Wildlife, Parks, SLB, DOT, DOC, and Department of Education in acquiring, maintaining and protecting water rights. The CWCB has approximately 240 active cases, Parks has approximately 80 active cases, Wildlife has approximately 100 cases and the remaining clients have approximately 10 cases each year. This year, the unit closed approximately 50 cases.				
Measure 1.1.1. Evaluate water rights portfolio; recommend and assist in implementing advisable actions, if any.	Target	Yes	Yes	Yes	
	Actual	Yes	Yes		
Measure 1.1.2. Identify and resolve problems concerning existing water rights through stipulated settlements or litigation.	Target	Yes	Yes	Yes	
	Actual	Yes	Yes		
Measure 1.1.3. Pursue changes of water rights or applications for new water rights.	Target	Yes	Yes	Yes	
	Actual	Yes	Yes		
Measure 1.1.4. Protect water rights and access easements from 3 rd parties.	Target	Yes	Yes	Yes	
	Actual	Yes	Yes		
Measure 1.1.5. Represent and assist the CWCB in administrative proceedings held bi-monthly and advise staff in preparing for such meetings.	Target	Yes	Yes	Yes	
	Actual	Yes	Yes		
Objectives 2.1	Provide timely, efficient and creative support to client agencies on various transactions.				
Measure 2.1.1. Assist CWCB staff in developing and obtaining Controller approval of standard loan contract and revise it from time to time as appropriate.	Target	Yes	Yes	Yes	
	Actual	Yes	Yes		
Measure 2.1.2. Assist	Target	Yes	Yes	Yes	

CWCB staff in resolving issues related to loans and grants and in developing loan program policies and procedures.	Actual	Yes	Yes			
Measure 2.1.3. Advise State Parks staff regarding water and water rights acquisitions for new State parks, including assessment of quality and viability of prospective acquisitions, negotiation of specific terms of purchase and negotiating and drafting transactional documents.	Target	Yes	Yes	Yes		
	Actual	Yes	Yes			

Workload Measures:

		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Represent CWCB on approximately 240 active cases.	Target	N/A	Yes			
	Actual	N/A	Yes			
Represent Parks on approximately 80 active cases.	Target	N/A	Yes			
	Actual	N/A	Yes			
Represent Wildlife on approximately 100 active cases.	Target	N/A	Yes			
	Actual	N/A	Yes			
Represent other state agencies on approximately 10 active cases.	Target	N/A	Yes			
	Actual	N/A	Yes			
Close approximately 50 cases.	Target	N/A	Yes			
	Actual	N/A	Yes			

Trends and Other Baseline Information:

As population increases, additional demands are put on our water supply. This trend has resulted in and will continue to result in more difficult, expensive and time consuming water court litigations. It will also result in new and creative issues arising, such as claims for in-channel uses and changing water from irrigation to municipal uses. As a result of Colorado's water court method of resolving water disputes, there will be an increasing need for additional FTE to handle a larger and more complex caseload. As state agencies compete with the private sector for the limited water supply, they

have been and will increasingly be required to spend additional resources in water court related matters. Further, state agencies' applications for water rights and efforts to protect existing water rights have met with more resistance that requires more complex and difficult negotiations with opposing counsel.

Acquiring water rights for state clients is nearly 10 times more time-consuming than defending state water rights or protecting legal interests within the applications of others. The Unit expects to work on more water rights acquisitions and changes of water rights for the CWCB as a result of SB 156 and revisions to the CWCB's rules governing instream flow water rights. The Department of Parks has recognized that it has a large number of water rights and water related issues that have previously been a secondary priority. However, because of the tighter supplies and higher demands statewide, Parks' water work has become a high priority and more resources will need to be devoted to establishing and protecting its water rights. Further, more state agencies are applying for augmentation plans based upon changes in the law regarding temporary substitute supply plans, and these applications are usually complex and often contested. In addition to needing increased FTE levels over time, the Unit has had and will continue to have significant turnover of experienced attorneys, and it will be important to retain experienced attorneys more capable of handling the increasingly complex case load. In order to retain more experience attorneys, it is critical that the Unit have the ability to promote more AAG-I attorneys to higher levels.

Information Regarding Long-Range Needs. The Water Conservation Unit is in the process of providing training and cross-training to a significant number of new attorneys. Some of our trials and rulemakings may require two attorneys to handle.

Similar or Cooperating Programs: N/A

Assumptions and Calculations:

See Budget Assumptions and Calculation summary for all Legal Services to State Agency's line items.

PROGRAM NARRATIVE

Program Title: Natural Resources – State and Trust Lands Unit

Long Bill Line Item: Legal Services to State Agencies

Change Requests:

None currently pending. However, effective this fiscal year a new full-time and a new half-time attorney positions were added to the State and Trust Lands Unit (in addition to the 4.5 attorneys previously assigned) to address increasing demands for legal services.

Federal and State Statutory Authority:

Sections 24-31-101, *et seq.* (Dept. of Law); Section 24-4-103(8)(b), (d), and 11(d) (Rulemaking – AG Rule Opinion); §§ 33-1-101, *et seq.* (Wildlife); Sections 33-10-101, *et seq.* (Parks); §§ 34-1-101, *et seq.* (Geological Survey); and Sections 36-1-101, *et seq.* (State Board of Land Commissioners).

Program Description:

The attorneys and legal assistants in the State and Trust Lands Unit provide legal assistance and representation to state officials and agencies within the Department of Natural Resources (“DNR”), including the Wildlife Commission (11 members) and the Division of Wildlife, the Parks Board (5 members) and the Division of Parks and Outdoor Recreation, the Colorado Geological Survey, and the State Board of Land Commissioners (5 members) and its administrative staff. The Colorado Geological Survey is a relatively minor client agency, but Wildlife, Parks and the State Land Board are agencies of significant size and scope.

Unlike most agencies, Wildlife, Parks and the State Land Board are essentially cash funded agencies that generate their own revenues to support their statutorily mandated responsibilities and mandated activities. Representation of these agencies is similar in many respects to representation of corporate business entities and, as such, raises issues frequently not presented by other state agencies.

Wildlife is a TABOR enterprise funded entirely by the sale of hunting and fishing license fee revenues, federal fish and wildlife funds, and funds made available to it by the GOCO Trust Fund. Parks receives a minor amount of general funds (15%) and is otherwise funded by the sale of parks passes and permits, federal park and recreation funds and funds made available to it by the GOCO Trust Fund. The State Land Board serves as the trustee for the lands granted the state in public trust to support K-12 education and its trust management activities

are supported by revenues generated by the trust assets.

In addition to their revenue generating activities, Wildlife and Parks implement and enforce numerous statutorily created programs including the designation and management of state wildlife areas, state parks, state recreation areas, state natural areas, and recreational trails, the provision of public information regarding wildlife and park and outdoor recreation resources in Colorado, the development and enforcement of wildlife regulations and requirements, including those related to hunting, fishing, watchable wildlife, and nongame and threatened and endangered wildlife programs, and the development and enforcement of parks and outdoor recreation regulations and requirements, including those related to boating, snowmobiles, off-highway vehicles and river outfitters. The State Land Board's activities focus on the management of the trust assets including over \$400 million in funds, 3 million acres of land and 4 million acres of mineral rights managed to produce revenue for K-12 public education in Colorado. The activities of the Colorado Geological Survey include the provision of informational services and products to public and private entities addressing issues related to mineral deposits, water and hydrology, petroleum and mineral fuels and engineering geology.

The activities performed by attorneys in the State and Trust Lands Unit include general legal advice to and representation of the Executive Director's Office and above-listed DNR agencies in administrative and judicial hearings, trials, and appeals; defense of litigation filed against the agencies (other than tort and personnel actions, in which case the State and Trust Lands Unit attorneys may serve as "second chair" to attorneys in the Litigation Section or Employment Section, respectively); promulgation of rules and regulations; prosecution of enforcement actions; general advice and counsel in licensing activities, business matters, real estate transactions and other contract matters (including drafting of contracts, deeds, and other documents); and advice on legislative proposals.

While legal services provided include a significant portion associated with administrative and judicial litigation, the majority of legal services provided to these client agencies involve general day-to-day legal matters greatly varying in size and complexity related to revenue generation activities, asset management and, in the case of Wildlife, Parks and the Colorado Geological Survey, the provision of public information and services. Many of the legal demands and services provided are not predictable in nature, are not readily subject to quantification and are of primary importance in avoiding future legal disputes that may result in litigation.

Prioritized Objectives & Performance Measures

Resources Conservation Unit	Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Objectives 1.1	To provide legal counsel and representation to certain non-water-related DNR officials, divisions, boards and commissions, as well as the Executive Director's office and DNR's administrative branch, to assist them in accomplishment of their statutory and constitutional duties in implementing, administering and enforcing their programs.				
Measure 1.1.1: Upon request, attorneys in the Resource Conservation Unit will attend, represent and assist the Wildlife Commission, Parks Board, and the State Land Board in administrative proceedings held monthly or bi-monthly. In addition and upon request, attorneys will advise and assist agency staff and/or board/commission members in preparing for regular meetings but may not attend.	Target	Yes	Yes	Yes	
	Actual	Yes	Yes		
Measure 1.1.2: Attorneys will meet all court and discovery deadlines in litigation matters.	Target	Yes	Yes	Yes	
	Actual	Yes	Yes		
Measure 1.1.3: Attorneys will work with the client agencies to adequately meet the demand for and set priorities for legal services based on workload, need, and budget constraints.	Target	Yes	Yes	Yes	
	Actual	Yes	Yes		

Workload Measures:

		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Number of requests for litigation services and cases filed.	Target	N/A	N/A			
	Actual	N/A	N/A			
Number of significant requests for non-litigation legal services.	Target	N/A	N/A			
	Actual	N/A	N/A			

Trends and Other Baseline Information:

Overall demands for legal services continue to increase, particularly for representation of Wildlife and the State Land Board. Both agencies had requests for additional legal services approved for this fiscal year. The State Land Board continues to struggle with auditing and receiving royalty payments on oil and gas leases as well as litigation involving terminated leases of state trust lands. The State Land Board's plan for development of the former Lowry Range, including the Rangeview water development lease, continues to draw on its legal resources and likely will only increase in nature as additional parties, including the City of Aurora, have question the propriety of such development. Due to an increase in available funding for real estate acquisition at both the state and federal level, Wildlife demand for legal services associated with its real estate program continue to increase. As part of that program, Wildlife has also greatly increased its acquisition of conservation easements, which are much more complex than fee title acquisitions and, as such, represent additional demand for legal services. Wildlife has also entered into significant litigation involving the interpretation and implementation of Amendment 14 (Colorado's ban on snares, certain traps and poisons to take wildlife) and the case will demand significant legal resources.

Similar or Cooperating Programs: N/A

Assumptions and Calculations:

See Budget Assumptions and Calculation summary for all Legal Services to State Agency's line items.

PROGRAM NARRATIVES

Program Title: Natural Resources – H2O Resources Unit

Long Bill Line Item: Legal Services to State Agencies

Change Requests: No

Federal and State Statutory Authority:

Title 37, C.R.S.

Program Description:

The H2O Resources Unit provides legal counsel and representation in water rights and administration matters to the Division of Water Resources of the Department of Natural Resources. The Unit represents the State and Division Engineers, the Groundwater Commission and the Board of Examiners for Water Well Contractors and their staffs. The Unit has an active caseload of approximately 600 water-related administrative proceedings, water court litigations, and appellate matters. These proceedings include administrative and water court objections to well permit issuances and denials; enforcement actions against illegal water uses; water court proceedings regarding applications for new water rights, changes to existing water rights, and for new plans for augmentation; declaratory judgment actions regarding water rights administration decisions by the State Engineer, and other water rights related matters. Water matters are appealed directly from Water Court to the Supreme Court; as a result, in addition to administrative and trial court proceedings, the Unit has several matters pending before the Supreme Court at any given time. The Unit also continues to work on negotiating (and litigating where necessary) the few remaining protests to the inclusion of water rights on the 2000 decennial abandonment list.

Prioritized Objectives & Performance Measures

Natural Resources Water Rights Unit		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Objectives 1.1	Provide consistent and efficient legal services to client agencies with the goal of resolving water disputes through collaboration rather than litigation.					
Measure 1.1.1. Provide rapid response and resolution of enforcement matters referred from the Division of Water Resources.	Target	Yes	Yes	Yes		
	Actual	Yes	Yes			
Measure 1.1.2. Provide	Target	Yes	Yes	Yes		

timely resolution of statements of opposition to new water rights applications and applications for changes of water rights and plans for augmentation, including litigation in water court or appeals to the State Supreme Ct.	Actual	Yes	Yes			
Measure 1.1.3. Represent the Division of Water Resources in connection with legal challenges to the Division's water rights administration decisions and duties.	Target	Yes	Yes	Yes		
	Actual	Yes	Yes			
Measure 1.1.4. Assist Division of Water Resources with respect to administrative or water court challenges to well permit approvals or denials.	Target	Yes	Yes	Yes		
	Actual	Yes	Yes			
Measure 1.1.5. Assist Division of Water Resources in negotiating and litigating 112 protests to the inclusion of water rights on the 2000 decennial abandonment list.	Target	Yes	Yes	Yes		
	Actual	Yes	Yes			

Workload Measures:

		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Percentage of client requests to initiate proceedings fulfilled (filing Statements of Opposition, protests to rulings or motions for intervention).	Target	N/A	N/A	100%		
	Actual	100%	100%			
Percentage of client requests	Target	N/A	100%	100%		

for legal services resolved in a satisfactory manner (filing Statements of Opposition, protests to rulings or motions for intervention).	Actual	100%	100%			
Percentage of enforcement actions initiated and resolved within 6 months of client request for legal services.	Target	N/A	N/A	100%		
	Actual	1100%	100%			
Percentage of remaining Abandonment protests resolved.	Target	N/A	N/A	4		
	Actual	N/A	3			

Trends and Other Baseline Information:

As population increases, additional demands are put on our water supply. This trend has resulted in and will continue to result in an increasing number of water rights applications for new water rights, changes of water rights, and for plans for augmentation. Increased concerns about the effects of such applications on existing water rights has resulted and will continue to result in increased opposition to these applications, resulting in an increased number of complicated, difficult, expensive and time consuming water court litigations. As water rights applicants across the state compete for the use of the State's increasingly limited water supply, the State Engineers office have been and will increasingly be required to spend additional resources in these water court related matters. The State Engineers Office's efforts to protect existing water rights from injury resulting from these applications have met with more resistance requiring more complex and difficult negotiations with opposing counsel. As a result of Colorado's water court method of resolving water disputes, there will be an increasing need for additional FTE to handle a larger and more complex caseload.

Information Regarding Long-Range Needs. The recent drought has intensified water related litigation on the South Platte River and across Colorado. The cases are more complex and settle less often than in the past. Several water users have been contesting State Engineer regulation and administration resulting in several Supreme Court Appeals as well as more time and effort at the trial court level. These trends will only continue. Recent cases have forced hundreds of wells to shut down which has increased the number of enforcement actions on behalf of the State Engineer's Office. In addition, the H₂O Unit has been working steadily on the resolution and/or litigation of the 112 protests filed to the revised 2000 decennial abandonment. The unit has diligently worked to resolve most of these cases. There are 5-6 cases remaining that may require hearing or trial.

We are also in the process of providing training and cross-training to a significant number of new attorneys to ensure that these attorneys have sufficient litigation

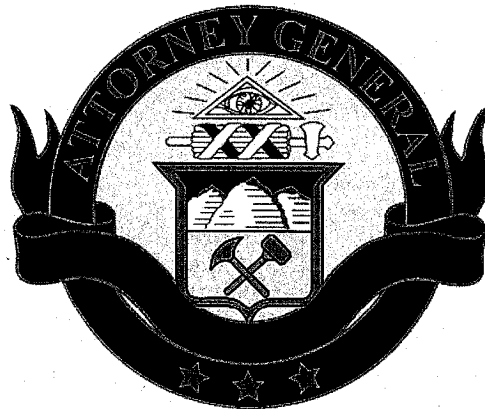
experience to adequately represent the clients. Two H₂O Unit attorneys may be required to handle some of the more complex rulemakings or trials.

Similar or Cooperating Programs: N/A

Assumptions and Calculations:

See Budget Assumptions and Calculation summary for all Legal Services to State Agency's line items.

LSSA Consumer Protection



PROGRAM NARRATIVE

Program Title: Consumer Protection – Office of Consumer Counsel

Long Bill Line Item: Legal Services to State Agencies

Change Requests: No

Federal and State Statutory Authority:

Sections 40-6.5-101 to 108, C.R.S. (2006) establishing the Office of Consumer Counsel, Department of Regulatory Agencies (“OCC/DORA”), and Section 40-6.5-102(4), C.R.S. (2006) establishing the duty of the Attorney General to advise and represent the OCC/DORA.

Program Description:

The Office of Consumer Counsel legal staff (“OCC/LAW” – three attorneys and a legal assistant) provides full legal services to the OCC/DORA and it’s Utility Consumers’ Board (“UCB”). Through its legal services, OCC/LAW represents the public interest and specific interests of residential, small business, and agricultural consumers in proceedings before the Colorado Public Utilities Commission (“Commission”) in matters involving proposed changes in electric, gas, and telephone utility rates and services. The OCC/LAW also represents these same classes of consumers in the courts on appeals arising from Commission decisions and in federal court and federal regulatory proceedings affecting Colorado consumers’ rates and service.

Prioritized Objectives & Performance Measures

Legal Services to State Agencies (CP-OCC)		Actual FY06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Objectives 1.1	Provide expert legal services for the Office of Consumer Counsel (“OCC”) to ensure that Colorado’s utility rates remain the most reasonable and affordable for Colorado consumers.					
Measure 1.1.1. Percent of rate proceedings in which the OCC participated on behalf of consumers and advocated for reasonably priced and affordable service.	Target	100%	100%	100%	100%	100%
	Actual	100%	100%			

Measure 1.1.2. Achieve savings that at least equal the OCC's annual appropriation.	Target	100%	100%	100%	100%	100%
	Actual	1436%	3004%			
Objectives 2.1	Promote utility regulations, policies, and practices that are equitable for consumers and promote enhanced utility service quality in Colorado.					
Measure 2.1.1. Percent of rulemaking, investigatory and service quality proceedings in which the OCC participated and the outcome was favorable or equitable to consumers.	Target	75%	75%	75%	75%	75%
	Actual	85%	85%			

Workload Measures:

		Actual FY 06	Actual FY 07	Est. FY 08	Req FY 09	Projected FY 10
Number of cases the OCC participated	Target	50	50	50	50	50
	Actual	88	80			

Trends and Other Baseline Information:

Electric Utilities

On February 16, 2005, Public Service Company of Colorado ("Public Service") filed an Application for a Certificate of Public Convenience and Necessity with Specific Findings with Respect to Electromagnetic Fields ("EMF") and Noise, seeking the right to construct the Comanche-Daniels Park 345kV Transmission Project (the "Project"). This Project was because of the construction of the 750 mW coal-fired generating station near Pueblo. In its application, Public Service also requested that the Commission make specific findings regarding the reasonableness of the projected EMF and the projected noise levels that would result from the operation of the Project. This was the first case decided by the Commission since the passage of § 25-12-103(12), C.R.S. regarding the issue of transmission line-related noise. In September 2006 the Commission issued its decision, setting forth the Noise and EMF levels for this Project.

On April 14, 2006 Public Service filed a Phase I electric rate case. Phase I proceedings in a rate case determine the revenue requirement for the utility. Public Service requested a revenue requirement increase of approximately \$209,000,000. A Settlement Agreement among Public Service, the OCC, Staff of the Commission and

other intervening parties was approved by the Commission on December 1, 2006. The settlement included a revenue requirement increase, excluding purchased capacity expenses, of \$107 million and a 1% late payment fee applicable to usage after January 1, 2007.

At the general election in 2004, Colorado voters passed Amendment 37, which mandated that Qualifying Retail Utilities ("QRU") generate or cause to be generated eligible renewable energy in the following minimum amount: 3% of its retail electric energy sales in Colorado for each of the compliance years 2007 through 2010; 6% of its retail electric energy sales in Colorado for each of the compliance years 2011 through 2014; and 10% of its retail electric energy sales in Colorado for each of the compliance years 2015 and continuing thereafter. (These figures do not include the new energy standards passed by the 2007 Colorado Legislature in House Bill 07-1281.) Of the eligible renewable energy amounts specified above, at least 4% must be derived from solar electric generation technologies. A QRU means a provider of retail electric service in the state of Colorado that serves over 40,000 customers. As a result of the passage of Amendment 37, the Commission issued its Renewable Energy Standard ("RES") Rules on July 2, 2006. The RES Rules require a QRU, such as Public Service, to file on or before July 1 of each year, except for the 2006 filing, a Compliance Plan which details how it intends to comply with the RES Rules during the upcoming compliance year. On August 31, 2006, Public Service filed its 2007 QRU Compliance Plan ("2007 Plan"). The OCC was an active participant by filing Answer Testimony, its Statement of Position and a legal brief on Public Service's proposed Developer Model. A Commission decision is pending. Because of the passage of Amendment 37 and House Bill 07-1281, there will be annual filings regarding the implementation of the renewable energy requirements.

Every four years, pursuant to the Commission's Least-Cost Planning Rules, jurisdictional electric utilities in Colorado are required to file its Least-Cost Resource Plan ("LCP"). In its 2003 LCP filing, Public Service requested approval for building a 750 mW coal-fired generating facility near Pueblo, which was approved by the Commission, and for approval of its resource acquisition proposal for the years 2004 through 2013. The Commission approved the Settlement Agreement reached by the parties in that LCP docket in January 2005. On December 28, 2005, Public Service filed an Application to shorten its resource acquisition period by one year to 2012. By Commission rule, the resource acquisition period can range from six to ten years. The OCC was an active participant in this docket, as the decisions made by Public Service regarding resource acquisition greatly affect the constituency the OCC is statutorily obligated to represent. Public Service eventually withdrew its Application but this Application caused the Commission to open various dockets involving Public Service's selection process and what LCP rules need to be revised. Decisions in these dockets are pending but will be important for the next LCP filing which is due on or before October 31, 2007.

While restructuring of the electric utility industry has essentially been rejected in Colorado, several restructuring issues remain that affect Colorado consumers. In

accordance with Federal Energy Regulatory Commission ("FERC") Order 2000, many utilities are moving toward transferring oversight and control of their transmission systems to Regional Transmission Organizations ("RTOs") which are designed to promote more efficient transmission of energy between markets at lower prices. It's not clear at this point in time that this transmission system reorganization will produce the desired outcome and benefit consumers. The need for adequate transmission resources in Colorado will remain a top priority, as system constraints would lead to higher prices and potential service outages.

Other FERC issues relate to supply availability and transmission adequacy issues. The experience in California in 2000 and 2001 has made it necessary for both State and Federal agencies to pay close attention to these issues. The blackout in the Northeast in August 2003 elevated the concern about transmission standards and the adequacy of the nation's electric transmission system. Congressional and regulatory investigations into the reliability and adequacy of the nation's electric transmission system are ongoing.

The 2007 Colorado Legislature addressed the issue of electric transmission adequacy when it passed House Bill 07-100. This bill mandates that electric utility companies, subject to rate regulation by the Commission, must file plans every two years beginning on October 31, 2007 regarding the expansion or construction of transmission facilities in designated energy resource zones and how these transmission facilities will encourage local ownership of renewable energy facilities. As an incentive to the electric utility companies, the bill allows the Commission to approve a rate adjustment clause on the balance of Construction Work In Progress ("CWIP") related to these transmission facilities. The Commission will open a rulemaking docket to implement House Bill 07-100.

Gas Distribution

Natural gas prices remained high this past year, in the range of \$5-8 per thousand cubic feet. Some experts are predicting that during the winter heating season, prices could even go higher. This is a real concern for Colorado consumers, especially low-income consumers. Some of the increase in natural gas prices results from low levels of natural gas storage, high demand from natural gas powered electricity generation facilities, and new interstate pipelines, which carry natural gas from the Rocky Mountain Region to other parts of the country.

The OCC played an active role in Public Service's natural gas rate case proceeding this past year. Public Service filed its Phase I natural gas rate case on December 1, 2006 seeking a 13.88% (\$41,540,530) increase in its revenue requirement. A settlement was reached by the parties in the case in May 2007. The settlement provided Public Service with a \$32,331,771 increase in its revenue requirement. As part of the settlement, Public Service will be filing a Phase II gas rate case no later than March 31, 2008. A Phase II proceeding determines the rate design for a utility's customer classes. A decision on the Settlement Agreement is due in July 2007.

Telecommunications

To date, state and federal laws requiring local telephone service markets to be open to competition have resulted in less competitive entry than originally anticipated, particularly in the residential and small business markets. Despite competitive entry into the local telephone service market by competitors, Qwest's market share is still around 90% within its service territory. Competitors have primarily targeted large volume and business customers due to the economics of the market. Some competitors are continuing to pursue facilities-based market entry, a strategy that is both more time-consuming and more expensive to implement than resale competition. Resale competitors also remain in the market and continue to have problems interfacing with the incumbents' ordering systems. Promoting competition and seeking ways to reduce regulatory restrictions to entry while protecting the affordability of rates, particularly to residential and rural ratepayers, continue to be a challenge. Many entrants into the market have never provided service while several others have withdrawn from the market or filed bankruptcy after offering competitive service for only a short period of time. Additionally, mergers and acquisition activity, amongst large national telecommunication providers in particular, has reduced the number of competitors in the Colorado market. Maintaining high service quality standards has always been a priority and will continue to be a priority as competitors enter the market.

In October 2005 the Commission opened an investigation into the Colorado High Cost Support Mechanism ("CHCSM") to explore, among other things, which services are supported and the appropriate level of carrier CHCSM support. The CHCSM means the mechanism created by Colorado Statute § 40-15-208 for the support of universal service within a rural Colorado, high-cost geographic support area. The OCC was an active participant in eight Commission ordered CHCSM Workshops that were held between February 2006 and January 2007, and sixteen rounds of comments on over 100 Commission raised issues. A Commission decision regarding the CHCSM is pending.

The OCC was an active party in a Commission docket reviewing the wholesale rates Qwest can charge competitors for network elements, including the Commission's authority to set such wholesale rates under Federal and State law. Additionally, the OCC is actively involved in a Commission proceeding requested by a number of Competitive Local Exchange Carriers ("CLEC's") regarding Qwest's impairment designation of numerous wire centers following the issuance of certain Federal Communication Commission orders. Under a non-impairment designation, CLEC's will be precluded from purchasing high capacity unbundled loops in certain Qwest wire centers. The Qwest wire center impairment case will focus on the development of a wire center impairment analysis and methodology for impairment parameters in determining impairment versus non-impairment of Qwest wire centers.

Mergers and Acquisitions

The 2005 Energy Bill, passed by Congress and signed by the President in August 2005, repealed the Public Utility Holding Company Act ("PUHCA"). PUHCA, enacted in the 1930's, set forth requirements for utility mergers and acquisitions. This past year involved the first activity in Colorado involving mergers and acquisitions since the repeal of PUHCA.

On September 29, 2006, Kinder Morgan and others filed an Application for Commission approval for the transfer of Kinder Morgan's Colorado public utility assets, facilities and associated property to Source Gas, LLC. In addition, on October 3, 2006, Kinder Morgan and others filed a Joint Application seeking Commission approval of a transaction by which certain investors would acquire most of Kinder Morgan's publicly owned stock and thereby Kinder Morgan would become a privately owned entity. In order for these transactions to be completed, approvals were needed from the public utility commissions of Colorado, Nebraska and Wyoming. The OCC was an active participant in these dockets to ensure that the interests of Kinder Morgan customers were protected. These applications were approved by the Commissions in all three states in March and April 2007. As a result of these transactions, Source Gas, LLC is providing natural gas service to various communities in Colorado including Akron, Aspen, Cedaredge, DeBeque, Delta, Eagle, Frederick, Glenwood Springs, Haxtun, Holyoke, Julesburg, Las Animas, La Junta, Mesa, Montrose, Nucla, Ouray, Pagosa Springs, Ridgeway, Rocky Ford, Telluride, Wray, and Yuma.

A Joint Application was filed on April 3, 2007 by Aquila, Inc., Black Hills and other parties seeking Commission approval for the transfer of control and ownership of all of Aquila's electric and natural gas public utility assets and businesses located within the State of Colorado to Black Hills. In addition, Aquila is seeking Commission approvals in Iowa, Kansas, Missouri and Nebraska, the other states in which Aquila operates electric and natural gas utilities. Aquila presently serves, among other communities, the following: Burlington, Castle Rock, Cheyenne Wells, Fountain, Hugo, Kiowa, Limon, Monument, Pueblo and Woodland Park. The OCC is actively participating in this docket and has submitted Answer Testimony. A hearing on the Joint Application is scheduled for September 2007.

It is anticipated that mergers and acquisitions will continue to be part of the competitive utility environment. As utilities merge, sell their assets, or make stock trades this will lead to downsizing of workforces through automating functions and centralizing resources in response to competitive pressures. The Commission and the OCC will need to ensure that utility customers are not forgotten in the struggle for power and growth in market size by the large utilities and that utility customers are not subsidizing the non-regulated activities of the utilities. The Commission and the OCC will need to ensure that consumers are receiving a fair share of any merger savings, and, as mergers increase and companies grow larger, consumers must be protected from the exercise of market power. Efficiencies and cost-cutting measures could result in customers experiencing deterioration in safety and quality of service during the

transition. Expansion of the regulatory role for ensuring safety and service quality standards for residential customers, small business customers, and carrier-to-carrier customers will eclipse the traditional regulatory role over earnings. Mergers could result in a major utility like Qwest moving its corporate headquarters out of Colorado. Loss of its presence in the state could result in less responsiveness to Colorado customers and more difficulty and greater expense for the Commission and OCC staffs.

Competition & Deregulation

Opening utility markets to competition tends to gradually shift the role of regulators and consumer advocates to agents providing service quality standards and enforcement as well as promoting consumer education and consumer protection. Consumers need full and accurate rate and product information to make informed choices among providers. The OCC is responding to consumer needs for more information.

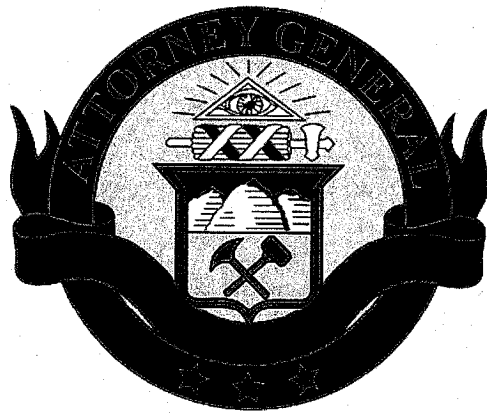
The OCC views increased communication with its constituents as vital to its role of representing them. It views the communications as two-way. By reaching out to consumers in a more active way, the OCC can more accurately determine the needs and positions of those constituents with respect to utility issues. This permits the OCC to do a better job of representing consumer interests at the Commission. By providing those constituents with information on utility issues and information to make informed choices in competitive markets, consumers make better choices for themselves and contribute to the development of more competitive markets.

Similar or Cooperating Programs: N/A

Assumptions and Calculations:

This unit is part of the Consumer Protection Section and appropriated in the Legal Services to State Agencies Line Item. All program expenditures and appropriations are included in that line item. See Budget Assumptions and Calculation summary for all Legal Services to State Agencies programs.

LSSA
Budget Schedules
Including
Assumption & Calculation



ASSUMPTIONS AND CALCULATIONS

Legal Services to State Agencies

Long Bill Line Item	Total	FTE	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds
Personal Services						
Previous Year Long Bill (SB07-239)	\$16,095,662	200.6	-	\$1,000,000	\$15,095,662	-
FY2007-08 Salary Survey - Classified	\$89,499				\$89,499	
FY2007-08 Salary Survey - Exempt	\$515,288				\$515,288	
FY2007-08 Performance-based Pay - Classified	\$34,258				\$34,258	
FY2007-08 Performance-based Pay - Exempt	\$139,725				\$139,725	
Subtotal PS -	\$16,874,432	200.6	-	\$1,000,000	\$15,874,432	-
Special Bills -						
SB07-025 Sexual Orientation Empl. Discrimination	\$16,943	0.3			\$16,943	
SB07-041 Public School facilities Equity	\$1,695				\$1,695	
SB07-083 Uniform Election Code	\$5,930				\$5,930	
SB07-085 Protect Consumer Real Estate	\$27,108	0.3			\$27,108	
SB07-107 License Landscape Architects	\$14,571				\$14,571	
SB07-123 Regulation of Mechanical Conveyance	\$4,880				\$4,880	
SB07-137 Regulation of Plumbers	\$14,232	0.2			\$14,232	
SB07-196 Health Information Tech.	\$4,066				\$4,066	
SB07-203 Mortgage Loan Transaction	\$39,533	0.5			\$39,533	
SB07-204 Prescription Drug	\$5,083				\$5,083	
SB07-210 Ethics Committee	\$81,324	0.9			\$81,324	
SB07-215 Online Learning	\$15,249				\$15,249	
SB07-216 Mortgage Loan Fraud	\$32,304	0.4			\$32,304	
SB07-261 Co Econ Dev/Paying staffing	\$1,500				\$1,500	
HB07-1037 Energy Efficiency	\$6,777				\$6,777	
HB07-1065 Motor Carriers for criminal history	\$2,169				\$2,169	
HB07-1228 Fuel Corp	\$813				\$813	
HB07-1322 Mortgage Fraud Prevention	\$79,065	0.8			\$79,065	
HB07-1331 Medical Transparency Act	\$2,711				\$2,711	
Subtotal of Special Bills -	\$355,953	3.4			\$355,953	
Estimated Changes Per Statewide Request						
SB07-025 Sexual Orientation Empl. Discrimination	\$23,720	0.3			\$23,720	
SB07-041 Public School facilities Equity	\$0				\$0	

<i>SB07-083 Uniform Election Code</i>	(\$3,389)			(\$3,389)
<i>SB07-085 Protect Consumer Real Estate</i>	\$25,979	0.4		\$25,979
<i>SB07-107 License Landscape Architects</i>	(\$2,033)			(\$2,033)
<i>SB07-123 Regulation of Mechanical Conveyance</i>	\$0			\$0
<i>SB07-137 regulation of Plumers</i>	(\$2,541)	0		(\$2,541)
<i>SB07-196 health Information Tech.</i>	\$0			\$0
<i>SB07-203 Mortgage Loan Transaction</i>	\$116,338	0.8		\$116,338
<i>SB07-204 Prescription Drug</i>	\$0			\$0
<i>SB07-210 Ethics Committee</i>	(\$54,487)	-0.6		(\$54,487)
<i>SB07-215 Online Learning</i>	\$0			\$0
<i>SB07-216 Mortgage Loan Fraud</i>	\$31,174	0.4		\$31,174
<i>SB07-261 Co Econ Dev/Paying staffing</i>	\$0			\$0
<i>HB07-1037 Energy Efficiency</i>	\$13,554			\$13,554
<i>HB07-1065 Motor Carriers for criminal history</i>	\$0			\$0
<i>HB07-1228 Fuel Corp</i>	(\$813)			(\$813)
<i>HB07-1322 Mortgage Fraud Prevention</i>	\$76,806	1.1		\$76,806
<i>HB07-1331 Medical Transparency Act</i>	\$10,843			\$10,843
<i>Subtotal Annualization of Special Bills -</i>	\$235,151	2.4		\$235,151
OSPB base adjustment (0.2%)	(\$34,931)		(\$2,000)	(\$32,931)
Decision Item				
FY09 DI#5 - Dept. of Education Additional Legal S	\$66,149	1.0		\$66,149
FY09 DI#1 Attorney Registration Fees	(\$25,650)			(\$25,650)
Refinance Cost	\$0		\$2,000	(\$2,000)
Personal Services Appropriation Request	\$17,471,104	207.4	\$1,000,000	\$16,471,104
Operating Expenses				
Previous Year Long Bill (SB07-239)	\$903,656			\$903,656
Special Bills -				
<i>SB07-025 Sexual Orientation Empl. Discrimination</i>	\$16,943			\$16,943
<i>SB07-041 Public School facilities Equity</i>	\$1,695			\$1,695
<i>SB07-083 Uniform Election Code</i>	\$5,930			\$5,930
<i>SB07-085 Protect Consumer Real Estate</i>	\$13,554			\$13,554
<i>SB07-107 License Landscape Architects</i>	\$14,571			\$14,571
<i>SB07-123 Regulation of Mechanical Conveyance</i>	\$4,880			\$4,880
<i>SB07-137 regulation of Plumers</i>	\$14,232			\$14,232

<i>SB07-196 health Information Tech.</i>	\$4,066	\$4,066
<i>SB07-203 Mortgage Loan Transaction</i>	\$19,766	\$19,766
<i>SB07-204 Prescription Drug</i>	\$5,083	\$5,083
<i>SB07-210 Ethics Committee</i>	\$40,662	\$40,662
<i>SB07-215 Online Learning</i>	\$15,249	\$15,249
<i>SB07-216 Mortgage Loan Fraud</i>	\$16,152	\$16,152
<i>SB07-261 Co Econ Dev/Paying staffing</i>	\$1,500	\$1,500
<i>HB07-1037 Energy Efficiency</i>	\$6,777	\$6,777
<i>HB07-1065 Motor Carriers for criminal history</i>	\$2,169	\$2,169
<i>HB07-1228 Fuel Corp</i>	\$813	\$813
<i>HB07-1322 Mortgage Fraud Prevention</i>	\$39,533	\$39,533
<i>HB07-1331 Medical Transparency Act</i>	\$2,711	\$2,711
<i>Subtotal of Special Bills -</i>	\$226,286	\$226,286
	-	\$0
<i>Estimated Changes Per Statewide Request</i>	\$0	\$0
<i>SB07-025 Sexual Orientation Empl. Discrimination</i>	\$23,720	\$23,720
<i>SB07-041 Public School facilities Equity</i>	\$0	-
<i>SB07-083 Uniform Election Code</i>	(\$3,389)	(3,389)
<i>SB07-085 Protect Consumer Real Estate</i>	\$12,989	\$12,989
<i>SB07-107 License Landscape Architects</i>	(\$2,033)	(\$2,033)
<i>SB07-123 Regulation of Mechanical Conveyance</i>	\$0	-
<i>SB07-137 regulation of Plumbers</i>	(\$2,541)	(\$2,541)
<i>SB07-196 health Information Tech.</i>	\$0	-
<i>SB07-203 Mortgage Loan Transaction</i>	\$58,169	\$58,169
<i>SB07-204 Prescription Drug</i>	\$0	-
<i>SB07-210 Ethics Committee</i>	(\$27,244)	(\$27,244)
<i>SB07-215 Online Learning</i>	\$0	-
<i>SB07-216 Mortgage Loan Fraud</i>	\$15,587	\$15,587
<i>SB07-261 Co Econ Dev/Paying staffing</i>	\$0	-
<i>HB07-1037 Energy Efficiency</i>	\$13,554	\$13,554
<i>HB07-1065 Motor Carriers for criminal history</i>	\$0	-
<i>HB07-1228 Fuel Corp</i>	(\$813)	(\$813)
<i>HB07-1322 Mortgage Fraud Prevention</i>	\$38,403	\$38,403
<i>HB07-1331 Medical Transparency Act</i>	\$10,843	\$10,843
<i>Subtotal Annualization of Special Bills -</i>	\$137,245	\$137,245

Decision Item					
FY09 DI#5 - Dept. of Education Additional Legal Srv	\$6,140			\$6,140	
Operating Appropriation Request	\$1,273,327	-	-	\$1,273,327	-
INDIRECT COST ASSESSMENT					
Previous Year Long Bill (SB07-239)	\$2,458,442			\$2,458,442	
Decision Item					
FY09 DI#5 - Dept. of Education Additional Legal Srv	\$15,744			\$15,744	
Indirect Cost Assessment Appropriation Request	\$2,474,186	-	-	\$2,474,186	-
<hr/>					
GRAND TOTAL - LSSA	\$21,218,617	207.4	-	\$1,000,000	\$20,218,617

SCHEDULE 2 - PROGRAM SUMMARY

Department of Law

LEGAL SERVICES TO STATE AGENCIES

Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
PERSONAL SERVICES	14,956,857	186.2	16,096,817	188.7	16,451,615	204.0	17,992,019	200.6	17,471,100	207.4
General Fund	-		-		-		-		-	
General Fund Exempt	-		123,870		-		45,612		-	
Cash Fund	945,000		945,000		1,000,000		1,000,000		1,000,000	
Cash Fund Exempt	14,011,857		15,027,947		15,451,615		16,946,407		16,471,100	
OPERATING EXPENSES	1,572,576		1,836,471		1,129,942		2,225,286		1,273,327	
General Fund	-		-		-		-		-	
General Fund Exempt	5,571		51,952		-		78,325		-	
Cash Fund	-		-		-		-		-	
Cash Fund Exempt	1,567,005		1,784,519		1,129,942		2,146,961		1,273,327	
INDIRECT COST ASSESSMENT	2,088,238		2,109,083		2,458,442		2,458,442		2,474,186	
General Fund	-		-		-		-		-	
Cash Fund	-		-		-		-		-	
Cash Fund Exempt	2,088,238		2,109,083		2,458,442		2,458,442		2,474,186	
GRAND TOTAL	18,617,671	186.2	20,042,372	188.7	20,039,999	204.0	22,675,747	200.6	21,218,613	207.4
General Fund	-		-		-		-		-	
General Fund Exempt	5,571		175,822		-		123,937		-	
Cash Funds	945,000		945,000		1,000,000		1,000,000		1,000,000	
Cash Funds Exempt	17,667,100		18,921,550		19,039,999		21,551,810		20,218,612	
Federal Funds	-		-		-		-		-	

SCHEDULE 3 - PERSONAL SERVICES PROGRAM DETAIL

Department of Law

LEGAL SERVICES TO STATE AGENCIES

Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
I. POSITION DETAIL										
Deputy Attorney General	429,336	4.0	441,134	3.9			476,016	4.0	476,016	4.0
Assistant Deputy Attorney General	118,104	1.0	119,712	1.0			128,556	1.0	128,556	1.0
First Assistant Attorney General	2,149,498	21.9	2,105,343	21.9			2,358,594	23.0	2,358,594	23.0
Assistant Attorney General II	3,105,871	39.1	3,591,126	43.3			3,744,894	43.3	3,744,894	43.3
Assistant Attorney General I	4,441,861	69.2	4,468,133	64.4			5,061,043	71.6	5,061,043	71.6
Attorney I	69,846	1.1								
Legal Assistant II	1,540,208	28.6	1,572,289	28.8			1,725,300	30.4	1,725,300	30.4
Legal Assistant I	101,062	2.4	152,280	3.9			163,872	4.0	163,872	4.0
Program Assistant I	27,613	0.8	33,120	1.0			34,608	1.0	34,608	1.0
Office Manager I	147,936	3.2	185,412	4.0			192,396	4.0	192,396	4.0
IT Technician II			14,515	0.3			15,167	0.3	15,167	0.3
IT Technician I	13,587	0.3								
Administrative Assistant III	179,523	4.7	224,578	5.9			234,744	6.0	234,744	6.0
Administrative Assistant II	292,698	10.0	310,744	10.3			368,652	12.0	368,652	12.0
TOTAL POSITION DETAIL	12,617,143	186.2	13,218,386	188.7			14,503,842	200.6	14,503,842	200.6

SCHEDULE 3 - PROGRAM DETAIL

Department of Law

LEGAL SERVICES TO STATE AGENCIES

Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
(I.A) CONTINUATION FTE SALARY COSTS	12,617,143	186.2	13,218,386	188.7			14,503,842	200.6	14,503,842	200.6
(Permanent FTE by position) Continuation Salary Subtotal										
(I.B) OTHER PERSONAL SERVICES										
PERA on Continuation Subtotal	1,275,899		1,322,849				1,472,140		1,472,140	
Medicare on Continuation Subtotal	163,622		175,205				210,306		210,306	
Non-Base Building Performance Awards							43,496			
Part-Time/Temporary Salaries	112,157		233,785				210,190		250,000	
Contractual Services	131,666		121,747				122,000		378,208	
Overtime Pay	12,325		19,129							
Termination/Retirement Payouts	72,604		54,548							
Unemployment Compensation	10,446									
Transfer to Secretary of State										
Other	23,242		16,622						25,000	
Office Moving - Purchase Service	1,625		-							
Special Bills										
<i>SB 07-025 Sexual Orient. Emplymnt. Disc.</i>					16,943	0.3	16,943	0.3	16,943	0.3
<i>SB 07-041 Public Sch Facilities Equity</i>					1,695		1,695		1,695	
<i>SB 07- 083 Uniform Election Code</i>					5,930		5,930		5,930	
<i>SB 07- 085 Protect Consumer Real Estate</i>					27,108	0.3	27,108	0.3	27,108	0.3
<i>SB 07- 107 License Landscape Architects</i>					14,571		14,571		14,571	
<i>SB 07- 123 Reg. of Mechanical Convey.</i>					4,880		4,880		4,880	
<i>SB 07- 137 Regulation of Plumbers</i>					14,232	0.2	14,232	0.2	14,232	0.2
<i>SB 07- 196 Health Information Tech</i>					4,066		4,066		4,066	
<i>SB 07- 203 Mortgage Loan Transcations</i>					39,533	0.5	39,533	0.5	39,533	0.5
<i>SB 07- 204 Prescription Drug</i>					5,083		5,083		5,083	
<i>SB 07- 210 Ethics Committee</i>					81,324	0.9	81,324	0.9	81,324	0.9
<i>SB 07- 215 Online Learning</i>					15,249		15,249		15,249	
<i>SB 07- 216 Mortgage Loan Fraud</i>					32,304	0.4	32,304	0.4	32,304	0.4
<i>SB 07- 261 Colo Econ Dev/Paying Staff</i>					1,500		1,500		1,500	
<i>HB 07- 1037 Energy Efficiency</i>					6,777		6,777		6,777	
<i>HB 07- 1085 Motor Carriers for Crim. History</i>					2,169		2,169		2,169	
<i>HB 07- 1228 Fuel Corp</i>					813		813		813	
<i>HB 07-1322 Mortgage Fraud Prevention</i>					79,065	0.8	79,065	0.8	79,065	0.8
<i>HB 07- 1331 Medical Transparency</i>					2,711		2,711		2,711	

SCHEDULE 3 - PROGRAM DETAIL

5-126

Department of Law

LEGAL SERVICES TO STATE AGENCIES

Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Subtotal:	-		-		355,953	3.4	355,953	3.4	355,953	3.4
Cash Funds Exempt					355,953		355,953		355,953	
Long Bill Appropriation					16,095,662	200.6				
Annualization of Legislation										
SB 07-025 Sexual Orient. Emplmnt. Disc.									23,720	0.3
SB 07-041 Public Sch Facilities Equity									-	
SB 07- 083 Uniform Election Code									(3,389)	
SB 07- 085 Protect Consumer Real Estate									25,979	0.4
SB 07- 107 License Landscape Architects									(2,033)	
SB 07- 123 Reg. of Mechanical Convey.									-	
SB 07- 137 Regulation of Plumbers									(2,541)	-
SB 07- 196 Health Information Tech									-	
SB 07- 203 Mortgage Loan Transcations									116,338	0.8
SB 07- 204 Prescription Drug									-	
SB 07- 210 Ethics Committee									(54,487)	(0.6)
SB 07- 215 Online Learning									-	
SB 07- 216 Mortgage Loan Fraud									31,174	0.4
SB 07- 261 Colo Econ Dev/Paying Staff									-	
HB 07- 1037 Energy Efficiency									13,554	
HB 07- 1085 Motor Carriers for Crim. History									-	
HB 07- 1228 Fuel Corp									(813)	
HB 07-1322 Mortgage Fraud Prevention									76,806	1.1
HB 07- 1331 Medical Transparency									10,843	
Subtotal:									235,151	2.4
Cash Funds Exempt									235,151	
Subtotal -	14,420,728	186.2	15,162,271	188.7			16,917,927	204.0	17,430,600	206.4
(I.C.) PERSONAL SERVICES										
SUBTOTAL= A+B										
(I.D.) POTS EXPENDITURES										
Health/Life/Dental	512,436		697,910				800,567			
Salary Survey	[648,107]		[788,130]				[604,787]			

SCHEDULE 3 - PROGRAM DETAIL

Department of Law

LEGAL SERVICES TO STATE AGENCIES

Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Performance Awards							[173,982]			
Short Term Disability	18,046		14,803				18,244			
AED	5,646		97,964				172,668			
SAED							37,001			
Other:										
[] Indicates a Non-add										
(I.E.) BASE PERSONAL SERVICES= C+D	14,956,857	186.2	15,972,947	188.7			17,946,407	204.0	17,430,600	206.4
General Fund										
General Fund Exempt										
Cash Funds	945,000		945,000				1,000,000		1,000,000	
Cash Funds Exempt	14,011,857		15,027,947				16,946,407		16,430,600	
(I.F.) DIFFERENCE= III-I.E.									1	
(I.G.) REQUEST YEAR DECISION ITEMS										
Dec Item # 1 Attorney Registration Fees									(25,650)	
General Fund										
Cash Funds										
Cash Funds Exempt									(25,650)	
Dec Item # 5 -Department of Education									66,149	1.0
General Fund										
Cash Funds										
Cash Funds Exempt									66,149	
ROLLFORWARDS			123,870				45,612			
General Fund Exempt	-		123,870				45,612			
PERSONAL SERVICES TOTAL	14,956,857	186.2	16,096,817	188.7	16,451,615	204.0	17,992,019	204.0	17,471,099	207.4
General Fund										
General Fund Exempt			123,870				45,612			
Cash Funds	945,000		945,000		1,000,000		1,000,000		1,000,000	
Cash Funds Exempt	14,011,857		15,027,947		15,451,615		16,946,407		16,471,099	
Federal Funds										

SCHEDULE 3 - PROGRAM DETAIL

Department of Law

LEGAL SERVICES TO STATE AGENCIES

Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Overexpenditures (Reversions)										
Lapsed Appropriation Cash Funds										
Lapsed Appropriation Cash Funds Exempt	(687,902)		(950,007)							
Other										
Allocated POTS										
Salary POTS	651,988		786,543				822,265			
Health/Life/Dental	539,137		677,514				800,567			
Short Term Disability	18,652		14,683				18,244			
AED	36,316		101,449				172,668			
SAED							37,001			
Vehicle Lease Payments	4,612						-			
IT Asset Maintenance							-			
Pots Subtotal	1,250,705		1,580,189		-		1,850,745			
Reconciled Total	14,956,857	-	16,096,818				17,992,019	200.6		
Decision Item Requests										
Dec Item # 1 Attorney Registration Fees									(25,650)	
Cash Funds Exempt									(25,650)	
Dec Item # 5 Dept of Ed Legal Services									66,149	1.0
Cash Funds Exempt									66,149	
II. PERSONAL SERVICES REQUEST	14,956,857	186.2	16,096,817	188.7	16,451,615	204.0	17,992,019	200.6	17,471,100	207.4
TOTAL										
General Fund	-		-		-		45,612			
General Fund Exempt	-		123,870		-		1,000,000		1,000,000	
Cash Funds	945,000		945,000		1,000,000		16,946,407		16,471,100	
Cash Funds Exempt	14,011,857		15,027,947		15,451,615					
Federal Funds	-		-		-					

SCHEDULE 2 - PROGRAM SUMMARY

LEGAL SERVICES TO STATE AGENCIES

Department of Law

Item	Actual FY 06		Actual FY 07		Approp FY 08		Estimate FY 08		Request FY 09	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
PERSONAL SERVICES	14,956,857	186.2	16,096,817	188.7	16,451,615	204.0	17,992,019	200.6	17,471,100	207.4
General Fund	-		-		-		-		-	
General Fund Exempt	-		123,870		-		45,612		-	
Cash Fund	945,000		945,000		1,000,000		1,000,000		1,000,000	
Cash Fund Exempt	14,011,857		15,027,947		15,451,615		16,946,407		16,471,100	
OPERATING EXPENSES	1,572,576		1,836,471		1,129,942		2,225,286		1,273,327	
General Fund	-		-		-		-		-	
General Fund Exempt	5,571		51,952		-		78,325		-	
Cash Fund	-		-		-		-		-	
Cash Fund Exempt	1,567,005		1,784,519		1,129,942		2,146,961		1,273,327	
INDIRECT COST ASSESSMENT	2,088,238		2,109,083		2,458,442		2,458,442		2,474,186	
General Fund	-		-		-		-		-	
Cash Fund	-		-		-		-		-	
Cash Fund Exempt	2,088,238		2,109,083		2,458,442		2,458,442		2,474,186	
GRAND TOTAL	18,617,671	186.2	20,042,372	188.7	20,039,999	204.0	22,675,747	200.6	21,218,613	207.4
General Fund	-		-		-		-		-	
General Fund Exempt	5,571		175,822		-		123,937		-	
Cash Funds	945,000		945,000		1,000,000		1,000,000		1,000,000	
Cash Funds Exempt	17,667,100		18,921,550		19,039,999		21,551,810		20,218,612	
Federal Funds	-		-		-		-		-	

SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES

Department of Law

LEGAL SERVICES TO STATE AGENCIES

Item	Fund Number	Actual	Actual	Approp	Estimate	Request
		FY 2006	FY 2007	FY 2008	FY 2008	FY 2009
Schedule 3 Total		18,617,671	20,042,372	20,039,999	22,675,747	21,218,613
General Fund		-	-	-	-	-
General Fund Exempt		5,571	175,822	-	123,937	-
Cash Funds		945,000	945,000	1,000,000	1,000,000	1,000,000
Cash Funds Exempt		17,667,100	18,921,550	19,039,999	21,551,810	20,218,612
Federal Funds		-	-	-	-	-
CASH FUNDS						
Various Sources of Cash					1,000,000	1,000,000
Fringe Benefits						
Estate Revenue						
Florence State Nursing Home			4,564			
Trinidad State Nursing Home		1,055	3,782			
Colo State VA Center-Homelake		11,236	2,589			
Walsenburg State Nursing Home		-				
Rifle State Nursing Home		4,316	42			
Service Director of Nursing Homes		504	148			
PERA		929	712			
Colorado Access Network		-				
Colorado Student Loan Program		619	1,751			
Student Obligation Bond Authority		9,411	10,941			
Correctional Industries		26,516	16,764			
Auraria Higher Education Ctr-Tabor Enterp		2,207	3,562			
State Fair Authority		-	12,279			
Revenue - Lottery		21,131	23,319			
Division of Wildlife-Enterprise		413,099	442,506			
Cumbres & Toltec RR		7,511	2,631			
Diability Insurance Trust		9,993	14,659			
Legal Services CU-Boulder		8,281				
Legal Services CU-Medical Center		9,414				
SVC-State VA Center - Fitzsimmmns			1,340			
AHEC		39,268	62,225			
State Board of Agriculture		50,987	88,410			
DOAG/Brand BD		1,171	5,911			
School of Mines		82,585	68,154			
UNC		15,608	75,356			

SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES

Department of Law		LEGAL SERVICES TO STATE AGENCIES				
Item	Fund Number	Actual	Actual	Approp	Estimate	Request
		FY 2006	FY 2007	FY 2008	FY 2008	FY 2009
Adams State College		159,418	118,463			
Metro State College		31,190	46,450			
Mesa State College		54,195	32,133			
Western State College		32,501	56,462			
Ft. Lewis College		54,943	66,215			
CCCOES		74,238	29,382			
Private VOC School		42,466	17,066			
CU Boulder			6,775			
Open Records Requests		234				
Authorities - State Comp.		362				
DOLE Petroleum storage tank		229	240			
Reversion of Excess Earnings to G/F (CF)						
Subtotal Cash Funds		1,165,618	1,214,832		1,000,000	1,000,000
CASH FUNDS EXEMPT					21,551,810	20,218,612
Various Sources of Cash Exempt						
Administration						
Agriculture		189,536	223,415			
Corrections		986,682	932,833			
Corrections-Trinidad						
Education		306,896	328,463			
Governor's Office		89,300	108,232			
Governor's Office - OIT		7,548				
Energy Conservation		3,559	10,582			
Public Health and Environment		1,450,746	1,570,782			
Higher Education		57,183	70,628			
AHEC						
Bd of Agriculture						
UNC						
School of Mines						
Private Vocational Schools						
CU Boulder						
Adams State College						
Mesa State College						
Metro State College						

SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES

Department of Law

LEGAL SERVICES TO STATE AGENCIES

Item	Fund Number	Actual	Actual	Approp	Estimate	Request
		FY 2006	FY 2007	FY 2008	FY 2008	FY 2009
Western State College						
Fort Lewis College						
CU Health Sciences Center			5,749			
Arts and Humanities Council		34				
Historical Society-C&TS Railroad		23,281	20,183			
CCCOES						
Health Care Policy and Financing		746,121	748,220			
Health Care Policy and Finance - Rocky Mt HMO						
Human Services		1,284,366	1,342,443			
Judicial		257,775	195,893			
Law-Lit. Mgmt Fund						
Law - HIPAA		27,596	20,331			
Law - POST		5,957	7,616			
Law - Ref K.			13,019			
General Assembly (GA)		14,973	3,889			
Labor & Employment		457,808	479,232			
Local Affairs		94,233	116,338			
Military Affairs		7,100	1,656			
Natural Resources		2,058,065	2,112,677			
Personnel		177,815	249,518			
Risk Management		2,371,818	2,328,974			
Public Safety		132,594	143,873			
Regulatory Agencies		5,310,805	5,761,053			
Revenue		472,996	616,863			
Revenue - Gaming		92,171	117,124			
Secretary of State		200,908	335,668			
State Fair		16,069				
Transportation		1,098,652	1,110,279			
Treasury		36,567	38,700			
Rollforward						
Capital Construction Expenses						
Transfer to Fund Litigation Mgmt Fund in FY04						
Reversion of Excess Earnings to GF (CFE)						
Underearned Revenue						
Subtotal Cash Funds Exempt		17,979,154	19,014,234		21,551,810	20,218,612