

# ATTORNEY GENERAL – CONTRACT ATTORNEYS

EXECUTIVE OFFICES & CRIMINAL JUSTICE APPROPRIATIONS SUBCOMMITTEE  
STAFF: ZACKERY KING

BUDGET BRIEF

## SUMMARY

The Contract Attorneys line item tracks costs of outside attorneys and expert witnesses hired by the A.G. in cases where a conflict of interest exists, where the Legislature has specifically requested outside legal representation, or when the requisite legal expertise on specific issues is not available in the A.G. office.

## ISSUES AND RECOMMENDATIONS

### **Budget Adoption**

For the Contract Attorneys, the Fiscal Analyst recommends an FY 2013 budget of \$300,000 as shown in the budget detail table on page 2.

### **Intent Language**

The Fiscal Analyst recommends the following intent Language to make the Contract Attorneys Line Item's FY 2012 unexpended appropriations nonlapsing at the end of FY 2012:

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Attorney General – Contract Attorneys in Item 9 of Chapter 2 Laws of Utah 2011 not lapse at the close of fiscal year 2012.*

### **Pelt Settlement**

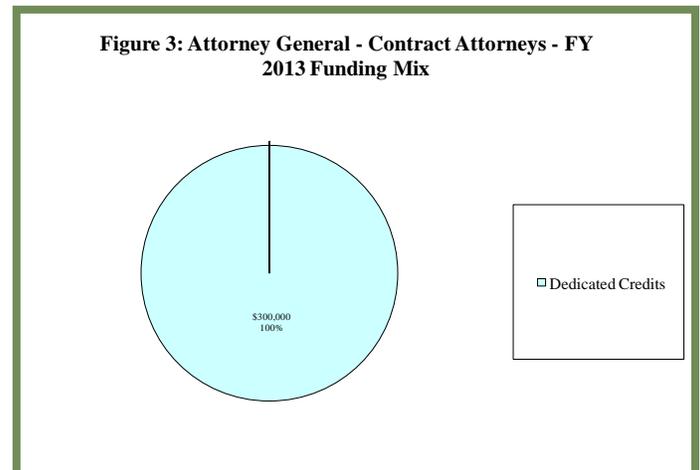
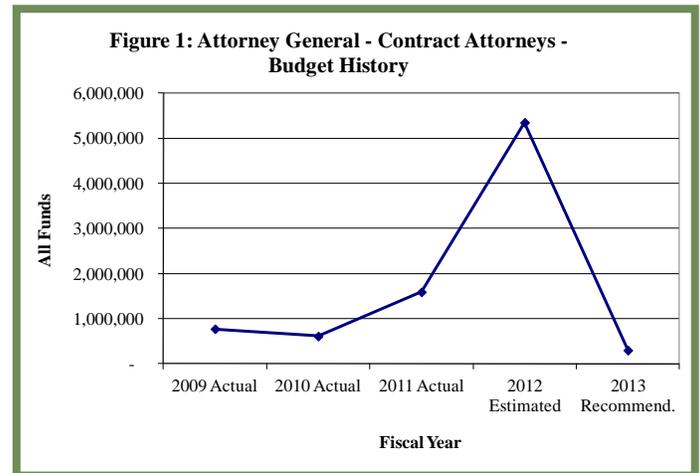
The Fiscal Analyst recommends the subcommittee forward to the Executive Appropriations Committee for further consideration, an increase of \$13,500,000 from the General Fund one-time for the FY 2013 Pelt settlement payment.

The Legislature is using this line item to make payments under settlement of the Pelt v. Utah case (Navajo Trust Fund litigation). Under the settlement, the state must pay \$1,000,000 in FY 2011; \$5,000,000 in FY 2012; and \$13,500,000 in FYs 2013 and 2014. The Attorney General passes the funds through to intended recipients. Payments have been made for FYs 2011 and 2012. The first installment of \$13,500,000 is included as a one-time General Fund building block for FY 2013.

### **United Effort Plan Trust (UEP)**

The Fiscal Analyst recommends that the subcommittee forward to the Executive Appropriations Committee for further consideration, an increase of \$275,200 from the General Fund one-time for the United Effort Plan Trust ruling.

The case began when the State of Utah filed a petition, asking the court to appoint trustees to manage a charitable trust that had been abandoned by its prior trustees. On May 27, 2005, the court appointed a Special Fiduciary to the UEP Trust. On June 22, 2005 and September 7, 2005, respectively, two separate



orders were issued requiring that the fees and costs incurred in the administration of the Trust be paid from the corpus of the Trust. However, on August 1, 2011, the State of Utah was ordered to pay the Fiduciary's fees and costs, including the fees of his counsel. On January 28, 2012, the State of Utah paid the Fiduciary \$32,819.41 and paid his counsel \$242,374.03 in previously approved fees and costs.

The Fiduciary now seeks the court's approval of the fees and costs incurred through September 30, 2011 in the amount of \$5,640,489.40. The State of Utah has filed its objections to the Fiduciary's fee request. Judgment is expected by February 10, 2012. A motion seeking contribution from the State of Arizona for the fees and costs paid by the State of Utah for the administration of the UEP Trust has also been filed; this motion is pending.

**Federal Funds**

The Fiscal Analyst recommends the subcommittee approve federal funds for the Attorney General as shown in the issue briefs titled "Executive Offices and Criminal Justice: Federal Funds FY 2012" and "Executive Offices and Criminal Justice: Federal Funds FY 2013."

**BUDGET DETAIL**

The Contract Attorney line item has only one program. All of the General Fund in this line item represents estimates of outside counsel costs or settlement costs for cases of a general statewide nature. Dedicated credits funding represents reimbursements from state agencies that benefit from litigation using outside counsel.

Attorney General - Contract Attorneys						
	FY 2011	FY 2012		FY 2012		FY 2013*
Sources of Finance	Actual	Appropriated	Changes	Revised	Changes	Recommended
General Fund, One-time	1,000,000	5,000,000	0	5,000,000	(5,000,000)	0
Dedicated Credits Revenue	580,700	300,000	0	300,000	0	300,000
Beginning Nonlapsing	63,000	0	51,400	51,400	(51,400)	0
Closing Nonlapsing	(51,400)	0	0	0	0	0
<b>Total</b>	<b>\$1,592,300</b>	<b>\$5,300,000</b>	<b>\$51,400</b>	<b>\$5,351,400</b>	<b>(\$5,051,400)</b>	<b>\$300,000</b>
<b>Programs</b>						
Contract Attorneys	1,592,300	5,300,000	51,400	5,351,400	(5,051,400)	300,000
<b>Total</b>	<b>\$1,592,300</b>	<b>\$5,300,000</b>	<b>\$51,400</b>	<b>\$5,351,400</b>	<b>(\$5,051,400)</b>	<b>\$300,000</b>
<b>Categories of Expenditure</b>						
Current Expense	1,592,300	300,000	5,051,400	5,351,400	(5,051,400)	300,000
Other Charges/Pass Thru	0	5,000,000	(5,000,000)	0	0	0
<b>Total</b>	<b>\$1,592,300</b>	<b>\$5,300,000</b>	<b>\$51,400</b>	<b>\$5,351,400</b>	<b>(\$5,051,400)</b>	<b>\$300,000</b>

\*Does not include amounts in excess of subcommittee's state fund allocation that may be recommended by the Fiscal Analyst.

**SUMMARY OF RECOMMENDATIONS**

The Analyst recommends the legislature:

1. Adopt the FY 2013 recommended budget of \$300,000 as shown in the budget detail table.
2. Set aside \$13,500,000 from the General Fund one-time for the FY 2013 Pelt settlement payment.
3. Forward to the Executive Appropriations Committee for further consideration, \$275,200 from the General Fund one-time for the FY 2013 United Effort Plan Trust ruling.
4. Approve the intent language on page 1.
5. Approve Federal Funds for the Attorney General as shown in the issue brief titled "Executive Offices and Criminal Justice: Federal Funds FY 2012" and "Executive Offices and Criminal Justice: Federal Funds FY 2013."