
COL All
SCH VIII B-2
REDUCTIONS
POS AMOUNT PRIORITY CODES

LEGAL AFFAIRS/ATTY GENERAL

4100000

PRIORITY SUMMARY NARRATIVE:

Florida's Attorney General is the chief state legal officer. A number of constitutional and statutory duties of the Attorney General must be funded with General Revenue as there are no other funds available to provide these functions. The Office of the Attorney General (OAG) units funded with trust funds do not have sufficient revenues and are prohibited from covering the cost of General Revenue functions. The General Revenue in the OAG is primarily used to fund the attorneys and staff necessary to provide legal counsel for Constitutional and Cabinet issues required of the Attorney General, and cases in support of the Governor and Legislature of the State of Florida. The General Revenue provides for staff salaries and benefits and operations. 68.8% of the general revenue or \$24.96 million is used to pay for positions and \$4.8 million (13.3%,) is used to operate the agency and \$6.5 million or 18.0% provides for Local Grants.

To make up the ten percent target required on the Schedule VIII-B, the OAG calculates that thirty seven (37) positions would have to be cut from the units funded with General Revenue. This is more than 10% of the GR funded positions in the agency. In order to meet the cuts already required of the agency, the OAG has already cut over forty (40) positions through attrition or layoffs. In addition to meet the 10% target, thirty one (31) positions would have to be cut from the Medicaid Fraud division. Cutting 31 of the Medicaid fraud positions would eliminate over \$1.3 million in Federal funding and severely reduce the ability of this unit to bring General Revenue to Florida. These positions are all from units that are top priorities of the Attorney General and are critical to maintain at full strength to meet the goals of the OAG. These General Revenue units include the following:

The Attorney General serves as an elected member of the Florida Cabinet sitting as head of the State Board of Education, the Administration Commission, Board of Executive Clemency, Florida Department of Law Enforcement, Department of Highway Safety, Department of Revenue, Division of Bond Finance, Board of Trustees of the Internal Improvement Trust Fund, and other boards and commissions. The Executive staff is already holding 11 positions vacant.

The Attorney General provides legal opinions to members of the legislature, state officers and agency heads, local government officials, or other units of government as defined by statute.

The Attorney General provides for the Office Statewide Prosecution. The OAG includes the statewide prosecutor who has concurrent jurisdiction with the state attorneys to prosecute violations of criminal laws occurring or having occurred in two or more judicial circuits as part of a related transaction, or when any such offense is affecting or has affected two or more judicial circuits as provided by general law. The Office Statewide Prosecution is already holding six positions vacant to meet the cuts.

The Attorney General provides an Office of Civil Rights to enforce the Florida Civil Rights Act designed to protect against racial, religious, age, gender and disability discrimination.

The Attorney General provides a Child Predator CyberCrime Unit to investigate and prosecute computer related crimes against children. The Unit works cooperatively with law enforcement agencies around the state, executes search warrants, arrests and prosecutes defendants and educates adults and children on Internet Safety. The Unit has established partnerships with the Florida Department of Law Enforcement (FDLE), the Internet Crimes Against Children Task Force (ICAC) of North Florida; the L.E.A.C.H (Law Enforcement Against Child Harm) ICAC Task Force of South Florida, and the FBI CyberCrime Task Force based in Jacksonville, Florida. Law enforcement intelligence has shown that Florida ranks fourth in the Nation in the number of individuals distributing and promoting images depicting children being sexually abused. The Child Predator Cyber Crime unit has already been reduced by 26 General Revenue positions (60% of the positions funded.)

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The Attorney General provides for an Office of Solicitor General with the highest quality legal expertise in federal and state constitutional law to defend Florida's Constitution and Florida's Statutes in the U.S. and Florida Supreme Courts; and advising the Attorney General on constitutional legal and policy issues affecting the State of Florida. The Solicitor General's office has been reduced by three positions.

The Attorney General provides for Criminal/Civil Litigation Defense through the General Legal Division and the Criminal Division. The General Legal Division is charged by s. 16. 01, F. S. to provide legal representation at the trial and appellate levels in state and federal courts on behalf of the state, its agencies, officers, employees and agents. The Criminal Division consists of the Criminal Appeals and Capital Appeals units. Criminal Appeals defends the judgments and sentences entered in criminal cases statewide as well as challenges to the constitutionality of the Jimmy Ryce Act. Capital Appeals handles appeals in all capital murder cases in which the death penalty has been imposed by the trial court; and represents the State in challenges to the death penalty. The Appeals Division currently is holding 32 positions vacant to address the reductions. This has caused case loads to increase for all Appeals attorneys and can cause delays in court.

In addition, General Revenue is required for the Medicaid Fraud Control Unit. The Medicaid Fraud Control Unit is funded with one quarter a General Revenue to match three quarters funding from federal trust funds. The Medicaid Fraud Control Unit is currently holding over 30 positions vacant positions to meet the reductions.

SCHEDULE VIIIIB REDUCTIONS -
 OPERATING

33B0000

VICTIMS SERVICES CRIMES
 COMPENSATION PROGRAM REDUCTION

1

33B1110

TRUST FUNDS.....

8,891,107-

200

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SCH VIIIIB-2 NARR 10-11 NOTES:

TRUST FUND VICTIMS SERVICES CRIMES COMPENSATION PROGRAM REDUCTION

Revenue for the Crimes Compensation Trust Fund is derived from the collection of state and federal criminal assessments. A reduction will do a grave disservice to victims of crime and the facilities and organizations that serve victims through medical/dental treatment, funeral/burial, mental health and other forms of direct assistance. The current spending authority for awards to claimants is \$ 24,842,082. A reduction of \$8.9 million in awards to claimants would decrease funds to approximately \$15.9 million, or 36 percent.

The bulk of these awards go to medical/dental organizations/facilities that provide treatment for victims of crime. The legislative intent for the victim compensation program acknowledges that:

The Legislature recognizes that many innocent persons suffer personal injury or death as a direct result of adult and juvenile criminal acts or in their efforts to prevent crime or apprehend persons committing or attempting to commit adult and juvenile crimes. Such persons or their dependents may thereby suffer disabilities, incur financial hardships, or become dependent upon public assistance. The Legislature finds and determines that there is a need for government

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VICTIMS SERVICES CRIMES			
COMPENSATION PROGRAM REDUCTION		1	33B1110

financial assistance for such victims of adult and juvenile crime. Accordingly, it is the intent of the Legislature that aid, care, and support be provided by the state, as a matter of moral responsibility, for such victims of adult and juvenile crime. It is the express intent of the Legislature that all state departments and agencies cooperate with the Department of Legal Affairs in carrying out the provisions of this chapter. (Section 960.02, F.S.)

Crime victims served by this program include victims of assault, battery, homicide, sexual offenses, domestic violence, driving while intoxicated, hit and run, stalking, robbery, terrorism, kidnapping, arson, and all other violent crimes. Eligible expenses paid by the victim compensation program include medical/dental, mental health treatment, crime scene cleanup, funeral/burial, wage loss, loss of support, disability, forensic sexual assault examinations, property loss (for elderly and disabled adults only), and relocation expenses (only for victims of domestic violence).

The Florida Victim Compensation program has a national reputation for the ethical and speedy resolution of victim compensation claims. Victims who seek compensation for crime related expenses include persons who are elderly, disabled, adults and children, men and women, boys and girls--anyone who has the unfortunate experience of becoming a victim of crime. During FY 2008-09, the division received 27,794 claims for victim compensation, domestic violence relocation, property loss, and forensic sexual battery examinations. This was an increase of 2.6 percent over the prior year.

In establishing this program, the Legislature recognized a moral and social obligation to assist victims of crime. Reducing the amount of compensation benefits would affect the citizens of Florida who have no other means of assistance. Most offenders are not apprehended or are not identifiable, which inhibits restitution from being ordered and enforced. Law enforcement and the courts will be severely hindered in arrests and prosecutions when their victims are not in a position to seek treatment due to financial reasons. Continued funding of this program will aid their recovery and enhancing their ability to participate in the criminal justice process. These crime victims need the assistance that only this program can provide. Partial payments are simply not acceptable, as they would further victimize these individuals and cause their faith in the system to be minimized.

POSITION REDUCTIONS		2	33B1150
GENERAL REVENUE FUND.....	68.00-		
	2,935,992-		1000
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SCH VIIIB-2 NARR 10-11 NOTES:

POSITION REDUCTIONS

Eliminating any additional positions in the Office of the Attorney General (OAG) will severely hamper the ability to meet the constitutional and statutory requirements of the agency. The General Revenue in the Office of the Attorney General is primarily used to fund the attorneys and staff necessary to provide legal counsel for Constitutional and Cabinet

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issues required of the Attorney General and cases in support of the Governor and Legislature of the State of Florida. The Department has lost over 29% of its General Revenue through legislative reductions or fund shifts to non-recurring sources over the last three years.

To make up the ten percent target required on the Schedule VIII B, the OAG calculates that thirty seven (37) positions would have to be cut from the units funded with General Revenue and thirty one (31) positions would have to be cut from the Medicaid Fraud division.

Criminal Division

The Criminal Division, which consists of Criminal Appeals and Capital Appeals, is funded through general revenue dollars. In order to meet the VIII B reduction requirement the OAG calculates that the Criminal Division will have to be reduced by approximately 18 positions. In the past two legislative cycles, in order to meet the mandated reductions based on funding shortfalls, the OAG Criminal Division has been required to maintain 32 positions vacant.

The Florida's Attorney General's Criminal and Capital Appellate Division is the State's appellate prosecutor assigned to defend the judgments and sentences imposed by the trial court, in the state courts of appeal and federal habeas courts. Every appeal, emanating from any of the 20 judicial circuits, filed by a criminal defendant challenging his conviction or length of sentence, is processed through this division. Each appellate case is docketed, assigned a case number, and then, distributed and prosecuted by attorneys specializing in this appellate discipline. The Criminal and Capital Appellate Division litigates against the statewide appellate public defenders, the three Capital Collateral Regional Counsels, assigned conflict counsels in every judicial circuit, federal public defenders from the three federal districts and all private attorneys hired to do criminal appellate defense work, as well as defendants handling their pro se appeals, in state and federal courts.

The Criminal and Capital Appellate Division received a permanent 4% cut in the FTEs in September, 2008 and an additional two positions were cut in the General Appropriations Act in May 2009. This initial cut resulted in the layoffs of eight (8) positions, four (4) attorney and four (4) staff positions. In 2009, two additional staff positions were laid off to meet further shortfalls from the 2009 legislative session. There has been hiring freezes from January 2007, all of 2008, and most of 2009, of attorneys and staff, with few exceptions for positions with absolute critical need. These additional hiring frozen positions/vacancies, which remained unfilled, were based on uncontrolled variables-- meaning that offices like WPB and Miami suffered significant losses in attorney manpower, when attorneys' resigned for other positions outside the agency, yet there has been no means by which to balance the attorney numbers from other criminal bureaus (because of similar case overloads). The caseloads have continued to grow larger per attorney yet there is no means to slow down the number of cases being filed in those bureaus, based on the case fillings in the appellate courts.

To date, the additional deletions in the attorney ranks has reduced the number of attorneys working on approximately 28,634 opened and current criminal cases and 895 opened and active capital cases--in 2008-2009 fiscal year, from 110 criminal attorneys and 16 capital attorneys in 2007-- to 85 criminal attorneys and 13.5 capital attorneys, in 2009, respectively. Besides the 4 attorneys that were laid off, the hiring freeze has resulted in an increase of 26 vacant attorney positions from the 14 vacancies last reported, and 9 staff losses up from 6. Two were laid off and one resigned.

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The OAG criminal division has faced pressures from the state and federal courts to speed up the handling of backlogged cases. Calls for handling cases more expeditiously, has been impossible --due to the sheer number of cases per attorney caseloads. Unfortunately, this office has neither benefitted from the "lesser reductions in funding" legislatively mandated for the State judiciary nor does the OAG have the ability to retrieve attorney fees for litigation in federal court when prevailing in federal habeas litigation and ensuing appeals there from in the federal appellate courts. Without adequate funding from any quarter, and faced with continuing budget shortfalls from general revenue dollars, it would not appear likely that reduced backlogs of cases and shorter litigation time will occur without an infusion of necessary general revenue dollars with which to fill currrent-existing vacancies.

In 2009, the average caseloads for currently remaining/filled FTEs are:

Criminal (85 Atty.)	Capital (13.5 Atty.)
Caseloads per atty.	Caseloads per atty.

FY2009	337	69
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The depletion of the criminal appellate attorney ranks in this office has resulted in further delays in the processing of appellate cases, has strained the ability of the state to address complex legal issues, and brings into question whether appellate review is meaningful. The excessive case loads have challenged even the most seasoned appellate attorneys' abilities to competently process caseloads, thus placing unimaginable pressures on this office's ability to retain criminal appellate attorneys and their expertise, as well as meet the demands of the criminal justice system.

Statewide Prosecution

In order to meet the reduction requirement the OAG calculates that the Office of Statewide Prosecution (OSP) would have to be reduced by 5 additional positions which would severely reduce its effectiveness. The unit currently has nine vacant positions, at least eight of which must remain vacant the entire fiscal year in order to meet our previous cuts. Two of these nine vacancies are critical Bureau Chief positions that need to be filled with senior attorneys. The unfilled vacancies currently leave one attorney to cover over 20 counties throughout North Florida and another Bureau staffed with only one prosecutor who is responsible for covering Southwest Florida. These current staffing levels do not allow us to meet our constitutional mission in those geographic areas.

The Office of Statewide Prosecution is focusing on two main priorities: gang violence and mortgage fraud. In the last three years we have made tremendous progress in both areas but there remains work to be done.

While violent crime is down in our key impact areas, it is still a threatening problem in parts of our state. Our success has been measured by the neighborhoods we have changed through arrests and successful prosecution and also through the awards earned by our investigative partners - gang units of the year for the last two years for OSP cases.

Mortgage fraud is the biggest threat to our state's economy and overall fiscal well being. In the last two years we have prosecuted dozens of defendants in RICO cases resulting in convictions through trial and plea. The success we have garnered is measured by the lengthy prison terms handed down to our defendants and by the widespread tentacles to these schemes that we have uncovered in the mortgage, banking, appraisal, and real estate industries.

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OPERATING			33B0000
POSITION REDUCTIONS			33B1150

On top of these two priorities that we have tackled given the threats they pose to our state, OSP continues to handle complex criminal cases in our traditional areas of white collar crime and narcotics. Any further cuts to Statewide Prosecution would very likely have to result in the closing of offices and additional layoffs beyond the two people we had to layoff this year.

Solicitor General

In order to meet the reduction requirement, the OAG calculates that the Solicitor General's office would have to be reduced by one additional position. They are currently holding two positions vacant. The primary responsibility of the Office of the Solicitor General (OSG) is to represent the State of Florida in significant litigation affecting the powers, duties, and responsibilities of all branches of state government and serve as the primary civil appellate attorney for the State. The OSG defends constitutional challenges to laws passed by this Legislature and represents the State in cases of constitutional importance before the United States Supreme Court and the Florida Supreme Court, oversees complex civil litigation cases of statewide impact, prepares amicus briefs in support of State policy goals in state and federal appellate court cases, advises the Attorney General on legal and policy issues affecting the State and advises other divisions within the OAG who are litigating on behalf of state agencies.

Some examples of cases include the successful defense of the Sexual Predator Act when a convicted child molester and rapist challenged the constitutionality of the registration and notification requirements in statute for sexual predators. In addition, the OSG successfully defended a constitutional challenge from Wiccan regarding the Florida Statute that gives tax-exempt status to religious publications such as the bible or the torah.

The vital role of defending the constitutionality of Florida statutes and handling complex litigation with statewide impact would be severely jeopardized with this reduction.

Executive Direction and Support Services Staff:

In order to meet the reduction requirement, the OAG calculates that Executive Direction and Support Services staff positions would have to be reduced by approximately 10 positions. The executive direction is already having to hold vacant 17 critical positions (over 12 percent of the positions in the entity) and cannot take further reductions and still allow the Attorney General to meet his core duties.

The Attorney General is required to provide official written opinions to state and local officials, boards, agencies, and their attorneys in response to questions regarding their official duties. In addition, the Attorney General is authorized provide legal advice to the state attorneys and to Florida's representatives in Congress. The Attorney General's opinion process provides a direct means for inexpensive dispute resolution. The strategic objective is to resolve requests for opinions in a timely manner.

A reduction in Opinions staff would decrease productivity and cause governmental entities to incur substantial legal fees from litigation. In addition, misinterpretation or varying interpretations of statutes could result in violations of statutes including, but not limited to, Sunshine and/or public records law. A centralized legal resource for Department of Legal Affairs and other governmental entities could be lost.

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In addition to his duties as the state's chief legal officer, the Attorney General serves as a member of the Florida Cabinet. He is also regularly called upon by the Florida Legislature to discuss and provide advice on relevant issues and pending legislation. The Cabinet Affairs staff advises the Attorney General on all matters pertaining to his constitutional and statutory role as a member of the Florida Cabinet. The Governor and Cabinet, as a collegial body, sit as the head of the following: State Board of Executive Clemency; Division of Bond Finance; Department of Veterans' Affairs; Department of Highway Safety & Motor Vehicles; Department of Law Enforcement; Department of Revenue; Administration Commission; Florida Land & Water Adjudicatory Commission; Electrical Power Plant & Transmission Line Siting Board; Board of Trustees of the Internal Improvement Fund; and Financial Services Commission. The Governor, Attorney General and Chief Financial Officer sit as the head of the State Board of Administration. The Cabinet Affairs staff regularly meets with interested parties and private citizens and responds to inquiries from the public relating to factual, policy, and legal issues related to the areas of jurisdiction of the Governor and Cabinet.

Cabinet Affairs is staffed with the minimal number of personnel necessary to carry out its duties and responsibilities to the public and the Attorney General. Any reductions would significantly hamper the Attorney General's ability to carry out his constitutional duty as a member of the Florida Cabinet.

The Office of Civil Rights uses aggressive investigative and litigation strategies to prosecute civil rights violations in state and federal courts throughout Florida. Such violations include racial and religious bias and discrimination faced by women, seniors, and those with physical and mental disabilities. This unit also works with the Florida Commission on Human Relations to enforce the provisions of the Florida Fair Housing Act. It also develops and administers various education and outreach programs for law enforcement officers, community leaders, and children concerning civil rights issues. For nearly a decade, the Office has conducted hate crime training for law enforcement officers throughout the state and prepared the State's Annual Hate Crime Report. The Office has developed hate crimes training programs for presentation at the elementary, middle and high school levels as well as brochures and other education materials regarding civil rights.

Administrative staff, Information technology staff, Citizens Services staff are also located in this entity.

Medicaid Fraud Control Unit

The Medicaid Fraud Control Unit collected \$168 million in total recoveries, and collected \$15.2 million in General Revenue for FY 08-09 for the State. This revenue more than paid for the cost of the unit to the State of Florida. However, as the unit is included in the 10% reduction calculations, the OAG must make cuts in the unit to meet the requirements. In order to meet the reduction requirement, the OAG calculates that the Medicaid Fraud staff positions would have to be reduced by approximately 31 positions. Since these positions are funded with approximately 25% General Revenue and 75% federal funding, the actual cut would be a reduction of \$1.7 million (\$375,023 GR and \$1.3 million in Federal Grants Trust Fund) in this critical function. Fifteen positions were cut and thirty positions are currently being held vacant to meet the 10% General Revenue reduction for FY 09-10. An additional 10% reduction to this program would further jeopardize future General Revenue collections in the 2010-2011 Fiscal Year.

The federal funding received by the Medicaid Fraud Control Unit (MFCU) carries with it certain performance standards, imposed by 42 CFR 1007.13. These include a requirement that the unit be staffed sufficiently to carry out its duties in

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an effective and efficient manner. Given that the Florida Medicaid program has not contracted in size and funding, further drastic staff reductions may imperil the MFCU's compliance with the stated performance standard. This may adversely affect the MFCU's certification by the U.S. Dept. of Health & Human Services, which may in turn affect Florida's continuing eligibility for receipt of its Federal share of funding for the Medicaid program.

The Medicaid Fraud Control Unit (MFCU) investigates the business practices of doctors, dentists, clinics, and other health care providers who bill for services never performed or who charge more than authorized for services rendered. The unit also investigates the abuse, neglect, and exploitation of residents of long-term care facilities who are elderly, ill, and/or mentally or physically disabled.

Health care fraud is an immense societal problem, both nationally and within Florida's \$16 billion-a-year Medicaid program. The MFCU is responsible for policing the Medicaid Program, as well as investigating corruption and fraud in the program's administration.

The MFCU is also responsible for investigating the physical abuse, neglect, and financial exploitation of patients residing in long-term care facilities such as nursing homes, facilities for mentally and physically disabled persons, and assisted care living facilities. The quality of care being provided to Florida's ill, elderly, and disabled citizens is an issue of great concern and a priority within the MFCU.

The MFCU provides a Patient Abuse, Neglect and Exploitation (PANE) Project consisting of a collaborative effort among several agencies to address the abuse and exploitation of patients in long term care facilities and results have been very positive. The MFCU also continued its leadership role in a multi-state/federal investigation into pharmaceutical pricing. This investigation, which began in Florida, revealed that several generic drug manufacturers have been artificially inflating the prices of their drugs which are reported to the government in a scheme that has cost Medicare and Medicaid hundreds of millions of dollars. This ongoing investigation has already resulted in multi-million dollar settlements with several major drug companies and ongoing litigation involving other pharmaceutical manufacturers should result in additional recoveries.

TOTAL: LEGAL AFFAIRS/ATTY GENERAL			41000000
BY FUND TYPE			
GENERAL REVENUE FUND	2,935,992-		1000
TRUST FUNDS	8,891,107-		2000

TOTAL POSITIONS.....	68.00-		
TOTAL DEPARTMENT.....	11,827,099-		
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