



OREGON

DEPARTMENT OF JUSTICE

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GENERAL COUNSEL

General Counsel

Phil Schradle, Chief Counsel
Joe McNaught, Assistant Administrator
Don Arnold, Assistant Administrator

The General Counsel Division provides a broad range of legal services to state officials, agencies, boards and commissions. This is accomplished through such activities as giving day-to-day legal advice, drafting contracts and other documents, representation in administrative hearings and furnishing legal opinions. The Division also handles some litigation and appellate work involving client agencies, and drafts ballot titles in cooperation with the Appellate Division. The Division's work is organized into sections dealing with specialized areas of the law:

Business Activities

The Business Activities Section represents most of the state's professional and occupational licensing and regulatory agencies, the Department of Consumer and Business Services, and several boards and commissions. Section attorneys provide legal advice to those agencies and represent them in regulatory and enforcement proceedings.

Business Transactions

Business Transactions Section attorneys are counsel to state government in the following contracting matters:

- Design and construction
- Real property
- Intellectual property and information technology
- Complex general business (including investment, health insurance, guaranty and surety contracts)

Section attorneys are counsel to Lottery and the State Fair on all contracting matters. They are assigned counsel to Department of Corrections Facilities Services and work units in the Department of Administrative Services responsible for state procurement, facilities, information technology, fleet, printing and surplus property services.

The section assists other attorneys in the Department of Justice with Special Assistant Attorney General, expert witness and tribal agreements, and general contracting issues.

Section attorneys frequently represent state agencies in informal resolution of solicitation and contract disputes. They also help draft legislation related to public contracting and produce the Attorney General's Public Contracts Manual.

Government Services/Education

The Government Services Section's clients include:

- The Secretary of State
- The Department of Transportation
- The Department of Corrections
- Oregon Youth Authority
- State Police
- Lottery

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Services provided range from advice on operations of the state's prisons to drafting contracts for its client agencies. The section also anticipates agency legal issues and works with agency personnel to develop solutions.

Education Section

The Education Section's clients include:

- The Board and Department of Education
- The Oregon State System of Higher Education
- The Teacher Standards and Practices Commission
- The State Scholarship Commission
- The State Library

The section also represents a number of minority affairs commissions and several other agencies, institutions, boards and commissions. Significant issues arise regularly involving such matters as education of the disabled, the relationship between education and religion and charges of discrimination in educational programs. The section drafts contracts and other documents, conducts contested case hearings and provides advice on a wide variety of legal issues to Oregon's public universities.

Human Services

Human Services Section provides advice and litigation services to state agencies whose primary mission involves assisting people to live full and healthy lives. Clients include the Department of Human Services and its Divisions and Offices.

Other clients are the Employment Department and the Crime Victims' Assistance Program, and several smaller councils, commissions and boards. Attorneys in the section frequently deal with residential care licensing issues, juvenile court cases and the complex laws and regulations of federal entitlement programs.

Labor and Employment

The Labor and Employment Section serves as "in-house" labor and employment counsel to State Government, including all State agencies and quasi-independent boards and commissions. As such, the Section advises its agency clients regarding the broad spectrum of labor and employment law, including matters implicating the Public Employee Collective Bargaining Act, the State Personnel Relations Law, the federal and state wage and hour laws, the federal and state equal employment and anti-discrimination laws, the federal and state Family Medical Leave Acts, and constitutional rights of public employees. The section provides advice to agencies regarding employee disciplinary action and assists in the drafting of administrative regulations and policies relating to employment matters. It also frequently represents its agency clients in labor arbitrations and in administrative hearings before the Employment Relations Board, and in administrative proceedings before the Bureau of Labor and Industries. In addition, the Labor and Employment Section is specifically assigned as counsel to the Human Resources Services Division and Labor Relations Unit of the Department of Administrative Services, the Employment Relations Board and the Fair Dismissal Appeals Board.

The Labor & Employment Section presents trainings and seminars for state agencies and their managers, including both focused trainings on issues like workplace harassment and periodic broad Public Law conferences that cover many areas of our practice.

As of Spring 2007, the Labor & Employment Section consists of nine lawyers - five Senior Assistant Attorneys General and four Assistant Attorneys General. Our lawyers have a combined 134 years of legal practice, 95 of which have been in the highly specialized Labor & Employment field. Our section includes five former law review editors, five members of the Order of the Coif and five lawyers who graduated from law school in the top ten percent of their class. Among our lawyers are former partners in major law firms, a former Chair of the Oregon Employment Relations Board, a former Oregon Administrative law judge and several former law clerks to judges of federal and state courts.

Natural Resources

Natural Resources client agencies include:

- The Department of Environmental Quality
- The Department of Forestry
- Land Conservation Development Commission and Department
- Division of State Lands and the State Land Board
- Department of Fish and Wildlife
- Department of Agriculture
- Department of Water Resources

Attorneys in the section review and assist administrative procedures that agencies use to carry out their statutory responsibilities. This includes drafting and reviewing administrative rules, reviewing agency orders, representing agencies at administrative hearings and providing general advice on administrative procedures. Further, attorneys in the section review agency documents such as contracts, leases and conveyances, and represent natural resources agencies in trial and appellate courts.

Opinions, Appropriate Dispute Resolution, Paralegals

Formal Opinions (signed by the Attorney General) typically respond to questions concerning constitutional issues and other matters of statewide concern. Informal Opinions or Letters of Advice (signed by the Chief Counsel of the General Counsel Division) are issued on matters less likely to impact those other than the requestor.

A fundamental function of government is the orderly management of conflict and resolution of disputes. The appropriate method to resolve any given dispute can only be chosen after a careful assessment of the facts and circumstances of the case, including the interests of the parties, the nature of the dispute, and any statutory or policy restrictions governing the use of a particular dispute resolution process. In accordance with ORS 183.502, the Department encourages the use of collaborative problem-solving processes.

Paralegals work with assistant attorneys general on a variety of different subjects, including researching legislative history.

Regulated Utilities and Businesses

The Regulated Utility and Business Section represents the Public Utility Commission. It also represents the Motor Carrier Transportation Branch, the Rail Division, and the Outdoor Advertising Program of the Oregon Department of Transportation. Moreover, the Section also handles premium audit, third party cases, and other general counsel work for the State Accident Insurance Fund Corporation, and it provides counsel for the Oregon Liquor Control Commission and the Bureau of Labor and Industries.

Tax and Finance

As its name implies, the Tax and Finance Section's work generally falls into two substantive areas. This section, like most other sections within General Counsel, represents clients in administrative hearings, but unlike most other sections in this division, its litigation practice also extends to trial and appellate courts.

On the tax side, the section advises the Department of Revenue and represents it in the Oregon Tax Court, the Oregon Supreme Court and in federal courts. Tax advice and litigation encompasses property tax, personal income tax, corporation income and excise taxes, as well as other types of state and local taxes and local budget law procedures. The section also advises and represents the Insurance Division of the Department of Consumer and Business Services on tax matters. The tax attorneys also advise other state agencies on tax issues and represent the state in tax matters before the Internal Revenue Service.

On the finance side, the section advises the Office of the State Treasurer and Oregon Investment Council with respect to the State's banking, investment and borrowing activities. The finance attorneys provide assistance to other state agencies in negotiating loans, grants or other financial transactions and drafting the documents for those transactions. The agencies represented by the finance attorneys include the Department of Veterans Affairs, Housing and Community Services Department, Economic and Community Development Department and the Department of Energy's Small Scale Energy Loan Program. Finance attorneys also represent the Department of Veterans Affairs in circuit court in conservatorship matters.

Bridging both the tax and finance areas is the Public Employees Retirement System and optional retirement plans. The section coordinates advice related to maintaining the tax qualification of retirement plans and provides general advice on benefits issues. The section also represents PERS in contested case hearings on issues involving entitlement to retirement, disability and death benefits.

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