

# MEMORANDUM

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**TO:** Members of the Joint Budget Committee

**FROM:** Carolyn Kampman, JBC Staff (303-866-4959)

**SUBJECT:** Department of Law: Establishing the Legal Services Rate for FY 2013-14

**DATE:** March 15, 2013

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## *Background Information*

On February 13, 2013, the Committee acted on the Department of Law's budget request, including funding for personnel and operating expenses for the Legal Services to State Agencies (LSSA) section of the Long Bill. The Committee has also taken action to authorize each state agency to purchase a specific number of hours of legal services from the Department of Law in FY 2013-14<sup>1</sup>. In order to calculate the appropriation to each state agency to purchase legal services, and the corresponding appropriations to the Department of Law to receive and expend such payments, the Committee needs to approve an hourly legal services rate for FY 2013-14.

## *Calculation of the Legal Services Billing Rates*

Once the cost of operating the LSSA section has been determined, this cost must be translated into billing rates that will cover these costs. Each agency purchasing these services is billed using one uniform rate for attorneys and another uniform rate for legal assistants. These rates can be calculated by separating them into elements:

1. An "attorney" component that covers the salaries and the associated Public Employees' Retirement Association (PERA) and Medicare expenses for the attorneys who supply the legal services;
2. A "legal assistant" component that covers the salaries and the associated PERA and Medicare expenses for legal assistants who supply the legal services; and
3. A "common" component that covers other expenses of the LSSA section, including administrative support staff, the five Deputy Attorneys Generals that are funded through the LSSA section and supervise groups of attorneys, operating and litigation expenses, and various centrally appropriated line items (*e.g.*, leased space, employee health benefit expenses, etc.).

The following two tables (1 and 2) compute these components.

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<sup>1</sup> Staff has assumed that the Committee will approve staff's recommendations for the following state agencies: Corrections (15,298.0 hours); Education (4,900.0 hours); Governor's Energy Office (1,100.0 hours); and Health Care Policy and Financing (13,592.0 hours).

<b>Table 1: Attorney and Legal Assistant Components of the Legal Services Rates</b>			
	a = Salary and related costs	b = Hours billed	a/b = Attorney or Legal Assistant component of rate
Attorneys	\$17,495,382	320,207	<b>\$54.64</b>
Legal Assistants	\$2,345,394	61,380	<b>\$38.21</b>

<b>Table 2: Common Component of the Legal Services Rates</b>	
Total cost of operating the LSSA section	\$32,055,551
- Salary and related costs of attorneys	(\$17,495,382)
- <u>Salary and related costs of legal assistants</u>	<u>(\$2,345,394)</u>
a = Common costs	\$12,214,774
b Total hours billed by attorneys and legal assistants	<u>381,587</u>
a/b = <b>Common component of legal rates</b>	<b>\$32.01</b>

The total cost of the LSSA section includes allocations of centrally appropriated items as well as indirect cost recoveries collected by the LSSA section.

The hourly legal rates are then computed as follows:

<b>Table 3: Calculation of Hourly Legal Rates</b>	
Attorney billing rate	= Attorney component + Common component
	\$54.64 + \$32.01
	<b>\$86.65 per hour</b>
Legal Assistant billing rate	component
	\$38.21 + \$32.01
	<b>\$70.22 per hour</b>

The blended legal rate, which is used to convert appropriations of hours into equivalent dollar appropriations for the Long Bill, is then calculated based on total operational costs and total hours billed:

<b>Table 4: Calculation of Blended Legal Rate</b>	
Total cost of operating the LSSA section	\$32,055,551
/ Total hours billed	<u>381,587.0</u>
= <b>Blended legal rate</b>	<b>\$84.01</b>

This represents a \$6.76 per hour increase (8.7 percent) compared to the FY 2012-13 blended legal rate of \$77.25. The increase primarily reflects increased costs for employee salary

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increases, increases in the costs of employee benefits, and increased leased space costs. The following table provides a recent history of the blended rate applicable for each fiscal year.

<b>Fiscal Year</b>	<b>Hourly Rate</b>	<b>Annual % Change</b>	<b>Fiscal Year</b>	<b>Hourly Rate</b>	<b>Annual % Change</b>
2001-02	\$58.43		2008-09	\$75.10	4.3%
2002-03	\$59.80	2.3%	2009-10	\$75.38	0.4%
2003-04	\$60.79	1.7%	2010-11	\$73.37	-2.7%
2004-05	\$61.57	1.3%	2011-12	\$75.71	3.2%
2005-06	\$64.45	4.7%	2012-13	\$77.25	2.0%
2006-07	\$67.77	5.2%	<b>2013-14</b>	<b>\$84.01</b>	<b>8.7%</b>
2007-08	\$72.03	6.3%			

Please note that for purposes of this document, staff has calculated the blended legal rate before the Committee has approved some of the appropriations that are used in the computation; in these instances, staff has used either the figures recommended by JBC staff or the amount requested by the Department. **Staff requests permission to modify the blended legal rate, using the technique described above, to take into account any changes in cost components of the rate that the Committee may subsequently approve.**