

MEMORANDUM

TO: Joint Budget Committee

FROM: Craig Harper, JBC Staff (303-866-3481)

SUBJECT: Department of Law: Establishing the Legal Services Rate for FY 2016-17

DATE: March 18, 2016

Background Information

On February 10, 2016, 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 2016-17¹. 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 2016-17.

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. The Department bills each agency purchasing these services using one uniform rate for attorneys and another uniform rate for legal assistants. Staff and the Department calculate these rates as separate components:

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.*, Carr Center leased space, employee health benefit expenses, etc.).

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

¹ Staff has assumed that the Committee will approve staff's recommendations for the following state agencies: Corrections (19,753.0) and Human Services (17,577.0).

Table 1: Attorney and Legal Assistant Components of the Legal Services Rates			
	a = Salary and related costs	b = Hours billed	a/b = Attorney or Legal Assistant component of rate
Attorneys	\$21,986,796	347,165	\$63.33
Legal Assistants	\$2,616,129	62,100	\$42.13

Table 2: Common Component of the Legal Services Rates	
Total cost of operating the LSSA section	\$38,898,993
- Salary and related costs of attorneys	(\$21,986,796)
- <u>Salary and related costs of legal assistants</u>	<u>(\$2,616,129)</u>
a = Common costs	\$14,296,067
b Total hours billed by attorneys and legal assistants	<u>409,265</u>
a/b = Common component of legal rates	\$34.93

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:

Table 3: Calculation of Hourly Legal Rates	
Attorney billing rate	= Attorney component + Common component \$63.33 + \$34.93 \$98.26 per hour
Legal Assistant billing rate	= Legal Assistant component + Common component \$42.13 + \$34.93 \$77.06 per hour

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:

Table 4: Calculation of Blended Legal Rate	
Total cost of operating the LSSA section	\$38,898,993
/ Total hours billed	<u>409,265.0</u>
= Blended legal rate	\$95.05

This represents a \$0.04 per hour increase (0.04 percent) compared to the FY 2015-16 blended legal rate of \$95.01. The following table provides a recent history of the blended rate for each fiscal year since FY 2001-02.

Table 5: History of Blended Legal Rate					
Fiscal Year	Hourly Rate	Annual % Change	Fiscal Year	Hourly Rate	Annual % Change
2001-02	\$58.43		2009-10	\$75.38	0.4%
2002-03	\$59.80	2.3%	2010-11	\$73.37	-2.7%
2003-04	\$60.79	1.7%	2011-12	\$75.71	3.2%
2004-05	\$61.57	1.3%	2012-13	\$77.25	2.0%
2005-06	\$64.45	4.7%	2013-14	\$91.08	17.9%
2006-07	\$67.77	5.2%	2014-15	\$99.01	8.7%
2007-08	\$72.03	6.3%	2015-16	\$95.01	-4.0%
2008-09	\$75.10	4.3%	2016-17	\$95.05	0.0%

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.**