

County Counsel

RECOMMENDED BUDGET • FY 2018 - 19

MISSION

County Counsel is the legal advisor of the Board of Supervisors and is legal counsel in civil law matters for all County departments, boards, and commissions. General duties of the County Counsel include: representing the County in all civil legal proceedings and administrative hearings; preparing ordinances, resolutions and contracts for the County; advising the Board of Supervisors and other County officials, and department heads on legal issues; representing the Health and Human Services Agency in juvenile court dependency hearings and administrative hearings concerning eligibility; advising on legal issues regarding workers compensation, tort and liability cases; instituting conservatorships for probate and for gravely-disabled individuals, under the Lanterman-Petris-Short (LPS) Act.

DEPARTMENT BUDGET SUMMARY

	16-17 Actuals	17-18 Budget	18-19 Dept Requested	18-19 CAO Recommend	Change from Budget to Recommend	% Change
Legal Services	\$ 92,838	\$ 120,000	\$ 100,000	\$ 100,000	\$ (20,000)	-16.7%
Charges for Service	\$ 80,370	\$ -	\$ 24,000	\$ 24,000	\$ 24,000	n/a
Interfund Revenue	\$ 240,255	\$ 354,225	\$ 364,225	\$ 364,225	\$ 10,000	2.8%
Total Revenue	\$ 413,463	\$ 474,225	\$ 488,225	\$ 488,225	\$ 14,000	3.0%
Salaries and Benefits	\$ 2,674,138	\$ 2,944,699	\$ 3,047,580	\$ 2,997,783	\$ 53,084	1.8%
Services & Supplies	\$ 251,219	\$ 318,125	\$ 415,744	\$ 415,744	\$ 97,619	30.7%
Intrafund Transfers	\$ 5,529	\$ 6,787	\$ 5,638	\$ 5,638	\$ (1,149)	-16.9%
Intrafund Abatements	\$ (9,322)	\$ -	\$ -	\$ -	\$ -	n/a
Total Appropriations	\$ 2,921,564	\$ 3,269,611	\$ 3,468,962	\$ 3,419,165	\$ 149,554	4.6%
NCC	\$ 2,508,101	\$ 2,795,386	\$ 2,980,737	\$ 2,930,940	\$ 135,554	4.8%
FTEs	17	17	17	17	-	0.0%

MAJOR BUDGET CHANGES

Revenues	
(\$20,000)	Decrease in anticipated revenue due to changes in fee collection for work on behalf of the Public Guardian.
\$24,000	Increase in anticipated revenue for defense billing.
<u>Appropriations</u>	
\$64,663	Increase in Salaries and Benefits due to increased CalPERS retirement costs.
\$120,000	Increase in Contract Legal Attorney Services based on prior year actuals and anticipated need
(\$24,000)	Decrease in the Law Books expense reflecting a transition to on-line reference sources

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PROGRAM SUMMARIES

The programs set forth below highlight the core legal functions of the particular area described. Allocation of Full Time Employee (FTE) represents an equivalent of full time employees since most duties are performed by multiple attorneys depending on current staffing. In addition to those primary duties, all of the attorneys in the office appear and advise on a wide variety of matters including: all aspects of civil litigation inclusive of writ proceedings, court hearings, public records and subpoena/deposition requests, etc. Deputies are involved in the development and rendering of both oral and written legal advice regarding the resolution of issues that may have far reaching implications for County operations and programs. Deputies act as general legal advisors to the assigned County department, and supervise and participate in the resolution of difficult or complex legal questions regarding department's respective powers, duties, procedures and operations. All attorneys draft and review contracts, ordinances, resolutions, and other legal instruments as part of the day-to-day operations of this department.

Statutory / State Programs

Public Guardian and Elder Protection

These attorneys represent the Public Guardian in all facets of litigation on behalf of the County, including Probate, Limited and LPS Conservatorships from early disposition to judgment after jury or court trial and appeals to the Appellate and Supreme Courts. These attorneys also represent the Health and Human Services Agency (HHSA) in areas of Elder Protection which represents the interests of senior citizens on conservatorship with the Public Guardian in all facets of litigation involving elder abuse, from detection and investigation of alleged elder abuse, to preparation of complex civil litigation for asset recovery from perpetrators. Staff provides training and renders advice to the Deputy Public Guardian staff concerning clients. When an estate or trust has assets, fees are requested and collected. Representation of the Public Guardian also encompasses advising Adult Protective Services, IHHS Programs and sometimes MSSP/Linkages. When there are sufficient assets to pay for the conservatee's needs, County Counsel will receive attorneys' fees commensurate with the conservatee's ability to pay. This discretionary program began in 2006 with the staff in the District Attorney's office, the Health and Human Services Agency (HHSA), and County Counsel working in collaboration. These attorneys may provide back up to the Child Protective Services (CPS) caseloads.

Child Protective Services

The attorneys for Health and Human Services Agency and Child Protective Services represent the Agency in all facets of litigation of Welfare & Institutions Code 300 cases from early disposition to disposition/judgment after trial, and appeals to the Appellate and Supreme Courts. The attorneys provide in-depth training, establish and review policies and procedures, and review and comment on current and proposed legislation and case law to the Agency personnel to improve case handling and outcomes including after-hours consultations on warrants and placement of endangered minors. The cost of County Counsel representation for the Agency is allocated through the A-87 Cost Plan and is applied toward the County's match requirements for Social Services programs.

Land Use/Transportation/Capital Improvement Programs*Transportation, Planning & Land Use, Public Health/Ambulance, and Litigation*

These attorneys support Transportation, Planning and Building, Land Use, Environmental Management, and Air Quality Management, as well as the Public Health Emergency and Ambulance. These attorneys represent the County in regards to Capital Improvement Programs, including the coordination of these projects from planning and design, to right of way acquisition/condemnation and utility relocation phase, through construction and claims management, and resolution. Staff represents the County in administrative claims and civil litigation regarding project approval, facilities and complex project development. These attorneys provide legal advice and support for all aspects of work for the transportation department, inclusive of airports and trails. These duties include the preparation, implementation, review, and defense of the County's General Plan, Zoning and Use Permits, development denials and approvals and CEQA compliance issues.

Staff advises on complex land use issues such as Rare Plants, Affordable Housing, and INRMP; and reviews and guides implementation and defense of policies, procedures and programs such as the mitigation fee programs, and reviews County CEQA documents for Capital Improvement Projects. These attorneys advise the Economic Development Coordinator on Land Use issues and Human Services on Affordable Housing issues. These attorneys oversee, participate in, and/or perform defense of administrative and writ proceedings on Land Use policies and approvals. These attorneys sit with and advise various Land Use commissions including the Planning Commission and the Agriculture Commission. These attorneys advise on complex funding requirements through state and federal sources. They also participate, advise and coordinate complex projects for other departments such as the selection of and contract for ambulance services that involve the potential for significant liability.

General Government*County Counsel and Chief Assistant County Counsel*

The County Counsel and Chief Assistant County Counsel plan and direct the activities and operations of the County Counsel's Office, and serve as the legal representative of the Board of Supervisors, all County departments, and boards and commissions, on assigned litigation and business matters, mandated functions (e.g. County election proceedings, writs of habeas corpus, etc.) providing highly responsible and complex administrative support to the Board of Supervisors. In addition to evaluating day-to-day and long range legal matters having an impact on the County, the County Counsel and Chief Assistant County Counsel establish County-wide legal controls and procedures, and communicate these goals, programs, policies and procedures to staff, the public, the CAO, other County departments and state and local agencies. They maintain current knowledge of changes in directives, policies, statutes and regulations that affect operations, and make suggestions on proposed legislation and regulations concerning the County.

Human Resources, Sheriff, Risk Management, and Related Law and Justice Departments

These attorneys provide legal advice and support to all departments regarding personnel issues, grievances and disciplinary actions. These attorneys appear on behalf of departments at Civil Service Hearings, and represent the County at Public Employment Relations Board (PERB) hearings. These attorneys also sit as part of the County's Threat Assessment Team and advise on medical and disability issues in negotiations. This may include the review of outside litigation claims and overseeing and assisting in directing the litigation being handled by outside counsel. These attorneys provide advice and assist in the labor relations functions of the Human Resources Department including negotiations, Equal

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Employment Opportunity Commission (EEOC) matters, and Department of Fair Employment and Housing (DFEH) matters. The attorney advising Risk Management advises in the implementation of the Affordable Care Act, health care and benefit contracts. As counsel for the Sheriff, in addition to advising on their personnel issues, this position reviews policy manuals and attends the Sheriff section meetings. On three occasions, attorneys have stepped into the position of Interim Director of Human Resources when requested by the CAO and Board of Supervisors.

General Law, Contracts, and all other Departments

The attorneys in this assignment provide legal advice and support on a wide variety of legal issues that are encountered by any County department. Staff also review and develop responses to subpoenas and Public Record Act requests, and represent employees who have been subpoenaed as witnesses in various civil, criminal, or administrative proceedings. These positions represent various County departments in writ proceedings in civil court, administrative proceedings including the State Department of Administrative Hearings, the Department of Housing and Urban Development, the Air District Hearing Board and the Assessment Appeals Board. In addition to litigation related duties, this attorney also provides support services for many County departments and agencies with contract review; review and advice on project bid reviews and advice regarding proposed rule adoption and ordinances. Staff also advises the Procurements and Contracts division and County Facilities Management.

Administrative, Operations Support

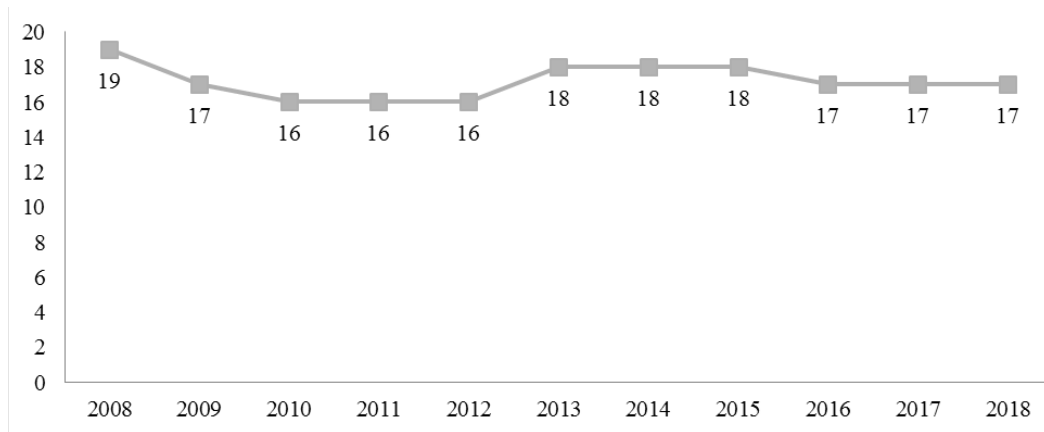
One Department Analyst provides administrative and fiscal support including budgeting, accounting, payroll, purchasing, and contract coordination. Three Sr. Legal Secretaries and one Legal Secretary II provide secretarial services for twelve attorneys along with direct interaction with client/departments and the general public. In addition to direct attorney support, each secretarial position is dedicated to a specific support function that works directly with client/departments in facilitating their individual programs such as Public Guardian, Child Protective Services, and General Government.

BUDGET SUMMARY BY PROGRAM

	Appropriations	Revenues	Net County Cost	Staffing
Administrative/Operations Support	\$ 594,042	\$ -	\$ 594,042	5
Statutory/State Programs				
Public Guardian, Elder Protection, and HHS	\$ 481,606	\$ 100,000	\$ 381,606	2
Child Protective Services	\$ 401,249	\$ -	\$ 401,249	2
Land Use/Transportation/Capital Improvement	\$ 667,704	\$ 303,225	\$ 364,479	2.75
Administrative/General Government				
County Counsel & Chief Asst County Counsel	\$ 380,303	\$ -	\$ 380,303	1.25
Sherrif, HR/Risk, Law and Justice	\$ 458,154	\$ 85,000	\$ 373,154	2
General Law, Contracts, other Departments	\$ 436,109	\$ -	\$ 436,109	2
Total	\$ 3,419,165	\$ 488,225	\$ 2,930,940	17.00

STAFFING TREND

County Counsel staffing has remained relatively static over the past 10 years and is currently at 17 FTEs. The FY 2018-19 Recommended Budget includes the deletion of one vacant Principal Assistant County Counsel position and the addition of one Sr. Deputy County Counsel position, resulting in no net change in the number of FTEs. All staff is located on the West Slope, with travel to South Lake Tahoe as needed.



BEST PRACTICES & SERVICE INDICATORS

In accordance with the Strategic Plan, the following service indicators have been measured for calendar year 2017. They are included in the following budget, and will be measured and included in each budget thereafter, to measure progress and levels of service.

Service Indicators

Operational Metrics

Juvenile Dependency and Public Guardian Litigation (Annually)

- 1) Appearances in court representing Child Welfare cases, 2017: 2116
- 2) Appearances in court representing the Public Guardian, 2017: 560
- 3) Number of appeals/writs from juvenile dependency cases, 2017: 8
- 4) Percentage of appeals/writs where County prevails, 2017: 87.5%
- 5) Juvenile Dependency Cases opened/closed, 2017: 94/15
- 6) Public Guardian Cases opened/closed, 2017: 23/0

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Outside Litigation

- 1) Number of cases assigned to outside counsel. (Calendar Year)

2014	2015	2016	2017
11	23	19	12

- 2) Costs to County for services provided by outside counsel.

2014	2015	2016	2017
\$516,964	\$1,940,917	\$626,401	\$478,858

In-House Litigation

- 1) Number of cases handled. (Calendar Year; opened/closed)

2014	2015	2016	2017
109	20	40	16/8

- 2) Cost of attorney time spent on the cases, year to date through June 30, 2017: \$77,588

- 3) Cost recovery from outside entities, year to date through June 30, 2017: \$57,732

Legal Service Requests (Calendar Year)

- 1) Number of legal service requests received from departments.

2016	2017
653	659

Contract Reviews (Calendar Year)

- 1) Number of contracts submitted for review.

2016	2017
1,067	1,065

Service Delivery Metrics (Calendar Year)

- 1) Average number of days to respond to legal service requests, 2017: 14.375

- 2) Percentage of standard contract reviews completed within 20 working days, 2017: 99%

- 3) Percentage of non-standard contract reviews completed within 30 working days, 99%

RECOMMENDED BUDGET

This Budget is recommended at \$3,419,165, which is an increase of \$149,554 (4.6%) when compared to the FY 2017-18 Adopted Budget. The General Fund provides 86% of the funding for the Department, and is increased by \$135,554 (4.8%) when compared to the FY 2017-18 Adopted Budget.

A net increase of \$53,084 in Salaries and Benefits costs is primarily due to increased retirement costs and the department’s portion of unemployment insurance funding. These increases are partially offset by the budgeted cost savings of replacing a Principal Deputy County Counsel position with a Sr. Deputy County Counsel allocation (approved as an alternately filled position in FY 2017-18).

Costs in Services and Supplies are also increasing, primarily as a result of an increase to the anticipated need for outside legal services related to specific land use cases. This portion of the budget was increased in previous years to account for costs associated with legal matters, which had been historically charged to the Risk Management fund, and as a result, the Net County Cost increased by \$376,598 (14% in) FY 2016-17. In practice, however, a portion of the cost for outside legal services continues to be charged to and reflected in the Risk Management fund. The budget for this line item was reduced in FY 2017-18 to \$110,000 to be closer to the amount expended given prior year actuals, to account for current year trends, and to recognize funding priorities in other budget areas. However, during the fiscal year, as more services were needed, this line item was increased to \$310,000. The budget for FY 2017-18 is recommended at \$230,000, reflecting a decrease from the adjusted FY 2017-18 amount. Should additional funds be needed during the coming fiscal year, the department will return to the Board with a request for additional funding.

Overall, this represents a status quo budget, as no services are increasing, and the changes in costs are associated with decreases in overall department salaries, changes in health care and insurance costs, and the increase in contracted legal services related to specific land use cases.

CAO Adjustments

A correction was entered to reflect revised calculated charges for Unemployment Insurance trust fund. No other adjustments were made by the Chief Administrative Office.

Sources & Uses of Funds

The budget for County Counsel is primarily funded with discretionary General Fund revenue. These revenues are collected in Department 15 – General Fund Other Operations.

The Department also charges County departments with outside funding sources to recoup a portion of the cost of its services. The Department also receives some revenues for legal services provided to conservatees.

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FINANCIAL INFORMATION BY FUND TYPE

FUND TYPE: 10 GENERAL FUND
DEPARTMENT: 07 CC - COUNTY COUNSEL

	CURRENT YR APPROVED BUDGET	DEPARTMENT REQUEST	CAO RECOMMENDED BUDGET	DIFFERENCE CURR YR CAO RECMD	
TYPE: R REVENUE					
SUBOBJ SUBOBJ TITLE					
1380	LEGAL SERVICES	120,000	100,000	100,000	-20,000
1740	CHARGES FOR SERVICES	0	24,000	24,000	24,000
1810	INTERFND REV: COUNTY COUNSEL	354,225	364,225	364,225	10,000
CLASS: 13	REV: CHARGE FOR SERVICES	474,225	488,225	488,225	14,000
TYPE: R SUBTOTAL		474,225	488,225	488,225	14,000
TYPE: E EXPENDITURE					
SUBOBJ SUBOBJ TITLE					
3000	PERMANENT EMPLOYEES / ELECTED	2,106,090	2,110,871	2,110,871	4,781
3004	OTHER COMPENSATION	61,791	47,261	47,261	-14,530
3020	RETIREMENT EMPLOYER SHARE	396,104	460,767	460,767	64,663
3022	MEDI CARE EMPLOYER SHARE	30,422	30,607	30,607	185
3040	HEALTH INSURANCE EMPLOYER	178,170	181,133	181,133	2,963
3041	UNEMPLOYMENT INSURANCE EMPLOYER	0	52,772	2,975	2,975
3042	LONG TERM DISABILITY EMPLOYER	5,247	5,276	5,276	29
3043	DEFERRED COMPENSATION EMPLOYER	21,661	14,073	14,073	-7,588
3046	RETIREE HEALTH: DEFINED	19,469	20,350	20,350	881
3060	WORKERS' COMPENSATION EMPLOYER	23,745	22,470	22,470	-1,275
3080	FLEXIBLE BENEFITS	102,000	102,000	102,000	0
CLASS: 30	SALARY & EMPLOYEE BENEFITS	2,944,699	3,047,580	2,997,783	53,084
4041	COUNTY PASS THRU TELEPHONE CHARGES	360	240	240	-120
4100	INSURANCE: PREMIUM	5,397	9,828	9,828	4,431
4141	MAINT: OFFICE EQUIPMENT	285	285	285	0
4144	MAINT: COMPUTER	7,668	7,668	7,668	0
4220	MEMBERSHIPS	12,369	12,439	12,439	70
4221	MEMBERSHIPS: LEGISLATIVE ADVOCACY	2,732	2,732	2,732	0
4260	OFFICE EXPENSE	10,500	10,000	10,000	-500
4261	POSTAGE	2,170	2,170	2,170	0
4263	SUBSCRIPTION / NEWSPAPER / JOURNALS	1,560	450	450	-1,110
4265	LAW BOOKS	60,000	36,000	36,000	-24,000
4266	PRINTING / DUPLICATING SERVICES	500	500	500	0
4267	ON-LINE SUBSCRIPTIONS	33,840	35,484	35,484	1,644
4300	PROFESSIONAL & SPECIALIZED SERVICES	20,161	11,500	11,500	-8,661
4315	CONTRACT: LEGAL ATTORNEY	110,000	230,000	230,000	120,000
4400	PUBLICATION & LEGAL NOTICES	1,000	1,000	1,000	0
4420	RENT & LEASE: EQUIPMENT	10,368	10,368	10,368	0
4462	EQUIP: COMPUTER	0	4,000	4,000	4,000
4500	SPECIAL DEPT EXPENSE	1,350	2,100	2,100	750
4503	STAFF DEVELOPMENT	7,680	7,680	7,680	0
4600	TRANSPORTATION & TRAVEL	7,285	8,400	8,400	1,115
4602	MILEAGE: EMPLOYEE PRIVATE AUTO	13,200	13,200	13,200	0
4605	RENT & LEASE: VEHICLE	1,000	1,000	1,000	0
4606	FUEL PURCHASES	300	300	300	0
4608	HOTEL ACCOMMODATIONS	8,400	8,400	8,400	0
CLASS: 40	SERVICE & SUPPLIES	318,125	415,744	415,744	97,619
7210	INTRAFND: COLLECTIONS	250	0	0	-250
7223	INTRAFND: MAIL SERVICE	5,437	5,033	5,033	-404
7224	INTRAFND: STORES SUPPORT	140	105	105	-35
7231	INTRAFND: IS PROGRAMMING SUPPORT	560	100	100	-460
7232	INTRAFND: MAINT BLDG & IMPROVMNTS	400	400	400	0
CLASS: 72	INTRAFUND TRANSFERS	6,787	5,638	5,638	-1,149
TYPE: E SUBTOTAL		3,269,611	3,468,962	3,419,165	149,554
FUND TYPE: 10	SUBTOTAL	2,795,386	2,980,737	2,930,940	135,554
DEPARTMENT: 07	SUBTOTAL	2,795,386	2,980,737	2,930,940	135,554

PERSONNEL ALLOCATION

Classification Title	2017-18 Adjusted Allocation	2018-19 Dept Request	2018-19 CAO Recm'd	Diff from Adjusted
County Counsel	1.00	1.00	1.00	-
Assistant County Counsel	1.00	1.00	1.00	-
Administrative Analyst I/II	1.00	1.00	1.00	-
Deputy County Counsel	6.00	6.00	6.00	-
Legal Secretary I/II	1.00	1.00	1.00	-
Principal Deputy County Counsel	1.00	-	-	(1.00)
Sr. Deputy County Counsel	3.00	4.00	4.00	1.00
Sr. Legal Secretary	3.00	3.00	3.00	-
Department Total	17.00	17.00	17.00	-

ORGANIZATIONAL CHART

