

STATE BOARD OF LAND COMMISSIONERS

May 21, 2024
Information Agenda

Subject

Department of Lands' Legal Staffing Process

Background

During the 2024 legislative session, the Idaho Legislature provided the Idaho Department of Lands (Department) with the following authority:

58-120. GENERAL COUNSEL TO REPRESENT THE DEPARTMENT OF LANDS. (1) Counsel to the department of lands shall be provided by an attorney hired by the director of the department of lands subject to approval by the state land board. Such counsel shall be independent of the office of the attorney general but may consult with the office of the attorney general as determined by the counsel. Such counsel shall be designated the general counsel for the department of lands. (2) General counsel may hire additional attorneys or contract with the office of the attorney general as necessary. Nothing in this section shall preclude the department of lands from hiring counsel separate from the general counsel.

The legislature provided four full time positions; one lead attorney, two attorney 2 positions, and one legal assistant. Funding for personnel costs, operating expenses and capital outlay was also provided. The positions and funding are available at the beginning of fiscal year 2025.

The Department has a significant amount of ongoing legal business currently in process with the Office of the Attorney General. While the Department is working diligently to fill the positions as soon as possible, there will be a transition period.

Discussion

The Department has identified legal issues in need of continued support prior to the availability of internal legal staff. Additionally, the Office of the Attorney General currently represents the Department in various matters involving litigation.

The Director and staff met with representatives from the Office of the Attorney General to discuss the path forward. The Office of the Attorney General indicated support for a transition process that reduces the potential for problems and offered ongoing support during the transition and beyond where needed. The status of ongoing litigation will be summarized in a letter from the Office of the Attorney General to the Department. The Department will review and acknowledge the letter and provide the Office of the Attorney General with any necessary requests for immediate legal support regarding any other issues.

The Department is currently recruiting for the lead attorney position. Consistent with the statutory requirement, any selected candidate for the lead attorney would be subject to State Board of Land Commissioners (Land Board) approval, with timing dependent on successful recruitment.

The Department expects to advertise for the attorney 2 positions and the legal assistant soon with the goal of lead attorney participation in the selections for the other positions.