

**FINANCIAL IMPACT STATEMENT  
For Council Action Items**

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Robert Azorr, Police Investigative Accountant		Phone number: (503) 823-0470	2. Bureau/Office/Dept. Portland Police Bureau
4a. To be filed (date) October 6, 2010	4b. Calendar (Check One) Regular <input type="checkbox"/> Consent <input checked="" type="checkbox"/> 4/5ths <input type="checkbox"/>		5. Date Submitted to FPD Budget Analyst: Sept. 24 <sup>th</sup> , 2010

**1) Legislation Title:** Provide authority for the City Attorney to contract a private attorney who may file litigation regarding Civil Forfeiture claims. The contract is for State Civil Forfeiture Legal Counsel in support of State Civil Forfeiture actions under ORS131A.

**2) Purpose of the Proposed Legislation:** Hire forfeiture counsel to support Portland Police Bureau State Civil Forfeiture actions. Forfeiture counsel reviews Police seizures that are alleged to represent the profits and proceeds of drug trafficking crimes, or were funds used to facilitate illegal drug distribution. Forfeiture counsel prepares ex-parte forfeiture orders and file complaints when necessary. Counsel reports case information to the State Asset Forfeiture Oversight Committee.

Based on history, 3% - 5% of Civil Forfeiture cases may result in the filing of a compliant by the forfeiture counsel. This would be for cases in which a claim was filed and after consultation with the Police Bureau. The proposed legislation will authorize the contract attorney to file these complaints. 95% of all forfeiture seizures result in no claim files and an administrative forfeiture judgment.

**3) Revenue:**

*Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If new revenue is generated please identify the source.*

The Portland Police Bureau will receive revenue of 62.5% of all forfeited proceeds. The State Law narrowly defines the use of these funds to drug enforcement equipment, evidence funds, drug education, forfeiture counsel, and prosecution. The contract forfeiture counsel is paid 33% of the forfeited proceeds on cases where no claim is filed, and 40% on cases where a complaint is filed. State Civil Forfeiture revenue is difficult to predict but is somewhat correlated to drug distribution arrests.

*Example: Assuming annual civil forfeitures of \$200,000 would result in law enforcements share (62.5%) of \$125,000, of which \$41,625 would be paid to the contract legal counsel, and \$83,375 would be Police Bureau revenue. This is based on an attorney fee rate of 33%.*

The State Forfeiture Law requires the first 37.5% of forfeited funds be distributed to various State agencies such as DEQ, Forfeiture Oversight Committee, Defense Attorneys Fund, and Children’s Relief Nurseries.

**4) Expense:**

*What are the costs to the City as a result of this legislation? What is the source of funding for the expense? (Please include costs in the current fiscal year as well as costs in future years) (If the action is related to a grant or contract please include the local contribution or match required)*

The contract forfeiture attorney is paid 33% of forfeited proceeds on cases in which no claim is filed and a default judgment is entered. Should the contract forfeiture file a complaint, the attorney fee increases from 33% to 40%. Based on history, the contract counsel may file a compliant on 3%-5% of the State civil forfeiture cases initiated. The incremental cost of filing a complaint versus an administrative default judgment is 7% of the forfeited proceeds. Therefore, on 3%-5% of our civil forfeiture cases, the Police Bureau will pay an additional 7% from the funds forfeited. The net effect for those few cases would be to lower our share of the revenue by 7%.

The contract forfeiture attorney will be paid directly out of the Portland Police Bureau State Civil Forfeiture Fund #222001, PL00.

*Example: Assuming annual civil forfeitures of \$200,000 would result in law enforcements share (62.5%) of \$125,000, of which \$41,625 would be paid to the contract legal counsel, and \$83,375 would be Police Bureau revenue. This is based on an attorney fee rate of 33%. For those few cases where a complaint is filed, the attorney fee would be 40%, or 7% more, and the Police Bureau revenue would be reduced by that amount.*

**Staffing Requirements:**

**5) Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** *(If new positions are created please include whether they will be part-time, full-time, limited term or permanent positions. If the position is limited term please indicate the end of the term.)*

The contract for legal services replaces a service previously provided by the City Attorney's Office but was eliminated during the budget process for 2010/11.

**6) Will positions be created or eliminated in future years as a result of this legislation?**

No. This contract for legal counsel is the only required service to conduct this activity. Portland Police Bureau civil forfeiture support is a part of duties already assigned.

**Complete the following section only if an amendment to the budget is proposed.**

**7) Change in Appropriations** *(If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Center Code column if new center needs to be created. Use additional space if needed.)*

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Amount

APPROPRIATION UNIT HEAD (Typed name and signature)