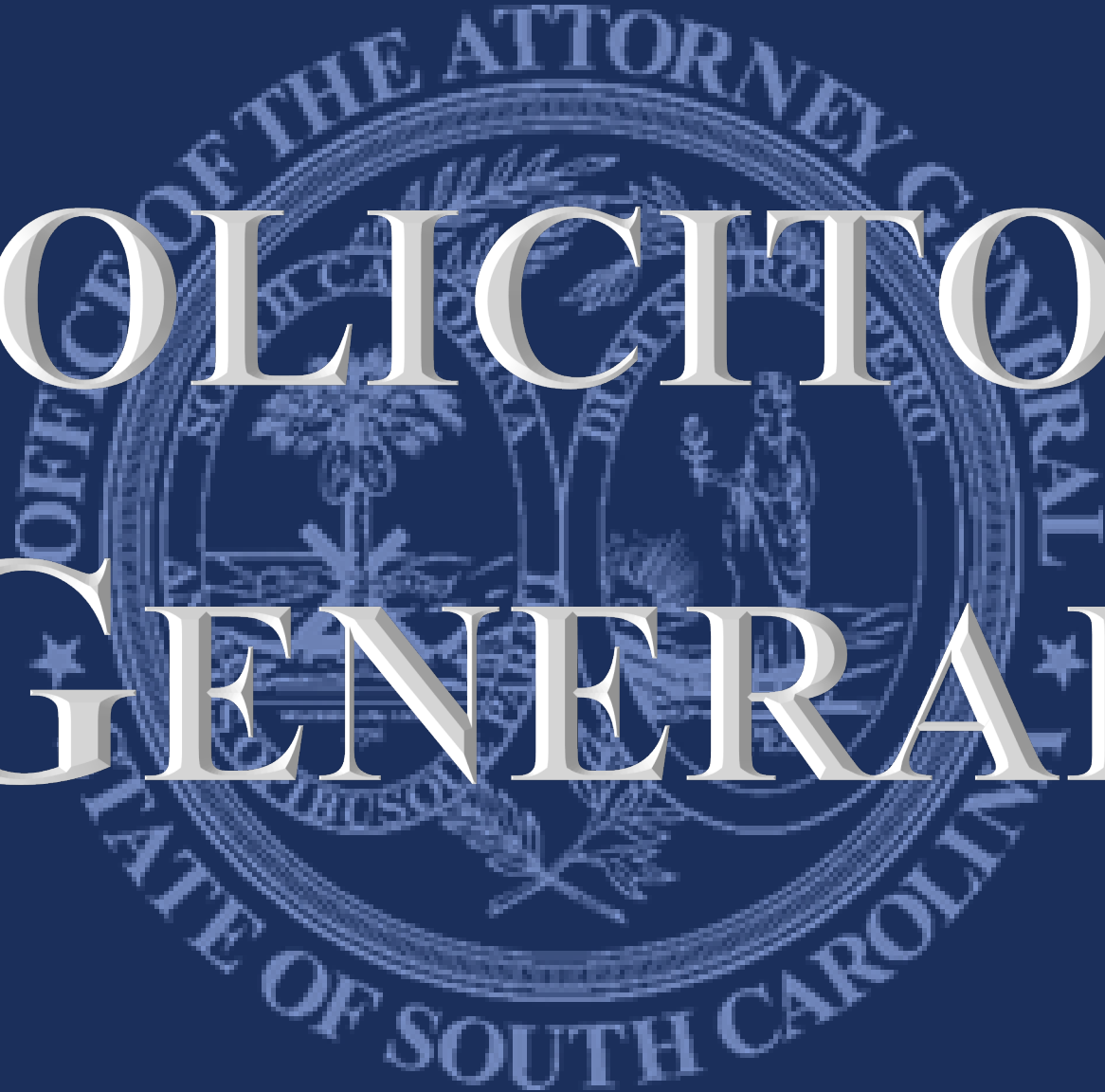


Overview of Divisions

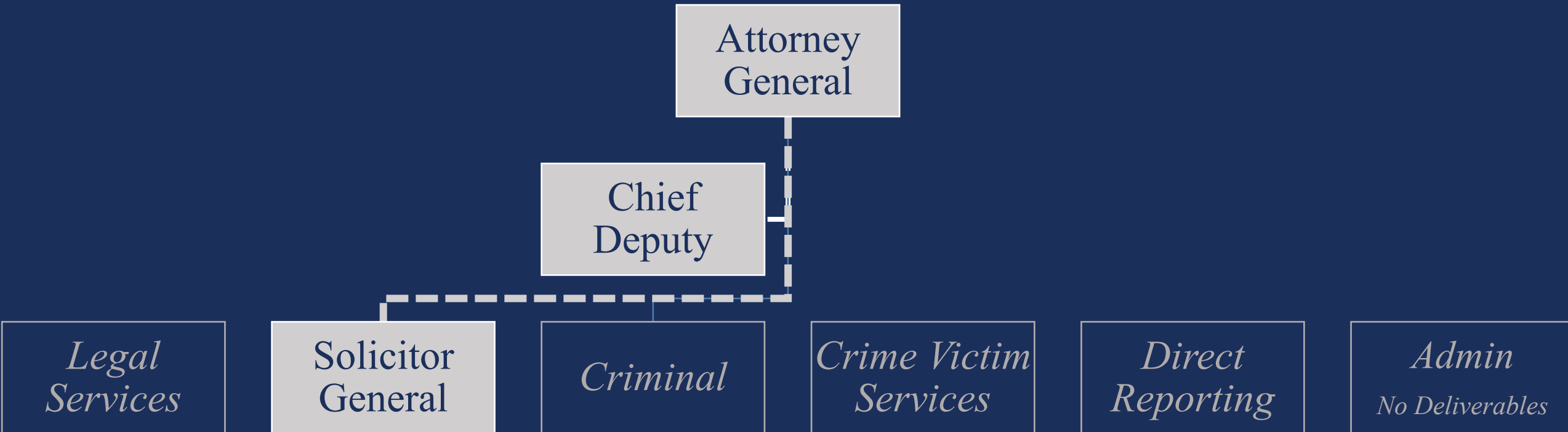
SOLICITOR GENERAL





Alan Wilson
Attorney General

Bob Cook
Solicitor General



Solicitor General

Background

- Position was initiated by AG Wilson following the National Association of Attorney General's (NAAG) review in 2013
- This formalized an existing relationship, and the organizational structure followed
- Follows similar structures in other states and best practices

Responsibilities

- Supervises and collaborates on complex and strategic civil litigation including appellate advocacy.
- Assures consistency of legal positions/theories across divisions within the AG's office
- Note: Different division may be lead on determining the position/theory
- Evaluates quality of written and oral advocacy of Office of Attorney General lawyers (civil, not criminal)
- Reviews NAAG and other amicus requests and sign on letters
- Includes Opinions Section
 - Separate section formalized in 1984
 - Made part of Division when Solicitor General established

Personnel

	Turnover	Number of Employees	
		Leave unit during year	In unit at end of year
2016-17	0%	0	7
2017-18	0%	0	7
2018-19	17%	1	6
2019-20	0%	0	7

Exit interviews or surveys conducted?

2016-17	No
2017-18	No
2018-19	No
2019-20	No

Employee satisfaction tracked?

2016-17	No
2017-18	Yes
2018-19	No
2019-20	No



Personnel

Solicitor General: Bob Cook

Administrative Coordinator: Joanne Lee

Opinions

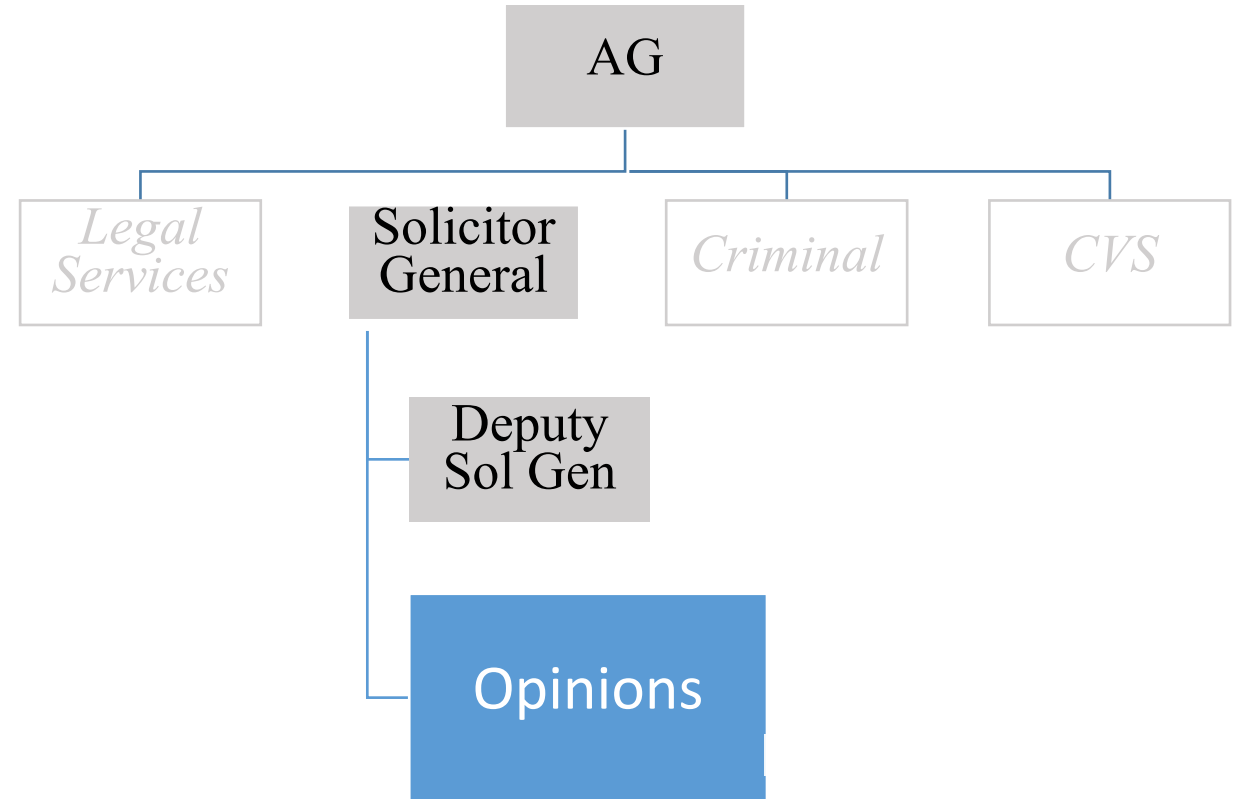
- Matt Houck, Assistant Attorney General (AAG)
- David Jones, AAG
- Ellie Lister, AAG
- Cydney Milling, AAG

Deputy Solicitor General

- Emory Smith, Deputy Solicitor General (DSG)
- Thomas Hydrick, Asst. DSG



Opinions Section



Formal Opinions, Unpublished Advice, and Other Resolutions

Formal legal opinions are one of the oldest responsibilities of the Office

What is the purpose?

- Assist in understanding of existing laws
- Attempt to resolve question as a court would decide (i.e., not advocating for one position or another)

What cannot be answered?

- Examples: Findings of fact (cannot decide factual disputes); Issues impacting pending court case

Formal Published Opinions

Who can request one?

- Governor
- All 170 General Assembly Members
- Other S.C. public officials (e.g., state agency; city/county council as a body; magistrates; sheriff's office)

Weight and Review

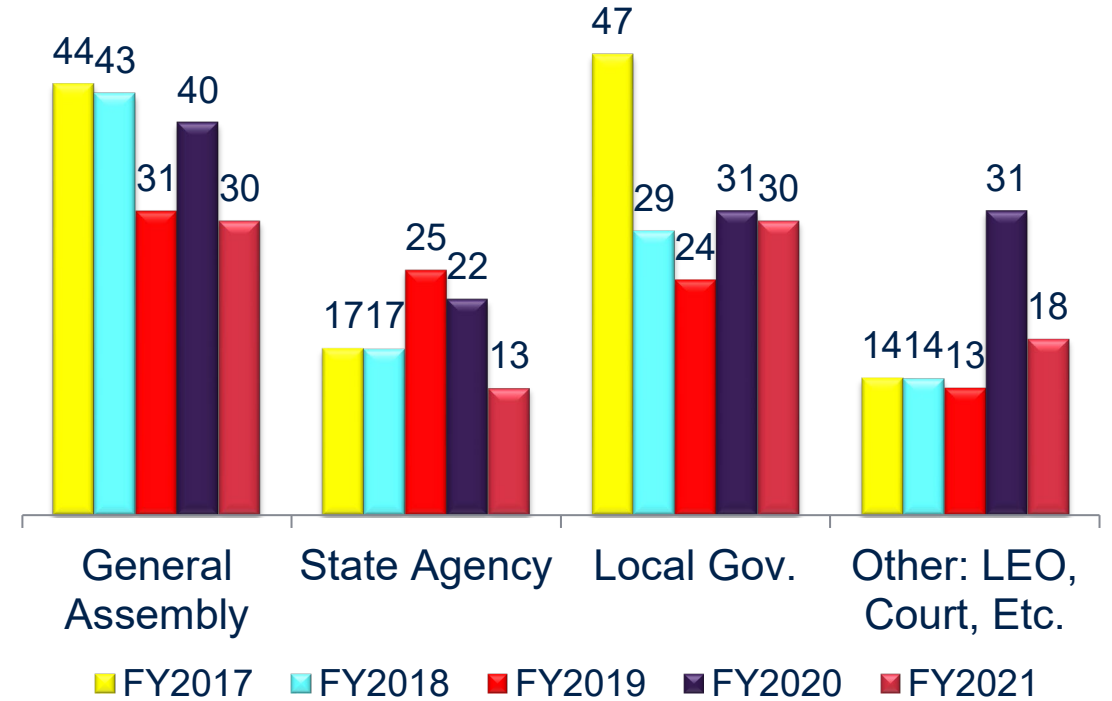
- Advisory, but courts have given deference in the past
- All are reviewed by the Solicitor General

Location

- 1878-1994 Opinions: Dept. of Archives and History
- 1959-present Opinions: Lexis or Westlaw
- 1974-present Opinions: AG website
 - Searchable by category or general terms
 - No guarantee all are online; opinions may not be posted for a variety of reasons

Number Requested

Some requests carry over to the subsequent fiscal year, but none are left unresolved.

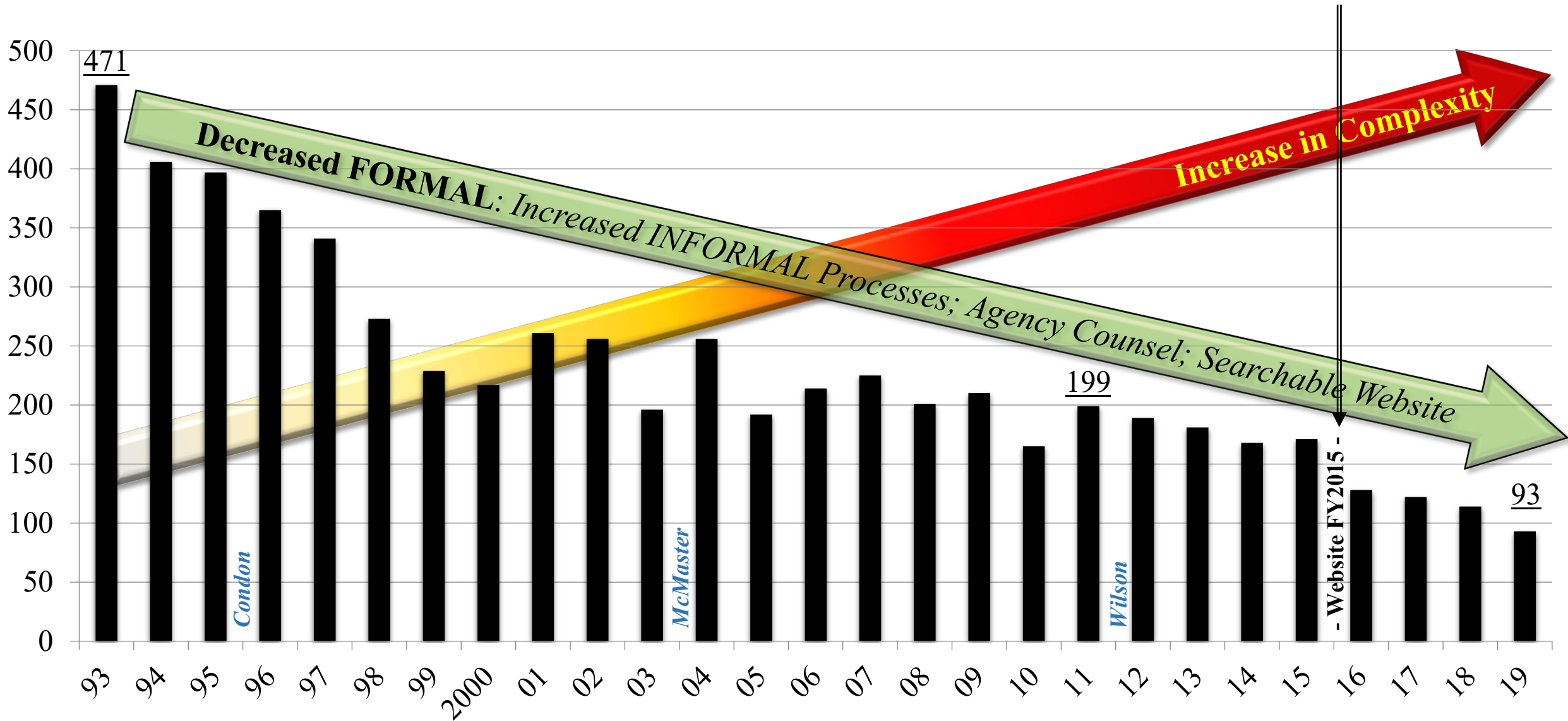


		Agency Service #89:				Agency Service #90:					
		Formal Opinions Issued to General Assembly Members and Governor	2016-17	Employee equivalents	Total Cost of service	% of total agency costs	Formal Opinions Issued to Other S.C. Public Officials	2016-17	Employee equivalents	Total Cost of service	% of total agency costs
Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; Section 1-7-90	Does law require it: Yes		2016-17	2.32	\$186,793.01	0.95%	Does law require it: No	2016-17	2.30	\$168,894.77	0.86%
			2017-18	2.32	\$213,512.13	0.36%		2017-18	2.30	\$200,624.38	0.34%
			2018-19	2.32	\$206,673.94	0.31%		2018-19	2.30	\$187,754.09	0.28%
			2019-20	2.29	\$214,711.54	0.28%		2019-20	2.09	\$207,002.90	0.27%

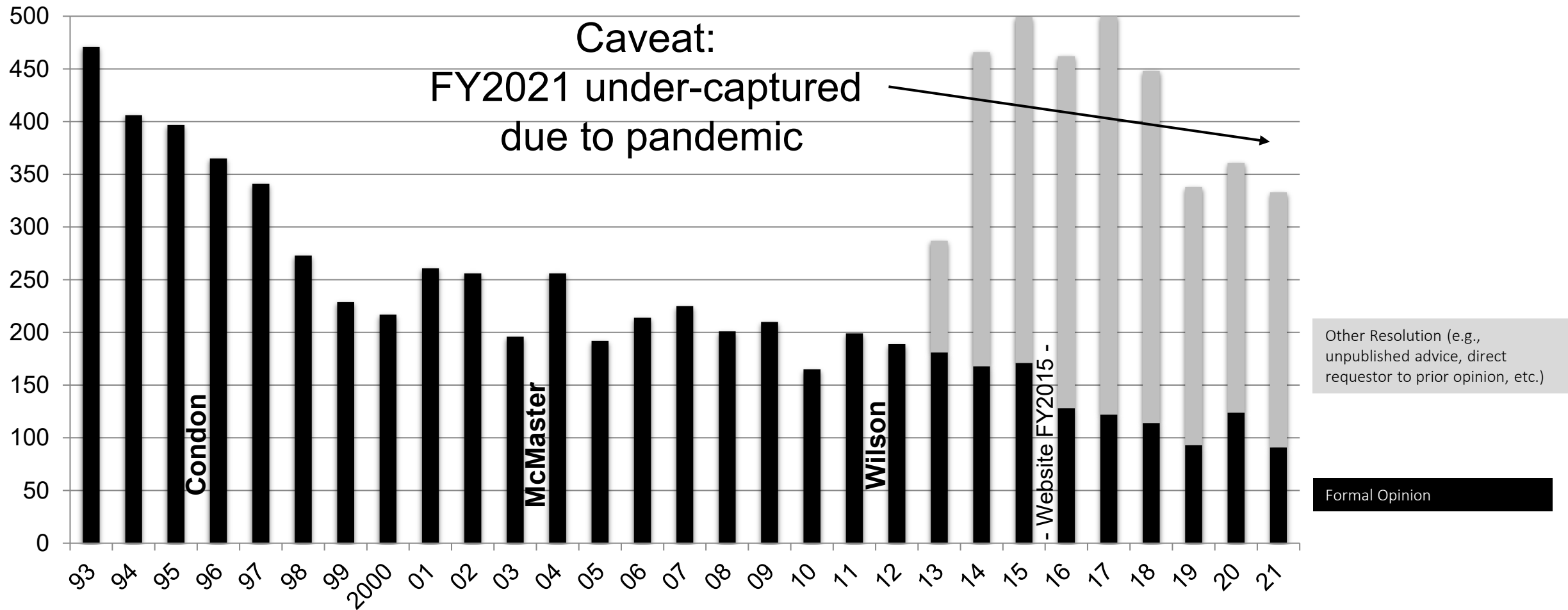
Formal Opinion Requests

by Fiscal Year

Note: Decrease in formal opinions may be increase in availability of prior opinions, increase in counsel for individual agencies, etc.



Resolutions in Perspective



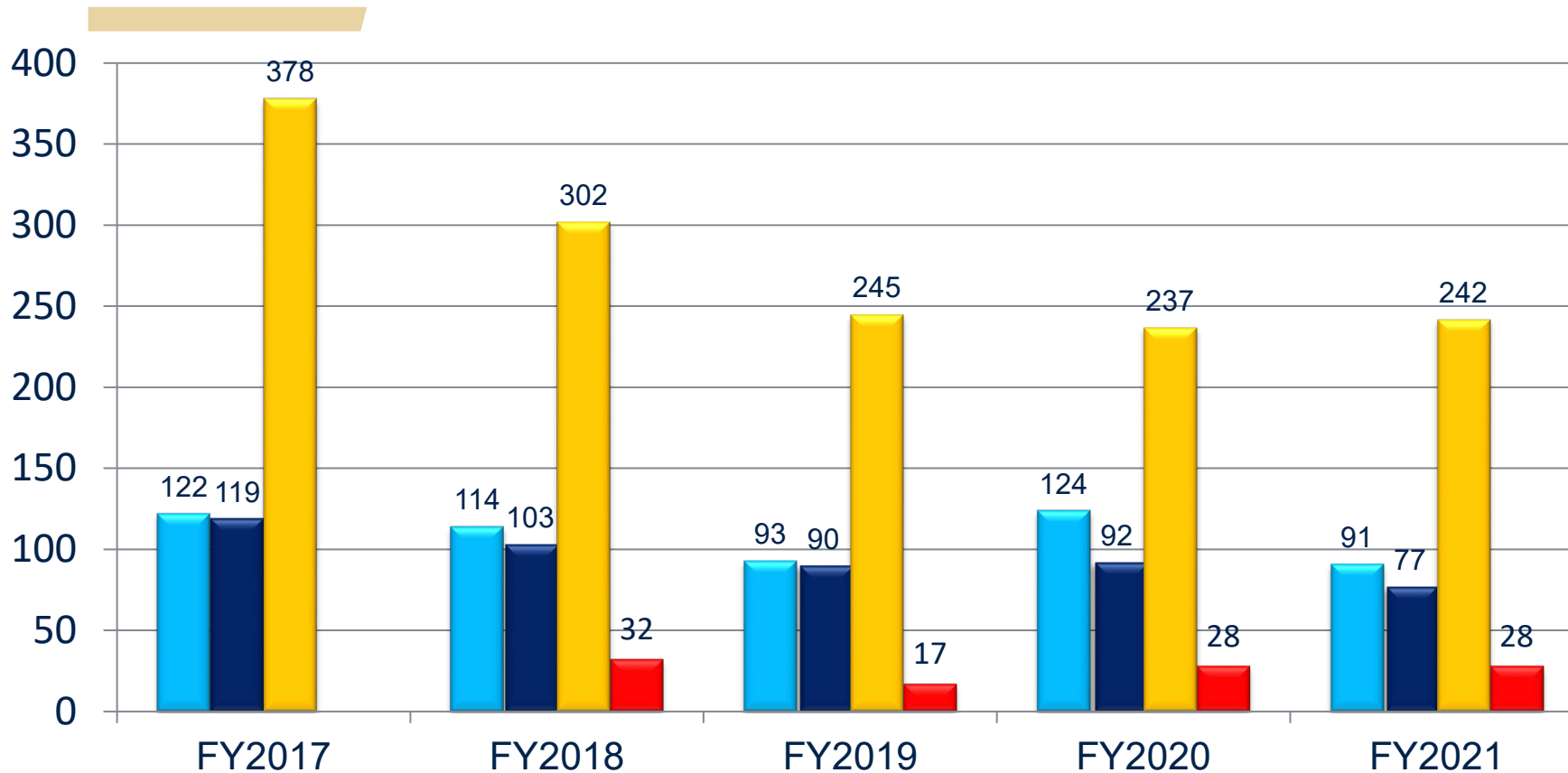
Unpublished Advice and Other Resolutions

- Attorney General occasionally provides substantive legal advice to public officials consistent with Section 1-7-40 without issuing a comprehensive formal opinion.
- Attorney General also seeks to resolve requests for past opinions or other requests for legal advice or direction in a manner consistent with the mission and resources of our agency.
- Provides public officials from S.C., other states, and federal government with succinct legal analysis to understand existing S.C. laws and inform official actions.
- General public also benefits from access to copies of all published formal opinions on a public website and receipt of specific prior opinions when requested.
 - Any member of the general public is a potential customer in that they may request a copy of a prior opinion and may access those opinions on our public website. For FY2020, the 237 figure is known to under-represent the actual number, which is unknown due to COVID disruptions to workflow (Solicitor General worked from home).

Agency Service #91: Unpublished advice and other resolutions

				<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Does law require it: No	Customers:	Single Unit:	2016-17	378.00	\$208.72	1.01	\$78,897.67	0.40%
	SC public officials and members	Email, telephone	2017-18	335.00	\$260.04	1.01	\$87,113.95	0.15%
Assoc. Laws: Section S.C. Const. Art IV § 24, Art. V § 28; Section 1-7-90	of the general public that	conversation, and/or	2018-19	262.00	\$334.74	1.01	\$87,700.66	0.13%
	request opinions	conveyance of prior opinion	2019-20	237.00	\$419.91	1.03	\$99,519.33	0.13%

Formal Opinions, Unpublished Advice, and Other Resolutions: 5 Year History



■ Opinions Requested
 ■ Other Resolutions

■ Opinions Issued
 ■ Unpub. Advice (first tracked FY2018)

Note:

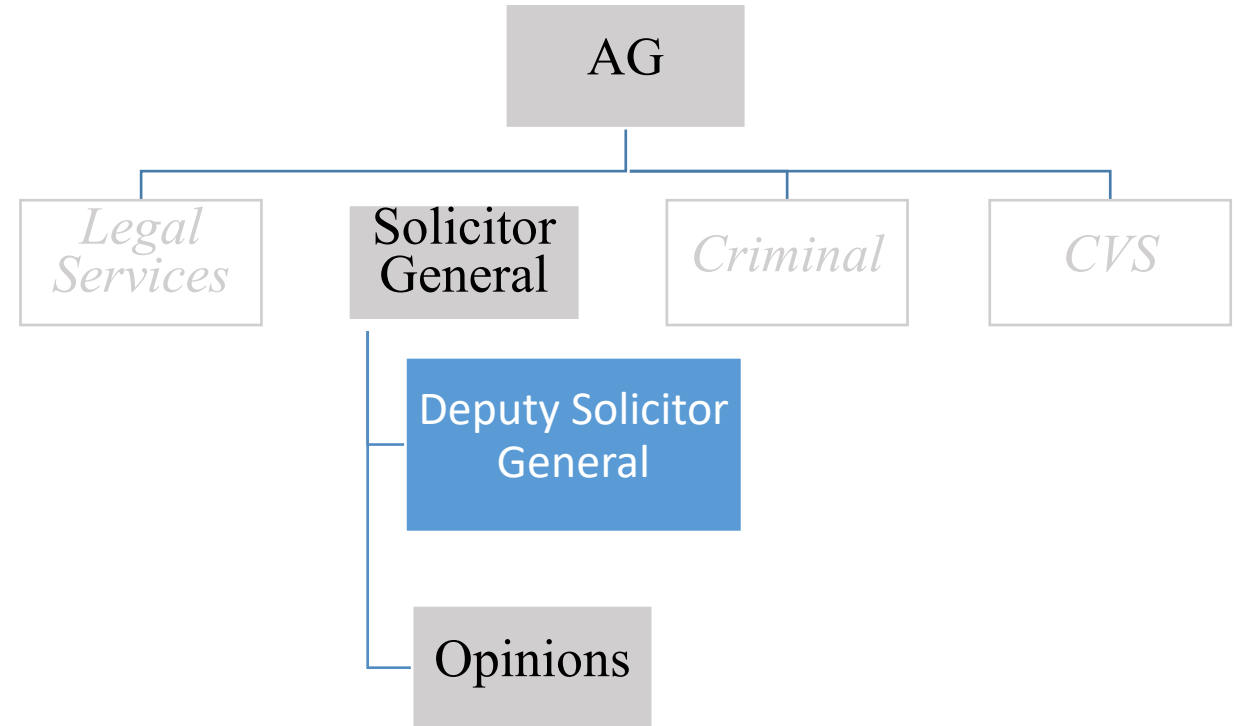
- Unpublished advice often addresses situations outside the parameters of formal opinions (e.g., advice on S.C. law for a federal agency). It requires more work than other resolutions, but less work than formal published opinions. Other resolutions include emailing copies of prior opinions from AG’s website, phone calls, etc.



SOUTH CAROLINA
 ATTORNEY GENERAL'S OFFICE



Deputy Solicitor General Section



Deputy Solicitor General

The Deputy Solicitor General assists in strategic legal policy

Three primary areas include:

- Major court cases impacting policy, including:
 - Federal court civil cases
 - Major or strategic State court civil cases
- Amicus Briefs
- “Sign-on” letters

State Legal Policy

Coordination of State Legal Policy

- As the State's chief legal officer, Attorney General ensures that the legal positions of the State are coordinated, unified, coherent, and consistent.

Communication of State Legal Policy to Public

- Attorney General ensures the public understands the legal positions of the State by explaining them in a way that can be understood by non-lawyers.
- This may take the form of coordination with the Communications section or directly with the Attorney General in preparing for speeches or press conferences.

Agency Service #99: Coordination of State Legal Policy

Does law require it: No

Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; see also Cooley, et al. v. South Carolina Tax Commission, 204 S.C. 10, 28 S.E.2d 445, 450 (1943) (role of the SCAG as the State's chief legal officer).

Purpose:

The State is best served when the public understands the legal positions of the State in matters of public interest.

	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
2016-17	0.17	\$21,773.19	0.11%
2017-18	0.17	\$22,378.80	0.04%
2018-19	0.17	\$23,500.41	0.04%
2019-20	0.17	\$23,566.67	0.03%

Agency Service #100: Communication of State Legal Policy to Public

Does law require it: No

Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; see also Cooley, et al. v. South Carolina Tax Commission, 204 S.C. 10, 28 S.E.2d 445, 450 (1943) (role of the SCAG as the State's chief legal officer).

Purpose:

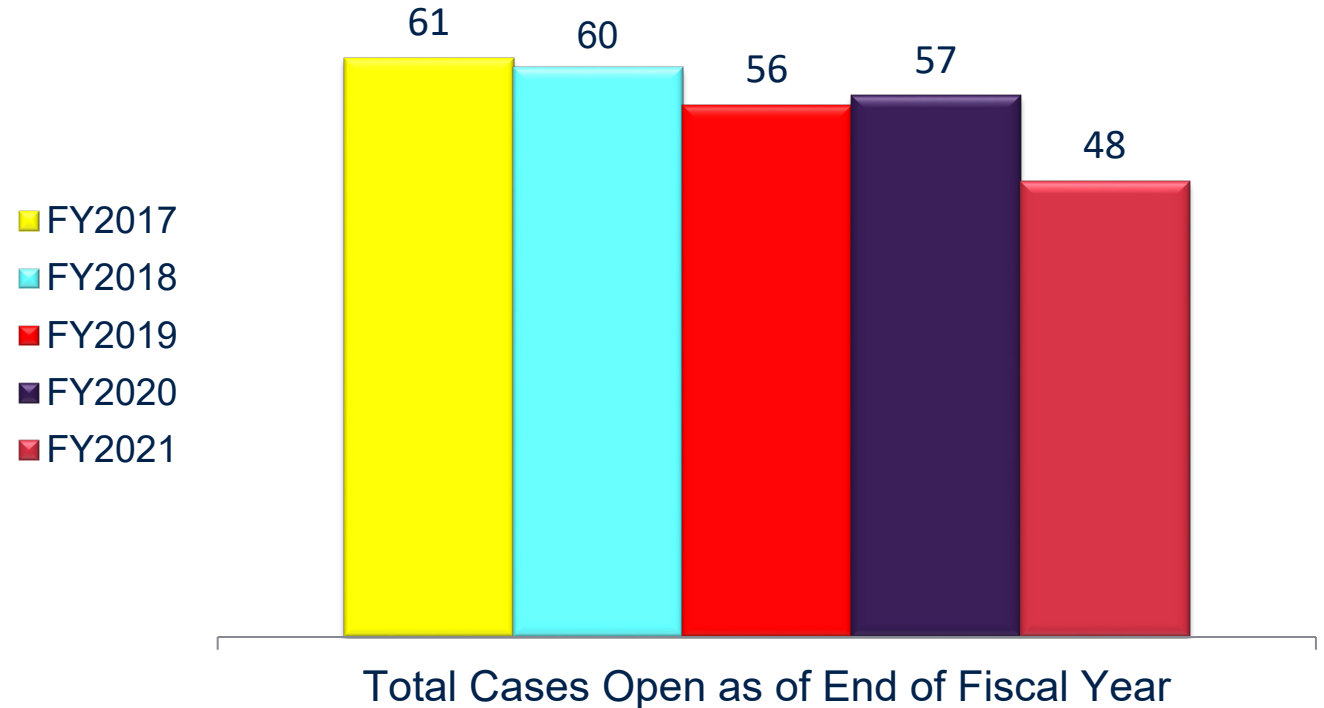
The State is best served when the public understands the legal positions of the State in matters of public interest.

	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
2016-17	0.04	\$4,354.64	0.02%
2017-18	0.04	\$4,475.76	0.01%
2018-19	0.04	\$4,700.08	0.01%
2019-20	0.04	\$4,713.33	0.01%

Major Litigation

Solicitor General Division v. Civil Division

- Solicitor General leads and collaborates on complex and strategic litigation
 - Takes lead on cases that may impact policy of the state (e.g., State Constitution interpretation)
 - Takes lead on certain complex litigation
 - May collaborate on other matters (e.g., direction legislature is working with federal issues, multi-state actions)
- Civil Division handles broad array of matters; Solicitor General Division focuses on a particular subset



Note: FY2021 reduction due to closure of dormant cases.

Agency Service #92: Major Litigation

Does law require it: Yes

Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; Section 1-7-90

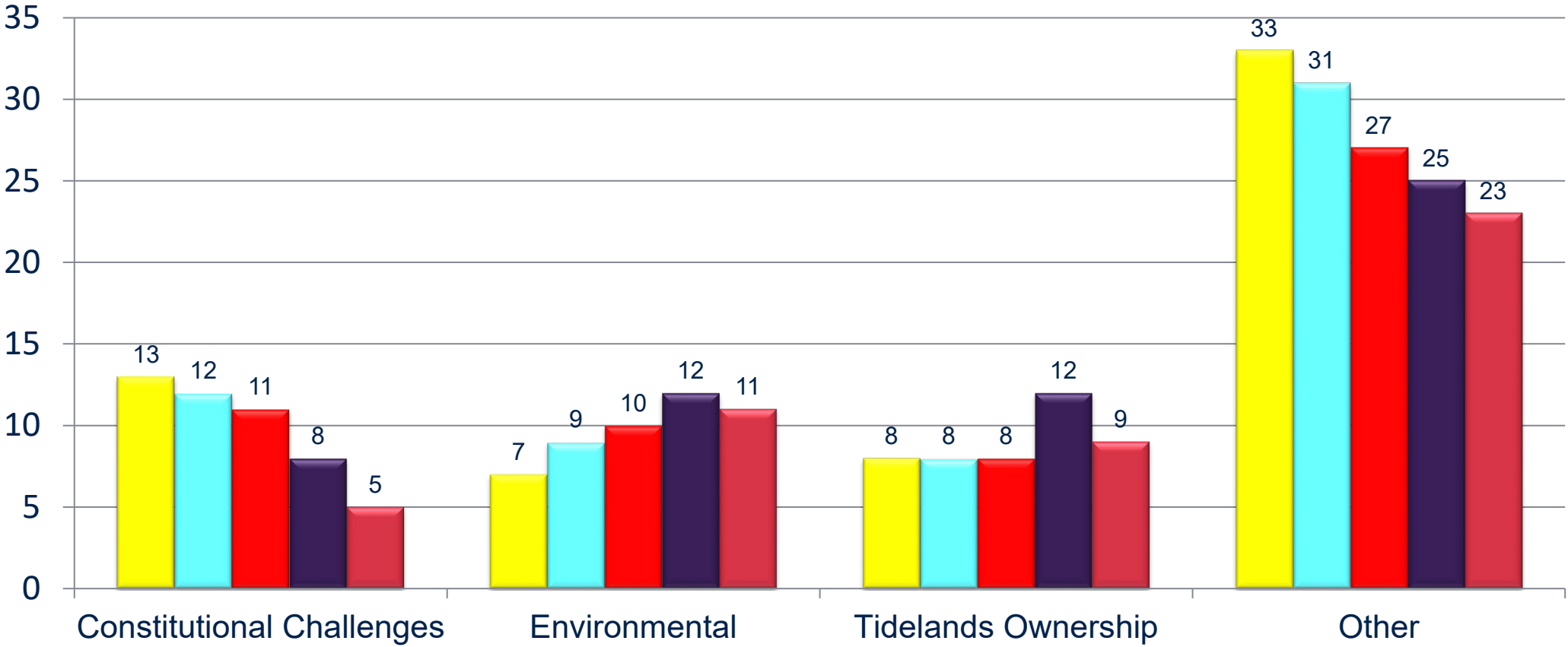
Purpose:

As the State's chief legal officer, the Attorney General ensures that the State's interests are diligently represented in major litigation.

Single Unit:
Cases open at
year end

		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
2016-17	Not provided	Insufficient data	1.92	\$245,608.44	1.25%	
2017-18	Not provided	Insufficient data	1.92	\$253,660.66	0.43%	
2018-19	Not provided	Insufficient data	1.92	\$266,415.05	0.40%	
2019-20	57.00	\$4,709.07	1.92	\$268,417.11	0.35%	

Litigation by Subject



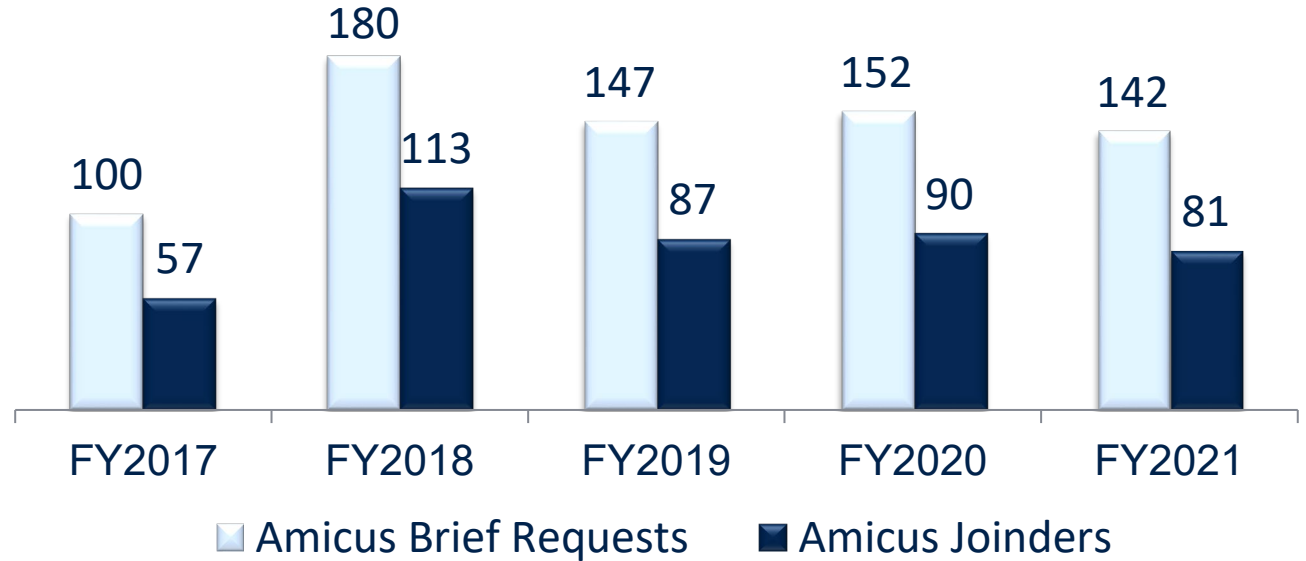
Someone challenges constitutionality of a statute

FY2017 FY2018 FY2019 FY2020 FY2021

Example of "other" is bringing suit against a municipality to enforce a state law

Amicus Briefs

- Filed in a case where the State is not a party, but the State still provides legal arguments or other relevant information in support of a position to assist the court in deciding the case.
 - Occurs in state and federal court, but mainly occurs in federal court with the AG joining other states
- There is no specific test or written policy on what is considered when deciding whether to file an amicus brief, but the issues are reviewed by several attorneys in the AG's Office in advance.



All amicus briefs & sign-ons come through SGD and decisions are made in consultation with other Divisions including, e.g., CPAT or Criminal.

Agency Service #93: Amicus Briefs

Does law require it: No
 Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; see also Cooley, et al. v. South Carolina Tax Commission, 204 S.C. 10, 28 S.E.2d 445, 450 (1943) (role of the SCAG as the State's chief legal officer).

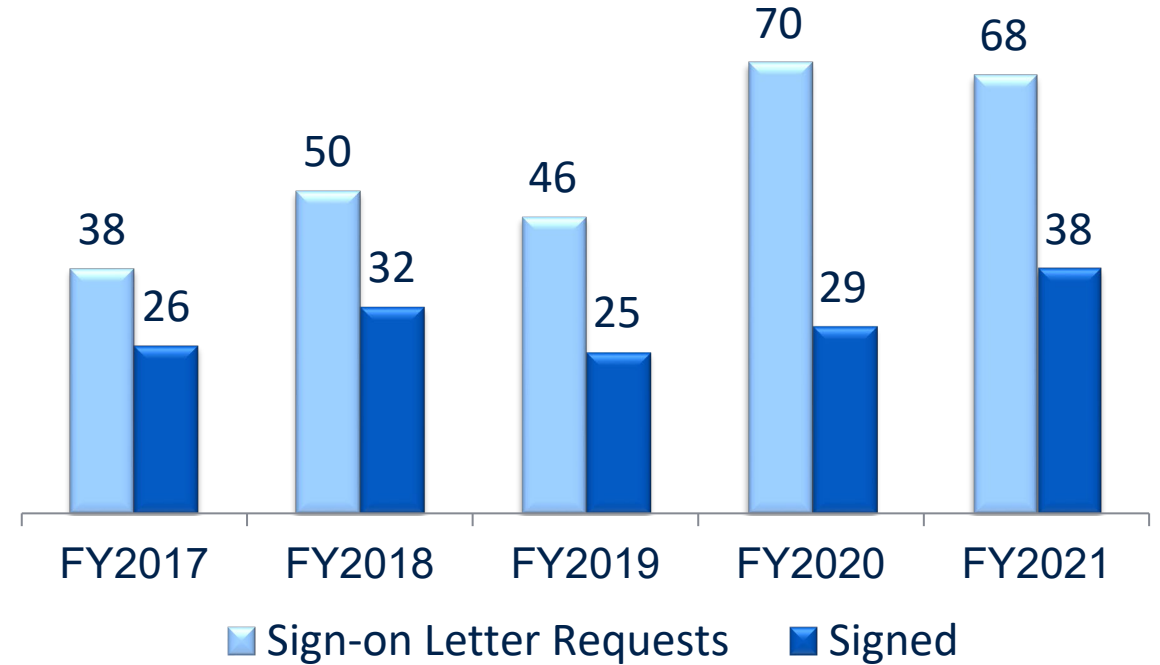
Purpose:
 As the State's chief legal officer the Attorney General provides amicus briefs to State and Federal Courts in furtherance of the State's legal policy.

Single Unit:
 Amicus brief, including third-party and joint briefs authored by SCAG

	Units provided	Cost per unit	Employee equivalents	Total Cost of service	% of total agency costs
2016-17	57.00	\$407.25	0.15	\$23,213.53	0.12%
2017-18	113.00	\$211.23	0.15	\$23,869.16	0.04%
2018-19	87.00	\$288.58	0.15	\$25,106.20	0.04%
2019-20	90.00	\$279.88	0.15	\$25,188.95	0.03%

Sign-on Letters

- Letter stating a position
 - Example – Letter to a federal regulator considering adopting a rule
 - Example – Letter to Congress in the legislative process
- It is a form of legal advocacy outside of litigation
- There is no specific test or written policy on what is considered when deciding whether to file a sign on letter, but the issues are reviewed by several attorneys in the AG’s Office in advance



Agency Service #94: Sign-On Letters

Does law require it: No
 Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; see also Cooley, et al. v. South Carolina Tax Commission, 204 S.C. 10, 28 S.E.2d 445, 450 (1943) (role of the SCAG as the State's chief legal officer).

Purpose:
 As the State's chief legal officer, the Attorney General ensures that the State's interests are diligently represented by signing on to position letters authored by other states where appropriate.

		<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Single	2016-17	26.00	\$156.28	0.04	\$4,063.21	0.02%
Unit:	2017-18	32.00	\$130.54	0.04	\$4,177.22	0.01%
Sign-on letter	2018-19	25.00	\$175.63	0.04	\$4,390.65	0.01%
	2019-20	29.00	\$222.65	0.04	\$6,456.71	0.01%

Intersection of Litigation and Financials

Annual Litigation Report

- Attorney General prepares and presents one large annual report re: litigation to the Comptroller General with a potential gain / loss of \$3 million
- It provides the Comptroller General with some information re: potential gains or losses as a result of litigation

Response to Routine Auditor's Examinations of State Agency Financial Statements

- Entities for which the Attorney General provides defense (e.g., technical schools, state agencies, etc.) must account for liability in financial audits
- When those entities are audited, the AG responds to requests concerning the existence of any litigation undertaken by our Office on behalf of the entity and possible potential losses
- Deliverable requires an average of less than one full day per work year

Agency Service #95: Annual Litigation Report

Does law require it: No

S.C. Const. Art IV § 24, Art. V § 28; see also Cooley, et al. v. South Carolina Tax Commission, 204 S.C. 10, 28 S.E.2d 445, 450 (1943) (role of the SCAG as the State's chief legal officer).

Customer:
Comptroller
General

Single Unit:
Annual Litigation
Report

	<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
2016-17	1.00	\$1,885.89	0.01	\$1,885.89	0.01%
2017-18	1.00	\$1,939.34	0.01	\$1,939.34	0.00%
2018-19	1.00	\$2,040.61	0.01	\$2,040.61	0.00%
2019-20	1.00	\$1,029.11	0.01	\$1,029.11	0.00%

Agency Service #97: Response to Routine Auditor's Examinations of State

Agency Financial Statements

Does law require it: No

Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; see also Cooley, et al. v. South Carolina Tax Commission, 204 S.C. 10, 28 S.E.2d 445, 450 (1943) (role of the SCAG as the State's chief legal officer).

Customer:
State agencies and
institutions

Single Unit:
Letter responding
to auditor request

	<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
2016-17	Not provided	Insufficient data	0.00	\$942.94	0.00%
2017-18	Not provided	Insufficient data	0.00	\$969.67	0.00%
2018-19	Not provided	Insufficient data	0.00	\$1,020.31	0.00%
2019-20	Not provided	Insufficient data	0.00	\$413.28	0.00%

Miscellaneous Issues

Miscellaneous Tidelands and Other Issues

- Attorney General is required to notify DHEC upon receipt of any private lawsuit made under Section 48-39-220. Although this issue may be dormant periodically, the State has an ongoing interest in the protection of tidelands.
- This has been an area of legal development. Historically the State was the presumptive owner of certain tideland areas.

Education Department Textbook Bond and Contract Reviews

- Attorney General reviews textbook bonds and contracts as to form and execution.
- Attorney General suggests this function be removed from the duties of the Office.
 - Statute was written over a century ago when the AG office essentially was the only source of legal work for the State. It is an anachronistic formality in the modern era where the Department of Education employs attorneys of their own.

Agency Service #98: Miscellaneous Tidelands and Other Issues				<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Does law require it: No Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; Section 48-39-220	Customer: South Carolina Department of Health and Environmental Control.	Single Unit:	2016-17	Not provided	Insufficient data	0.17	\$28,288.34	0.14%
		Notice to DHEC and	2017-18	Not provided	Insufficient data	0.17	\$29,090.09	0.05%
		involvement as	2018-19	Not provided	Insufficient data	0.17	\$30,609.17	0.05%
		appropriate	2019-20	Not provided	Insufficient data	0.17	\$30,709.32	0.04%

Agency Service #96: Education Dep't Textbook Bond and Contract Reviews				<u>Units provided</u>	<u>Cost per unit</u>	<u>Employee equivalents</u>	<u>Total Cost of service</u>	<u>% of total agency costs</u>
Does law require it: Yes Assoc. Laws: S.C. Const. Art IV § 24, Art. V § 28; Section 59-31-560	Customer: SC Department of Education	Single Unit:	2016-17	Not provided	Insufficient data	0.01	\$942.94	0.00%
		Review of textbook	2017-18	Not provided	Insufficient data	0.01	\$969.67	0.00%
		bond or contract	2018-19	Not provided	Insufficient data	0.01	\$1,020.31	0.00%
			2019-20	Not provided	Insufficient data	0.01	\$1,029.11	0.00%

LAW CHANGE RECOMMENDATION #9

- Statute: 59-31-560
- Current Law: “The Attorney General of the State shall approve all contracts to be entered into between the State and publishers and shall approve the bond to be filed by each contract publisher. Such bond shall be placed in the custody of the State Treasurer.”
- Recommendation: Remove requirement for Attorney General approval.
- Basis for Recommendation: This statute was written over a century ago when the AG office was the only source of legal work for the state. It is an anachronistic formality in the modern era where the Dep’t of Ed. employs attorneys.
- Feedback from Other Agencies Impacted: The Office of the Attorney General is informed and believes the Dep't of Ed. is open to this change.

LAW CHANGE RECOMMENDATION #9

CURRENT WORDING

Section 59-31-560. Approval of contracts and publishers' bonds by Attorney General.

The Attorney General of the State shall approve all contracts to be entered into between the State and publishers and shall approve the bond to be filed by each contract publisher. Such bond shall be placed in the custody of the State Treasurer.

HISTORY: 1962 Code Section 21-506; 1952 Code Section 21-506; 1942 Code Section 5282; 1932 Code Section 5289; Civ. C. '22 Section 2549; Civ. C. '12 Section 1708; Civ. C. '02 Section 1184; 1896 (22) 150; 1914 (28) 450; 1915 (29) 188; 1923 (33) 147; 1927 (35) 354; 1928 (35) 1215; 1931 (37) 391; 1940 (41) 1763, 1886; 1947 (45) 55.

PROPOSED WORDING

The State Board of Education or its designee shall place in the custody of the State Treasurer any bond that is entered by the State and the publisher pursuant to S.C. Code Ann. §59-31-550(5).