



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #105

Consolidation of State Agency Attorneys under DOA (DOA -- Transfers to the Department)

[LFB 2003-05 Budget Summary: Page 28, #3; Page 52, #8; Page 68, #4; Page 105, #21; Page 108, #3; Page 152, #7; Page 159, #5; Page 177, #6; Page 190, #7; Page 281, #13; Page 301, #7; Page 311, #5; Page 356, #5; Page 370, #5; Page 406, #4; Page 443, #8; Page 460, #12; Page 465, #7; and Page 470, #6]

CURRENT LAW

Currently, state agency "in-house" legal counsel positions are authorized and budgeted under each individual agency. Further, a Division of Hearings and Appeals, attached administratively to the Department of Administration (DOA), provides hearing examiner and administrative law judge services for contested administrative proceedings before a variety of state agencies. Finally, a Division of Legal Services under the Department of Justice (DOJ) provides legal representation and advice to the Governor, the Legislature, other state officers and state agencies. This DOJ unit represents the state's interest in state and federal courts, represents the state in all felony and other significant criminal cases on appeal, has primary responsibility to take court action to enforce state environmental, anti-trust, consumer protection and Medicaid fraud laws, and defends state employees, state officers and state agencies in civil proceedings such as tort and employment-related matters.

GOVERNOR

Consolidation of Certain Attorney Positions under DOA. Provide \$6,237,100 PR in 2003-04 and \$8,316,200 PR in 2004-05 and 69.45 PR positions annually for personnel costs associated with the transfer of certain executive branch state agency "in-house" attorneys to DOA on the later of October 1, 2003, or the first day of the third month beginning after publication of the budget act.

Position and Funding Reductions under Other Executive Branch Agencies. Adjust the budgets in 19 executive branch agencies by a total of -\$1,507,200 in 2003-04 (-\$1,033,000 GPR, -\$182,700 FED, -\$192,100 PR and -\$99,400 SEG) and -\$1,763,100 in 2004-05 (-\$1,130,800 GPR, -\$243,700 FED, -\$256,100 PR and -\$132,500 SEG) and -92.66 positions annually (-46.56 GPR, -13.55 FED, -13.2 PR and -19.35 SEG) to reflect the consolidation of agency attorneys under DOA. As a result of these adjustments, a total of 23.21 FTE attorney positions would be deleted and would not be transferred to DOA under the Governor's recommendation.

DOA Authorized to Provide Legal Services. Authorize DOA to provide legal services to state agencies, defined as any office, commission, department, independent agency or board in the executive branch, including the Building Commission. Delete various statutory provisions that authorize certain executive branch agencies to directly employ legal staff. Require DOA to annually assess each of these agencies for the costs of the legal services provided to the agency. Create a PR, continuing appropriation under DOA to fund the provision of legal services to state agencies. State agency legal assessments would be credited to the appropriation.

Attorneys Transferred. Require all state agencies subject to these provisions to transfer certain attorney positions to DOA on the later of October 1, 2003, or the first day of the third month beginning after publication.

Agencies Excluded from the Transfer Requirement. Specify that the following executive branch agencies would not be subject to the attorney transfer requirement: (1) the Public Service Commission; (2) the Public Defender Board; (3) the Board of Regents of the UW System; (4) the University Hospitals and Clinics Board; (5) the Investment Board; (6) the Office of the Governor; (7) the Elections Board; (8) the Ethics Board; (9) the Department of Regulation and Licensing; and (10) the Department of Justice.

Attorney Functions Exempted from Transfer. Stipulate that attorney positions identified by the Secretary of DOA that perform any of the following functions would not be subject to transfer: (1) agency hearing officers, hearing examiners, or administrative law judges; and (2) attorneys employed by a district attorney.

Agency Chief Counsels Exempted from Transfer. Specify that one attorney position identified by the Secretary of DOA as the chief counsel in any of the following agencies would not be subject to transfer: (1) Agriculture, Trade, and Consumer Protection; (2) Commerce; (3) Corrections; (4) Employee Trust Funds (5) Financial Institutions; (6) Health and Family Services; (7) Natural Resources; (8) Public Instruction; (9) Revenue; (10) Veterans Affairs; (11) Workforce Development; and (12) the Office of the Commissioner of Insurance.

Transitional Provisions. Specify that all transferred attorneys would have the same rights and status as the agency in which they originated. Specify that the attorneys that have achieved permanent status would not be required to undergo a probationary period in DOA.

Under the Governor's attorney consolidation proposal, the number of attorneys actually transferred to DOA from various executive branch state agencies would be as follows:

| <u>Agency</u> | <u>FTE Positions Transferred</u> |
|---|--------------------------------------|
| Administration [from a SEG-funded function] | 1.00 |
| Agriculture, Trade and Consumer Protection | 4.50 |
| Commerce | 2.00 |
| Corrections | 4.80 |
| Employee Trust Funds | 1.00 |
| Employment Relations | 1.00 |
| Financial Institutions | 5.00 |
| Health and Family Services | 13.15 |
| Insurance | 3.00 |
| Natural Resources | 14.00 |
| Public Instruction | 2.00 |
| Revenue | 9.00 |
| Transportation | 7.00 |
| Veterans Affairs | 1.00 |
| Workforce Development | <u>1.00</u> |
| Total | 69.45 |

DISCUSSION POINTS

1. The Governor's attorney consolidation initiative would reorganize the provision of "in-house" legal services under a number of state agencies by transferring 69.45 FTE attorney positions annually from various agencies to DOA. An additional 23.21 FTE attorney positions annually in various agencies would be deleted and would not be transferred. [Other agency attorney positions are also deleted under the bill, but these deletions are part of base level reductions, rather than part of the attorney consolidation initiative.] Agencies would be required to institute the position deletions prior to the transfer of the remaining positions to DOA.

2. Under the proposal, the 69.45 FTE transferred attorney positions would be funded under a PR continuing legal services appropriation established in DOA to provide basic legal services to executive branch agencies. The Department would assess agencies using the DOA-provided attorney services in amounts sufficient to cover the costs of salaries, fringe benefits, supplies and services, and related overhead.

3. It is anticipated that a legal services unit would be established under DOA, and the Secretary of DOA would determine the assignment of individual attorneys. Currently, it is not known the degree to which any of the transferred attorney positions would actually be permanently housed at DOA.

4. Many of the transferred attorneys would be detailed to individual state agencies on an ongoing basis under terms of an agency interchange agreement, authorized under s. 230.047 of the statutes. It is likely that many of the attorneys currently authorized under an executive branch agency and transferred to DOA would be reassigned to their former agency under these agreements. The attorneys that are assigned under the terms of an interagency agreement would be subject to

current standard provisions governing such agreements that the receiving agency provide training, office space, computer equipment, and other required supplies and services.

5. The remaining transferred attorney positions would be pooled centrally and assigned to agencies on an "as needed" basis. In the case of the pooled attorneys, short-term agreements may be reached under which these attorneys would be temporarily assigned to agencies for specific projects. For these pooled attorneys, DOA would review agency requests for training and related costs. If approved by DOA, the requesting agency would be assessed an amount sufficient to pay for any such approved additional resources.

6. Under the Governor's recommendation, agencies that have attorney positions deleted or transferred to DOA would have some or all of the associated base level salaries and fringe benefits funding for the deleted or transferred positions reallocated to the supplies and services line. These reallocated amounts would then be available for the agency to purchase legal services from DOA.

7. The following considerations have been advanced in support of the Governor's attorney consolidation initiative:

- According to the *Budget in Brief*, the initiative would result in "streamlining the provision of legal services" in state agencies. Further, the Governor states that "[t]his initiative will result in operational efficiencies by allowing attorneys to be assigned to agencies based on need and work load."
- The initiative would result in tangible position reductions and associated cost savings.
- Standardization of the provision of basic "in-house" legal services across agencies would be possible. Such standardization would permit the allocation of legal services to agencies by a cadre of interchangeable attorneys.
- The pooling of attorneys would allow DOA to assign attorneys based of the type of legal expertise that is needed by agencies for specific legal projects. Further, it is argued that nonproductive legal undertakings could be identified earlier if attorneys were centrally pooled and attorneys could be withdrawn from such efforts, thereby reducing state costs.
- The consolidation initiative would enable agencies that currently do not have attorneys on staff to access legal services, as needed, on a more cost-effective basis.
- To the extent that agency attorneys are currently being used for regular administrative duties that could be done by lower-cost state employees, the consolidation initiative would allow DOA to screen the legal services provided.

8. Notwithstanding these considerations, a number of policy, budgetary, and implementation concerns have been raised concerning the feasibility and desirability of the attorney consolidation initiative. These include:

- It is not clear the degree to which agency "in-house" legal staff is fully interchangeable. Many, if not most, of these attorneys have developed considerable agency-specific expertise over time. Removal of the attorney for the agency could affect his or her ability to maintain that expertise. However, the administration indicates that most attorneys with agency-critical expertise would be reassigned by DOA back to the agency. Under such circumstances, a question could also be raised as to why the attorney should be moved to DOA at all.

- There could be potential staff control issues. Most of the larger state agencies will retain their chief attorneys, who will provide overall direction with respect to agency legal matters. The pool attorneys would be DOA employees. Although long-term attorney assignments would be governed by interagency agreements and the detailed employee would presumably be under the general supervision of the receiving agency, it is unknown the degree to which this type of arrangement could present management control issues, particularly if DOA and the agency chief counsel had divergent views on whether a particular agency legal matter should proceed.

- A question may be raised whether the centralized assignment of "in-house" agency staff might ever become subject to decisions to assign or to withdraw legal staff. Further, DOA would newly have the ability to manage the provision of legal staff to noncabinet executive branch agencies, such as Employee Trust Funds and Veterans Affairs.

- DOA would make decisions with respect to the allocation of "in-house" attorneys to state agencies. Under current procedures, the Legislature, through the budget process, authorizes and funds agency attorney positions.

- DOA would be in the position of having to provide attorney staffing to different state agencies that might have adverse legal interests. For example, the Departments of Natural Resources and Transportation may have differing views on issues such as the selection of highway construction corridors. Further, DOA "in-house" attorneys could find themselves appearing before hearing examiners who themselves are under the Division of Hearings and Appeals, attached to DOA.

- Currently, state agencies have what is essentially "pre-paid" in-house legal services. Agency staff have the opportunity to consult informally with their attorneys. Further, it tends to be more cost effective for agencies to commence legal undertakings early in the development of an issue when matters may be more easily resolved than at a later stage. If agencies will be charged for legal services, would agency staff be as likely to consult informally with legal staff or to engage legal services as early?

- The attorney consolidation initiative would reallocate salaries and fringe benefits funding to agency supplies and services lines. To the extent that agencies would not utilize this funding for legal services, these funds would be available for other operational purposes of the agency's choosing.

- Finally, it is unknown how DOA will bill for the legal services provided. While attorney staff and supplies and services costs will undoubtedly be translated into an hourly rate or

some other type of charging basis, it is unknown the extent to which other overhead costs might be included in such charges in the future, thereby increasing costs to agencies.

9. Based on all of the foregoing considerations, if the Committee concludes that the attorney consolidation initiative has merit and believes that it would result in operational efficiencies, it could adopt the Governor's recommendation.

10. As a related alternative, if the Committee concludes that there would be desirable operational efficiencies under such a consolidation, but that the attorneys should be under the supervision of the agency whose function is primarily to provide legal services for the state, the Committee could choose to consolidate the transferred agency attorneys under the Department of Justice, rather than under DOA.

11. However, if the Committee concludes that the proposed consolidation of attorneys under DOA would not be desirable as a matter of public policy, there would appear to be several options available for the restoration of some or all of the affected agency attorney positions.

12. First, the Committee could act to restore to the affected state agencies only the 69.45 FTE attorney positions that would be subject to transfer to DOA under the bill.

13. As a second alternative, the Committee could restore to the affected agencies the 69.45 FTE attorney positions transferred to DOA, and could also restore the deleted position authority to those state agencies whose single attorney position was eliminated and the incumbent was not transferred to DOA.

14. Under both of these alternatives, the funding allocated under the bill to agencies' supplies and services line for the purpose of contracting with DOA for legal services would be restored to the agencies' salary and fringe benefits lines. To the extent that the reallocated amounts are insufficient to fully fund any of the restored positions, agencies would be required to reallocate base level resources.

15. Finally, the Committee could restore to the 92.66 FTE attorney positions in the various executive branch agencies and fully fund the costs of these restored positions.

16. Table 1 shows the agencies that would be affected by the first option described above [Alternative 4 at the end of this paper]. These are the executive branch agencies from which the 69.45 FTE attorney positions would be transferred to DOA. Under this option, the indicated position authority, by funding source, would be restored under each agency, and the amounts identified under supplies and services would be reallocated to salaries and fringe benefits to fund the restored positions. Additionally, total funding of \$6,237,100 PR in 2003-04 and \$8,316,200 PR in 2004-04 and 69.45 PR positions would be deleted under DOA.

TABLE 1

Restoration of 69.45 FTE Attorney Positions Transferred to DOA

| <u>Agency and Funding Source</u> | <u>FTE</u> | <u>2003-04</u> | | <u>2004-05</u> | |
|--|-------------|-----------------------------------|---|-----------------------------------|---|
| | | <u>Salary and Fringe Benefits</u> | <u>Reallocate Supplies and Services</u> | <u>Salary and Fringe Benefits</u> | <u>Reallocate Supplies and Services</u> |
| GPR | | | | | |
| Agriculture, Trade & Consumer Prot. | 3.50 | \$448,700 | -\$448,700 | \$448,700 | -\$448,700 |
| Corrections | 4.80 | 423,100 | -423,100 | 564,200 | -564,200 |
| Employment Relations | 1.00 | 90,400 | -90,400 | 120,500 | -120,500 |
| Health and Family Services | 9.51 | 888,900 | -888,900 | 1,185,200 | -1,185,200 |
| Natural Resources | 5.00 | 421,500 | -421,500 | 562,400 | -562,400 |
| Public Instruction | 0.20 | 17,000 | -17,000 | 22,700 | -22,700 |
| Revenue | <u>9.00</u> | <u>788,300</u> | <u>-788,300</u> | <u>1,074,100</u> | <u>-1,074,100</u> |
| Subtotal | 33.01 | \$3,077,900 | -\$3,077,900 | \$3,977,800 | -\$3,977,800 |
| FED | | | | | |
| Health and Family Services | 3.64 | \$289,100 | -\$289,100 | \$385,500 | -\$385,500 |
| Natural Resources | 4.50 | 438,600 | -438,600 | 585,000 | -585,500 |
| Public Instruction | <u>1.75</u> | <u>148,900</u> | <u>-148,900</u> | <u>198,500</u> | <u>-198,500</u> |
| Subtotal | 9.89 | \$876,600 | -\$876,600 | \$1,169,000 | -\$1,169,000 |
| PR | | | | | |
| Financial Institutions | 5.00 | \$437,000 | -\$437,000 | \$582,600 | -\$582,600 |
| Insurance | 3.00 | 235,900 | -235,900 | 314,500 | -314,500 |
| Natural Resources | 0.50 | 0 | 0 | 0 | 0 |
| Public Instruction | 0.05 | 4,600 | -4,600 | 6,100 | -6,100 |
| Veterans Affairs | 0.15 | 12,900 | -12,900 | 17,200 | -17,200 |
| Workforce Development | 1.00 | <u>89,100</u> | <u>-89,100</u> | <u>118,800</u> | <u>-118,800</u> |
| Subtotal | 9.70 | \$779,500 | -\$779,500 | \$1,039,200 | -\$1,039,200 |
| SEG | | | | | |
| Administration | 1.00 | \$85,400 | -\$85,400 | \$114,300 | -\$114,300 |
| Agriculture, Trade & Consumer Protect. | 1.00 | 91,500 | -91,500 | 121,900 | -121,900 |
| Commerce | 2.00 | 158,600 | -158,600 | 211,500 | -211,500 |
| Employee Trust Funds | 1.00 | 81,600 | -81,600 | 108,700 | -108,700 |
| Natural Resources | 4.00 | 387,200 | -387,200 | 516,400 | -516,400 |
| Transportation | 7.00 | 661,700 | -661,700 | 882,300 | -882,300 |
| Veterans Affairs | <u>0.85</u> | <u>72,900</u> | <u>-72,900</u> | <u>97,300</u> | <u>-97,300</u> |
| Subtotal | 16.85 | \$1,538,900 | -\$1,538,900 | \$2,052,400 | -\$2,052,400 |
| Total | 69.45 | \$6,272,900 | -\$6,272,900 | \$8,238,400 | -\$8,238,400 |

17. Under the Governor's proposal, attorney positions in four agencies [Board on Aging and Long-Term Care, Military Affairs, Tourism, and the Wisconsin Technical College System] would be deleted, and most of the associated salary and fringe benefits funding would be shifted to the agencies' supplies and services line to fund DOA legal services costs. The incumbent attorneys in these agencies would not be transferred to DOA. All of these agencies had a single attorney position. [Tourism would have a single attorney position following other budget adjustments.]

18. The second option to restore attorney positions to these specific state agencies would be in addition to the first option. Under this second option [see Alternative 5 at the end of the paper], the indicated position authority, by funding source, would be restored under the following four agencies listed in Table 2, and the amounts budgeted in the bill under supplies and services would be reallocated to salaries and fringe benefits to fund the restored positions. Any additional amounts required to fully fund the restored attorney positions would have to be provided from base level agency resources.

TABLE 2

Position Restorations to Agencies with One Attorney Where the Incumbent Was Not Transferred to DOA

| <u>Agency and Funding Source</u> | <u>FTE</u> | <u>2003-04</u> | | <u>2004-05</u> | |
|-----------------------------------|------------|-----------------------------------|---|-----------------------------------|---|
| | | <u>Salary and Fringe Benefits</u> | <u>Reallocate Supplies and Services</u> | <u>Salary and Fringe Benefits</u> | <u>Reallocate Supplies and Services</u> |
| GPR | | | | | |
| Military Affairs | 0.50 | \$30,300 | -\$30,300 | \$40,400 | -\$40,400 |
| Technical College System | 1.00 | 40,000 | -40,000 | 40,000 | -40,000 |
| Tourism | 1.00 | <u>106,000</u> | <u>-106,000</u> | <u>141,300</u> | <u>-141,300</u> |
| Subtotal | 2.50 | \$176,300 | -\$176,300 | \$221,700 | -\$221,700 |
| PR | | | | | |
| Board on Aging and Long-Term Care | 1.00 | \$40,000 | -\$40,000 | \$53,300 | -\$53,300 |
| Military Affairs | 0.50 | <u>30,300</u> | <u>-30,300</u> | <u>40,400</u> | <u>-40,400</u> |
| Subtotal | 1.50 | \$70,300 | -\$70,300 | \$93,700 | -\$93,700 |
| Total | 4.00 | \$246,600 | -\$246,600 | \$315,400 | -\$315,400 |

19. Finally, under the third option, the Committee could choose to restore all funding and position authority associated with the 92.66 FTE attorney positions identified in this analysis. Under this option, the supplies and fringe benefits funding budgeted under the Governor's recommendation would be restored to each affected agency's salaries and fringe benefits lines, and the necessary additional amounts required to fully fund the restored positions would be provided. [Alternative 6 at the end of this paper.]

TABLE 3

Restoration of All 92.66 FTE Attorney Positions and Funding

| <u>Agency and Funding Source</u> | 2003-04 | | | | 2004-05 | | | |
|----------------------------------|-------------|-----------------------------------|---|--------------------------------|-------------|-----------------------------------|---|--------------------------------|
| | <u>FTE</u> | <u>Salary and Fringe Benefits</u> | <u>Reallocate Supplies and Services</u> | <u>Additional Funding Need</u> | <u>FTE</u> | <u>Salary and Fringe Benefits</u> | <u>Reallocate Supplies and Services</u> | <u>Additional Funding Need</u> |
| GPR | | | | | | | | |
| Agriculture, Trade & Consumer | | | | | | | | |
| Protection | 5.50 | \$623,400 | -\$448,700 | \$174,700 | 5.50 | \$623,400 | -\$448,700 | \$174,700 |
| Corrections | 6.80 | 553,900 | -423,100 | 130,800 | 6.80 | 738,500 | -564,200 | 174,300 |
| Employment Relations | 1.00 | 90,400 | -90,400 | 0 | 1.00 | 120,500 | -120,500 | 0 |
| Health and Family Services | 11.56 | 1,011,600 | -888,900 | 122,700 | 11.56 | 1,348,800 | -1,185,200 | 163,600 |
| Military Affairs | 0.50 | 40,400 | -30,300 | 10,100 | 0.50 | 53,900 | -40,400 | 13,500 |
| Natural Resources | 5.00 | 452,000 | -421,500 | 30,500 | 5.00 | 602,500 | -562,000 | 40,500 |
| Public Instruction | 0.20 | 17,000 | -17,000 | 0 | 0.20 | 22,700 | -22,700 | 0 |
| Revenue | 14.00 | 1,339,100 | -788,300 | 550,800 | 14.00 | 1,624,900 | -1,074,100 | 550,800 |
| Technical College System | 1.00 | 53,400 | -40,000 | 13,400 | 1.00 | 53,400 | -40,000 | 13,400 |
| Tourism | <u>1.00</u> | <u>106,000</u> | <u>-106,000</u> | <u>0</u> | <u>1.00</u> | <u>141,300</u> | <u>-141,300</u> | <u>0</u> |
| Subtotal | 46.56 | \$4,287,200 | -\$3,254,200 | \$1,033,000 | 46.56 | \$5,329,900 | -\$4,199,100 | \$1,130,800 |
| FED | | | | | | | | |
| Health and Family Services | 5.80 | \$411,400 | -\$289,100 | \$122,300 | 5.80 | \$548,700 | -\$385,500 | \$163,200 |
| Natural Resources | 6.00 | 499,000 | -438,600 | 60,400 | 6.00 | 665,500 | -585,000 | 80,500 |
| Public Instruction | <u>1.75</u> | <u>148,900</u> | <u>-148,900</u> | <u>0</u> | <u>1.75</u> | <u>198,500</u> | <u>-198,500</u> | <u>0</u> |
| Subtotal | 13.55 | \$1,059,300 | -\$876,600 | \$182,700 | 13.55 | \$1,412,700 | -\$1,169,000 | \$243,700 |
| PR | | | | | | | | |
| Board on Aging & Long-Term Care | 1.00 | \$53,300 | -\$40,000 | \$13,300 | 1.00 | \$71,000 | -\$53,300 | \$17,700 |
| Financial Institutions | 6.00 | 507,500 | -437,000 | 70,500 | 6.00 | 676,600 | -582,600 | 94,000 |
| Insurance | 4.00 | 303,700 | -235,900 | 67,800 | 4.00 | 404,800 | -314,500 | 90,300 |
| Military Affairs | 0.50 | 40,400 | -30,300 | 10,100 | 0.50 | 53,900 | -40,400 | 13,500 |
| Natural Resources | 0.50 | 30,400 | 0 | 30,400 | 0.50 | 40,600 | 0 | 40,600 |
| Public Instruction | 0.05 | 4,600 | -4,600 | 0 | 0.05 | 6,100 | -6,100 | 0 |
| Veterans Affairs | 0.15 | 12,900 | -12,900 | 0 | 0.15 | 17,200 | -17,200 | 0 |
| Workforce Development | <u>1.00</u> | <u>89,100</u> | <u>-89,100</u> | <u>0</u> | <u>1.00</u> | <u>118,800</u> | <u>-118,800</u> | <u>0</u> |
| Subtotal | 13.20 | \$1,041,900 | -\$849,800 | \$192,100 | 13.20 | \$1,389,000 | -\$1,132,900 | \$256,100 |
| SEG | | | | | | | | |
| Administration | 1.00 | \$85,400 | -\$85,400 | \$0 | 1.00 | \$114,300 | -\$114,300 | \$0 |
| Agriculture, Trade and Consumer | | | | | | | | |
| Protection | 1.00 | 91,500 | -91,500 | 0 | 1.00 | 121,900 | -121,900 | 0 |
| Commerce | 3.00 | 215,800 | -158,600 | 57,200 | 3.00 | 287,700 | -211,500 | 76,200 |
| Employee Trust Funds | 1.00 | 81,600 | -81,600 | 0 | 1.00 | 108,700 | -108,700 | 0 |
| Natural Resources | 5.00 | 396,200 | -354,000 | 42,200 | 5.00 | 528,300 | -472,000 | 56,300 |
| Natural Resources | 0.50 | 33,200 | -33,200 | 0 | 0.50 | 44,400 | -44,400 | 0 |
| Transportation | 7.00 | 661,700 | -661,700 | 0 | 7.00 | 882,300 | -882,300 | 0 |
| Veterans Affairs | 0.10 | 8,600 | -8,600 | 0 | 0.10 | 11,400 | -11,400 | 0 |
| Veterans Affairs | <u>0.75</u> | <u>64,300</u> | <u>-64,300</u> | <u>0</u> | <u>0.75</u> | <u>85,900</u> | <u>-85,900</u> | <u>0</u> |
| Subtotal | 19.35 | \$1,638,300 | -\$1,538,900 | \$99,400 | 19.35 | \$2,184,900 | -\$2,052,400 | \$132,500 |
| All Funds Total | 92.66 | \$8,026,700 | -\$6,519,500 | \$1,507,200 | 92.66 | \$10,316,500 | -\$8,553,400 | \$1,763,100 |
| Delete DOA Legal Services (PR) | -69.45 | -6,237,100 | 0 | -6,237,100 | -69.45 | -8,316,200 | 0 | -8,316,200 |
| All Funds Change to Governor | 23.21 | \$1,789,600 | -\$6,519,500 | -\$4,729,900 | 23.21 | \$2,000,300 | -\$8,553,400 | -\$6,553,100 |

20. This third option includes the restoration of 2.0 FED positions in 2003-04 and 1.0 FED position in 2004-05 for the Department of Transportation. Unlike for other large agencies, the number of attorney positions in DOT was not reduced as part of the attorney consolidation decision item. Instead, the bill would eliminate 2.0 FED position in 2003-04 and 1.0 FED position in 2004-05 as part of a separate decision item. This separate decision item was included in the Department's budget request as a conversion of both positions to SEG positions. Instead of approving the request, the bill would eliminate the FED positions in lieu of a position reduction that, in other agencies, was included in the attorney consolidation decision item. Both decision items, however, were described as part of the attorney consolidation item in the Executive Budget Book. (Only 1.0 FED position was eliminated in 2004-05 because the other is a project position that expires in 2004-05 and so it was removed under the standard budget adjustment for the removal of noncontinuing elements.) Since these positions were removed in lieu of a reduction under the attorney consolidation decision item, it could be argued that it would be appropriate to restore these positions under an alternative to restore attorney positions in other agencies.

21. *Technical Correction.* Unless the Committee chooses to delete the Governor's recommendation, a technical correction would be necessary to restore \$63,700 SEG and 1.0 SEG permanent position in 2004-05 under the Department of Commerce and to convert 1.0 SEG permanent attorney to project position status to reflect actual base staffing in the agency. The Governor's recommendation deletes 3.0 SEG permanent PECFA attorneys and associated funding in Commerce and transfers 2.0 of these attorneys to DOA. However, Commerce currently has 2.0 SEG project and 1.0 SEG permanent attorney in the PECFA program. Under the proposal, 1.0 SEG project attorney would be deleted in 2004-05, along with \$63,700 SEG under standard budget adjustments. Therefore, the bill deletes 4.0 SEG Commerce attorneys in the PECFA program, while the agency only has 3.0 SEG positions.

ALTERNATIVES

1. Approve the Governor's recommendation to provide \$6,237,100 PR in 2003-04 and \$8,316,200 PR in 2004-05 and 69.45 PR positions annually for personnel costs associated with the transfer of certain executive branch state agency "in-house" attorneys to DOA on the later of October 1, 2003, or the first day of the third month following publication and to adjust the budgets in 19 executive branch agencies by a total of -\$1,507,200 in 2003-04 (-\$1,033,000 GPR, -\$182,700 FED, -\$192,100 PR and -\$99,400 SEG) and -\$1,763,100 in 2004-05 (-\$1,130,800 GPR, -\$243,700 FED, -\$256,100 PR and -\$132,500 SEG) and -92.66 positions (-46.56 GPR, -13.55 FED, -13.20 PR and -19.35 SEG) annually to reflect this consolidation.

2. Approve the Governor's recommendation, but transfer the attorneys to the Department of Justice, rather than to DOA.

3. *In addition to any Alternative other than Alternative 6,* include a technical correction to restore \$63,700 SEG and 1.0 SEG permanent position in 2004-05 in the Department of Commerce and to convert 1.0 SEG permanent attorney to project status to reflect actual base staffing in Commerce

| Alternative 3 | SEG |
|---|------------|
| 2003-05 FUNDING (Change to Bill) | \$63,700 |
| 2004-05 POSITIONS (Change to Bill) | 1.00 |

4. Modify the Governor's recommendation by: (a) deleting \$6,237,100 PR in 2003-04 and \$8,316,200 PR in 2004-05 and 69.45 PR positions annually under DOA for personnel costs associated with the transfer of certain executive branch state agency "in-house" attorneys to that agency; (b) restoring position authority for 69.45 FTE attorney positions [33.01 GPR, 9.89 FED, 9.70 PR and 16.85 SEG) under the agencies from which they were transferred; and (c) reallocating supplies and services funding under each affected agency to salaries and fringe benefits to fund the costs of the restored positions [see Table 1].

| Alternative 4 | GPR | FED | PR | SEG | TOTAL |
|---|------------|------------|---------------|------------|---------------|
| 2003-05 FUNDING (Change to Bill) | \$0 | \$0 | -\$14,553,300 | \$0 | -\$14,553,300 |
| 2004-05 POSITIONS (Change to Bill) | 33.01 | 9.89 | - 59.75 | 16.85 | 0.00 |

5. *In addition to Alternative 4*, restore: (a) 0.5 GPR and 0.5 PR position annually for the Department of Military Affairs; (b) 1.0 GPR position annually for the Wisconsin Technical College System; (c) 1.0 GPR position annually for the Department of Tourism; and (d) 1.0 PR position annually for the Board on Aging and Long-Term Care. In addition, reallocate supplies and services funding under each affected agency to salaries and fringe benefits to fund the costs of the restored positions [see Table 2].

| Alternative 5 | GPR | FED | PR | SEG | TOTAL |
|---|------------|------------|---------------|------------|---------------|
| 2003-05 FUNDING (Change to Bill) | \$0 | \$0 | -\$14,553,300 | \$0 | -\$14,553,300 |
| 2004-05 POSITIONS (Change to Bill) | 35.51 | 9.89 | - 58.25 | 16.85 | 4.00 |

6. Delete the Governor's recommendation [see Table 3], and include restoration of 2.0 FED attorney positions in 2003-04 and 1.0 FED attorney position in 2004-05 at DOT.

| Alternative 6 | GPR | FED | PR | SEG | TOTAL |
|---|-------------|------------|---------------|------------|---------------|
| 2003-05 FUNDING (Change to Bill) | \$2,163,800 | \$426,400 | -\$14,105,100 | \$231,900 | -\$11,283,000 |
| 2004-05 POSITIONS (Change to Bill) | 46.56 | 14.55 | - 56.25 | 19.35 | 24.21 |

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