



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 1

TO: MEMBERS OF THE SPECIAL COMMITTEE ON DISTRICT ATTORNEY FUNDING
AND ADMINISTRATION

FROM: Larry Konopacki, Staff Attorney

RE: Overview of District Attorney Funding and Administration

DATE: October 25, 2006

This memorandum briefly describes the funding and administration of the district attorney program in Wisconsin. The first section explains the roles of the state and the counties in funding district attorneys. The second section details current funding from the state and other sources. The third section describes recent changes in the number of authorized district attorney positions and funding for those positions. The final section provides a brief overview of the administrative function performed by the Department of Administration (DOA).¹

COUNTY AND STATE FUNDING SYSTEM

District attorneys and their offices were funded by the counties prior to 1990. Prosecutors became state employees under 1989 Wisconsin Act 31, although district attorneys continue to be elected, at the county level. The state now pays for the salaries and certain fringe benefits for district attorneys, deputy district attorneys and assistant district attorneys. [ss. 20.475 and 978.12, Stats.] Each county is still responsible for providing district attorneys with office space and funding for clerical staff, office equipment, supplies, utilities, and other resources. [s. 978.13 (2), Stats.] The State Prosecutors Office in DOA was created to administer the state's responsibilities as employer of these prosecutors.

The state also pays for special prosecutors who perform the functions of district attorneys when the district attorney is absent, conflicted, incapacitated, serving in the U.S. Armed Forces, or unavailable

¹ In addition to applicable law, publications of the Legislative Fiscal Bureau are the primary source for information on which this memo is based.

for certain other reasons. A special prosecutor may generally only be funded by the state if a prosecutor from another county or the Department of Justice is not available to provide support. [s. 978.045, Stats.]

CURRENT PROSECUTOR FUNDING

The majority of state funding for district attorneys is appropriated from general purpose revenue (GPR) in the state’s general fund. Many different taxes contribute to this funding source, including the individual income tax, the general sales and use tax, and the corporate income and franchise tax, which together make up approximately 90% of the fund. Currently, 376.4 full-time equivalent (FTE) prosecutor positions are supported by GPR funding.

Additional district attorney positions are supported by federal grants and state surcharges and are categorized as program revenue (PR)-funded positions. There are currently 51.25 FTE prosecutor positions funded by these PR sources, including 49.25 FTE positions funded by federal grants and 2.0 FTE positions supported by state funding.

The number of PR-funded prosecutor positions varies as these positions are typically created as short-term project positions. Prosecutor positions funded by federal grants generally remain short-term project positions until either: (1) the federal grant funding is exhausted and the positions terminate; or (2) the federal funding is established as a reliable source and the positions are converted to permanent prosecutor positions.

TRENDS IN AUTHORIZED PROSECUTOR POSITIONS AND FUNDING

1989 Act 31 converted 332.05 county prosecutors to state employees. The following table shows the number of FTE prosecutor positions at the end of each biennial budget cycle since that transition, along with the funding source for those positions:

Fiscal Year	PR FTE Positions	GPR FTE Positions	SEG FTE Positions	Total FTE
Current	43.75*	376.40	----	420.15
2004-05	40.10	375.40	----	415.50
2002-03	36.75	390.40	----	427.15
2000-01	36.50	375.65	----	412.15
1998-99	24.00	364.00	----	388.00
1996-97	15.00	348.00	----	363.00
1994-95	13.00	348.00	----	361.00
1992-93	12.00	342.50	----	354.50
1990-91	8.50	----	329.99**	338.49

*This total is different than the PR position total in the previous section because, for purposes of state budgeting, project positions are not included in the positions count if they are not authorized through the end of the next biennium.

**Prosecutor positions were initially funded by segregated (SEG) fund revenues from the state's lottery fund.

Prosecutor positions may be created or abolished in the following ways:

- Through the state budget process or other legislation.
- By the Joint Committee on Finance (JCF) under its s. 13.10, Stats., authority.
- By the Governor under s. 16.505, Stats., subject to JCF oversight.

The following table shows the GPR, PR, and SEG appropriations for prosecutors since fiscal year 1990-91:²

Fiscal Year	PR Funding	GPR Funding	SEG Funding	Total Funding
Current	1,835,100	\$41,212,300	----	43,047,400
2004-05	\$2,058,400	\$38,904,700	----	\$40,963,100
2002-03	\$1,645,800	\$36,395,900	----	\$38,041,700
2000-01	\$1,399,300	\$35,202,900	----	\$36,602,200
1998-99	\$1,308,300	\$32,526,100	----	\$33,834,400
1996-97	\$1,100,600	\$28,958,100	----	\$30,058,700
1994-95	\$884,500	\$24,164,500	----	\$25,049,000
1992-93	\$2,952,200	\$20,034,000	----	\$22,986,200
1990-91	\$9,000,000	\$30,500	\$8,985,100	\$18,015,600

ADMINISTRATION

1989 Act 31 also created the State Prosecutors Office in DOA. The responsibilities of the State Prosecutors Office include administering prosecutor payroll and fringe benefits, creating budgets, billing

² These figures represent the base level of funding, or starting point, for the biennial budget that follows the fiscal year listed.

counties for PR positions, collective bargaining, advising district attorneys on their rights and responsibilities, producing fiscal notes and bill analyses for legislative proposals effecting district attorneys, and serving as a central point of contact for all prosecutors. [s. 20.475 and ch. 978, Stats.; 1989 Wisconsin Act 31, SEC. 3058 (1cg).]

According to DOA, \$109,400 GPR and 1.0 FTE are budgeted to the State Prosecutors Office in 2006-07. In addition, while not specifically assigned to the State Prosecutors Office, other DOA staff provide personnel, payroll, and budget-related services to support the administration of the district attorney program.

LK:ksm