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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

<b>2003 Senate Bill 17</b>	<b>Senate Substitute Amendment 1</b>
<i>Memo published: June 9, 2003</i>	<i>Contact: Richard Sweet, Senior Staff Attorney (266-2982)</i>

**Senate Bill 17** creates a Joint Committee on Court Judgments and Settlements, consisting of four legislators and three non-legislative members who are nominated by the Attorney General, the Governor, and the Supreme Court. The bill creates a process to be used to apply for grants when the Department of Justice (DOJ) brings an action on behalf of the citizens of Wisconsin and wins a money judgment or settlement of \$100,000 or more and the court has established parameters as to how the money should be spent. The process for awarding the grants from the money judgment or settlement involves notice by the Attorney General of the ability to apply for grants, consideration of applications and awarding of grants by the Joint Committee on Court Judgments and Settlements, and possible review of the grant awards by the Joint Committee on Finance (generally referred to as "passive review").

**Senate Substitute Amendment 1** makes the following changes to the bill:

1. The bill refers to situations in which the court has established "parameters" as to how the money should be spent. The substitute amendment refers to specifications by the court that the payments be used for a "particular purpose."
2. The bill states that within 30 days after the deadline for submitting an application, the committee must meet to consider the applications. In addition, DOJ and the Legislature must post a notice regarding the meeting within specified times. The bill also states that failure to meet the time limits under that provision invalidates any action taken at the meeting. The substitute amendment modifies this latter provision to state that failure to post the notices as required by the provision invalidates any action taken at the meeting.
3. The substitute amendment modifies various statutes dealing with violations related to Medical Assistance, antitrust, and environmental protections. Under current law, courts are given the authority to award to DOJ costs of investigations and prosecutions and the money awarded is deposited into the state general fund. The substitute amendment modifies these statutes to state that 10% of the money that is deposited in the state general fund for this purpose is to be credited to a DOJ appropriation account.

**Legislative History**

On April 30, 2003, the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform introduced and recommended for adoption Senate Substitute Amendment 1, and recommended passage of the bill as amended, both by votes of Ayes, 5; Noes, 0. On June 4, 2003, the Senate adopted the substitute amendment, and passed the bill as amended, both by voice votes.

RNS:jal:ksm;thu



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**WISCONSIN LEGISLATIVE COUNCIL  
ACT MEMO**

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**2003 Wisconsin Act 309**  
[2003 Senate Bill 17]

**State Expenses for Investigation  
and Prosecution of Violations**

2003 Acts: [www.legis.state.wi.us/2003/data/acts/](http://www.legis.state.wi.us/2003/data/acts/)

Act Memos: [www.legis.state.wi.us/lc/act\\_memo/act\\_memo.htm](http://www.legis.state.wi.us/lc/act_memo/act_memo.htm)

2003 Wisconsin Act 309 modifies various statutes that deal with violations of state statutes related to Medical Assistance, anti-trust, and certain environmental regulations. Under the law prior to Act 309, courts could award to the Department of Justice (DOJ) the costs of investigations and prosecutions related to violations of those statutes. The money awarded is deposited in the state general fund. The Act modifies these statutes to state that the costs of investigation and the expenses of prosecution, including attorney fees, are to be credited to a DOJ appropriation account.

In signing Act 309 into law, the Governor vetoed provisions of the Act that would have done the following: (1) created a Joint Committee on Court Judgments and Settlements; (2) created a process that would be used to apply for grants when DOJ brings an action on behalf of the citizens of Wisconsin and wins a money judgment or settlement of \$100,000 or more and the court has established particular purposes for use of the money; (3) provided that if a court judgment or settlement has not specified that payments be used for particular persons or a particular purpose, the money that the state receives is to be deposited in the budget stabilization fund; and (4) specified that 10% of the money that is awarded to the state for the cost of investigation and the expenses of prosecution must be credited to the DOJ appropriation account (the Governor vetoed the 10% figure).

**Effective Date:** The Act takes effect on May 7, 2004.

**Prepared by:** Richard Sweet, Senior Staff Attorney

May 6, 2004

RNS:ksm:tlu

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This memo provides a brief description of the Act. For more detailed information,  
consult the text of the law and related legislative documents.



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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April 8, 2003

The Honorable Ron Brown, Chairperson  
Senate Committee on Homeland Security, Veterans &  
Military Affairs and Government Reform  
State Capitol Building, Room No. 104 South  
**HAND DELIVERED**

Re: 2003 Senate Bill 17

Dear Chairman Brown:

Thank you for this opportunity to share with you some insights from the Department of Justice (DOJ) on Senate Bill 17, legislation related to court judgments and settlements. I appreciate your consideration of this matter and generally support the goal of SB17 to provide legislative involvement in the disbursement process used to allocate discretionary court settlement funds. I also cannot overstate the importance of restoring the Department's cost recovery authority as part of this legislation to DOJ's law enforcement mission and to the future settlements envisioned by this bill.

Over the years, the Department has been very successful in its efforts to enforce Wisconsin laws. These successes have resulted in millions of dollars of restitution for Wisconsin victims, enhanced the public safety of our families and improved the environmental well being of our communities. In some circumstances, courts have also directed that funds resulting from actions brought on behalf of the state be administered by the DOJ to serve a broader underlying purpose of the litigation (i.e., consumer protection).

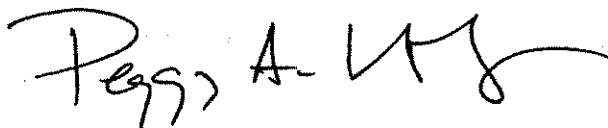
As a separate, co-equal branch of government with constitutionally inherent powers, the judiciary should be encouraged to fashion a wide range of remedies in cases brought on behalf of the state, including use of the funds addressed by this legislation. I am hopeful that the legislature will continue to respect this authority of courts. I am in general agreement that a formal process, including the involvement of legislators, is appropriate in some circumstances where truly discretionary funds are directed by the court to be administered by DOJ. I look forward to reviewing the proposed substitute amendment to SB17 to ensure the necessary separation of powers between the branches of government is preserved.

The Honorable Ron Brown, Chairperson  
April 8, 2003

Finally, the continued ability of the Department to proceed with the cases that have resulted in the settlements addressed by this bill is inextricably tied to the restoration of the cost recovery authority that existed until last budget cycle. Costs incurred in prosecuting and defending actions where the state has an interest include: experts, court reporters, transcripts, copying, court costs, witness fees, and attorney travel. Until 1982, these expenses were allocated under a sum-sufficient appropriation, in recognition of the fact that case-related costs are essentially uncontrollable and unpredictable, and yet unavoidable in meeting the legal interests of the state and residents. Chronic under-funding of these expenses in recent years has seriously jeopardized the mission of DOJ. In fact, only last week, a motion was filed with the JFC to offset a projected \$350,000 shortfall in the account used for the litigation costs described above.

I am encouraged by the willingness of the author of this legislation to address the gross inadequacy of current law in restoring DOJ's cost recovery authority for the litigation it pursues on behalf of the state. I respectfully request that the committee consider these issues as it reviews SB17. If I can provide the committee with any additional information about this or any other justice-related matter, please feel free to give me a call.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peggy A. Lautenschlager". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Peggy A. Lautenschlager  
Attorney General

PAL: vlv

Cc: Committee Members  
Senator Ted Kanavas