

1999 DRAFTING REQUEST

Bill

Received: 0912911999

Received By: **champra**

Wanted: **Soon**

Identical to LRB:

For: **Scott Walker (608) 266-9180**

By/Representing: **Greg**

This file may be shown to any legislator: NO

Drafter: **champra**

May Contact:

Alt. Drafters:

Subject: **Employ Pub - retirement**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Pension benefits for former Milwaukee County assistant district attorneys

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	champra 1 1/01/1999	jgeller 1 1/01/1999	hhagen 1 1/01/1999	_____	lrbdocadmin 1 1/01/1999	lrb_docadminState 0 1/03/2000	Retire

FE Sent For: **11/05/1999.**

<END>

1999 DRAFTING REQUEST

Bill

Received: **09/29/1999**

Received By: **champra**

Wanted: **Soon**

Identical to LRB:

For: **Scott Walker (608) 266-9180**

By/Representing: **Greg**

This file may be shown to any legislator: NO

Drafter: **champra**

May Contact:

Alt. Drafters:

Subject: **Employ Pub - retirement**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Pension benefits for former Milwaukee County assistant district attorneys

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reauired</u>
/1	champra 1 1/01/1999	j geller 1 1/01/1999	hhagen 1 1/01/1999	_____	lrb_docadmin 1 1/01/1999		State Retire

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: **09/29/1999**

Received By: **champra**

Wanted: **Soon**

Identical to LRB:

For: **Scott Walker (608) 266-9180**

By/Representing: **Greg**

This file may be shown to any legislator: NO

Drafter: **champra**

May Contact:

Alt. Drafters:

Subject: **Employ Pub - retirement**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Pension benefits for former Milwaukee County assistant district attorneys

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	champra	1 1/2 jlg	hh "	hh / km "			

FE Sent For:

<END>



Scott Walker

Wauwatosa's Representative in the Wisconsin State Assembly

RICK: (CRAC)

SCOTT WOULD LIKE SOMETHING
DRAFTED TO TAKE CARE OF
THE INACTIVE FORMER
ADA'S. PLEASE REVIEW
THE ATTACHED AND CALL
ME. THANK YOU!

GREG REIMAN

P.O. Box 8953, State Capitol, Madison, WI 53708-8953 • (608) 266-9180

Message Hotline: 800-362-WISC (9472)

2334 N. 73rd Street, Wauwatosa, WI 53213. (414) 258-1086

Printed on recycled paper with soy based ink.

CYNTHIA A. LEPKOWSKI

ATTORNEY AT LAW

M&I BANK BUILDING-SOUTHRIDGE
5454 SOUTH 76TH STREET
GREENDALE, WISCONSIN 53129

TELEPHONE (414) 421-7177

FACSIMILE (414) 421-8865

JUL 1999

July 6, 1999

Representative Scott Walker
Wisconsin State Assembly
P.O. Box 8953
Madison, WI 53708-8953

Subject: Motion #856 Joint Finance Committee
Pension Benefits: Milwaukee County **DA's**

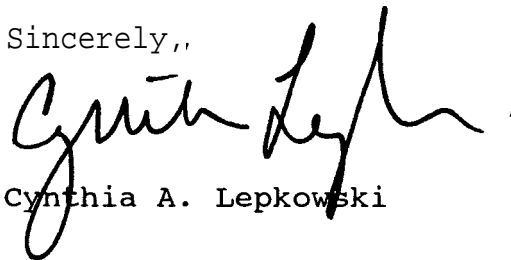
Dear Representative Walker:

I was very disheartened to see Motion #856 Joint Finance Committee which resurrects an old solution to the problem of transferring pension benefits from County to State for current and former Milwaukee County assistant district attorneys. Once again, as a former state employee, I am excluded from benefiting from this proposal.

Enclosed is a copy of a letter from Governor Tommy G. Thompson, dated 6/11/91, which assured me that I could leave state employment without jeopardizing this transfer by signing the election form, which was done. Now the same state is claiming its own agreement can be ignored?

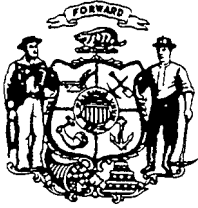
This issue involves over one-half of my state pension. I again urge you to support an equitable result for all those involved in this situation.

Sincerely,,



Cynthia A. Lepkowski

CAL/jc
Enclosure



TOMMY G. THOMPSON

Governor
State of Wisconsin

COPY

June 11, 1991

Cynthia A. Lepkowski
6699 Hill Ridge Drive
Greendale, WI 53129

Dear Ms. Lepkowski:

Thank you for your letter regarding the transfer of the value of your non-vested account in the Milwaukee Retirement System into the Wisconsin Retirement System. I appreciate the time you took to write to me.

Under s. 978.12(5)(c)5 the Department of Employee Trust Funds (DETF) shall develop a form by which you may elect to have the transfer take place. This form is in the final stages of development and will be issued to you, via the State Prosecutors Office in the Department of Administration, in the first half of June. Also, at the same time, you will receive an informational pamphlet written by DETF.

[The Department shall consider you to be a participating employee in the Wisconsin Retirement System and thus eligible to elect the transfer if you are such on the date that your election form is received by DETF. Thus, if your election form is received by DETF on June 10, 1991, you may resign effective June 11, 1991.

I hope this resolved your concern regarding the implementation of the statute. I appreciate the fine work you and the other prosecutors are doing throughout Wisconsin and trust your experience as a State employee since the beginning of 1990 has been very good.

Sincerely,

TOMMY G. THOMPSON
Governor

TGT/psn

May 12, 1999

Cynthia Lepkowski
5454 S. 76th Street
Greendale, WI 53129-0226

Dear Ms. Lepkowski:

I am in receipt of your letter regarding former Milwaukee County Assistant District Attorney's transfer of pension credits to the Wisconsin Retirement System.

I am agreement with you concerning the matter and am currently working with several Assembly members of the Joint Committee on Finance to address this problem. Everyone I've talked to wants to see the former Milwaukee County ADA's treated fairly, including those of you who no longer work for the state. The problem we need to resolve is who pays and how much between the state and Milwaukee County.

I am very hopeful that this matter will be resolved fairly in this budget bill. It appears that the Milwaukee County board is willing to take some responsibility to help (see attached letter). Please note that in page three of the attached letter it states that a three-fourths vote by both houses of the Legislature may be required for approval. If that is the case then a separate bill will be needed instead of the budget bill.

Thank you for taking the time to express you concerns to me.

Sincerely,

Scott Walker
State Representative
14th Assembly District

enclosure

SKW:gtr



BROYDRICK
&
ASSOCIATES

APR 06 1999

PublicAffairs

TO: Rep. Marc Duff
FROM: Moira Fitzgerald
RE: Assistant District Attorneys

Effective January 1, 1990, all Deputy District Attorneys (**DDAs**) and Assistant District Attorneys (**ADAs**) in Wisconsin became state employees. Milwaukee County **DDAs** and **ADAs** moved from an employer, Milwaukee County, that has its own pension plan, to the option of the Wisconsin Retirement System (**WRS**). **DDAs** and **ADAs** from outside Milwaukee County were already covered by the **WRS** and therefore their pension benefits were not affected.

The concern during the takeover process was that no **ADA** was to be in a worse position after the state takeover than she or he had been prior. The understanding was that those assistants not vested in the Milwaukee County Employees Retirement System (**MCERS**) would receive full credit for their years of service by having the money they had accumulated transferred to the state system. Milwaukee County has argued that this was not its understanding.

The result is that about 40 active **ADAs** who had not yet been vested in the **MCERS** lost credit for all of the years of public service they had performed prior to 1990. Milwaukee County has agreed to pay \$365,252 which is what it believes was contributed on behalf of the **ADAs**. Milwaukee County would agree to the Department of Administration (**DOA**) to deduct payments made to Milwaukee County to pay **WRS** over a 5 year period.

I am checking with Dave Stella at the Department of Employee Trust Funds for the amount that would be needed to make these state employees whole.

ADAs who are affected live in Rep. Walker, Rep. Stone, Rep. Hoven, Rep. Gundrum and Rep. Lehman's district.



Milwaukee County

March 31, 1999

Sen. Brian B. Burke
Sen. Alberta Darling
Sen. Richard A. Grobschmidt
Sen. Mary A. Lazich
Sen. Peggy A. Rosenweig
Rep. Pedro A. Colon
Rep. Jon Richards
Rep. Anthony J. Staskunas
Rep. Jeffrey A. Stone
Rep. Scott K. Walker
Rep. Sheldon A. Wasserman

Subject: Former Milwaukee County Assistant District Attorneys

Re: Pension Service Credit

Dear State Senators and Representatives:

During the coming weeks, you will be asked to support pension service credit for the employment service time of individuals when they were Milwaukee County Assistant District Attorneys (ADAs). Prior to January, 1990, only ADAs in Milwaukee County were not classified and compensated as State Prosecutors. When ADAs became State Prosecutors, they were encouraged by the state to join the Wisconsin Retirement System (WRS). In 1989, the State Legislature enacted Wisconsin Act 336 to authorize the transfer of ADAs to state employment and included a provision requiring the transfer of the ADAs' pension funds from the Milwaukee County Employees' Retirement System (ERS). Unfortunately, county officials did not have prior knowledge of this pension transfer and it was challenged by the ERS Pension Board - an independent governing body. The state pursued a law suit against the ERS however the Wis. Supreme Court ruled in 1996 in favor of the ERS.

As elected officials, you understand what is meant by being an advocate of what's right and just. The sentiments of all those familiar with the request by former ADAs to receive pension service credit for their years in county service, is that it is a reasonable request. However, the proposed legislation or budget amendment that you will be asked to support will only provide pension service credit for those former ADAs currently employed with the state. When you address this issue, we feel you should provide full pension service

ROOM 201, COURTHOUSE . 901 NORTH 9TH STREET . MILWAUKEE, WISCONSIN 53233 . TELEPHONE 278-4223

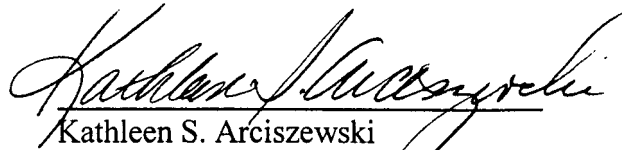
credit to all former ADAs, since this was the original intent of the legislation. To do otherwise, would make victims of a few ADAs who transferred to become State Prosecutors and have since chosen to leave State service for various reasons, i.e., private practice, child birth and maternity leave, etc., while believing when they left that they had the pension service credit. Some former ADAs inquired about their pension service credit shortly before leaving state service and were assured by the state they would ultimately receive full pension credit, while the others felt they already had the credit.

We, the undersigned County Supervisors, are requesting your assistance in obtaining service credit for constituents who are not only ours but yours. This issue has been lingering for a very long time and everything possible should be done to bring closure as quickly as possible.

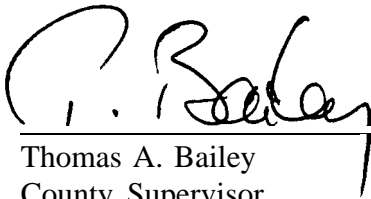
Sincerely,



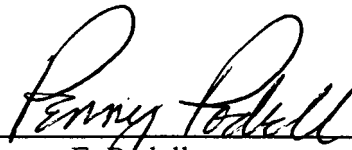
Karen M. Ordinars
County Board Chairman
21st Supervisory District



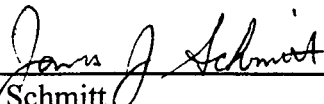
Kathleen S. Arciszewski
County Supervisor
23rd Supervisory District



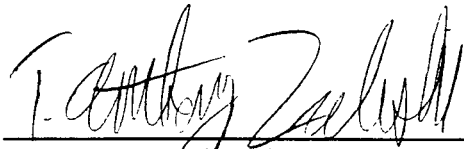
Thomas A. Bailey
County Supervisor
25th Supervisory District



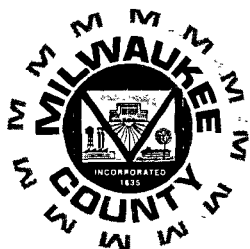
Penny E. Podell
County Supervisor
3rd Supervisory District



Jim Schmitt
County Supervisor
20th Supervisory District



T. Anthony Zielinski
County Supervisor
12th Supervisory District



Karen M. Ordinans
Milwaukee County

Chairman
County **Board of Supervisors**

MAY 05 1999



May 4, 1999

Sen. Brian B. Burke
Sen. Alberta Darling
Sen. Richard A. Grobschmidt
Sen. Mary A. Lazich
Sen. Peggy A. Rosenweig
Rep. Pedro A. Colon
Rep. Jon Richards
Rep. Anthony J. Staskunas
Rep. Jeffrey A. Stone
Rep. Scott K. Walker
Rep. Sheldon A. Wasserman

Subject: Former Milwaukee County Assistant District Attorneys

Re: Follow-up to Communication Dated March 31, 1999

Dear State Senators and Representatives:

Recently you received a communication related to a request for expanded support for pension service credit for former Milwaukee County Assistant District Attorneys (ADAs). Since this communication was received, some of you have solicited additional information.

Provisions of 1989 Wisconsin Act 31 made ADAs and other State Prosecutors state employees, first effective January 1, 1990, and established an appropriation under s. 20.475(1)(d) of the statutes to reimburse counties for the costs of salaries and fringe benefits payable to district attorneys and other state employees in county offices of the District Attorney. Under 1989 Wisconsin Act 336, employees of the Milwaukee County District Attorney's Office were given the option of either remaining as participants under the separate Milwaukee County Employees' Retirement System (MCERS) or converting to the Wisconsin Retirement System (WRS) on January 1, 1990. For Milwaukee County ADAs who had vested pension rights under the county retirement system (10 years of creditable service was required in order to be vested under the county system), current law allowed such employees full retirement benefit reciprocity, and no benefits were lost.

However, for Milwaukee County prosecutors who had not vested in the county retirement system and who elected to become participants under the WRS, Act 336 directed that the MCERS remit to the WRS an amount equal to the employer-required normal contributions, plus interest earned, for each non-vested employee, thereby allowing the employee to receive creditable service under the WRS. At the time the bill passed, MCERS Pension Board opposed all efforts to require the County to remit benefits to WRS. The Pension Board argued that the State could not direct assets of the MCERS.

Eventually the Pension Board denied the release of funds for nonvested participants since it would be a violation of federal law and that release of the funds would violate the fiduciary duties of the Board. Subsequently, the Wisconsin Supreme Court in *Association of State Prosecutors v. Milwaukee* determined this provision to be unconstitutional on the ground that the funds to be transferred were property of the other MCERS participants and retirees and thus taking from the county retirement system was ruled invalid.

In rendering its opinion, filed on March 13, 1996, the State Supreme Court stated, "...Many employees have become, and might continue to become, employees of the state or of different private employers. If the legislature orders contributions made 'on behalf of' employees to be transferred to such new employees, the actuarial soundness of the plan would eventually suffer.

"In the present case, the legislature could have easily provided service credits to its new employees under the State Plan, and funded the resulting larger retirement pensions with state money..."

Due to the efforts of private lobbyists representing the Association of State Prosecutors (ASP) during the 1997 State Budget process, the Joint Finance Committee, on Motion 1614, granted WRS creditable service to current state employees who were originally non-vested county pension system employees in the Milwaukee County District Attorney's Office on December, 1989. The State had estimated that 40 state employees would be affected by this motion and the total additional unfunded prior service liability would amount to approximately \$904,200. The motion provided \$50,000 GPR annually as one time funding in 1997-'99 and directed that the remaining liability would be deducted from Milwaukee County's reimbursement for State D.A. costs over the next ten years. This action took place without the County having any knowledge prior to its passage by the Joint Finance Committee. Based upon the Supreme Court decision, Milwaukee County requested the Governor veto the portion of the State Budget pertaining to this issue.

It had been reported to County Supervisors that these same independent lobbyists would again approach state legislators in an attempt to gain pension service credit for former ADAs and present members of the ASP but not for former ADAs that are no longer members of ASP. The lobbying effort would hope to obtain pension

service credit for approximately 40 existing state prosecutors (SPs) while excluding 8 former ADAs/SPs. It is Milwaukee County's understanding that under Article IV, Section 26 of the Wisconsin Constitution the legislature may not grant extra compensation to a public officer after services have been rendered. However, there is an exception to the provision for granting increased benefits for persons who have been or shall be granted benefits of any kind under a retirement system when such benefit increases are provided by a three-fourths vote of the all of the members elected to both houses of the legislature and that such act provides sufficient state funds to cover the costs of the increased benefit. In order to include these 8 former ADAs/SPs such a vote would need to take place.


All 48 ADAs were prosecutors in the Milwaukee County District Attorney's Office on December 31, 1989, and transferred to state service on January 1, 1990. They exercised their option to become members of the Wisconsin Retirement System but they were not yet vested in the Milwaukee County Employees' Retirement System (ERS). These ADAs were assured by the state that they would receive full credit for their time as ADAs. The intent of the communication you received was to request that you support pension credit for all former Assistant District Attorneys not just those presently in the ASP.

Previous cost projections for 1997 to fund this matter were estimated at \$978,000 for the cost of employer required contributions and earned interest for 40 ADAs. This figure has grown since 1997 and an updated estimate, inclusive of all ADAs, would need to be calculated by the Wisconsin Retirement System (WRS).

Some County Supervisors have indicated a willingness to fund a portion of this cost based upon what its initial employer-required contribution obligation could have been. While the original county employer-required contribution amount is significantly less than \$400,000, some County Supervisors have indicated a willingness to provide funding up to, but not exceeding, this amount through the use of a funding mechanism other than direct property tax levy. A possible funding vehicle could be the withholding of a portion of the State reimbursement to the County for State D.A. costs over a five year period. What precisely would be the funding level and mechanism still needs to be negotiated and agreed upon by the state and county.

It is hoped that this communication provides the additional information you need. If you have further questions or concerns please do not hesitate to contact me.

Sincerely,



Karen M. Ordians
County Board Chairman



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3680/1

RAC: :....

jean

jl

1999 BILL

gen cat

1 A N ACT ... **relating to:** granting creditable service under the Wisconsin
2 retirement system to certain assistant district attorneys formerly employed by
3 Milwaukee County[✓] and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill grants creditable service under the Wisconsin retirement system (WRS)[✓] to former assistant district attorneys who were employed in the Milwaukee County district attorney's office on December 31, 1989, who became state employees and WRS participants on January 1, 1990, who were not vested in the Milwaukee County ~~Employees~~ Retirement System (MCERS)[✓] at the time of their becoming participants in the WRS and who terminated state employment before October 29, 1999, for their total period of service under the MCERS.

This bill will be referred to the joint survey committee on retirement systems for a detailed analysis, which will be printed as an appendix to this bill.

For further information **see** the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.515 (1) (bm)[✓] of the statutes is created to read:

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 1/01/1999

To: Representative Walker

Relating to LRB drafting number: LRB-3680

Topic

Pension benefits for former Milwaukee County assistant district attorneys

Subject(s)

Employ Pub - retirement

1. **JACKET** the draft for introduction _____

in the **Senate** _____ or the **Assembly** _____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-356 1. If you have any questions relating to the attached draft, please feel free to call me.

Rick A. Champagne, Senior Attorney
Telephone: (608) 266-9930



1999 BILL

1 **AN ACT** to create 20.515 (1) (bm) and 40.02 (17) (gr) of the statutes; **relating to:**
2 granting creditable service under the Wisconsin retirement system to certain
3 assistant district attorneys formerly employed by Milwaukee County and
4 making an appropriation.

Analysis by the Legislative Reference Bureau

This bill grants creditable service under the Wisconsin retirement system (WRS) to former assistant district attorneys who were employed in the Milwaukee County district attorney's office on December 31, 1989, who became state employees and WRS participants on January 1, 1990, who were not vested in the Milwaukee County employees' retirement system (MCERS) at the time of their becoming participants in the WRS and who terminated state employment before October 29, 1999, for their total period of service under the MCERS.

This bill will be referred to the joint survey committee on retirement systems for a detailed analysis, which will be printed as an appendix to this bill.

For further information **see** the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 20.515 (1) (bm) of the statutes is created to read:

