

1999 DRAFTING REQUEST**Assembly Amendment (AA-AB721)**Received: **03/27/2000**Received By: **olsenje**Wanted: **Today**

Identical to LRB:

For: **Legislative Fiscal Bureau**By/Representing: **Rep. Huber**This file may be shown to any legislator: **NO**Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - district attys**Extra Copies: **MGD
Rep. Huber**

Pre Topic:

No specific pre topic given

Topic:

Allocation of ADA positions

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	olsenje 03/27/2000	jgeller 03/27/2000	hhagen 03/27/2000	_____	lrb-docadmin 03/27/2000	lrb-docadmin 03/27/2000	
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FE Sent For:

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FE Sent For:		JLG 3/27 /2	hh 3/27	Sell 3/27			<END>

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/?	olsenje	1/27/00 jg	nk 3/27	self 3/27			

FE Sent For:

<END>

(715) 848-3705

DDA notifies WDAA that a vacancy

WDAA makes rec. re: transfer

DDA ~~must~~ transfer ~~if~~ ^(or) rec. made WDAA

Decides whether
to make



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

March 28, 2000

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 721: Assistant District Attorney Positions

Assembly Bill (AB) 721 was introduced on February 8, 2000. On March 8, 2000, AB 721 was recommended for passage by the Assembly Committee on Judiciary and Personal Privacy, by a **vote of 8 to 1**.

BACKGROUND

District Attorneys are currently authorized 370.0 GPR and 42.50 PR positions for a total of 412.5 prosecutor positions, including district attorneys (**DAs**), deputy district attorneys (**DDAs**) and assistant district attorneys (**ADAs**). This includes 10.0 PR project positions, 4.0 of which were recently approved for Milwaukee County by the Joint Finance Committee on March 20, 2000.

1999 Act 9, the biennial budget act, provided a total of \$217,200 GPR and 6.0 GPR prosecutor positions in 1999-00 and \$318,700 GPR and 6.65 GPR prosecutor positions in 2000-01. The additional positions were allocated as follows: (a) 6.0 ADA positions in Milwaukee County for the "Project Ceasefire" initiative; and (b) 0.4 position in Forest County, 0.05 position in Richland County; and 0.2 position in Rusk County to make those district attorneys full-time, effective with the 2000 general election. A gubernatorial veto deleted funding and position authority for an additional 17.0 ADA positions.

Currently, a s. 13.10 request from the State Prosecutor's **Office** in the Department of Administration (**DOA**) is before the Joint Finance Committee that would transfer 0.2 GPR position from Rusk County to Adams County, effective January 1, 2001. According to the request, the person who holds the ADA position is also employed by Rusk County as its 0.3 full-time equivalent (**FTE**) corporation counsel (county-funded). The Rusk County Board of Supervisors, the Rusk County DA and the Rusk County ADA reached written agreements under which the Rusk

County DA petitioned **DOA** to reduce the ADA position by 0.2 GPR FTE effective January 1, 2001 (when the DA becomes full time), so that the ADA can increase his employment as corporation counsel by 0.2 **FTE**.

As a result, **DOA** requested that the Wisconsin District Attorneys Association (WDAA) advise it as to which district attorney office should receive the additional 0.2 GPR position. In December, 1999, the WDAA asked all DA offices to submit an application for the 0.2 position to the WDAA. An Ad Hoc Allocation Committee, consisting of **DAs** who did not request the position, was created to consider the requests.

Concurrent with the application process for the 0.2 position, the WDAA was asked to recommend the allocation of 5.0 ADA positions that would be provided under Assembly Bill 721. As a result, the Ad Hoc Allocation Committee was asked to recommend both the transfer of the 0.2 GPR ADA position from Rusk County and the distribution of the 5.0 GPR ADA positions in AB 721. Consequently, the Ad Hoc Allocation Committee made its recommendations based on the presumed availability of 5.2 ADA positions.

The following 16 counties originally applied for the 0.2 GPR ADA position: (a) Adams; (b) Ashland; (c) Brown; (d) Columbia; (e) Dane; (f) Dodge; (g) Jefferson; (h) Langlade; (i) Kenosha; (j) Marathon; (k) Marinette; (l) Oneida; (m) Outagamie; (n) **Pepin**; (o) Rock; and (p) Taylor. In addition, 13 counties submitted separate requests for a portion of the 5.0 GPR ADA positions. The following counties submitted a request, with the number of positions requested, if specified by the county, in parentheses: (a) Brown; (b) Columbia (1 .0); (c) Dane (1 .0 or more); (d) Grant (0.5); (e) Kenosha (0.7); (f) La Crosse (at least 0.3, but preferably 0.5); (g) Oneida (1.0); (h) Outagamie; (i) Rock (1.0); (j) Sauk (2.0); (k) Sheboygan (1.0); (l) Taylor (0.2); (m) Washburn (0.5); and (n) Winnebago (1 .0).

The Ad Hoc Allocation Committee limited its consideration to those counties whose workload was greater than 130% (that is, the prosecutors in the **office** handle 130% or more of a caseload). This calculation is based on a weighted prosecutor caseload analysis that uses: (a) the average of 1996-98 case filings by type of case; (b) the assumption that, on average, each prosecutor has 1,227 hours per year to prosecute cases; and (c) an average number of hours for each type of case.

Using this methodology, the following counties demonstrate a 130% or greater workload: (a) Adams; (b) Ashland; (c) Burnett; (d) Columbia; (e) La Crosse; (f) Manitowoc; (g) Marathon; (h) Marquette; (i) Monroe; (j) Oneida; (k) Rock; (l) Sauk; (m) Sawyer; (n) Sheboygan; (o) Washburn; and (p) Winnebago. The attachment lists how all counties rank with respect to workload, based on 1996-98 average case filings and current positions. Note that the attachment does not include the Act 9 provisions making Forest, Richland and Rusk County **DAs** full time, which will be effective with the year 2000 general election.

In making its recommendations, the Ad Hoc Committee examined available data, reviewed the requests and held a hearing at which district attorneys could present their reasons for requesting a position. The WDAA recommended the following distribution of 5.2 GPR ADA positions:

County	Recommended Positions
	<u>S. 13.10 Request</u>
Adams	0.20 (transfer from Rusk County)
	AB 721
Burnett/Washburn.	Share 0.5 position or create two separate 0.25 positions
Columbia	0.50
La Crosse	0.30
Marathon	0.50
Manitowoc/Sheboygan	Share 1 .0 position or create two separate 0.5 positions
Marquette	0.20
Oneida	0.50
Rock	0.75
Winnebago	<u>0.75</u>
TOTAL	5.20

SUMMARY OF ASSEMBLY BILL 721

AB 721 would provide \$59,900 GPR in 1999-00 and \$239,500 GPR in 2000-01 and 5.0 GPR ADA positions annually. **AB 721** would require the Department of Administration (**DOA**) to determine the counties to which the positions are to be allocated. In determining where the positions are to be allocated, **AB 721** would require **DOA** to consult with the WDAA and to consider the recommendation of the WDAA.

It should be noted that when additional prosecutor positions have previously been approved, the Legislature has specified the county in which each position would be located.

FISCAL EFFECT

Assembly Bill 721 would provide \$59,900 GPR in 1999-00, \$239,500 GPR in 2000-01 and 5.0 GPR ADA positions annually. A fiscal estimate was received for **AB 721** from the State Prosecutor’s Office in **DOA**. The estimate states that the bill provides funding for the 5.0 additional positions beginning April 1, 2000. According to the estimate, the annualized fiscal impact to the state would be \$239,500 GPR.

Prepared by: Barbara Zabawa
Attachment

ATTACHMENT

District Attorney Weighted Caseload Using 1996-98 Average Cases Filed

<u>County</u>	<u>Current Positions (Inc. Project Positions)</u>	<u>Additional Positions Needed</u>	<u>Current Prosecutor Workload</u>	<u>County</u>	<u>Current Positions (Inc. Project Positions)</u>	<u>Additional Positions Needed</u>	<u>Current Prosecutor Workload</u>
Forest*	0.60	0.61	202%	Dodge	4.00	0.24	106%
Burnett	1.00	0.68	168	Juneau	2.00	0.12	106
Columbia	3.00	1.99	166	Clark	2.00	0.11	106
Oneida	2.00	1.29	165	Milwaukee**	120.00	3.85	103
Manitowoc	4.00	2.47	162	Dane	34.00	0.87	103
Washburn	1.00	0.57	157	Trempealeau	1.60	0.04	103
Winnebago	8.00	4.40	155	Price	1.00	0.02	102
Monroe	3.00	1.45	148	walworth	5.00	-0.12	98
Marathon	7.00	3.38	148	Portage	4.00	-0.15	96
Ashland	1.50	0.71	147	DUM	3.50	-0.14	96
Sheboygan	7.00	3.22	146	Barron	3.00	-0.21	93
Adams	1.00	0.46	146	Waupaca	4.00	-0.30	93
La Crosse	7.50	2.79	137	Waushara	1.50	-0.12	92
Sawyer	2.00	0.68	134	Waukesha	18.50	-1.56	92
Rock	13.50	4.40	133	Calumet	2.00	-0.19	91
Eau Claire	8.00	2.60	133	Pepin	0.60	-0.08	87
Marquette	1.00	0.32	132	Florence	0.50	-0.08	84
Sauk	4.50	1.35	130	Green Lake	1.50	-0.25	83
Ozaukee	3.00	0.86	129	Crawford	1.00	-0.18	82
Shawano/Men.	3.00	0.85	128	Buffalo	1.00	-0.21	79
Jefferson	5.30	1.47	128	Jackson	2.00	-0.44	78
Polk	2.00	0.52	126	Kewaunee	1.50	-0.33	78
Langlade	1.50	0.38	125	Iowa	1.75	-0.43	75
Fond du Lac	5.00	1.26	125	Rusk*	1.50	-0.40	73
Outagamie	9.00	1.93	121	Richland*	1.75	-0.58	67
Kenosha	12.00	2.48	121	Iron	1.00	-0.34	66
Taylor	1.00	0.20	120	Vilas	2.00	-0.71	65
Washington	5.00	0.92	118	Lafayette	1.00	-0.38	62
Grant	2.00	0.35	118	St. Croix	6.00	-2.34	61
Brown**	12.00	2.07	117	Pierce	3.00	-1.51	50
Lincoln	2.00	0.34	117	Vernon	<u>2.40</u>	-1.23	<u>49</u>
Oconto	1.50	0.24	116	TOTAL	412.50	43.84	111%
Marinette	2.50	0.38	115				
Bayfield	1.00	0.15	115				
Douglas	3.50	0.36	110				
Chippewa	4.00	0.40	110				
Green	2.00	0.20	110				
Door	2.00	0.18	109				
Wood	4.00	0.36	109				
Racine	19.00	1.60	108				

*Forest, **Richland** and Rusk Counties will have a full-time District Attorney beginning 1-1-01.

**Includes 1.0 sexually violent person commitment prosecutor.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa2066/1

JEO: A:...

Today 3:00 pm

JLg

ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 721

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line ³ delete that line and substitute:

3 "SECTION ^X 978.042 of the statutes is created to read:

4 **978.042 Prosecutor caseload measurement; redistribution of assistant**
5 **district attorney positions.** (1) The department of administration shall develop
6 a weighted prosecutor caseload measurement formula to assist in determining the
7 comparative need for assistant district attorneys in this state. The formula shall be
8 based on the types of cases prosecuted by district attorneys' offices and the time
9 needed to prosecute those cases, as applied to the average number of cases filed by
10 a prosecutorial unit during the most recent [✓]3-year period for which data is available
11 and to the number of assistant district attorney positions allocated to the
12 prosecutorial unit. The department may consult with the Wisconsin District
13 [✓]Attorneys' Association in developing the formula.

1 (2) (a) If a vacancy occurs in an authorized assistant district attorney position
2 or a portion of such a position and the position is allocated to a prosecutorial unit that
3 has a prosecutor workload of less than [✓]100% of the standard full-time workload,
4 according to the weighted prosecutor caseload measurement formula developed
5 under sub. [✓](1), the department of administration shall notify the Wisconsin District
6 Attorneys' Association of the vacancy

7 (b) After receiving notice of a vacancy under par. (a), [✓]the Wisconsin District
8 Attorneys' Association shall make a recommendation to the department of
9 administration as to whether the vacancy or any portion of the vacancy should be
10 transferred to a prosecutorial unit that has a prosecutor workload of more than 100%
11 of the standard full-time workload, according to the weighted prosecutor caseload
12 measurement formula developed under sub. (l), and that requested additional
13 assistant district attorney position authorization for the fiscal biennium in which the
14 vacancy occurs.

15 (c) After receiving the recommendation of the Wisconsin District Attorneys'
16 Association prepared under par. (b), [✓]the department of administration shall decide,
17 subject to par. [✓](d), whether to transfer the vacancy or any portion of the vacancy to
18 a prosecutorial unit that has a prosecutor workload of more than 100% of the
19 standard full-time workload, according to the weighted prosecutor caseload
20 measurement formula developed under sub. (1), and that requested additional
21 assistant district attorney position authorization for the fiscal biennium in which the
22 vacancy occurs. The department of administration shall consider the
23 recommendation of the Wisconsin District Attorneys' Association in making its
24 decision under this paragraph. [✓]If the department of administration decides under
25 ~~to transfer~~ ^{this paragraph} to transfer a vacancy or portion of a vacancy from one prosecutorial unit to

1 another, the department shall, notwithstanding ss. 978.03 and 978.04, transfer the
2 position or portion of the position,

3 (d) The department of administration may not transfer a position or a portion
4 of a position under this subsection if the transfer from the prosecutorial unit that has
5 a prosecutor workload of less than 100% of the standard full-time workload,
6 according to the weighted prosecutor caseload measurement formula developed
7 under sub. (1), would result in the prosecutorial unit having a prosecutor workload
8 of more than 100% of the standard full-time workload, according to the weighted
9 prosecutor caseload measurement formula developed under sub. (1).

10

SECTION 1r. Appropriation changes.

11

(END)



Tues 3/28
by 8:30 am

2
r.m.f.

**ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 721**

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 3: delete that line and substitute:

3 "SECTION 978.042 of the statutes is created to read:

4 **978.042 Prosecutor caseload measurement; redistribution of assistant**
5 **district attorney positions. (1)** The department of administration shall develop

6 a weighted prosecutor caseload measurement formula to assist in determining the

7 comparative need for ~~assistant district attorneys~~ ^{prosecutors} in this state. The formula shall be

8 based on the types of cases prosecuted by district attorneys' offices and the time

9 needed to prosecute those cases, as applied to the average number of cases filed by

10 a prosecutorial unit during the most recent 3-year period for which data is available

11 and to the number of ~~assistant district attorney~~ ^{prosecutor} positions allocated to the

12 prosecutorial unit. The department may consult with the Wisconsin District

13 Attorneys' Association in developing the formula.

1 (2) (a) If a vacancy occurs in an authorized assistant district attorney position
2 or a portion of such a position and the position is allocated to a prosecutorial unit that
3 has a prosecutor workload of less than 100% of the standard full-time workload,
4 according to the weighted prosecutor caseload measurement formula developed
5 under sub. (1), the department of administration shall notify the Wisconsin District
6 Attorneys' Association of the vacancy.

7 (b) After receiving notice of a vacancy under par. (a), the Wisconsin District
8 Attorneys' Association shall make a recommendation to the department of
9 administration as to whether the vacancy or any portion of the vacancy should be
10 transferred to a prosecutorial unit that has a prosecutor workload of more than 100%
11 of the standard full-time workload, according to the weighted prosecutor caseload
12 measurement formula developed under sub. (1), and that requested additional
13 assistant district attorney position authorization for the fiscal biennium in which the
14 vacancy occurs.

15 (c) After receiving the recommendation of the Wisconsin District Attorneys'
16 Association prepared under par. (b), the department of administration shall decide,
17 subject to par. (d), whether to transfer the vacancy or any portion of the vacancy to
18 a prosecutorial unit that has a prosecutor workload of more than 100% of the
19 standard full-time workload, according to the weighted prosecutor caseload
20 measurement formula developed under sub. (1), and that requested additional
21 assistant district attorney position authorization for the fiscal biennium in which the
22 vacancy occurs. The department of administration shall consider the
23 recommendation of the Wisconsin District Attorneys' Association in making its
24 decision under this paragraph. If the department of administration decides under
25 this paragraph to transfer a vacancy or portion of a vacancy from one prosecutorial

1 unit to another, the department shall, notwithstanding ss. 978.03 and 978.04,
2 transfer the position or portion of the position.

3 (d) The department of administration may not transfer a position or a portion
4 of a position under this subsection if the transfer from the prosecutorial unit that has
5 a prosecutor workload of less than 100% of the standard full-time workload,
6 according to the weighted prosecutor caseload measurement formula developed
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8 of more than 100% of the standard full-time workload, according to the weighted
9 prosecutor caseload measurement formula developed under sub. (1).

10 **SECTION 1r. Appropriation changes.“.**

11 (END)