

**1999 DRAFTING REQUEST**

**Bill**

Received: **12/14/98**

Received By: **olsenje**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Statz**

This file may be shown to any legislator: **NO**

Drafter: **nelsorp1**

May Contact:

Alt. Drafters:

Subject: **State Government - miscellaneous**

Extra Copies: **JEO**

**Topic:**

DOA:.....Statz - Legal fees charged by DOJ

**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>
/?	olsenje 12/17/98			_____			State
/1	nelsorp1 12/18/98	jgeller 12/18/98	jfrantze 12/18/98	_____	lrb_docadmin 12/18/98		State
/2	nelsorp1 12/28/98	jgeller 12/28/98	ismith 12/28/98	_____	lrb_docadmin 12/28/98		State
/3	nelsorp1 01/18/99		lpaasch 01/19/99	_____	lrb_docadmin 01/19/99		

FE Sent For:

<END>



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*12/28 JG*      *12/28 JS*      *IS/WLJ 12/28*

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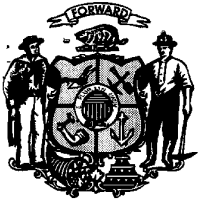
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1?	olsenje	1/12/98 JLG	12/18/98	12/18/98			

\*\*\*NOTE

FE Sent For:

<END>



STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION  
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON  
GOVERNOR  
MARK D. BUGHER  
SECRETARY

Mailing Address:  
Post Office Box 7864  
Madison, WI 53707-7864



1266

**Date:** December 9, 1998

**To:** Steve Miller  
Legislative Reference Bureau

**From:** Andrew J. Statz  
DOA - State Budget Office

70370  
AS

**Subject:** Legal fees charged by the Department of Justice (DOJ)

Attached are revisions to ss. 165.25(6)(a) and 20.455(1)(km).

DOJ is directed by s. 165.25(6)(a) to provide legal services to state agencies when requested to do so by agency heads. My goal is to clarify which appropriation is credited when DOJ provides legal services to state agencies. Three scenarios exist:

- 1) DOJ enters into an agreement to provide ongoing services to state agencies. Such agreements, contracts, or understandings and relevant spending authority must be approved under ss. 16.505 and 16.515 or the budget process. These funds must be credited to s. 20.455(1)(km) *Interagency and intra-agency assistance* as program revenue.
- 2) When such arrangements do not exist or have not been approved, funds collected for providing legal services to agencies enumerated in s. 165.25 must be deposited to the general fund per ss. 165.25(4)(d) and 20.001(4) *General purpose revenue - earned*.
- 3) Agencies not enumerated in s. 165.25 and who do not have an agreement authorized under ss. 16.505 and 16.515 may not be charged for legal services.

I believe these revisions will provide clarity. Take a look and let me know if you have any questions. Thanks.

70370

**165.25(6)(a)**

At the request of the head of any department of state government, the attorney general may appear for and defend any state department, or any state officer, employe or agent of the department in any civil action or other matter brought before a court or an administrative agency which is brought against the state department, or officer, employe or agent for or on account of any act growing out of or committed in the lawful course of an officer's, employe's or agent's duties. Witness fees or other expenses determined by the attorney general to be reasonable and necessary to the defense in the action or proceeding shall be paid as provided for in s. 885.07. The attorney general may compromise and settle the action as the attorney general determines to be in the best interest of the state. Members, officers and employes of the Wisconsin state agencies building corporation and the Wisconsin state public building corporation are covered by this section. Members of the board of governors created under s. 619.04 (3), members of a committee or subcommittee of that board of governors, members of the patients compensation fund peer review council created under s. 655.275 (2) and persons consulting with that council under s. 655.275 (5) (b) are covered by this section with respect to actions, claims or other matters arising before, on or after April 25, 1990. The attorney general may compromise and settle claims asserted before such actions or matters formally are brought or may delegate such authority to the department of administration. This paragraph may not be construed as a consent to sue the state or any department thereof or as a waiver of state sovereign immunity. Any funds collected under this provision based on understandings or contracts between the department of justice and other state agencies approved under ss. 16.505 and 16.515 or the budget process shall be credited to s. 20.455(1)(km). If such spending authority has not been approved, funds obtained under this provision by the department of justice for providing legal services to state agencies shall be handled under s. 165.25(4)(d) and s. 20.001(4). Agencies not enumerated in s. 165.25 and who do not have contracts or agreements with DOJ authorized under ss. 16.505 or 16.515 shall not be charged for legal services.

**20.455(1)(km)**

Interagency and intra-agency assistance. The amounts in the schedule to provide legal services to state agencies. All moneys received from the department or any other state agency for legal services shall be credited to this appropriation. Amounts in this appropriation reflect contracts and arrangements for payment between the department of justice and state agencies that have been approved pursuant to ss. 16.505 and 16.515 procedures or the budget process.



2004  
State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1266/1

RPN...:A:...

R Note

J19

DOA:.....Statz - Legal fees charged by DOJ

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

head -> STATE GOVERNMENT  
sub -> Other state government

do not gen

1 AN ACT ...; relating to: the budget. ✓  
the state the

*Analysis by the Legislative Reference Bureau*

departments

Currently, if requested to do so by the head of a state department, the department of justice (DOJ) defends state departments or any state officer, employee or agent of a department in a civil action brought against that department or person for an act growing out of his or her official duties. The attorney general is paid by state agencies for the legal services provided under contracts or understandings entered into between DOJ and the other departments.

(JCF)

JCF  
may

This bill provides that any money that is collected by DOJ as the result of a contract or understanding between DOJ and another state agency that is approved by the joint committee on finance, or as part of the biennial budget act shall be credited to an appropriation account for use by DOJ. The bill provides that any money collected by DOJ under a contract or understanding with a state agency that is not approved by the joint committee on finance or as part of the biennial budget act shall be credited to the general fund. In addition, the bill provides that a state agency shall not be charged for legal services provided to that agency by DOJ if that agency is not specifically listed as one that DOJ provides legal services to and if that agency does not have a contract or understanding with DOJ that is approved by the joint committee on finance or as part of the biennial budget act.

JCF

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:***

1           **SECTION 1.** 20.455 (1) (km) <sup>✓</sup> of the statutes is amended to read:

2           20.455 (1) (km) *Interagency and intra-agency assistance.* The amounts in the  
3 schedule to provide legal services to state agencies. All moneys received from the  
4 department or any other state agency for legal services, including any moneys  
5 received by the department of justice <sup>✓</sup> under s. 165.25 (6) (f) <sup>✓</sup> as the result of a contract  
6 or understanding between the department of justice and another state agency that  
7 is approved under s. 16.505 <sup>✓</sup> or 16.515 <sup>✓</sup> or as part of the biennial budget act, shall be  
8 credited to this appropriation.

History: 1971 c. 125; 1973 c. 90, 336; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 29, 418; 1979 c. 34 ss. 286m, 290, 523 to 526; 1979 c. 189, 219, 355; 1981 c. 20, 169; 1983 a. 27 ss. 427 to 430, 1800; 1983 a. 199, 523; 1985 a. 29, 120; 1987 a. 27, 326, 399; 1989 a. 31, 122, 336; 1991 a. 11, 39, 269; 1993 a. 16, 98, 193, 460, 496; 1995 a. 27 ss. 1014h to 1029, 9126 (19), 9130 (4); 1995 a. 227; 1997 a. 27, 237.

9           **SECTION 2.** 165.25 (6) (f) <sup>✓</sup> of the statutes is created to read:

10           165.25 (6) (f) Except as provided under ss. <sup>✓</sup>49.49 (6), <sup>✓</sup>100.263, <sup>✓</sup>133.16, <sup>✓</sup>281.98,  
11 <sup>✓</sup>283.91 (5), <sup>✓</sup>289.96 (3), <sup>✓</sup>292.99, <sup>✓</sup>293.87 (4), <sup>✓</sup>295.19 (3) (b), <sup>✓</sup>299.95 and <sup>✓</sup>299.97, any money  
12 that is ~~collected~~ <sup>received</sup> by the department of justice under this subsection <sup>✓</sup> as the result of  
13 a contract or understanding between the department of justice and another state  
14 agency that is approved under s. 16.505 or 16.515 <sup>✓</sup> or as part of the biennial budget  
15 act shall be credited to the appropriation under s. 20.455 (1) (km) <sup>✓</sup>. If authority to  
16 spend the money that is ~~collected~~ <sup>received</sup> by the department of justice under this subsection  
17 as the result of a contract or understanding between the department of justice and  
18 another state agency is not approved under s. 16.505 or 16.515 <sup>✓</sup> or as part of the  
19 biennial budget act, the money ~~collected~~ <sup>received</sup> shall be paid into the general fund as  
20 provided under s. 20.001 (4) <sup>✓</sup> or 165.25 (4) (d) <sup>✓</sup>. An agency that is not enumerated in



1 <sup>this section</sup> ~~s. 165.25~~ and that does not have a contract or understanding with the department  
 2 of justice that is approved under s. 16.505 or 16.515<sup>✓</sup> or as part of the biennial budget  
 3 act ~~shall~~ <sup>may</sup> not be charged for legal services provided to that agency by the department  
 4 of justice.

<sup>the subsection</sup>  
 \*\*\*NOTE: I am not sure if the reference to s. 165.25<sup>✓</sup> in the last sentence is correct.  
 Should that be a reference to ~~s. 165.25(c)?~~

5

(END) ✓

cl

D-Note

I am not sure that

s. 20.455 (1) (km)<sup>km</sup> ✓ needs  
 amending.

RPN

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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1266/1dn  
RPN:jlj:jf

December 18, 1998

I am not sure that s. 20.455 (1) (km) needs amending.

Robert P. Nelson  
Senior Legislative Attorney  
267-7511



500n  
**State of Wisconsin**  
**1999 - 2000 LEGISLATURE**

LRB-1266/1

RPN:jlj:jf

DOA:.....Statz - Legal fees charged by DOJ

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

do not gen  
1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

**OTHER STATE GOVERNMENT**

Currently, if requested to do so by the head of a state department, the department of justice (DOJ) defends the state department or any state officer, employe or agent of the state department in a civil action brought against that department or person for an act growing out of his or her official duties. The attorney general is paid by state departments for the legal services provided under contracts or understandings between DOJ and the other departments.

This bill provides that any money that is received by DOJ as the result of a contract or understanding between DOJ and another state agency that is approved by the joint committee on finance (JCF) or as part of the biennial budget act shall be credited to an appropriation account for use by DOJ. The bill provides that any money collected by DOJ under a contract or understanding with a state agency that is not approved by JCF or as part of the biennial budget act shall be credited to the general fund. In addition, the bill provides that a state agency may not be charged for legal services provided to that agency by DOJ if that agency is not specifically listed as one that DOJ provides legal services to and if that agency does not have a contract or understanding with DOJ that is approved by the JCF or as part of the biennial budget act.

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:***

1           **SECTION 1.** 20.455 (1) (km) of the statutes is amended to read:

2           20.455 (1) (km) *Interagency and intra-agency assistance.* The amounts in the  
3           schedule to provide legal services to state agencies. All moneys received from the  
4           department or any other state agency for legal services, including any moneys  
5           received by the department of justice under s. 165.25 (6) (f) as the result of a contract  
6           or understanding between the department of justice and another state agency that  
7           is approved under s. 16.505 or 16.515 or as part of the biennial budget act, shall be  
8           credited to this appropriation.

9           **SECTION 2.** 165.25 (6) (f) of the statutes is created to read:

10           165.25 (6) (f) Except as provided under ss. 49.49 (6), 100.263, 133.16, 281.98,  
11           283.91 (5), 289.96 (3), 292.99, 293.87 (4), 295.19 (3) (b), 299.95 and 299.97, any money  
12           that is received by the department of justice under this subsection as the result of a  
13           contract or understanding between the department of justice and another state  
14           agency that is approved under s. 16.505 or 16.515 or as part of the biennial budget  
15           act shall be credited to the appropriation under s. 20.455 (1) (km). If authority to  
16           spend the money that is received by the department of justice under this subsection  
17           as the result of a contract or understanding between the department of justice and  
18           another state agency is not approved under s. 16.505 or 16.515 or as part of the  
19           biennial budget act, the money received shall be paid into the general fund as  
20           provided under s. 20.001 (4) or 165.25 (4) (d). An agency that is not enumerated in  
21           this section and that does not have a contract or understanding with the department

1 of justice that is approved under s. 16.505 or 16.515 or as part of the biennial budget  
2 act may not be charged for legal services provided to that agency by the department  
3 of justice.

\*\*\*\*NOTE: I am not sure if the reference to s. 165.25 in the last sentence is correct.  
Should that be a reference to the subsection?

4

(END) ✓



3084  
**State of Wisconsin**  
**1999 - 2000 LEGISLATURE**

LRB-1266/2

RPN:jlg:ijs

3

DOA:.....Statz - Legal fees charged by DOJ

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

do not gen

✓ In addition to receiving general program revenue,

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

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6 appropriation.

7           **SECTION 2.** 165.25 (6) (f) of the statutes is created to read:

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14 spend the money that is received by the department of justice under this subsection  
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16 another state agency is not approved under s. 16.505 or 16.515 or as part of the  
17 biennial budget act, the money received shall be paid into the general fund as  
18 provided under s. 20.001 (4) or 165.25 (4) (d). An agency that is not enumerated in  
19 this section and that does not have a contract or understanding with the department  
20 of justice that is approved under s. 16.505 or 16.515 or as part of the biennial budget

1 act may not be charged for legal services provided to that agency by the department  
2 of justice.

3 (END)





State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1266/3

RPN;jlg:lp

DOA:.....Statz – Legal fees charged by DOJ

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

---

*Analysis by the Legislative Reference Bureau*

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4 department or from any other state agency ~~for legal services under s. 165.25 (6) (f)~~  
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6           **SECTION 2.** 165.25 (6) (f) of the statutes is created to read:

7           165.25 (6) (f) Except as provided under ss. 49.49 (6), 100.263, 133.16, 281.98,  
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18 this section and that does not have a contract or understanding with the department  
19 of justice that is approved under s. 16.505 or 16.515 or as part of the biennial budget

1 act may not be charged for legal services provided to that agency by the department  
2 of justice.

3 (END)