

1999 DRAFTING REQUEST

Bill

Received: **12/21/98**

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: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - district attys**

Extra Copies:

Topic:

DOA:.....Statz - Milwaukee drug court clerks

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 12/21/98	ygeller 12/21/98	jfrantze 12/22/98	_____	lrb_docadmin 12/22/98		State

FE Sent For:

<END>

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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



1412

Date: December 18, 1998

To: Steve Miller
Legislative Reference Bureau

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

Subject: Full-funding of Milwaukee drug court clerks

In the Governor's budget, we recommend the full-funding for court clerk positions associated with Milwaukee's speedy drug and speedy violent crimes courts. Accordingly, we need changes to ss. 978.13(1)(b) and (c).

(b) ...The amount paid under this paragraph may not exceed \$75,200 in the 1999-2000 fiscal year and \$77,500 in the 2000-2001 fiscal year.

(c) ... The amount paid under this paragraph may not exceed \$94,400 in the 1999-2000 fiscal year and \$97,200 in the 2000-2001 fiscal year.

Attached is a copy of the original statutory provisions. This should be an easy one. Thanks.

attachment

established under chapter 201, laws of 1937, for any benefit accrued or service rendered under that retirement system prior to the election. Any provision in the retirement system established under chapter 201, laws of 1937, for repurchasing benefits or service forfeited shall not apply to the benefits and service transferred under this subdivision.

(6) **OTHER FRINGE BENEFITS.** District attorneys and state employes of the office of district attorney shall be included within all insurance benefit plans under ch. 40, except as authorized in this subsection. Alternatively, the state shall provide insurance benefit plans for district attorneys and state employes in the office of district attorney in the manner provided in this subsection. A district attorney or other employe of the office of district attorney who was employed in that office as a county employe on December 31, 1989, and who received any form of fringe benefits other than a retirement, deferred compensation or employee-funded reimbursement account plan as a county employe, as defined by that county pursuant to the county's personnel policies, or pursuant to a collective bargaining agreement in effect on January 1, 1990, or the most recent collective bargaining agreement covering represented employes who are not covered by such an agreement, may elect to continue to be covered under all such fringe benefit plans provided by the county after becoming a state employe. In a county having a population of 500,000 or more, the fringe benefit plans shall include health insurance benefits fully paid by the county for each retired employe who, on or after December 31, 1989, attains at least 15 years of service in the office of district attorney of that county, whether or not the service is as a county employe, for the duration of the employe's life. An employe may make an election under this subsection no later than January 31, 1990, except that an employe who serves as an assistant district attorney in a county having a population of 500,000 or more may make an election under this subsection no later than March 1, 1990. An election under this subsection shall be for the duration of the employe's employment in the office of district attorney for the same county by which the employe was employed or until the employe terminates the election under this subsection, at the same cost to the county as the county incurs for a similarly situated county employe. If the employer's cost for such fringe benefits for any such employe is less than or equal to the cost for comparable coverage under ch. 40, if any, the state shall reimburse the county for that cost. If the employer's cost for such fringe benefits for any such employe is greater than the cost for comparable coverage under ch. 40, the state shall reimburse the county for the cost of comparable coverage under ch. 40 and the county shall pay the remainder of the cost. The cost of comparable coverage under ch. 40 shall equal the average cost of comparable coverage under ch. 40 for employes in the office of the state public defender, as contained in budget determinations approved by the joint committee on finance or the legislature under the biennial budget act for the period during which the costs are incurred. An employe who makes the election under this subsection may terminate that election, and shall then be included within all insurance benefit plans

under ch. 40, except that the department of employe trust funds may require prior written notice, not exceeding one year's duration, of an employe's intent to be included under any insurance benefit plan under ch. 40.

History: 1989 a. 31, 117, 336; 1991 a. 32, 39; 1993 a. 294.

District attorneys are not "public officer[s]" within meaning of term in article IV, section 26 of Wisconsin Constitution, and Legislature may increase or diminish salaries of district attorneys during terms of office. 79 Atty. Gen. 149.

Discussion of what items constitute "fringe benefits" under sub. (6). Brown County Attys. Ass'n v. Brown County, 169 W (2d) 737, 487 NW (2d) 312 (Ct. App. 1992).

Sub. (5) (c) 5. is unconstitutional. The transfer of funds from the Milwaukee County pension plan to the state pension plan contemplated by this provision results in a taking of property without due process of law. Association of State Prosecutors v. Milwaukee, 199 W (2d) 549, 544 NW (2d) 888 (1996).

978.13 Operational expenses of district attorney offices. (1) The state shall assume financial responsibility for all of the following:

(b) In counties having a population of 500,000 or more, the salary and fringe benefit costs of 2 clerk positions providing clerical services to the prosecutors in the district attorney's office handling cases involving felony violations under ch. 961. The state treasurer shall pay the amount authorized under this paragraph to the county treasurer pursuant to a voucher submitted by the district attorney to the department of administration from the appropriation under s. 20.475 (1) (i). The amount paid under this paragraph may not exceed \$70,500 in the 1997-98 fiscal year and \$73,000 in the 1998-99 fiscal year.

(c) In counties having a population of 500,000 or more, the salary and fringe benefit costs of clerk positions in the district attorney's office necessary for the prosecution of violent crime cases primarily involving felony violations under s. 939.63, if a felony is committed while armed, and under ss. 940.01 to 940.03, 940.05, 940.06, 940.225, 943.23 (1g), (1m) and (1r) and 943.32 (2). The state treasurer shall pay the amount authorized under this paragraph to the county treasurer pursuant to a voucher submitted by the district attorney to the secretary of administration from the appropriation under s. 20.475 (1) (i). The amount paid under this paragraph may not exceed \$88,500 in the 1997-98 fiscal year and \$91,600 in the 1998-99 fiscal year.

(2) Except as provided in sub. (1), each county in a district attorney's prosecutorial unit has financial responsibility for all costs related to the operation of the district attorney's office, other than the salaries of the district attorney and other state employes in the district attorney's office, the compensation of special prosecutors and the cost of benefits under the Wisconsin retirement system and the insurance benefit plans under ch. 40 for which the district attorney and other state employes in the district attorney's office are eligible. The nature and level of materials, supplies, equipment, services and facilities provided for the district attorney's office by the county shall be adequate and sufficient to fulfill the responsibilities of that office.

History: 1989 a. 31, 117, 122, 336; 1991 a. 39; 1993 a. 16, 92; 1995 a. 27, 448; 1997 a. 27.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1412/1

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DOA:.....Statz - Milwaukee drug court clerks

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

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1 AN ACT ...; relating to: funding for clerk positions in certain district attorney
2 offices to assist prosecution of felony drug offenses and certain violent felonies.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT ✓

DISTRICT ATTORNEYS ✓

Under current law, the state is responsible for funding some operational expenses of district attorneys' offices. Specifically, the state must reimburse Milwaukee County for the costs of clerks working in the Milwaukee County district attorney's office who assist in the handling of felony drug cases and certain violent felony cases. The amount of reimbursement is capped at a specified amount for the 1997-99 fiscal biennium. This bill increases the maximum amount of reimbursement that the state must provide during the 1999-2001 fiscal biennium.

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:

3 SECTION 1. 978.13 (1) (b) of the statutes is amended to read:

1 978.13 (1) (b) In counties having a population of 500,000 or more, the salary
2 and fringe benefit costs of 2 clerk positions providing clerical services to the
3 prosecutors in the district attorney's office handling cases involving felony violations
4 under ch. 961. The state treasurer shall pay the amount authorized under this
5 paragraph to the county treasurer pursuant to a voucher submitted by the district
6 attorney to the department of administration from the appropriation under s. 20.475
7 (1) (i). The amount paid under this paragraph may not exceed ~~\$70,500~~ \$75,200 in
8 the ~~1997-98~~ 1999-2000 fiscal year and ~~\$73,000~~ \$77,500 in the ~~1998-99~~ 2000-01
9 fiscal year.

10 History: 1989 a. 31, 117, 122, 336; 1991 a. 39; 1993 a. 16, 92; 1995 a. 27, 448; 1997 a. 27.

10 **SECTION 2.** 978.13 (1) (c) of the statutes is amended to read:

11 978.13 (1) (c) In counties having a population of 500,000 or more, the salary and
12 fringe benefit costs of clerk positions in the district attorney's office necessary for the
13 prosecution of violent crime cases primarily involving felony violations under s.
14 939.63, if a felony is committed while armed, and under ss. 940.01 to 940.03, 940.05,
15 940.06, 940.225, 943.23 (1g), (1m) and (1r) and 943.32 (2). The state treasurer shall
16 pay the amount authorized under this paragraph to the county treasurer pursuant
17 to a voucher submitted by the district attorney to the secretary of administration
18 from the appropriation under s. 20.475 (1) (i). The amount paid under this paragraph
19 may not exceed ~~\$88,500~~ \$94,400 in the ~~1997-98~~ 1999-2000 fiscal year and ~~\$91,600~~
20 \$97,200 in the ~~1998-99~~ 2000-01 fiscal year.

21 History: 1989 a. 31, 117, 122, 336; 1991 a. 39; 1993 a. 16, 92; 1995 a. 27, 448; 1997 a. 27.

(END) ✓



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1412/1
JEO;jlg:jf

DOA:.....Statz - Milwaukee drug court clerks

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: funding for clerk positions in certain district attorney
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STATE GOVERNMENT

DISTRICT ATTORNEYS

Under current law, the state is responsible for funding some operational expenses of district attorney offices. Specifically, the state must reimburse Milwaukee County for the costs of clerks working in the Milwaukee County district attorney's office who assist in the handling of felony drug cases and certain violent felony cases. The amount of reimbursement is capped at a specified amount for the 1997-99 fiscal biennium. This bill increases the maximum amount of reimbursement that the state must provide during the 1999-2001 fiscal biennium.

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:

3 SECTION 1. 978.13 (1) (b) of the statutes is amended to read:

