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State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1373/4 25  
MGD:kmg:rs  
EWJ

D - Note

DOA:.....Mukasa - BB0328, State Prosecutors Office

FOR 2003-05 BUDGET - NOT READY FOR INTRODUCTION

LPS:  
INSERTS  
ARE OUT  
OF ORDER.

DO NOT GEN

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

*Analysis by the Legislative Reference Bureau*

**COURTS, COURT PROCEDURE, AND ATTORNEYS**

**DISTRICT ATTORNEYS**

Generally, under current law, ~~each~~<sup>the</sup> county selects its own district attorney, but the district attorney and deputy and assistant district attorneys are state employees. DOA, through its State Prosecutors Office, provides personnel, budget, and other types of management assistance to district attorney offices. With respect to individual cases, however, district attorneys have near-total discretion in deciding what cases to pursue and how to prosecute them. In working on those cases, a district attorney may request assistance from prosecutors in other counties, who may then serve in the same capacity as the district attorney who requested their assistance.

This bill creates a State Prosecutors Board, which is attached to DOA. The board consists of ~~the attorney general~~ and eight district attorneys selected by the governor. Staffed by an executive director, the board has the following duties: 1) adopting advisory guidelines for district attorneys to use in determining when criminal cases should be prosecuted or diverted for nonprosecutorial programs; 2) issuing rules regarding the temporary ~~the~~ assignment of prosecutors to other counties; and 3) supervising the State Prosecutors Office.

4  
AN. INS B

AN. INS A

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:*

INS  
2/10

1 SECTION 1. 15.105 (6) of the statutes is created to read:

2 15.105 (6) STATE PROSECUTORS BOARD. (a) There is created a state prosecutors  
3 board which is attached to the department of administration under s. 15.03 and  
4 which shall consist of the following members:

- 5 1. ~~The attorney general, who shall be chairperson of the board.~~
- 6 ~~Eight~~ district attorneys appointed by the governor. ✓

7 (b) 1. Subject to subd. 2., the ~~district attorney~~ members of the state prosecutors  
8 board shall be appointed for 4-year terms.

9 2. A person may not serve as a member of the board if he or she ceases to hold  
10 the office of ~~attorney general~~ district attorney.

11 (c) Notwithstanding the provisions of any statute or ordinance, membership on  
12 the state prosecutors board does not disqualify a member from holding any other  
13 public office or employment.

INS  
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A, B, C

14 SECTION 2. 20.923 (4) (a) 5. of the statutes is created to read:

15 20.923 (4) (a) 5. State prosecutors board: executive director.

INS  
2/15  
A-E

16 SECTION 3. 230.08 (2) (sm) of the statutes is created to read:

17 230.08 (2) (sm) The executive director of the state prosecutors board.

INS  
2/17  
A, B, C

18 SECTION 4. 978.03 (1) of the statutes is amended to read:

19 978.03 (1) The district attorney of any prosecutorial unit having a population  
20 of 500,000 or more may appoint 5 deputy district attorneys and such assistant  
21 district attorneys as may be requested by the department of administration and

1 authorized in accordance with s. 16.505. The district attorney shall rank the deputy  
2 district attorneys for purposes of carrying out duties under this section. The  
3 deputies, according to rank, may perform any duty of the district attorney who  
4 appointed him or her, under the district attorney's direction, or any duty of the  
5 district attorney to whose prosecutorial unit he or she is assigned by the state  
6 prosecutors board under s. 978.14 (1) (c). In the absence or disability of the district  
7 attorney, the deputies, according to rank, may perform any act required by law to be  
8 performed by the district attorney. Any such deputy must have practiced law in this  
9 state for at least 2 years prior to appointment under this section.

10 **SECTION 5.** 978.03 (1m) of the statutes is amended to read:

11 978.03 (1m) The district attorney of any prosecutorial unit having a population  
12 of 200,000 or more but not more than 499,999 may appoint 3 deputy district  
13 attorneys and such assistant district attorneys as may be requested by the  
14 department of administration and authorized in accordance with s. 16.505. The  
15 district attorney shall rank the deputy district attorneys for purposes of carrying out  
16 duties under this section. The deputies, according to rank, may perform any duty  
17 of the district attorney who appointed him or her, under the district attorney's  
18 direction, or any duty of the district attorney to whose prosecutorial unit he or she  
19 is assigned by the state prosecutors board under s. 978.14 (1) (c). In the absence or  
20 disability of the district attorney, the deputies, according to rank, may perform any  
21 act required by law to be performed by the district attorney. Any such deputy must  
22 have practiced law in this state for at least 2 years prior to appointment under this  
23 section.

24 **SECTION 6.** 978.03 (2) of the statutes is amended to read:

1           978.03 (2) The district attorney of any prosecutorial unit having a population  
 2 of 100,000 or more but not more than 199,999 may appoint one deputy district  
 3 attorney and such assistant district attorneys as may be requested by the  
 4 department of administration and authorized in accordance with s. 16.505. The  
 5 deputy may perform any duty of the district attorney who appointed him or her,  
 6 under the district attorney's direction, or any duty of the district attorney to whose  
 7 prosecutorial unit he or she is assigned by the state prosecutors board under s. 978.14  
 8 (1)(c). In the absence or disability of the district attorney, the deputy may perform  
 9 any act required by law to be performed by the district attorney. The deputy must  
 10 have practiced law in this state for at least 2 years prior to appointment under this  
 11 section.

12           **SECTION 7.** 978.03 (3) of the statutes is amended to read:

13           978.03 (3) Any assistant district attorney under sub. (1), (1m) or (2) must be  
 14 an attorney admitted to practice law in this state and, except as provided in ss.  
 15 978.043 and 978.044, may <sup>exercise any power of, or</sup> perform any duty required by law to be performed by the  
 16 <sup>the</sup> district attorney) appointing him or her or a district attorney to whose prosecutorial  
 17 unit he or she is assigned by the state prosecutors board under s. 978.14 (1)(c). The  
 18 district attorney of the prosecutorial unit under sub. (1), (1m), or (2) may appoint  
 19 such temporary counsel as may be authorized by the department of administration.

20           **SECTION 8.** 978.04 of the statutes is amended to read:

21           **978.04 Assistants in certain prosecutorial units.** The district attorney of  
 22 any prosecutorial unit having a population of less than 100,000 may appoint one or  
 23 more assistant district attorneys as necessary to carry out the duties of his or her  
 24 office and as may be requested by the department of administration authorized in  
 25 accordance with s. 16.505. Any such assistant district attorney must be an attorney

In consultation with the state prosecutors board, the

1 admitted to practice law in this state and, except as provided in s. 978.043, may  
 2 exercise any power of, or  
 3 perform any duty required by law to be performed by the district attorney appointing  
 4 him or her or a district attorney to whose prosecutorial unit he or she is assigned by  
 5 the state prosecutors board under s. 978.14 (1) (c).

6 SECTION 9. 978.043 of the statutes is amended to read:

7 **978.043 Assistants for prosecution of sexually violent person**  
 8 **commitment cases.** The district attorney of the prosecutorial unit that consists of  
 9 Brown County and the district attorney of the prosecutorial unit that consists of  
 10 Milwaukee County shall each assign one assistant district attorney in his or her  
 11 prosecutorial unit to be a sexually violent person commitment prosecutor. An  
 12 assistant district attorney assigned under this section to be a sexually violent person  
 13 commitment prosecutor may engage only in the prosecution of sexually violent  
 14 person commitment proceedings under ch. 980 and, ~~at the request of the district~~  
 15 ~~attorney of the prosecutorial unit as directed~~ by the state prosecutors board under  
 16 s. 978.14 (1) (c), may file and prosecute sexually violent person commitment  
 17 proceedings under ch. 980 in any prosecutorial unit in this state.

18 SECTION 10. 978.044 (2) (b) of the statutes is amended to read:

19 978.044 (2) (b) Provide assistance to the district attorney in other counties  
 20 relating to the establishment of restorative justice programs, as described in par. (a)  
 21 ~~as directed~~ by the state prosecutors board under s. 978.14 (1) (c).

22 SECTION 11. 978.05 (1) of the statutes is amended to read:

23 978.05 (1) CRIMINAL ACTIONS. Except as otherwise provided by law, prosecute  
 24 all criminal actions before any court within his or her prosecutorial unit. In  
 25 determining whether to prosecute a case, the district attorney shall consider the  
guidelines adopted by the state prosecutors board under s. 978.14 (1) (b). The district

permitted or required under rules adopted

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*U.L. scope* [ *and assignable prosecutors assigned to his or her prosecutorial unit under s. 978.14(1)(d)* ]

1 attorney, however, is not bound by those guidelines, and there is no right to appeal  
2 based on a prosecutor's decision to depart in any way from any guideline.

3 SECTION 12. 978.05 (8) (b) of the statutes is amended to read:

4 978.05 (8) (b) Hire, employ, and supervise his or her staff and, subject to ss.  
5 978.043 and 978.044, make appropriate assignments of the staff, throughout the  
6 prosecutorial unit. The district attorney may request the assistance of district  
7 attorneys, deputy district attorneys, or assistant district attorneys from other  
8 prosecutorial units, subject to any rules promulgated under s. 978.14 (1) (c), or  
9 assistant attorneys general, who then may appear and assist in the investigation and  
10 prosecution of any matter for which a district attorney is responsible under this  
11 chapter in like manner as assistants in the prosecutorial unit and with the same  
12 authority as the district attorney in the unit in which the action is brought. Nothing  
13 in this paragraph limits the authority of counties to regulate the hiring, employment,  
14 and supervision of county employees.

*INS 6/14*

15 SECTION 13. 978.14 of the statutes is created to read:

16 **978.14 State prosecutors board.** (1) The state prosecutors board shall do  
17 all of the following:

18 (a) Appoint an executive director.

19 (b) Adopt advisory guidelines or standards for district attorneys to use in  
20 determining when criminal cases should be prosecuted or diverted to  
21 nonprosecutorial programs.

22 (c) Promulgate and administer rules regarding the temporary assignment of  
23 district attorneys and deputy and assistant district attorneys from one prosecutorial  
24 unit to another.

*INS 6/24*

1

<sup>e</sup>  
(d) Supervise the office within the department of administration that is  
2 responsible for providing personnel, budget, and other types of management  
3 assistance to district attorney offices.

4 (2) Subject to authorization under s. 16.505, the state prosecutors board may  
5 hire staff to assist it in the performance of its duties.

6 **SECTION 9101. Nonstatutory provisions; administration.**

7 (1) STATE PROSECUTORS BOARD; INITIAL TERMS. Notwithstanding section 15.105  
8 (6) (b) 1. of the statutes, as created by this act, the first 4 ~~district attorney~~ members  
9 of the state prosecutors board shall be appointed for 2-year terms, subject to section  
10 15.105 (6) (b) 2. of the statutes, as created by this act.

11 (END)

*[Handwritten scribbles and marks on the left margin]*

*Refs  
analysis*

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

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<sup>#</sup>SECTION 4. 13.92 (3) of the statutes is amended to read:

13.92 (3) TREATMENT OF CERTAIN LEGISLATIVE REFERENCE BUREAU EMPLOYEES. Notwithstanding s. 230.08 (2) (fc), those employees holding positions in the classified service at the legislative reference bureau on June 16, 1998, who have achieved permanent status in class before that date, shall retain, while serving in the unclassified service at the legislative reference bureau, those protections afforded employees in the classified service under ss. 230.34 (1) (a) (ah) and 230.44 (1) (c) relating to demotion, suspension, discharge, layoff or reduction in base pay. Such employees shall also have reinstatement privileges to the classified service as provided under s. 230.33 (1). Those employees of the legislative reference bureau holding positions in the classified service on June 16, 1998, who have not achieved permanent status in class in any position at the legislative reference bureau on that date are eligible to receive the protections, privileges and rights preserved under this subsection if they successfully complete service equivalent to the probationary period required in the classified service for the position which they hold on that date.

History: 1971 c. 270 s. 104; 1973 a. 90, 333; 1975 c. 41 s. 52; 1975 c. 199, 266; 1977 c. 29; 1977 c. 196 s. 131; 1979 c. 110, 204; 1981 c. 372; 1983 a. 27, 29, 308; 1987 a. 27; 1989 a. 31; 1991 a. 39, 316; 1993 a. 27; 1997 a. 27, 237; 2001 a. 46.

SECTION 2. 13.94 (5) of the statutes is amended to read:

13.94 (5) TREATMENT OF CLASSIFIED EMPLOYEES. Notwithstanding sub. (3) (b), those individuals holding positions in the classified service at the legislative audit bureau who achieved permanent status in class on July 31, 1981, shall retain, while serving in the unclassified service in the legislative audit bureau, those protections afforded employees in the classified service under ss. 230.34 (1) (a) (ah) and 230.44 (1) (c) relating to demotion, suspension, discharge or layoff, except that the applicability of any reduction in base pay of such an employee shall be determined



on the basis of the base pay received by the employee on July 31, 1981, plus the total amount of any subsequent general economic increases approved by the joint committee on employment relations for nonrepresented employees in the classified service. Such employees shall also have reinstatement privileges to the classified service as provided under s. 230.33 (1). Employees of the legislative audit bureau holding positions in the classified service on July 31, 1981, who have not achieved permanent status in class in any position in the legislative audit bureau on that date are eligible to receive the protections and privileges preserved under this subsection if they successfully complete the probationary period required for the position which they hold.

History: 1971 c. 270 s. 104; 1971 c. 307; 1973 c. 334; 1975 c. 39, 199, 224, 421; 1977 c. 26, 29; 1977 c. 196 s. 131; 1977 c. 418; 1979 c. 34, 314, 324; 1981 c. 20, 335; 1983 a. 27, 36, 96, 381; 1985 a. 29, 57, 120, 176; 1987 a. 27, 119, 186, 320, 328, 354, 399, 403; 1989 a. 31, 122; 1991 a. 39, 269, 316; 1993 a. 16, 27, 107, 263, 399, 491; 1995 a. 27 ss. 43g to 47n, 9116 (5); 1995 a. 56, 116, 225, 274, 289; 1997 a. 27, 252; 1999 a. 9, 65, 105, 167, 197; 2001 a. 16, 105.

**SECTION 7.** 16.006 of the statutes is amended to read:

*INSECT  
2/13B*

**16.006 Treatment of classified employees.** Those individuals holding positions in the classified service in the department who are engaged in legislative text processing functions and who achieved permanent status in class on August 9, 1989, shall retain, while serving in the unclassified service in the legislature or any legislative branch agency, those protections afforded employees in the classified service under ss. 230.34 (1) (a) (ah) and 230.44 (1) (c) relating to demotion, suspension, discharge, layoff, or reduction in base pay except that the applicability of any reduction in base pay of such an employee shall be determined on the basis of the base pay received by the employee on August 9, 1989, plus the total amount of any subsequent general economic increases provided in the compensation plan under s. 230.12 for nonrepresented employees in the classified service. Such employees shall also have reinstatement privileges to the classified service as provided under s. 230.33 (1). Employees of the department holding positions in the

classified service on August 9, 1989, who are engaged in legislative text processing functions and who have not achieved permanent status in class in any position in the department on that date are eligible to receive the protections and privileges preserved under this section if they successfully complete service equivalent to the probationary period required in the classified service for the positions which they hold.

History: 1989 a. 31; 1997 a. 27; 2001 a. 16 s. 373; Stats. 2001 s. 16.006.

**SECTION 4.** 42.035 of the statutes is amended to read:

**42.035 Treatment of certain state fair park board employees.**

Notwithstanding s. 230.08 (2) (pm), those employees holding positions in the classified service at the state fair park board on October 29, 1999, who have achieved permanent status in class before that date, shall retain, while serving in the unclassified service at the state fair park board, those protections afforded employees in the classified service under ss. 230.34 (1) (a) (ah) and 230.44 (1) (c) relating to demotion, suspension, discharge, layoff or reduction in base pay. Such employees shall also be eligible for transfer under s. 230.29 and shall have reinstatement privileges to the classified service under s. 230.33 (1m). Those employees of the state fair park board on October 29, 1999, who have not achieved permanent status in class in any position at the state fair park board on that date are eligible to receive the protections, privileges and rights preserved under this section if they successfully complete service equivalent to the probationary period required in the classified service for the position that they hold on that date.

History: 1999 a. 9; 2001 a. 16.

**SECTION 5.** 111.91 (2) (c) of the statutes is amended to read:

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INS  
2/15 D

111.91 (2) (c) Disciplinary actions and position abandonments governed by s. 230.34 (1) (a) (ah), (am) and (ar), except as provided in those paragraphs.

History: 1971 c. 270; 1975 c. 39, 224; 1977 c. 196; 1979 c. 221; 1983 a. 27; 1985 a. 42; 1987 a. 27, 287, 331; 1989 a. 13, 31, 323; 1991 a. 269, 289; 1995 a. 27, 289; 1995 a. 302 s. 48; 1997 a. 27, 35, 155, 237; 1999 a. 9, 95, 115, 155; 2001 a. 16, 26.

**SECTION 9.** 230.34 (1) (ar) of the statutes is amended to read:

INS  
2/17B

230.34 (1) (ar) Paragraphs (a) (ah) and (am) apply to all employees with permanent status in class in the classified service and all employees who have served with the state as an assistant district attorney for a continuous period of 12 months or more, except that for employees specified in s. 111.81 (7) (a) in a collective bargaining unit for which a representative is recognized or certified, or for employees specified in s. 111.81 (7) (b) or (c) in a collective bargaining unit for which a representative is certified, if a collective bargaining agreement is in effect covering employees in the collective bargaining unit, the determination of just cause and all aspects of the appeal procedure shall be governed by the provisions of the collective bargaining agreement.

History: 1971 c. 270 ss. 61, 76; Stats. 1971 s. 16.28; 1975 c. 189, 200; 1977 c. 196 ss. 56, 130 (3), (5); 1977 c. 273; Stats. 1977 s. 230.34; 1979 c. 221; 1981 c. 140; 1983 a. 27 s. 2200 (15); 1989 a. 31; 1999 a. 102.

1 **analysis INSERT A**

2 **Noft** district attorneys, deputy district attorneys, and assistant district attorneys

3 **analysis INSERT B**

4 **Noft** 3) hiring and assigning prosecutors for temporary placement in district  
5 attorney offices throughout the state;

6 **INSERT 2/13A**

7 **SECTION #** 15.255 (2) (b) 4. ✓ of the statutes is amended to read:

8 15.255 (2) (b) 4. Two members, who are citizens of this state but who are not  
9 employed in law enforcement, by a district attorney, or as specified in subd. 3., who  
10 are citizens of this state and who are not assignable prosecutors, as defined in s.  
11 978.001 (1c). ✓

12 **History:** 1971 c. 40; 1977 c. 29; 1981 c. 9; 1983 a. 27; 1987 a. 27, 403; 1991 a. 316; 1997 a. 181.

12 **SECTION #** 15.78 of the statutes is amended to read:

13 **15.78 Public defender board.** There is created a public defender board  
14 consisting of 9 members appointed for staggered 3-year terms. No member may be,  
15 or be employed on the staff of, a judicial or law enforcement officer, district attorney,  
16 corporation counsel, or the state public defender. No member may be an assignable  
17 prosecutor, as defined in s. 978.001 (1c). ✓ At least 5 members shall be members of the  
18 State Bar of Wisconsin.

19 **History:** 1977 c. 29; 2001 a. 103. #

19 **SECTION #** 16.003 (2) of the statutes is amended to read:

20 **16.003 (2) STAFF.** Except as provided in ss. 16.548, 16.57, 978.03 (1), (1m), and  
21 (2), 978.04 and, 978.05 (8) (b), and 978.14 (1) (d), the secretary shall appoint the staff

1 necessary for performing the duties of the department. All staff shall be appointed  
2 under the classified service except as otherwise provided by law.

History: 1971 c. 270; 1977 c. 196; 1979 c. 34; 1983 a. 27; 1989 a. 31, 117; 1991 a. 39.

3 INSERT 2/13C

4 SECTION ~~A~~<sup>#</sup> 20.475 (title) of the statutes is amended to read:

5 **20.475 (title) District attorneys and assignable prosecutors.**

History: 1989 a. 31, 117, 122; 336; 1991 a. 39; 1993 a. 16; 1995 a. 27, 448; 1999 a. 9; 2001 a. 16.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

6 SECTION ~~A~~<sup>#</sup> 20.475 (1) (d) (title) of the statutes is amended to read:

7 20.475 (1) (d) (title) *Salaries and fringe benefits; generally.*

History: 1989 a. 31, 117, 122; 336; 1991 a. 39; 1993 a. 16; 1995 a. 27, 448; 1999 a. 9; 2001 a. 16.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

8 SECTION ~~B~~<sup>#</sup> 20.475 (1) (e) of the statutes is created to read:

9 20.475 (1) (e) *Salaries and fringe benefits; assignable prosecutors.* The  
10 amounts in the schedule for salaries and fringe benefits of assignable prosecutors,  
11 as defined in s. 978.001 (1c).

No scoring

History: 1989 a. 31, 117, 122; 336; 1991 a. 39; 1993 a. 16; 1995 a. 27, 448; 1999 a. 9; 2001 a. 16.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

12 SECTION ~~D~~<sup>#</sup> 20.505 (4) (dg) of the statutes is created to read:

13 20.505 (4) (dg) *State prosecutors board.* The amounts in the schedule for the  
14 general program operations of the state prosecutors board.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

15 INSERT 2/15A

16 SECTION ~~G~~<sup>#</sup> 20.923 (6) (ac) of the statutes is amended to read:

17 20.923 (6) (ac) Administration, department of: deputy and assistant district  
18 attorneys and assignable prosecutors, as defined in s. 978.001 (1c).

History: 1971 c. 18, 125, 164; 1971 c. 270 ss. 98, 104; 1971 c. 307, 321; 1973 c. 90, 156, 243, 333; 1975 c. 28; 1975 c. 39 ss. 236c to 247, 735 (5); 1975 Ex. Order No. 24; 1975 c. 189, 199, 224, 422; 1977 c. 29 ss. 399g to 406d, 1649, 1650m, 1654 (8) (e), 1656 (43); 1977 c. 44; 1977 c. 187 ss. 29, 30, 31, 135; 1977 c. 196 ss. 74 to 76m, 131; 1977 c. 203, 272, 277, 418, 447, 449; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1979 c. 32 s. 92 (1); 1979 c. 34, 89, 189; 1979 c. 221 ss. 201m to 218, 2202 (13); 1979 c. 361; 1981 c.

20 ss. 587 to 592g, 2202 (33) (b), (c), (56) (a); 1981 c. 96 ss. 16, 67; 1981 c. 121, 127, 347, 353; 1981 c. 390 s. 252; 1983 a. 27, 46, 121, 192, 371, 378; 1985 a. 18, 23; 1985 a. 29 ss. 603 to 607, 3202 (22) (a); 1985 a. 34, 332; 1987 a. 6, 27, 82, 119, 306, 340, 354, 399, 403; 1989 a. 31, 56, 107, 208, 219, 336; 1991 a. 39, 269; 1993 a. 12, 16, 75, 123, 144, 184, 294, 349, 399, 490; 1995 a. 27 ss. 1193 to 1217m, 9130 (4), 9216 (19); 1995 a. 37, 216, 225; 1997 a. 2, 3, 27, 29, 41, 194, 237; 1999 a. 9, 42, 102, 186; 2001 a. 16, 19, 29, 109.

**INSERT 2/15C**

~~#~~  
**SECTION 9.** 63.10 (2) of the statutes is amended to read:

63.10 (2) The commission shall appoint a time and place for the hearing of said charges, the time to be within 3 weeks after the filing of the same, and notify the person possessing the appointing power and the accused of the time and place of such hearing. At the termination of the hearing the commission shall determine whether or not the charge is well founded and shall take such action by way of suspension, demotion, discharge or reinstatement, as it may deem requisite and proper under the circumstances and as its rules may provide. The decision of the commission shall be final. Neither the person possessing the appointing power nor the accused shall have the right to be represented by counsel at said hearing, but the commission may in its discretion permit the accused to be represented by counsel and may request the presence of an assistant a district attorney to act with the commission in an advisory capacity.

~~#~~  
History: 1983 a. 148 s. 8; 1987 a. 156; 1991 a. 316; 1993 a. 213.

~~#~~  
**SECTION 10.** 111.81 (5m) of the statutes is created to read:

111.81 (5m) "Assistant district attorney" includes an assignable prosecutor, as defined in s. 978.001 (1c).<sup>✓</sup>

**INSERT 2/15E**

~~#~~  
**SECTION 11.** 134.50 (2) of the statutes is amended to read:

134.50 (2) Every poultry dealer shall keep a record of all purchases of poultry made by the poultry dealer showing in detail the place and date of purchase and the name and address of the person from whom the purchase was made, together with a general description of the kind of poultry purchased. Such record shall be kept in

1 permanent form and be open to inspection at all reasonable times to any district  
2 attorney, ~~assistant district attorney~~, sheriff, deputy sheriff or any police officer.

History: 1993 a. 482.

3 ~~SECTION 12.~~ 196.675 (1) of the statutes is renumbered 196.675 (1r).

History: 1977 c. 236; 1983 a. 53; 1987 a. 104; 1989 a. 31; 1991 a. 39; 2001 a. 61.

4 ~~SECTION 13.~~ 196.675 (1g) of the statutes is created to read:

5 196.675 (1g) In this section, "assistant district attorney" includes an  
6 assignable prosecutor, as defined in s. 978.001 (1c).

7 ~~SECTION 14.~~ 230.08 (2) (sm) of the statutes is created to read:

8 230.08 (2) (sm) Assignable prosecutors, as defined in s. 978.001 (1c), in the  
9 department of administration.

10 INSERT 2/17A

11 ~~SECTION 15.~~ 230.34 (1) (a) of the statutes is renumbered 230.34 (1) (ah).

12 ~~SECTION 16.~~ 230.34 (1) (ac) of the statutes is created to read:

13 230.34 (1) (ac) In this section, "assistant district attorney" includes an  
14 assignable prosecutor, as defined in s. 978.001 (1c).

15 INSERT 2/17C

16 ~~SECTION 17.~~ 230.44 (1) (c) of the statutes is amended to read:

17 230.44 (1) (c) *Demotion, layoff, suspension or discharge.* ~~If an employee has~~  
18 ~~permanent status in class, or an employee has served with the state as an assistant~~  
19 ~~district attorney for a continuous period of 12 months or more, the~~ An employee  
20 described in s. 230.34 (1) (ah) may appeal a demotion, layoff, suspension, discharge  
21 or reduction in base pay to the commission, if the appeal alleges that the decision was  
22 not based on just cause.

History: 1977 c. 196; 1979 c. 221; 1981 c. 140; 1983 a. 27; 1989 a. 31; 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 307; 1999 a. 102.

23 ~~SECTION 18.~~ 967.03 of the statutes is repealed.

24 ~~SECTION 19.~~ 978.001 (1c) of the statutes is created to read:

1            978.001 (1c) "Assignable prosecutor" means an attorney employed by the state  
2 prosecutors board whom the board may assign to a prosecutorial unit under s. 978.14  
3 (1) (d).<sup>✓</sup>

4            **INSERT 5/20**

5            ~~SECTION 20.~~<sup>#</sup> 978.045 (1g)<sup>✓</sup> of the statutes is amended to read:

6            978.045 (1g) A court on its own motion may appoint a special prosecutor under  
7 sub. (1r) or a district attorney may request a court to appoint a special prosecutor  
8 under that subsection. Before a court appoints a special prosecutor on its own motion  
9 or at the request of a district attorney for an appointment that exceeds 6 hours per  
10 case, the court or, subject to any applicable rule issued under s. 978.14 (1) (c),<sup>✓</sup> the  
11 district attorney shall request do all of the following:

12            1. Request<sup>g</sup> assistance from a district attorney, deputy district attorney,<sup>2</sup> or  
13 assistant district attorney from other prosecutorial units or an assistant attorney  
14 general. ~~A district attorney requesting the appointment of a special prosecutor, or~~  
15 ~~a court if the court is appointing a special prosecutor on its own motion, shall notify~~  
16 ~~the department of administration~~

17            2. Notify the state prosecutors board, on a form provided by the department  
18 board, of the district attorney's or the court's inability basis for the proposed  
19 appointment and the efforts to obtain assistance from another prosecutorial unit or  
20 from an assistant attorney general.

History: 1989 a. 117; 1991 a. 39, 138; 1993 a. 16; 1995 a. 27; 1997 a. 27.

21            ~~SECTION 21.~~<sup>#</sup> 978.046 of the statutes is created to read:

22            **978.046 Assignable prosecutors.** An assignable prosecutor who has been  
23 assigned to a prosecutorial unit may exercise any power of, or perform any duty  
24 required by law to be performed by, the district attorney of the prosecutorial unit.



**INSERT 6/14**

**SECTION ~~22~~<sup>#</sup>. 978.06 (1)** of the statutes is amended to read:

978.06 (1) No district attorney, deputy district attorney ~~or~~, assistant district attorney, or assignable prosecutor may receive any fee or reward from or on behalf of any prosecutor or any other individual for services in any prosecution or business to which it is the district attorney's official duty to attend.

History: 1989 a. 31, 117; 1991 a. 39; <sup>#</sup>1993 a. 326; 1995 a. 201, 404; 1997 a. 35.

**SECTION ~~23~~<sup>#</sup>. 978.06 (2)** of the statutes is amended to read:

978.06 (2) No district attorney, deputy district attorney ~~or~~, assistant district attorney, or assignable prosecutor may be concerned as attorney or counsel for either party, other than for the state or county, in any civil action depending upon the same state of facts upon which any criminal prosecution commenced but undetermined depends.

History: 1989 a. 31, 117; 1991 a. 39; <sup>#</sup>1993 a. 326; 1995 a. 201, 404; 1997 a. 35.

**SECTION ~~24~~<sup>#</sup>. 978.06 (3) (a)** of the statutes is amended to read:

978.06 (3) (a) No district attorney, deputy district attorney ~~or~~, assistant district attorney, or assignable prosecutor while in office may hold any judicial office. No assignable prosecutor and no full-time district attorney, deputy district attorney, or assistant district attorney may hold the office of or act as corporation counsel or city, village, or town attorney. A part-time district attorney, deputy district attorney, or assistant district attorney may hold the office of or act as corporation counsel or city, village, or town attorney or otherwise serve as legal counsel to any governmental unit.

History: 1989 a. 31, 117; 1991 a. 39; <sup>#</sup>1993 a. 326; 1995 a. 201, 404; 1997 a. 35.

**SECTION ~~25~~<sup>#</sup>. 978.06 (4)** of the statutes is amended to read:

978.06 (4) No person who acted as district attorney, deputy district attorney ~~or~~, assistant district attorney, or assignable prosecutor, or special prosecutor under s. 978.045, for a county at the time of an arrest, examination, or indictment of any

1 person charged with a crime in that county may thereafter appear for, or defend that  
2 person against the crime charged in the complaint, information, or indictment.

3 History: 1989 a. 31, 117; 1991 a. 39; 1993 a. 326; 1995 a. 201, 404; 1997 a. 35.

3 SECTION 20. 978.06 (5) (a) of the statutes is amended to read:

4 978.06 (5) (a) No full-time district attorney, deputy district attorney, or  
5 assistant district attorney may engage in a private practice of law, but he or she is  
6 authorized to complete all civil cases, not in conflict with the interest of the county  
7 or counties of his or her prosecutorial unit, in which he or she is counsel, pending in  
8 court before he or she takes office. No assignable prosecutor may engage in a private  
9 practice of law. A part-time district attorney, deputy district attorney, or assistant  
10 district attorney may engage in a private practice of law.

11 History: 1989 a. 31, 117; 1991 a. 39; 1993 a. 326; 1995 a. 201, 404; 1997 a. 35.

11 INSERT 6/24

12 (d) Hire and assign assignable prosecutors to prosecutorial units as and for as  
13 long as it sees fit.

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

LRB-1373/5dn  
MGD:.....

Roger:

1. This bill repeals s. 967.03<sup>✓</sup> because it is redundant to ~~s~~<sup>§</sup> 978.03 (3)<sup>✓</sup> and 978.04<sup>✓</sup>.
2. Please note that the bill does not require a court that intends to appoint a special prosecutor to give the state prosecutors board any specified time period to assign an assignable prosecutor before the court makes its appointment.

Michael Dsida  
Legislative Attorney  
Phone: (608) 266-9867

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

LRB-1373/5dn  
MGD:wlj:rs

February 2, 2003

Roger:

1. This bill repeals s. 967.03 because it is redundant to ss. 978.03 (3) and 978.04.
2. Please note that the bill does not require a court that intends to appoint a special prosecutor to give the state prosecutors board any specified time period to assign an assignable prosecutor before the court makes its appointment.

Michael Dsida  
Legislative Attorney  
Phone: (608) 266-9867



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-13735-06  
MGD:kmg&wlj:ts

DOA:.....Mukasa - BB0328, State Prosecutors Office

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

p. 15  
only

DO NOT GEN

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

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*Analysis by the Legislative Reference Bureau*  
**COURTS, COURT PROCEDURE, AND ATTORNEYS**

**DISTRICT ATTORNEYS**

Generally, under current law, a county selects its own district attorney, but the district attorney and deputy and assistant district attorneys are state employees. DOA, through its State Prosecutors Office, provides personnel, budget, and other types of management assistance to district attorney offices. With respect to individual cases, however, district attorneys have near-total discretion in deciding what cases to pursue and how to prosecute them. In working on those cases, a district attorney may request assistance from prosecutors in other counties, who may then serve in the same capacity as the district attorney who requested their assistance.

This bill creates a State Prosecutors Board, which is attached to DOA. The board consists of eight district attorneys selected by the governor. Staffed by an executive director, the board has the following duties: 1) adopting advisory guidelines for district attorneys to use in determining when criminal cases should be prosecuted or diverted for nonprosecutorial programs; 2) issuing rules regarding the temporary assignment of district attorneys, deputy district attorneys, and assistant district attorneys to other counties; 3) hiring and assigning prosecutors for temporary placement in district attorney offices throughout the state; and 4) supervising the State Prosecutors Office.

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.** 13.92 (3) of the statutes is amended to read:

2           **13.92 (3) TREATMENT OF CERTAIN LEGISLATIVE REFERENCE BUREAU EMPLOYEES.**

3           Notwithstanding s. 230.08 (2) (fc), those employees holding positions in the classified  
4           service at the legislative reference bureau on June 16, 1998, who have achieved  
5           permanent status in class before that date, shall retain, while serving in the  
6           unclassified service at the legislative reference bureau, those protections afforded  
7           employees in the classified service under ss. 230.34 (1) (~~a~~) (ah) and 230.44 (1) (c)  
8           relating to demotion, suspension, discharge, layoff or reduction in base pay. Such  
9           employees shall also have reinstatement privileges to the classified service as  
10          provided under s. 230.33 (1). Those employees of the legislative reference bureau  
11          holding positions in the classified service on June 16, 1998, who have not achieved  
12          permanent status in class in any position at the legislative reference bureau on that  
13          date are eligible to receive the protections, privileges and rights preserved under this  
14          subsection if they successfully complete service equivalent to the probationary  
15          period required in the classified service for the position which they hold on that date.

16          **SECTION 2.** 13.94 (5) of the statutes is amended to read:

17          **13.94 (5) TREATMENT OF CLASSIFIED EMPLOYEES.** Notwithstanding sub. (3) (b),  
18          those individuals holding positions in the classified service at the legislative audit  
19          bureau who achieved permanent status in class on July 31, 1981, shall retain, while  
20          serving in the unclassified service in the legislative audit bureau, those protections  
21          afforded employees in the classified service under ss. 230.34 (1) (~~a~~) (ah) and 230.44

1           978.06 (4) No person who acted as district attorney, deputy district attorney  
2 ~~or~~, assistant district attorney, or assignable prosecutor, or special prosecutor under  
3 s. 978.045, for a county at the time of an arrest, examination, or indictment of any  
4 person charged with a crime in that county may thereafter appear for, or defend that  
5 person against the crime charged in the complaint, information, or indictment.

6           **SECTION 44.** 978.06 (5) (a) of the statutes is amended to read:

7           978.06 (5) (a) No full-time district attorney, deputy district attorney, or  
8 assistant district attorney may engage in a private practice of law, but he or she is  
9 authorized to complete all civil cases, not in conflict with the interest of the county  
10 or counties of his or her prosecutorial unit, in which he or she is counsel, pending in  
11 court before he or she takes office. No assignable prosecutor may engage in a private  
12 practice of law. A part-time district attorney, deputy district attorney, or assistant  
13 district attorney may engage in a private practice of law.

INS  
15/13

14           **SECTION 45.** 978.14 of the statutes is created to read:

15           **978.14 State prosecutors board.** (1) The state prosecutors board shall do  
16 all of the following:

17           (a) Appoint an executive director.

18           (b) Adopt advisory guidelines or standards for district attorneys to use in  
19 determining when criminal cases should be prosecuted or diverted to  
20 nonprosecutorial programs.

21           (c) Promulgate and administer rules regarding the temporary assignment of  
22 district attorneys and deputy and assistant district attorneys from one prosecutorial  
23 unit to another.

24           (d) Hire and assign assignable prosecutors to prosecutorial units as and for as  
25 long as it sees fit.

1 (e) Supervise the office within the department of administration that is  
2 responsible for providing personnel, budget, and other types of management  
3 assistance to district attorney offices.

4 (2) Subject to authorization under s. 16.505, the state prosecutors board may  
5 hire staff to assist it in the performance of its duties.

6 **SECTION 9101. Nonstatutory provisions; administration.**

7 (1) STATE PROSECUTORS BOARD; INITIAL TERMS. Notwithstanding section 15.105  
8 (6) (b) 1. of the statutes, as created by this act, the first 4 members of the state  
9 prosecutors board shall be appointed for 2-year terms, subject to section 15.105 (6)  
10 (b) 2. of the statutes, as created by this act.

11 (END)



2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1373/6ins  
MGD:.....

1           **INSERT 15/13**

2           ~~SECTION 7.~~<sup>#</sup> 978.12 (title) of the statutes is amended to read:

3           **978.12 (title) Salaries Prosecutor salaries and benefits of district**  
4           **attorney and state employees in office of district attorney**

5           History: 1989 a. 31, 117, 336; 1991 a. 32, 39; 1993 a. 294; 1999 a. 9, 85.

6           ~~SECTION 7.~~<sup>#</sup> 978.12 (1) (c) of the statutes is amended to read:

7           978.12 (1) (c) *Assistant district attorneys and assignable prosecutors. Assistant*  
8           *district attorneys and assignable prosecutors shall be employed outside the*  
9           *classified service. For purposes of salary administration, the secretary of*  
10           *employment relations shall establish one or more classifications for assistant district*  
11           *attorneys and assignable prosecutors in accordance with the classification or*  
12           *classifications allocated to assistant attorneys general. Except as provided in s.*  
13           *111.93 (3), the salaries of assistant district attorneys and assignable prosecutors*  
14           *shall be established and adjusted in accordance with the state compensation plan for*  
15           *assistant attorneys general whose positions are allocated to the classification or*  
          *classifications established by the secretary of employment relations.*

History: 1989 a. 31, 117, 336; 1991 a. 32, 39; 1993 a. 294; 1999 a. 9, 85.

~~Supplies~~  
~~for the~~  
~~for the~~

Plc from Jim Johnston + Roger Munkasa

~~the~~ "state employees of the working in an office of the ..."

Take out exec. director.



Today

DOA:.....Mukasa – BB0328, State Prosecutors Office

FOR 2003-05 BUDGET – NOT READY FOR INTRODUCTION

D Note

1 AN ACT <sup>Don't see.</sup> relating to: the budget.

*Analysis by the Legislative Reference Bureau*  
**COURTS, COURT PROCEDURE, AND ATTORNEYS**

**DISTRICT ATTORNEYS**

Generally, under current law, a county selects its own district attorney, but the district attorney and deputy and assistant district attorneys are state employees. DOA, through its State Prosecutors Office, provides personnel, budget, and other types of management assistance to district attorney offices. With respect to individual cases, however, district attorneys have near-total discretion in deciding what cases to pursue and how to prosecute them. In working on those cases, a district attorney may request assistance from prosecutors in other counties, who may then serve in the same capacity as the district attorney who requested their assistance.

This bill creates a State Prosecutors Board, which is attached to DOA. The board consists of eight district attorneys selected by the governor. ~~Staffed by an and executive director, the board~~ has the following duties: 1) adopting advisory guidelines for district attorneys to use in determining when criminal cases should be prosecuted or diverted for nonprosecutorial programs; 2) issuing rules regarding the temporary assignment of district attorneys, deputy district attorneys, and assistant district attorneys to other counties; 3) hiring and assigning prosecutors for temporary placement in district attorney offices throughout the state; and 4) supervising the State Prosecutors Office.

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.** 13.92 (3) of the statutes is amended to read:

2           13.92 (3) TREATMENT OF CERTAIN LEGISLATIVE REFERENCE BUREAU EMPLOYEES.

3           Notwithstanding s. 230.08 (2) (fc), those employees holding positions in the classified  
4           service at the legislative reference bureau on June 16, 1998, who have achieved  
5           permanent status in class before that date, shall retain, while serving in the  
6           unclassified service at the legislative reference bureau, those protections afforded  
7           employees in the classified service under ss. 230.34 (1) (a) (ah) and 230.44 (1) (c)  
8           relating to demotion, suspension, discharge, layoff or reduction in base pay. Such  
9           employees shall also have reinstatement privileges to the classified service as  
10          provided under s. 230.33 (1). Those employees of the legislative reference bureau  
11          holding positions in the classified service on June 16, 1998, who have not achieved  
12          permanent status in class in any position at the legislative reference bureau on that  
13          date are eligible to receive the protections, privileges and rights preserved under this  
14          subsection if they successfully complete service equivalent to the probationary  
15          period required in the classified service for the position which they hold on that date.

16          **SECTION 2.** 13.94 (5) of the statutes is amended to read:

17          13.94 (5) TREATMENT OF CLASSIFIED EMPLOYEES. Notwithstanding sub. (3) (b),  
18          those individuals holding positions in the classified service at the legislative audit  
19          bureau who achieved permanent status in class on July 31, 1981, shall retain, while  
20          serving in the unclassified service in the legislative audit bureau, those protections  
21          afforded employees in the classified service under ss. 230.34 (1) (a) (ah) and 230.44

1 of the base pay received by the employee on August 9, 1989, plus the total amount  
 2 of any subsequent general economic increases provided in the compensation plan  
 3 under s. 230.12 for nonrepresented employees in the classified service. Such  
 4 employees shall also have reinstatement privileges to the classified service as  
 5 provided under s. 230.33 (1). Employees of the department holding positions in the  
 6 classified service on August 9, 1989, who are engaged in legislative text processing  
 7 functions and who have not achieved permanent status in class in any position in the  
 8 department on that date are eligible to receive the protections and privileges  
 9 preserved under this section if they successfully complete service equivalent to the  
 10 probationary period required in the classified service for the positions which they  
 11 hold.

(NS  
5/11

12 **SECTION 8.** 20.475 (title) of the statutes is amended to read:  
 13 **20.475 (title) District attorneys and assignable prosecutors.**  
 \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be  
 reflected in the revised schedule in s. 20.005, stats.  
 14 **SECTION 9.** 20.475 (1) (d) (title) of the statutes is amended to read:  
 15 20.475 (1) (d) (title) *Salaries and fringe benefits; generally.*  
 \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be  
 reflected in the revised schedule in s. 20.005, stats.  
 16 **SECTION 10.** 20.475 (1) (e) of the statutes is created to read:  
 17 20.475 (1) (e) *Salaries and fringe benefits; assignable prosecutors.* The  
 18 amounts in the schedule for salaries and fringe benefits of assignable prosecutors,  
 19 as defined in s. 978.001 (1c).  
 \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be  
 reflected in the revised schedule in s. 20.005, stats.

20 **SECTION 11.** 20.505 (4) (dg) of the statutes is created to read:

1           20.505 (4) (dg) *State prosecutors board*. The amounts in the schedule for the  
2           general program operations of the state prosecutors board.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be  
      reflected in the revised schedule in s. 20.005, stats.

3           **SECTION 12.** 20.923 (4) (a) 5. of the statutes is created to read:

4           20.923 (4) (a) 5. State prosecutors board: executive director.

5           **SECTION 13.** 20.923 (6) (ac) of the statutes is amended to read:

6           20.923 (6) (ac) Administration, department of: deputy and assistant district  
7           attorneys and assignable prosecutors, as defined in s. 978.001 (1c).

8           **SECTION 14.** 42.035 of the statutes is amended to read:

9           **42.035 Treatment of certain state fair park board employees.**

10          Notwithstanding s. 230.08 (2) (pm), those employees holding positions in the  
11          classified service at the state fair park board on October 29, 1999, who have achieved  
12          permanent status in class before that date, shall retain, while serving in the  
13          unclassified service at the state fair park board, those protections afforded  
14          employees in the classified service under ss. 230.34 (1) (a) (ah) and 230.44 (1) (c)  
15          relating to demotion, suspension, discharge, layoff or reduction in base pay. Such  
16          employees shall also be eligible for transfer under s. 230.29 and shall have  
17          reinstatement privileges to the classified service under s. 230.33 (1m). Those  
18          employees of the state fair park board on October 29, 1999, who have not achieved  
19          permanent status in class in any position at the state fair park board on that date  
20          are eligible to receive the protections, privileges and rights preserved under this  
21          section if they successfully complete service equivalent to the probationary period  
22          required in the classified service for the position that they hold on that date.

23          **SECTION 15.** 63.10 (2) of the statutes is amended to read:

1           **SECTION 19.** 196.675 (1) of the statutes is renumbered 196.675 (1r).

2           **SECTION 20.** 196.675 (1g) of the statutes is created to read:

3           196.675 (1g) In this section, “assistant district attorney” includes an  
4 assignable prosecutor, as defined in s. 978.001 (1c).

5           **SECTION 21.** 230.08 (2) (sm) of the statutes is created to read:

6           230.08 (2) (sm) Assignable prosecutors, as defined in s. 978.001 (1c), in the  
7 department of administration.

8           **SECTION 22.** 230.08 (2) (st) of the statutes is created to read:

9           230.08 (2) (st) The executive director of the state prosecutors board.

10          **SECTION 23.** 230.34 (1) (a) of the statutes is renumbered 230.34 (1) (ah).

11          **SECTION 24.** 230.34 (1) (ac) of the statutes is created to read:

12          230.34 (1) (ac) In this section, “assistant district attorney” includes an  
13 assignable prosecutor, as defined in s. 978.001 (1c).

14          **SECTION 25.** 230.34 (1) (ar) of the statutes is amended to read:

15          230.34 (1) (ar) Paragraphs ~~(a)~~ (ah) and (am) apply to all employees with  
16 permanent status in class in the classified service and all employees who have served  
17 with the state as an assistant district attorney for a continuous period of 12 months  
18 or more, except that for employees specified in s. 111.81 (7) (a) in a collective  
19 bargaining unit for which a representative is recognized or certified, or for employees  
20 specified in s. 111.81 (7) (b) or (c) in a collective bargaining unit for which a  
21 representative is certified, if a collective bargaining agreement is in effect covering  
22 employees in the collective bargaining unit, the determination of just cause and all  
23 aspects of the appeal procedure shall be governed by the provisions of the collective  
24 bargaining agreement.

25          **SECTION 26.** 230.44 (1) (c) of the statutes is amended to read:

1           978.06 (4) No person who acted as district attorney, deputy district attorney  
2           or, assistant district attorney, or assignable prosecutor, or special prosecutor under  
3           s. 978.045, for a county at the time of an arrest, examination, or indictment of any  
4           person charged with a crime in that county may thereafter appear for, or defend that  
5           person against the crime charged in the complaint, information, or indictment.

6           **SECTION 44.** 978.06 (5) (a) of the statutes is amended to read:

7           978.06 (5) (a) No full-time district attorney, deputy district attorney, or  
8           assistant district attorney may engage in a private practice of law, but he or she is  
9           authorized to complete all civil cases, not in conflict with the interest of the county  
10          or counties of his or her prosecutorial unit, in which he or she is counsel, pending in  
11          court before he or she takes office. No assignable prosecutor may engage in a private  
12          practice of law. A part-time district attorney, deputy district attorney, or assistant  
13          district attorney may engage in a private practice of law.

14          **SECTION 45.** 978.12 (title) of the statutes is amended to read:

15          **978.12 (title) ~~Salaries~~ Prosecutor salaries and benefits of district**  
16          **~~attorney and state employees in office of district attorney.~~**

17          **SECTION 46.** 978.12 (1) (c) of the statutes is amended to read:

18          978.12 (1) (c) *Assistant district attorneys and assignable prosecutors.* Assistant  
19          district attorneys and assignable prosecutors shall be employed outside the  
20          classified service. For purposes of salary administration, the secretary of  
21          employment relations shall establish one or more classifications for assistant district  
22          attorneys and assignable prosecutors in accordance with the classification or  
23          classifications allocated to assistant attorneys general. Except as provided in s.  
24          111.93 (3), the salaries of assistant district attorneys and assignable prosecutors  
25          shall be established and adjusted in accordance with the state compensation plan for



*INS 16/2 from LRB-1373/7 ins B ✓*

1 assistant attorneys general whose positions are allocated to the classification or  
2 classifications established by the secretary of employment relations.

3 SECTION 47. 978.14 of the statutes is created to read:

4 **978.14 State prosecutors board.** (1) The state prosecutors board shall do  
5 all of the following:

6 (a) Appoint an executive director.

7 (b) Adopt advisory guidelines or standards for district attorneys to use in  
8 determining when criminal cases should be prosecuted or diverted to  
9 nonprosecutorial programs.

10 (c) Promulgate and administer rules regarding the temporary assignment of  
11 district attorneys and deputy and assistant district attorneys from one prosecutorial  
12 unit to another.

13 (d) Hire and assign assignable prosecutors to prosecutorial units as and for as  
14 long as it sees fit.

15 (e) Supervise the office within the department of administration that is  
16 responsible for providing personnel, budget, and other types of management  
17 assistance to district attorney offices.

18 (2) Subject to authorization under s. 16.505, the state prosecutors board may  
19 hire staff to assist it in the performance of its duties.

20 **SECTION 9101. Nonstatutory provisions; administration.**

21 (1) STATE PROSECUTORS BOARD; INITIAL TERMS. Notwithstanding section 15.105

22 (6) (b) 1. of the statutes, as created by this act, the first 4 members of the state  
23 prosecutors board shall be appointed for 2-year terms, subject to section 15.105 (6)

24 (b) 2. of the statutes, as created by this act.

25 (END)

*don't  
m.  
para*

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1373/7ins  
MGD:.....

1           **INSERT 5/11** ✓

2           **SECTION 1.** 20.475 (1) (d) ✓ of the statutes is amended to read:

3           20.475 (1) (d) *Salaries and fringe benefits.* The amounts in the schedule for  
4 salaries and fringe benefits of district attorneys and state employees of the working  
5 in an office of the ✓ district attorney, for payments under s. 978.045 (2) (b) and,  
6 beginning in the 1999-2000 fiscal year and ending in the 2003-04 fiscal year, for a  
7 payment of \$80,000 in each fiscal year toward the department of administration's  
8 unfunded prior service liability under the Wisconsin retirement system that results  
9 from granting the creditable service under s. 40.02 (17) (gm).

**History:** 1989 a. 31, 117, 122; 336; 1991 a. 39; 1993 a. 16; 1995 a. 27, 448; 1999 a. 9; 2001 a. 16.

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1373/7insB  
MGD:.....

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INSERT 16/2 ✓

SECTION 1. 978.12 (4) of the statutes is amended to read:

978.12 (4) ANNUAL LEAVE. Annual leave for the district attorney is governed by s. 230.35 (1r). Annual leave for other state employees of the office of district attorney shall be accrued at the rate provided in s. 230.35 using the employee's state service computed under sub. (2). Annual leave shall be earned on a calendar year basis prorated from the effective date of the employee's transfer for the balance of the calendar year. This subsection does not apply to assignable prosecutors.

History: 1989 a. 31, 117, 336; 1991 a. 32, 39; 1993 a. 294; 1999 a. 9, 85.

SECTION 2. 978.12 (5) (d) of the statutes is created to read:

978.12 (5) (d) <sup>Ⓢ Applicability.</sup> This subsection does not apply to assignable prosecutors.

~~SECTION 3. 978.12 (6) (a) 4. of the statutes is created to read:~~

~~978.12 (6) (a) 4. This paragraph does not apply to assignable prosecutors.~~

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

LRB-1373/7dn

MGD:ji...

*kmj*

Roger:

Besides making the changes that you requested, this draft amends s. 978.12 (4) and creates 978.12 (5) (d) to clarify that certain provisions relating to district attorney employees who were formerly county employees do not apply to assignable prosecutors.

Michael Dsida  
Legislative Attorney  
Phone: (608) 266-9867

1340

2/7

-1373

P/c from Jim Johnson

~~AD~~ Gov designates a chair



Today  
Now

DOA:.....Mukasa – BB0328, State Prosecutors Office

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

1

*Don't*  
*even.*  
AN ACT...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**COURTS, COURT PROCEDURE, AND ATTORNEYS**

**DISTRICT ATTORNEYS**

Generally, under current law, a county selects its own district attorney, but the district attorney and deputy and assistant district attorneys are state employees. DOA, through its State Prosecutors Office, provides personnel, budget, and other types of management assistance to district attorney offices. With respect to individual cases, however, district attorneys have near-total discretion in deciding what cases to pursue and how to prosecute them. In working on those cases, a district attorney may request assistance from prosecutors in other counties, who may then serve in the same capacity as the district attorney who requested their assistance.

This bill creates a State Prosecutors Board, which is attached to DOA. The board consists of eight district attorneys selected by the governor and has the following duties: 1) adopting advisory guidelines for district attorneys to use in determining when criminal cases should be prosecuted or diverted for nonprosecutorial programs; 2) issuing rules regarding the temporary assignment of district attorneys, deputy district attorneys, and assistant district attorneys to other counties; 3) hiring and assigning prosecutors for temporary placement in district attorney offices throughout the state; and 4) supervising the State Prosecutors Office.

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.** 13.92 (3) of the statutes is amended to read:

2           **13.92 (3) TREATMENT OF CERTAIN LEGISLATIVE REFERENCE BUREAU EMPLOYEES.**

3           Notwithstanding s. 230.08 (2) (fc), those employees holding positions in the classified  
4           service at the legislative reference bureau on June 16, 1998, who have achieved  
5           permanent status in class before that date, shall retain, while serving in the  
6           unclassified service at the legislative reference bureau, those protections afforded  
7           employees in the classified service under ss. 230.34 (1) (~~a~~) (ah) and 230.44 (1) (c)  
8           relating to demotion, suspension, discharge, layoff or reduction in base pay. Such  
9           employees shall also have reinstatement privileges to the classified service as  
10          provided under s. 230.33 (1). Those employees of the legislative reference bureau  
11          holding positions in the classified service on June 16, 1998, who have not achieved  
12          permanent status in class in any position at the legislative reference bureau on that  
13          date are eligible to receive the protections, privileges and rights preserved under this  
14          subsection if they successfully complete service equivalent to the probationary  
15          period required in the classified service for the position which they hold on that date.

16          **SECTION 2.** 13.94 (5) of the statutes is amended to read:

17          **13.94 (5) TREATMENT OF CLASSIFIED EMPLOYEES.** Notwithstanding sub. (3) (b),  
18          those individuals holding positions in the classified service at the legislative audit  
19          bureau who achieved permanent status in class on July 31, 1981, shall retain, while  
20          serving in the unclassified service in the legislative audit bureau, those protections  
21          afforded employees in the classified service under ss. 230.34 (1) (~~a~~) (ah) and 230.44

1 (1) (c) relating to demotion, suspension, discharge or layoff, except that the  
 2 applicability of any reduction in base pay of such an employee shall be determined  
 3 on the basis of the base pay received by the employee on July 31, 1981, plus the total  
 4 amount of any subsequent general economic increases approved by the joint  
 5 committee on employment relations for nonrepresented employees in the classified  
 6 service. Such employees shall also have reinstatement privileges to the classified  
 7 service as provided under s. 230.33 (1). Employees of the legislative audit bureau  
 8 holding positions in the classified service on July 31, 1981, who have not achieved  
 9 permanent status in class in any position in the legislative audit bureau on that date  
 10 are eligible to receive the protections and privileges preserved under this subsection  
 11 if they successfully complete the probationary period required for the position which  
 12 they hold.

Insert  
3-12 →

13 **SECTION 3.** 15.105 (6) of the statutes is created to read:

14 15.105 (6) STATE PROSECUTORS BOARD. (a) There is created a state prosecutors  
 15 board which is attached to the department of administration under s. 15.03 and  
 16 which shall consist of eight district attorneys appointed by the governor.

17 (b) 1. Subject to subd. 2., the members of the state prosecutors board shall be  
 18 appointed for 4-year terms.

19 2. A person may not serve as a member of the board if he or she ceases to hold  
 20 the office of district attorney.

21 (c) Notwithstanding the provisions of any statute or ordinance, membership on  
 22 the state prosecutors board does not disqualify a member from holding any other  
 23 public office or employment.

24 **SECTION 4.** 15.255 (2) (b) 4. of the statutes is amended to read:



1           **SECTION 44.** 978.12 (5) (d) of the statutes is created to read:

2           978.12 (5) (d) *Applicability.* This subsection does not apply to assignable  
3 prosecutors.

4           **SECTION 45.** 978.14 of the statutes is created to read:

5           **978.14 State prosecutors board.** (1) The state prosecutors board shall do  
6 all of the following:

7           (b) Adopt advisory guidelines or standards for district attorneys to use in  
8 determining when criminal cases should be prosecuted or diverted to  
9 nonprosecutorial programs.

10           (c) Promulgate and administer rules regarding the temporary assignment of  
11 district attorneys and deputy and assistant district attorneys from one prosecutorial  
12 unit to another.

13           (d) Hire and assign assignable prosecutors to prosecutorial units as and for as  
14 long as it sees fit.

15           (e) Supervise the office within the department of administration that is  
16 responsible for providing personnel, budget, and other types of management  
17 assistance to district attorney offices.

18           (2) Subject to authorization under s. 16.505, the state prosecutors board may  
19 hire staff to assist it in the performance of its duties.

20           **SECTION 9101. Nonstatutory provisions; administration.**

21           (1) STATE PROSECUTORS BOARD; INITIAL TERMS. Notwithstanding section 15.105  
22 (6) (b) 1. of the statutes, as created by this act, the first 4 members of the state  
23 prosecutors board shall be appointed for 2-year terms, subject to section 15.105 (6)

24 (b) 2. of the statutes, as created by this act.

25

(END)

Insert 3-12 ✓

SEC. #. CR; 15.07(2)(m)

15.07(2)(m) The chairperson of the  
state prosecutor's board shall be  
designated annually by the governor.

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

LRB-1373/7dn  
MGD:kmg:cph

February 5, 2003

Roger:

Besides making the changes that you requested, this draft amends s. 978.12 (4) and creates s. 978.12 (5) (d) to clarify that certain provisions relating to district attorney employees who were formerly county employees do not apply to assignable prosecutors.

Michael Dsida  
Legislative Attorney  
Phone: (608) 266-9867

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

LRB-1373/8dn  
MGD:kmg&wlj:pg

February 7, 2003

Roger:

Besides making the changes that you requested, this draft amends s. 978.12 (4) and creates s. 978.12 (5) (d) to clarify that certain provisions relating to district attorney employees who were formerly county employees do not apply to assignable prosecutors.

Michael Dsida  
Legislative Attorney  
Phone: (608) 266-9867

P/c from Regu

eliminate 20.505 (4) (dg)



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-13738  
MGD:kmg&wlj:pg

DOA:.....Mukasa - BB0328, State Prosecutors Office

FOR 2003-05 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*  
**COURTS, COURT PROCEDURE, AND ATTORNEYS**

**DISTRICT ATTORNEYS**

Generally, under current law, a county selects its own district attorney, but the district attorney and deputy and assistant district attorneys are state employees. DOA, through its State Prosecutors Office, provides personnel, budget, and other types of management assistance to district attorney offices. With respect to individual cases, however, district attorneys have near-total discretion in deciding what cases to pursue and how to prosecute them. In working on those cases, a district attorney may request assistance from prosecutors in other counties, who may then serve in the same capacity as the district attorney who requested their assistance.

This bill creates a State Prosecutors Board, which is attached to DOA. The board consists of eight district attorneys selected by the governor and has the following duties: 1) adopting advisory guidelines for district attorneys to use in determining when criminal cases should be prosecuted or diverted for nonprosecutorial programs; 2) issuing rules regarding the temporary assignment of district attorneys, deputy district attorneys, and assistant district attorneys to other counties; 3) hiring and assigning prosecutors for temporary placement in district attorney offices throughout the state; and 4) supervising the State Prosecutors Office.

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.** 13.92 (3) of the statutes is amended to read:

2           **13.92 (3) TREATMENT OF CERTAIN LEGISLATIVE REFERENCE BUREAU EMPLOYEES.**

3           Notwithstanding s. 230.08 (2) (fc), those employees holding positions in the classified  
4           service at the legislative reference bureau on June 16, 1998, who have achieved  
5           permanent status in class before that date, shall retain, while serving in the  
6           unclassified service at the legislative reference bureau, those protections afforded  
7           employees in the classified service under ss. 230.34 (1) (~~a~~) (ah) and 230.44 (1) (c)  
8           relating to demotion, suspension, discharge, layoff or reduction in base pay. Such  
9           employees shall also have reinstatement privileges to the classified service as  
10          provided under s. 230.33 (1). Those employees of the legislative reference bureau  
11          holding positions in the classified service on June 16, 1998, who have not achieved  
12          permanent status in class in any position at the legislative reference bureau on that  
13          date are eligible to receive the protections, privileges and rights preserved under this  
14          subsection if they successfully complete service equivalent to the probationary  
15          period required in the classified service for the position which they hold on that date.


16          **SECTION 2.** 13.94 (5) of the statutes is amended to read:

17          **13.94 (5) TREATMENT OF CLASSIFIED EMPLOYEES.** Notwithstanding sub. (3) (b),  
18          those individuals holding positions in the classified service at the legislative audit  
19          bureau who achieved permanent status in class on July 31, 1981, shall retain, while  
20          serving in the unclassified service in the legislative audit bureau, those protections  
21          afforded employees in the classified service under ss. 230.34 (1) (~~a~~) (ah) and 230.44

1 legislative branch agency, those protections afforded employees in the classified  
2 service under ss. 230.34 (1) ~~(a)~~ (ah) and 230.44 (1) (c) relating to demotion,  
3 suspension, discharge, layoff, or reduction in base pay except that the applicability  
4 of any reduction in base pay of such an employee shall be determined on the basis  
5 of the base pay received by the employee on August 9, 1989, plus the total amount  
6 of any subsequent general economic increases provided in the compensation plan  
7 under s. 230.12 for nonrepresented employees in the classified service. Such  
8 employees shall also have reinstatement privileges to the classified service as  
9 provided under s. 230.33 (1). Employees of the department holding positions in the  
10 classified service on August 9, 1989, who are engaged in legislative text processing  
11 functions and who have not achieved permanent status in class in any position in the  
12 department on that date are eligible to receive the protections and privileges  
13 preserved under this section if they successfully complete service equivalent to the  
14 probationary period required in the classified service for the positions which they  
15 hold.

16 **SECTION 9.** 20.475 (1) (d) of the statutes is amended to read:

17 20.475 (1) (d) *Salaries and fringe benefits.* The amounts in the schedule for  
18 salaries and fringe benefits of district attorneys and state employees ~~of the working~~  
19 in an office of the district attorney, for payments under s. 978.045 (2) (b) and,  
20 beginning in the 1999–2000 fiscal year and ending in the 2003–04 fiscal year, for a  
21 payment of \$80,000 in each fiscal year toward the department of administration's  
22 unfunded prior service liability under the Wisconsin retirement system that results  
23 from granting the creditable service under s. 40.02 (17) (gm).

24  **SECTION 10.** 20.505 (4) (dg) of the statutes is created to read:



1           20.505 (4) (dg) *State prosecutors board*. The amounts in the schedule for the  
2           general program operations of the state prosecutors board.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be  
reflected in the revised schedule in s. 20.005, stats.

3           **SECTION 11.** 20.923 (6) (ac) of the statutes is amended to read:

4           20.923 (6) (ac) Administration, department of: deputy and assistant district  
5           attorneys and assignable prosecutors, as defined in s. 978.001 (1c).

6           **SECTION 12.** 42.035 of the statutes is amended to read:

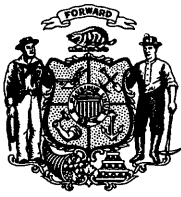
7           **42.035 Treatment of certain state fair park board employees.**

8           Notwithstanding s. 230.08 (2) (pm), those employees holding positions in the  
9           classified service at the state fair park board on October 29, 1999, who have achieved  
10          permanent status in class before that date, shall retain, while serving in the  
11          unclassified service at the state fair park board, those protections afforded  
12          employees in the classified service under ss. 230.34 (1) (a) (ah) and 230.44 (1) (c)  
13          relating to demotion, suspension, discharge, layoff or reduction in base pay. Such  
14          employees shall also be eligible for transfer under s. 230.29 and shall have  
15          reinstatement privileges to the classified service under s. 230.33 (1m). Those  
16          employees of the state fair park board on October 29, 1999, who have not achieved  
17          permanent status in class in any position at the state fair park board on that date  
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19          section if they successfully complete service equivalent to the probationary period  
20          required in the classified service for the position that they hold on that date.

21          **SECTION 13.** 63.10 (2) of the statutes is amended to read:

22          63.10 (2) The commission shall appoint a time and place for the hearing of said  
23          charges, the time to be within 3 weeks after the filing of the same, and notify the





State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1373/9  
MGD:kmg&wlj:pg

DOA:.....Mukasa – BB0328, State Prosecutors Office

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

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

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6           unclassified service at the legislative reference bureau, those protections afforded  
7           employees in the classified service under ss. 230.34 (1) (~~a~~) (ah) and 230.44 (1) (c)  
8           relating to demotion, suspension, discharge, layoff or reduction in base pay. Such  
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10          provided under s. 230.33 (1). Those employees of the legislative reference bureau  
11          holding positions in the classified service on June 16, 1998, who have not achieved  
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13          date are eligible to receive the protections, privileges and rights preserved under this  
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16          **SECTION 2.** 13.94 (5) of the statutes is amended to read:

17          **13.94 (5) TREATMENT OF CLASSIFIED EMPLOYEES.** Notwithstanding sub. (3) (b),  
18          those individuals holding positions in the classified service at the legislative audit  
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20          serving in the unclassified service in the legislative audit bureau, those protections  
21          afforded employees in the classified service under ss. 230.34 (1) (~~a~~) (ah) and 230.44

1 (1) (c) relating to demotion, suspension, discharge or layoff, except that the  
2 applicability of any reduction in base pay of such an employee shall be determined  
3 on the basis of the base pay received by the employee on July 31, 1981, plus the total  
4 amount of any subsequent general economic increases approved by the joint  
5 committee on employment relations for nonrepresented employees in the classified  
6 service. Such employees shall also have reinstatement privileges to the classified  
7 service as provided under s. 230.33 (1). Employees of the legislative audit bureau  
8 holding positions in the classified service on July 31, 1981, who have not achieved  
9 permanent status in class in any position in the legislative audit bureau on that date  
10 are eligible to receive the protections and privileges preserved under this subsection  
11 if they successfully complete the probationary period required for the position which  
12 they hold.

13 **SECTION 3.** 15.07 (2) (m) of the statutes is created to read:

14 15.07 (2) (m) The chairperson of the state prosecutor's board shall be  
15 designated annually by the governor.

16 **SECTION 4.** 15.105 (6) of the statutes is created to read:

17 15.105 (6) STATE PROSECUTORS BOARD. (a) There is created a state prosecutors  
18 board which is attached to the department of administration under s. 15.03 and  
19 which shall consist of eight district attorneys appointed by the governor.

20 (b) 1. Subject to subd. 2., the members of the state prosecutors board shall be  
21 appointed for 4-year terms.

22 2. A person may not serve as a member of the board if he or she ceases to hold  
23 the office of district attorney.

1 (c) Notwithstanding the provisions of any statute or ordinance, membership on  
2 the state prosecutors board does not disqualify a member from holding any other  
3 public office or employment.

4 **SECTION 5.** 15.255 (2) (b) 4. of the statutes is amended to read:

5 15.255 (2) (b) 4. Two members, who are citizens of this state but who are not  
6 employed in law enforcement, by a district attorney, or as specified in subd. 3., who  
7 are citizens of this state and who are not assignable prosecutors, as defined in s.  
8 978.001 (1c).

9 **SECTION 6.** 15.78 of the statutes is amended to read:

10 **15.78 Public defender board.** There is created a public defender board  
11 consisting of 9 members appointed for staggered 3-year terms. No member may be,  
12 or be employed on the staff of, a judicial or law enforcement officer, district attorney,  
13 corporation counsel, or the state public defender. No member may be an assignable  
14 prosecutor, as defined in s. 978.001 (1c). At least 5 members shall be members of the  
15 State Bar of Wisconsin.

16 **SECTION 7.** 16.003 (2) of the statutes is amended to read:

17 16.003 (2) STAFF. Except as provided in ss. 16.548, 16.57, 978.03 (1), (1m), and  
18 (2), 978.04 and, 978.05 (8) (b), and 978.14 (1) (d), the secretary shall appoint the staff  
19 necessary for performing the duties of the department. All staff shall be appointed  
20 under the classified service except as otherwise provided by law.

21 **SECTION 8.** 16.006 of the statutes is amended to read:

22 **16.006 Treatment of classified employees.** Those individuals holding  
23 positions in the classified service in the department who are engaged in legislative  
24 text processing functions and who achieved permanent status in class on August 9,  
25 1989, shall retain, while serving in the unclassified service in the legislature or any

1 legislative branch agency, those protections afforded employees in the classified  
2 service under ss. 230.34 (1) (a) (ah) and 230.44 (1) (c) relating to demotion,  
3 suspension, discharge, layoff, or reduction in base pay except that the applicability  
4 of any reduction in base pay of such an employee shall be determined on the basis  
5 of the base pay received by the employee on August 9, 1989, plus the total amount  
6 of any subsequent general economic increases provided in the compensation plan  
7 under s. 230.12 for nonrepresented employees in the classified service. Such  
8 employees shall also have reinstatement privileges to the classified service as  
9 provided under s. 230.33 (1). Employees of the department holding positions in the  
10 classified service on August 9, 1989, who are engaged in legislative text processing  
11 functions and who have not achieved permanent status in class in any position in the  
12 department on that date are eligible to receive the protections and privileges  
13 preserved under this section if they successfully complete service equivalent to the  
14 probationary period required in the classified service for the positions which they  
15 hold.

16 **SECTION 9.** 20.475 (1) (d) of the statutes is amended to read:

17 20.475 (1) (d) *Salaries and fringe benefits.* The amounts in the schedule for  
18 salaries and fringe benefits of district attorneys and state employees of the working  
19 in an office of the district attorney, for payments under s. 978.045 (2) (b) and,  
20 beginning in the 1999–2000 fiscal year and ending in the 2003–04 fiscal year, for a  
21 payment of \$80,000 in each fiscal year toward the department of administration's  
22 unfunded prior service liability under the Wisconsin retirement system that results  
23 from granting the creditable service under s. 40.02 (17) (gm).

24 **SECTION 10.** 20.923 (6) (ac) of the statutes is amended to read:

1           20.923 (6) (ac) Administration, department of: deputy and assistant district  
2 attorneys and assignable prosecutors, as defined in s. 978.001 (1c).

3           **SECTION 11.** 42.035 of the statutes is amended to read:

4           **42.035 Treatment of certain state fair park board employees.**

5 Notwithstanding s. 230.08 (2) (pm), those employees holding positions in the  
6 classified service at the state fair park board on October 29, 1999, who have achieved  
7 permanent status in class before that date, shall retain, while serving in the  
8 unclassified service at the state fair park board, those protections afforded  
9 employees in the classified service under ss. 230.34 (1) (~~a~~) (ah) and 230.44 (1) (c)  
10 relating to demotion, suspension, discharge, layoff or reduction in base pay. Such  
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12 reinstatement privileges to the classified service under s. 230.33 (1m). Those  
13 employees of the state fair park board on October 29, 1999, who have not achieved  
14 permanent status in class in any position at the state fair park board on that date  
15 are eligible to receive the protections, privileges and rights preserved under this  
16 section if they successfully complete service equivalent to the probationary period  
17 required in the classified service for the position that they hold on that date.

18           **SECTION 12.** 63.10 (2) of the statutes is amended to read:

19           **63.10 (2)** The commission shall appoint a time and place for the hearing of said  
20 charges, the time to be within 3 weeks after the filing of the same, and notify the  
21 person possessing the appointing power and the accused of the time and place of such  
22 hearing. At the termination of the hearing the commission shall determine whether  
23 or not the charge is well founded and shall take such action by way of suspension,  
24 demotion, discharge or reinstatement, as it may deem requisite and proper under the  
25 circumstances and as its rules may provide. The decision of the commission shall be



1 final. Neither the person possessing the appointing power nor the accused shall have  
2 the right to be represented by counsel at said hearing, but the commission may in its  
3 discretion permit the accused to be represented by counsel and may request the  
4 presence of ~~an assistant a~~ district attorney to act with the commission in an advisory  
5 capacity.

6 **SECTION 13.** 111.81 (5m) of the statutes is created to read:

7 111.81 (5m) “Assistant district attorney” includes an assignable prosecutor, as  
8 defined in s. 978.001 (1c).

9 **SECTION 14.** 111.91 (2) (c) of the statutes is amended to read:

10 111.91 (2) (c) Disciplinary actions and position abandonments governed by s.  
11 230.34 (1) (a) ~~(ah)~~, (am) and (ar), except as provided in those paragraphs.

12 **SECTION 15.** 134.50 (2) of the statutes is amended to read:

13 134.50 (2) Every poultry dealer shall keep a record of all purchases of poultry  
14 made by the poultry dealer showing in detail the place and date of purchase and the  
15 name and address of the person from whom the purchase was made, together with  
16 a general description of the kind of poultry purchased. Such record shall be kept in  
17 permanent form and be open to inspection at all reasonable times to any district  
18 attorney, ~~assistant district attorney~~, sheriff, deputy sheriff or any police officer.

19 **SECTION 16.** 196.675 (1) of the statutes is renumbered 196.675 (1r).

20 **SECTION 17.** 196.675 (1g) of the statutes is created to read:

21 196.675 (1g) In this section, “assistant district attorney” includes an  
22 assignable prosecutor, as defined in s. 978.001 (1c).

23 **SECTION 18.** 230.08 (2) (sm) of the statutes is created to read:

24 230.08 (2) (sm) Assignable prosecutors, as defined in s. 978.001 (1c), in the  
25 department of administration.

1           **SECTION 19.** 230.34 (1) (a) of the statutes is renumbered 230.34 (1) (ah).

2           **SECTION 20.** 230.34 (1) (ac) of the statutes is created to read:

3           230.34 (1) (ac) In this section, “assistant district attorney” includes an  
4 assignable prosecutor, as defined in s. 978.001 (1c).

5           **SECTION 21.** 230.34 (1) (ar) of the statutes is amended to read:

6           230.34 (1) (ar) Paragraphs ~~(a)~~ (ah) and (am) apply to all employees with  
7 permanent status in class in the classified service and all employees who have served  
8 with the state as an assistant district attorney for a continuous period of 12 months  
9 or more, except that for employees specified in s. 111.81 (7) (a) in a collective  
10 bargaining unit for which a representative is recognized or certified, or for employees  
11 specified in s. 111.81 (7) (b) or (c) in a collective bargaining unit for which a  
12 representative is certified, if a collective bargaining agreement is in effect covering  
13 employees in the collective bargaining unit, the determination of just cause and all  
14 aspects of the appeal procedure shall be governed by the provisions of the collective  
15 bargaining agreement.

16           **SECTION 22.** 230.44 (1) (c) of the statutes is amended to read:

17           230.44 (1) (c) *Demotion, layoff, suspension or discharge.* ~~If an employee has~~  
18 ~~permanent status in class, or an employee has served with the state as an assistant~~  
19 ~~district attorney for a continuous period of 12 months or more, the~~ An employee  
20 described in s. 230.34 (1) (ah) may appeal a demotion, layoff, suspension, discharge  
21 or reduction in base pay to the commission, if the appeal alleges that the decision was  
22 not based on just cause.

23           **SECTION 23.** 967.03 of the statutes is repealed.

24           **SECTION 24.** 978.001 (1c) of the statutes is created to read:

1           978.001 (1c) “Assignable prosecutor” means an attorney employed by the state  
2 prosecutors board whom the board may assign to a prosecutorial unit under s. 978.14  
3 (1) (d).

4           **SECTION 25.** 978.03 (1) of the statutes is amended to read:

5           978.03 (1) The district attorney of any prosecutorial unit having a population  
6 of 500,000 or more may appoint 5 deputy district attorneys and such assistant  
7 district attorneys as may be requested by the department of administration and  
8 authorized in accordance with s. 16.505. The district attorney shall rank the deputy  
9 district attorneys for purposes of carrying out duties under this section. The  
10 deputies, according to rank, may perform any duty of the district attorney who  
11 appointed him or her, under the district attorney’s direction, or any duty of the  
12 district attorney to whose prosecutorial unit he or she is assigned by the state  
13 prosecutors board under s. 978.14 (1) (c). In the absence or disability of the district  
14 attorney, the deputies, according to rank, may perform any act required by law to be  
15 performed by the district attorney. Any such deputy must have practiced law in this  
16 state for at least 2 years prior to appointment under this section.

17           **SECTION 26.** 978.03 (1m) of the statutes is amended to read:

18           978.03 (1m) The district attorney of any prosecutorial unit having a population  
19 of 200,000 or more but not more than 499,999 may appoint 3 deputy district  
20 attorneys and such assistant district attorneys as may be requested by the  
21 department of administration and authorized in accordance with s. 16.505. The  
22 district attorney shall rank the deputy district attorneys for purposes of carrying out  
23 duties under this section. The deputies, according to rank, may perform any duty  
24 of the district attorney who appointed him or her, under the district attorney’s  
25 direction, or any duty of the district attorney to whose prosecutorial unit he or she

1 is assigned by the state prosecutors board under s. 978.14 (1) (c). In the absence or  
2 disability of the district attorney, the deputies, according to rank, may perform any  
3 act required by law to be performed by the district attorney. Any such deputy must  
4 have practiced law in this state for at least 2 years prior to appointment under this  
5 section.

6 **SECTION 27.** 978.03 (2) of the statutes is amended to read:

7 978.03 (2) The district attorney of any prosecutorial unit having a population  
8 of 100,000 or more but not more than 199,999 may appoint one deputy district  
9 attorney and such assistant district attorneys as may be requested by the  
10 department of administration and authorized in accordance with s. 16.505. The  
11 deputy may perform any duty of the district attorney who appointed him or her,  
12 under the district attorney's direction, or any duty of the district attorney to whose  
13 prosecutorial unit he or she is assigned by the state prosecutors board under s. 978.14  
14 (1) (c). In the absence or disability of the district attorney, the deputy may perform  
15 any act required by law to be performed by the district attorney. The deputy must  
16 have practiced law in this state for at least 2 years prior to appointment under this  
17 section.

18 **SECTION 28.** 978.03 (3) of the statutes is amended to read:

19 978.03 (3) Any assistant district attorney under sub. (1), (1m) or (2) must be  
20 an attorney admitted to practice law in this state and, except as provided in ss.  
21 978.043 and 978.044, may exercise any power of, or perform any duty required by law  
22 to be performed by, the district attorney. ~~The~~ appointing him or her or a district  
23 attorney to whose prosecutorial unit he or she is assigned by the state prosecutors  
24 board under s. 978.14 (1) (c). In consultation with the state prosecutors board, the

1 district attorney of the prosecutorial unit under sub. (1), (1m), or (2) may appoint  
2 such temporary counsel as may be authorized by the department of administration.

3 **SECTION 29.** 978.04 of the statutes is amended to read:

4 **978.04 Assistants in certain prosecutorial units.** The district attorney of  
5 any prosecutorial unit having a population of less than 100,000 may appoint one or  
6 more assistant district attorneys as necessary to carry out the duties of his or her  
7 office and as may be requested by the department of administration authorized in  
8 accordance with s. 16.505. Any such assistant district attorney must be an attorney  
9 admitted to practice law in this state and, except as provided in s. 978.043, may  
10 exercise any power of, or perform any duty required by law to be performed by, the  
11 district attorney appointing him or her or a district attorney to whose prosecutorial  
12 unit he or she is assigned by the state prosecutors board under s. 978.14 (1) (c).

13 **SECTION 30.** 978.043 of the statutes is amended to read:

14 **978.043 Assistants for prosecution of sexually violent person**  
15 **commitment cases.** The district attorney of the prosecutorial unit that consists of  
16 Brown County and the district attorney of the prosecutorial unit that consists of  
17 Milwaukee County shall each assign one assistant district attorney in his or her  
18 prosecutorial unit to be a sexually violent person commitment prosecutor. An  
19 assistant district attorney assigned under this section to be a sexually violent person  
20 commitment prosecutor may engage only in the prosecution of sexually violent  
21 person commitment proceedings under ch. 980 and, ~~at the request of the district~~  
22 ~~attorney of the prosecutorial unit~~ as permitted or required under rules adopted by  
23 the state prosecutors board under s. 978.14 (1) (c), may file and prosecute sexually  
24 violent person commitment proceedings under ch. 980 in any prosecutorial unit in  
25 this state.

1           **SECTION 31.** 978.044 (2) (b) of the statutes is amended to read:

2           978.044 (2) (b) Provide assistance to the district attorney in other counties  
3 relating to the establishment of restorative justice programs, as described in par. (a)  
4 as permitted or required under rules adopted by the state prosecutors board under  
5 s. 978.14 (1) (c).

6           **SECTION 32.** 978.045 (1g) of the statutes is amended to read:

7           978.045 (1g) A court on its own motion may appoint a special prosecutor under  
8 sub. (1r) or a district attorney may request a court to appoint a special prosecutor  
9 under that subsection. Before a court appoints a special prosecutor on its own motion  
10 or at the request of a district attorney for an appointment that exceeds 6 hours per  
11 case, the court or, subject to any applicable rule issued under s. 978.14 (1) (c), the  
12 district attorney shall request do all of the following:

13           1. Request assistance from a district attorney, deputy district attorney, or  
14 assistant district attorney from other prosecutorial units or an assistant attorney  
15 general. ~~A district attorney requesting the appointment of a special prosecutor, or~~  
16 ~~a court if the court is appointing a special prosecutor on its own motion, shall notify~~  
17 ~~the department of administration~~

18           2. Notify the state prosecutors board, on a form provided by the department  
19 board, of the ~~district attorney's or the court's inability~~ basis for the proposed  
20 appointment and the efforts to obtain assistance from another prosecutorial unit or  
21 from an assistant attorney general.

22           **SECTION 33.** 978.046 of the statutes is created to read:

23           **978.046 Assignable prosecutors.** An assignable prosecutor who has been  
24 assigned to a prosecutorial unit may exercise any power of, or perform any duty  
25 required by law to be performed by, the district attorney of the prosecutorial unit.

1           **SECTION 34.** 978.05 (1) of the statutes is amended to read:

2           978.05 (1) CRIMINAL ACTIONS. Except as otherwise provided by law, prosecute  
3 all criminal actions before any court within his or her prosecutorial unit. In  
4 determining whether to prosecute a case, the district attorney shall consider the  
5 guidelines adopted by the state prosecutors board under s. 978.14 (1) (b). The district  
6 attorney, however, is not bound by those guidelines, and there is no right to appeal  
7 based on a prosecutor's decision to depart in any way from any guideline.

8           **SECTION 35.** 978.05 (8) (b) of the statutes is amended to read:

9           978.05 (8) (b) Hire, employ, and supervise his or her staff and assignable  
10 prosecutors assigned to his or her prosecutorial unit under s. 978.14 (1) (d) and,  
11 subject to ss. 978.043 and 978.044, make appropriate assignments of the staff and  
12 assignable prosecutors throughout the prosecutorial unit. The district attorney may  
13 request the assistance of district attorneys, deputy district attorneys, or assistant  
14 district attorneys from other prosecutorial units, subject to any rules promulgated  
15 under s. 978.14 (1) (c), or assistant attorneys general, who then may appear and  
16 assist in the investigation and prosecution of any matter for which a district attorney  
17 is responsible under this chapter in like manner as assistants in the prosecutorial  
18 unit and with the same authority as the district attorney in the unit in which the  
19 action is brought. Nothing in this paragraph limits the authority of counties to  
20 regulate the hiring, employment, and supervision of county employees.

21           **SECTION 36.** 978.06 (1) of the statutes is amended to read:

22           978.06 (1) No district attorney, deputy district attorney ~~or~~, assistant district  
23 attorney, or assignable prosecutor may receive any fee or reward from or on behalf  
24 of any prosecutor or any other individual for services in any prosecution or business  
25 to which it is the district attorney's official duty to attend.

1           **SECTION 37.** 978.06 (2) of the statutes is amended to read:

2           978.06 (2) No district attorney, deputy district attorney ~~or~~, assistant district  
3 attorney, or assignable prosecutor may be concerned as attorney or counsel for either  
4 party, other than for the state or county, in any civil action depending upon the same  
5 state of facts upon which any criminal prosecution commenced but undetermined  
6 depends.

7           **SECTION 38.** 978.06 (3) (a) of the statutes is amended to read:

8           978.06 (3) (a) No district attorney, deputy district attorney ~~or~~, assistant district  
9 attorney, or assignable prosecutor while in office may hold any judicial office. No  
10 assignable prosecutor and no full-time district attorney, deputy district attorney, or  
11 assistant district attorney may hold the office of or act as corporation counsel or city,  
12 village, or town attorney. A part-time district attorney, deputy district attorney, or  
13 assistant district attorney may hold the office of or act as corporation counsel or city,  
14 village, or town attorney or otherwise serve as legal counsel to any governmental  
15 unit.

16           **SECTION 39.** 978.06 (4) of the statutes is amended to read:

17           978.06 (4) No person who acted as district attorney, deputy district attorney  
18 ~~or~~, assistant district attorney, or assignable prosecutor, or special prosecutor under  
19 s. 978.045, for a county at the time of an arrest, examination, or indictment of any  
20 person charged with a crime in that county may thereafter appear for, or defend that  
21 person against the crime charged in the complaint, information, or indictment.

22           **SECTION 40.** 978.06 (5) (a) of the statutes is amended to read:

23           978.06 (5) (a) No full-time district attorney, deputy district attorney, or  
24 assistant district attorney may engage in a private practice of law, but he or she is  
25 authorized to complete all civil cases, not in conflict with the interest of the county



1 or counties of his or her prosecutorial unit, in which he or she is counsel, pending in  
2 court before he or she takes office. No assignable prosecutor may engage in a private  
3 practice of law. A part-time district attorney, deputy district attorney, or assistant  
4 district attorney may engage in a private practice of law.

5 SECTION 41. 978.12 (title) of the statutes is amended to read:

6 978.12 (title) **Salaries Prosecutor salaries and benefits of district**  
7 **attorney and state employees in office of district attorney.**

8 SECTION 42. 978.12 (1) (c) of the statutes is amended to read:

9 978.12 (1) (c) *Assistant district attorneys and assignable prosecutors.* Assistant  
10 district attorneys and assignable prosecutors shall be employed outside the  
11 classified service. For purposes of salary administration, the secretary of  
12 employment relations shall establish one or more classifications for assistant district  
13 attorneys and assignable prosecutors in accordance with the classification or  
14 classifications allocated to assistant attorneys general. Except as provided in s.  
15 111.93 (3), the salaries of assistant district attorneys and assignable prosecutors  
16 shall be established and adjusted in accordance with the state compensation plan for  
17 assistant attorneys general whose positions are allocated to the classification or  
18 classifications established by the secretary of employment relations.

19 SECTION 43. 978.12 (4) of the statutes is amended to read:

20 978.12 (4) ANNUAL LEAVE. Annual leave for the district attorney is governed by  
21 s. 230.35 (1r). Annual leave for other state employees of the office of district attorney  
22 shall be accrued at the rate provided in s. 230.35 using the employee's state service  
23 computed under sub. (2). Annual leave shall be earned on a calendar year basis  
24 prorated from the effective date of the employee's transfer for the balance of the  
25 calendar year. This subsection does not apply to assignable prosecutors.

1           **SECTION 44.** 978.12 (5) (d) of the statutes is created to read:

2           978.12 (5) (d) *Applicability.* This subsection does not apply to assignable  
3 prosecutors.

4           **SECTION 45.** 978.14 of the statutes is created to read:

5           **978.14 State prosecutors board.** (1) The state prosecutors board shall do  
6 all of the following:

7           (b) Adopt advisory guidelines or standards for district attorneys to use in  
8 determining when criminal cases should be prosecuted or diverted to  
9 nonprosecutorial programs.

10           (c) Promulgate and administer rules regarding the temporary assignment of  
11 district attorneys and deputy and assistant district attorneys from one prosecutorial  
12 unit to another.

13           (d) Hire and assign assignable prosecutors to prosecutorial units as and for as  
14 long as it sees fit.

15           (e) Supervise the office within the department of administration that is  
16 responsible for providing personnel, budget, and other types of management  
17 assistance to district attorney offices.

18           (2) Subject to authorization under s. 16.505, the state prosecutors board may  
19 hire staff to assist it in the performance of its duties.

20           **SECTION 9101. Nonstatutory provisions; administration.**

21           (1) STATE PROSECUTORS BOARD; INITIAL TERMS. Notwithstanding section 15.105  
22 (6) (b) 1. of the statutes, as created by this act, the first 4 members of the state  
23 prosecutors board shall be appointed for 2-year terms, subject to section 15.105 (6)

24           (b) 2. of the statutes, as created by this act.

25

(END)