



**2003 DRAFTING REQUEST**

**Bill**

Received: **01/27/2003**

Received By: **pgrant**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-2214**

By/Representing: **Kraus**

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

Drafter: **pgrant**

May Contact:

Addl. Drafters: **rmarchan  
rnelson2**

Subject: **Justice - civil  
State Govt - miscellaneous**

Extra Copies: **RAC, RNK, PJH, PJK, JK**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to: **robert.marchant@legis.state.wi.us**

**Pre Topic:**

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DOA:.....Kraus - BB0438,

**Topic:**

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State attorneys; transfer to DOA

**Instructions:**

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See Attached

**Drafting History:**

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/1			chaugen 01/31/2003	_____	lemery 01/31/2003		State

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/4			jfrantze 02/06/2003	_____ _____	amentkow 02/06/2003		State
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			2/13				

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16 cjs 2/7  
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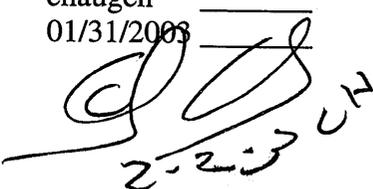
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/?	pgrant	1-1/31 Kraus	CM 1-31	CM 1-31 CM			
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FE Sent For:

 END

**Schaeffer, Carole**

**From:** Kraus, Jennifer  
**Sent:** Friday, January 24, 2003 4:23 PM  
**To:** Schaeffer, Carole  
**Subject:** FW: Drafting request - Attorneys

Carole - Can you add this to your tracking document? Thx

-----Original Message-----

From: Kraus, Jennifer  
To: Miller, Steve  
Sent: 1/24/2003 3:49 PM  
Subject: Drafting request - Attorneys

0438  
BB ~~BOOK~~

Steve -

The Governor tentatively approved a plan last night to consolidate certain attorneys at DOJ. Attorneys at the UW, PSC, Public Defenders, DA's, the Legislature, administrative law judges and hearing officers would not be included. Before transferring these FTE to DOJ, we would reduce position authority and corresponding salary and fringe budgets by 25% based on anticipated efficiencies. ~~We also want to carve out 10 of the attorneys from the remaining group, transfer them to DOA where they would be assigned to the major Cabinet agencies as general counsel. The rest would go to DOJ.~~

Reqd from in each major agency

I'm not entirely sure what statutory changes would be needed to accomplish this, so perhaps you could have the lead drafter call me at 233-3041. *My*

Bill Walker from our office briefly discussed this with Becky Tradewell who notes that it may be necessary to modify agencies' authority to represent themselves. She notes that finding such language in the statutes will be difficult (a variety of words will be involved: appear for, represent, provide legal services, furnish legal services, furnish counsel, etc.).

She also notes that the duties of DOJ in 165.25(4) include representation of certain agencies. This section may need to be changed. In particular, DOJ is to represent DATCP in matters involving specific sections of the DATCP statutes but not all. That type of thing will need to be changed so that DOJ can do all legal work for DATCP.

We will also probably need nonstatutory language transferring the positions and incumbents. Perhaps we can allow the AG, DOA Secretary and cabinet agencies to determine which incumbents are assigned to the DOA pool.

Thanks for your assistance.

Jennifer Kraus  
State Budget Office

See spreadsheet

6-2214

Mon. 1/27/03

TC w/ Jennifer Kraus

1. Don't transfer any support staff.

2. Also exempt attorneys at DORL,

governor's office, UW Hospital & Clinics Bd., &  
the Judiciary.

(Also, div. of hearings & appeals in DOA)

Also include all authorities.

3. no different if position is federally funded.

4. RE where the attys will be housed -

nothing will change; they won't physically move.

5. Instead of us going to DOA, ~~we~~

leave behind one for each major agency. She

will get me the list of major agencies tomorrow.

6. They're discussing a couple of options re  
funding -

# State Attorney Positions: Full Time Equivalent Number (FTE) and Cost (Salary and Fringe Benefits)

(Excludes University of Wisconsin Attorneys, Department of Justice Attorneys, District Attorneys and Public Defenders)

	State Agency	All Funds		FTE Positions by Type		Hearing Exam. & ALJ's	Net Attns	Comments
		FTE	Cost	Attorney	Super/Manager			
445	Workforce Development	95.70	\$10,368,000	85.7	7.0 / 3.0	92.90	2.80	four vacant
505	Administration	35.00	3,390,900	29.0	3.0 / 3.0	32.00	3.00	two vacant
165	Regulation and Licensing	21.30	2,265,800	17.3	4.0 / 0.0	21.3	0.00	all related to hearing process (5.8 FTE supporting boards and 14 prosecuting complaints (2 vacant))
370	Natural Resources	19.00	2,183,700	16.0	2.0 / 1.0	0	19.00	one vacant
435	Health and Family Services	18.40	1,959,500	16.4	1.0 / 1.0	0	18.40	one vacant
425	Employment Relations Commission	16.00	1,699,600	13.0	3.0 / 0.0	16	0.00	rate setting, power plant approval, ...
155	Public Service Commission	15.00	1,771,200	13.0	0.0 / 2.0	15	0.00	
566	Revenue	13.00	1,574,600	10.0	2.0 / 1.0	13	0.00	
395	Transportation	10.00	1,248,900	8.0	0.0 / 2.0	0	10.00	
410	Corrections	7.80	863,900	6.8	1.0 / 0.0	0	7.80	
115	Agriculture	7.50	858,900	6.5	0.0 / 1.0	0.5	7.00	one vacant
144	Financial Institutions	6.00	679,100	3.0	1.0 / 2.0	0.15	5.85	
145	Insurance	5.00	567,900	4.0	1.0 / 0.0	0.5	4.50	
143	Commerce	4.00	396,800	3.0	0.0 / 1.0	0.5	3.50	
255	Public Instruction	3.00	365,700	2.0	1.0 / 0.0	0	3.00	
485	Veterans Affairs	2.00	252,200	1.0	0.0 / 1.0	0.5	1.50	
515	Employee Trust Funds	2.00	235,600	1.0	0.0 / 1.0	0	2.00	
512	Employment Relations Department	2.00	227,100	0.0	0.0 / 2.0	0	2.00	
547	Personnel Commission	2.00	174,900	1.0	0.0 / 1.0	2	0.00	one vacant
380	Tourism	1.00	133,900	0.0	0.0 / 1.0	0	1.00	Deleted as part of its ops cut plan
521	Ethics Board	1.00	126,100	1.0	0.0 / 0.0	0	1.00	
510	Elections Board	1.00	111,800	1.0	0.0 / 0.0	0	1.00	
465	Military Affairs	1.00	101,600	1.0	0.0 / 0.0	0	1.00	
432	Aging and Long-term Care Board	1.00	67,900	0.0	0.0 / 1.0	0	1.00	
292	Technical College Board	1.00	54,800	1.0	0.0 / 0.0	0	1.00	one vacant
		290.70	\$31,680,400	240.7	26.0 / 24.0			

Source: PMIS, December 9, 2002

check

290.70

\$31,680,400

290.7

194.35

96.35

**Grant, Peter**

---

**From:** Kraus, Jennifer  
**Sent:** Tuesday, January 28, 2003 10:19 AM  
**To:** Grant, Peter  
**Subject:** RE: Attorney draft

~~Sorry - forgot to include Revenue.~~

-----Original Message-----

**From:** Kraus, Jennifer  
**Sent:** Tuesday, January 28, 2003 9:08 AM  
**To:** Grant, Peter  
**Subject:** Attorney draft

Hi Peter -

As I believe I mentioned on the phone yesterday, the decision has been made to leave one general counsel in each of the major cabinet agencies (plus DPI) and to have the DOA Sec and the AG decide how to assign attorneys to the agencies.

The following is the list of agencies that will be allowed to retain one general counsel:

- DOT
- ✓DOA
- ✓DWD
- ✓DHFS
- ✓DOC
- ✓DATCP
- ✓DNR
- ✓DFI
- ✓Commerce
- OCI
- and
- ✓DPI.

We are meeting internally today to try and figure out how to apply the 25% reduction - I'll call as soon as I know something more definitive. Thanks

Jennifer

Grant, Peter

1st day of new month

**From:** Kraus, Jennifer  
**Sent:** Tuesday, January 28, 2003 4:11 PM  
**To:** Grant, Peter  
**Cc:** Schmiedicke, David; Caucutt, Dan; Johnston, James  
**Subject:** RE: Excluded attorneys

at

Hi Peter -  
Yes, the excluded list looks correct.

(will just happen) no lang. needed

SD transfer 10/1

We discussed this proposal internally and concluded that we will:

- apply the reductions in the agencies effective October 1, 2003 (in order for the agencies to prepare and submit a layoff plan to DER). The remaining relevant positions will transfer to DOJ after that.
- We are going to round the FTE cuts to a whole FTE rather than cutting and transferring fractions of people. I'll send a new spreadsheet as soon as I can.
- We do want to set this up as a PRS chargeback. There's a wrinkle here: In addition to the language that would direct the DOA Sec and the AG to collaboratively decide how to assign attorneys to the agencies, we would like to have DOA operate the PRS chargeback for DOJ. This would mean that DOA would calculate an agency assessments and would collect the revenue in a PRS appropriation. These funds would then be transferred to DOJ's PRS appropriation in its Division of Legal Services. (Presumably there would need to be a reconciliation process so that assessments were adjusted to reflect actual service provided- this is mostly an issue for the smaller agencies). We may need a chapter 16 law change to grant DOA this authority.
- To your stat language question about agency authority to go to court - maintain current law but we want to make sure that DOJ is not prohibited from representing the agencies.
- Maintain current law re: an agency's ability to request the creation of a new attorney.
- We may need to broaden the powers of DOJ in chapter 165 to do more than litigation for the agencies.

We intend to put this proposal in front of the Gov one more time Thursday morning. The only piece that we have not previously discussed with him is having DOA operate the PRS chargeback mechanism.

Call if you have any questions.

Jennifer

\* DOA + AG must work together on assigning back to agencies

-----Original Message-----

**From:** Grant, Peter  
**Sent:** Tuesday, January 28, 2003 12:09 PM  
**To:** Kraus, Jennifer  
**Subject:** Excluded attorneys

Jenny -

As I understand it, the following are the attorneys that are excluded (at least for now):

- Those at the PSC
- Those at the UW
- Those at the UW Hospitals and Clinics Board
- Those at SWIB
- Those at the Public Defender Board
- All ALJs
- All hearing officers and hearing examiners

Does that look right to you?

One more question for you. Is it your intent to eliminate the authority of an agency to go to court without DOJ approval or assistance? Several agencies have that authority now in certain circumstances. For those agencies that will retain an attorney (all the major ones), they could retain that authority. If you don't want them to, the draft will have to amend or repeal dozens of statutory provisions. (And I doubt that we'll find them all.)

## Grant, Peter

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**From:** Kraus, Jennifer  
**Sent:** Wednesday, January 29, 2003 2:33 PM  
**To:** Grant, Peter  
**Subject:** Attorney spreadsheet

Attached is the latest version of the spreadsheet which shows the number of FTE to be transferred to DOJ and the number to be cut.

In answer to your question about hearing examiners - there is a classification in PMIS for this but attorneys also perform this role so we may need to be more specific in the exception list. For example, all of the attorneys in the Division of Hearings and Appeals within DOA would be exempt. Similarly, although they all use the Attorney classification in PMIS, the administrative law judges (perhaps we can say as determined by DWD and DOA, if we need to) in DWD would also be exempt.

Call if you have questions - Thanks

Jennifer



summary of attorney  
positions ...

**Grant, Peter**

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**From:** Kraus, Jennifer  
**Sent:** Wednesday, January 29, 2003 2:41 PM  
**To:** Grant, Peter  
**Subject:** RE: Attorney spreadsheet

Please note that PSC is no longer excluded.

*1/30/03 TC from JK:  
PSC excluded again.*

-----Original Message-----

**From:** Kraus, Jennifer  
**Sent:** Wednesday, January 29, 2003 2:33 PM  
**To:** Grant, Peter  
**Subject:** Attorney spreadsheet

Attached is the latest version of the spreadsheet which shows the number of FTE to be transferred to DOJ and the number to be cut.

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Call if you have questions - Thanks

Jennifer

<< File: summary of attorney positions - 25% whole person.xls >>

Rec'd 1/29/03

# State Attorney Positions: Full Time Equivalent Number (FTE) and Cost (Salary and Fringe Benefits)

(Excludes University of Wisconsin Attorneys, Department of Justice Attorneys, District Attorneys and Public Defenders)

State Agency	All Funds		HEExam. & ALJ's	General Counsel	Affected Attny	Whole F. Atty to	
	FTE	Cost				Cut	DOI
445 Workforce Development	95.70	\$10,368,000	91.70	1	3.00	1	2.00
505 Administration	35.00	3,390,900	32.00	1	2.00	1	1.00 1.00 Racing attorney to be cut anyway
165 Regulation and Licensing	21.30	2,265,800	20.3	1	0.00	0	0.00
370 Natural Resources	19.00	2,183,700	0	1	18.00	4	14.00
435 Health and Family Services	18.40	1,959,500	0	1	17.40	4.2	13.20 4.2 based on lowest seniority FTE
425 Employment Relations Commission	16.00	1,699,600	16	0	0.00	0	0.00
155 Public Service Commission	18.00	1,771,200	0	1	17.00	4	13.00 Added 3.0 to base re: changes per Gov.
566 Revenue	13.00	1,574,600	0	1	12.00	3	9.00
395 Transportation	10.00	1,248,900	0	1	9.00	2	7.00
410 Corrections	7.80	863,900	0	1	6.80	2	4.80
115 Agriculture	7.50	858,900	0	1	6.50	2	4.50 assume 0.5 hearing function can be done by general counsel
144 Financial Institutions	7.00	679,100	0	1	6.00	1	5.00 assume general counsel can do 0.15 hearing function/Added 1.0 to base given recent PV
145 Insurance	5.00	567,900	0	1	4.00	1	3.00 assume 0.5 hearing function can be done by general counsel
143 Commerce	4.00	396,800	0	1	3.00	1	2.00 assume 0.5 hearing function can be done by general counsel
255 Public Instruction	3.00	365,700	0	1	2.00	0	2.00
485 Veterans Affairs	2.00	252,200	0	1	1.00	0	1.00 assume 0.5 hearing function can be done by general counsel
515 Employee Trust Funds	2.00	235,600	0	1	1.00	0	1.00
512 Employment Relations Department	2.00	227,100	0	1	1.00	0	1.00 Retained labor unit section chief (not general counsel)
547 Personnel Commission	2.00	174,900	2	0	0.00	0	0.00
380 Tourism	1.00	133,900	0	0	1.00	1	0.00 To be taken in cut plan anyway
521 Ethics Board	1.00	126,100	0	0	1.00	1	0.00 Leave \$ in agencies
510 Elections Board	1.00	111,800	0	0	1.00	1	0.00 Leave \$ in agencies
465 Military Affairs	1.00	101,600	0	0	1.00	1	0.00 Leave \$ in agencies
432 Aging and Long-term Care Board	1.00	67,900	0	0	1.00	1	0.00 Leave \$ in agencies
292 Technical College Board	1.00	54,800	0	0	1.00	1	0.00 Leave \$ in agencies
	294.70	\$31,680,400					

Source: PMIS December 9, 2002 290.70 \$31,680,400 162 17 115.70 32.2 83.50

Department of Justice 90.85 \$7,642,600

## Grant, Peter

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**From:** Malaise, Gordon  
**Sent:** Monday, January 27, 2003 5:58 PM  
**To:** Grant, Peter  
**Cc:** Kennedy, Debora  
**Subject:** RE: Drafting request - Attorneys

Peter:

Some hits in chs. 46, 48, 301, and 880 that will need to be changed are as follows:

- ✓ 1. Section 46.10 (7) refers to DHFS employing "collection and deportation counsel." That term is also used in s. 46.03 (18) (d), 46.10 (title) and (6), and 800.295 (1) (a) and (2).
- ✓ 2. Similarly, section 301.12 (7) refers to DOC employing "collection and deportation counsel." That term is also used in s. 301.03 (18) (d) and 301.12 (title) and (6).
- ✓ 3. In ch. 48, ss. 48.195 (2) (d) 6. and 48.981 (7) (a) 11. refer to "agency legal counsel," which means DHFS legal counsel.
- ✓ 4. Section 46.27 (7g) (h) authorizes DHFS to employ an attorney to probate estates to recover costs of care under the community options program.

That's all I could find for now.

Gordon

-----Original Message-----

**From:** Grant, Peter  
**Sent:** Monday, January 27, 2003 2:55 PM  
**To:** Aaron Gary; Becky Tradewell; Debora Kennedy; Gordon Malaise; Jeffery Kuesel; Joseph Kreye; Madelon Lief; Marc Shovers; Mark Kunkel; Mary Glass; Michael Dsida; Pam Kahler; Peggy Hurley; Peter Dykman; Rick Champagne; Robert Marchant; Robert Nelson2; Robin Kite; Robin Ryan; Steve Miller; Timothy Fast  
**Cc:** Miller, Steve  
**Subject:** FW: Drafting request - Attorneys

We received this request last Friday afternoon. Please read it and let me know if there are provisions in your chapters that need to be changed in order to accomplish the governor's intent. Also, if you think of any terms or phrases to search for in the statutes, let me know. Finally, if one or two of you would be willing to devote some time to "co-drafting" this with me, I'd really appreciate it.

Peter

-----Original Message-----

**From:** Miller, Steve  
**Sent:** Friday, January 24, 2003 3:59 PM  
**To:** Kennedy, Debora; Kuesel, Jeffery; Tradewell, Becky; Grant, Peter; Dykman, Peter  
**Subject:** FW: Drafting request - Attorneys

-----Original Message-----

**From:** Kraus, Jennifer  
**Sent:** Friday, January 24, 2003 3:50 PM  
**To:** Miller, Steve  
**Subject:** Drafting request - Attorneys

## Grant, Peter

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**From:** Kuesel, Jeffery  
**Sent:** Tuesday, January 28, 2003 9:09 AM  
**To:** Grant, Peter  
**Cc:** Champagne, Rick; Tradewell, Becky; Nelson, Robert P.  
**Subject:** RE: Drafting request - Attorneys

Peter,

One obvious change I have will be to s. 5.05 (1) (a), stats. Elections Board). The Ethics Board also employs legal counsel, but there is not an explicit reference to it.

I think it's going to be difficult to apply this to UI. UI employs over 40 attorneys. Most are ALJ's. Some of the attorneys, however, work only part time as ALJ's and do other legal work for UI also. Others, including the chair of the Council on UI, do exclusively non-hearing work. Some do exclusively tax enforcement work, which sometimes involves litigation. All UI positions are 100% federally funded and the federal auditors forbid intermingling of federal moneys with moneys spent for other purposes. So it would be at least difficult, if not impossible, for the AG or DOA to handle UI work on the side. I haven't checked specifically for UI, but with many federally aided programs, there is a requirement for the program to be administered by a single state agency.

As I mentioned, I have discussed this draft extensively with Rick and to a lesser extent with Becky. Most of the discussions have centered around how to effect the transfers and cuts mechanically, and collective bargaining issues. There seemed to be some logic in the position that the draft should instruct the DOA secretary to drop the position authorizations for affected attorney positions in each executive branch agency (s. 16.70) by 25% within some specified short period after the effective date. Then, according to the current c.b. agreement, layoffs must be implemented within each agency rather than on a blanket basis. If it's possible to draft it this way, it may avoid an impairment of contract challenge. I know there are practical problems splitting bodies, but its possible to have a partial layoff (reduction in hours). In fact, if hours cuts are significant, partial UI benefits may be claimed.

There are also 2 levels of collective bargaining issues. One would be potential impairment of the existing agreement. The other would be a potential unfair labor practice problem because the impact of transfers on conditions of employment, layoff procedures and seniority rights are all mandatory subjects of bargaining which can't be changed by the employer without first bargaining in good faith to the point of impasse. The latter problem could perhaps be handled by creating new prohibited subjects of bargaining, but that's somewhat heavy handed and illiberal, and Doyle may not want to do it.

In addition, there are nonrepresented supervisory and confidential attorneys as well as unclassified attorneys. The classified nonreps are governed by statutory and administrative code provisions. These attorneys may form separate groups for seniority and layoff purposes, since they likely could not be affected by the c.b. agreement, nor could the rights of the represented attorneys be affected by them.

Lastly, as we discussed, there is the problem that ch. 165 needs to be changed and it's not clear how to do it because the practice has drifted out of conformity with the current language and any new language would optimally conform to the anticipated future practice.

Jeff

-----Original Message-----

**From:** Grant, Peter  
**Sent:** Monday, January 27, 2003 2:55 PM  
**To:** Aaron Gary; Becky Tradewell; Debora Kennedy; Gordon Malaise; Jeffery Kuesel; Joseph Kreye; Madelon Lief; Marc Shovers; Mark Kunkel; Mary Glass; Michael Dsida; Pam Kahler; Peggy Hurley; Peter Dykman; Rick Champagne; Robert Marchant; Robert Nelson2; Robin Kite; Robin Ryan; Steve Miller; Timothy Fast  
**Cc:** Miller, Steve  
**Subject:** FW: Drafting request - Attorneys

We received this request last Friday afternoon. Please read it and let me know if there

DWO

108.14(3m)

**(3m)** In any court action to enforce this chapter the department, the commission and the state may be represented by any licensed attorney who is an employee of the department or the commission and is designated by either of them for this purpose or at the request of either of them by the department of justice. If the governor designates special counsel to defend, in behalf of the state, the validity of this chapter or of any provision of Title IX of the social security act, the expenses and compensation of the special counsel and of any experts employed by the department in connection with that proceeding may be charged to the administrative account.

fun RCT.

93.22

**93.22 Enforcement provisions.**

93.22(1)

(1) In cases arising under chs. 88 and 93 to 100, the department may be represented by its attorney.

93.22(2)

(2) The department may, with the approval of the governor, appoint special counsel to prosecute or assist in the prosecution of any case arising under chs. 88 and 93 to 100. The cost of such special counsel shall be charged to the appropriation for the department.

DOR

76.08(1)

(1) Notice of the assessments determined under s. 76.07 and of adjustments under s. 76.075 shall be given by certified mail to each company the property of which has been assessed, and the notice of assessment shall be mailed on or before the assessment date specified in s. 76.07 (1). Any company aggrieved by the assessment or adjustment of its property thus made may have its assessment or adjustment redetermined by the Dane County circuit court if within 30 days after notice of assessment or adjustment is mailed to the company under s. 76.07 (3) an action for the redetermination is commenced by filing a summons and complaint with that court, and service of authenticated copies of the summons and complaint is made upon the department of revenue. No answer need be filed by the department and the allegations of the complaint in opposition to the assessment or adjustment shall be deemed denied. Upon the filing of the summons and complaint the court shall set the matter for hearing without a jury. If the plaintiff fails to file the summons and complaint within 5 days of service upon the department, the department may file a copy thereof with the court in lieu of the original. The department may be named as the defendant in any such action and shall appear and be represented by its counsel in all proceedings connected with the action but, on the request of the secretary of revenue, the attorney general may participate with or serve in lieu of departmental counsel. In an action for redetermination of an adjustment, only the issues raised in the department's adjustment under s. 76.075 may be raised.

880.295(2)

(2) Any guardian heretofore or hereafter appointed for any such inmate, who, having property of his or her ward in his or her possession or control exceeding \$200 in value, fails to pay within 3 months after receipt of any bill thereof for the ward's care and support from the department of health and family services or the agency established pursuant to s. 46.21, shall, upon application of the collection and deportation counsel of said department or in counties having a population of 500,000 or more, the district attorney, forthwith be removed.

46.10(8)

(8) (intro.) The department may:

46.10(8)(a)

(a) Appear for the state in any and all collection and deportation matters arising in the several courts, and may commence suit in the name of the department to recover the cost of maintenance against the person liable therefor.

73.03(22)

(22) To appear by its counsel and represent the state in all matters before the tax appeals commission. Except as provided in ch. 72 and in s. 76.08 (1), the department of justice shall provide legal counsel to appear for the department in all courts, but with the consent of the attorney general a member of the staff of the department may appear for the department.

## *Corrections*

301.12(7)

(7) The department shall administer and enforce this section. The department shall appoint an attorney to be designated "collection and deportation counsel" and other necessary assistants. The department may delegate to the collection and deportation counsel such other powers and duties as the department considers advisable. The collection and deportation counsel or any of the assistants may administer oaths, take affidavits and testimony, examine public records, subpoena witnesses and the production of books, papers, records, and documents material to any matter of proceeding relating to payments for the cost of maintenance. The department shall encourage agreements or settlements with the liable person, having due regard to ability to pay and the present needs of lawful dependents.

301.12(8)

(8) (intro.) The department may do any of the following:

301.12(8)(a)

(a) Appear for the state in any collection and deportation matter arising in the several courts, and may commence suit in the name of the department to recover the cost of maintenance against the person liable for that cost.

863.39(3)(a)

(a) Within 10 years after the date of publication under s. 177.18, any person claiming any amount deposited under sub. (1) may file in the probate court in which the estate was settled a petition alleging the basis of his or her claim. The court shall order a hearing upon the petition, and 20 days' notice of the hearing and a copy of the petition shall be given by the claimant to the department of revenue and to the attorney general, who may appear for the state at the hearing. If the claim is established it shall be allowed without interest, but including any increment which may have occurred on securities held, and the court shall so certify to the department of administration, which shall audit the claim. The state treasurer shall pay the claim out of the appropriation under s. 20.585 (1) (j). Before issuing the order distributing the estate, the court shall issue an order determining the death tax due, if any. If real property has been adjudged to escheat to the state under s. 852.01 (3) the probate court which made the adjudication may adjudge at any time before title has been transferred from the state that the title shall be transferred to the proper owners under this subsection.

DORL

440.04(2)

(2) Provide the bookkeeping, payroll, accounting and personnel advisory services required by the department and the legal services, except for representation in court proceedings and the preparation of formal legal opinions, required by the attached examining boards and affiliated credentialing boards.

From RNK / MGG  
all our chapters except  
ch. 100

23.10(1)

(1) The department of natural resources shall secure the enforcement of all laws which it is required to administer and bring, or cause to be brought, actions and proceedings in the name of the state for that purpose. The persons appointed by said department to exercise and perform the powers and duties heretofore conferred and imposed upon deputy fish and game wardens, shall be known as conservation wardens and shall be subject to ch. 230.

23.29(24)

(24) **Injunctive relief; recovery of costs; punitive damages.** The department, or the department of justice on its own initiative or at the request of the department, may initiate an action seeking injunctive relief against any person violating the articles of dedication of a dedicated state natural area or restrictions authorized under sub. (21). Any citizen may initiate an action seeking injunctive relief against any person violating the articles of dedication of a dedicated state natural area as a beneficiary of the interest in that land held in the public trust. The department, or the department of justice at the department's request, may initiate an action to recover costs for stewardship expenses from the party originally responsible under sub. (9). The department, or the department of justice at the department's request, may initiate an action for punitive damages against any person violating the articles of dedication of a dedicated state natural area. Punitive damages are in addition to any penalty imposed under sub. (25).

23.293(20)

(20) **Injunctive relief; recovery of costs.** The department, or the department of justice on its own initiative or at the request of the department, may initiate an action seeking injunctive relief against any person violating the articles of dedication of a dedicated ice age trail area.

27.01(12)

(12) **Legal counsel.** A representative of the department of justice designated by the attorney general shall act as legal counsel for said department of natural resources, both in proceedings and litigation, and in giving advice and counsel. The respective district attorneys of the county or counties where said park is or shall be located shall prosecute all violations of this section occurring within their respective counties as provided in s. 26.18.

29.604(6r)(c)

(c) The department shall notify the state agency if the department determines that there is reasonable cause for the department to determine that an activity by the state agency is not being carried out in compliance with this subsection or with any environmental protection requirements developed through interagency consultation procedures. If the secretary of natural resources and the head, as defined in s. 15.01 (8), of the state agency are unable to agree upon methods or time schedules to be used to correct the alleged noncompliance, the department may bring any action or initiate any other proceedings to enforce compliance with this subsection.

29.936(3)

(3) If a person fails to pay the processing costs as requested under sub. (2), the department may submit a certification under oath to the clerk of circuit court in the county where the processed fish or game was seized or confiscated. The certification shall state the amount of processing costs unpaid, the name and last-known address of the person who is liable for those costs and such other information as the court

considers necessary. The court shall order that the amount certified by the department be a judgment on behalf of the state and against the person if the person fails to submit a written objection to the court within 30 days after the court receives the certification from the department unless the department notifies the court that the envelope including the certification mailed to the person under sub. (4) was returned unopened to the department. If the person timely submits a written objection to the certification, the court shall consider the objection to be a complaint in a civil action and proceed under the rules of procedure under chs. 799 or 801 to 847, without requiring the service of a summons or the payment of filing fees.

29.977(1)

(1) (intro.) The department may bring a civil action in the name of the state for the recovery of damages against any person killing, wounding, catching, taking, trapping or possessing in violation of this chapter any of the following named protected wild animals, birds, or fish, or any part of an animal, bird or fish, and the sum assessed for damages for each wild animal, bird, or fish shall be not less than the amount stated in this section:

30.03(2)

(2) The district attorney of the appropriate county or, at the request of the department, the attorney general shall institute proceedings to recover any forfeiture imposed or to abate any nuisance committed under this chapter or ch. 31.

30.03(4)(a)

(a) If the department learns of a possible violation of the statutes relating to navigable waters or a possible infringement of the public rights relating to navigable waters, and the department determines that the public interest may not be adequately served by imposition of a penalty or forfeiture, the department may proceed as provided in this paragraph, either in lieu of or in addition to any other relief provided by law. The department may order a hearing under ch. 227 concerning the possible violation or infringement, and may request the hearing examiner to issue an order directing the responsible parties to perform or refrain from performing acts in order to fully protect the interests of the public in the navigable waters. If any person fails or neglects to obey an order, the department may request the attorney general to institute proceedings for the enforcement of the department's order in the name of the state. The proceedings shall be brought in the manner and with the effect of proceedings under s. 111.07 (7).

30.12(4)(c)

(c) If the department determines that there is reasonable cause to believe that an activity being carried out under this subsection is not in compliance with the environmental protection requirements developed through interdepartmental liaison procedures, it shall notify the department of transportation. If the secretary and the secretary of transportation are unable to agree upon the methods or time schedules to be used to correct the alleged noncompliance, the secretary, notwithstanding the exemption provided in this subsection, may proceed with enforcement actions as the secretary deems appropriate.

30.122

**30.122 Unauthorized structures.** All permanent alterations, deposits or structures affecting navigable waters, other than boathouses, which were constructed before December 9, 1977 and which did not require a permit at the time of construction, shall be presumed in conformity with the law, unless a written complaint is filed within 180 days of December 9, 1977. Upon the filing of a complaint, the department shall proceed

with an action to enforce the applicable statutes.

30.455(3)

(3) If the department determines that there is reasonable cause to believe that an activity being carried out under this section or a resulting highway or structure is not in compliance with the standard in sub. (2) (b), it shall notify the department of transportation. If the secretary and the secretary of transportation are unable to agree upon the methods or time schedules to be used to correct the alleged noncompliance, the secretary, notwithstanding the exemption provided in this section, may proceed with enforcement actions as the secretary considers appropriate.

30.541(3)(c)

(c) A person holding a certificate of title whose interest in the boat has been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the department upon request of the department. The delivery of the certificate pursuant to the request of the department does not affect the rights of the person surrendering the certificate, and the action of the department in issuing a new certificate of title as provided herein is not conclusive upon the rights of an owner or secured party.

59.692(1t)

(1t) A county or the department may not commence an enforcement action against a person who owns a building or structure that is in violation of a shoreland zoning standard or an ordinance enacted under this section if the building or structure has been in place for more than 10 years.

98.26(2)

(2) Upon application of the department or a municipality, a circuit court may grant a temporary or permanent injunction restraining any person from violating any provision of this chapter.

(a) Employ an executive director outside the classified service and employ legal counsel. The executive director shall serve as the chief election officer for this state.

14.11(2)(a)

(a) (intro.) The governor, if in the governor's opinion the public interest requires such action, may employ special counsel in the following cases:

25.18(1)(a)

(a) Notwithstanding subch. IV of ch. 16 and s. 20.930, employ special legal or investment counsel in any matters arising out of the scope of its investment authority. The employment of special legal counsel shall be with the advice and consent of the attorney general whenever such special counsel is to be compensated by the board. Any expense of counsel so employed shall be borne by the fund for which the services shall be furnished.

46.18(6)

**(6) Monthly audit; suits.** At least once each month the trustees shall audit all claims against the county incurred on behalf of said institutions, when presented to them verified under oath by the claimant or the claimant's agent and, when allowed, the president and secretary shall certify such claims to the county clerk who shall thereupon issue county orders for their payment. The trustees may sue and defend in the name of the county any cause for action involving the interest of said institution and may employ counsel for that purpose. All receipts on account of said institutions shall be paid into the county treasury within one week after receipt.

46.40(7m)

**(7m) Use by county of community aids funds to pay private attorneys for certain proceedings under the children's code.** Upon application by a county department under s. 46.215, 46.22 or 46.23 to the department for permission to use funds allocated to that county department under sub. (2) to employ private counsel for the purposes specified in this subsection and a determination by the department that use of funds for those purposes does not affect any federal grants or federal funding allocated under this section, the department and the county department shall execute a contract authorizing the county department to expend, as agreed upon in the contract, funds allocated to that county department under sub. (2) to permit the county department to employ private counsel to represent the interests of the state or county in proceedings under ch. 48 relating to child abuse or neglect cases, unborn child abuse cases, proceedings to terminate parental rights and any ch. 48 cases or proceedings involving the Indian child welfare act, 25 USC 1901 to 1963.

59.42(1)(a)

(a) Except as provided under par. (b), in counties not having a population of 500,000 or more, the board may employ a corporation counsel, and fix the salary of the corporation counsel. The corporation counsel appointed under this paragraph may be terminated at any time by a majority vote of all the members of the board.

60.37(2)

**(2) Legal assistance.** The town board may designate, retain or employ one or more attorneys on a temporary or continuing basis to counsel the town on legal matters or represent the town in legal

proceedings.

62.09(12)(g)

(g) The council may employ and compensate special counsel to assist in or take charge of any matter in which the city is interested.

66.0923(7)(i)

(i) Employ counsel on either a temporary or permanent basis.

66.0925(7)(i)

(i) Employ counsel on either a temporary or permanent basis.

66.0927(8)(i)

(i) Employ counsel on either a temporary or permanent basis.

88.21(5)

(5) Employ legal counsel, engineers and other assistants. Any engineer employed by the board shall be selected from a list of professional engineers approved by the department of agriculture, trade and consumer protection. The department of agriculture, trade and consumer protection shall furnish each drainage board, upon request, a list of professional engineers whom it considers qualified by training and experience to give competent advice in drainage matters.

180.0825(6)

(6) Unless otherwise provided by the board of directors in creating the committee, a committee may employ counsel, accountants and other consultants to assist it in the exercise of authority.

186.235(11)(dg)

(dg) *Special deputies.* The office of credit unions may appoint one or more special deputies as agent to assist in the duty of liquidation and distribution of the assets of one or more credit unions whose business and property the office of credit unions holds. A certificate of appointment shall be filed in the office of credit unions and a certified copy in the office of the clerk of the circuit court for the county in which the credit union is located. The office of credit unions may employ counsel and procure expert assistance and advice as necessary in the liquidation and distribution of the assets of the credit union, and may retain any officers or employees of the credit union that the office of credit unions considers to be necessary. The special deputies and assistants shall furnish security for the faithful discharge of their duties in an amount that the office of credit unions considers to be necessary. The special deputies may execute, acknowledge and deliver any deeds, assignments, releases or other instruments necessary to effect any sale and transfer or encumbrance of real estate or personal property and may borrow money for use in the liquidation after the liquidation has been approved by the office of credit unions and an order obtained from the circuit court of the county in which the credit union is located.

196.02(8)

(8) **Employ counsel.** The commission may employ counsel in any proceeding, investigation, hearing or trial had by it or in which it is a party, and the expenses thereby incurred shall be charged to the commission's appropriation.

215.32(3)

**(3) Employment of counsel; retention of officers and employees of association.** The division may employ necessary counsel and experts in a liquidation under this section and may retain any officer or employee of the association.

220.08(4)

**(4)** The division may appoint one or more special deputies, as agent or agents, to assist the division in the duty of reorganization, consolidation, liquidation and distribution, the certificate of appointment to be filed with the division and a certified copy in the office of the clerk of the circuit court for the county in which such bank or banking corporation is located. Such special deputies may execute, acknowledge and deliver any and all deeds, assignments, releases or other instruments necessary and proper to effect any sale and transfer or encumbrance of real estate or personal property after the same has been approved by the division, and an order obtained from the circuit court of the county in which the bank concerned is located. The division may from time to time authorize a special deputy to perform such duties connected with such reorganization, consolidation, liquidation and distribution as the division deems proper. The division may employ such counsel and procure such expert assistance and advice as may be necessary in the reorganization, consolidation, liquidation and distribution of the assets of such banks or banking corporations. The division may retain such of the officers or employees of such banks or banking corporations as necessary.

221.0615(6)

**(6) Employment of consultants.** Unless otherwise provided by the board of directors in creating the committee, a committee may employ counsel, accountants and other consultants to assist it in the exercise of authority.

440.41(6)

**(6)** "Fund-raising counsel" means a person who, for compensation, plans, manages, advises, consults or prepares material for, or with respect to, solicitation in this state for a charitable organization, but who does not solicit and who does not employ, engage or provide any person who is paid to solicit contributions. "Fund-raising counsel" does not include an attorney, investment counselor or employee of a financial institution who advises a person to make a contribution or a bona fide employee, volunteer or salaried officer of a charitable organization.

769.309

**769.309 Private counsel.** An individual may employ private counsel to represent the individual in proceedings authorized by this chapter.

970.02(1)(b)

**(b)** Of his or her right to counsel and, in any case required by the U.S. or Wisconsin constitution, that an attorney will be appointed to represent him or her if he or she is financially unable to employ counsel.

(bm) Employ an attorney for provision of legal services in accordance with requirements of the long-term care ombudsman program under 42 USC 3027 (a) (12) and 42 USC 3058g (g).

20.930

**20.930 Attorney fees.** Except as provided in ss. 46.27 (7g) (h), 49.496 (3) (f) and 49.682 (6), no state agency in the executive branch may employ any attorney until such employment has been approved by the governor.

25.18(1)(a)

(a) Notwithstanding subch. IV of ch. 16 and s. 20.930, employ special legal or investment counsel in any matters arising out of the scope of its investment authority. The employment of special legal counsel shall be with the advice and consent of the attorney general whenever such special counsel is to be compensated by the board. Any expense of counsel so employed shall be borne by the fund for which the services shall be furnished.

45.35(7a)

**(7a) Claims of veterans, assistance.** The department upon request shall assist all persons residing in the state having claims against the United States for pensions, bounty or back pay, where such claims have arisen out of or by reason of service in the U.S. armed forces. To this end it shall cooperate with their agents or attorneys, advise as to the legality of claims, furnish all necessary certificates and certified abstracts from and copies of records and documents in its office, and in all practicable ways seek to secure speedy and just action upon all claims now pending or which may hereafter be filed. It shall also, in cases where it may be expedient, act as agent or attorney of record in prosecuting claims for such persons requesting it to do so. For any such services rendered no person in the employ of the department shall make any charge or demand or receive from the said claimants or any of them, directly or indirectly, any pay or compensation whatever. It shall provide for registration with the register of deeds of each county the names of all persons from such county who died in the services of the United States during the Spanish-American War, Philippine insurrection, Boxer rebellion, Mexican border service, World Wars I and II, the Korean conflict or Vietnam service.

46.27(7g)(h)

(h) The department may contract with or employ an attorney to probate estates to recover under this subsection the costs of care.

46.40(7m)

**(7m) Use by county of community aids funds to pay private attorneys for certain proceedings under the children's code.** Upon application by a county department under s. 46.215, 46.22 or 46.23 to the department for permission to use funds allocated to that county department under sub. (2) to employ private counsel for the purposes specified in this subsection and a determination by the department that use of funds for those purposes does not affect any federal grants or federal funding allocated under this section, the department and the county department shall execute a contract authorizing the county department to expend, as agreed upon in the contract, funds allocated to that county department under sub. (2) to permit the county department to employ private counsel to represent the interests of the state or county in proceedings under ch. 48 relating to child abuse or neglect cases, unborn child abuse cases, proceedings to terminate parental

rights and any ch. 48 cases or proceedings involving the Indian child welfare act, 25 USC 1901 to 1963.

49.22(7m)

**(7m)** The department may contract with or employ a collection agency or other person to enforce a support obligation of a parent who is delinquent in making support payments and may contract with or employ an attorney to appear in an action in state or federal court to enforce such an obligation. To pay for the department's administrative costs of implementing this subsection, the department may charge a fee to counties, retain up to 50% of any incentive payment made to this state under 42 USC 658 for a collection under this subsection, and retain 30% of this state's share of a collection made under this subsection on behalf of a recipient of aid to families with dependent children or a recipient of kinship care payments under s. 48.57 (3m) or long-term kinship care payments under s. 48.57 (3n).

49.496(3)(f)

(f) The department may contract with or employ an attorney to probate estates to recover under this subsection the costs of care.

49.682(6)

**(6)** The department may contract with or employ an attorney to probate estates to recover under this section the costs of care.

59.53(6)(a)1.

1. Except as provided in subd. 2., each board shall employ or contract with attorneys to provide support enforcement. Section 59.42 (1), (2) (a) and (3) does not preclude a board from assigning these support enforcement duties to any attorney employed by the county.

59.53(6)(a)2.

2. If on June 1, 1989, a county has 1.0 or more full-time equivalent attorney positions that have primary responsibility for handling cases described in par. (b), as determined by the district attorney of the prosecutorial unit, the county shall establish and maintain a support enforcement office consisting of support enforcement attorneys and office personnel. In counties having a population of less than 500,000, a county budget under s. 65.90 shall list the proposed appropriation under s. 65.90 (2) for the support enforcement office separate from any other office, department or activity. In counties having a population of 500,000 or more, a county budget shall treat a support enforcement office as a department, as defined in s. 59.60 (2) (a), separate from all other departments. If a county ceases to employ 1.0 or more full-time equivalent attorney positions in the office, the county may provide support enforcement under subd. 1.

60.37(2)

**(2) Legal assistance.** The town board may designate, retain or employ one or more attorneys on a temporary or continuing basis to counsel the town on legal matters or represent the town in legal proceedings.

66.1201(5)(c)

(c) When the office of the first chairperson of the authority becomes vacant, the authority shall select a chairperson from among its members. An authority shall select from among its members a vice chairperson, and it may employ a secretary, who shall be executive director, technical experts and other officers, agents

and employees, permanent and temporary and shall determine their qualifications, duties and compensation. An authority may call upon the city attorney or chief law officer of the city for legal services. An authority may delegate to one or more of its agents or employees powers or duties of the authority.

67.10(7)

**(7) Attorney's opinion on bond issue.** In any municipality the officers charged with the negotiation and sale of its municipal obligations may employ an attorney whose opinion, in their judgment, will be accepted by buyers thereof as to the legality of municipal obligations issued by the municipality to pass upon the legality of any municipal obligations issued by the municipality and pay a reasonable compensation therefor.

70.64(2)

**(2) Authorization of appeals.** To authorize such appeal an order or resolution directing the same to be taken shall be adopted by the governing body of the county or taxation district taking the appeal at a lawful meeting of the governing body. When an appeal shall have been authorized the prosecution of it shall be in charge of the chairperson of the county board or county administrator or of the chairperson, mayor or president of the taxation district taking the appeal unless otherwise directed by the governing body. The officers or committee in charge of the appeal may employ attorneys to conduct the appeal. After authorizing an appeal as provided in this subsection, any 2 or more taxation districts in the same county may join in taking and prosecuting an appeal.

87.12(6)

**(6)** The board shall have the power to institute and prosecute in the manner provided in ch. 32 of the statutes such eminent domain proceedings as may be necessary in the construction of said improvement. When necessary for that purpose, this right of eminent domain shall be dominant over the rights of eminent domain of public or private corporations or governmental agencies. The board shall also have the power to acquire any lands or interest therein necessary for the aforesaid purpose, by gift, purchase or lease. Any title acquired by condemnation or gift, purchase or lease shall be held in the name of the flood control board in trust for the several towns, villages and cities and contributing, as provided in s. 87.10 (1) (c) and (d), in proportion to the amounts of their several contributions. The board shall have the power to employ engineers, attorneys, agents, assistants, clerks, employees and laborers as it may deem advisable for the proper execution of its duties, and to fix their compensation.

165.40(4)(c)

(c) That the procedure used by the seller or lessor in making its decision to sell or lease was adequate, including whether the seller or lessor used appropriate expert assistance. The attorney general may employ, at the purchaser's or lessee's expense, reasonably necessary expert assistance in considering evidence under this paragraph.

182.33(4)(a)

(a) To employ consulting engineers, superintendents, managers, and such other engineers, construction and consultant experts, attorneys, and other employees and agents as may be necessary in its judgment, and to fix their compensation; provided that all such expenses shall be payable solely from the proceeds of turnpike revenue bonds issued under the provisions of ss. 182.30 to 182.48 or from revenues.

196.675 Unlawful for carriers and public utilities to employ assistant district attorneys or judicial officers.

196.675

**196.675 Unlawful for carriers and public utilities to employ assistant district attorneys or judicial officers.**

196.675(1)

(1) No common carrier operating within this state and no public utility, except a municipal public utility, may retain or employ an assistant district attorney or any person holding a judicial office.

231.03(9)

(9) Employ or contract for consulting engineers, architects, attorneys, accountants, construction and financial experts and such other employees and agents as it finds necessary and fix their compensation. Any employee of the authority shall be exempt from subch. II of ch. 230, except s. 230.40 shall apply.

440.41(6)

(6) "Fund-raising counsel" means a person who, for compensation, plans, manages, advises, consults or prepares material for, or with respect to, solicitation in this state for a charitable organization, but who does not solicit and who does not employ, engage or provide any person who is paid to solicit contributions. "Fund-raising counsel" does not include an attorney, investment counselor or employee of a financial institution who advises a person to make a contribution or a bona fide employee, volunteer or salaried officer of a charitable organization.

563.72

**563.72 Inspection for enforcement.** Any peace officer or district attorney, within their respective jurisdictions, or an authorized employee of the department, may, at all reasonable hours, enter the premises where a bingo occasion is being conducted and examine the books, papers and records of the licensed organization to determine if all proper taxes or fees imposed have been paid. Any refusal to permit such examination of the premises by the licensed organization, its agent or an employee or the person in charge of the premises to which the bingo license relates, constitutes sufficient grounds for the suspension or revocation of a license, and is punishable under s. 563.73 (2). In addition, such refusal constitutes sufficient grounds for any peace officer or other persons authorized under this section within their respective jurisdictions or authority to employ whatever reasonable action is necessary to conduct inspections permitted by this section.

757.295(3)

(3) **Employment by attorney of person to solicit legal matters.** Except as provided under SCR 20:7.1 to 20:7.5, no attorney may employ any person for the purpose of soliciting legal matters or the procurement through solicitation of a retainer, written or oral, or of any agreement authorizing the attorney to perform or render legal services.

767.29(1)(dm)1m.

1m. The department or its designee may collect any unpaid fees under s. 814.61 (12) (b), 1997 stats., that are shown on the department's automated payment and collection system on December 31, 1998, and shall deposit all fees collected under this subdivision in the appropriation account under s. 20.445 (3) (ja). The department or its designee may collect unpaid fees under this subdivision through income withholding under s. 767.265 (2m). If the department or its designee determines that income withholding is inapplicable, ineffective, or insufficient for the collection of any unpaid fees under this subdivision, the department or its

designee may move the court for a remedial sanction under ch. 785. The department or its designee may contract with or employ a collection agency or other person for the collection of any unpaid fees under this subdivision and, notwithstanding s. 20.930, may contract with or employ an attorney to appear in any action in state or federal court to enforce the payment obligation. The department or its designee may not deduct the amount of unpaid fees from any maintenance, child or family support, or arrearage payment.

857.09

**857.09 Procedure which may be followed when personal representative fails to perform.** If a personal representative fails to perform an act or file a document within the time required by statute or order of the court the court upon its own motion or upon the petition of any person interested may order the personal representative for the estate and his or her attorney to show cause why the act has not been performed or the document has not been filed and shall mail a copy of the order to the sureties on the bond of the personal representative. If cause is not shown the court shall determine who is at fault. If both are at fault, the court may dismiss both and then appoint a personal representative and appoint an attorney acceptable to the personal representative to complete the administration of the estate. If only the personal representative is at fault, he or she may be summarily dismissed and in that event the court shall then appoint another personal representative to complete the administration and close the estate. If only the attorney is at fault, the court may dismiss the attorney and instruct the personal representative to employ another attorney; if the personal representative fails to employ another attorney within 30 days, the court shall appoint an attorney. No other procedure for substitution of attorney is required in such cases. The procedure set forth in this section is not exclusive.

881.016

**881.016 (intro.) Employees and agents of a fiduciary.** Unless prohibited by the terms of the instrument governing a fiduciary relationship, a fiduciary may employ attorneys, accountants, investment advisers, agents or other persons, even if they are associated with the fiduciary, to advise or assist the fiduciary in the performance of the fiduciary's duties. The fiduciary may act without independent investigation upon their recommendations or, instead of acting directly, employ one or more agents to perform any act of administration, whether or not discretionary. If the terms of the governing instrument do not address the authority of the fiduciary to delegate the fiduciary's duties, all of the following apply:

970.02(1)(b)

(b) Of his or her right to counsel and, in any case required by the U.S. or Wisconsin constitution, that an attorney will be appointed to represent him or her if he or she is financially unable to employ counsel.

978.05(8)(b)

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

102.81(2)

(2) The department may retain an insurance carrier or insurance service organization to process, investigate and pay claims under this section and may obtain excess or stop-loss reinsurance with an insurance carrier authorized to do business in this state in an amount that the secretary determines is necessary for the sound operation of the uninsured employers fund. In cases involving disputed claims, the department may retain an attorney to represent the interests of the uninsured employers fund and to make appearances on behalf of the uninsured employers fund in proceedings under ss. 102.16 to 102.29. Section 20.918 and subch. IV of ch. 16 do not apply to an attorney hired under this subsection. The charges for the services retained under this subsection shall be paid from the appropriation under s. 20.445 (1) (hp). The cost of any reinsurance obtained under this subsection shall be paid from the appropriation under s. 20.445 (1) (sm).

119.12(6)

(6) The city attorney of the city shall be the legal adviser of and attorney for the board, except that the board may retain an attorney to represent the board in any matter if the board determines that it requires specialized legal expertise not possessed by the city attorney, the city attorney does not have sufficient staff to adequately represent the interests of the board or a conflict of interest exists. The board shall provide the city attorney with reasonable notice of any board meeting at which the board will consider retention of an attorney.

120.13(9m)

**(9m) Legal services.** Retain an attorney or attorneys to represent the board or school district in any action or proceeding brought for or against the board or district and provide for any other legal service for the welfare of the school district.

655.27(5)(a)3.

3. If, after reviewing the facts upon which the claim or action is based, it appears reasonably probable that damages paid will exceed the limits in s. 655.23 (4), the fund may appear and actively defend itself when named as a party in an action against a health care provider, or an employee of a health care provider, that has coverage under the fund. In such action, the fund may retain counsel and pay out of the fund attorney fees and expenses including court costs incurred in defending the fund. The attorney or law firm retained to defend the fund shall not be retained or employed by the board of governors to perform legal services for the board of governors other than those directly connected with the fund. Any judgment affecting the fund may be appealed as provided by law. The fund may not be required to file any undertaking in any judicial action, proceeding or appeal.

are the department's  
legal counsel

214.72(1)(b)

(b) "Financial regulator" means the department secretary and deputy secretary, and an administrator, a supervisor of data processing, ~~legal counsel~~, and a financial institution examiner employed by the department and includes any member of a financial regulator's immediate family, as defined in s. 19.42 (7).

215.32(3)

**(3) Employment of counsel; retention of officers and employees of association.** The division may employ necessary ~~counsel and~~ experts in a liquidation under this section and may retain any officer or employee of the association.

220.08(4)

(4) The division may appoint one or more special deputies, as agent or agents, to assist the division in the duty of reorganization, consolidation, liquidation and distribution, the certificate of appointment to be filed with the division and a certified copy in the office of the clerk of the circuit court for the county in which such bank or banking corporation is located. Such special deputies may execute, acknowledge and deliver any and all deeds, assignments, releases or other instruments necessary and proper to effect any sale and transfer or encumbrance of real estate or personal property after the same has been approved by the division, and an order obtained from the circuit court of the county in which the bank concerned is located. The division may from time to time authorize a special deputy to perform such duties connected with such reorganization, consolidation, liquidation and distribution as the division deems proper. The division may ~~employ such counsel and~~ procure such expert assistance and advice as may be necessary in the reorganization, consolidation, liquidation and distribution of the assets of such banks or banking corporations. The division may retain such of the officers or employees of such banks or banking corporations as necessary.

220.08(7)

(7) The compensation of the special deputies, ~~counsel~~, and other employees and assistants, and all expenses of supervision and liquidation, shall be fixed by the division subject to the approval of the circuit court for the county in which such bank or banking corporation is located, on notice of such bank or banking corporation, and shall upon the certificate of the division be paid out of the funds of such bank or banking corporation in the hands of the division. Expenses of supervision and liquidation shall include the cost of services rendered by the division to the bank or banking corporation being liquidated and the division shall the first of each month determine such cost in the manner hereinafter provided, which cost shall be charged to each bank in liquidation and the same shall be paid to the division as other expenses of liquidation are paid. The amount of the aforesaid supervision cost to be paid by each bank in liquidation shall be determined by taking that portion of the total supervision cost of all banks in liquidation for the preceding month, which the total book value of the unliquidated book assets of each said bank bears to the total book value of all the unliquidated book assets of every bank in liquidation. In making computations for each month the total supervision cost and all book values of unliquidated assets shall be determined as of the last business day of the preceding month. The moneys collected by the division shall be from time to time deposited in one or more state banks, and, in case of the suspension or insolvency of the depository, such deposits shall be preferred before all other deposits.

551.65

**551.65 Service of process.**

551.65(1)

(1) Every applicant for license or registration under this chapter, every person filing a notice filing under this chapter and every issuer that proposes to offer a security in this state through any person acting as agent shall file with the division or, if applying for a license, with the organization designated by the division under s. 551.32 (1) (a), an irrevocable consent appointing the division to be his or her ~~attorney~~ agent to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or her or a successor or personal representative that arises under this chapter or any rule or order under this chapter after the consent has been filed, with the same validity as if served personally on the person filing the consent. The consent shall be in the form the division by rule prescribes. The consent need not be filed by a person who has filed a consent in connection with a previous registration or notice filing or license that is then in effect. Service may be made by leaving a copy of the process at the office of the division, but it is not effective unless the plaintiff, who may be the division in a suit, action, or proceeding instituted by the division, promptly sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at the person's last address on file with the division, and the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, or within such time as the court allows.

551.65(2)

(2) When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by this chapter or any rule or order under this chapter, and the person has not filed a consent to service of process under sub. (1) and personal jurisdiction over the person cannot otherwise be obtained in this state, that conduct shall be considered equivalent to the person's appointment of the division to be his or her ~~attorney~~ agent to receive service of any lawful process in any noncriminal suit, action, or proceeding against the person or the person's successor or personal representative that arises out of that conduct and that is brought under this chapter or any rule or order under this chapter, with the same validity as if served on him or her personally. Service may be made by leaving a copy of the process at the office of the division, but it is not effective unless the plaintiff, who may be the division in a suit, action, or proceeding instituted by the division, promptly sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at the person's last-known address or takes other steps that are reasonably calculated to give actual notice, and the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, or within such time as the court allows.

## Grant, Peter

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**From:** Kraus, Jennifer  
**Sent:** Friday, January 31, 2003 2:45 PM  
**To:** Grant, Peter  
**Subject:** FW: PRS Chargeback options

Hi Peter - I guess we will go with option #3 for PRS chargeback structure. Let me know if you have any questions. Jenny

PS I told Dan that this draft would create a new PRS appropriation in DOA as well as one in DOJ - that's correct, isn't it?

One more thing - I'll be at home today and Monday but I'm checking e-mail often and feel free to call 233-3041. Thanks

-----Original Message-----

**From:** Caucutt, Dan  
**To:** Kraus, Jennifer  
**Sent:** 1/31/2003 12:20 PM  
**Subject:** RE: PRS Chargeback options

#3 is how it's usually done in a PRS environment. Wouldn't DOJ be certifying how much each agency should be charged based on some time and effort records? I think this will be required for any charges to FED grants (right?). If so, there would be billings during the year so agencies could control their budgets.

Another question: Are you creating a new chargeback appropriation under DOA? I need something for the briefing system and State Budget System if DOA is still to have a hand and toe in it.

-----Original Message-----

**From:** Kraus, Jennifer  
**Sent:** Friday, January 31, 2003 12:10 PM  
**To:** Johnston, James  
**Cc:** Caucutt, Dan; Schmiedicke, David  
**Subject:** RE: PRS Chargeback options

Any thoughts on this? I'm thinking #2 or #3. I'd like to get back to Peter soon. Thanks

-----Original Message-----

**From:** Kraus, Jennifer  
**To:** Johnston, James  
**Cc:** 'dan.caucutt@doa.state.wis.us'  
**Sent:** 1/31/2003 6:40 AM  
**Subject:** PRS Chargeback options

In order to pay the PRS attorneys at DOJ, Peter suggested we could:  
1) budget GPR and then assess and deposit proceeds as GPR-Earned  
2) assess at the beginning of the year based on some projection by DOA and then reconcile at the end of the year  
3) run a deficit throughout the year and collect revenues either throughout the year as they are used or assessed once at the end of the year.

What do you think? This was the last piece before Peter was going to send us a draft so I'd like to get back to him this morning if possible.

Dan - any comments based on your experience with other DOA chargebacks?